

Hearing Instrument Fitters and Dispensers

Penalties and Sanctions

Texas Occupations Code Chapter 402
16 Texas Administrative Code, Chapter 112

Class A

Penalty Range: Up to \$1,000

Administrative Violations

Violation	Statute/Rule
Failed to file a surety bond with the Department	402.404; 112.60(c)(1)
Failed to notify the Department in writing within thirty (30) days of a change in name, address, telephone number or employment	112.91
Failed to comply with federal regulations adopted by the U.S. Food and Drug Administration	112.96
Failed to maintain records on every client for five years from the date of last visit	112.140(d)

Posting and Public Information Violations

Violation	Statute/Rule
Failed to include Department information on the written contract(s) for services	402.152(b); 112.92(a)(1)
Failed to prominently display a sign containing Department information in the primary place of business	402.152(a); 112.92(a)(2)
Failed to prominently display hearing instrument fitter and dispenser license in the primary place of business	402.351; 112.93(a)(1)

Expired License Violations

Violation	Statute/Rule
Engaged in the fitting and dispensing of hearing instruments with an expired license	402.201; 112.32(i)
Acted as an apprentice in hearing instrument fitting and dispensing with an expired permit	402.201; 112.42(d)
Acted as temporary training permit holder in hearing instrument fitting and dispensing with an expired permit	402.201; 112.52(d)

Temporary Permit Holder Violations

Violation	Statute/Rule
Failed to notify the Department within 10 days of an applicant's transfer of supervision	112.53(f)

Supervisor Violations

Violation	Statute/Rule
Failed to supervise a temporary training permit holder in an established place of business	402.255(b)
Supervised more than two temporary training permit holders at one time	402.255(e); 112.53(j)
Failed to notify the Department within 10 days of an applicant's termination of supervision	402.252(b)(2); 112.53(e)

Standard of Care Violations

Violation	Statute/Rule
Failed to ensure adequate sound-level measurement as required	402.353; 112.97

Class B

Penalty Range: \$1,000 to \$3,000 and/or up to 1 year full suspension

Continuing Education Violations

Violation	Statute/Rule
Falsified copies of certificates, transcripts or other documentation satisfactory to the department, verifying the license holder's attendance, participation, and completion of continuing education courses	112.71(b)(2), (b)(3)

Temporary Permit Holders Violations

Violation	Statute/Rule
Acted as temporary training permit holder in hearing instrument fitting and dispensing without being supervised by a license holder	402.256(a); 112.53(a)

Apprentices Violations

Violation	Statute/Rule
Acted as an apprentice in hearing instrument fitting and dispensing without being supervised by a license holder	402.207(c); 112.43(a)

Supervisor Violations

Violation	Statute/Rule
Supervised an individual who did not hold a temporary training permit	112.53(b), (c)
Supervised a temporary training permit holder without a valid hearing instrument fitter and dispenser license	402.255(a)(1); 112.53(a);
Failed to supervise all work done by a temporary training permit holder	402.255(a)(3), (b) and (c)(1); 112.53(b), (k);
Failed to comply with all statutory guidelines and rules while supervising and/or training a temporary permit holder	402.254; 402.255; 112.53
Failed to provide to the permit holder materials and equipment necessary for appropriate audiometric and hearing instrument evaluation and fitting	402.255(c)(2)
Failed to supplement the permit holder's background information with reading lists and other references	402.255(c)(3)
Failed to conduct in-service training for the permit holder	402.255(c)(4)
Failed to act as a consultant to the permit holder by providing time for conferences for the permit holder and providing a variety of resource materials, approaches, and techniques that are based on sound theory, successful practice, or documented research	402.255(c)(5)
Failed to establish goals with the permit holder that are realistic, easily understandable, and directed toward the successful completion of the training requirements	402.255(c)(6)
Failed to observe the permit holder during the practicum, confer with the permit holder after the permit holder's contact with clients, and provide an opportunity for comment on the practicum experience in writing or through conferences, during and after the practicum experience	402.255(c)(7)
Failed to establish that the supervisor is solely responsible for the practicum and daily supervision of the permit holder	402.255(c)(8)
Failed to know and adhere to state and federal laws relating to hearing instrument fitting and dispensing	402.255(c)(10)
Failed to assist the permit holder in fulfilling licensing requirements	402.255(c)(11)
Failed to maintain a log of the contact hours by practicum category on a form prescribed by the department	402.255(d); 112.53(i)
Failed to submit verification to the department upon completion of 150 contact hours	402.255(d); 112.53(i)

Unlicensed Activity Violations

Violation	Statute/Rule
Acted as an apprentice or trained under the supervision of a licensed hearing fitter and dispenser without holding an apprentice or temporary training permit	402.201; 402.208; 402.251 112.41; 112.51

Standard of Care Violations

Violation	Statute/Rule
Failed to comply with client confidentiality rights within the limits established by the law	112.98(b), (c)(2)
Failed to refer a client for those services that the license holder or permit holder is unable to provide	112.98(b), (c)(3)
Failed to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA)	112.98(b), (c)(4)
Failed to ensure that all equipment used is in proper working order and is properly calibrated	112.98(b), (c)(5)
Misrepresented his or her professional credentials and/or qualifications	112.98(b), (d)(3)
Failed to follow guidelines for the 30-day trial period	112.140(b)
Sold a hearing instrument to a person under 18 years of age without a parent or guardian presenting a required written approval signed by a licensed physician specializing in diseases of the ear	402.402

Prohibited Practice Violations

Violation	Statute/Rule
Failed to clearly disclose name, business address and the purpose of the communication when making a telephone solicitation	402.451(b)(1); 112.98(b)
Used or purchased for use a list of names of potential customers compiled by telephone by a person other than the license or permit holder, the license or permit holder's authorized agent, or another license or permit holder	402.451(b)(2); 112.98(b)
Advertised a manufacturer's product or uses a manufacturer's name or trademark in a way that implies a relationship between a license or permit holder and a manufacturer that does not exist	402.501(20)

Standard of Care – Tele practice Violations

Violation	Statute/Rule
Rendered telehealth services without first being authorized to do so by the Department	112.132(b)
Used inappropriate telecommunication technology to provide telehealth services	112.132(e)(3)(A)

Violation	Statute/Rule
Failed to monitor the client and oversee and direct the facilitator at all times during the telehealth session	112.132(d)(5)
Failed to verify and document the facilitator's qualifications, training, and competence prior to allowing the facilitator to assist with rendering telehealth services	112.132(d)(3)
Allowed facilitator to perform tasks at the client site not approved by the Department	112.132(d)(4)
Rendered telehealth services to a client without a qualified facilitator when a facilitator was required to ensure safe and effective service to the client	112.132(d)(6)
Provided telehealth service when telecommunications technology and equipment at client site were inadequate to allow quality fitting and dispensing services	112.132(e)(3)
Failed to provide professional services during a telehealth session as in person at a physical location	112.132(e)(3)(C)
Failed to comply with all laws, rules, and regulations governing the maintenance of client records, including client confidentiality requirements regarding telehealth services	112.132(g)(1)

Class C

Penalty Range: \$1,000 to \$5,000 and/or up to revocation

Contract Violations

Violation	Statute/Rule
Failed to provide client with a written contract that contains the required information upon the sale or change of a hearing instrument	402.403; 112.140(c)

Standard of Care Violations

Violation	Statute/Rule
Failed to try to obtain required information on each prospective candidate for amplification	402.352; 112.95
Offered services that are outside the scope of his or her professional competency	112.98(b), (c)(1)
Performed an act that requires a license from the Texas Optometry Board or the Texas Medical Board	402.451(b)(3)
Treated the ear in any manner for any defect or administer any drug or physical treatment without holding a physician's license issued by the Texas Medical Board	402.453(a); 112.98(b)

Professional Conduct Violations

Violation	Statute/Rule
Made a material misstatement in furnishing information to the Department or to another state or federal agency	402.501(1)
Convicted of a felony or misdemeanor that includes dishonesty as an essential element or of a crime directly related to the practice of fitting and dispensing hearing instruments	402.501(3)
Aided or assisted another person in violating a Law or Rule	402.501(6)
Failed to provide information in response to a written request made by the department within 60 days	402.501(7)
Knowingly employed, hired, procured, or induced an unlicensed person to fit and dispense hearing instruments	402.501(8)
Aided an unlicensed person in the fitting or dispensing of hearing instruments	402.501(9)
Received from a person a fee, commission, rebate, or other form of compensation for a service not actually provided	402.501(11)
Violated a term of probation	402.501(12)
Has a physical illness that results in the inability to practice the profession with reasonable judgment, skill, or safety, including the deterioration or loss of motor skills through aging	402.501(14)
Participated in subterfuge or misrepresentation in the fitting or dispensing of a hearing instrument	402.501(16)
Falsely represented that the service of a licensed physician or other health professional will be used or made available in the fitting, adjustment, maintenance, or repair of a hearing instrument	402.501(18)
Falsely used the term "doctor," "audiologist," "clinic," "clinical audiologist," "state licensed," "state certified," "licensed hearing instrument dispenser," "board certified hearing instrument specialist," "hearing instrument specialist," or "certified hearing aid audiologist"	402.501(19); 112.98(d)(3)
Used a term, abbreviation, or symbol that falsely gives the impression that: a service is being provided by a person who is licensed or has been awarded a degree or title	402.501(19)(A); 112.98(d)(3)
Used a term, abbreviation, or symbol that falsely gives the impression that: the person providing a service has been recommended by a government agency or health provider	402.501(19)(B)
Gave or offered to give, or permitted or caused to be given, money or another thing of value to a person who advises others in a professional capacity as an inducement to influence the person to influence the others to purchase or contract to purchase products sold or offered for sale by the license or permit holder	402.501(21)(A)
Gave or offered to give, or permitted or caused to be given, money or another thing of value to a person who advises	402.501(21)(B)

Violation	Statute/Rule
others in a professional capacity as an inducement to influence the person to influence the others to refrain from purchasing or contracting to purchase products sold or offered for sale by another license or permit holder	
With fraudulent intent fitted and dispensed a hearing instrument under a name, including a false name or alias	402.501(22)
Did not adequately provide for the service or repair of a hearing instrument fitted and sold by the license holder	402.501(23)
Violated a regulation of the federal Food and Drug Administration or the Federal Trade Commission relating to hearing instruments	402.501(24)
Engaged in sexual contact or sexual exploitation with a client	112.98(b), (d)(4)
Failed to observe or comply with the hearing fitters code of ethics by falsifying records; Willfully made or filed a false record or report	402.501(13); 112.98(b), (d)(1)
Refused to provide services solely on the basis of a client's age, gender, race, color, religion, national origin, or disability	112.98(b), (d)(2)
Provided services while impaired due to the use of medication, drugs, or alcohol, or a physical or mental health condition	112.98(b), (d)(5)
Altered a license with the intent to defraud	402.451(a)(2); 112.98(b)
Falsely impersonated a license holder	402.451(a)(4); 112.98(b)

Advertising Violations

Violation	Statute/Rule
Solicited a service by advertising that is false, misleading or deceptive	402.103; 402.501(15); 112.94;
Knowingly advertised for sale a model or type of hearing instrument that cannot be purchased	402.103; 402.501(17); 112.94

Unlicensed Activity Violations

Violation	Statute/Rule
Engaged in the fitting and dispensing of hearing instruments without an appropriate license	402.201
Represented that he/she is authorized to engage in the fitting and dispensing of hearing instruments without an appropriate license	402.201

Violation	Statute/Rule
Owned, managed, or independently operated a business that engages in the fitting or sale of hearing instruments holding only a temporary training permit	402.256(b)(1);
Advertises or otherwise represented that he/she holds a hearing fitter and dispenser license, while holding only a temporary training permit	402.256(b)(2);

Continuing Education Violations

Violation	Statute/Rule
Failed to maintain continuing education records applied toward a license renewal for two years after the date the license renewal is issued	60.701(b)(2)
Failed to submit to the department continuing education records within 30 calendar days after notification of an audit	60.701(c)(2), (d)(1)
Failed to complete all deficient continuing education within 90 calendar days after notification of deficiency	60.701(c)(4), (d)(4)
Provided false information during the audit or renewal process	60.701(d)(2)
Was deficient in the continuing education required for the most recent renewal of the license	60.701(d)(3)

Class D

Penalty Range: \$5,000 and/or up to revocation

Violation	Statute/Rule
Obtained or attempted to obtain a license by fraud, misrepresentation, or concealment of material fact	402.451(a)(1); 402.451(a)(3); 402.501(4); 60.23(a)(1);
Falsified any document submitted to the department or commission	60.23(a)(2)
Permitted the use or display of a license by a person not authorized by law to use that license	60.23(a)(3)
Failed to comply with a previous order of the Commission or Executive Director	51.353(a); 112.98(c)(6); 60.23(a)(5)
Failed to comply with exam security requirements	60.54
Failed to pay the Department for a dishonored payment or processing fee	60.82
Interfered with an investigation or disciplinary proceeding by willful misrepresentation or omission of facts or by use of threats or harassment; Failed to cooperate with an investigation or inspection	112.98(b), (d)(6); 60.203(c)

Violation	Statute/Rule
Acted professionally incompetent or engaged in malpractice or dishonorable, unethical, or unprofessional conduct that likely deceived, defrauded, or harmed the public	402.501(5)
Habitually intoxicated or addicted to a controlled substance	402.501(10)
Engaged in the fitting and dispensing of hearing instruments when with a suspended or revoked license	402.451(a)(5); 112.98(b)