

Chapter 694

1974 REPLACEMENT PART

Hearing Aid Dealers

GENERALLY

- 694.015 Definitions for ORS 694.015 to 694.170
- 694.025 Certificate of registration required to deal in hearing aids
- 694.035 Receipt required to be furnished to person supplied with hearing aid

LICENSING

- 694.055 Qualifications of applicants for registration; fee
- 694.065 Examination of applicants
- 694.075 Scope of examination
- 694.085 Registration and issuance of certificates; fees
- 694.095 Temporary certificate of registration
- 694.115 Notice to division of place of business; notice to holders of certificates by division

- 694.125 Annual renewal of registration; fees; effect of failure to renew
- 694.135 Grounds for suspension or revocation of certificates
- 694.138 Certificate denial procedure
- 694.145 Prohibited acts and practices

ADMINISTRATION

- 694.155 Powers and duties of Health Division
- 694.165 Advisory Council on Hearing Aids; qualifications; terms; compensation and expenses
- 694.170 Duties of council
- 694.185 Disposition of receipts

PENALTIES

- 694.991 Penalties; concurrent jurisdiction of offenses

CROSS REFERENCES

Administrative procedures and rules of state agencies, Ch. 183
Persons in military or naval service relieved from fee payment, 408.450
State agencies generally, Ch. 182

694.055

Waiver of educational requirement for admission to examination, 670.010

694.135

Denial, suspension or revocation of license prohibited solely because of criminal conviction, 670.280
Injunction against practicing after suspension or revocation of license, 676.220

694.165

Appointive officers, term, removal and appointment of successor, 236.140
Subsistence and mileage allowance for travel, 292.210 to 292.250

GENERALLY

694.010 [Repealed by 1959 c.406 §34]

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) "Division" means the Health Division.

(2) "Certificate of registration" includes a temporary certificate of registration.

(3) "Council" means the Advisory Council to the Health Division on Hearing Aids.

(4) "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.

(5) "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.

[1959 c.634 §1; 1967 c.631 §1; 1971 c.650 §28]

694.020 [Amended by 1955 c.689 §2; repealed by 1959 c.406 §34]

694.025 Certificate of registration required to deal in hearing aids. No person shall deal in hearing aids or display a sign or in any other way advertise or hold himself out as a person who deals in hearing aids unless he holds a valid certificate of registration issued by the division as provided in ORS 694.015 to 694.170.

[1959 c.634 §2; 1967 c.631 §2; 1971 c.650 §29]

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

694.035 Receipt required to be furnished to person supplied with hearing aid. Any person who deals in hearing aids shall deliver to each person there supplied with a hearing aid a receipt which shall contain his signature and show the address of his regular place of business and the number of his certificate, together with a specification of the hearing aid furnished and amount charged therefor.

[1959 c.364 §12; 1967 c.631 §3]

694.040 [Repealed by 1959 c.406 §34]

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

694.050 [Repealed by 1959 c.406 §34]

LICENSING

694.055 Qualifications of applicants for registration; fee. An applicant for registration shall pay a fee of \$60 and shall show to the satisfaction of the division that he:

(1) Is a person of good moral character.

(2) Is 18 years of age or older.

(3) Has an education equivalent to a four-year course in a standard high school or has continuously dealt in hearing aids in this state during the three years preceding January 15, 1960.

[1959 c.634 §4; 1967 c.631 §4; 1973 c.182 §7; 1973 c.827 §76]

694.060 [Repealed by 1959 c.406 §34]

694.065 Examination of applicants. (1) An applicant for registration who is notified by the division that he has fulfilled the requirements of ORS 694.055, shall appear at a time, place and before such persons as the division may designate, to be examined by written and practical tests.

(2) The division shall give one qualifying examination provided in subsection (1) of this section before January 15, 1960, and beginning in July of 1960 shall give a qualifying examination during the second full week in January and during the third full week in July in each year.

[1959 c.634 §§5, 5a; 1967 c.631 §5]

694.070 [Repealed by 1959 c.406 §34]

694.075 Scope of examination. The qualifying examination provided in subsection (1) of ORS 694.065 shall consist of:

(1) Tests of knowledge in the following areas as they pertain to the fitting of hearing aids:

(a) Basic physics of sound.

(b) The human hearing mechanism, including the science of hearing and the causes and rehabilitation of abnormal hearing and hearing disorders.

(c) Structure and function of hearing aids.

(2) Tests of proficiency in the following techniques as they pertain to the fitting of hearing aids:

(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 and speech discrimination testing.

(c) Effective masking.

(d) Recording and evaluation of audiograms and speech audiometry to determine hearing aid candidacy.

(e) Selection and adaptation of hearing aids and testing of hearing aids.

(f) Taking earmold impressions.

[1959 c.634 §6]

694.080 [Repealed by 1959 c.406 §34]

694.085 Registration and issuance of certificates; fees. The division shall register each applicant, without discrimination, who satisfactorily passes the examination and, upon payment of \$60 after a January examination or \$40 after a July examination to the division, shall issue to the applicant a certificate of registration signed by the Administrator of the Health Division. The certificate of registration shall be effective until January 15 of the year following the year in which it is issued.

[1959 c.634 §7; 1973 c.182 §8]

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

694.095 Temporary certificate of registration. (1) After January 15, 1960, an applicant who fulfills the requirements of ORS 694.055 and who has not previously applied to take the qualifying examination provided under subsection (1) of ORS 694.065 may apply to the division for a temporary certificate of registration.

(2) Upon receiving an application provided under subsection (1) of this section accompanied by a fee of \$5, the division shall issue a temporary certificate of registration which shall entitle the applicant to deal in hearing aids for a period ending 10 days after the conclusion of the next qualifying examination given after the date of issue.

(3) No temporary certificate of registration shall be issued by the division under this section unless the applicant shows to the satisfaction of the division that he is or will be supervised and trained by a person who holds a valid certificate of registration issued under ORS 694.015 to 694.170.

(4) If a person who holds a temporary certificate of registration issued under this section does not take the next qualifying examination given after the date of issue, the temporary certificate shall not be renewed.

(5) If a person who holds a temporary certificate of registration issued under this section takes and fails to pass the next qualifying examination given after the date of issue, or if for good reason in the judgment of the division he fails to take the next qualify-

ing examination, the division may renew the temporary certificate of registration for a period ending 10 days after the conclusion of the next qualifying examination given after the date of the renewal. Two renewals may be allowed; but in any event the time for which an individual may hold a temporary certificate of registration shall not exceed 16 months. The fee for renewal shall be \$20.

[1959 c.634 §9; 1967 c.631 §6]

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 division of place of business; notice to holders of certificates by division. (1) A person who holds a certificate of registration shall notify the division in writing of the regular address of the place or places where he deals or intends to deal in hearing aids.

(2) The division shall keep a record of the places of business of persons who hold certificates of registration.

(3) Any notice required to be given by the division to a person who holds a certificate of registration may be given by mailing it to him at the address of the last place of business of which he has notified the division.

[1959 c.634 §11; 1967 c.631 §8]

694.120 [Repealed by 1959 c.406 §34]

694.125 Annual renewal of registration; fees; effect of failure to renew. Each person who deals in hearing aids shall annually, on or before January 15, pay to the division a fee of \$60 for a renewal of his certificate of registration and shall keep such certificate conspicuously posted in his office or place of business at all times. A 30-day grace period shall be allowed after January 15, during which certificates of registration may be renewed on payment of a fee of \$65 to the division. The division may suspend the certificate of registration of any person who fails to renew his certificate before the expiration of the 30-day grace period. After the expiration of the grace period, the division may renew such a certificate upon the payment of \$70 to the division. No person who applies for renewal, whose certificate of registration was suspended for failure to renew, shall be required to submit to any examination as a condition of renewal if he renews within

three years after the date of expiration of his certificate.

[1959 c.634 §13; 1967 c.631 §9; 1973 c.182 §9]

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

694.135 Grounds for suspension or revocation of certificates. Any person registered under ORS 694.015 to 694.170 may have his certificate of registration revoked or suspended for a fixed period by the division for any of the following causes:

(1) His conviction of a felony, or of a misdemeanor involving moral turpitude. The record of conviction, or a certified copy thereof certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of such conviction.

(2) When his certificate of registration has been secured by fraud or deceit practiced upon the division.

(3) For unethical conduct, or for gross ignorance or inefficiency in dealing in hearing aids. Unethical conduct means:

(a) The obtaining of any fee or the making of any sale by fraud or misrepresentation.

(b) Employing directly or indirectly any suspended or unregistered person to perform any work covered by ORS 694.015 to 694.170.

(c) Using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or any other representation, however disseminated or published, which is misleading, deceiving, improbable or untruthful.

(d) Advertising a particular model, type or kind of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type or kind where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model, type or kind than that advertised.

(e) Representing that the services or advice of a person licensed to practice medicine will be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing aids when that is not true, or using the word "doctor," "clinic" or other like words, abbreviations or symbols which tend to connote the medical profession when such use is not accurate.

(f) Habitual intemperance.

(g) Gross immorality.

(h) Permitting another to use his certificate.

(4) Dealing while suffering from a contagious or infectious disease.

(5) Advertising professional methods or professional superiority.

(6) Dealing in hearing aids under a false or alias name.

(7) For any violation of the provisions of ORS 694.015 to 694.170.

[1959 c.634 §14; 1967 c.631 §10]

694.138 Certificate denial procedure. (1) Where the division proposes to refuse to issue or renew a certificate of registration, or proposes to revoke or suspend a certificate of registration, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.500.

[1971 c.734 §156]

694.140 [Repealed by 1959 c.406 §34]

694.145 Prohibited acts and practices. No person shall:

(1) Sell, barter or offer to sell or barter a certificate of registration.

(2) Purchase or procure by barter a certificate of registration with intent to use it as evidence of the holder's qualification to deal in hearing aids.

(3) Alter materially a certificate of registration with fraudulent intent.

(4) Use or attempt to use as a valid certificate of registration a certificate which has been purchased, fraudulently obtained, counterfeited or materially altered.

(5) Wilfully make a false, material statement in an application for registration or for renewal of a certificate of registration.

[1959 c.634 §15; 1967 c.631 §11]

694.150 [Repealed by 1959 c.406 §34]

ADMINISTRATION

694.155 Powers and duties of Health Division. The powers and duties of the division are as follows:

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

(2) To supervise and administer qualifying examinations to test the knowledge and proficiency of applicants for registration.

(3) To register persons who apply to the division and who have qualified to deal in hearing aids.

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

(5) To issue and renew certificates of registration.

(6) To suspend or revoke certificates of registration in the manner provided in ORS 183.310 to 183.500.

(7) To appoint representatives to conduct or supervise the examination of applicants for registration.

(8) To designate the time and place for examining applicants for certificates of registration.

(9) To make and publish rules and regulations not inconsistent with the laws of this state which are necessary to carry out the provisions of ORS 694.015 to 694.170.

(10) 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.

(11) To appoint or employ subordinate employes.

[1959 c.634 §23; 1967 c.631 §12]

694.160 [Repealed by 1959 c.406 §34]

694.165 Advisory Council on Hearing Aids; qualifications; terms; compensation and expenses. (1) There hereby is created the Advisory Council to the Health Division on Hearing Aids. The council shall consist of five members to be appointed by the Governor.

(2) Members of the council shall be residents of this state. One member shall be a person licensed to practice medicine in this state who holds a certificate of qualification from the American Board of Otolaryngology. One member shall hold clinical certification in audiology with the American Speech and Hearing Association and shall be a member in good standing of that association. Three members shall be persons experienced in the fitting of hearing aids, who possess the qualifications provided in ORS 694.055; but all successors to the position of such members, who are appointed to the council after the date on which the division first issues a certificate of registration as provided in ORS 694.085, shall be persons who hold valid certificates of registration under ORS 694.015 to 694.170. No member of the council shall be a member or employe of the division.

(3) The term of office of a member is three years beginning on July 1 of the year

of appointment. A member shall continue to serve until a successor has been appointed and qualifies. Before a member's term expires, the Governor shall appoint a successor to assume his duties on July 1 at the expiration of his predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term.

(4) 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]

694.170 Duties of council. (1) The council shall have the responsibility and duty of advising the division in all matters relating to ORS 694.015 to 694.170, shall prepare the examinations required by ORS 694.015 to 694.170 subject to the approval of the division and shall assist the division in carrying out the provisions of ORS 694.015 to 694.170.

(2) The division 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]

694.175 [1959 c.634 §22; repealed by 1971 c.753 §74]

694.180 [1959 c.634 §24; 1961 c.593 §5; repealed by 1971 c.753 §74]

694.185 Disposition of receipts. All moneys received by the Health Division under ORS 694.015 to 694.170 and 694.991 shall be paid into the General Fund in the State Treasury and placed to the credit of the Health Division Account and such moneys hereby are appropriated continuously and shall be used only for the administration and enforcement of ORS 694.015 to 694.170 and 694.991.

[1973 c.427 §4]

694.305 [1973 c.199 §1; renumbered 681.205]

694.315 [1973 c.199 §2; renumbered 681.220]

694.325 [1973 c.199 §4; renumbered 681.230]

694.335 [1973 c.199 §3; renumbered 681.250]

694.345 [1973 c.199 §5; renumbered 681.260]

694.355 [1973 c.199 §20; renumbered 681.270]

694.365 [1973 c.199 §22; renumbered 681.280]

694.375 [1973 c.199 §21; renumbered 681.290]

694.385 [1973 c.199 §6; renumbered 681.300]

694.395 [1973 c.199 §23; renumbered 681.310]

694.405 [1973 c.199 §25; renumbered 681.320]

694.415 [1973 c.199 §19; renumbered 681.330]

694.425 [1973 c.199 §24; renumbered 681.340]

694.435 [1973 c.199 §26; renumbered 681.350]
 694.445 [1973 c.199 §7; renumbered 681.400]
 694.455 [1973 c.199 §§9, 11; renumbered 681.410]
 694.465 [1973 c.199 §18; renumbered 681.420]
 694.475 [1973 c.199 §§12, 13; renumbered
 681.430]
 694.485 [1973 c.199 §14; renumbered 681.440]
 694.495 [1973 c.199 §15; renumbered 681.450]
 694.505 [1973 c.199 §16; renumbered 681.460]
 694.515 [1973 c.199 §17; renumbered 681.470]
 694.525 [1973 c.199 §27; renumbered 681.480]

PENALTIES

694.990 [Repealed by 1959 c.406 §34]

694.991 Penalties; concurrent jurisdiction of offenses. (1) Violation of any provision of ORS 694.015 to 694.170 is punishable, upon conviction, by a fine of not more than \$500 or by imprisonment for not more than 90 days, or both.

(2) Justice courts and district courts have concurrent jurisdiction with the circuit courts of violation under ORS 694.015 to 694.170.

[1959 c.634 §§25, 26; subsection (3) enacted as 1973 c.199 §28; subsection (3) renumbered 681.991]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
 Done at Salem, Oregon,
 on June 1, 1974.

Thomas G. Clifford
 Legislative Counsel