

CHAPTER 4692
DEPARTMENT OF HEALTH
HEARING AID SELLER PERMITS

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4692.0010 PURPOSE.

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

Statutory Authority: *MS s 153A.14*

History: *14 SR 1132*

4692.0015 DEFINITIONS.

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

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

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of health.

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

Subp. 5. **Hearing instrument selling.** "Hearing instrument selling" means fitting ear molds, assisting the consumer in instrument selection, or testing of human hearing when the person conducting these activities has a monetary interest in the sale of hearing instruments to the consumer at retail.

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

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

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

Statutory Authority: *MS s 153A.14*

History: *14 SR 1132*

4692.0020 REQUIREMENT TO APPLY FOR A PERMIT AND TIME PERIODS.

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

Subp. 2. **Time period for initial application.** A seller who is selling hearing instruments in Minnesota on November 14, 1989, must apply for a permit from the commissioner within 120 days after November 14, 1989.

Subp. 3. **Time period after initial application period.** One hundred twenty days after November 14, 1989, a person who sells hearing instruments must first have a valid permit issued by the commissioner and the 120-day period in subpart 2 does not apply.

Statutory Authority: *MS s 153A.14*

History: *14 SR 1132*

4692.0025 PROCEDURE FOR APPLYING FOR A PERMIT.

Subpart 1. **Application forms.** The applicant must:

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

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

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

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

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

F. include with the application a written and signed authorization that authorizes the commissioner to make inquiries to appropriate regulatory agencies in this or any other state where the applicant has sold hearing instruments; and

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

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

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

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

and

C. a settlement or award based on the negligence or intentional acts committed in the selling of hearing instruments by the seller.

Statutory Authority: *MS s 153A.14*

History: *14 SR 1132*

4692.0030 COMMISSIONER ACTION ON PERMITS.

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

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

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

Subp. 4. Denial of application for permit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. The commissioner may not suspend a permit to sell hearing instruments for longer than one year. The commissioner may not revoke a permit to sell hearing instruments for longer than three years.

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

Statutory Authority: *MS s 153A.14*

History: *14 SR 1132*

4692.0035 RENEWAL OF PERMITS.

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

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

- A. for permit holders whose last name begins with the letters A to E, February 1;
- B. for permit holders whose last name begins with the letters F to L, April 1;
- C. for permit holders whose last name begins with the letters M to P, June 1;
- D. for permit holders whose last name begins with the letters Q to U, August 1; and
- E. for permit holders whose last name begins with the letters V to Z, October 1.

Statutory Authority: *MS s 153A.14*

History: *14 SR 1132*

4692.0040 FEES.

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

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

Statutory Authority: *MS s 153A.14*

History: *14 SR 1132*

4692.0045 BONDS.

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

Statutory Authority: *MS s 153A.14*

History: *14 SR 1132*