

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE BILL 1577

Short Title: Amend Hearing Aid Dealers/Fitters Laws/Fees. (Public)

Sponsors: Representative England.

Referred to: Health, if favorable, Finance.

April 18, 2007

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LAWS RELATING TO HEARING AID DEALERS AND  
3 FITTERS AND TO AUTHORIZE THE NORTH CAROLINA STATE HEARING  
4 AID DEALERS AND FITTERS BOARD TO INCREASE CERTAIN FEES.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** The title of Chapter 93D of the General Statutes and  
7 G.S. 93D-1 read as rewritten:

8 **"Chapter 93D.**

9 **"North Carolina State Hearing Aid Dealers and Fitters Licensing Board.**

10 **"§ 93D-1. Definitions.**

11 For the purposes of this Chapter:

- 12 (1) "Board" shall mean the North Carolina State Hearing Aid ~~Dealers and~~  
13 Fitters Licensing Board.
- 14 (2) "Fitting and selling hearing aids" shall mean the evaluation or  
15 measurement of the powers or range of human hearing by means of an  
16 audiometer or by other means and the consequent selection or  
17 adaptation or sale or rental of hearing aids intended to compensate for  
18 hearing loss including the making of an impression of the ear.
- 19 (3) "Hearing aid" shall mean any instrument or device designed for or  
20 represented as aiding, improving or compensating for defective human  
21 hearing and any parts, attachments or accessories of such an  
22 instrument or device."

23 **SECTION 2.** G.S. 93D-2 reads as rewritten:

24 **"§ 93D-2. Fitting and selling without license unlawful.**

25 It shall be unlawful for any person to fit or sell hearing aids unless ~~he the person~~ has  
26 first obtained a license from the North Carolina State Hearing Aid ~~Dealers and~~  
27 Fitters Licensing Board or is an apprentice who has passed an entry-level competency  
28 exam and is working under the supervision of a ~~board~~ Board licensee."

1           **SECTION 3.** Chapter 93D of the General Statutes is amended by adding a  
2 new section to read:

3 **"§ 93D-2.1. Hearing aid sales.**

4           A person may offer hearing aids for sale, lease, or rental to persons in this State by  
5 catalog, direct mail, television, radio, the Internet, or any other mass media source if the  
6 following criteria are met:

- 7           (1) The seller is licensed as a hearing aid dispenser under this Chapter.  
8           (2) There is no fitting, selection, or adaptation of the hearing aid  
9           instrument.  
10          (3) No advice is given with respect to the fitting, selection, or adaptation  
11          of the hearing aid instrument.  
12          (4) No advice is given with respect to the taking of ear impressions for the  
13          ear mold by the seller.  
14          (5) The seller has received a statement that is signed by a physician  
15          licensed under Article 1 of Chapter 90 of the General Statutes  
16          verifying the medical clearance of the person seeking to purchase the  
17          hearing aid. The seller shall retain a copy of the statement for a period  
18          of time as required by federal law, the provisions of this Chapter, or  
19          rules adopted by the Board, whichever is longer.  
20          (6) The seller has abided by all federal regulations and State rules  
21          regarding the hearing aid device."

22           **SECTION 4.** G.S. 93D-3 reads as rewritten:

23 **"§ 93D-3. North Carolina State Hearing Aid Dealers and Fitters Licensing Board;**  
24 **composition, organization, duties and compensation.**

25           (a) There is hereby created a board whose duty it shall be to carry out the  
26 purposes and enforce the provisions of this Chapter, and which shall be known as the  
27 "North Carolina State Hearing Aid ~~Dealers and Fitters~~Licensing Board." The Board  
28 shall be composed of seven members. Four members who have been actively engaged  
29 in the fitting and selling of hearing aids for three years shall be appointed by the  
30 Governor. These initial appointments are for the following terms: one for one year, one  
31 for two years, one for three years and one for four years. All appointments made on or  
32 after July 1, 1981, shall be for terms of three years.

33           One member shall be appointed by the Governor who shall be a physician practicing  
34 in North Carolina, preferably specializing in the field of otolaryngology. All  
35 appointments shall be for terms of three years.

36           One member shall be appointed by the Governor from a list of two audiologists  
37 residing in North Carolina, which list shall be compiled by the North Carolina Speech  
38 and Hearing Association. This initial appointment shall be for a term of three years. All  
39 appointments made on or after July 1, 1981, shall be for a term of three years.

40           One member shall be appointed by the Governor to represent the interest of the  
41 public at large. This member shall have no ties to the hearing aid business nor shall he  
42 be an audiologist. The Governor shall appoint the public member not later than July 1,  
43 1981, to serve a term of three years.

1 All Board members serving on June 30, 1981, shall be eligible to complete their  
2 respective terms. No member appointed to a term on or after July 1, 1981, shall serve  
3 more than two complete consecutive terms.

4 Vacancies on the Board shall be filled by appointment of the Governor. Appointees  
5 shall serve the unexpired term of their predecessor in office and must be appointed from  
6 the same category as their predecessor in office. The members of the Board, before  
7 entering their duties, shall respectively take all oaths taken and prescribed for other  
8 State officers, in the manner provided by law, which oaths shall be filed in the office of  
9 the Secretary of State, and the Board shall have a common seal.

10 (b) The Board shall choose, at the first regular meeting and annually thereafter,  
11 one of its members to serve as president and one as secretary and treasurer. A majority  
12 of the Board shall constitute a quorum. The Board shall meet at least once a year, the  
13 time and place of the annual meeting and any special meetings to be designated by the  
14 president. The secretary and treasurer of the Board shall keep a full record of its  
15 proceedings, including a current list of all licensees, which shall at all reasonable times  
16 be open to public inspection. The Board is authorized to employ an executive secretary  
17 and to provide such assistance as may be required to enable said Board to properly  
18 perform its duties.

19 (c) The Board shall:

- 20 (1) Authorize all disbursements necessary to carry out the provisions of  
21 this Chapter;
- 22 (2) Supervise and administer qualifying examinations to test and  
23 determine the knowledge and proficiency of applicants for  
24 ~~licenses;~~licensure and applicants for apprenticeships;
- 25 (3) Issue licenses to qualified persons who apply to the Board;
- 26 (4) Obtain audiometric equipment and facilities necessary to carry out the  
27 examination of applicants for licenses;
- 28 (5) Suspend or revoke licenses pursuant to this Chapter;
- 29 (6) Make and publish rules, including a code of ethics, that are necessary  
30 and proper to regulate the fitting and selling of hearing aids and to  
31 carry out the provisions of this Chapter;
- 32 (7) Exercise jurisdiction over the hearing of complaints, charges of  
33 malpractice including corrupt or unprofessional conduct, and  
34 allegations of violations of the Board's rules that are made against any  
35 fitter and seller of hearing aids in North Carolina;
- 36 (8) Require the periodic inspection and calibration of audiometric testing  
37 equipment of persons who are fitting and selling hearing aids;
- 38 (9) In connection with any matter within the jurisdiction of the Board,  
39 summon and subpoena and examine witnesses under oath and to  
40 compel their attendance and the production of books, papers, or other  
41 documents or writings deemed by the Board to be necessary or  
42 material to the inquiry. Each summons or subpoena shall be issued  
43 under the hand of the secretary and treasurer or the president of the  
44 Board and shall have the force and effect of a summons or subpoena

1 issued by a court of record. Any witness who shall refuse or neglect to  
2 appear in obedience thereto or to testify or produce books, papers, or  
3 other documents or writings required shall be liable to contempt  
4 charges. The Board shall pay to any witness subpoenaed before it the  
5 fees and per diem as paid witnesses in civil actions in the superior  
6 court of the county where such hearing is held;

7 (10) Inform the Attorney General of any information or knowledge it  
8 acquires regarding any "price-fixing" activity whatsoever in  
9 connection with the sales and service of hearing aids;

10 (11) Establish and enforce rules to guarantee that a full refund will be made  
11 within 90 days by the seller of a hearing aid to the purchaser when  
12 presented with a written medical opinion of an otolaryngologist that  
13 the purchaser's hearing cannot be improved by the use of a hearing aid;

14 (12) Fund, establish, conduct, approve and sponsor instructional programs  
15 for registered apprentices and for persons who hold a license as well as  
16 for persons interested in obtaining adequate instruction or programs of  
17 study to qualify them for registration to the extent that the Board  
18 deems such instructional programs to be beneficial or necessary;

19 (13) Register persons ~~servng~~applying as apprentices as set forth in  
20 G.S. 93D-9;

21 (14) Have the power to set and collect fees in accordance with Chapter  
22 150B of the General Statutes for the items listed in this subdivision  
23 and for other items for which this Chapter gives the Board the  
24 authority to set a fee:

25 a. For a continuing education make-up class provided by the  
26 Board, a fee not to exceed fifty dollars (\$50.00) per person for  
27 each day of instruction. The Board may not offer a make-up  
28 class that is longer than two days;

29 b. For a license examination preparation course provided by the  
30 Board, a fee not to exceed fifty dollars (\$50.00) per person for  
31 each day of instruction. The Board may not offer an  
32 examination preparation course that is longer than three days;

33 c. For approval of a continuing education program provider, a fee  
34 not to exceed forty dollars (\$40.00);

35 d. For verifying and recording attendance at a continuing  
36 education program not provided by the Board, a fee not to  
37 exceed fifteen dollars (\$15.00) per licensee per program;

38 e. For providing a voluntary two-day apprentice training  
39 workshop, a fee not to exceed one hundred dollars (\$100.00)  
40 per person, and for providing a three-day voluntary apprentice  
41 training workshop, a fee not to exceed one hundred fifty dollars  
42 (\$150.00) per person;

1 f. For administering an examination, a fee not to exceed  
2 ~~seventy five dollars (\$75.00); and~~ three hundred dollars  
3 (\$300.00);

4 g. For administering a prequalifying examination to applicants for  
5 apprenticeship, a fee not to exceed twenty-five dollars (\$25.00);  
6 and

7 (15) Adopt annually a balanced budget prior to the beginning of its fiscal  
8 year, against which expenditures shall be reviewed throughout the  
9 fiscal year to ensure that expenditures during the year do not exceed  
10 receipts for that year plus amounts held by the Board in reserve.  
11 Except for monies from charges for photocopying and similar charges,  
12 the Board's receipts shall consist of and be limited to funds derived  
13 from fees expressly authorized by law.

14 ~~(d) Out of the funds coming into the possession of said Board, each member~~  
15 ~~thereof may receive as reimbursement for each day he is actually engaged in the~~  
16 ~~assigned duties of his office, the sum of eight cents (8¢) per mile for travel plus the~~  
17 ~~actual costs of meals and public lodging while away from home, which costs of meals~~  
18 ~~and lodging may not exceed twenty dollars (\$20.00) per day. Such expenses shall be~~  
19 ~~paid.~~ Each member of the Board shall receive per diem and reimbursement for travel and  
20 subsistence as provided in G.S. 93B-5. The expenses shall be paid from the fees and  
21 assessments received by the Board under the provisions of this Chapter. No part of these  
22 expenses or any other expenses of the Board, in any manner whatsoever, shall be paid  
23 out of the State treasury. All moneys received in excess of expense allowance and  
24 mileage, as above provided, shall be held by the secretary-treasurer as a special fund for  
25 meeting other expenses of the Board and carrying out the provisions of this Chapter.

26 ~~The secretary treasurer shall give a bond to the Board to be approved by the Board,~~  
27 ~~in the sum of five thousand dollars (\$5,000) conditioned upon the faithful performance~~  
28 ~~of the duties of his office.~~

29 ~~The Board shall make an annual report of its proceedings to the Governor on the~~  
30 ~~first Monday in June of each year, which report shall contain an account of all moneys~~  
31 ~~received and disbursed by the Board and a complete listing of names and addresses of~~  
32 ~~all licensees and apprentices. Copies of the report and list of licensees and apprentices~~  
33 ~~shall be filed in the office of the State Auditor, the Secretary of State, and Attorney~~  
34 ~~General in accordance with G.S. 93B-2."~~

35 **SECTION 5.** G.S. 93D-5 reads as rewritten:

36 "**§ 93D-5. Requirements for registration; licensure; examinations; apprentice**  
37 **licenses.**

38 (a) No person shall begin the fitting and selling of hearing aids in this State  
39 unless the person has been issued a license by the Board or is an apprentice who has  
40 taken and passed a prequalifying examination and is working under the supervision of a  
41 licensee. Except as hereinafter provided, each applicant for a license shall pay a fee set  
42 by the Board, not to exceed ~~one hundred fifty dollars (\$150.00),~~ two hundred fifty  
43 dollars (\$250.00), which fee may be prorated by the Board, and shall show to the  
44 satisfaction of the Board that the applicant:

- 1 (1) Is a person of good moral character,
- 2 (2) Is 18 years of age or older,
- 3 (3) Has an education equivalent to a four-year course in an accredited high  
4 ~~school, school.~~
- 5 (4) ~~Is free of contagious or infectious disease.~~

6 (b) Except as hereinafter provided, no license shall be issued to a person until ~~he~~  
7 the person has successfully passed a qualifying examination administered by the Board.

8 (c) No license shall be issued to any person until ~~he~~the person has served as an  
9 apprentice as set forth in G.S. 93D-9 for a period of at least one year; provided, that this  
10 subsection shall not apply to those persons qualified under G.S. 93D-6 nor to those  
11 persons holding ~~masters degrees~~licenses in Audiology or persons holding doctoral  
12 degrees in Audiology from accredited training programs who have undergone 250 hours  
13 of supervised activity fitting and selling hearing aids under the direct supervision of a  
14 licensed hearing aid ~~dealer~~dispenser approved by the Board, or have met the licensure  
15 requirements under Article 22 of Chapter 90 of the General Statutes and have worked  
16 full time for one year fitting and selling hearing aids in the office of and under the direct  
17 supervision of an otolaryngologist and have participated in 250 hours of  
18 Board-supervised, continuing professional education in fitting hearing aids."

19 **SECTION 6.** G.S. 93D-9 reads as rewritten:

20 "**§ 93D-9. Registration of apprentices.**

21 (a) Any person age ~~17~~18 or older may apply to the Board for registration as an  
22 apprentice. Each applicant must be sponsored by a hearing aid dealer and fitter licensed  
23 by the Board.

24 (b) Upon receiving an application accompanied by a fee in an amount set by the  
25 Board, not to exceed one hundred dollars (\$100.00), the Board may register the  
26 applicant as an ~~apprentice, which~~apprentice and upon successfully passing a  
27 prequalifying examination within 30 days from the date of application, the registration  
28 shall entitle the applicant to fit and sell hearing aids under the supervision of a holder of  
29 a regular license. The prequalifying examination shall consist of pure tone audiometry,  
30 which includes air and bone conduction testing and regulations.

31 (c) No applicant shall be registered as an apprentice by the Board under this  
32 section unless the applicant shows to the satisfaction of the Board that the applicant is or  
33 will be supervised and trained by a hearing aid fitter and seller who holds a license.

34 (d) If a person 18 years of age or older who is registered as an apprentice under  
35 this section does not take the next succeeding examination given after a minimum of  
36 one full year of apprenticeship, the person's apprentice registration shall not be renewed,  
37 except for good cause shown to the satisfaction of the Board.

38 (e) If a person who is registered as an apprentice takes and fails to pass the next  
39 succeeding examination given after one full year of apprenticeship, the Board may  
40 renew the apprenticeship license for a period of time to end 30 days after the results of  
41 the examination given next after the date of renewal of said registration. The fee for  
42 renewal of apprenticeship registration shall be set by the Board at an amount not to  
43 exceed one hundred fifty dollars (\$150.00).

1 (f) The Board shall adopt rules implementing initial and renewal registration of  
2 apprentices."

3 **SECTION 7.** G.S. 93D-11 reads as rewritten:

4 "**§ 93D-11. Annual fees; failure to pay; expiration of license; occupational**  
5 **instruction courses.**

6 Every licensed person who engages in the fitting and selling of hearing aids shall  
7 pay to the Board an annual license renewal fee in an amount set by the Board, not to  
8 exceed ~~one hundred fifty dollars (\$150.00)~~ two hundred fifty dollars (\$250.00). Such  
9 The payment shall be made prior to the first day of April in each year. In case of default  
10 in payment the license shall expire 30 days after notice by the secretary-treasurer to the  
11 last known address of the licensee by registered mail. The Board may reinstate an  
12 expired license upon the showing of good cause for late payment of fees, upon payment  
13 of said fees within 60 days after expiration of the license, and upon the further payment  
14 of a late penalty of twenty-five dollars (\$25.00). After 60 days after the expiration date,  
15 the Board may reinstate the license for good cause shown upon application for  
16 reinstatement and payment of a late penalty of fifty dollars (\$50.00) and the renewal fee.  
17 The Board may require all licensees to successfully attend and complete a course or  
18 courses of occupational instruction funded, conducted or approved or sponsored by the  
19 Board on an annual basis as a condition to any license renewal and evidence of  
20 satisfactory attendance and completion of any such course or courses shall be provided  
21 the Board by the licensee."

22 **SECTION 8.** G.S. 93D-13 reads as rewritten:

23 "**§ 93D-13. Discipline, suspension, revocation of ~~licenses~~ licenses; records.**

24 (a) The Board may in its discretion administer the punishment of private  
25 reprimand, suspension of license for a fixed period or revocation of license as the case  
26 may warrant in their judgment for any violation of the rules and regulations of the  
27 Board or for any of the following causes:

- 28 (1) ~~Habitual drunkenness~~
- 29 (2) ~~Gross incompetence~~ incompetence.
- 30 (3) ~~Knowingly fitting and selling hearing aids while suffering with a~~  
31 ~~contagious or infectious disease~~ Inability to perform functions for  
32 which the person is licensed or substantial impairment of the person's  
33 ability to perform the functions for which the person is licensed by  
34 reason of physical or mental disability.
- 35 (4) Commission of a criminal offense indicating professional  
36 ~~unfitness~~ unfitness.
- 37 (5) The use of a false name or alias in his ~~business~~ or her business.
- 38 (6) Conduct involving willful ~~deceit~~ deceit.
- 39 (7) Conduct involving fraud or any other business conduct involving  
40 moral ~~turpitude~~ turpitude.
- 41 (8) Advertising of a character or nature tending to deceive or mislead the  
42 ~~public~~ public.
- 43 (9) Advertising declared to be unethical by the Board or prohibited by the  
44 code of ethics established by the ~~Board~~ Board.

- 1           (10) Permitting another person to use his ~~license~~, or her license.  
2           (10a) Failure by a licensee to properly supervise an apprentice under his  
3           supervision, and or her supervision.  
4           (11) For violating any of the provisions of this Chapter.  
5       (b) Board action in revoking or suspending a license shall be in accordance with  
6 Chapter 150B of the General Statutes. Any person whose license has been suspended  
7 for any of the grounds or reasons herein set forth, may, after the expiration of 90 days  
8 but within two years, apply to the Board to have the same reissued; upon a showing  
9 satisfactory to the Board that ~~such~~ reissuance will not endanger the public health and  
10 welfare, the Board may reissue a license to such person for a fee set by the Board, not to  
11 exceed two hundred dollars (\$200.00). If application is made subsequent to two years  
12 from date of suspension, reissuance shall be in accordance with the provisions of  
13 G.S. 93D-8.  
14       (c) Records, papers, and other documents containing information collected or  
15 compiled by or on behalf of the Board as a result of an investigation, inquiry, or  
16 interview conducted in connection with registration, licensure, or a disciplinary matter  
17 shall not be considered a public record. However, information that identifies a consumer  
18 who has not consented to the public disclosure of services rendered to the consumer by  
19 a person registered or licensed under this Chapter shall be deleted from the public  
20 record. All other records, papers, and documents containing information collected or  
21 compiled by or on behalf of the Board shall be public records; provided, that any  
22 information that identifies a consumer who has not consented to the public disclosure of  
23 services rendered to the consumer is deleted."

24           **SECTION 9.** This act is effective when it becomes law.