Rules of
Department of Insurance, Financial Institutions and Professional Registration
Division 2165—Board of Examiners for Hearing Instrument Specialists
Chapter 3—Code of Ethics

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Division 2165—Board of Examiners for Hearing Instrument Specialists

Chapter 3—Code of Ethics

20 CSR 2165-3.010 General Obligations of the Licensee

PURPOSE: The purpose of this Code of Ethics to be implemented through the Board of Examiners for Hearing Instrument Specialists (hereafter referred to as the "board"), is to benefit and uphold the public health, safety and welfare in the performance of professional services, avoid the appearance of impropriety, and provide competent services according to professional and ethical obligations.

(1) It is fitting for the profession to have standards of excellence which set it apart, help it to self-govern, and enable its members to qualify as professionals. Therefore, this Code of Ethics is binding upon every person licensed by the board to practice the fitting of hearing instruments as defined in section 346.010(11), RSMo. In these rules of professional conduct, the word "licensee" shall mean any hearing instrument specialist, hearing instrument specialist in training, or registered supervisor.

(2) By applying for or becoming a hearing instrument specialist or hearing instrument specialist in training, a person shall—

(A) Comply with and uphold the Code of Ethics defined in these rules; and

(B) Understand and be familiar with sections 346.010 to 346.250, RSMo, also known as the Hearing Instrument Specialists Act.

(3) It shall be unethical for a hearing instrument specialist in training to misrepresent or mislead, directly or by implication, prospective purchasers into the erroneous belief that the hearing instrument specialist in training is licensed as a hearing instrument specialist by the state of Missouri by—

(A) Omitting "hearing instrument specialist in training" or its equivalent as defined in 20 CSR 2165-2.030 from business cards, advertising, or any other industry document bearing his/her name; or

(B) Representing him/herself implicitly through silence as a licensed hearing instrument specialist.

(4) It shall be unethical for a registered supervisor of a hearing instrument specialist in training to—

(A) Fail to provide the required training and supervision according to 20 CSR 2165-2.010 to a hearing instrument specialist in training; or

(B) Misrepresent, either directly or by implication, the process for review of the performance of a hearing instrument specialist in training.

(5) It is incompetency in the practice of selling and fitting hearing instruments if each of the following testing procedures is not used before a client is fitted:

(A) Air conduction, with masking where indicated;

(B) Bone conduction, with masking where appropriate;

(C) Speech reception threshold and word discrimination, utilizing test equipment with a calibrated circuit; and

(D) Visual otoscopy.

(6) The results of these tests shall be recorded in writing and retained in the client's file for a period of three (3) years from the date of the test.

(7) Failure to complete or misrepresent completion of continued education requirements as required in section 346.095, RSMo (Supp. 1995) is a violation of the Code of Ethics.

AUTHORITY: section 346.115.1(7), RSMo 2000. This rule originally filed as 4 CSR 165-3.010. Emergency rule filed Oct. 18, 1996, effective Nov. 1, 1996, expired April 29, 1997. Original rule filed Nov. 6, 1996, effective May 30, 1997. Moved to 20 CSR 2165-3.010, effective Aug. 28, 2006. Amended: Filed June 27, 2008, effective Dec. 30, 2008.*

**Original authority 1973, amended 1981, 1993, 1995.*

20 CSR 2165-3.020 Deceptive Practices

PURPOSE: This rule protects the public by requiring full disclosure of the type and extent of the relationship between the licensee and the consumer.

(1) It shall be an unfair and deceptive practice to engage in bait advertising as defined in Chapter 407, RSMo. In determining whether there has been a violation of this rule, consideration will be given to acts or practices that demonstrate that the advertising offer was not made in good faith for the purpose of selling the advertised product or service, but was made for the purpose of selling a product or service other than the product or service offered to the prospective purchaser.

(2) It shall be an unfair and deceptive practice for the licensee to misrepresent—

(A) The brand, model, grade, quality, quantity, origin, novelty, price, cost, terms of sale, use, construction, size, composition, dimension, type, design, development, visibility, durability, performance, fit, appearance, efficacy, benefits, cost of operation, resistance to climatic conditions, physiological benefit, psychological benefit, or psychological well-being induced by any product;

(B) Any service or adjustment offered, promised, or to be supplied to purchasers of any product;

(C) Any material fact pertaining to the manufacturer, distribution, or marketing of any product;

(D) The scientific or technical knowledge, training, experience or other qualifications of the licensee, or of his/her employees, relating to the selection, fitting, adjustment, maintenance or repair of any product;

(E) The reparability, including the cost thereof, or the adequacy of a prospective purchaser's own hearing instrument or ancillary equipment; and

(F) For the purpose of this rule "misrepresent" shall mean making misleading, deceiving, improbable or untruthful representations, or in any other material respect, regarding the character, intent or type of business.

(3) It shall be an unfair and deceptive practice for the licensee to misrepresent in advertising or otherwise misrepresent that a hearing instrument has a guarantee, warranty, or promise similar in nature without a clear and conspicuous disclosure of—

(A) The nature and extent of the guarantee;

(B) Any material conditions or limitations in the guarantee which are imposed by the guarantor;

(C) The manner in which the guarantor will perform the guaranteed services; and

(D) The identity of the guarantor. The necessary disclosure requires that any guarantee made by the licensee which is not binding upon the manufacturer must clearly state that the guarantee is offered by the licensee only.

(4) It shall be an unfair and deceptive practice for the licensee to represent, unless it is true, directly or indirectly through the use of any word or term in his/her corporate or trade name, in his/her advertising, or otherwise:

(A) That the licensee is a manufacturer of hearing instruments or devices, batteries, parts, or accessories; and

(B) That the licensee is the owner or operator of a factory or producing company manufacturing such products.

(5) It shall be an unfair and deceptive practice, for the licensee directly or by implication to—

(A) Omit disclosure that instruments have been used, or contain used parts. In such cases the licensee shall make full and nondeceptive disclosure of such facts in all advertising and promotional literature relating to the product, on the container, box or package in which such product is packed or enclosed and, if the product has the appearance of being new, on the product itself. The required disclosure shall be made by both verbal and written use of such words as "used," "secondhand," "repaired," or "rebuilt," whichever most accurately describes the product involved; and

(B) Misrepresent the identity of the rebuilder of the hearing instrument. If the rebuilding of the hearing instrument was done by other than the original manufacturer, the licensee shall disclose such fact whenever the original manufacturer is identified.

(6) It shall be an unfair or deceptive practice for the licensee to—

(A) Represent, either directly or by implication, through the use of words or expressions that any hearing instrument, device or part is hidden or cannot be seen unless such is the fact; and

(B) Represent, directly or by implication, that a hearing instrument utilizing bone conduction has certain specified features such as the absence of anything in the ear, or leading to the ear, or the like, without disclosing clearly and conspicuously that the instrument operates on the bone conduction principle and that in most cases of hearing loss this type of instrument is not suitable.

(7) The licensee shall not misrepresent, either directly or by implication, that batteries sold only by such licensee or bearing a specified brand, label, or other identifying mark, are the only batteries suitable for use in a particular type or make of hearing instrument or device when such is not the fact. It shall also be unethical to imply in any manner, that a hearing instrument does not need batteries when such is not the case.

(8) It shall be an unfair, deceptive practice or unethical conduct for the licensee to advertise or otherwise represent to prospective purchasers any statement which has the capacity and tendency or effect of misleading them into the belief that any hearing instrument or device, or part or accessory therefor, is a new invention or involves a new mechanical or scientific principle, when such is not the fact.

(9) It shall be an unfair or deceptive practice and unethical conduct for the licensee to—

(A) Represent or use any seals, emblems, shields, or other insignia which represent, directly or by implication, in any manner that a hearing instrument or device has been tested, accepted or approved by any individual, concern, organization, group or association, unless such is the fact and unless the hearing instrument or device has been tested by such individual, concern, organization, group or association in such manner as reasonable to insure the quality and performance of the instrument in relation to its intended usage and the fulfillment of any material claims made, implied or intended to be supported by such representation or insignia; and

(B) Make any other false, misleading or deceptive representation respecting any testing, acceptance or approval of a hearing instrument or device by any individual, concern, organization, group or association.

(10) When the licensee initiates contact through direct mail or other advertisement, the licensee shall display clearly on each promotional item the business/establishment name, the principal establishment's street address and telephone number.

AUTHORITY: section 346.115.1(7), RSMo (Cum. Supp. 1996). This rule originally filed as 4 CSR 165-3.020. Emergency rule filed Oct. 18, 1996, effective Nov. 1, 1996, expired April 29, 1987. Original rule filed Nov. 6, 1996, effective May 30, 1997. Moved to 20 CSR 2165-3.020, effective Aug. 28, 2006.*

**Original authority 1973, amended 1981, 1983, 1995.*

20 CSR 2165-3.030 Medical Clearance and Waivers

PURPOSE: This rule outlines and explains the licensee's responsibilities and requirements to represent him/herself accurately to the public.

(1) In accordance with federal law, all licensees shall clearly communicate to every purchaser, prior to the purchase, that s/he is not conducting an examination, diagnosis, or prescription by a person licensed to practice medicine in the state of Missouri, and therefore his/her opinions must not be regarded as medical opinion or advice.

(2) It shall be an unfair or deceptive practice for the licensee to misrepresent, either directly or by implication that the services of a physician have been used in the designing or manufacturing of hearing instruments, or in the selection, fitting, adjustment, maintenance, or repair of hearing instruments or ancillary products unless it is true.

(3) A licensee shall not represent, directly or by implication, in any manner as to have the capacity and tendency to mislead prospective purchasers into the belief that justifies disparagement of physicians or any other professional in the medical community.

(4) Should a purchaser refuse to consult a physician after being advised to do so by the licensee, the purchaser must sign a medical waiver, in accordance with federal law, which must be a part of or attached to the purchase agreement.

AUTHORITY: section 346.115.1(7), RSMo (Cum. Supp. 1996). This rule originally filed as 4 CSR 165-3.030. Emergency rule filed Oct. 18, 1996, effective Nov. 1, 1996, expired April 29, 1997. Original rule filed Nov. 6, 1996, effective May 30, 1997. Moved to 20 CSR 2165-3.030, effective Aug. 28, 2006.*

**Original authority 1973, amended 1981, 1993, 1995.*