

# MINNESOTA RULES 1991

## 4431 HEARING INSTRUMENT DISPENSER REGISTRATION 4745.0010

### CHAPTER 4745 DEPARTMENT OF HEALTH HEARING INSTRUMENT DISPENSER REGISTRATION

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#### 4745.0010 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 4745.0010 to 4745.0060, the following terms have the meanings given them.

Subp. 2. **Active practice.** "Active practice" means engaged in hearing instrument selling and activities directly related to hearing instrument selling for a minimum of 750 hours a year for three of the last five years.

Subp. 3. **Advisory council.** "Advisory council" means the Minnesota Hearing Instrument Dispenser Advisory Council established under Minnesota Statutes, section 214.13, subdivision 4.

Subp. 4. **ANSI.** "ANSI" means ANSI S3.6-1989, American National Standard Specification for Audiometers from the American National Standards Institute. This document is incorporated by reference and is not subject to frequent change. This document is available through the Minitex interlibrary loan system.

Subp. 5. **Applicant.** "Applicant" means a person who applies to the commissioner for registration or registration renewal.

Subp. 6. **Approved continuing education sponsor.** "Approved continuing education sponsor" means an organization that offers a learning experience designed to promote continuing competency in the procedures and techniques of hearing instrument selling as defined in subpart 13 and that meets the criteria in part 4745.0045, subpart 3.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the Department of Health or a designee.

Subp. 8. **Contact hour.** "Contact hour" means an instructional session of 50 consecutive minutes, excluding coffee breaks, registration, meals with or without a speaker, and social activities.

Subp. 9. **Credential.** "Credential" means a license, permit, certification, registration, or other evidence of qualification or authorization to engage in hearing instrument selling issued by any authority.

Subp. 10. **Hearing instrument.** "Hearing instrument" is as defined in Minnesota Statutes, section 153A.13, subdivision 3.

Subp. 11. **Hearing instrument dispenser.** "Hearing instrument dispenser" means a hearing instrument seller as defined in subpart 12, who meets the qualifications required by parts 4745.0010 to 4745.0060, and registers with the commissioner. As used in parts 4745.0010 to 4745.0060, the term hearing instrument dispenser also refers to a natural person using the title consultant, dispenser, or specialist in conjunction with either hearing instrument or hearing aid.

Subp. 12. **Hearing instrument seller.** "Hearing instrument seller" means a natural person who engages in hearing instrument selling as defined in subpart 13, but who is not registered under parts 4745.0010 to 4745.0060.

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Subp. 13. **Hearing instrument selling.** "Hearing instrument selling" is as defined in Minnesota Statutes, section 153A.13, subdivision 4.

Subp. 14. **Hearing instrument user.** "Hearing instrument user" means a person who wears or uses a hearing instrument as defined in subpart 10 to aid defective hearing.

Subp. 15. **Individual.** "Individual" means any person over whom the commissioner has jurisdiction under parts 4745.0010 to 4745.0060. Individual includes an applicant, a registrant, or a person who uses any title protected by part 4745.0020, whether or not authorized to do so by parts 4745.0010 to 4745.0060.

Subp. 16. **Register or registered.** "Register" or "registered" means the act or status of a natural person meeting the requirements of parts 4745.0010 to 4745.0060 and authorized by the commissioner to use the titles in part 4745.0020.

Subp. 17. **Registrant.** "Registrant" means a person who meets the requirements of parts 4745.0010 to 4745.0060 and is authorized by the commissioner to use the titles in part 4745.0020.

Subp. 18. **Registration.** "Registration" is the system of regulation defined in Minnesota Statutes, section 214.001, subdivision 3, paragraph (c), and is the process specified in parts 4745.0010 to 4745.0060.

**Statutory Authority:** *MS s 214.13*

**History:** *14 SR 2493*

## 4745.0020 PROTECTED TITLES AND RESTRICTIONS ON USE.

### Subpart 1. Protected titles.

A. Use of any of the following titles by any person is prohibited unless that person is registered under parts 4745.0010 to 4745.0060.

- (1) Hearing Instrument Dispenser;
- (2) Hearing Instrument Specialist;
- (3) Hearing Instrument Consultant;
- (4) Hearing Instrument Dealer;
- (5) Hearing Aid Dispenser;
- (6) Hearing Aid Specialist;
- (7) Hearing Aid Consultant; and
- (8) Hearing Aid Dealer.

B. The term "Minnesota Registered" may be used in conjunction with any of the titles listed in item A, by any person registered under parts 4745.0010 to 4745.0060. However, use of the term "Minnesota Registered" shall not be allowed until the registrant has been registered by examination under part 4745.0025, subpart 2 or registered by reciprocity under part 4745.0025, subpart 3.

Subp. 2. **Restrictions on use of protected titles.** Notwithstanding subpart 1, item A, no person will be prevented or restricted from using an official employment title if employed by the federal government; however, use of the official title, under those circumstances, is allowed only in connection with performance of official duties for the federal government.

**Statutory Authority:** *MS s 214.13*

**History:** *14 SR 2493*

## 4745.0025 REGISTRATION REQUIREMENTS.

Subpart 1. **General requirements.** An applicant must:

- A. be 18 years of age or older;
- B. submit an application as required in part 4745.0035, subpart 1;

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C. submit certification to the commissioner that the applicant's audiometric equipment has been calibrated to meet current ANSI standards within 12 months of the date of the application; and

D. submit all fees required under part 4745.0050.

**Subp. 2. Registration by examination.** Except as provided in part 4745.0030, an applicant must achieve a passing score, as determined by the commissioner, on an examination according to items A to C.

A. The examination must include but not be limited to:

(1) A written examination approved by the commissioner covering the following areas as they pertain to hearing instrument selling:

- (a) basic physics of sound;
- (b) the anatomy and physiology of the ear;
- (c) the function of hearing instruments; and
- (d) laws, rules, and regulations of Minnesota and the federal government.

(2) Practical tests of proficiency in the following techniques as they pertain to hearing instrument selling:

(a) pure tone audiometry, including air conduction testing and bone conduction testing;

(b) live voice or recorded voice speech audiometry including speech reception threshold testing, speech discrimination testing, most comfortable loudness level, and uncomfortable loudness measurements of tolerance thresholds;

(c) masking when indicated;

(d) recording and evaluation of audiograms and speech audiometry to determine proper selection and adaptation of a hearing instrument;

(e) taking ear mold impressions; and

(f) using an otoscope for the visual observation of the entire ear canal.

B. The examination shall be administered by the commissioner at least twice a year.

C. Applicants must submit the application and examination fee required under part 4745.0050, subpart 4, to the commissioner at least 60 days before the date set for the examination.

**Subp. 3. Registration by reciprocity.** An applicant may be registered as a hearing instrument dispenser by reciprocity, according to items A and B.

A. Whenever the commissioner determines that an applicant holds a current and unrestricted credential for hearing instrument selling in another jurisdiction that has requirements equivalent to or higher than those in effect for determining whether applicants in this state are qualified to be registered as hearing instrument dispensers, the commissioner may register the applicant without the applicant meeting the requirements of subpart 2, provided that the applicant otherwise meets all other requirements of parts 4745.0010 to 4745.0060.

B. An applicant for registration by reciprocity under item A, must have the appropriate government body in each jurisdiction in which the applicant holds a credential submit letters of verification to the commissioner. Each letter must state the applicant's name, social security number, date of birth, credential number, date of issuance, a statement regarding disciplinary actions, if any, taken against the applicant, and whether the credential was issued by examination.

**Subp. 4. Registration following lapse of registered status of two years or less.** For any applicant whose registered status has lapsed for two years or less, the applicant must:

A. apply for registration renewal according to part 4745.0040, subparts

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1 and 2 and document compliance with the continuing education requirements of part 4745.0045 since the applicant's registration lapsed; or

B. fulfill the requirements of subpart 3.

**Subp. 5. Registration following lapse of registered status of more than two years.** For any applicant whose registered status has lapsed for more than two years, the applicant must:

A. fulfill the requirements for registration in subparts 1 and 2; or

B. fulfill the requirements of subpart 3.

**Statutory Authority:** *MS s 214.13*

**History:** *14 SR 2493*

## **4745.0030 TEMPORARY REGISTRATION REQUIREMENTS.**

**Subpart 1. Temporary registration requirements.** An applicant for registration need not comply with the requirements of part 4745.0025, subpart 2, item A, for two years after April 30, 1990, if, at the time of application, the applicant provides the commissioner with evidence that the applicant has engaged in active practice.

**Subp. 2. Examination requirement.** After the time for temporary registration has expired, all applicants must meet the requirements of part 4745.0025, subparts 2 or 3.

**Subp. 3. Notification of applicants.** The commissioner shall notify applicants for registration of the effective date of parts 4745.0010 to 4745.0060 and the date on which registration by examination is required.

**Statutory Authority:** *MS s 214.13*

**History:** *14 SR 2493*

## **4745.0035 REGISTRATION PROCEDURES.**

**Subpart 1. Applications for registration.** All applicants for registration must:

A. submit a completed application for registration on forms provided by the commissioner. The application must include the applicant's name, permit number under chapter 4692, social security number, business address and phone number, or home address and phone number if the applicant conducts hearing instrument selling out of the home, and a description of the applicant's education, training, and experience, including previous work history. The commissioner may ask the applicant to provide additional information necessary to clarify information submitted in the application;

B. sign a statement that the information in the application is true and correct to the best of the applicant's knowledge and belief;

C. submit with the application all fees required by part 4745.0050;

D. sign a waiver authorizing the commissioner to obtain access to the applicant's records in this state or any other state in which the applicant has engaged in hearing instrument selling;

E. provide evidence of a passing score as determined by the commissioner on an approved examination as described in part 4745.0025; and

F. provide certification to the commissioner that the applicant's audiometric equipment has been calibrated to meet current ANSI standards within 12 months of the date of the application.

**Subp. 2. Action on applications for registration.** The commissioner shall act on an application for registration according to items A to C.

A. The commissioner shall determine if the applicant meets the requirements for registration. The commissioner or advisory council may investigate information provided by an applicant to determine whether the information is accurate and complete.

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B. The commissioner, within 60 days of receiving an application for registration, shall notify each applicant of action taken on the application and of the grounds for denying registration if registration is denied.

C. Applicants denied registration may make a written request to the commissioner, within 30 days of the commissioner's determination, to appear before the advisory council and for the advisory council to review the commissioner's decision to deny the applicant's registration. After reviewing the denial, the advisory council shall make a recommendation to the commissioner as to whether the denial shall be affirmed. Each applicant is allowed no more than one request for a review of denial of registration in any one registration renewal period.

**Statutory Authority:** *MS s 214.13*

**History:** *14 SR 2493*

### 4745.0040 REGISTRATION RENEWAL.

**Subpart 1. Renewal requirements.** To renew registration, an applicant must:

A. annually complete a renewal application on a form provided by the commissioner and submit the annual renewal fee;

B. meet the continuing education requirements of part 4745.0045; and

C. submit certification to the commissioner that the applicant's audiometric equipment has been calibrated to meet current ANSI standards within 12 months of the date of the application.

**Subp. 2. Other requirements.**

A. An applicant must submit additional information if requested by the commissioner to clarify information presented in the renewal application. The information must be submitted within 30 days of the commissioner's request.

B. An application submitted after the renewal deadline date must be accompanied by a late fee as required in part 4745.0050, subpart 3.

**Subp. 3. Registration renewal notice.** Registration renewal is on an annual basis. At least 30 days before the registration renewal date in subpart 4, the commissioner shall send out a renewal notice to the registrant's last known address. The notice shall include a renewal application and notice of fees required for renewal. If the registrant does not receive the renewal notice, the registrant is still required to meet the deadline for renewal to qualify for continuous registered status.

**Subp. 4. Renewal deadline.** The renewal application and fee must be postmarked on or before the date registration must be renewed according to items A to E. Registration must be renewed according to the following schedule:

A. for registrants whose last name begins with the letters A to E, February 1;

B. for registrants whose last name begins with the letters F to L, April 1;

C. for registrants whose last name begins with the letters M to P, June 1;

D. for registrants whose last name begins with the letters Q to U, August 1; and

E. for registrants whose last name begins with the letters V to Z, October 1.

**Statutory Authority:** *MS s 214.13*

**History:** *14 SR 2493*

### 4745.0045 CONTINUING EDUCATION REQUIREMENTS.

**Subpart 1. Number of contact hours required.**

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A. An applicant for registration renewal must provide evidence to the commissioner of a minimum of 20 contact hours of continuing education as provided by subitems (1) and (2) offered by an approved continuing education sponsor within the two years immediately preceding registration renewal.

(1) A minimum of 14 contact hours of continuing education must be directly related to hearing instrument selling.

(2) Six contact hours of continuing education may be in areas generally related to hearing instrument selling.

B. Contact hours cannot be accumulated in advance and transferred to a future continuing education period.

**Subp. 2. Preapproved continuing education sponsors.** The commissioner will accept continuing education approved or sponsored by the Minnesota Department of Health, the Minnesota Hearing Aid Society, the National Hearing Aid Society, the National Institute of Hearing Instrument Studies, the Minnesota Speech-Language-Hearing Association, the American Speech-Language-Hearing Association, the Academy of Dispensing Audiologists, the American Academy of Otolaryngology-Head and Neck Surgery, or the Minnesota Academy of Otolaryngology-Head and Neck Surgery.

**Subp. 3. Approval of continuing education sponsors.** All continuing education sponsors, unless preapproved under subpart 2, must be approved by the commissioner according to items A to E.

A. Applications for approval must be submitted to the commissioner at least 60 days before the date of the first continuing education activity. Applications must be made in writing by the person or officer of the organization sponsoring the program. To obtain approval, continuing education sponsors must submit the following information on an application provided by the commissioner:

(1) The continuing education sponsor must describe the content of all courses to be offered. The course content must contribute directly to the professional competency of the hearing instrument dispenser, must be related to the use of hearing instruments for aiding or compensating the hearing impaired, and must include subject matter related to current developments in hearing instrument selling.

(2) The continuing education sponsor must describe the method of instruction for each course offered. The continuing education sponsor must describe for each course offered the teaching methods to be used, such as, lecture, seminar, audiovisual, or simulation.

(3) The continuing education sponsor must outline specific, written objectives that describe expected outcomes for the participants.

(4) The continuing education sponsor must state the number of contact hours of continuing education which may be obtained by completing a specified course, which must be a minimum of one hour.

(5) The continuing education sponsor must provide a resume of each instructor's qualifications with the application for approval by the commissioner. Instructors must be qualified to teach the specified course content based on their prior education, training, or experience.

B. Sponsors of sales training courses and new product seminars offered for continuing education purposes are subject to approval as continuing education sponsors by the commissioner.

C. The continuing education sponsor must report to the commissioner, on a timely basis, any change in the course content or instructor.

D. Continuing education sponsors must maintain, for a minimum of three years, a record of attendance for each course offered.

E. The commissioner may withdraw the approval of any continuing education sponsor for failure to comply with this part.

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Subp. 4. **Earning continuing education contact hours through contact hour equivalents.** A registrant who teaches continuing education courses may obtain contact hour equivalents according to items A to C.

A. The sponsor of the course must be approved by the commissioner.

B. A registrant may not obtain more than four contact hours in any two-year continuing education period by teaching continuing education courses.

C. A registrant may obtain two contact hours for each hour spent teaching a course if the course is sponsored by an approved continuing education sponsor. Contact hours may be claimed only once for teaching the same course in any two-year continuing education period.

Subp. 5. **Evidence of attendance.** Each registrant is responsible for maintaining records of attending the continuing education contact hours required for registration renewal. Applicants for registration renewal must submit the following information on a form provided by the commissioner: the sponsoring organization, dates of the course, course name, contact hours completed, and name and signature of the registrant. The form must be submitted with the renewal application.

Subp. 6. **Verification of continuing education reports.** The commissioner may request a registrant to verify the continuing education to which the registrant attested. Documentation may come directly from the registrant or from a national accrediting or certifying organization that maintains the records.

**Statutory Authority:** *MS s 214.13*

**History:** *14 SR 2493*

### 4745.0050 FEES.

Subpart 1. **First time registrants and applicants for registration renewal.** The commissioner shall prorate the registration fee for first time registrants and applicants for registration renewal according to the number of months that have elapsed between the date registration is issued and the date registration must be renewed according to part 4745.0040, subpart 4.

Subp. 2. **Annual registration fee.** The fee for initial registration and annual registration renewal is \$93.

Subp. 3. **Penalty fee for late renewals.** The penalty fee for late submission of a renewal application is \$15.

Subp. 4. **Examination fee.** The fee for taking the written and practical examination required by part 4745.0025 is \$50.

Subp. 5. **Surcharge.** In addition to the other applicable fees, each applicant must pay a surcharge fee of \$35. The surcharge fee applies to all registrants during the first five years following April 30, 1990.

Subp. 6. **Nonrefundable fees.** All fees are nonrefundable.

**Statutory Authority:** *MS s 214.13*

**History:** *14 SR 2493*

### 4745.0055 INVESTIGATION PROCESS AND GROUNDS FOR DISCIPLINARY ACTION.

Subpart 1. **Investigations of complaints.** The commissioner or advisory council may initiate an investigation upon receiving a complaint or other oral or written communication that alleges or implies that an individual has violated parts 4745.0010 to 4745.0060. The investigation may proceed on an oral complaint but disciplinary action may only proceed on a signed complaint. According to Minnesota Statutes, section 214.13, subdivision 6, in the receipt, investigation, and hearing of a complaint that alleges or implies an individual has violated parts 4745.0010 to 4745.0060, the commissioner shall follow the procedures in Minnesota Statutes, section 214.10.

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**Subp. 2. Rights of applicants and registrants.** The rights of applicants denied registration are stated in part 4745.0035, subpart 2, item C. Registrants shall not be subjected to disciplinary action under this part without first having an opportunity for a contested case hearing under Minnesota Statutes, chapter 14.

**Subp. 3. Grounds for disciplinary action by the commissioner.** The commissioner may take any of the disciplinary actions listed in subpart 4 upon proof that the individual has:

A. intentionally submitted false or misleading information to the commissioner or the advisory council;

B. failed, within 30 days, to provide information in response to a written request by the commissioner or advisory council;

C. performed services of a hearing instrument dispenser in an incompetent or negligent manner;

D. violated parts 4745.0010 to 4745.0060;

E. failed to perform services with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment;

F. been convicted within the last five years of violating any laws of the United States, or any state or territory of the United States, and the violation is a felony or misdemeanor, an essential element of which is dishonesty, or which relates to hearing instrument selling, except as provided in Minnesota Statutes, chapter 364;

G. aided or abetted another person in violating any of the provisions of parts 4745.0010 to 4745.0060;

H. been or is being disciplined by another jurisdiction, if any of the grounds for the discipline is the same or substantially equivalent to those in parts 4745.0010 to 4745.0060;

I. not cooperated with the commissioner or advisory council in an investigation conducted according to subpart 1;

J. engaged in any of the acts prohibited by Minnesota Statutes, section 153A.15, subdivision 1; or

K. had the permit required by Minnesota Statutes, chapter 153A, denied, suspended, or revoked according to chapter 4692.

**Subp. 4. Disciplinary actions.** If the commissioner finds that an individual should be disciplined according to subpart 3, the commissioner may take any one or more of the following actions:

A. refuse to grant or renew registration;

B. suspend registration for a period not exceeding one year;

C. revoke registration for a period not exceeding three years; or

D. take any reasonable lesser action against an individual upon proof that the individual has violated parts 4745.0010 to 4745.0060.

**Subp. 5. Consequences of disciplinary action.** Upon the suspension or revocation of registration, the hearing instrument seller shall cease to use titles protected by parts 4745.0010 to 4745.0060 and shall cease to represent to the public that the hearing instrument seller is registered by the commissioner.

**Subp. 6. Reinstatement requirements after disciplinary action.** A hearing instrument seller who has had registration suspended or revoked may apply for reinstatement or registration renewal following the period of suspension or revocation specified by the commissioner. All requirements of part 4745.0040 for renewing registration must be met before registration may be reinstated or renewed.

**Statutory Authority:** *MS s 214.13*

**History:** *14 SR 2493*



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## 4439 HEARING INSTRUMENT DISPENSER REGISTRATION 4745.0060

### 4745.0060 HEARING INSTRUMENT DISPENSER ADVISORY COUNCIL.

Subpart 1. **Membership.** The commissioner shall appoint seven persons to a hearing instrument dispenser advisory council.

A. The seven persons must include:

(1) two public members, as defined in Minnesota Statutes, section 214.02. One of the public members shall be a hearing instrument user and one of the public members shall be either a hearing instrument user or an advocate of such a person; and

(2) three hearing instrument dispensers registered under parts 4745.0010 to 4745.0060, each of whom is currently and has been for the five years immediately preceding their appointment engaged in hearing instrument selling in Minnesota; all three must be registered hearing instrument dispensers who are not audiologists; and

(3) one audiologist who is a hearing instrument seller and registered as an audiologist under Minnesota Rules, or if no such rules are in effect, an audiologist who holds a current certificate of clinical competence in audiology from the American Speech-Language-Hearing Association; and

(4) one of the following:

(a) a licensed physician specializing in treatment of diseases of the ear, who is board eligible or board certified by the American Board of Otolaryngology but is not also a seller of hearing instruments and has no financial interest in the business of hearing instrument selling; or

(b) an audiologist who is registered as an audiologist under Minnesota Rules, or if no such rules are in effect, an audiologist who holds a current certificate of clinical competence in audiology from the American Speech-Language-Hearing Association.

B. No two members of the advisory council shall be employees of, or have binding contracts requiring sales exclusively for, the same hearing instrument manufacturer or the same employer.

Subp. 2. **Organization.** The advisory council shall be organized and administered according to Minnesota Statutes, section 15.059.

Subp. 3. **Duties.** The advisory council shall:

A. advise the commissioner regarding hearing instrument dispenser registration standards;

B. advise the commissioner on enforcement of parts 4745.0010 to 4745.0060;

C. provide for distribution of information regarding hearing instrument dispenser registration standards;

D. review applications and make recommendations to the commissioner on granting or denying registration or registration renewal;

E. review reports of investigations relating to individuals and make recommendations to the commissioner as to whether registration should be denied or disciplinary action taken against the individual;

F. advise the commissioner regarding approval of continuing education sponsors using the criteria in part 4745.0045, subpart 3; and

G. perform other duties authorized for advisory councils by Minnesota Statutes, chapter 214, or as directed by the commissioner.

**Statutory Authority:** *MS s 214.13*

**History:** *14 SR 2493*