

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1577
Committee Substitute Favorable 6/20/07

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

(Public)

Sponsors:

Referred to:

April 18, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS RELATING TO HEARING AID DEALERS AND
FITTERS AND TO AUTHORIZE THE NORTH CAROLINA STATE HEARING
AID DEALERS AND FITTERS BOARD TO ADD FEES.

The General Assembly of North Carolina enacts:

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

"Chapter 93D.

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

"§ 93D-1. Definitions.

For the purposes of this Chapter:

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

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

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

It shall be unlawful for any person to fit or sell hearing aids unless ~~he~~the person has first obtained a license from the North Carolina State Hearing Aid ~~Dealers and Fitters~~Licensing Board or is an apprentice 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. Mail order hearing aid sales.**

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

- 7 (1) The seller is licensed as a hearing aid dispenser under this Chapter.
8 (2) Consultation is given to the consumer either in person or by telephonic
9 communication by a live person who is licensed as a hearing aid
10 dispenser or is registered as an apprentice by the North Carolina State
11 Hearing Aid Licensing Board with respect to the fitting, selection, or
12 adaptation of the hearing aid instrument.
13 (3) Consultation is given to the consumer either in person or by telephonic
14 communication by a live person who is licensed as a hearing aid
15 dispenser or is registered as an apprentice by the North Carolina State
16 Hearing Aid Licensing Board with respect to the taking of ear
17 impressions for the ear mold by the seller.
18 (4) The seller must comply with all medical evaluation requirements
19 pursuant to 21 CFR § 801.421.
20 (5) The seller must comply with 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;~~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 apprenticeship.
- 25 (3) Issue licenses to qualified persons who apply to the ~~Board;~~Board.
- 26 (4) Obtain audiometric equipment and facilities necessary to carry out the
27 examination of applicants for ~~licenses;~~licenses.
- 28 (5) Suspend or revoke licenses pursuant to this ~~Chapter;~~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;~~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;~~Carolina.
- 36 (8) Require the periodic inspection and calibration of audiometric testing
37 equipment of persons who are fitting and selling hearing ~~aids;~~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~~; 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~~; 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
14 ~~aid~~; aid.

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

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

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

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

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

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

38 d. For verifying and recording attendance at a continuing
39 education program not provided by the Board, a fee not to
40 exceed fifteen dollars (\$15.00) per licensee per
41 ~~program~~; program.

42 e. For providing a voluntary two-day apprentice training
43 workshop, a fee not to exceed one hundred dollars (\$100.00)
44 per person, and for providing a three-day voluntary apprentice

1 training workshop, a fee not to exceed one hundred fifty dollars
2 (\$150.00) per ~~person~~; person.

3 f. For administering an examination, a fee not to exceed
4 seventy-five dollars ~~(\$75.00); and (\$75.00)~~.

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

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 from the fees and assessments received by the Board under the provisions of this
20 Chapter. No part of these expenses or any other expenses of the Board, in any manner
21 whatsoever, shall be paid out of the State treasury. All moneys received in excess of
22 expense allowance and mileage, as above provided, shall be held by the
23 secretary-treasurer as a special fund for meeting other expenses of the Board and
24 carrying out the provisions of this Chapter.

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

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

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

35 "**§ 93D-5. Requirements for ~~registration~~; licensure; examinations; apprentice**
36 **licenses.**

37 (a) No person shall begin the fitting and selling of hearing aids in this State
38 unless the person has been issued a license by the Board or is an apprentice working
39 under the supervision of a licensee. Except as hereinafter provided, each applicant for a
40 license shall pay a fee set by the Board, not to exceed one hundred fifty dollars
41 (\$150.00), and shall show to the satisfaction of the Board that the applicant:

42 (1) Is a person of good moral character,

43 (2) Is 18 years of age or older,

1 (3) Has an education equivalent to a four-year course in an accredited high
2 school,

3 (4) Is free of contagious or infectious disease.

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

7 (c) No license shall be issued to any person until ~~h~~the person has served as an
8 apprentice as set forth in G.S. 93D-9 for a period of at least one year; provided, that this
9 subsection shall not apply to those persons qualified under G.S. 93D-6 nor to those
10 persons holding ~~masters degrees~~a license in Audiology issued by the North Carolina
11 Board of Examiners for Speech and Language Pathologist and Audiologist who have
12 undergone 250 hours of supervised activity fitting and selling hearing aids under the
13 direct supervision of a licensed hearing aid ~~dealer-dispenser~~ approved by the Board, or
14 have met the licensure requirements under Article 22 of Chapter 90 of the General
15 Statutes and have worked full time for one year fitting and selling hearing aids in the
16 office of and under the direct supervision of an otolaryngologist and have participated in
17 250 hours of Board-supervised, continuing professional education in fitting hearing
18 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.~~The Board may register an applicant as an apprentice if the applicant
24 complies with all of the following:

25 (1) Is sponsored by a hearing aid dispenser licensed by the Board.

26 (2) Pays an application fee in an amount set by the Board, not to exceed
27 one hundred dollars (\$100.00).

28 (3) Successfully passes a Board approved prequalifying examination
29 within 30 days from the date of application.

30 (4) Shows to the satisfaction of the Board that the applicant will be
31 supervised and trained by a hearing aid dispenser licensed by the
32 Board.

33 (b) ~~Upon receiving an application accompanied by a fee in an amount set by the~~
34 ~~Board, not to exceed one hundred dollars (\$100.00), the Board may register the~~
35 ~~applicant as an apprentice, which~~A registered apprentice shall be entitled~~the~~
36 ~~applicant~~ to fit and sell hearing aids under the supervision of a holder of a regular
37 license.

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

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

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

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

9 **SECTION 7.** This act becomes effective October 1, 2007, and applies to
10 applications on or after that date.