

1 Department of Health

2

3 Adopted Permanent Rules Relating to Hearing Aid Seller Permits

4

5 Rules as Adopted

6 4692.0010 PURPOSE.

7 Chapter 4692 establishes procedures for applying and  
8 obtaining a permit to sell hearing instruments. The purpose of  
9 this chapter is to establish a central registry listing of  
10 persons who sell hearing instruments and to establish procedures  
11 for issuing, suspending, and revoking permits.

12 4692.0015 DEFINITIONS.

13 Subpart 1. Scope. For purposes of this chapter, the  
14 following terms have the meanings given them.

15 Subp. 2. Applicant. "Applicant" means a person who  
16 applies with the commissioner for a permit to sell hearing  
17 instruments.

18 Subp. 3. Commissioner. "Commissioner" means the  
19 commissioner of health.

20 Subp. 4. Hearing instrument. "Hearing instrument" is as  
21 defined in Minnesota Statutes, section 153A.13, subdivision 3.

22 Subp. 5. Hearing instrument selling. "Hearing instrument  
23 selling" ~~is as defined in Minnesota Statutes, section 153A.13,~~  
24 subdivision 4 means fitting ear molds, assisting the consumer in  
25 instrument selection, or testing of human hearing when the  
26 person conducting these activities has a monetary interest in  
27 the sale of hearing instruments to the consumer at retail.

28 Subp. 6. Permit holder. "Permit holder" means a person  
29 who has been issued a valid permit by the commissioner.

30 Subp. 7. Permit number. "Permit number" means the number  
31 assigned to each permit by the commissioner.

32 Subp. 8. Seller of hearing instruments. "Seller of  
33 hearing instruments" is as defined in Minnesota Statutes,  
34 section 153A.13, subdivision 5.

## 1 4692.0020 REQUIREMENT TO APPLY FOR A PERMIT AND TIME PERIODS.

2 Subpart 1. Who must apply. A person who sells hearing  
3 instruments in Minnesota must apply for a permit from the  
4 commissioner on forms provided by the commissioner.

5 Subp. 2. Time period for initial application. A seller  
6 who is selling hearing instruments in Minnesota on the effective  
7 date of this chapter must apply for a permit from the  
8 commissioner within 120 days after the effective date of this  
9 chapter.

10 Subp. 3. Time period after initial application period.  
11 One hundred twenty days after the effective date of this  
12 chapter, a person who sells hearing instruments must first have  
13 a valid permit issued by the commissioner and the 120-day period  
14 in subpart 2 does not apply.

## 15 4692.0025 PROCEDURE FOR APPLYING FOR A PERMIT.

16 Subpart 1. Application forms. The applicant must:

17 A. apply to the commissioner for a permit to sell  
18 hearing instruments on the forms provided by the commissioner;

19 B. include with the application a statement that the  
20 statements in the application are true and correct to the best  
21 of the applicant's knowledge and belief;

22 C. include with the application a nonrefundable  
23 application fee specified in part 4692.0040;

24 D. include with the application the information  
25 required by Minnesota Statutes, section 153A.14, and describe  
26 the applicant's experience, including the number of years and  
27 months that the applicant has sold hearing instruments as  
28 defined in Minnesota Statutes, section 153A.13;

29 E. include with the application the applicant's  
30 business address and phone number, or home address and phone  
31 number if the applicant conducts his or her business out of the  
32 home, and if applicable, the name of the applicant's supervisor,  
33 manager, and business owner;

34 F. include with the application a written and signed  
35 authorization that authorizes the commissioner to make inquiries

1 to appropriate regulatory agencies in this or any other state  
2 where the applicant has sold hearing instruments; and

3 G. complete the application in sufficient detail for  
4 the commissioner to determine if the applicant meets the  
5 requirements for filing. The commissioner may ask the applicant  
6 to provide additional information necessary to clarify  
7 incomplete or ambiguous information submitted in the application.

8 Subp. 2. Requirement to maintain current information. A  
9 seller must notify the commissioner within 30 days of the  
10 occurrence of any one or more of the following:

11 A. a change of name, address, and home or business  
12 phone number;

13 B. the occurrence of conduct prohibited by Minnesota  
14 Statutes, section 153A.15; and

15 C. a settlement or award based on the negligence or  
16 intentional acts committed in the selling of hearing instruments  
17 by the seller; ~~and~~

18 ~~B. a physical or mental disability of the seller that~~  
19 ~~may affect a seller's ability to sell hearing instruments.~~

20 4692.0030 COMMISSIONER ACTION ON PERMITS.

21 Subpart 1. Issuance of permit. The commissioner will  
22 review the permit application to determine whether or not the  
23 applicant has met the application requirements of part  
24 4692.0025. If the permit applicant has met the requirements of  
25 part 4692.0025, then the commissioner will issue a permit to the  
26 applicant.

27 Subp. 2. Prohibitions. The permit is not transferable to  
28 any other person. It may not be displayed, published, or  
29 duplicated in any way.

30 Subp. 3. Required use of permit number. The permit holder  
31 shall use the permit number on all contracts, bills of sale, and  
32 receipts used in the sale of hearing instruments.

33 Subp. 4. Denial of application for permit.

34 A. The commissioner may deny an application for a  
35 permit if:

1 (1) the application does not contain the  
2 information required by Minnesota Statutes, section 153A.14,  
3 subdivision 1, and part 4692.0025, subpart 1, and the applicant  
4 fails to provide the commissioner with the required or  
5 additional information within 30 days after the date requested  
6 by the commissioner;

7 (2) the applicant has submitted false or  
8 misleading information on the application;

9 (3) the applicant fails to fully disclose actions  
10 taken against the applicant or the applicant's legal  
11 authorization to sell hearing instruments in this or another  
12 state;

13 (4) the applicant fails to authorize the  
14 commissioner as required in part 4692.0025, subpart 1, item F,  
15 to obtain information from the appropriate regulatory agencies  
16 in this or any other state where the applicant has sold hearing  
17 instruments;

18 (5) there is evidence that the applicant has not  
19 made good faith efforts to comply with the commissioner's  
20 internal operating procedures for the hearing instrument  
21 consumer complaint system;

22 (6) there is evidence that the applicant has  
23 engaged in behavior that is specifically prohibited by Minnesota  
24 Statutes, section 153A.15; or

25 (7) there is evidence that the applicant has  
26 violated a state or federal court order or judgment issued to  
27 manage the activities of the applicant in selling hearing  
28 instruments.

29 B. The commissioner must notify an applicant in  
30 writing if the application is denied and include the reasons for  
31 denying the application.

32 C. An applicant may appeal the commissioner's  
33 decision to deny issuance of a permit. An appeal must be made  
34 according to the contested case procedures of Minnesota  
35 Statutes, chapter 14. Once a timely appeal is made, the  
36 commissioner's decision will be stayed until resolution of the

1 contested case.

2 D. At any time after the commissioner has denied an  
3 applicant's application for a permit, an applicant may submit a  
4 new permit application with the commissioner. The new permit  
5 application must be accompanied by a new filing fee, except if  
6 the original application was denied for typographical errors.

7 Subp. 5. Suspension or revocation of permit. The  
8 commissioner shall follow the procedures in items A to E for  
9 suspending or revoking a permit.

10 A. The commissioner may suspend or revoke a permit to  
11 sell hearing instruments if:

12 (1) there is evidence that the permit holder  
13 engaged in conduct prohibited by Minnesota Statutes, section  
14 153A.15;

15 (2) there is evidence that the permit holder  
16 submitted false or misleading information to the commissioner;

17 (3) there is evidence that the permit holder  
18 violated a state or federal court order or judgment issued to  
19 manage the activities of the applicant in the hearing instrument  
20 selling business; or

21 (4) there is evidence that the permit holder has  
22 not made good faith efforts to comply with the commissioner's  
23 internal operating procedures for the hearing instrument  
24 consumer complaint system.

25 B. The commissioner must notify a permit holder in  
26 writing if the permit is suspended or revoked and include the  
27 reasons for the suspension or revocation.

28 C. A permit holder may appeal the commissioner's  
29 decision to suspend or revoke the permit. An appeal must be  
30 according to the contested case procedures of Minnesota  
31 Statutes, chapter 14. Once an appeal is timely made, the  
32 commissioner's decision will be stayed until resolution of the  
33 contested case.

34 D. The commissioner may not suspend a permit to sell  
35 hearing instruments for longer than one year. The commissioner  
36 may not revoke a permit to sell hearing instruments for longer

1 than three years.

2 E. When the suspension or revocation period is over,  
3 the permit holder may petition the commissioner to remove the  
4 suspension or revocation. If the commissioner finds that the  
5 petitioner has complied with the terms of the suspension or  
6 revocation order and has met the requirements in part 4692.0025,  
7 the commissioner shall reinstate a permit to the petitioner.

8 4692.0035 RENEWAL OF PERMITS.

9 Subpart 1. Permit renewal notice. Permit holders must  
10 renew their permits annually. At least 30 days before the date  
11 the permit must be renewed according to subpart 2, the  
12 commissioner shall send out a renewal notice to the permit  
13 holder's last known address. The notice shall include a renewal  
14 application and notice of fees required for renewal. A permit  
15 holder is not relieved from meeting the applicable deadline for  
16 renewal on the basis that the permit holder did not receive the  
17 renewal notice. In renewing a permit, a permit holder shall  
18 follow the procedures for applying for a permit specified in  
19 part 4692.0025.

20 Subp. 2. Renewal deadline. The renewal application and  
21 fee must be postmarked on or before the date the permit must be  
22 renewed according to items A to E. Permits must be renewed  
23 according to the following schedule:

24 A. for permit holders whose last name begins with the  
25 letters A to E, February 1;

26 B. for permit holders whose last name begins with the  
27 letters F to L, April 1;

28 C. for permit holders whose last name begins with the  
29 letters M to P, June 1;

30 D. for permit holders whose last name begins with the  
31 letters Q to U, August 1; and

32 E. for permit holders whose last name begins with the  
33 letters V to Z, October 1.

34 4692.0040 FEES.

35 Subpart 1. First time applicants and reapplicants for

1 permits. The commissioner shall prorate the permit fee for  
2 first time applicants and reapplicants according to the number  
3 of months that have elapsed between the date the permit is  
4 issued and the date the permit must be renewed according to part  
5 4692.0035, subpart 2.

6 Subp. 2. Annual permit fee. The annual permit fee is \$140.

7 ~~Subp. 3. Surcharge fee. In addition to other applicable~~  
8 ~~fees, each applicant must pay a surcharge fee of \$29. The~~  
9 ~~surcharge fee applies to all persons applying for a permit or~~  
10 ~~renewal of a permit under this chapter during the first five~~  
11 ~~years following the effective date of this chapter.~~

12 4692.0045 BONDS.

13 Subpart 1. Evidence of compliance with Minnesota Statutes,  
14 section 153A.16. Bonds shall be submitted to the commissioner  
15 on bond forms provided by the commissioner.