

AN ACT

To amend sections 4725.48, 4725.49, 4725.52, 4747.04, 4747.05, 4747.06, 4747.07, 4747.08, 4747.09, 4747.10, 4747.11, 4747.12, 4747.13, and 4753.05, to amend section 5164.34 as it results from S.B. 229 of the 132nd General Assembly, and to enact section 5.2314 of the Revised Code to designate the month of November as Ohio Adoption Awareness Month, to modify the laws governing the Vision Professionals Board and Speech and Hearing Professionals Board, and to revise an exception to the prohibition against a Medicaid provider employing persons ineligible for employment because of criminal records check requirements.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 4725.48, 4725.49, 4725.52, 4747.04, 4747.05, 4747.06, 4747.07, 4747.08, 4747.09, 4747.10, 4747.11, 4747.12, 4747.13, and 4753.05 be amended, that section 5164.34 as it results from S.B. 229 of the 132nd General Assembly be amended, and that section 5.2314 of the Revised Code be enacted to read as follows:

Sec. 5.2314. The month of November is designated as "Ohio Adoption Awareness Month."

Sec. 4725.48. (A) Any person who desires to engage in optical dispensing shall file a properly completed application for an examination with the state vision professionals board or with the testing service the board has contracted with pursuant to section 4725.49 of the Revised Code. The application for examination shall be made ~~on~~ using a form provided by the board ~~or testing service~~ and shall be accompanied by an examination fee the board shall establish by rule. ~~Applicants must return the application to the board or testing service at least sixty days prior to the date the examination is scheduled to be administered.~~

(B) Any person who desires to engage in optical dispensing shall file a properly completed application for a license with the board with a licensure application fee of fifty dollars.

No person shall be eligible to apply for a license under this division, unless the person is at least eighteen years of age, is free of contagious or infectious disease, has received a passing score, as determined by the board, on the examination administered under division (A) of this section, is a graduate of an accredited high school of any state, or has received an equivalent education and has successfully completed either of the following:

(1) Two years of supervised experience under a licensed dispensing optician, optometrist, or physician engaged in the practice of ophthalmology, up to one year of which may be continuous experience of not less than thirty hours a week in an optical laboratory;

(2) A two-year college level program in optical dispensing that has been approved by the board and that includes, but is not limited to, courses of study in mathematics, science, English, anatomy and physiology of the eye, applied optics, ophthalmic optics, measurement and inspection

of lenses, lens grinding and edging, ophthalmic lens design, keratometry, and the fitting and adjusting of spectacle lenses and frames and contact lenses, including methods of fitting contact lenses and post-fitting care.

(C) Any person who desires to obtain a license to practice as an ocularist shall file a properly completed application with the board accompanied by the appropriate fee and proof that the applicant has met the requirements for licensure. The board shall establish, by rule, the application fee and the minimum requirements for licensure, including education, examination, or experience standards recognized by the board as national standards for ocularists. The board shall issue a license to practice as an ocularist to an applicant who satisfies the requirements of this division and rules adopted pursuant to this division.

(D)(1) Subject to divisions (D)(2), (3), and (4) of this section, the board shall not adopt, maintain, renew, or enforce any rule that precludes an individual from receiving or renewing a license as a dispensing optician issued under sections 4725.40 to 4725.59 of the Revised Code due to any past criminal activity or interpretation of moral character, unless the individual has committed a crime of moral turpitude or a disqualifying offense as those terms are defined in section 4776.10 of the Revised Code. If the board denies an individual a license or license renewal, the reasons for such denial shall be put in writing.

(2) Except as otherwise provided in this division, if an individual applying for a license has been convicted of or pleaded guilty to a misdemeanor that is not a crime of moral turpitude or a disqualifying offense less than one year prior to making the application, the board may use its discretion in granting or denying the individual a license. Except as otherwise provided in this division, if an individual applying for a license has been convicted of or pleaded guilty to a felony that is not a crime of moral turpitude or a disqualifying offense less than three years prior to making the application, the board may use its discretion in granting or denying the individual a license. The provisions in this paragraph do not apply with respect to any offense unless the board, prior to September 28, 2012, was required or authorized to deny the application based on that offense.

In all other circumstances, the board shall follow the procedures it adopts by rule that conform to division (D)(1) of this section.

(3) In considering a renewal of an individual's license, the board shall not consider any conviction or plea of guilty prior to the initial licensing. However, the board may consider a conviction or plea of guilty if it occurred after the individual was initially licensed, or after the most recent license renewal.

(4) The board may grant an individual a conditional license that lasts for one year. After the one-year period has expired, the license is no longer considered conditional, and the individual shall be considered fully licensed.

(E) The board, subject to the approval of the controlling board, may establish examination fees in excess of the amount established by rule pursuant to this section, provided that such fees do not exceed those amounts established in rule by more than fifty per cent.

Sec. 4725.49. (A) The state vision professionals board may provide for the examination of applicants by designing, preparing, and administering the qualifying examinations or by contracting with a testing service that is nationally recognized as being capable of determining competence to dispense optical aids as a licensed spectacle dispensing optician, a licensed contact lens dispensing

optician, or a licensed spectacle-contact lens dispensing optician. Any examination used shall be designed to measure specific performance requirements, be professionally constructed and validated, and be independently and objectively administered and scored in order to determine the applicant's competence to dispense optical aids.

(B)(1) The board shall ensure that it, or the testing service it contracts with, does all of the following:

~~(1)-(a)~~ Provides public notice as to the date, time, and place for each examination at least ninety days prior to the examination;

~~(2)-(b)~~ Offers each qualifying examination at least twice each year in Columbus, except as provided in division (C) of this section;

~~(3)~~ Provides to each applicant all forms necessary to apply for examination;

~~(4)-(c)~~ Provides all materials and equipment necessary for the applicant to take the examination.

(2) The board shall provide to each applicant all forms necessary to apply for examination.

(C) If the number of applicants for any qualifying examination is less than ten, the examination may be postponed. The board or testing service shall provide the applicant with written notification of the postponement and of the next date the examination is scheduled to be administered.

(D) No limitation shall be placed upon the number of times that an applicant may repeat any qualifying examination, except that, if an applicant fails an examination for a third time, the board may require that the applicant, prior to retaking the examination, undergo additional study in the areas of the examination in which the applicant experienced difficulty.

Sec. 4725.52. Any licensed dispensing optician may supervise a maximum of three apprentices who shall be permitted to engage in optical dispensing only under the supervision of the licensed dispensing optician.

To serve as an apprentice, a person shall register with the state vision professionals board ~~either~~ on a form provided by the board ~~or~~ and in the form of a statement giving the name and address of the supervising licensed dispensing optician, the location at which the apprentice will be employed, and any other information required by the board. For the duration of the apprenticeship, the apprentice shall register annually on the form provided by the board ~~or~~ and in the form of a statement.

Each apprentice shall pay an initial registration fee of twenty dollars. For each registration renewal thereafter, each apprentice shall pay a registration renewal fee of twenty dollars.

The board shall not deny registration as an apprentice under this section to any individual based on the individual's past criminal history or an interpretation of moral character unless the individual has committed a disqualifying offense or crime of moral turpitude as those terms are defined in section 4776.10 of the Revised Code. Except as otherwise provided in this division, if an individual applying for a registration has been convicted of or pleaded guilty to a misdemeanor that is not a crime of moral turpitude or a disqualifying offense less than one year prior to making the application, the board may use its discretion in granting or denying the individual a registration. Except as otherwise provided in this division, if an individual applying for a registration has been convicted of or pleaded guilty to a felony that is not a crime of moral turpitude or a disqualifying

offense less than three years prior to making the application, the board may use its discretion in granting or denying the individual a registration. The provisions in this paragraph do not apply with respect to any offense unless the board, prior to September 28, 2012, was required or authorized to deny the registration based on that offense.

In all other circumstances, the board shall follow the procedures it adopts by rule that conform to this section. In considering a renewal of an individual's registration, the board shall not consider any conviction or plea of guilty prior to the initial registration. However, the board may consider a conviction or plea of guilty if it occurred after the individual was initially registered, or after the most recent registration renewal. If the board denies an individual for a registration or registration renewal, the reasons for such denial shall be put in writing. Additionally, the board may grant an individual a conditional registration that lasts for one year. After the one-year period has expired, the registration is no longer considered conditional, and the individual shall be considered fully registered.

A person who is gaining experience under the supervision of a licensed optometrist or ophthalmologist that would qualify the person under division (B)(1) of section 4725.48 of the Revised Code to take the examination for optical dispensing is not required to register with the board.

Sec. 4747.04. (A) The state speech and hearing professionals board shall:

~~(A) Design and prepare qualifying examinations for licensing of hearing aid dealers, fitters, and trainees~~
(1) Establish the nature and scope of qualifying examinations in accordance with section 4747.08 of the Revised Code;

~~(B)(2) Determine whether persons holding similar valid licenses from other states or jurisdictions shall be required to take and successfully pass the appropriate qualifying examination as a condition for licensing in this state;~~

~~(C) Determine whether charges made against any licensee warrant a hearing before the board;~~

~~(D) Hold hearings to determine the truth and circumstances of all charges filed in writing with the board against any licensee and determine whether any license held by any person shall be revoked, suspended, or reissued~~
(3) Review complaints and conduct investigations in accordance with section 4747.13 of the Revised Code and hold any hearings that are necessary to carry out this chapter;

~~(E)(4) Determine and specify the length of time each license that is suspended or revoked shall remain suspended or revoked;~~

~~(F) Advise and assist the department of health in all matters relating to this chapter;~~

~~(G)(5) Deposit all payments collected under this chapter into the state treasury to the credit of the occupational licensing and regulatory fund created in section 4743.05 of the Revised Code;~~

~~(H)(6) Establish a list of disqualifying offenses for licensure as a hearing aid dealer or fitter, or for a hearing aid dealer or fitter trainee permit, pursuant to sections 4747.05, 4747.10, 4747.12, and 4776.10 of the Revised Code.~~

(B) The board shall adopt reasonable rules, in accordance with Chapter 119. of the Revised Code, necessary for the administration of this chapter. The board shall include all of the following in those rules:

(1) The amount of any fees required under this chapter;

(2) The information to be included in a hearing aid receipt provided by a licensed hearing aid

dealer or fitter to a person under section 4747.09 of the Revised Code:

(3) The amount of time a licensed hearing aid dealer or fitter or trainee permit holder has to provide the notice of a change in address or addresses required under section 4747.11 of the Revised Code and any other requirements relating to the notice:

(4) Any additional conduct for which the board may discipline a licensee or permit holder under section 4747.12 of the Revised Code.

(C) Nothing in this section shall be interpreted as granting to the board the right to restrict advertising which is not false or misleading, or to prohibit or in any way restrict a hearing aid dealer or fitter from renting or leasing space from any person, firm or corporation in a mercantile establishment for the purpose of using such space for the lawful sale of hearing aids or to prohibit a mercantile establishment from selling hearing aids if the sale would be otherwise lawful under this chapter.

Sec. 4747.05. (A) The state speech and hearing professionals board shall issue to each applicant, within sixty days of receipt of a properly completed application and payment of ~~two hundred sixty-two dollars~~ an application fee set by the board in rules adopted under section 4747.04 of the Revised Code, a hearing aid dealer's or fitter's license if the applicant:

(1) In the case of an individual, the individual is at least eighteen years of age, has not committed a disqualifying offense or a crime of moral turpitude, as those terms are defined in section 4776.10 of the Revised Code, is free of contagious or infectious disease, and has successfully passed a qualifying examination specified and administered by the board.

(2) In the case of a firm, partnership, association, or corporation, the application, in addition to such information as the board requires, is accompanied by an application for a license for each person, whether owner or employee, of the firm, partnership, association, or corporation, who engages in dealing in or fitting of hearing aids, or contains a statement that such applications are submitted separately. No firm, partnership, association, or corporation licensed pursuant to this chapter shall permit any unlicensed person to sell or fit hearing aids.

(B)(1) Subject to divisions (B)(2), (3), and (4) of this section, the board shall not adopt, maintain, renew, or enforce any rule that precludes an individual from receiving or renewing a license issued under this chapter due to any past criminal activity or interpretation of moral character, unless the individual has committed a crime of moral turpitude or a disqualifying offense as those terms are defined in section 4776.10 of the Revised Code. ~~If the~~ The board denies shall comply with Chapter 119. of the Revised Code when denying an individual a license or license renewal, the reasons for such denial shall be put in writing.

(2) Except as otherwise provided in this division, if an individual applying for a license has been convicted of or pleaded guilty to a misdemeanor that is not a crime of moral turpitude or a disqualifying offense less than one year prior to making the application, the board may use the board's discretion in granting or denying the individual a license. Except as otherwise provided in this division, if an individual applying for a license has been convicted of or pleaded guilty to a felony that is not a crime of moral turpitude or a disqualifying offense less than three years prior to making the application, the board may use the board's discretion in granting or denying the individual a license. The provisions in this paragraph do not apply with respect to any offense unless the board, prior to September 28, 2012, was required or authorized to deny the application based on that

offense.

In all other circumstances, the board shall follow the procedures it adopts by rule that conform to division (B)(1) of this section.

(3) In considering a renewal of an individual's license, the board shall not consider any conviction or plea of guilty prior to the initial licensing. However, the board may consider a conviction or plea of guilty if it occurred after the individual was initially licensed, or after the most recent license renewal.

(4) The board may grant an individual a conditional license that lasts for one year. After the one-year period has expired, the license is no longer considered conditional, and the individual shall be considered fully licensed.

~~(C) Each~~ (1) Except as provided in division (C)(2) of this section, each license issued expires on the thirtieth day of January of the year following that in which it was issued is valid from the date of issuance until the thirty-first day of December of the even-numbered year that follows the date of issuance.

(2) A license issued less than one hundred days before the thirty-first day of December of an even-numbered year is valid from the date of issuance until the thirty-first day of December of the even-numbered year that follows the thirty-first day of December immediately after the date of issuance.

Sec. 4747.06. ~~(A) Each person engaged in the practice of dealing in or fitting of hearing aids who holds a valid hearing aid dealer's or fitter's license shall apply annually to~~ (1) Except as provided in division (A)(2) of this section and section 4747.12 of the Revised Code, a hearing aid dealer's or fitter's license issued or renewed by the state speech and hearing professionals board for renewal of such license under this chapter shall be renewed biennially not later than the thirty-first day of December in each even-numbered year and in accordance with the standard renewal procedure specified in Chapter 4745. of the Revised Code. The board shall issue to each applicant, on receipt of a renewal application, proof of completion of the continuing education required by division (B) of this section and payment of one hundred fifty-seven dollars on or before the first day of February, one hundred eighty-three dollars on or before the first day of March, or two hundred ten dollars thereafter a renewal fee, and, if applicable, a late fee established by the board in rules adopted under section 4747.04 of the Revised Code, a renewed hearing aid dealer's or fitter's license. No person who applies for renewal of a hearing aid dealer's or fitter's license that has expired shall be required to take any examination as a condition of renewal provided application for renewal is made within two years of the date such license expired.

(2) A person issued a license described in division (C)(2) of section 4747.05 of the Revised Code shall renew that license in accordance with the standard renewal procedure before it expires as described in that division. After the first renewal, the license shall be renewed in accordance with division (A)(1) of this section.

(B) Each person engaged in the practice of dealing in or fitting of hearing aids who holds a valid hearing aid dealer's or fitter's license shall complete ~~each year~~ not less than ten twenty hours of continuing professional education approved by the board during each two-year period. On a form provided by the board, the person shall certify to the board, at the time of license renewal pursuant to division (A) of this section, that ~~in the preceding year~~ the person has completed continuing education

in compliance with this division and shall submit any additional information required by rule of the board regarding the continuing education. The board shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the standards continuing education programs must meet to obtain board approval and continuing education reporting requirements.

Continuing education may be applied to meet the requirement of this division if it is provided or certified by any of the following:

- (1) ~~The national institute of hearing instruments studies committee of the international hearing society;~~
- (2) The American speech-language hearing association;
- (3) The American academy of audiology.

The board may excuse persons licensed under this chapter, as a group or as individuals, from all or any part of the requirements of this division because of an unusual circumstance, emergency, or special hardship.

Sec. 4747.07. Each person who holds a hearing aid dealer's or fitter's license and engages in the practice of dealing in and fitting of hearing aids shall display such license in a conspicuous place in the person's office or place of business at all times. Each person who maintains more than one office or place of business shall post a duplicate copy of the license at each location. The state speech and hearing professionals board shall issue duplicate copies of a license upon request by the license holder and receipt of a properly completed application and payment of sixteen dollars for each copy requested ~~any fee established by the board in rules adopted under section 4747.04 of the Revised Code.~~

Sec. 4747.08. ~~After July 1, 1970, no~~ No person shall be issued a hearing aid dealer's or fitter's license unless such person has successfully taken and passed a qualifying examination. The qualifying examination shall be a thorough testing of knowledge required for the proper selecting, fitting, and sale of hearing aids, but shall not be such that a medical or surgical education is required for successful completion. It shall consist of written and practical portions which shall include, but not be limited to, the following areas:

- (A) Basic physics of sound;
- (B) The anatomy and physiology of the human ear;
- (C) The function and purpose of hearing aids;
- (D) Pure tone audiometry, including air conduction and bone conduction testing;
- (E) Live voice or recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing;
- (F) Masking techniques;
- (G) Recording and evaluation of audiograms and speech audiometry to determine proper selection and adaption of hearing aids;
- (H) Earmold impression techniques.

The state speech and hearing professionals board shall ~~design, prepare, and revise such~~ establish the nature and scope of qualifying examinations ~~as are determined that the board determines~~ necessary by the board pursuant to ~~under~~ this chapter. It shall administer ~~all such~~ qualifying examinations and shall designate the time, place, and date the examinations are held. The board shall also furnish all materials and equipment necessary for the conducting of ~~all~~ qualifying examinations.

Test materials, examinations, answer keys, or evaluation tools used in a qualifying examination under this chapter, whether administered by the board or by a private or government entity pursuant to a contract, are not public records under section 149.43 of the Revised Code.

Sec. 4747.09. ~~(A) Each licensed hearing aid dealer or fitter shall furnish each person supplied with a hearing aid a receipt showing the licensee's signature, the number of his license certificate, the complete address of his place of business, a complete description of the make and model of hearing aid furnished, the full terms of sale, including the terms of guarantee, if any, and if the hearing aid sold is not new, the receipt shall also be clearly marked "used" or "reconditioned," whichever is applicable.~~

~~Each receipt shall also bear, in type no smaller than that used in the body of the receipt, the following legend: "The purchaser is advised that any examination, fitting, recommendation, or representation made by a licensed hearing aid dealer or fitter in connection with the sale of this hearing aid is not an examination, diagnosis, or prescription made by a person licensed to practice medicine in this state and therefore must not be regarded as medical opinion or advice that complies with rules adopted by the state speech and hearing professionals board under section 4747.04 of the Revised Code." Each~~

~~(B) Each licensed hearing aid dealer or fitter shall, when dealing with a child sixteen years of age or less, ascertain whether such child has been examined by an otolaryngologist prior to being fitted for a hearing aid. If the licensee determines that such examination has not taken place, ~~he~~ the licensee shall recommend to the person legally responsible for the custody of such child that such examination take place and shall so state on a waiver to be specified by the board.~~

Sec. 4747.10. Each person currently engaged in training to become a licensed hearing aid dealer or fitter shall apply to the state speech and hearing professionals board for a hearing aid dealer's and fitter's trainee permit. The board shall issue to each applicant within thirty days of receipt of a properly completed application and payment of ~~one hundred fifty dollars~~ an application fee set by the board in rules adopted under section 4747.04 of the Revised Code, a trainee permit if such applicant meets all of the following criteria:

(A) Is at least eighteen years of age;

(B) Is the holder of a diploma from an accredited high school or a certificate of high school equivalence issued by the department of education;

(C) Has not committed a disqualifying offense or a crime of moral turpitude, as those terms are defined in section 4776.10 of the Revised Code;

(D) Is free of contagious or infectious disease.

Subject to the next paragraph, the board shall not deny a trainee permit issued under this section to any individual based on the individual's past criminal history ~~or an interpretation of moral character~~ unless the individual has committed a disqualifying offense or crime of moral turpitude as those terms are defined in section 4776.10 of the Revised Code. Except as otherwise provided in this paragraph, if an individual applying for a trainee permit has been convicted of or pleaded guilty to a misdemeanor that is not a crime of moral turpitude or a disqualifying offense less than one year prior to making the application, the board may use the board's discretion in granting or denying the individual a trainee permit. Except as otherwise provided in this paragraph, if an individual applying for a trainee permit has been convicted of or pleaded guilty to a felony that is not a crime of moral

turpitude or a disqualifying offense less than three years prior to making the application, the board may use the board's discretion in granting or denying the individual a trainee permit. The provisions in this paragraph do not apply with respect to any offense unless the board, prior to September 28, 2012, was required or authorized to deny the application based on that offense.

In all other circumstances not described in the preceding paragraph, the board shall follow the procedures it adopts by rule that conform to this section.

In considering a renewal of an individual's trainee permit, the board shall not consider any conviction or plea of guilty prior to the issuance of the initial trainee permit. However, the board may consider a conviction or plea of guilty if it occurred after the individual was initially granted the trainee permit, or after the most recent trainee permit renewal. ~~If the~~ The board denies shall comply with Chapter 119. of the Revised Code when denying an individual for a trainee permit or renewal; ~~the reasons for such denial shall be put in writing.~~ Additionally, the board may grant an individual a conditional trainee permit that lasts for one year. After the one-year period has expired, the permit is no longer considered conditional, and the individual shall be considered to be granted a full trainee permit.

Each trainee permit issued by the board expires one year from the date it was first issued, and may be renewed once if the trainee has not successfully completed the qualifying requirements for licensing as a hearing aid dealer or fitter before the expiration date of such permit. The board shall issue a renewed permit to each applicant upon receipt of a properly completed application and payment of ~~one hundred five dollars~~ a renewal fee set by the board in rules adopted under section 4747.04 of the Revised Code. No person holding a trainee permit shall engage in the practice of dealing in or fitting of hearing aids except while under supervision by a licensed hearing aid dealer or fitter.

Sec. 4747.11. Each person who holds a hearing aid dealer's or fitter's license or trainee permit shall notify the state speech and hearing professionals board in writing of the place or places where the person engages or intends to engage in the practice of dealing in and fitting of hearing aids, and shall ~~immediately~~ notify the board in writing of any change in such address or addresses in accordance with rules the board adopts under section 4747.04 of the Revised Code. ~~The board shall keep a record of the past and current place of business of each person who holds a license or permit.~~

~~Any notice that is required to be given by the board to a person holding a license or permit pursuant to the provisions of this chapter shall be mailed to such person by certified mail to the address of the person's current or most recent place of business as revealed in the records of the board.~~

Sec. 4747.12. ~~The~~ (A) In accordance with Chapter 119. of the Revised Code, the state speech and hearing professionals board may revoke or suspend, place on probation, or refuse to issue or renew a license or permit or reprimand a licensee or permit holder if the person who holds such license or permit:

~~(A)(1) Is convicted of a disqualifying offense or a crime of moral turpitude as those terms are defined in section 4776.10 of the Revised Code. The record of conviction, or a copy thereof certified by the clerk of the court or by the judge in whose court the conviction occurs, is conclusive evidence of such conviction;~~

~~(B)(2) Procured a license or permit by fraud or deceit practiced upon the board;~~

- ~~(C)~~ (3) Obtained any fee or made any sale of a hearing aid by fraud or misrepresentation;
- ~~(D)~~ Knowingly employed any person without a license or a person whose license was suspended or revoked to engage in the fitting or sale of hearing aids;
- ~~(E)~~ (4) Used or caused or promoted 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, deceptive, or untruthful;
- ~~(F)~~ (5) Advertised a particular model or type of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase the specified model or type of hearing aid;
- ~~(G)~~ (6) Represented or advertised that the service 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 such is not true, or using the words "doctor," "clinic," or similar words, abbreviations, or symbols which connote the medical profession when such use is not accurate;
- ~~(H)~~ Is found by the board to be a person of habitual intemperance or gross immorality;
- ~~(I)~~ (7) Advertised a manufacturer's product or used a manufacturer's name or trademark in a manner which suggested the existence of a relationship with the manufacturer which did not or does not exist;
- ~~(J)~~ (8) Fitted or sold, or attempted to fit or sell, a hearing aid to a person without first utilizing the appropriate procedures and instruments required for proper fitting of hearing aids;
- ~~(K)~~ (9) Engaged in the fitting and sale of hearing aids under a false name or an alias;
- ~~(L)~~ (10) Engaged in the practice of dealing in or fitting of hearing aids while suffering from a contagious or infectious disease;
- ~~(M)~~ (11) Was found by the board to be guilty of gross incompetence or negligence in the fitting or sale of hearing aids;
- ~~(N)~~ (12) Permitted another person to use the licensee's license;
- ~~(O)~~ (13) Violate the code of ethical practice adopted under section 4744.50 of the Revised Code;
- (14) Made or filed a false report or record in the sale or dispensing of a hearing aid;
- (15) Aided or abetted the unlicensed sale, fitting, or dispensing of a hearing aid;
- (16) Committed an act of dishonorable, immoral, or unprofessional conduct while engaging in the sale or practice of dealing in or fitting of hearing aids;
- (17) Engaged in illegal, incompetent, or habitually negligent practice;
- (18) Provided professional services while mentally incompetent or under the influence of alcohol or while using any narcotic or controlled substance or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (19) Violated this chapter or any lawful order given or rule adopted by the board;
- (20) Is disciplined by a licensing or disciplinary authority of this or any other state or country or is convicted or disciplined by a court of this or any other state or country for an act that would be grounds for disciplinary action under this section;
- (21) Engaged in conduct that the board has identified in a rule adopted under section 4747.04 of the Revised Code as requiring disciplinary action under this section.
- (B) If the board revokes a person's license under division (A) of this section, the person may

apply for reinstatement. The board may require the person to complete an examination or additional continuing education as a condition of reinstatement.

~~Sec. 4747.13. (A) Any person who wishes to make a complaint against any person, firm, partnership, association, or corporation licensed pursuant to this chapter shall submit such complaint in writing to the state speech and hearing professionals board within one year from the date of the action or event upon which the complaint is based. The board shall determine whether the charges in the complaint are of a sufficiently serious nature to warrant a hearing before the board to determine whether the license or permit held by the person complained against shall be revoked or suspended disciplinary action. If the board determines that a hearing disciplinary action is warranted, then it shall fix the time and place of such hearing and deliver or cause to have delivered, either in person or by registered mail, at least twenty days before the date of such hearing, an order instructing the licensee complained against of the date, time, and place where the licensee shall appear before the board. Such order shall include a copy of the complaint against the licensee proceed in accordance with Chapter 119. of the Revised Code.~~

~~The board, and the licensee after receipt of the order and a copy of the complaint made against the licensee, may take depositions in advance of the hearing, provided that each party taking depositions shall give at least five days notice to the other party of the time, date, and place where such depositions shall be taken. Each party shall have the right to attend with counsel the taking of such depositions and may cross-examine the deponent or deponents. Each licensee appearing before the board may be represented by counsel. No person shall have the person's license or permit revoked or suspended without an opportunity to present the person's case at a hearing before the board, and the board shall grant a continuance or adjournment of a hearing date for good cause. Each person whose license or permit is suspended or revoked by the board may appeal such action to the court of common pleas.~~

~~(B) The board shall investigate any alleged irregularities in the sale or practice of dealing in or fitting hearing aids by persons licensed or permitted under this chapter and any violations of this chapter or rules adopted by the board. The board shall not investigate any person exempted from licensure by section 4747.15 of the Revised Code, provided the person is acting within the scope of the person's license. In conducting investigations under this division, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony. In any case of disobedience or neglect of any subpoena served on any person or the refusal of any witness to testify to any matter regarding which the witness may lawfully be interrogated, the court of common pleas of any county where that disobedience, neglect, or refusal occurs or any judge thereof, on application by the board, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court, or a refusal to testify therein.~~

~~(C) The board shall petition the court of common pleas of the county in which a person, firm, partnership, or corporation engages in the sale, practice of dealing in or fitting of hearing aids, advertises or assumes such practice, or engages in training to become a licensed hearing aid dealer or fitter without first being licensed, for an order enjoining any such acts or practices. The court may grant such injunctive relief upon a showing that the respondent named in the petition is engaging in such acts or practices without being licensed under this chapter.~~

Sec. 4753.05. (A) The state speech and hearing professionals board may make reasonable rules necessary for the administration of this chapter. All rules adopted under this chapter shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) The board shall determine the nature and scope of examinations to be administered to applicants for licensure pursuant to this chapter in the practices of speech-language pathology and audiology, and shall evaluate the qualifications of all applicants. Written examinations may be supplemented by such practical and oral examinations as the board shall determine by rule. The board shall determine by rule the minimum examination score for licensure. Licensure shall be granted independently in speech-language pathology and audiology.

Test materials, examinations, answer keys, or evaluation tools used in an examination for licensure pursuant to this chapter, whether administered by the board or by a private or government entity pursuant to a contract, are not public records under section 149.43 of the Revised Code.

(C) The board shall publish and make available, upon request, the licensure and permit standards prescribed by this chapter and rules adopted pursuant thereto.

(D) The board shall investigate all alleged irregularities in the practices of speech-language pathology and audiology by persons licensed or permitted pursuant to this chapter and any violations of this chapter or rules adopted by the board. The board shall not investigate the practice of any person specifically exempted from licensure under this chapter by section 4753.12 of the Revised Code, as long as the person is practicing within the scope of the person's license or is carrying out responsibilities as described in division (G) or (H) of section 4753.12 of the Revised Code and does not claim to be a speech-language pathologist or audiologist.

In conducting investigations under this division, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony. In any case of disobedience or neglect of any subpoena served on any person or the refusal of any witness to testify to any matter regarding which the witness may lawfully be interrogated, the court of common pleas of any county where such disobedience, neglect, or refusal occurs or any judge thereof, on application by the board, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein.

(E) The board shall conduct such hearings as are necessary to carry out this chapter.

Sec. 5164.34. (A) As used in this section:

(1) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(2) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3) (a) to (e) of section 109.572 of the Revised Code.

(3) "Owner" means a person who has an ownership interest in a medicaid provider in an amount designated in rules authorized by this section.

(4) "Person subject to the criminal records check requirement" means the following:

(a) A medicaid provider who is notified under division (E)(1) of this section that the provider is subject to a criminal records check;

(b) An owner or prospective owner, officer or prospective officer, or board member or prospective board member of a medicaid provider if, pursuant to division (E)(1)(a) of this section, the

owner or prospective owner, officer or prospective officer, or board member or prospective board member is specified in information given to the provider under division (E)(1) of this section;

(c) An employee or prospective employee of a medicaid provider if both of the following apply:

(i) The employee or prospective employee is specified, pursuant to division (E)(1)(b) of this section, in information given to the provider under division (E)(1) of this section.

(ii) The provider is not prohibited by division (D)(3)(b) of this section from employing the employee or prospective employee.

(5) "Responsible entity" means the following:

(a) With respect to a criminal records check required under this section for a medicaid provider, the department of medicaid or the department's designee;

(b) With respect to a criminal records check required under this section for an owner or prospective owner, officer or prospective officer, board member or prospective board member, or employee or prospective employee of a medicaid provider, the provider.

(B) This section does not apply to any of the following:

(1) An individual who is subject to a criminal records check under section 3712.09, 3721.121, 5123.081, or 5123.169 of the Revised Code;

(2) An individual who is subject to a database review or criminal records check under section 173.38, 173.381, 3701.881, or 5164.342 of the Revised Code;

(3) An individual who is an applicant or independent provider, both as defined in section 5164.341 of the Revised Code.

(C) The department of medicaid may do any of the following:

(1) Require that any medicaid provider submit to a criminal records check as a condition of obtaining or maintaining a provider agreement;

(2) Require that any medicaid provider require an owner or prospective owner, officer or prospective officer, or board member or prospective board member of the provider submit to a criminal records check as a condition of being an owner, officer, or board member of the provider;

(3) Require that any medicaid provider do the following:

(a) If so required by rules authorized by this section, determine pursuant to a database review conducted under division (F)(1)(a) of this section whether any employee or prospective employee of the provider is included in a database;

(b) Unless the provider is prohibited by division (D)(3)(b) of this section from employing the employee or prospective employee, require the employee or prospective employee to submit to a criminal records check as a condition of being an employee of the provider.

(D)(1) The department or the department's designee shall deny or terminate a medicaid provider's provider agreement if the provider is a person subject to the criminal records check requirement and either of the following applies:

(a) The provider fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section.

(b) Except as provided in rules authorized by this section, the provider is found by the criminal records check to have been convicted of or have pleaded guilty to a disqualifying offense, regardless of the date of the conviction or the date of entry of the guilty plea.

(2) No medicaid provider shall permit a person to be an owner, officer, or board member of the provider if the person is a person subject to the criminal records check requirement and either of the following applies:

(a) The person fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section.

(b) Except as provided in rules authorized by this section, the person is found by the criminal records check to have been convicted of or have pleaded guilty to a disqualifying offense, regardless of the date of the conviction or the date of entry of the guilty plea.

(3) Except as provided in division (I) of this section, no medicaid provider shall employ a person if any of the following apply:

(a) The person has been excluded from being a medicaid provider, a medicare provider, or provider for any other federal health care program.

(b) If the person is subject to a database review conducted under division (F)(1)(a) of this section, the person is found by the database review to be included in a database and the rules authorized by this section regarding the database review prohibit the provider from employing a person included in the database.

(c) If the person is a person subject to the criminal records check requirement, either of the following applies:

(i) The person fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section.

(ii) Except as provided in rules authorized by this section, the person is found by the criminal records check to have been convicted of or have pleaded guilty to a disqualifying offense, regardless of the date of the conviction or the date of entry of the guilty plea.

(E)(1) The department or the department's designee shall inform each medicaid provider whether the provider is subject to a criminal records check. For providers with valid provider agreements, the information shall be given at times designated in rules authorized by this section. For providers applying to be medicaid providers, the information shall be given at the time of initial application. When the information is given, the department or the department's designee shall specify the following:

(a) Which of the provider's owners or prospective owners, officers or prospective officers, or board members or prospective board members are subject to a criminal records check;

(b) Which of the provider's employees or prospective employees are subject to division (C)(3) of this section.

(2) At times designated in rules authorized by this section, a medicaid provider that is a person subject to the criminal records check requirement shall do the following:

(a) Inform each person specified under division (E)(1)(a) of this section that the person is required to submit to a criminal records check as a condition of being an owner, officer, or board member of the provider;

(b) Inform each person specified under division (E)(1)(b) of this section that the person is subject to division (C)(3) of this section.

(F)(1) If a medicaid provider is a person subject to the criminal records check requirement, the department or the department's designee shall require the conduct of a criminal records check by

the superintendent of the bureau of criminal identification and investigation. A medicaid provider shall require the conduct of a criminal records check by the superintendent with respect to each of the persons specified under division (E)(1)(a) of this section. With respect to each employee and prospective employee specified under division (E)(1)(b) of this section, a medicaid provider shall do the following:

(a) If rules authorized by this section require the provider to conduct a database review to determine whether the employee or prospective employee is included in a database, conduct the database review in accordance with the rules;

(b) Unless the provider is prohibited by division (D)(3)(b) of this section from employing the employee or prospective employee, require the conduct of a criminal records check of the employee or prospective employee by the superintendent.

(2) If a person subject to the criminal records check requirement does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the person from the federal bureau of investigation in a criminal records check, the responsible entity shall require the person to request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the person. Even if the person presents proof of having been a resident of this state for the five-year period, the responsible entity may require that the person request that the superintendent obtain information from the federal bureau of investigation and include it in the criminal records check of the person.

(G) Criminal records checks required by this section shall be obtained as follows:

(1) The responsible entity shall provide each person subject to the criminal records check requirement information about accessing and completing the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section.

(2) The person subject to the criminal records check requirement shall submit the required form and one complete set of the person's fingerprint impressions directly to the superintendent for purposes of conducting the criminal records check using the applicable methods prescribed by division (C) of section 109.572 of the Revised Code. The person shall pay all fees associated with obtaining the criminal records check.

(3) The superintendent shall conduct the criminal records check in accordance with section 109.572 of the Revised Code. The person subject to the criminal records check requirement shall instruct the superintendent to submit the report of the criminal records check directly to the responsible entity. If the department or the department's designee is not the responsible entity, the department or designee may require the responsible entity to submit the report to the department or designee.

(H)(1) A medicaid provider may employ conditionally a person for whom a criminal records check is required by this section prior to obtaining the results of the criminal records check if both of the following apply:

(a) The provider is not prohibited by division (D)(3)(b) of this section from employing the person.

(b) The person submits a request for the criminal records check not later than five business days after the person begins conditional employment.

(2) Except as provided in division (I) of this section, a medicaid provider that employs a person conditionally under division (H)(1) of this section shall terminate the person's employment if either of the following apply:

(a) The results of the criminal records check request are not obtained within the period ending sixty days after the date the request is made.

(b) Regardless of when the results of the criminal records check are obtained, the results indicate that the person has been convicted of or has pleaded guilty to a disqualifying offense, unless circumstances specified in rules authorized by this section exist that permit the provider to employ the person and the provider chooses to employ the person.

(I) ~~A~~As used in this division, "behavioral health services" means alcohol and drug addiction services, mental health services, or both.

A medicaid provider of behavioral health services may choose to employ a person who the provider would be prohibited by division (D)(3) of this section from employing or would be required by division (H)(2) of this section to terminate the person's employment if both of the following apply:

(1) The person holds a valid health professional license issued under the Revised Code granting the person authority to provide behavioral health services, holds a valid peer recovery supporter certificate issued pursuant to rules adopted by the department of mental health and addiction services, or is in the process of obtaining such a license or certificate.

(2) The provider does not submit any medicaid claims for any services the person provides.

(J) The report of a criminal records check conducted pursuant to this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) The medicaid director and the staff of the department who are involved in the administration of the medicaid program;

(3) The department's designee;

(4) The medicaid provider who required the person who is the subject of the criminal records check to submit to the criminal records check;

(5) An individual receiving or deciding whether to receive, from the subject of the criminal records check, home and community-based services available under the medicaid state plan;

(6) A court, hearing officer, or other necessary individual involved in a case dealing with any of the following:

(a) The denial or termination of a provider agreement;

(b) A person's denial of employment, termination of employment, or employment or unemployment benefits;

(c) A civil or criminal action regarding the medicaid program.

(K) The medicaid director may adopt rules under section 5164.02 of the Revised Code to implement this section. If the director adopts such rules, the rules shall designate the times at which a criminal records check must be conducted under this section. The rules may do any of the following:

(1) Designate the categories of persons who are subject to a criminal records check under this section;

(2) Specify circumstances under which the department or the department's designee may continue a provider agreement or issue a provider agreement when the medicaid provider is found by a criminal records check to have been convicted of or pleaded guilty to a disqualifying offense;

(3) Specify circumstances under which a medicaid provider may permit a person to be an employee, owner, officer, or board member of the provider when the person is found by a criminal records check conducted pursuant to this section to have been convicted of or have pleaded guilty to a disqualifying offense;

(4) Specify all of the following:

(a) The circumstances under which a database review must be conducted under division (F) (1)(a) of this section to determine whether an employee or prospective employee of a medicaid provider is included in a database;

(b) The procedures for conducting the database review;

(c) The databases that are to be checked;

(d) The circumstances under which, except as provided in division (I) of this section, a medicaid provider is prohibited from employing a person who is found by the database review to be included in a database.

SECTION 2. That existing sections 4725.48, 4725.49, 4725.52, 4747.04, 4747.05, 4747.06, 4747.07, 4747.08, 4747.09, 4747.10, 4747.11, 4747.12, 4747.13, and 4753.05 of the Revised Code are hereby repealed.

SECTION 3. That existing section 5164.34 of the Revised Code as it results from S.B. 229 of the 132nd General Assembly is hereby repealed.

SECTION 4. (A) As used in this section, "licensee" means a person holding a license as a hearing aid dealer or fitter under Chapter 4747. of the Revised Code issued on or before the effective date of this act.

(B) Notwithstanding sections 4747.05 and 4747.06 of the Revised Code, as amended by this act, a licensee who intends to renew the licensee's license under former section 4747.06 of the Revised Code shall complete, during the period between January 1, 2019, and January 30, 2020, not less than ten hours of continuing professional education approved by the State Speech and Hearing Professionals Board. Not later than January 30, 2020, the licensee shall certify to the Board, on a form provided by the Board, that the licensee has completed the continuing education required by this division and shall submit any additional information required by the Board regarding the continuing education. The license of a licensee who complies with the requirements of this division expires on December 31, 2021.

(C) Not later than January 30, 2020, a licensee who does not intend to renew the licensee's license under former section 4747.06 of the Revised Code shall certify to the Board, on a form provided by the Board, that the licensee does not intend to renew under former section 4747.06 of the

Revised Code. The licensee's license expires on January 31, 2020.

(D) The license of a licensee who fails to comply with division (B) or (C) of this section expires on January 31, 2020. The person may apply for a new license in accordance with section 4747.05 of the Revised Code, as amended by this act.

(E) The Board shall provide, not later than November 1, 2019, notice of the requirements of this section to all licensees.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____