



Advisory Council on Hearing Aids

OREGON REVISED STATUTES
(UNOFFICIAL COPY)
CHAPTER 694.015 – 170 & 694.991
2017 EDITION



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GENERAL PROVISIONS

694.015 Definitions for ORS 694.015 to 694.170. As used in ORS 694.015 to 694.170, unless the context requires otherwise:

(1) “Council” means the Advisory Council on Hearing Aids, created within the Health Licensing Office.

(2) “Dealing in hearing aids” means the sale, lease or rental or attempted sale, lease or rental of hearing aids in conjunction with the evaluation or measurement of the powers or range of human hearing and the recommendation, selection or adaptation of hearing aids.

(3) “Hearing aid” means any prosthetic instrument or device designed for or represented as aiding, improving or correcting defective human hearing and any parts, attachments or accessories of such an instrument or device. A hearing aid is not intended to include any device which is surgically implanted or otherwise medically inserted by a physician licensed by ORS chapter 677 for the purpose of treating or correcting a hearing impairment. [1959 c.634 §1; 1967 c.631 §1; 1971 c.650 §28; 1985 c.227 §3; 1999 c.885 §43; 2005 c.648 §87; 2013 c.568 §110]

694.020 [Amended by 1955 c.689 §2; repealed by 1959 c.406 §34]

694.025 License required to deal in hearing aids; exceptions. (1) A person may not deal in hearing aids or display a sign or in any other way advertise or represent that the person deals in hearing aids unless the person holds an active license issued by the Health Licensing Office as provided in ORS 694.015 to 694.170.

(2) Notwithstanding subsection (1) of this section, ORS 694.015 to 694.170 do not apply to:

(a) An audiologist licensed under ORS chapter 681.

(b) A physician licensed under ORS chapter 677. [1959 c.634 §2; 1967 c.631 §2; 1971 c.650 §29; 1985 c.227 §4; 2005 c.648 §88; 2009 c.701 §62a; 2013 c.314 §52; 2013 c.568 §111]

694.028 [1985 c.227 §20; 1993 c.133 §1; 2005 c.648 §89; repealed by 2009 c.701 §67]

694.030 [Amended by 1955 c.689 §3; repealed by 1959 c.406 §34]

694.032 Offer for or sale of hearing aid by direct mail; availability of fitting. (1) It shall be unlawful for any person to offer for sale or sell a hearing aid in this state by direct mail.

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(2) Any offer for sale or sale of a hearing aid in this state must include the availability of fitting the hearing aid in this state prior to the sale.

(3) Nothing in this section is intended to prohibit advertising by mail or delivery of a hearing aid by mail if the fitting and sale were completed in this state. [1989 c.858 §2]

694.035 [1959 c.634 §12; 1967 c.631 §3; repealed by 1975 c.673 §1 (694.036 enacted in lieu of 694.035)]

694.036 Statement to prospective hearing aid purchaser; contents; copy retained. (1) Prior to consummation of the sale of a hearing aid, a person dealing in hearing aids shall deliver to the prospective purchaser a written statement, signed by the person dealing in hearing aids. The statement shall be on a form prescribed by the Health Licensing Office that shall include but not be limited to all of the following:

- (a) The name and address of the prospective purchaser.
- (b) The date of the sale.
- (c) Specifications as to the make, serial number and model number of the hearing aid or aids sold.
- (d) The address or principal place of business of the person dealing in hearing aids.
- (e) A statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, as the case may be, if that is the fact.
- (f) The number of the hearing aid specialist license of the person dealing in hearing aids.
- (g) The terms of any guarantee or expressed warranty, if any, made to the purchaser with respect to such hearing aid or hearing aids, including that provided in ORS 646A.460 to 646A.476 and 694.042.
- (h) The address of the office and the procedure for making a complaint under ORS 694.015 to 694.170.
- (i) In no smaller type than the largest used in the body copy portion, the following bordered statement:

It is desirable that a person seeking help with a hearing problem (especially for the first time) consult an ear doctor and obtain a clinical hearing evaluation. Although hearing aids are often recommended for hearing problems, another form of treatment may be necessary.

(j) The signature of the prospective purchaser indicating that the prospective purchaser has read and understands the information contained in the statement.

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(2) A duplicate copy of the statement required under subsection (1) of this section shall be kept for seven years by the person selling the hearing aid. The statement shall be made available to the office upon request. [1975 c.673 §2 (enacted in lieu of 694.035); 1985 c.227 §5; 1999 c.81 §2; 1999 c.885 §44; 2005 c.648 §90; 2009 c.701 §55; 2013 c.568 §112]

694.040 [Repealed by 1959 c.406 §34]

694.042 Right to rescind hearing aid purchase; grounds; notice of rescission; time limit; refund. (1) In addition to any other rights and remedies the purchaser may have, including rights under ORS 646A.460 to 646A.476, the purchaser of a hearing aid shall have the right to rescind the transaction if:

(a) The purchaser for whatever reason consults with a physician licensed under ORS chapter 677 to practice medicine who specializes in diseases of the ear or with a physician assistant licensed under ORS 677.505 to 677.525 who specializes in diseases of the ear, or consults with an audiologist not licensed under this chapter and not affiliated with anyone licensed under this chapter and with a physician licensed under ORS chapter 677 to practice medicine or with a physician assistant licensed under ORS 677.505 to 677.525, subsequent to purchasing the hearing aid, and the physician or physician assistant advises such purchaser against purchasing or using a hearing aid and in writing specifies the medical reason for the advice;

(b) The seller, in dealings with the purchaser, failed to adhere to the practice standards listed in ORS 694.142, or failed to provide the statement required by ORS 694.036;

(c) The fitting of the hearing instrument failed to meet current industry standards; or

(d) The licensee fails to meet any standard of conduct prescribed in the law or rules regulating fitting and dispensing of hearing aids and this failure affects in any way the transaction which the purchaser seeks to rescind.

(2) The purchaser of a hearing aid shall have the right to rescind the transaction, for other than the seller's breach, as provided in subsection (1)(a), (b), (c) or (d) of this section only if the purchaser returns the product and it is in good condition less normal wear and tear and gives written notice of the intent to rescind the transaction by either:

(a) Returning the product with a written notice of the intent to rescind sent by certified mail, return receipt requested, to the licensee's regular place of business; or

(b) Returning the product with a written notice of the intent to rescind to an authorized representative of the company from which it was purchased.

(3) The notice described in subsection (2) of this section shall state that the transaction is canceled pursuant to this section. The notice of intent to rescind must be postmarked:

(a) Within 30 days from the date of the original delivery; or

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(b) Within specified time periods if the 30-day period has been extended in writing by both parties. The consumer's rescission rights can only be extended through a written agreement by both parties.

(4) If the conditions of subsection (1)(a), (b), (c) or (d) of this section and subsection (2)(a) or (b) of this section have been met, the seller, without further request and within 10 days after the cancellation, shall issue a refund to the purchaser. However, the hearing aid specialist may retain a portion of the purchase price as specified by rule by the Health Licensing Office when the purchaser rescinds the sale during the 30-day rescission period. At the same time, the seller shall return all goods traded in to the seller on account of or in contemplation of the sale. The purchaser shall incur no additional liability for the cancellation. [1975 c.673 §6; 1985 c.227 §6; 1993 c.133 §2; 1999 c.81 §3; 2003 c.547 §77; 2005 c.648 §91; 2013 c.568 §113; 2014 c.45 §74]

694.045 [1959 c.634 §3; repealed by 1967 c.631 §7]

694.050 [Repealed by 1959 c.406 §34]

694.052 [1985 c.227 §22; repealed by 1997 c.319 §6]

LICENSING

694.055 Application for license; qualifications; fee. An applicant for licensure under this chapter shall pay the applicable fees established under ORS 676.576 and shall demonstrate to the satisfaction of the Health Licensing Office that the applicant:

(1) Is a person 18 years of age or older.

(2) Has graduated from high school or has been awarded a certificate for passing an approved high school equivalency test such as the General Educational Development (GED) test.

(3) Has completed the training and has the experience required under ORS 694.065. [1959 c.634 §4; 1967 c.631 §4; 1973 c.182 §7; 1973 c.827 §76; 1985 c.227 §7; 1993 c.133 §3; 1997 c.319 §1; 2001 c.104 §274; 2003 c.547 §78; 2005 c.648 §92; 2013 c.314 §53; 2013 c.568 §145; 2017 c.66 §27]

694.060 [Repealed by 1959 c.406 §34]

694.065 Training and experience requirements; licensing examination; rules. (1) Before an applicant may take the qualifying examination for licensure under ORS 694.015 to 694.170, the applicant must:

(a) Meet the training and experience requirements established by the Health Licensing Office by rule;

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(b) Meet the training requirements for licensure as an audiologist or for certification of a licensed physician by the American Board of Otolaryngology; or

(c) Meet the requirements for certification by the National Board for Certification in Hearing Instrument Sciences.

(2) An individual seeking to obtain the experience and training specified in subsection (1)(a) of this section necessary to take the examination shall obtain a trainee registration from the office pursuant to rules adopted by the office. A trainee registration issued pursuant to this subsection shall allow the holder of the registration to obtain training and experience under the direct supervision of a hearing aid specialist licensed in the State of Oregon or an audiologist licensed under ORS chapter 681. An audiologist who supervises trainees must comply with ORS 694.015 to 694.170 and rules adopted under ORS 694.015 to 694.170, and is subject to ORS 694.991, when supervising trainees.

(3) Examination of applicants for licensure under ORS 694.015 to 694.170 shall be held at least once each quarter at such times and places as the office may determine.

(4) Timely and appropriate notice of the time and place of the examination shall be given to each applicant and to each licensed hearing aid specialist or audiologist supervising a temporary hearing aid specialist pursuant to rules adopted by the office.

(5) The office, in consultation with the Advisory Council on Hearing Aids, shall adopt rules establishing standards for examination scope, format, minimum acceptable performance and reexamination qualifications. The examination shall be sufficiently thorough to determine the qualifications, fitness and ability of the applicant to practice as a hearing aid specialist. The examination may be in the form of written, oral or practical demonstration of skills, or a combination of any such types. [1959 c.634 §§5,5a; 1967 c.631 §5; 1985 c.227 §8; 1993 c.133 §4; 1997 c.319 §2; 1999 c.885 §45; 2003 c.547 §79; 2005 c.648 §93; 2009 c.701 §57; 2013 c.314 §53a; 2013 c.568 §115]

694.070 [Repealed by 1959 c.406 §34]

694.075 [1959 c.634 §6; 1997 c.319 §3; repealed by 2009 c.701 §67]

694.080 [Repealed by 1959 c.406 §34]

694.085 Licensing; fees; rules. (1) Subject to ORS 676.612, the Health Licensing Office shall grant a hearing aid specialist license to each applicant, without discrimination, who possesses the required training and experience and who satisfactorily passes the examination and pays the applicable fees established under ORS 676.576. The license is effective for one year following issuance.

(2) The office shall waive the examination required under subsection (1) of this section and grant a license to an applicant who:

(a) Is certified by the American Speech-Language-Hearing Association or, if not so certified, satisfies the office that the applicant possesses equivalent training and education achievements; and

(b) Passes an examination related to Oregon law in the area of hearing aid dispensing and pays the applicable fees established under ORS 676.576.

(3) Notwithstanding subsection (1) of this section, the office may adopt rules for the issuance of a temporary license to an applicant who has not yet passed the examination if the applicant otherwise meets the qualifications for licensure. [1959 c.634 §7; 1973 c.182 §8; 1977 c.873 §14; 1985 c.227 §9; 1991 c.703 §36; 1993 c.133 §5; 1995 c.280 §26; 1997 c.249 §210; 2001 c.104 §275; 2003 c.547 §80; 2009 c.701 §62b; 2013 c.82 §7; 2013 c.314 §54; 2013 c.568 §116]

694.090 [Amended by 1955 c.689 §4; repealed by 1959 c.406 §34]

694.095 [1959 c.634 §9; 1967 c.631 §6; 1975 c.673 §3; 1985 c.227 §10; 1993 c.133 §6; 1997 c.319 §4; 2001 c.104 §276; 2003 c.547 §81; 2005 c.648 §94; repealed by 2009 c.701 §67]

694.100 [Amended by 1955 c.689 §5; repealed by 1959 c.406 §34]

694.105 [1959 c.634 §10; repealed by 1967 c.631 §7]

694.110 [Amended by 1955 c.689 §6; repealed by 1959 c.406 §34]

694.115 Notice to Health Licensing Office of place of business; notice to licensees by office. (1) A person who holds a license shall notify the Health Licensing Office in writing of the regular address of the place or places where the person deals or intends to deal in hearing aids.

(2) The office shall keep a record of the places of business of persons who hold a license.

(3) Any notice required to be given by the office to a person who holds a license may be given by mailing it to the address of the last place of business of which the person has notified the office. [1959 c.634 §11; 1967 c.631 §8; 1985 c.227 §11; 2001 c.104 §277; 2005 c.648 §95; 2013 c.568 §117]

694.120 [Repealed by 1959 c.406 §34]

694.125 [1959 c.634 §13; 1967 c.631 §9; 1973 c.182 §9; 1977 c.873 §15; 1985 c.227 §12; 1993 c.133 §7; 2003 c.547 §82; 2005 c.648 §96; 2009 c.701 §58; repealed by 2013 c.314 §65]

694.130 [Amended by 1955 c.689 §7; repealed by 1959 c.406 §34]

694.135 [1959 c.634 §14; 1967 c.631 §10; repealed by 1975 c.673 §4 (694.136 enacted in lieu of 694.135)]

694.136 [1975 c.675 §5 (enacted in lieu of 694.135); 1985 c.227 §13; 1987 c.158 §145; 1993 c.133 §8; 2001 c.104 §278; repealed by 2003 c.547 §118]

694.138 [1971 c.734 §156; 1985 c.227 §14; repealed by 2003 c.547 §118]

694.140 [Repealed by 1959 c.406 §34]

694.142 Standards of practice; rules; duty to refer; exceptions. The Health Licensing Office shall adopt by rule standards of practice for hearing aid specialists in providing services to consumers. The standards must include, but are not limited to:

(1) Before fitting or dispensing a hearing aid, the hearing aid specialist shall determine through direct observation and a personal interview whether any of the following conditions exist:

- (a) Visible congenital or traumatic deformity of the ear;
- (b) Active drainage from the ear within the previous 90 days or a history of active drainage from the ear;
- (c) Sudden or rapidly progressive hearing loss within the previous 90 days;
- (d) Acute or chronic dizziness;
- (e) Unilateral hearing loss of sudden or recent onset within 90 days;
- (f) Significant air-bone gap of greater than or equal to 15 decibels, American National Standards Institute, 500, 1,000 and 2,000 Hz average; or
- (g) Any other condition that the office may establish by rule.

(2) If any of the conditions listed in subsection (1) of this section are found, the hearing aid specialist shall refer the person to a physician licensed under ORS 677.100 to 677.228 who specializes in diseases of the ear or, if no such licensed physician is available in the community, to any physician licensed under ORS 677.100 to 677.228.

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(3) Within the 90 days prior to fitting or dispensing a hearing aid to a person under 18 years of age, the person receiving the hearing aid must be referred to one of the following licensed medical physicians:

(a) An otolaryngologist for examination and for a recommendation of corrective measures that may be required;

(b) A properly licensed medical physician for like examination and recommendation; or

(c) An audiologist licensed by the State of Oregon for an evaluation of the person's hearing and for a recommendation of corrective measures that may be required if the person is also examined by a properly licensed medical physician who gives approval for possible hearing aid use.

(4) Notwithstanding subsection (3) of this section, replacement of a hearing aid with an identical hearing aid within one year of the initial fitting or dispensing of the hearing aid does not require a referral to a physician.

(5)(a) Hearing aid specialists shall make clear their credentials, never representing that the services or advice of a person licensed to practice medicine or a clinical audiologist will be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing aids when that is not true. Hearing aid specialists shall also refrain from using the word "doctor" or "clinic" or other words, abbreviations or symbols that tend to connote an audiologic, medical or osteopathic profession when that use is not accurate.

(b) A person issued a temporary license shall deal in hearing aids under supervision of a person licensed under this chapter or an audiologist licensed under ORS chapter 681. An audiologist who supervises temporary licensees must comply with ORS 694.015 to 694.170 and rules adopted under ORS 694.015 to 694.170, and is subject to ORS 694.991, when supervising temporary licensees.

(c) A hearing aid specialist shall maintain a business address and telephone number at which the specialist may be reached during normal business hours.

(d) A person may not sell a hearing aid by direct mail. For purposes of this paragraph, delivery by mail of a replacement hearing aid or parts does not constitute sale by direct mail.

(6) If the person or the parent or guardian of the person refuses to seek a medical opinion from the physician to whom the person has been referred under subsection (2) or (3) of this section, the person dealing in hearing aids must obtain from the person or the parents or guardian of the person prior to fitting or dispensing a hearing aid a certificate to that effect in a form prescribed by the office. Any person dealing in hearing aids or employees and putative agents thereof, upon making the required referral for a medical opinion under subsection (2) of this section, may not in any manner whatsoever disparage or discourage a prospective hearing aid user from seeking a medical opinion prior to the fitting and dispensing of a hearing aid. Nothing required to be performed by a person dealing in hearing aids under this section means that the person is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of ORS 694.042 and this section. [2003 c.547 §75; 2005 c.648 §97; 2009 c.701 §59; 2013 c.314 §54a; 2013 c.568 §119; 2017 c.409 §34]

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694.145 [1959 c.634 §15; 1967 c.631 §11; 1985 c.227 §15; repealed by 2009 c.701 §67]

694.147 Disciplinary authority of Health Licensing Office. (1) In the manner prescribed in ORS chapter 183 for contested cases, the Health Licensing Office may impose a form of discipline listed in ORS 676.612 against any person dealing in hearing aids for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 694.015 to 694.170, or the rules adopted thereunder.

(2) The office may also impose disciplinary sanctions against a person dealing in hearing aids for any of the following causes:

(a) Failing or refusing to honor or to perform as represented any promise, agreement, warranty or representation in connection with the promotion, dispensing or fitting of a hearing aid.

(b) Advertising a particular model, type or kind of hearing aid for sale that purchasers or prospective purchasers responding to the advertisement cannot purchase.

(c) Failing to adhere to practice standards established by ORS 694.142 or rules adopted by the office. [2003 c.547 §83; 2005 c.648 §98; 2013 c.568 §120]

694.150 [Repealed by 1959 c.406 §34]

ADMINISTRATION

694.155 Powers and duties of Health Licensing Office; rules. The powers and duties of the Health Licensing Office with regard to dealing in hearing aids are as follows:

(1) To authorize all disbursements necessary to carry out the provisions of ORS 694.015 to 694.170.

(2) To determine training and experience requirements prerequisite to taking the examination and to supervise and administer qualifying examinations to test the knowledge and proficiency of applicants for licensure.

(3) To provide for waivers of examinations by rule.

(4) To license persons who apply to the office and who have qualified to deal in hearing aids.

(5) To purchase and maintain or rent audiometric equipment and facilities necessary to carry out the examination of applicants for licensure.

(6) To issue and renew licenses and temporary licenses.

(7) To suspend or revoke licenses in the manner provided in ORS chapter 183.

(8) To appoint representatives to conduct or supervise the examination of applicants for licensure.

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(9) To designate the time and place for examining applicants for licensure.

(10) To adopt rules not inconsistent with the laws of this state which are necessary to carry out the provisions of ORS 694.015 to 694.170.

(11) With the advice of the Advisory Council on Hearing Aids, to prescribe safety and sanitation requirements, to require the periodic inspection of the audiometric testing equipment and to carry out the periodic inspection of facilities of persons who deal in hearing aids.

(12) To appoint or employ subordinate employees.

(13) To adopt rules specifying exemptions relating to assistive listening devices. [1959 c.634 §23; 1967 c.631 §12; 1985 c.227 §16; 1993 c.133 §9; 1999 c.885 §46; 2005 c.648 §99; 2013 c.82 §6; 2013 c.568 §121]

694.159 [1985 c.227 §21; 1991 c.734 §84; repealed by 2003 c.547 §118]

694.160 [Repealed by 1959 c.406 §34]

694.165 Advisory Council on Hearing Aids; qualifications; terms; compensation and expenses. (1) There is established within the Health Licensing Office the Advisory Council on Hearing Aids. The council shall consist of seven members to be appointed by the Governor.

(2) Members of the council must be residents of this state. A member of the council may not be a member or employee of the office.

(3) Membership on the council shall consist of:

(a) One member who is licensed to practice medicine in this state and holds a certificate of qualification from the American Board of Otolaryngology;

(b) One member who holds a clinical certification in audiology with the American Speech-Language-Hearing Association and is a member in good standing with that association;

(c) Four members who are experienced in the fitting of hearing aids and possess the qualifications provided in ORS 694.055; and

(d) One member who is a consumer of hearing aids and does not possess the professional qualifications of the other members.

(4) The term of office of each member of the council is four years, but a member serves at the pleasure of the Governor. Vacancies shall be filled by the Governor by appointment for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor. A member is eligible for reappointment. If a person serves two consecutive full terms, a period of at least four years must elapse before the person is again eligible for appointment to serve on the council.

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(5) Members of the council are entitled to compensation and expenses as provided in ORS 292.495. [1959 c.634 §§16,17,19,20; 1967 c.631 §13; 1969 c.314 §95; 1985 c.227 §17; 1995 c.167 §1; 1999 c.885 §47; 2005 c.648 §100; 2009 c.701 §61; 2013 c.568 §122]

694.170 Duties of council. (1) The Advisory Council on Hearing Aids shall have the responsibility and duty of advising the Health Licensing Office in all matters relating to ORS 694.015 to 694.170 including standards of practice and professional conduct, shall prepare the examinations required by ORS 694.015 to 694.170 subject to the approval of the office and shall assist the office in carrying out the provisions of ORS 694.015 to 694.170.

(2) The office shall consider and be guided by the recommendations of the council in all matters relating to ORS 694.015 to 694.170. [1959 c.634 §21; 1999 c.885 §48; 2003 c.547 §85; 2005 c.648 §101; 2013 c.568 §123]

PENALTIES

694.991 Penalties; concurrent jurisdiction of offenses. (1) Violation of any provision of ORS 694.025 and 694.032 is a Class B misdemeanor.

(2) Justice courts have concurrent jurisdiction with the circuit courts of violations listed in subsection (1) of this section. [1959 c.634 §§25,26; subsection (3) enacted as 1973 c.199 §28; subsection (3) renumbered 681.991; 2003 c.547 §87; 2005 c.648 §103; 2009 c.701 §63]