

HB


430

CSHB 430 (HESS) "An Act regulating audiologists, hearing aid dealers and the dispensing of hearing aids.

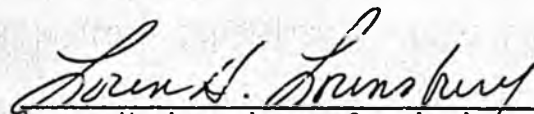
The Department of Commerce and Economic Development, Division of Occupational Licensing, supports the regulation of audiologists, hearing aid dealers, and the dispensing of hearing aids.

Although the division is aware of only 12 audiologists and approximately 10 legitimate hearing aid dealers, complaints filed with Consumer Protection in the Department of Law, the Communicable Disease Control Section of the Department of Health & Social Services and the Office of the Ombudsman document that Alaskan consumers have been financially harmed by many fly-by-night individuals.

The elderly population is the most vulnerable to abuse by fly-by-night individuals. Therefore, in the interest of public protection, the department feels that regulation of audiologists and hearing aid dealers may be one instance where the need for licensure outweighs the small number of practitioners.


Nancy Dunn, Director 465-2534
Division of Occupational Licensing

Date: 5/1/86


Lorer H. Lounsbury, Commissioner
Department of Commerce and
Economic Development

Date: 5/1/86

CSHB 430 (Fin) Sectional Analysis

- Section 1) Legislative Findings and Purpose Section
- Section 2) Adds audiologists and hearing aid dealers to the centralized licensing chapter.
- Section 3) Adds audiologists and hearing aid dealers to those provided with services by the department, without requiring a board or commission.
- Section 4) Adds audiologists and hearing aid dealers to the list of those subject to regulation, investigation, and enforcement procedures required by the department.
- Section 5) Redefines license and occupation to include trades or professions listed in the amended centralized licensing chapter that are not covered by a board or commission.
- Section 6) Adds audiologists to the professional designation requirements.
- Section 7) Adds the following sections to the chapter:
- 08.11.010: provides for qualifications for the licensing of professional audiologists
 - 08.11.020: addresses temporary license to practice audiology
 - 08.11.030: provides for duration and renewal of licenses
 - 08.11.040: provides for display of current license
 - 08.11.050: empowers the department to set fees for licensing;

- 08.11.070: allows audiologists to fit and sell hearing aids. Requires audiologists to comply with applicable provisions of consumer protection language of the bill.
- 08.11.080: defines grounds for disciplinary actions against audiologists;
- 08.11.090: lists disciplinary sanctions
- 08.11.100: lists prohibited acts
- 08.11.120: provides for exemptions under this chapter; prevents those individuals who may be exempt, but who are not audiologists, from representing themselves as audiologists;
- 08.11.200: Definition section

Section 8) Adds a new chapter to AS 08 concerning hearing aid dealers.

- 08.55.010: licensure qualifications
- 08.55.020: duration and renewal of license;
- 08.55.030: requires bonding of hearing aid dealers
- 08.55.040: empowers the department to set fees;
- 08.55.050: requires a hearing aid dealer, when entering into a contract with a consumer for the purchase or lease of a hearing aid, to provide the consumer with an instruction brochure; the dealers registration number, specifications, make model, and serial number of the hearing aid; a clear statement of the contract; written information on complaint rights; and the address of the department.

Also requires that any used or reconditioned hearing aid be clearly labeled as such, and specify what guarantee may be offered;

- 08.55.060: Requires a medical evaluation prior to the sale or lease of a hearing aid; allows the consumer, if 18 or older, to waive the medical evaluation by signing a statement; provides language for the evaluation waiver statement form; requires the hearing aid dealer to retain statement or medical evaluation for 4 years after the sale of a hearing aid.

- 08.55.070: provides for method of mailing hearing aids to consumer.
- 08.55.080: Allows consumer to file a complaint within 3 years of purchase date.
- 08.55.100: requires hearing aid dealers to keep audiometers calibrated to national standards.
- 08.55.110: outlines cancellation requirements for purchase or lease of hearing aids;
- 08.55.120: restricts type of hearing testing allowed by hearing aid dealers; requires all dealers to specify, in their advertising, what type of hearing testing they are allowed to perform.
- 08.55.130: grounds for disciplinary sanctions
- 08.55.140: lists disciplinary sanctions department may impose.
- 08.55.150: lists prohibited acts;
- 08.55.160: makes violations of prohibited acts a class B misdemeanor;
- 08.55.170: requires a hearing aid dealer to provide the department with an address of their regular place of business.
- 08.55.180: Admin Procedures act applies to this chapter;
- 08.55.200: definitions section

Section 9) adds audiologists to the definition of health care provider under AS 09.55.560

Section 10) adds audiologists to the definition of health care provider under AS 21. 88.900

Section 11) adds audiologists to AS 44.62.330(a) application of procedure by boards, commissions, and officers.

Section 12) Adds 08.55 to the unlawful acts and practices section of Trade and Commerce Statutes

Section 13) Adds "dealing in hearing aids" to the definition section of Trade and Commerce Statutes

Section 14) Adds audiologists and hearing aid dealers of 47.17.090(9) as practitioners of the healing arts.

CHAIRMAN'S INFORMATION: SCS CSHB 430(L&C)

- 1) BILL TITLE: "An act regulating audiologists, hearing aid dealers, and the dispensing of hearing aids."
 - a) Introduced: Rep Navarre
 - b) Co-sponsors:

- 2) INTENT: This measure provides for the regulation of audiologists, hearing aid dealers, and the dispensing of hearing aids. This bill is a public protection measure seeking to protect the elderly who have been abused by "fly by night" hearing aid dealers.

FISCAL NOTE: 10.3

- 3) ADDITIONAL REFERRALS: Finance and Rules
- 4) PUBLIC HEARING:
 - a) Sponsor:
 - b) Public Witnesses:
- 5) BILL ACTION:
 - a) Hold in committee?
 - b) Assign to sub committee for further review?
 - c) Move from committee?
 - d) Close public hearings?
- 6) COMMITTEE ACTION?
 - a) amendments?
 - b) CS adoption? Need to adopt the L&C SCS.

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Mr. Pann

Bannister
4/30/86 ✓

Original sponsors: Navarre, Gruenberg,
Hurley, et al

1 IN THE HOUSE

2 SENATE CS FOR CS FOR HOUSE BILL (NO. 430)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act regulating audiologists, hearing aid dealers
7 and the dispensing of hearing aids."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. LEGISLATIVE FINDINGS, PURPOSE. (a) The legislature finds
10 that the practice of audiology and the dispensing of hearing aids affects
11 the health, safety and welfare of the public and requires regulation and
12 control by the state in the public interest.

13 (b) The purpose of this Act is to establish the procedures necessary
14 to ensure that the public is protected from the incompetent, unprofession-
15 al, improper, and unauthorized practice of audiology and dispensing of
16 hearing aids, and to assure the availability of the highest possible quali-
17 ty audiology and hearing aid services for the hearing impaired persons of
18 the state.

19 * Sec. 2. AS 08.01.010 is amended by adding new paragraphs to read:

20 (24) regulation of audiologists under AS 08.11;

21 (25) regulation of hearing aid dealers under AS 08.55.

22 * Sec. 3. AS 08.01.050(a) is amended to read:

23 (a) The department shall provide the following administrative
24 and budgetary services when appropriate:

25 (1) collect fees and issue receipts;

26 (2) maintain records and files;

27 (3) issue and receive application forms;

28 (4) notify applicants of acceptance or rejection of appli-
29 cants as determined by the board or as determined by the department

1 under AS 08.11 for audiologists or under AS 08.55 for hearing aid
2 dealers;

3 (5) designate dates examinations are to be held and notify
4 applicants;

5 (6) publish notice of examination;

6 (7) arrange space for holding examinations;

7 (8) notify applicants of results of examinations;

8 (9) issue licenses and certificates or temporary licenses
9 or certificates as authorized by the board or as authorized by the
10 department under AS 08.11 for audiologists or under AS 08.55 for
11 hearing aid dealers;

12 (10) issue duplicate licenses or certificates upon proof by
13 the licensee of loss of the original and payment by the licensee of a
14 fee of \$2 except as otherwise provided in this title;

15 (11) notify licensees of renewal dates at least 30 days
16 before the expiration date of their licenses;

17 (12) compile and maintain current a register of licenses;

18 (13) answer routine inquiries;

19 (14) maintain files relating to individual licensees;

20 (15) arrange for printing and advertising;

21 (16) purchase supplies;

22 (17) employ secretarial help when needed;

23 (18) perform other services that [WHICH] may be requested by
24 the board;

25 (19) provide investigative services to the boards estab-
26 lished under AS 08.04, AS 08.20, AS 08.36, AS 08.64, AS 08.68, AS 08.-
27 70, AS 08.71, AS 08.72, AS 08.80, AS 08.84, and AS 08.86, for the
28 purpose of assisting those boards in matters of professional disci-
29 pline and in responding to consumer complaints.

1 * Sec. 4. AS 08.01.087 is amended to read:

2 Sec. 08.01.087. POWERS AND DUTIES OF DEPARTMENT. (a) The
3 department may, upon its own motion, conduct investigations to deter-
4 mine whether a [ANY] person has violated a provision of this chapter
5 or a regulation adopted under it, or a provision of [A CHAPTER IN]
6 this title or regulation adopted under this title dealing with an
7 occupation or board [ONE OF THE BOARDS] listed in AS 08.01.010 [OR A
8 REGULATION ADOPTED BY ONE OF THOSE BOARDS], or to secure information
9 useful in the administration of this chapter.

10 (b) If it appears to the commissioner that a person has engaged
11 in or is about to engage in an act or practice in violation of a
12 provision of this chapter or a regulation adopted under it, or a
13 provision of this title or regulation adopted under this title dealing
14 with an occupation or board [OR ANY OF THE LAWS PERTAINING TO CR
15 REGULATIONS ADOPTED BY THE BOARDS] listed in AS 08.01.010, the commis-
16 sioner may, if the commissioner considers it in the public interest,
17 and after notification of a proposed order or action by telephone or
18 telegraph to all board members, if a board regulates the act or prac-
19 tice involved, [BY TELEPHONE OR TELEGRAPH OF A PROPOSED ORDER OR
20 ACTION] unless a majority of the members of the board object within 10
21 days,

22 (1) issue an order directing the person to stop the act or
23 practice; however, reasonable notice of and an opportunity for a
24 hearing must first be given to the person, except that the commis-
25 sioner may issue a temporary order before a hearing is held; a tempo-
26 rary order remains in effect until a final order affirming, modifying,
27 or reversing the temporary order is issued or until 15 days after the
28 person receives the notice and has not requested a hearing by that
29 time; a temporary order becomes final if the person to whom the notice

1 is addressed does not request a hearing within 15 days after receiving
2 the notice; the commissioner or the commissioner's designee shall be
3 the hearing officer at the hearing and shall issue a final order
4 within 10 days after the hearing;

5 (2) bring an action in the superior court to enjoin the
6 acts or practices and to enforce compliance with this chapter, a
7 regulation adopted under it, [OR] an order issued under it, or with a
8 provision of this title or regulation adopted under this title dealing
9 with an occupation or board [OR ANY OF THE LAWS PERTAINING TO OR
10 REGULATIONS ADOPTED BY THE BOARDS] listed in AS 08.01.010;

11 (3) examine or have examined the books and records of a
12 [ANY] person whose business activities require licensure by a board
13 listed in AS 08.01.010, or whose occupation is listed in AS 08.01.010;
14 the commissioner [AND HE] may require the [THAT] person to pay the
15 reasonable costs of the examination; and

16 (4) issue subpoenas for the attendance of witnesses, and
17 the production of books, records and other documents.

18 * Sec. 5. AS 08.01.110 is amended to read:

19 Sec. 08.01.110. DEFINITIONS. In this chapter

20 (1) "board" includes the boards and commissions listed in
21 AS 08.01.010;

22 (2) "department" means the Department of Commerce and
23 Economic Development;

24 (3) "commissioner" means the commissioner of commerce and
25 economic development;

26 (4) "license" means a [ANY] license, certificate, permit,
27 or registration or similar evidence of authority issued for an occupa-
28 tion or by one of the boards listed in AS 08.01.010;

29 (5) "licensee" means a [ANY] person who holds a license;

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(6) "occupation" means a trade or profession [ANY OF THE TRADES OR PROFESSIONS FOR WHICH LICENSURE IS REQUIRED BY ONE OF THE BOARDS] listed in AS 08.01.010.

* Sec. 6. AS 08.02.010(a) is amended to read:

(a) An audiologist licensed under AS 08.11, a [A] person licensed in the state as a chiropractor under AS 08.20, a dentist under AS 08.36, a medical practitioner or osteopath under AS 08.64, a registered nurse under AS 08.68, an optometrist under AS 08.72, a registered pharmacist under AS 08.80, a registered physical therapist under AS 08.84, or a psychologist under AS 08.86, shall use as professional identification appropriate letters or a title after that person's name which represents that person's specific field of practice. The letters or title shall appear on all signs, stationery or other advertising in which the person offers or displays personal professional services to the public. In addition, a person engaged in the practice of medicine or osteopathy under AS 08.64.380(2), or a person engaged in any manner in the healing arts who diagnoses, treats, tests, or counsels other persons in relation to human health or disease and uses the letters "M.D." or the title "doctor" or "physician" or another [ANY OTHER] title that [WHICH] tends to show that the person is willing or qualified to diagnose, treat, test, or counsel another person, shall clarify the letters or title by adding the appropriate specialist designation, if any, such as "dermatologist", "radiologist", "audiologist", "naturopath", or the like.

* Sec. 7. AS 08 is amended by adding a new chapter to read:

CHAPTER 11. AUDIOLOGISTS.

Sec. 08.11.010. QUALIFICATIONS FOR AUDIOLOGIST LICENSE. The department shall issue a license to practice audiology to an individual who

- 1 (1) is 18 years of age or older;
- 2 (2) applies on a form provided by the department;
- 3 (3) pays the fee required under AS 08.11.050;
- 4 (4) furnishes evidence satisfactory to the department that
- 5 the person
- 6 (A) has not engaged in conduct that is a ground for
- 7 imposing disciplinary sanctions under AS 08.11.080;
- 8 (B) holds a master's degree or doctorate in audiology
- 9 from an accredited educational institution approved by the de-
- 10 partment; and either has
- 11 (i) a Certificate of Clinical Competence in
- 12 Audiology from the American Speech-Language-Hearing Associa-
- 13 tion or the equivalent of the certificate; or
- 14 (ii) practiced audiology for two years as of
- 15 January 1, 1986, or is in the process of completing the year
- 16 of supervised clinical experience required for the Certifi-
- 17 cate of Clinical Competence of the American Speech-Language-
- 18 Hearing Association.
- 19 Sec. 08.11.020. TEMPORARY LICENSE TO PRACTICE AUDIOLOGY AS AN
- 20 AUDIOLOGIST. (a) On receipt of the completed application the depart-
- 21 ment shall issue a temporary license for the practice of audiology as
- 22 an audiologist to an individual who is licensed to practice audiology
- 23 in another state and has submitted to the department an application
- 24 for a license under AS 08.11.010.
- 25 (b) The department may issue a temporary license to the follow-
- 26 ing:
- 27 (1) a nonresident for the practice of audiology as an
- 28 audiologist in the state for 30 days or less in a calendar year, if
- 29 the individual is licensed to practice audiology in another state,

1 territory of the United States, foreign country, or province that has
2 requirements for a license to practice audiology that are substan-
3 tially equivalent to or higher than the requirements of AS 08.11.010;

4 (2) a nonresident for the practice of audiology as an
5 audiologist in the state for 30 days or less in a calendar year, if
6 the individual meets the qualifications and requirements for a license
7 under AS 08.11.010, and resides in a state or territory of the United
8 States or a foreign country or province that does not license indi-
9 viduals to practice audiology.

10 (c) The department may impose by regulation additional limita-
11 tions that it determines appropriate on a temporary license issued
12 under this section.

13 Sec. 08.11.030. DURATION AND RENEWAL OF LICENSE. (a) A license
14 issued under this chapter is subject to renewal every four years on a
15 date set by the department. The department shall renew the license of
16 an individual licensed under this chapter who applies for renewal and
17 pays the renewal fee.

18 (b) If an individual fails to renew a license under (a) of this
19 section, the license lapses.

20 (c) The department may reinstate a lapsed license if the license
21 has lapsed for less than two years and if the individual submits to
22 the department an application for renewal and pays a delinquency fee
23 in addition to the renewal fee.

24 (d) A suspended license is subject to expiration and must be
25 renewed as provided in this section, but the renewal does not entitle
26 the individual while the license remains suspended to practice audiol-
27 ogy or to engage in other activity or conduct that violates the order
28 or judgment that suspended the license.

29 Sec. 08.11.040. DISPLAY OF LICENSE. (a) An individual licensed

1 to practice audiology as an audiologist in the state shall display the
2 license in a prominent place at each place of business of the indi-
3 vidual.

4 (b) If an audiologist has more than one place of business, the
5 department shall, on request and payment of a fee, issue a duplicate
6 license for each place of business of the individual.

7 Sec. 08.11.050. FEES. The department shall set fees under
8 AS 08.01.065 for each of the following:

- 9 (1) application;
10 (2) credential review;
11 (3) audiologist license;
12 (4) temporary license;
13 (5) renewal of license;
14 (6) delinquency;
15 (7) reinstatement;
16 (8) duplicate license.

17 Sec. 08.11.070. DEALING IN HEARING AIDS. An audiologist may
18 deal in hearing aids as a hearing aid dealer without being licensed as
19 a hearing aid dealer under AS 08.55, but shall comply with AS 08.55.-
20 050, 08.55.070, 08.55.100, 08.55.110(a), 08.55.110(b)(3) and (c) -
21 (h), and 08.55.130(7) - (13) when dealing in hearing aids.

22 Sec. 08.11.080. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANCTIONS
23 ON AN AUDIOLOGIST. After a hearing, the department may impose a
24 disciplinary sanction on an audiologist when the department finds that
25 the licensee

26 (1) secured a license through deceit, fraud, or intentional
27 misrepresentation;

28 (2) engaged in deceit, fraud, or intentional misrepresenta-
29 tion in the course of practicing audiology;

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(3) advertised professional services in a false or misleading manner;

(4) has been convicted of a felony or other crime that affects the person's ability to continue to practice competently and safely;

(5) continued to practice audiology after becoming unfit due to

(A) professional incompetence;

(B) use of drugs or alcohol in a manner that affects the person's ability to practice audiology competently and safely;

(C) physical or mental disability;

(6) permitted another person to use the licensee's license;

(7) employed a person who does not have a valid current license to practice audiology to perform work covered by this chapter;

(8) failed to comply with a provision of this chapter or a regulation adopted under this chapter, or an order of the department.

Sec. 08.11.090. DISCIPLINARY SANCTIONS. (a) When it finds that an audiologist has committed an act listed in AS 08.11.080, the department may impose the following sanctions singly or in combination:

(1) permanently revoke a license to practice;

(2) suspend a license for a determinate period of time;

(3) censure a licensee;

(4) issue a letter of reprimand;

(5) place a licensee on probationary status and require the licensee to

(A) report regularly to the department on matters involving the basis of probation;

(B) limit practice to those areas prescribed;

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(C) continue professional education until a satisfactory degree of skill has been attained in those areas determined by the department to need improvement;

(6) impose limitations or conditions on the practice of a licensee.

(b) The department may withdraw a limitation, condition, or probationary status if it finds that the deficiency that required the sanction has been remedied.

(c) The department may summarily suspend a license before final hearing or during the appeals process if the department finds that the licensee poses a clear and immediate danger to the public welfare and safety if the licensee continues to practice. An individual whose license is suspended under this subsection is entitled to a hearing by the department no later than seven days after the effective date of the order. The individual may appeal the suspension after the hearing to the superior court.

(d) The department may reinstate a license that has been suspended or revoked if the department finds after a hearing that the individual is able to practice with reasonable skill and safety.

(e) One year after revocation of a license issued under this chapter, the individual whose license was revoked may reapply for the license. The department may require an examination for reinstatement.

Sec. 08.11.100. PROHIBITED ACTS. Unless a person is licensed under this chapter, the person may not

(1) practice audiology;

(2) use a title indicating or representing that the person practices as an audiologist;

(3) advertise that the person practices audiology.

Sec. 08.11.110. PENALTY. A person who violates AS 08.11.100 is

1 guilty of a class B misdemeanor.

2 Sec. 08.11.120. EXEMPTIONS. (a) This chapter does not apply to
3 an individual who practices audiology consistent with the accepted
4 standards and code of ethics of the individual's profession as part of
5 the individual's duties as

6 (1) a physician licensed under AS 08.64;

7 (2) an employee of the federal government who is required
8 to practice audiology during the employment, if

9 (A) the employer maintains appropriate supervision of
10 the individual's practice of audiology;

11 (B) the individual practices audiology as part of the
12 duties for which the individual is employed;

13 (C) the individual practices audiology in the facility
14 where the individual is employed or under the supervision of the
15 federal governmental unit where the individual is employed; and

16 (D) the individual does not render or offer to render
17 audiology services to the public for compensation in addition to
18 the salary the individual receives from the federal governmental
19 unit;

20 (3) a student, intern, or resident pursuing a course of
21 study in audiology at an accredited college or a clinical training
22 facility approved by the department, if the activities of the student,
23 intern, or resident constitute part of a supervised course of study
24 and the student, intern, or resident is designated as an "audiology
25 intern," "audiology trainee," or other title approved by the depart-
26 ment that clearly indicates that the person is training to be an
27 audiologist.

28 (b) Notwithstanding the provisions of this chapter,

29 (1) a nurse licensed under AS 08.68 may perform hearing

1 sensitivity evaluations;

2 (2) an individual licensed as a hearing aid dealer under
3 AS 08.55 may deal in hearing aids;

4 (3) an individual holding a class A certificate issued by
5 the Conference of Executives of American Schools of the Deaf may teach
6 the hearing impaired;

7 (4) an individual may engage in the testing of hearing as
8 part of a hearing conservation program that complies with the regu-
9 lations of the Occupational Safety and Health Administration of the
10 federal government if the individual is certified to do the testing by
11 a state or federal agency acceptable to the Occupational Safety and
12 Health Administration.

13 (c) An individual who is not an audiologist, but who is exempt
14 under this section may not use a title or description stating or
15 implying that the person is an audiologist.

16 (d) An individual exempt under (a)(2) of this section may con-
17 sult with and disseminate research findings and scientific information
18 to accredited academic institutions or governmental agencies, and
19 offer lectures to the public for a fee, monetary or otherwise, without
20 being licensed under this chapter.

21 (f) An individual who is not licensed under this chapter but who
22 teaches the practice of audiology in an audiologist training program
23 at a college or university may use the title "audiologist" but may not
24 practice audiology.

25 Sec. 08.11.130. PROCEDURES. The Administrative Procedure Act
26 (AS 44.62) applies to regulations and proceedings under this chapter.

27 Sec. 08.11.200. DEFINITIONS. In this chapter, unless the con-
28 text indicates otherwise,

29 (1) "audiologist" means an individual who is licensed under

1 AS 08.11.010 to practice audiology in the state;

2 (2) "dealing in hearing aids" has the meaning given in
3 AS 08.55.200;

4 (3) "department" means the Department of Commerce and
5 Economic Development;

6 (4) "hearing aid" has the meaning given in AS 08.55.200;

7 (5) "practice of audiology" means the application of prin-
8 ciples, methods, and procedures of measurement, testing, appraisal,
9 prediction, consultation, habilitation, rehabilitation, counseling and
10 instruction related to hearing and hearing impairment for the purpose
11 of modifying communicative disorders involving speech, language,
12 auditory function, including auditory training, speech reading and the
13 recommendation, evaluation, fitting, and sale of hearing aids, includ-
14 ing the fitting of ear molds.

15 * Sec. 8. AS 08 is amended by adding a new chapter to read:

16 CHAPTER 55. HEAR. AID DEALERS.

17 Sec. 08.55.010. QUALIFICATIONS FOR LICENSE. (a) The department
18 shall issue a license to act as a hearing aid dealer to an individual
19 who

20 (1) is 18 years of age or older;

21 (2) applies on a form provided by the department;

22 (3) has a high school diploma or the equivalent;

23 (4) has a business license issued under AS 43.70.020;

24 (5) furnishes evidence satisfactory to the department that
25 the individual has not engaged in conduct that is a ground for impos-
26 ing disciplinary actions under AS 08.55.130;

27 (6) submits with the application a statement disclosing
28 whether the applicant

29 (A) has, during the five-year period immediately

1 preceding the date of the application been convicted of a felony,
2 or had a final judgment entered against the applicant in a civil
3 action, if the felony or civil action involved fraud, embezzle-
4 ment, or misappropriation of property;

5 (B) is subject to an injunctive order that is current-
6 ly in effect from a pending proceeding or action brought by a
7 public agency;

8 (C) is a defendant in a pending criminal or civil
9 action relating to fraud, embezzlement, misappropriation of
10 property, or the antitrust or trade regulation laws of the United
11 States or a state;

12 (D) has, during the five-year period immediately
13 preceding the date of the application, been reorganized, had a
14 debt adjustment, or has been adjudicated a bankrupt under bank-
15 ruptcy proceedings due to insolvency or was a principal executive
16 officer or general partner of a business that has been reor-
17 ganized, had a debt adjustment, or has been adjudicated a bank-
18 rupt due to insolvency during the five-year period;

19 (7) furnishes a description of each item in (6) of this
20 subsection that the applicant disclosed as being applicable to the
21 applicant.

22 (b) An individual who is a physician or an audiologist may deal
23 in hearing aids without being licensed under this chapter, but shall
24 comply with AS 08.55.050, 08.55.070, 08.55.100, 08.55.110(a), 08.55.-
25 110(b)(3) and (c) - (h), and 08.55.130(7) - (13) when dealing in
26 hearing aids.

27 (c) If an individual licensed under this chapter has more than
28 one place of business, the department shall, on request and payment of
29 a fee, issue a duplicate license for each place of business of the

1 individual.

2 Sec. 08.55.020. DURATION AND RENEWAL OF LICENSE. (a) A license
3 to act as a hearing aid dealer is valid for one year and is subject to
4 renewal.

5 (b) On or before the expiration of one year after the issuance
6 of a license under this chapter, a licensee may apply for renewal of
7 the license, and the department shall renew the license if the li-
8 censee pays the renewal fee, has a current business license to act as
9 a hearing aid dealer under AS 43.70.020, and provides evidence satis-
10 factory to the department that the individual has not engaged in
11 conduct that is a ground for imposing disciplinary sanctions under
12 AS 08.55.130.

13 (c) If a licensee fails to renew a license under (b) of this
14 section, the license lapses.

15 (d) The department may reinstate a lapsed license under (b) of
16 this section if the license has not lapsed for more than two years and
17 if the person pays a delinquency fee in addition to the renewal fee.

18 Sec. 08.55.030. BOND REQUIRED. (a) An applicant for a license
19 under AS 08.55.010 shall at the time of applying for the license file
20 with the department a surety bond in the amount of \$5,000 running to
21 the state and conditioned on the applicant's promise to pay all

22 (i) taxes and contributions due the state and political
23 subdivisions of the state;

24 (2) amounts that may be adjudged against the applicant by
25 reason of negligently or improperly dealing in hearing aids or
26 breaching a contract when dealing in hearing aids.

27 (b) In lieu of the surety bond the applicant may file with the
28 department a cash deposit or other negotiable security acceptable to
29 the department in the amount specified for the bond.

1 (c) The bond required by this section remains in effect until
2 cancelled by action of the surety, the principal, or the department.
3 A person may not commence an action on the bond later than three years
4 after cancellation of the bond.

5 Sec. 08.55.040. FEES. The department shall set fees under
6 AS 08.01.065 for each of the following:

- 7 (1) application;
8 (2) hearing aid dealer license;
9 (3) renewal of license;
10 (4) renewal delinquency;
11 (5) duplicate license.

12 Sec. 08.55.050. ITEMS TO BE PROVIDED BY HEARING AID DEALER. (a)
13 A hearing aid dealer shall give the following items to a consumer at
14 the time the consumer contracts with the hearing aid dealer to buy or
15 lease a hearing aid:

16 (1) an instructional brochure that contains operating
17 instructions, purchase privileges, and performance data for the hear-
18 ing aid;

19 (2) a statement of the dealer's registration number;

20 (3) a statement of the manufacturer's specifications, make,
21 model, and serial number for the hearing aid;

22 (4) a clear statement of the full terms of the contract;
23 and

24 (5) a written statement indicating that the consumer may
25 file a written complaint about a hearing aid or a hearing aid dealer
26 with the department and giving the mailing address and location ad-
27 dress of the department.

28 (b) Before the sale of a used hearing aid, the hearing aid
29 dealer shall clearly mark the receipt and the container for the

1 hearing aid as "used" or "reconditioned," whichever is applicable, and
2 with the terms of a guarantee that the dealer provides.

3 Sec. 08.55.060. PRIOR MEDICAL EVALUATION. (a) A hearing aid
4 dealer who is not a physician may not sell or lease a hearing aid
5 unless the prospective user of the hearing aid presents to the hearing
6 aid dealer a written statement signed by a physician stating that the
7 physician has evaluated the prospective user's hearing and that the
8 prospective user is a candidate for a hearing aid.

9 (b) The exam on which the physician bases the statement required
10 in (a) of this section must have occurred within the six months
11 immediately preceding the date when the prospective user presents the
12 statement to the hearing aid dispenser.

13 (c) If the prospective user is 18 years of age or older, the
14 hearing aid dealer may afford the prospective user an opportunity to
15 waive in writing the evaluation required by (a) of this section if the
16 hearing aid dealer

17 (1) informs the prospective user that the exercise of the
18 waiver is not in the best interest of the prospective user's health;

19 (2) does not actively encourage the prospective user to
20 waive the evaluation; and

21 (3) affords the prospective user the opportunity to sign
22 the following statement:

23 I have been advised by (HEARING AID DEALER'S NAME)
24 that it would be in my best interest if I had a
25 medical evaluation by a licensed physician (pref-
26 erably a physician who specializes in diseases of
27 the ear) before purchasing or leasing a hearing aid.

28
29 _____
(PROSPECTIVE USER'S SIGNATURE)

1 (d) The hearing aid dealer shall retain the evaluation statement
2 of the physician, or the prospective user's signed waiver statement
3 for four years after the date of the sale of the hearing aid.

4 Sec. 08.55.070. TRANSMITTAL OF HEARING AID BY MAIL. If a hear-
5 ing aid dealer mails a hearing aid to a customer, the dealer shall
6 send the hearing aid by certified mail.

7 Sec. 08.55.080. COMPLAINTS. (a) A person may file a complaint
8 with the department about a hearing aid or a hearing aid dealer within
9 three years from the date of the cause of the complaint.

10 (b) A hearing aid dealer shall prominently display in the busi-
11 ness establishment of the dealer a sign indicating that a person may
12 file a complaint with the department about a hearing aid or a hearing
13 aid dealer and giving the mailing and location address of the depart-
14 ment.

15 Sec. 08.55.100. CALIBRATION REQUIREMENTS. A hearing aid dealer
16 shall maintain in conformity with the standards set by the American
17 National Standard Institute the calibration of each audiometer used by
18 the hearing aid dispenser, and shall keep a record of the results of
19 the annual calibration of each audiometer used by the dealer.

20 Sec. 08.55.110. CANCELLATION OPTION. (a) In addition to the
21 cancellation allowed under AS 45.02.350, a person who has purchased or
22 leased a hearing aid from a hearing aid dealer may cancel the sale or
23 lease as provided under (b) of this section or by giving written
24 notice of the intention to cancel the sale or lease to the dealer not
25 later than 30 days following the later of (1) the date the person
26 receives the hearing aid, or (2) the date the hearing aid dealer
27 provides the person with the notice under (c) of this section. The
28 person may use the notice received under (c) of this section to cancel
29 the sale or lease by signing the form where indicated.

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(b) In addition to the other rights and remedies the purchaser or lessee of a hearing aid may have, the purchaser or lessee of a hearing aid has the right to cancel the sale or lease by giving written notice of the cancellation to the hearing aid dealer if

(1) the hearing aid dealer is not a physician or an audiologist, and within 60 days from the receipt by the purchaser or lessee of the hearing aid or the notice to be provided under (c) of this section, whichever receipt is later, a physician or an audiologist advises the person in writing to cancel the sale or lease and specifies in writing the medical or audiological reason for the advice; or

(2) the hearing aid dealer, if not a physician or audiologist, has violated a provision of this chapter in the sale or lease of the hearing aid to the person;

(3) the hearing aid dealer who is a physician or audiologist has violated (a) or (c) - (h) of this section or AS 08.55.050, 08.55.070, 08.55.100, or 08.55.130(7) - (13) in the sale or lease of the hearing aid to the person.

(c) A hearing aid dealer shall give a person who has purchased or leased a hearing aid from the dealer notice of the right to cancel the purchase or lease that is substantially identical to the following form with all of the information filled in except the signature and date lines for the purchaser or lessee:

NOTICE OF RIGHT TO CANCEL

Name of Hearing Aid Dealer

Address of Hearing Aid Dealer

Date of Sale or Lease

1 You may cancel this transaction within 30
2 days from the date you receive the hearing aid
3 or this notice, whichever is later.

4 You may also cancel this transaction within
5 60 days from the date you receive the hearing aid
6 or this notice, whichever is later, if the hearing
7 aid dealer is not a licensed physician or a licensed
8 audiologist and if a licensed physician or a
9 licensed audiologist advises you in writing to
10 cancel this transaction.

11 If you cancel this transaction, the property
12 you traded in, the payments you made under the
13 sale or lease (less certain costs allowed by state
14 law) and any negotiable instrument executed by you
15 will be returned within 20 days following receipt
16 by the hearing aid dealer of your cancellation
17 notice, and the hearing aid dealer will cancel any
18 security interest arising out of the sale or lease.

19 If you cancel, you must make available to the
20 hearing aid dealer, in as good a condition as when
21 received, less normal wear and tear, the goods
22 delivered to you under this sale or lease, unless
23 the dealer notifies you to keep the goods or to
24 hold them until the dealer collects them.

25 If the goods have been damaged, the hearing aid
26 dealer may deduct from any refund due you the reasonable
27 costs incurred in repairing the goods to make them
28 suitable for resale. If the goods have been damaged
29 beyond repair, you are liable for the full purchase

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price, even if you are just leasing the goods.

If you make the goods available for the hearing aid dealer to collect after your cancellation, and within 20 days of receiving your cancellation the hearing aid dealer does not collect them from you or provide you with instructions for returning the goods by mail, you may retain or dispose of the goods without further obligation to the hearing aid dealer. If you fail to make the goods available for the hearing aid dealer to collect after your cancellation, then the sale or lease is not cancelled and you remain liable for performance of the obligations of the sale or lease.

To cancel this transaction, mail (by certified mail, return receipt requested) or deliver a signed and dated copy of this notice or another written notice to (name of hearing aid dealer), at (address of hearing aid dealer's place of business) and (hearing aid dealer's telephone number) no later than midnight of (Date).

I hereby cancel this transaction.

(Date) _____

(Purchaser's or Lessee's signature)

I have read and understand the terms of cancellation of this purchase/lease.

Purchaser's or Lessee's signature

1 (1) to collect the hearing aid from the purchaser or
2 lessee; or

3 (2) to provide the purchaser or lessee with instructions
4 for returning the hearing aid by mail.

5 (g) If a purchaser or lessee of a hearing aid fails to make the
6 hearing aid available for the hearing aid dealer to collect, the
7 purchaser or lessee remains liable for the purchase or lease.

8 (h) To give written notice under this section, a person shall
9 deliver the notice to the hearing aid dealer in person or to the place
10 of business of the dealer, or mail the notice to the place of business
11 of the dealer by certified mail, return receipt requested.

12 Sec. 08.55.120. TESTING OF HEARING. (a) A hearing aid dealer
13 may take threshold measurements to determine the need for a hearing
14 aid, but may not perform diagnostic procedures to determine the cause
15 of a hearing impairment or charge a fee for a hearing measurement.

16 (b) A hearing aid dealer shall include in every printed
17 advertisement for the services of the dealer the following statement
18 bordered in black:

19 Alaska law permits a hearing aid dealer who is not a li-
20 censed physician or a licensed audiologist to test hearing
21 only for the purpose of selling or leasing hearing aids;
22 the tests given by a hearing aid dealer are not to be
23 used to diagnose the cause of a hearing impairment.

24 Sec. 08.55.130. GROUNDS FOR IMPOSITION OF DISCIPLINARY SAN-
25 TIONS. After a hearing, the department may impose a disciplinary
26 sanction on an individual licensed under this chapter when the depart-
27 ment finds that the person

28 (1) secured a license through deceit, fraud, or intentional
29 misrepresentation;

1 (2) engaged in deceit, fraud, or intentional misrepresenta-
2 tion in the course of providing professional services or engaging in
3 professional activities;

4 (3) advertised professional services in a false or mislead-
5 ing manner;

6 (4) has been convicted of a felony or other crime that
7 affects the individual's ability to continue to practice competently
8 and safely;

9 (5) failed to comply with a provision of this chapter or a
10 regulation adopted under this chapter, or an order of the department;

11 (6) continued to practice after becoming unfit due to

12 (A) professional incompetence;

13 (B) addiction to or severe dependency on alcohol or
14 another drug that impairs the individual's ability to practice
15 safely;

16 (C) physical or mental disability;

17 (7) employed a person who did not have a valid current
18 license to deal in hearing aids to perform work covered by this chap-
19 ter;

20 (8) failed or refused to honor a representation, promise,
21 agreement or warranty made by the person while dealing in hearing
22 aids;

23 (9) advertised a model, type, or kind of hearing aid for
24 sale that the person does not sell;

25 (10) failed to maintain a business address and telephone
26 number at which the individual could normally be reached during regu-
27 lar business hours;

28 (11) included in a contract or receipt for the purchase or
29 lease of a hearing aid a confession of judgment or a waiver of a right

1 of the consumer under this chapter;

2 (12) used undue influence, coercion, or other wilful act or
3 representation to interfere with the exercise by the consumer of the
4 rights provided in this chapter;

5 (13) negotiated, transferred, sold, or assigned a note or
6 other evidence of indebtedness to a finance company or other third
7 party within two months of delivering a hearing aid to a purchaser or
8 lessee of the hearing aid by mail or in person;

9 (14) permitted another person to use the licensee's license;

10 (15) dealt in hearing aids while suffering from a serious
11 disease that was contagious or infectious.

12 Sec. 08.55.140. DISCIPLINARY SANCTIONS. (a) When it finds that
13 a licensee has committed an act listed in AS 08.55.130, the department
14 may impose the following sanctions singly or in combination:

15 (1) permanently revoke a license to practice;

16 (2) suspend a license for a determinate period of time;

17 (3) censure a licensee;

18 (4) issue a letter of reprimand;

19 (5) place a licensee on probationary status and require the
20 licensee to

21 (A) report regularly to the department on matters
22 involving the basis of probation;

23 (B) limit practice to those areas prescribed;

24 (C) continue professional education until a satisfac-
25 tory degree of skill has been attained in those areas determined
26 by the department to need improvement;

27 (6) impose limitations or conditions on the practice of a
28 licensee.

29 (b) The department may withdraw a limitation, condition, or

1 probationary status if it finds that the deficiency that required the
2 sanction has been remedied.

3 (c) The department may summarily suspend a license before final
4 hearing or during the appeals process if the department finds that the
5 licensee poses a clear and immediate danger to the public welfare and
6 safety if the licensee continues to practice. A person whose license
7 is suspended under this subsection is entitled to a hearing by the de-
8 partment no later than seven days after the effective date of the
9 order. The person may appeal the suspension after the hearing to the
10 superior court.

11 (d) The department may reinstate a license that has been sus-
12 pended or revoked if the department finds after a hearing that the
13 applicant is able to deal in hearing aids with reasonable skill and
14 safety.

15 Sec. 08.55.150. PROHIBITED ACTS. (a) Unless a person is li-
16 censed under this chapter or AS 08.11, the person may not

17 (1) deal in hearing aids;

18 (2) use a title indicating or representing that the person
19 deals in hearing aids or is licensed to deal in hearing aids;

20 (3) advertise that the person deals in hearing aids.

21 (b) A person may not

22 (1) sell, barter, or offer to sell or barter a license
23 issued under this chapter;

24 (2) purchase or obtain by barter a license issued under
25 this chapter with the intent to use it as evidence of the holder's
26 qualification to deal in hearing aids;

27 (3) materially alter a license issued under this chapter
28 with fraudulent intent;

29 (4) use or attempt to use as valid a license to deal in

1 hearing aids that has been purchased, fraudulently obtained, counter-
2 feited, or materially altered.

3 Sec. 08.55.160. PENALTY. A person who violates AS 08.55.150 is
4 guilty of a class B misdemeanor.

5 Sec. 08.55.170. NOTICE OF PLACE OF BUSINESS. A person who holds
6 a license under this chapter shall notify the department in writing of
7 the regular address of the place or places where the person deals or
8 intends to deal in hearing aids.

9 Sec. 08.55.180. PROCEDURES. The Administrative Procedure Act
10 (AS 44.62) applies to regulations and proceedings under this chapter.

11 Sec. 08.55.200. DEFINITIONS. In this chapter

12 (1) "audiologist" means an individual licensed as an audio-
13 logist under AS 08.11;

14 (2) "dealing in hearing aids" means the sale or lease, or
15 attempted sale or lease of hearing aids, and the recommendation,
16 selection, fitting, or adaptation of hearing aids;

17 (3) "department" means the Department of Commerce and
18 Economic Development;

19 (4) "hearing aid" means a prosthetic instrument or device
20 designed for or represented as aiding, improving, or correcting defec-
21 tive human hearing and the parts, attachments, or accessories of the
22 instrument or device; "hearing aid" does not include cochlear im-
23 plants, middle-ear implants, vibro-tactile speech-reading aids, other
24 aids for cued speech, or group or individual auditory training units
25 and assistive devices;

26 (5) "hearing aid dealer" means an individual licensed under
27 AS 08.55.010;

28 (6) "physician" means a person licensed as a physician
29 under AS 08.64.

1 * Sec. 9. AS 09.55.560(1) is amended to read:

2 (1) "health care provider" means an audiologist licensed
3 under AS 08.11; a chiropractor licensed under AS 08.20; a dental
4 hygienist licensed under AS 08.32; a dentist licensed under AS 08.36;
5 a nurse licensed under AS 08.68; a dispensing optician licensed under
6 AS 08.71; an optometrist licensed under AS 08.72; a pharmacist li-
7 censed under AS 08.80; a physical therapist licensed under AS 08.84; a
8 physician licensed under AS 08.64; a podiatrist; a psychologist and a
9 psychological associate licensed under AS 08.86; and a hospital as
10 defined in AS 18.20.130, including a governmentally owned or operated
11 hospital; a corporate entity covered under AS 21.88.050(b)(12); and an
12 employee of a health care provider acting within the course and scope
13 of employment;

14 * Sec. 10. AS 21.88.900(a)(9) is amended to read:

15 (9) "health care provider" means an audiologist licensed
16 under AS 08.11; a chiropractor licensed under AS 08.20; a dental
17 hygienist licensed under AS 08.32; a dentist licensed under AS 08.36;
18 a nurse licensed under AS 08.68; a dispensing optician licensed under
19 AS 08.71; an optometrist licensed under AS 08.72; a pharmacist li-
20 censed under AS 08.80; a physical therapist licensed under AS 08.84; a
21 physician licensed under AS 08.64; a podiatrist; a psychologist and a
22 psychological associate licensed under AS 08.86; a hospital as defined
23 in AS 18.20.130, including a governmentally owned or operated hospi-
24 tal; a corporate entity covered under AS 21.88.050(b)(11); an employee
25 of a health care provider acting within the course and scope of em-
26 ployment;

27 * Sec. 11. AS 44.62.330(a) is amended by adding new paragraphs to read:

28 (53) Department of Commerce and Economic Development con-
29 cerning the licensing and regulation of audiologists (AS 08.11);

1 (54) Department of Commerce and Economic Development con-
2 cerning the licensing and regulation of hearing aid dealers (AS 08.-
3 55).

4 * Sec. 12. AS 45.50.471(b) is amended by adding a new paragraph to
5 read:

6 (27) dealing in hearing aids and failing to comply with
7 AS 08.55.

8 * Sec. 13. AS 45.50.561 is amended by adding new paragraphs to read:

9 (10) "dealing in hearing aids" has the meaning given in
10 AS 08.55.200;

11 (11) "hearing aid" has the meaning given in AS 08.55.200.

12 * Sec. 14. AS 47.17.070(9) is amended to read:

13 (9) "practitioner of the healing arts" includes chiroprac-
14 tors, dental hygienists, dentists, health aides, nurses, nurse practi-
15 tioners, optometrists, osteopaths, physical therapists, physicians,
16 physician's assistants, psychiatrists, psychologists, psychological
17 associates, audiologists licensed under AS 08.11, hearing aid dealers
18 licensed under AS 08.55, religious healing practitioners, and
19 surgeons;
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**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: 4/23/86

REQUEST

Bill/Resolution No.: CSHB 430 (HESS)
 Title: Regulating Audiologists, Hearing Aid Dealers and dispensing of hearing aids;
 Sponsor: House HESS
 Requester: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Economic Dev.
 BRU: Occupational Licensing
 Components: _____

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		-0-	-0-	-0-	-0-	-0-
TRAVEL		-0-	-0-	-0-	-0-	-0-
CONTRACTUAL		-0-	-0-	-0-	-0-	-0-
SUPPLIES		-0-	-0-	-0-	-0-	-0-
EQUIPMENT		-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES		-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE		1.8	1.1	1.3	2.0	1.6
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FUNDING: (Thousands of dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary.

The bill charges the department with the responsibility of licensing audiologists and hearing aid dealers. Information received indicates that the number of practitioners affected by the bill are few--12 audiologists and 10 legitimate hearing aid dealers. Apparently, fly-by-night individuals have harmed Alaskan consumers as documented by complaints on file with Consumer Protection in the

Prepared by: Jennifer Strickler, Management Analyst
 Division: Occupational Licensing

Phone: 465-2144

Date: 4/23/86

Approved by Commissioner: _____

Date: _____

Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requester

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 430 (HESS)

Department of Law, the Office of the Ombudsman, and the Department of Health and Social Services, Communicable Disease Control Section. Licensing of Audiologists and Hearing Aid Dealers may be one instance where the need for licensure out-weighs the small number of practitioners.

An estimate of operating costs derived from comparing qualifications and numbers of practitioners with a similar existing license function indicate the costs to total \$1.4 each year. Of the yearly costs, \$.1 is expected to be new costs as a result of this legislation, for printing of application and statute booklets. The remainder consists largely of personal services costs which would be absorbed by the division through funding already included in the agency's operating budget. The fiscal note will be zero.

The following fee schedule was developed so that fees generated over the four-year renewal cycle would match, as closely as possible, costs over the same period. These fees are still estimates at this time.

Revenues were estimated on the following fee schedule:

Application/Credentials Review fee	\$20
Temporary Permit fee	\$25
Audiologists License/Renewal fee	\$50 - quadrennially
Hearing Aid Dealers License/Renewal	\$80 - annually

As a result of quadrennial licenses issued to Audiologists, revenues collected in FY 87 essentially covers a portion of the costs in FY 88 to FY 91. A detailed description follows:

<p>FY 87:</p> <p>12 Audiologists seeking licensure (\$50 x 12) = \$.6</p> <p>10 Hearing Aid Dealers (\$80 x 10) = .8</p> <p>22 Application/Credentials Review (\$20 x 22) = .4</p> <p style="text-align: right;"><u>\$ 1.8</u></p>	<p>Distribution across quadrennial renewal:</p> <p>\$ 1.8</p> <p>- 1.4 costs</p> <p><u>\$.4 balance</u></p>
---	--

<p>FY 88:</p> <p>Assuming there will be two new applicants seeking Audiology Temporary Permits (\$25 x 2) \$.05</p> <p>2 new Hearing Aid Dealers:</p> <p style="padding-left: 20px;">Application/Credentials Review Fee (\$20 x 2) .04</p> <p style="padding-left: 20px;">Hearing Aid Dealers License (\$80 x 2) .2</p> <p>10 Hearing Aid Dealers renewing (\$80 x 10) .3</p> <p style="text-align: right;"><u>\$ 1.1</u></p>	<p>\$.4</p> <p>+ 1.1</p> <p><u>\$ 1.5</u></p> <p>- 1.4 costs</p> <p><u>\$.1 balance</u></p>
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CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 430 (HESS)

FY 89:

Assuming there will be two new applicants seeking Audiology Temporary Permits (\$25 x 2)	\$.05	
2 new Hearing Aid Dealers:		
Application/Credentials Review Fee (\$20 x 2)	.04	
Hearing Aid Dealers License (\$80 x 2)	.2	
12 Hearing Aid Dealers renewing (\$80 x 12)	1.0	
	\$ 1.3	\$.1 balance forward
		+ 1.3
		\$ 1.4
		- 1.4 costs
		\$ 0 balance

FY 90:

Assuming there will be two new applicants seeking Audiology Temporary Permits (\$25 x 2)	\$.05	
2 new Hearing Aid Dealers:		
Application/Credentials Review Fee (\$20 x 2)	.04	
Hearing Aid Dealers License (\$80 x 2)	.2	
12 Audiologists renewing (\$50 x 12)	.6	
14 Hearing Aid Dealers renewing (\$80 x 14)	1.1	
	\$ 2.0	\$.0
		+ 2.0
		\$ 2.0
		- 1.4 costs
		\$.6 balance

FY 91:

Assuming there will be one new applicant seeking licensure as an Audiologist (\$50 x 1)	\$.05	
2 new Hearing Aid Dealers (\$80 x 2)	.2	
3 paying Application/Credentials Review (\$20 x 3)	.06	
16 Hearing Aid Dealers renewing (\$80 x 16)	1.3	
	\$ 1.6	\$.6
		+ 1.6
		\$ 2.2
		- 1.4 costs
		\$.8 balance

NOTE:

The revision in this fiscal note from the previous version is in the total estimated annual costs to administer the function. The original estimate was based on \$4.5 annually. As a result of adjusting costs in relation to the number of licensees, this revised fiscal note is based on \$1.4 annual expenditures.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date: 4/3/86

REQUEST Page 1 of 3

FISCAL DETAIL

Bill/Resolution No.: CSHB 430 (FIN)
 Title: Regulating audiologists,
 hearing aid dealers & dispensing
 of hearing aids
 Sponsor: House HESS
 Requestor: House Finance Committee
 Date of Request: 4/3/86

Agency Affected: Commerce & Econ. Dev.
 BRU: Occupational Licensing
 Components: _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		0	0	0	0	0
TRAVEL		0	0	0	0	0
CONTRACTUAL		0	0	0	0	0
SUPPLIES		0	0	0	0	0
EQUIPMENT		0	0	0	0	0
LAND & STRUCTURES		0	0	0	0	0
GRANTS, CLAIMS		0	0	0	0	0
MISCELLANEOUS		0	0	0	0	0
TOTAL OPERATING		0	0	0	0	0

CAPITAL		0	0	0	0	0
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REVENUE		10.3	2.7	3.1	3.5	10.1
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FUNDING : (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS		0	0	0	0	0
OTHER		0	0	0	0	0
TOTAL		0	0	0	0	0

POSITIONS :

FULL-TIME		0	0	0	0	0
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

ANALYSIS : Attach a separate page if necessary

The \$100 estimated as needed for printing of applications and statute booklets can be absorbed within the Department's FY 87 budget.

Prepared by: Al Adams, Chair Phone: 465-3706
 Division: House Finance Committee Date: 4/3/86

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 430 (Fin) Page 2 of 3

Protection in the Department of Law, the Office of the Ombudsman, and the Department of Health and Social Services, Communicable Disease Control Section. Licensing of Audiologists and hearing aid dealers may be one instance where the need for licensure out-weighs the small number of practitioners.

An estimate of operating costs derived from comparing qualifications and numbers of practitioners with a similar existing license function indicate the costs to total \$4.5 each year. Of the yearly costs, \$.1 is expected to be new costs as a result of this legislation, for printing of application and statute booklets. The remainder of \$4.4 consists largely of personal services costs which would be absorbed by the division through funding already included in the agency's operating budget.

The following fee schedule was developed so that fees generated over the four-year renewal cycle would match, as closely as possible, costs over the same period.

Revenues were estimated on the following fee schedule:

Application Fee	\$	30
Credentials Review Fee		20
Temporary Permit Fee		100
. Audiologist:		
License & Renewal Fee		520 quadrennially (\$130 annually)
Hearing Aid Dealers		200 annually

As a result of quadrennial licenses issued to Audiologists, revenues collected in FY 87 essentially covers a portion of the costs in FY 88 to FY 90. A detailed description follows:

FY 87:			Distribution across quadrennial renewal:
12 Audiologists seeking licensure	\$	6.2	
10 Hearing Aid Dealers		2.0	
22 Application/Credentials Review		1.1	
		\$ 9.3	
			\$ 9.3
			- 4.5 costs
			\$ 4.8 balance
FY 88:			
Assuming there will be two new applicants seeking Audiology temporary permits	\$.2	
2 new Hearing Aid Dealers:			
Application & Credentials Review Fee		.1	
License fee		.4	
10 Hearing Aid Dealers renewing		2.0	
		\$ 2.7	
			\$ 4.8 balance forward
			2.7
			\$ 7.5
			- 4.5 costs
			\$ 3.0 balance

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 430 (Fin) Page 3 of 3

FY 89:

Assuming there will be two new applicants seeking Audiology temporary permits	\$.2		
2 new Hearing Aid Dealers:			
Application & Credentials Review Fee	.1		
License Fee	.4		
12 Hearing Aid Dealers	2.4		\$ 3.0 balance forward
	\$ 3.1		3.1
			\$ 6.1
			- 4.5 costs
			\$ 1.6 balance

FY 90:

Assuming there will be two new applicants seeking Audiology temporary permits	\$.2		
2 new Hearing Aid Dealers:			
Application & Credentials Review Fee	.1		
License Fee	.4		
14 Hearing Aid Dealers renewing	2.8		\$ 1.6 balance forward
	\$ 3.5		3.5
			\$ 5.1
			- 4.5 costs
			\$.6 balance

FY 91 will be the start of a new quadrennial license period for Audiologists, and is the reason for revenues increasing from \$3.5 in FY 90 to \$10.1 in FY 91.

FY 91:

Assuming there will be one new applicant seeking licensure as an Audiologist	\$.5		
2 new Hearing Aid Dealers, license fee	.4		
Application & Credentials fee for 3 new applicants	.2		
12 Audiologists renewing	6.2		
14 Hearing Aid Dealers renewing	2.8		
	\$10.1		

The FTC And The Hearing Aid Industry

by Rocky Stone

In the United States, the role of government in regulating industry and providing consumer protection has usually been contentious, time-consuming—and costly! Way back in June 1975, the Federal Trade Commission (FTC) initiated a proceeding for promulgation of a Trade Regulation Rule for the Hearing Aid Industry. Ten years later (August 1985), the FTC recommended against the proposed rule. What happened?

FTC conducted 58 days of hearings on the proposed rule. It heard 203 witnesses and compiled almost 60,000 pages of documents. The final Staff report to the Commission, along with the Proposed Trade Regulation Rule was published in two volumes during September 1978. The report contains the staff's analysis of the record which forms part of the basis for the Commission's final determination. In transmitting the report to the Commission, the Director, Bureau of Consumer Protection, observed, "While I am somewhat uncomfortable with the manner in which the staff has characterized some of the record evidence, I support their recommendation that a trade regulation rule is necessary and that the rule is supported by the record evidence."

"There appears to be sufficient record evidence to establish the conclusion that the over 14.5 million (1978 figure) hearing impaired individuals suffer a lack of information about hearing loss, hearing aids, and the variety of individuals and their respective qualifications who dispense and sell hearing aids. Hearing aids can benefit some, but not all of these hearing impaired individuals. In addition, periods of adjustment are almost always required. The record also reveals the prevalence of a variety of *deceptive* and *unfair* marketing techniques that take advantage of the existing consumer ignorance or vulnerability to mislead consumers into the belief that the hearing aid can offer greater benefits than may in fact be true. (Words like "deception" and "unfair" have long been the basis on which the FTC takes action against a particular company or industry. The problem is that such words can be interpreted differently and they can cover an awful lot of territory. When James C. Miller III was FTC Chairman, he asked Congress to limit the FTC's discretion by providing a legal definition of both terms as they pertain to the agency's jurisdiction over business practices. Miller felt that "unguided discretion creates great ambiguity about how the law will be applied.")

"The recommended rule attempts to remedy the documented problems by a comprehensive approach to the advertising and marketing of hearing aids. Of critical importance is the buyer's right to cancel. This portion of the rule requires retailers to provide each buyer with the opportunity to cancel

the purchase within 30 days after delivery of the aid and receive a refund less certain allowable charges. The record clearly reveals that consumers can only assess the benefits the aid will offer by actual use. The trial period should thus allow consumers adequate opportunity to inspect the aid, adjust to its use (and limitations), and verify whether or not it will, in fact, offer them some benefit. The trial period should also provide disincentives that will inhibit sellers from engaging in deceptive techniques to market aids. If claims are not borne out through actual experience, sellers will have to refund the purchase price. In addition, any returned hearing aids will have to be sold as used rather than new aids."

1978—The Director, Bureau of Consumer Protection

"While I am somewhat uncomfortable with the manner in which the Staff has characterized some of the record evidence, I support their recommendation that a trade regulation rule is necessary and that the rule is supported by the record evidence."

For the next six years the FTC staff analyzed and re-analyzed the record, gathered additional post-hearing documents (another 4,000 pages) and sent two proposed rules to the Commissioners for consideration. During this time, staff and commissioners changed, political differences emerged, points of view shifted. The process was also characterized by recrimination, bitterness, invective and a general sense of guerrilla warfare. In 1979, Robert Petosky, a Carter appointee found the staff's case plagued by "bias" and sent it back for further review. In April 1983, George W. Douglas, a conservative Democrat from Texas appointed by Reagan, took charge of the case. He sat on it for more than a year and then in May 1984, sent it back to the staff without taking it to the full commission for debate. By 1984, the process had consumed more than 50,000 staff hours of time and probably cost about \$700,000 according to FTC figures cited by the *Washington Post*.

The final act in the saga of the hearing aid rule was opened with Commissioner Douglas' request for a new survey of

Shhh

Given the limitations of the study, it is hard to understand why the FTC staff should have been led to its sanguine view that the marketplace will do the job of protecting the hearing impaired consumer.

consumers to gather information on the industry, hearing aid users, and their perceptions of the product. The main focus was to be on the consumer trial period since several commissioners felt that events had overtaken the proposed rule. A Food and Drug Administration regulation placed new conditions on hearing aid sales (see *Shhh*, November/December 1984, page 8), many states had passed new legislation regarding consumer protection, and some hearing aid dispensers had adopted a voluntary 30-day trial period.

The issue was whether market forces could be relied on to insure that consumers have a chance to try a hearing aid before purchasing it. Thus, the survey aimed at comparing the reports of hearing impaired persons living in states having mandatory trial periods with those of persons living in states where no such requirement exists.

The principal finding of the survey, as reported to the Commission by the Bureau of Consumer Protection, was that "in states that required trial periods, only 62% of the respondents said a trial period was available. Yet, in states that did not have this requirement, 65% of hearing aid purchasers had access to a trial period. Thus, market forces appear to have been as effective as legal requirements in promoting the proliferation of trial periods." (Emphasis SHHH.)

We could rest in confidence in the small discrepancy this three percentage point difference represents—except for the fact that the survey was not designed to support this kind of a comparison. The study was done by Market Facts, a highly regarded consumer and market research firm. Nonetheless, the sampling plan for the study had severe limitations for purposes of this comparison upon which the FTC staff rests its recommendation.

First, the survey was of persons who were part of a "panel" of consumers, i.e., had agreed to participation in periodic surveys by Market Facts for its diverse clients. The sample is not a true cross-section of the American public. There is a bias in the exclusion of persons who declined to join the panel for one reason or another. Moreover, to the extent participants in the panel were involved in Market Facts studies prior to the FTC survey, they tend to become more self-conscious about their behavior as consumers. Thus, it is highly probable that they are more attentive to the terms of their purchases, thereby yielding a degree of measured awareness about the trial period that is artificially inflated.

Second, the survey was conducted by mail. As a result it suffers the expected problem of people not responding. There are ways survey researchers deal with this problem, but

there is no evidence that Market Facts or the FTC staff made such an effort.

Third, and most important, only five states and the District of Columbia have mandatory trial periods. Given the design of the sample, only 74 respondents were produced living in these jurisdictions. So small a number of cases greatly limits the comparisons that are valid with the experience of those living in areas where no required trial periods exist. Specifically, a difference of at least twelve percentage points between the two percentages would be needed to be able to conclude that the difference did not occur by chance. With a three percentage point difference found in the survey, there is no way the conclusion of the FTC staff can be supported with any statistical confidence. Given the limitations of the study, it is hard to understand why the FTC staff should have been led to its sanguine view that the marketplace will do the job of protecting the hearing impaired consumer.

Conclusion: Unfortunately, we are dealing in extremes. According to a number of people with different points of view, the 1978 report was biased. The staff seemed to be throwing the baby out with the bath water. The situation was not as bad as it was portrayed. Now the Market Facts survey indicates that everything is okay. It isn't. That's the other extreme. Our mail convinces us that the situation today, is neither as bad nor as good as the FTC has variously represented it. Good consumer education is probably the best consumer protection. But there is a large group of elderly hearing impaired persons who remain vulnerable and who will never be able, adequately to protect themselves. How we get the use of amplification to them in a fair context, is our challenge.

According to the White House Office of Consumer Affairs:

96% of unhappy customers never complain.

91% of those will not buy again from the business that offended them.

The average unhappy customer will tell at least nine others and 13% tell more than 20 people.

In a market as complicated, emotionally charged, yet in dire need of the product, hearing aid dispensers should not take too much satisfaction from the final decision of the FTC. People, not laws, will continue to determine the sales volume of hearing aids and the dispenser's image—rightly or wrongly—has yet a way to go.

... there is a large group of elderly hearing impaired persons who remain vulnerable and who will never be able, adequately to protect themselves. How we get the use of amplification to them in a fair context, is our challenge.

You will note the issue here was not the quality of hearing aids but how they are marketed. Hearing aids today do pretty much what they are supposed to do but they remain inadequate for many people. As Gerry Williams notes, "To expect

the tiny hearing aid microphone, located in or behind the ear, to pick up sound from the front of a classroom, from a distant stage or from a speaker standing 50 to 100 feet away is beyond the state of the art.

"The small microphone simply cannot be made with sufficient directionality to exclude all the reverberant sounds that compete with the desired sound. The shotgun microphones used at sports events to pick up and isolate distant sounds employ highly sophisticated technology, which allows them to zero in on the desired sound and exclude most others. The hearing-aid microphone, because of its size limitations, cannot be expected to produce a comparable performance.

"A person who has lost hearing in one ear will experience the same problem of selectively discriminating sounds. So merely amplifying a mixture of desired and undesired sounds will only increase the loudness of confused sound.

"The problem boils down to having the desired signal sufficiently louder than the background noise so that people can hear it." That's where assistive listening devices come in.

So, the issue here revolves around market practices.

Exactly five years ago we wrote: "We can agree with The National Hearing Aid Society (NHAS) that hearing aid dealers—like the rest of us (including audiologists)—are human. Some are more (or less) ethical than others. We, as consumers, need to know enough about the subject to avoid being victimized. Or, if we are victimized, we need to have adequate recourse to correct the situation.

"Assuming that we will always have some abuse in the current system, NHAS would be well advised not to defend dealers generically but to help remove those dealers who are proven unethical. They are the ones who give hearing aid dealers, as a group, a poor image.

"The same thing would be true of audiologists who dispense hearing aids. Being human, some will certainly abuse their trust. They should be dealt with promptly and effectively. Self-policing methods often are not successful. But if users of hearing aids begin to speak with one voice, all service providers in the field of hearing loss will find themselves under

increased pressure to satisfy better a clientele which has heretofore been characterized as being 'vulnerable, easily intimidated, passive'—in short, people who don't make waves. That time may soon be past."

Not yet. But soon.

In a memorandum to the FTC, Deputy Director Amanda B. Pedersen, discusses trial periods being available to those who want them. She says, "The National Hearing Aid Society, whose members are estimated to sell 75% of the hearing aids sold in this country, requires its members to offer trial periods upon request under most circumstances."

THE CONSUMER SHOULD ASK for a 30-day trial period with money-back guarantee (less a previously agreed to charge). If a dealer won't give it to you—find one who will.

In discussing allegedly unfair sales practices including generating leads or gaining entry for home sales, Pedersen notes that "less than 1% of all respondents indicated that the seller had come to their home without calling first."

The consumer should not permit hearing aid salespersons into their homes without prior appointments. If there is a SHHH chapter in your area seek help if you are in doubt about how to handle your purchase of a hearing aid.

Nursing Home Study

The Health and Human Services Department is planning more study on nursing homes and community services for elderly people. About one elderly person in four needs nursing home care or special help at home. A report from the Population Reference Bureau found that there are 1.4 million elderly people in nursing homes and 5.2 million others who, while remaining at home, need help. That help comes mostly from friends and relatives (about four-fifths of it). But the Population Reference Bureau projects that by the year 2020, the number of people needing nursing home care and home-health assistance will nearly double, as the population gets older, and the number of people over 85 increases dramatically.

To make the problem worse, more women will be working and unavailable to take care of their parents at home, and

there will be a lower ratio of younger people to older people. Alice Day, author of the study thinks that large numbers of elderly people could be kept at home at less cost if family members were given some relief from the problems of caring for them—such as government aid for home help, respite care, overnight care and temporary care. She adds that policy makers should tighten screening procedures to assure that the bulk of aid goes to those who most need it.

More emphasis should also be placed on preventive health care such as diet and exercise to avoid disabling conditions, setting up a system of "co-payments" to make the elderly share the costs of their care, and developing the new concept of "intermediate housing" which would provide affordable health services to elderly residents, including hearing health services.

Adapted from the article in
The Washington Post, Oct. 29, 1985

Senior Voice



P.O. Box 102240 • Anchorage, Alaska 99510 • 277-0787 (907)

Rebecca J. Goodman
Associate editor, Senior Voice
P.O. Box 211604
Auke Bay, Alaska 99821

Pat Malone
Legislative aide
House of Representatives
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Mr. Malone:

I wish Older Persons Action Group could tell you exactly how many older consumers have been victimized by unscrupulous hearing aid dealers in Alaska. Unfortunately, no one knows for certain the extent of the problem. Not many "victims" find it easy to admit that they've been "taken" and not many are willing to admit that they have a hearing problem.

However, what we do know about the problem is this: Nearly a dozen older consumers have contacted Older Persons Action Group offices in Anchorage over the past two years to complain that they lost money (in amounts ranging from \$800 to \$2,000) to hearing aid salespeople (both "established" businesses and door-to-door salesmen) for worthless aids or non-delivery of aids.

One older woman told us she'd lost more than \$1,800 to hearing aid dealer Louis DeLegge of Anchorage, who skipped town with her money and failed to deliver the purchased aid. DeLegge was responsible for a majority of complaints OPAG received last year regarding hearing aid fraud, but DeLegge is by no means the only culprit involved in these scams. It's important to note that without consumer protections in place in Alaska, these abuses could easily happen again and again to consumers. For this reason, Older Persons Action Group supports Rep. Mike Navarre's efforts to bring about strong legislative measures to regulate hearing aid sales practices in the state.

Sincerely,

Rebecca J. Goodman
SENIOR VOICE / OPAG
ph. 364-3874

* DELIVER TO: JPOM

* .

* .

* ORIGINAL

* SENT: 02/13/86 TIME: 10:45

* FROM: JEAN MILLER

* SUBJECT: POM

* PRINT DATE: 02/13/86 TIME: 10:47

* .

TO: REPRESENTATIVE NAVARRE

FROM: TERI REGAN

2211 B ARCA DRIVE

ANCHORAGE, AK 99508

PHONE: 279-9675

SUBJECT: HB 430 - LICENSING AUDIOLOGISTS AND HEARING AID DEALERS

HB 430 HAS BEEN TOO LONG IN COMING. PLEASE SUPPORT THIS BILL AS IT WILL HELP ASSURE THE HEARING IMPAIRED POPULATION OF THE AVAILABILITY OF QUALITY SERVICE. ALASKA'S HEARING IMPAIRED HAVE HISTORICALLY BEEN TAKEN ADVANTAGE OF. YOUR SUPPORT OF HB 430 WILL HELP RECTIFY THIS.

TO: REP. NAVARRE

FROM: NATHAN MORRIS, 5531 E. 40TH, ANCHORAGE, AK 99504,
333-5008

SUBJECT: HB 430, AUDIOLOGISTS AND HEARING AID DEALERS

I STRONGLY URGE YOU TO SUPPORT HB 430 A CONSUMER PROTECTION ACT REGARDING THE LICENSING OF AUDIOLOGISTS AND HEARING AID DEALER IN ALASKA. PARENTS OF HEARING IMPAIRED CHILDREN AND PARTICULARLY ALASKANS WHO SUFFER HEARING LOSSES DUE TO AGE HAVE TO LONG BEEN AT THE MERCY OF AN UNLICENSED INDUSTRY. THE CONCERN NEEDS TO BE PROFESSIONAL SERVICE NOT PROFIT MARGIN. THANK YOU FOR YOUR SUPPORT.

TO: REP. NAVARRE

FROM: SANDY WELK, 234 E. 15TH, APT 606, ANCHORAGE, AK 99501,
272-7927

SUBJECT: HB 430, AUDIOLOGISTS AND HEARING AID DEALERS

PLEASE SUPPORT HB 430. ALASKA MUST JOIN THE REST OF THE LOWER 48 IN LICENSING AUDIOLOGIST AND HEARING AID DEALER. HISTORICALLY THE HEARING IMPAIRED HAVE BEEN TAKEN ADVANTAGE OF IN THE MARKET PLACE AND THIS IS AN OPPORTUNITY TO RECTIFY AN UNJUST SITUATION.

TO: HOUSE LABOR AND COMMERCE COMMITTEE

REPS. NAVARRE, DAVIS, BOUCHER, KOPONEN, PEARCE, COLLINS,
HANLEY

FROM: GINGER DRAIS (H)279-0200
1134 "G" STREET APT.#B (W)279-9675
ANCHORAGE, ALASKA 99501

SUBJECT: HB 430 - AUDIOLOGISTS AND HEARING AID DEALERS

I URGE YOUR SUPPORT OF HB 430. PLEASE CONSIDER THE POSITIVE IMPACT IT WILL MAKE ON THE HEARING IMPAIRED PERSONS THROUGHOUT THE STATE.

TO: HOUSE LABOR AND COMMERCE COMMITTEE

REPS. NAVARRE, DAVIS, BOUCHER, KOPONEN, PEARCE, COLLINS,
HANLEY

FROM: MARTHA L. STILES (H)345-5229
611 HIGH VIEW DRIVE (W)276-2255
ANCHORAGE, ALASKA 99515

SUBJECT: HB 511 - CERT. PROF. SECRETARIES AS STATE EMPLOYEES
HCR 40 - CERTIFIED PROFESSIONAL SECRETARIES

PLEASE SUPPORT HB 511 AND HCR 40 WHICH RECOGNIZES CPSS AND PLS.

TO: HOUSE LABOR AND COMMERCE COMMITTEE

REPS. NAVARRE, DAVIS, BOUCHER, KOPONEN, PEARCE, COLLINS,
HANLEY

FROM: EDWINA KLEMM, PLS, 310 K STREET, SUITE 603, ANCHORAGE,
AK, 276-4026

SUBJECT: HB 511 AND HCR 40, CERT PROF SECRETARIES

I REQUEST YOUR SUPPORT OF HB 511 AND HCR 40 RECOGNIZING CPS'S AND PLS'S IN ALASKA.

TO: HOUSE LABOR AND COMMERCE COMMITTEE

REPS. NAVARRE, DAVIS, BOUCHER, KOPONEN, PEARCE, COLLINS,
HANLEY

FROM: DONNA BOHNER, 2640 FOREST PARK DR., ANC 99517
PHONE. 272-1257 HM. 786-1141 WK.

SUBJECT: HB 511, HCR 40- CERTIFIED PROFESSIONAL SECRETARY

PLEASE SUPPORT HB 511 AND HCR 40 WHICH RECOGNIZES CPS'S AND PLS'S IN ALASKA. THEY CERTAINLY DESERVE IT, THEY ARE TOP LEVEL SECRETARIES

*
* DELIVER TO: JPOM *
* *
* ORIGINAL *
* SENT: 02/13/86 TIME: 11:01 *
* FROM: HARRY MANDREGAN *
* SUBJECT: POM *
* PRINT DATE: 02/13/86 TIME: 11:01 *
* *

TO: HOUSE LABOR AND COMMERCE COMMITTEE

REPS. NAVARRE, DAVIS, BOUCHER, KOPONEN, PEARCE, COLLINS,
HANLEY

FROM: JANE BRODIE (H)345-5020
12601 TOILSOME HILL DRIVE (W)279-9675
ANCHORAGE, ALASKA 99516

SUBJECT: HB 430 - AUDIOLOGISTS AND HEARING AID DEALERS

I STRONGLY URGE YOU TO BACK HB 430 WHICH WOULD SUPPORT LICENSED
AUDIOLOGISTS AND HELP REGULATE LEGITIMATE HEARING AID DEALERS.
ALASKA'S INCIDENT OF HEARING LAWS IS HIGHER THAN THE NATIONAL
AVERAGE. IT IS IMPERATIVE OUR ALASKAN CITIZENS ARE ASSURED OF
QUALITY SERVICE.

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

POUCH C, M.S. 0209
JUNEAU, ALASKA 99811
PHONE: (907) 465-3250

OLDER ALASKANS COMMISSION

February 12, 1986

Representative Navarre
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Navarre:

The Older Alaskans Commission appreciates your sponsorship of House Bill No. 430 to regulate audiologists, hearing aid dealers and the dispensing of hearing aids. The Commission endorsed protective legislation for consumers of these products and professions last fall. This action was taken due to our personal knowledge of significant problems in this area.

We will inform older Alaskans of the importance of supporting the effort now represented by this bill. Do not hesitate to contact our executive director, Jon Wolfe for any assistance we may provide.

Sincerely,



Peggy Burgin Chair
Older Alaskans Commission

cc: Older Alaskans Commission
Jon Wolfe

Box 7135

Ketchikan, Alaska 99901

Feb. 14, 1986

Representative Mike Navarre
House of Representatives
Juneau, Alaska

Dear Sir:

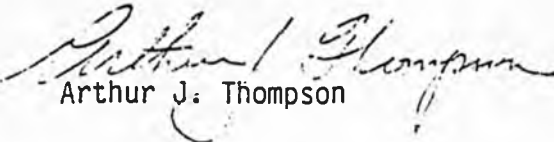
I would like to go on record in support of House Bill 430.

I have had several hearing aids which have cost in the hundreds of dollars purchased from various agents. After using them for a period of time, they have given me problems and in a lot of cases the agent or company has gone out of business, leaving me holding the sack.

I heard of the state program and called the Health Clinic here for an appointment with Susan Bunting, State Audiologist. On 11/6/84, I received two aids from her, after going thru tests, and have them since. They have given me no problems and if they do, I know where to go to have them corrected.

I think Bill 430 would protect individuals like myself both physically and financially. I was born in Ketchikan 74 years ago.

Thank you,


Arthur J. Thompson

Pat Malone

I have enclosed the info I have on consumer complaint. It would probably be wise to call the Senior Voice (Becky Goodman 364-3874) to get an update on complaints. They were getting calls and letters in response to an article they ran a few months ago. The attorney general's office may also provide current information. Hope this helps.

Dave
Contetony

STATE OF ALASKA

DEPARTMENT OF LAW
OFFICE OF ATTORNEY GENERAL
CONSUMER PROTECTION SECTION

September 23, 1985

Department of Health
and Social Services
Communicative Disorders Program
1231 Gambell Street
Anchorage, AK 99501-4627

Attention: Dr. David Canterbury

RE: Hearing and Consumer Complaints

Dear Sir:

Enclosed please find copies of consumer complaints received by our office during fiscal year '85 that involve hearing aids. All of these complaints (except the Wrangell Publishing, Inc. complaint) have been either resolved, or closed/unresolved due to our inability to locate the respondent or elicit his cooperation.

We noticed your article in the August edition of the "Senior Voice" and believe these complaints may support you and your efforts with respect to HB-430. For your information, a major problem is that the businesses are often closed and the owner somewhere out-of-state by the time the complaint reaches our office. Needless to say, this situation interferes with, and sometimes precludes any efforts on our part to resolve these matters. If the complaint involves defective merchandise, we are sometimes able to obtain restitution through the manufacturer. However, if the problem is with a distributor who has accepted partial or full payment for merchandise not delivered, there is little this office can do.

We hope this information is helpful to you. If you have any questions, please feel free to call.

Sincerely,

HAROLD M. BROWN
ATTORNEY GENERAL

By: 

Duane L. Sipary
Paralegal Assistant

DLS/np

BILL SHEFFIELD, GOVERNOR

XX REPLY TO

103 W 4TH SUITE 110
ANCHORAGE ALASKA 99501
PHONE (907) 279-0426

1ST NATIONAL CENTER
100 CUSHMAN SUITE 400
FAIRBANKS ALASKA 99701
PHONE (907) 456-3528

S S FULLER BLDG
4TH & HARRIS, SUITE 214
POUCH K
JUNEAU ALASKA 99801
PHONE (907) 465-3692

STATE COURTHOUSE ROOM 22
P O BOX 67
VALDEZ ALASKA 99686
PHONE (907) 835-2462



RECEIVED
Department of Law

CONSUMER COMPLAINT

ATTORNEY GENERAL

200325-F85-A-460

AUG 23 1984

ANCHORAGE	FAIRBANKS	JUNEAU	VALDEZ
1031 W. 4th Suite 110 Anchorage, AK 99501 279-0428	Consumer Protection Division Cushman, Ste. 400 Fairbanks, AK 99701 456-8588	S.S. Fuller Bldg. 4th & Harris, Ste. 214 Pouch K Juneau, AK 99811 465-3692	P. O. Box 671 Valdez, AK 99686 835-2462

I WISH TO FILE A CONSUMER COMPLAINT AGAINST THE PERSON OR COMPANY NAMED IN 7 BELOW. I REALIZE THAT A COPY OF THIS COMPLAINT WILL BE SENT TO THE PERSON OR BUSINESS I HAVE COMPLAINED OF. (PLEASE TYPE OR PRINT)

1. NAME MAHLE Priscilla J.		2. TODAY'S DATE 23 August 1984	
3. MAILING ADDRESS 8081 WISTERIA		CITY ANCHORAGE	STATE AK
4. HOME ADDRESS (if different) SAME		CITY	STATE
5. HOME TELEPHONE NO. (907) 243-667		6. BUSINESS TELEPHONE NO.	
7. NAME OF THE PERSON OR COMPANY COMPLAINED ABOUT Custom Housing Center		NAME OF SALESPERSON: Thomas Garcia	
8. COMPANY'S ADDRESS 3136 New Seaward Highway		CITY ANCHORAGE	STATE AK
9. COMPANY'S TELEPHONE NO. (907) 274-7330		10. DATE OF TRANSACTION	
11. WERE YOU ATTRACTED TO THE SERVICE OR PRODUCT BY AN ADVERTISEMENT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
12. IF YES, WHEN AND WHERE DID YOU SEE THE ADVERTISEMENT? LOCAL NEWS PAPERS			
13. WAS A WRITTEN CONTRACT SIGNED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
14. HAVE YOU COMPLAINED TO THE INDIVIDUAL OR COMPANY? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		15. IF YES, NAME OF PERSON TO WHOM YOU COMPLAINED. Thomas Garcia	
16. HAVE YOU CONTACTED A PRIVATE ATTORNEY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		17. IF YES, NAME OF ATTORNEY.	
18. IS THERE A COURT OR ADMINISTRATIVE PROCEEDING PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		19. IF YES, NAME COURT OR AGENCY.	

AUTOMOBILE REPAIR ONLY

20. DID YOU REQUEST A SIGNED COPY OF REPAIRS TO BE MADE?	<input type="checkbox"/> YES <input type="checkbox"/> NO	DID YOU RECEIVE IT?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DID YOU REQUEST A WRITTEN PRICE ESTIMATE?	<input type="checkbox"/> YES <input type="checkbox"/> NO	DID YOU RECEIVE IT?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DID COSTS EXCEED WRITTEN ESTIMATE?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
WERE YOU NOTIFIED OF ADDITIONAL COSTS BEFORE WORK DONE?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
DID YOU REQUEST THAT REPLACED PARTS BE RETURNED TO YOU?	<input type="checkbox"/> YES <input type="checkbox"/> NO	RECEIVED/OR ALLOWED TO INSPECT PARTS?	<input type="checkbox"/> YES <input type="checkbox"/> NO
		DID YOU RECEIVE IT?	<input type="checkbox"/> YES <input type="checkbox"/> NO

Please state the year, make, model name and V.I.N. (Vehicle Identification No.) of your auto. (Check your registration papers.)

Year	Make	Model	V.I.N.
------	------	-------	--------

I hereby certify that I have read the information contained in this complaint and that all of the information I have given is true and complete to the best of my knowledge, information and belief. I further authorize the Attorney General to use this information as he deems necessary and proper.

Priscilla Mahle
Signature

On the reverse side of this form
Summarize your complaint. Be brief,
But complete.

HOW TO WRITE YOUR COMPLAINT:

Start at the beginning. Describe all the events in the order they happened.

Put down the names of any witnesses.

Please attach copies of any documents which explain or support your complaint, including the cancelled checks, copies of advertisements, letters, etc.

I PURCHASED HEARING AID FROM TOM JACIN
AT "CUSTOM HEARING AIDS" FOR \$650.00 AFTER A
FEW MONTHS IT BEGAN TO FAIL AND FINALLY IT
QUIT ALTOGETHER. I TRIED CALLING COMPANY
BUT WAS TOLD THIS WAS A MAN WORKING NUMBER
I ALSO WENT BY THEIR SHOP ^{IT WAS} VACATED.
THIS HEARING AID IS OF NO USE TO ME
AS IT DOES NOT WORK AND I CANNOT
GET IT REPAIRED. I ~~WILL BE~~
FORCED TO PURCHASE ANOTHER HEARING
AID. ~~IN THE~~ SO I WOULD
LIKE TO BE REIMBURSED FOR MY \$650.00
FOR ^{I PAID} A DEFECTIVE HEARING AID

WHAT TYPE OF SETTLEMENT DO YOU WISH THIS OFFICE TO ATTEMPT TO OBTAIN?

I WOULD LIKE MY MONEY REFUNDED, I
NEED A NEW HEARING AID, AS I CANNOT
HEAR WITHOUT IT, AND I HAVE NO MONEY
TO PURCHASE ONE.

(Please use additional sheets if necessary)

RECEIVED

2/11/85
lp



FEB - 3 1985

CONSUMER COMPLAINT

Office of the Attorney General ATTORNEY GENERAL
Consumer Protection Section

000864-85-A-46.0

<u>ANCHORAGE</u>	<u>ANCHORAGE FAIRBANKS</u>	<u>JUNEAU</u>	<u>VALDEZ</u>
1031 W. 4th Suite 110 Anchorage, AK 99501 279-0428	1st National Center 100 Cushman, Ste. 400 Fairbanks, AK 99701 456-8588	S.S. Fuller Bldg. 4th & Harris, Ste. 214 Pouch K Juneau, AK 99811 465-3692	P. O. Box 671 Valdez, AK 99686 835-2462

I WISH TO FILE A CONSUMER COMPLAINT AGAINST THE PERSON OR COMPANY NAMED IN 7 BELOW. I REALIZE THAT A COPY OF THIS COMPLAINT WILL BE SENT TO THE PERSON OR BUSINESS I HAVE COMPLAINED OF. (PLEASE TYPE OR PRINT)

1. NAME <u>YAKASOFF Albert J.</u> <small>Last First M.I.</small>	2. TODAY'S DATE <u>Feb. 7th 1985</u>
3. MAILING ADDRESS <u>4320 East 3rd Ave.</u>	CITY <u>ANCHORAGE</u> STATE <u>AK</u> ZIP CODE <u>99504</u>
4. HOME ADDRESS (if different)	CITY STATE ZIP CODE
5. HOME TELEPHONE NO. <u>(907) 333-6369</u>	6. BUSINESS TELEPHONE NO. <u>NONE - RETIRE</u>
7. NAME OF THE PERSON OR COMPANY COMPLAINED ABOUT. <u>MIRACLE EAR</u>	NAME OF SALESPERSON: <u>JACK E. HURD</u>
8. COMPANY'S ADDRESS <u>2909 Arctic Blvd.</u>	CITY <u>ANCHORAGE</u> STATE <u>AK</u> ZIP CODE <u>99503</u>
9. COMPANY'S TELEPHONE NO. <u>(907) 562-4463</u>	10. DATE OF TRANSACTION <u>JAN. 8th 1985</u>
11. WERE YOU ATTRACTED TO THE SERVICE OR PRODUCT BY AN ADVERTISEMENT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
12. IF YES, WHEN AND WHERE DID YOU SEE THE ADVERTISEMENT? <u>ANCHORAGE TIMES NEWS PAPER</u>	
13. WAS A WRITTEN CONTRACT SIGNED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
14. HAVE YOU COMPLAINED TO THE INDIVIDUAL OR COMPANY? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	15. IF YES, NAME OF PERSON TO WHOM YOU COMPLAINED. <u>JACK HURD - SALESMAN</u>
16. HAVE YOU CONTACTED A PRIVATE ATTORNEY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	17. IF YES, NAME OF ATTORNEY.
18. IS THERE A COURT OR ADMINISTRATIVE PROCEEDING PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	19. IF YES, NAME COURT OR AGENCY.

AUTOMOBILE REPAIR ONLY

20. DID YOU REQUEST A SIGNED COPY OF REPAIRS TO BE MADE?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DID YOU RECEIVE IT?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
DID YOU REQUEST A WRITTEN PRICE ESTIMATE?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	DID YOU RECEIVE IT?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
DID COSTS EXCEED WRITTEN ESTIMATE?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
WERE YOU NOTIFIED OF ADDITIONAL COSTS BEFORE WORK WAS DONE?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
DID YOU REQUEST THAT REPLACED PARTS BE RETURNED TO YOU?	<input type="checkbox"/> YES <input type="checkbox"/> NO	RECEIVED/OR ALLOWED TO INSPECT PARTS?	<input type="checkbox"/> YES <input type="checkbox"/> NO
		DID YOU RECEIVE IT?	<input type="checkbox"/> YES <input type="checkbox"/> NO

Please state the year, make, model name and V.I.N. (Vehicle Identification No.) of your auto. (Check your registration papers.)

Year	Make	Model	V.I.N.
------	------	-------	--------

I hereby certify that I have read the information contained in this complaint and that all of the information I have given is true and complete to the best of my knowledge, information and belief. I further authorize the Attorney General to use this information as he deems necessary and proper.

Albert J. Yakasoff
Signature

(over) On the reverse side of this form Summarize your complaint. Be brief, But complete.

HOW TO WRITE YOUR COMPLAINT:

Start at the beginning. Describe all the events in the order they happened.

Put down the names of any witnesses.

Please attach copies of any documents which explain or support your complaint, including the cancelled checks, copies of advertisements, letters, etc.

Order (2) quarts of bearing oil, thru salesman
John E. Hurd.

Two weeks after order, then - Mr Hurd had
to come back & take second impression of the
cost of our ears.

Then it had to wait another couple weeks
for bearing oil. Then I went to Alaska
Native Hospital, and I was told that the
prices were going real high too much for them.

So I called Mr Hurd. Asked him to
return my down payment. And he
said he would. But it would have to wait
for my money. This what I do not understand -
stand! Because - I notice they had deposit my
check here in Anchorage Bank. I don't see
why they can't make out Anchorage Bank
check to me.

I gave them \$1,000.00 & I expect to get back
\$800.00 as agreed upon.

Copy are enclosed with this statement.

I was told by Mr. Hurd - I got a check
from Company in Minneapolis, Minn.

WHAT TYPE OF SETTLEMENT DO YOU WISH THIS OFFICE TO ATTEMPT TO OBTAIN?

Return of \$800.00 as agreed to in
their contract.

(Please use additional sheets if necessary)

RECEIVED
MAY 10 1964



RECEIVED
Department of Law

CONSUMER COMPLAINT

2 44

JUN 17 1985

ATTORNEY GENERAL

11465-195-A-I 46.0

ANCHORAGE	FAIRBANKS	JUNEAU	VALDEZ
Office of the Attorney General			
1031 W. 4th Avenue Suite 110 Anchorage, AK 99501 279 3428	Consumer Protection Section National Center Anchorage, Alaska Eshman, Ste. 400 Fairbanks, AK 99701 456-8588	S.S. Fuller Bldg. 4th & Harris, Ste. 214 Pouch K Juneau, AK 99811 465-3692	P. O. Box 671 Valdez, AK 99686 835-2462

I WISH TO FILE A CONSUMER COMPLAINT AGAINST THE PERSON OR COMPANY NAMED IN 7 BELOW. I REALIZE THAT A COPY OF THIS COMPLAINT WILL BE SENT TO THE PERSON OR BUSINESS I HAVE COMPLAINED OF. (PLEASE TYPE OR PRINT)

1. NAME <i>[Signature]</i>	2. TODAY'S DATE 6-17-85
3. MAILING ADDRESS 3 WETT MARGARET R. 617 N. LAKE ST.	CITY STATE ZIP CODE
4. HOME ADDRESS (if different) ANCHORAGE AK 99502	CITY STATE ZIP CODE
5. HOME TELEPHONE NO. 277-6774	6. BUSINESS TELEPHONE NO.
7. NAME OF THE PERSON OR COMPANY COMPLAINED ABOUT ALASKA HEALING CENTER	NAME OF SALESPERSON: LAW NELE99E
8. COMPANY'S ADDRESS 2205 TUDOR RD. ANCH. AK	CITY STATE ZIP CODE ANCHORAGE ALASKA
9. COMPANY'S TELEPHONE NO. 561-8639	10. DATE OF TRANSACTION 5-16-85
11. WERE YOU ATTRACTED TO THE SERVICE OR PRODUCT BY AN ADVERTISEMENT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
12. IF YES, WHEN AND WHERE DID YOU SEE THE ADVERTISEMENT?	
13. WAS A WRITTEN CONTRACT SIGNED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
14. HAVE YOU COMPLAINED TO THE INDIVIDUAL OR COMPANY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	15. IF YES, NAME OF PERSON TO WHOM YOU COMPLAINED.
16. HAVE YOU CONTACTED A PRIVATE ATTORNEY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	17. IF YES, NAME OF ATTORNEY.
18. IS THERE A COURT OR ADMINISTRATIVE PROCEEDING PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	19. IF YES, NAME COURT OR AGENCY.

AUTOMOBILE REPAIR ONLY

20. DID YOU REQUEST A SIGNED COPY OF REPAIRS TO BE MADE?	<input type="checkbox"/> YES <input type="checkbox"/> NO	DID YOU RECEIVE IT?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DID YOU REQUEST A WRITTEN PRICE ESTIMATE?	<input type="checkbox"/> YES <input type="checkbox"/> NO	DID YOU RECEIVE IT?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DID COSTS EXCEED WRITTEN ESTIMATE?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
WERE YOU NOTIFIED OF ADDITIONAL COSTS BEFORE WORK WAS DONE?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
DID YOU REQUEST THAT REPLACED PARTS BE RETURNED TO YOU?	<input type="checkbox"/> YES <input type="checkbox"/> NO	RECEIVED/OR ALLOWED TO INSPECT PARTS?	<input type="checkbox"/> YES <input type="checkbox"/> NO
		DID YOU RECEIVE IT?	<input type="checkbox"/> YES <input type="checkbox"/> NO

Please state the year, make, model name and V.I.N. (Vehicle Identification No.) of your auto. (Check your registration papers.)

Year	Make	Model	V.I.N.
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I hereby certify that I have read the information contained in this complaint and that all of the information I have given is true and complete to the best of my knowledge, information and belief. I further authorize the Attorney General to use this information as he deems necessary and proper.

Margaret K. Powell
Signature

On the reverse side of this form
Summarize your complaint. Be brief,
But complete.

HOW TO WRITE YOUR COMPLAINT:

Start at the beginning. Describe all the events in the order they happened.

Put down the names of any witnesses.

Please attach copies of any documents which explain or support your complaint, including the cancelled checks, copies of advertisements, letters, etc.

~~I~~ I paid the Alaska Hearing center \$450.00 down to make me two hearing aids with a balance of \$750.00 left to pay later he has another of my hearing aids to fix which should be worth about \$350.00 when fixed. I called the Alaska hearing center 6-14-25 to see if my aids were ready & Sharon Clark answered she said she was taking his messages. I ask her when my aids were it had been a while month since order they were to be delivered in 2 weeks. Sharon said she would call me back. She did & told me that Lou Delagge had closed his office & was selling everything & better start doing something. He is getting ready to leave town.

WHAT TYPE OF SETTLEMENT DO YOU WISH THIS OFFICE TO ATTEMPT TO OBTAIN? I would like my \$450.00 back & my hearing aid which I figure is worth about \$350.00

(Please use additional sheets if necessary)



RECEIVED
Department of Law

MAR 10 1984

CONSUMER COMPLAINT

ATTORNEY GENERAL

163
7110-FNA-46.0

ANCHORAGE Office of the Attorney General
Consumer Protection Section

JUNEAU

VALDEZ

1031 W. 4th Anchorage, Alaska
Suite 110
Anchorage, AK 99501
279-0428

National Center
100 Cushman, Ste. 400
Fairbanks, AK 99701
456-8588

S.S. Fuller Bldg.
4th & Harris, Ste. 214
Pouch K
Juneau, AK 99811
465-3692

P. O. Box 671
Valdez, AK 99686
835-2462

I WISH TO FILE A CONSUMER COMPLAINT AGAINST THE PERSON OR COMPANY NAMED IN 7 BELOW. I REALIZE THAT A COPY OF THIS COMPLAINT WILL BE SENT TO THE PERSON OR BUSINESS I HAVE COMPLAINED OF. (PLEASE TYPE OR PRINT)

1. NAME Merv Last Ruby First M.J.		2. TODAY'S DATE 1-5-84	
3. MAILING ADDRESS 3500 GLEN DON, Dr.		CITY Anchorage	STATE ALASKA
4. HOME ADDRESS (if different) SAME		CITY SAME	STATE ALASKA
5. HOME TELEPHONE NO. 338-5830		6. BUSINESS TELEPHONE NO.	
7. NAME OF THE PERSON OR COMPANY COMPLAINED ABOUT. Custom Hearing Aid Center		NAME OF SALESPERSON: Bill Lyons	
8. COMPANY'S ADDRESS 3136 New Seward Highway		CITY Anchorage	STATE ALASKA
9. COMPANY'S TELEPHONE NO. 2747330		10. DATE OF TRANSACTION 3-24-88	
11. WERE YOU ATTRACTED TO THE SERVICE OR PRODUCT BY AN ADVERTISEMENT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
12. IF YES, WHEN AND WHERE DID YOU SEE THE ADVERTISEMENT? March-88 in Daily Paper			
13. WAS A WRITTEN CONTRACT SIGNED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
14. HAVE YOU COMPLAINED TO THE INDIVIDUAL OR COMPANY? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		15. IF YES, NAME OF PERSON TO WHOM YOU COMPLAINED. THOMAS S. GARCIA	
16. HAVE YOU CONTACTED A PRIVATE ATTORNEY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		17. IF YES, NAME OF ATTORNEY.	
18. IS THERE A COURT OR ADMINISTRATIVE PROCEEDING PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		19. IF YES, NAME COURT OR AGENCY.	

AUTOMOBILE REPAIR ONLY

20. DID YOU REQUEST A SIGNED COPY OF REPAIRS TO BE MADE?	<input type="checkbox"/> YES <input type="checkbox"/> NO	DID YOU RECEIVE IT?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DID YOU REQUEST A WRITTEN PRICE ESTIMATE?	<input type="checkbox"/> YES <input type="checkbox"/> NO	DID YOU RECEIVE IT?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DID COSTS EXCEED WRITTEN ESTIMATE?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
WERE YOU NOTIFIED OF ADDITIONAL COSTS BEFORE WORK WAS DONE?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
DID YOU REQUEST THAT REPLACED PARTS BE RETURNED TO YOU?	<input type="checkbox"/> YES <input type="checkbox"/> NO	RECEIVED OR ALLOWED TO INSPECT PARTS?	<input type="checkbox"/> YES <input type="checkbox"/> NO
		DID YOU RECEIVE IT?	<input type="checkbox"/> YES <input type="checkbox"/> NO

Please state the year, make, model name and V.I.N. (Vehicle Identification No.) of your auto. (Check your registration papers.)

Year Make Model V.I.N.

I hereby certify that I have read the information contained in this complaint and that all of the information I have given is true and complete to the best of my knowledge, information and belief. I further authorize the Attorney General to use this information as he deems necessary and proper.

Ruby M. Merv
Signature

On the reverse side of this form
Summarize your complaint. Be brief,
But complete.

HOW TO WRITE YOUR COMPLAINT:

Start at the beginning. Describe all the events in the order they happened.

Put down the names of any witnesses.

Please attach copies of any documents which explain or support your complaint, including the checks, copies of advertisements, letters, etc.

SUBJECT: Custom Hearing Aid

Purchase - 24 MARCH 1983

Salesman - Bill Lyons

Seviaman - Thomas S. Garcia

I purchased Two (2) hearing aids from Custom Hearing Aid Center
3136 New Seaside Highway
PUSHAKA ALASKA 99583

The salesman was Bill Lyons, About 3 weeks after they delivered them, they had to send one (left) to Florida, as it did not fit.

About 4 weeks later delivered it to me + it did not work due to the inside parts. They took it in again + about 3 weeks returned it again. (Same aid-left ear). Seems to work except it has been using batteries at the rate of one battery every 8 days for the last 2 mo.

I have been trying to reach Bill or Thomas for 2 months. My sons went by his office + left word and my daughter + son-in-law have called - No one there has returned my calls.

The girl who answers the phone there claims she doesn't know where they can be reached or when they will return.

I would like the hearing aid replaced or a full refund of my purchase price.

I am a senior citizen on a fixed income

My witness - MR. + MRS M. HARTSOCK 338-5830

Dan C. Wiley

Florence Wiley

562-7114

WHAT TYPE OF SETTLEMENT DO YOU WISH THIS OFFICE TO ATTEMPT TO OBTAIN?

Replacement or Refund!

(Please use additional sheets if necessary)



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Department of Law

JUL 17 1984

CONSUMER COMPLAINT

ATTORNEY GENERAL

7/18/84 26A
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3B

100052-F85-A-1460

<u>ANCHORAGE</u> Office of the Attorney General Consumer Protection Division 1031 W. 4th Suite 110 Anchorage, AK 99501 279-0428	<u>FAIRBANKS</u> National Center 100 Cushman, Ste. 400 Fairbanks, AK 99701 456-8588	<u>JUNEAU</u> S.S. Fuller Bldg. 4th & Harris, Ste. 214 Pouch K Juneau, AK 99811 465-3692	<u>VALDEZ</u> P. O. Box 671 Valdez, AK 99686 835-2462
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I WISH TO FILE A CONSUMER COMPLAINT AGAINST THE PERSON OR COMPANY NAMED IN 7 BELOW. I REALIZE THAT A COPY OF THIS COMPLAINT WILL BE SENT TO THE PERSON OR BUSINESS I HAVE COMPLAINED OF. (PLEASE TYPE OR PRINT)

1. NAME Last First M.I. DEAN JAMES M.J.		2. TODAY'S DATE 5-27-84	
3. MAILING ADDRESS 6153 E 20th AVE		CITY ANCHORAGE	STATE AK
4. HOME ADDRESS (if different) SAME		CITY	STATE
5. HOME TELEPHONE NO. 333-2676		6. BUSINESS TELEPHONE NO.	
7. NAME OF THE PERSON OR COMPANY COMPLAINED ABOUT. CUSTOM HEARING AID SERVICES		NAME OF SALESPERSON: GLEN MILLER	
8. COMPANY'S ADDRESS Miss Day Bldg. Site 20, 135 LAKE ST.		CITY KIRKLAND	STATE WASHINGTON
9. COMPANY'S TELEPHONE NO. 206-822-1230		10. DATE OF TRANSACTION 4-1-83	
11. WERE YOU ATTRACTED TO THE SERVICE OR PRODUCT BY AN ADVERTISEMENT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
12. IF YES, WHEN AND WHERE DID YOU SEE THE ADVERTISEMENT? NEWSPAPER AD			
13. WAS A WRITTEN CONTRACT SIGNED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
14. HAVE YOU COMPLAINED TO THE INDIVIDUAL OR COMPANY? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		15. IF YES, NAME OF PERSON TO WHOM YOU COMPLAINED. SANDY (NO LAST NAME GIVEN)	
16. HAVE YOU CONTACTED A PRIVATE ATTORNEY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		17. IF YES, NAME OF ATTORNEY.	
18. IS THERE A COURT OR ADMINISTRATIVE PROCEEDING PENDING? <input type="checkbox"/> YES <input type="checkbox"/> NO		19. IF YES, NAME COURT OR AGENCY.	

AUTOMOBILE REPAIR ONLY

20. DID YOU REQUEST A SIGNED COPY OF REPAIRS TO BE MADE? <input type="checkbox"/> YES <input type="checkbox"/> NO	DID YOU RECEIVE IT? <input type="checkbox"/> YES <input type="checkbox"/> NO
DID YOU REQUEST A WRITTEN PRICE ESTIMATE? <input type="checkbox"/> YES <input type="checkbox"/> NO	DID YOU RECEIVE IT? <input type="checkbox"/> YES <input type="checkbox"/> NO
DID COSTS EXCEED WRITTEN ESTIMATE? <input type="checkbox"/> YES <input type="checkbox"/> NO	
WERE YOU NOTIFIED OF ADDITIONAL COSTS BEFORE WORK WAS DONE? <input type="checkbox"/> YES <input type="checkbox"/> NO	
DID YOU REQUEST THAT REPLACED PARTS BE RETURNED TO YOU? <input type="checkbox"/> YES <input type="checkbox"/> NO	RECEIVED/OR ALLOWED TO INSPECT PARTS? <input type="checkbox"/> YES <input type="checkbox"/> NO
	DID YOU RECEIVE IT? <input type="checkbox"/> YES <input type="checkbox"/> NO

Please state the year, make, model name and V.I.N. (Vehicle Identification No.) of your auto. (Check your registration papers.)

Year	Make	Model	V.I.N.
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I hereby certify that I have read the information contained in this complaint and that all of the information I have given is true and complete to the best of my knowledge, information and belief. I further authorize the Attorney General to use this information as he deems necessary and proper.

James Dean
Signature

On the reverse side of this form
Summarize your complaint. Be brief,
But complete.

HOW TO WRITE YOUR COMPLAINT:

Start at the beginning. Describe all the events in the order they happened.

Put down the names of any witnesses.

Please attach copies of any documents which explain or support your complaint, including the cancelled checks, copies of advertisements, letters, etc.

Received hearing aids on 5/27/83. Had recurring problems with them and they were returned to (Washington for repairs three separate times). In November 83 the right hearing aid was returned for repairs and I have not yet received it back. I have placed four calls to the company trying to locate the hearing aid. The company called me twice & on the last occasion told me they had located the hearing aid & it was being mailed to Anchorage. As of this date 5/27/84 I have not received the hearing aid. Also, the other hearing aid for the left ear is not working and I was instructed by the company not to return it to them until I received the right one.

In my conversations with the company I was told that a Mr. Jose Garcia had taken over their Anchorage office. I have tried to locate Mr. Garcia but have been unable to do so.

I also received a call from a gentleman who works for Senior Citizens Bill O'Connor 279-2232, who told me a lot of other people were having trouble with the same hearing aid people.

WHAT TYPE OF SETTLEMENT DO YOU WISH THIS OFFICE TO ATTEMPT TO OBTAIN?

I would like to have my money refunded and will return the hearing aids to the company.

(Please use additional sheets if necessary)



RECEIVED
Department of Law
AUG - 3 1984

CONSUMER COMPLAINT
ATTORNEY GENERAL

E. 1
21 1/2

CC 0140-FSS-AI 46.0

ANCHORAGE 1031 W. 4th Suite 110 Anchorage, AK 99501 279-0428	Office of the Attorney General Consumer Protection FAIRBANKS 1st National Center 100 Cushman, Ste. 400 Fairbanks, AK 99701 456-8588	JUNEAU S.S. Fuller Bldg. 4th & Harris, Ste. 214 Pouch K Juneau, AK 99811 465-3692	VALDEZ P. O. Box 671 Valdez, AK 99686 835-2462
---	--	--	--

I WISH TO FILE A CONSUMER COMPLAINT AGAINST THE PERSON OR COMPANY NAMED IN 7 BELOW. I REALIZE THAT A COPY OF THIS COMPLAINT WILL BE SENT TO THE PERSON OR BUSINESS I HAVE COMPLAINED OF. (PLEASE TYPE OR PRINT)

1. NAME Last First M.I. JERDE, RUTH E.	2. TODAY'S DATE July 31, 1984
3. MAILING ADDRESS P. O. Box 2042 Palmer, Alaska	CITY STATE ZIP CODE Palmer Alaska 99645
4. HOME ADDRESS (if different) NHN Sarasota Drive, Shorewood, Sub.	CITY STATE ZIP CODE Palmer Alaska 99645
5. HOME TELEPHONE NO. 745-4797	6. BUSINESS TELEPHONE NO. None
7. NAME OF THE PERSON OR COMPANY COMPLAINED ABOUT Fifth Avenue Hearing Center - Miracle Ear	NAME OF SALESPERSON: Mr. Steve Kaufman and Lou
8. COMPANY'S ADDRESS 4426	CITY STATE ZIP CODE Anchorage Alaska 99545
9. COMPANY'S TELEPHONE NO. 907-562-4463 (Heller 206-623-0555)	10. DATE OF TRANSACTION October 19, 1984
11. WERE YOU ATTRACTED TO THE SERVICE OR PRODUCT BY AN ADVERTISEMENT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
12. IF YES, WHEN AND WHERE DID YOU SEE THE ADVERTISEMENT? Fall of 1983, in Anchorage Daily News and the Anchorage Times - it was an insert - such as the one sent last week in both papers.	
13. WAS A WRITTEN CONTRACT SIGNED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
14. HAVE YOU COMPLAINED TO THE INDIVIDUAL OR COMPANY? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	15. IF YES, NAME OF PERSON TO WHOM YOU COMPLAINED. Miracle Ear, P.O. Box 549, Minneapolis, Minn. and by phone - Mr. Steve Kaufman in Anchorage
16. HAVE YOU CONTACTED A PRIVATE ATTORNEY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	17. IF YES, NAME OF ATTORNEY.
18. IS THERE A COURT OR ADMINISTRATIVE PROCEEDING PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	19. IF YES, NAME COURT OR AGENCY.

AUTOMOBILE REPAIR ONLY

20. DID YOU REQUEST A SIGNED COPY OF REPAIRS TO BE MADE?	<input type="checkbox"/> YES <input type="checkbox"/> NO	DID YOU RECEIVE IT?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DID YOU REQUEST A WRITTEN PRICE ESTIMATE?	<input type="checkbox"/> YES <input type="checkbox"/> NO	DID YOU RECEIVE IT?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DID COSTS EXCEED WRITTEN ESTIMATE?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
WERE YOU NOTIFIED OF ADDITIONAL COSTS BEFORE WORK WAS DONE?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
DID YOU REQUEST THAT REPLACED PARTS BE RETURNED TO YOU?	<input type="checkbox"/> YES <input type="checkbox"/> NO	RECEIVED/OR ALLOWED TO INSPECT PARTS?	<input type="checkbox"/> YES <input type="checkbox"/> NO
		DID YOU RECEIVE IT?	<input type="checkbox"/> YES <input type="checkbox"/> NO

Please state the year, make, model name and V.I.N. (Vehicle Identification No.) of your auto. (Check your registration papers.)

Year	Make	Model	V.I.N.
------	------	-------	--------

I hereby certify that I have read the information contained in this complaint and that all of the information I have given is true and complete to the best of my knowledge, information and belief. I further authorize the Attorney General to use this information as he deems necessary and proper.

Richard B. Oude
Signature

On the reverse side of this form
Summarize your complaint. Be brief,
But complete.

HOW TO WRITE YOUR COMPLAINT:

Start at the beginning. Describe all the events in the order they happened.

Put down the names of any witnesses.

Please attach copies of any documents which explain or support your complaint, including the cancelled checks, copies of advertisements, letters, etc.

I. the fall of 1983 I answered an ad in the Anchorage papers. it was an insert for Miracle Hearing Aid.

On October 19 a Mr. Steve Kaufman and Lou ? reps of the Fifth Avenue Hearing Aid Centers in Seattle came to our home and sold me two Dahlberg hearing aid units to the cost of \$1100 for be

Mr. Steve Kaufman being advised we were leaving for 4-1/2 mos. and would return March 23 stated if I didn't like the hearing aid in my right ear, he would refund the money upon our return or by April 1, 1984. He also stated he would be in touch w. us before April 1 to follow up on the aids. However, he did no follow up at all.

While in Seattle on March 12, 1984 one hearing aid was defective. I called the Seattle office of the Fifth Avenue Hearing Aid that Mr. Kaufman represented. I asked for warranty booklet, and also a cap for the volume control knob and also other items pertaining to the aids working. These were never received.

April 2, 1984 I contacted the Seattle office again as I was unable to obtain Mr. Steve Kaufman here in the Anchorage area. I called for his telephone number, and again they stated they would send me the volume control cap and warranty booklet. I was having other problems with the unit as it wouldn't hold the battery in place... I contacted the Anchorage office this same day, but received no answer.

April 19, 1984 I again, called the Anchorage office and the ~~receptionist~~ fellow Lou told me he would come out and make the service call and follow up call before April 26, which was the date I was leaving to care for my invalid Mother from an emergency doctors call to me. No call or attempt to contact me.

While in Minneapolis, someone called my husband here and ^{he (my husband)} told them they were too late I had already left.

May 4, I contacted the St. Cloud Hearing Aid Service Center in Minnesota to please fix my hearing aid. This the man came out and temporarily fixed it, and again they called the Dahlberg rep in Minneapolis. The Minneapolis rep told me in no way did the Dahlberg reps act this way, and to contact the home office. I didn't know where it was, and accidently left the reps name from the Minneapolis area out or at my mothers place.

After my return to Anchorage, on July 16, I called Mr. Steve' Kaufman's office. I was advised by the receptionist that Mr. Kaufman was in town and also started up another office of Miracle Ear and Fifth Avenue Hearing Center. I asked the girl to please have Mr. Kaufman or someone contact me before the end of that week July 30, or I would have no other recourse but to file with the Anchorage Consumer Protection office here in Alaska. To date there has been no contact or answer to my July 16 call.

While talking to this Lou on April 19, I advised him I knew of 4 more hearing aids they could sell here to one person in the valley.. He wanted to know to whom and I told him when he came to repair and fix my aid I would advise him of such.

Of course, since this shoddy way of treating someone who put out \$1100. I wouldn't recommend them to anyone. I feel senior citizens of Alaska deserve better treatment than this one and they should be made aware of the fly-by-night service and selling procedures.

WHAT TYPE OF SETTLEMENT DO YOU WISH THIS OFFICE TO ATTEMPT TO OBTAIN?

Either refund of both aides, or repair of same. *Preferably Refund*

(Please use additional sheets if necessary)

*MY ONLY WITNESS IS MY HUSBAND:
WALTER E. LEIDE*

RECEIVED
Department of Law

MAR 11 1985

P. O. Box 62
Office of the Attorney General Valparaiso, Florida 32580
Consumer Protection Section March 5, 1985
Anchorage, Alaska

The Consumer Protection Agency
1031 W. 4th Avenue, Suite 110
Anchorage, Alaska 99501

Gentlemen:

I have been having a problem for some time now with Miracle Ear Hearing Center, located at 2909 Arctic Boulevard, Suite 101. Anchorage, 99503, telephone number 562-4425.

The facts in this case are the following, substantiated by the attached documentation. I am seeking the return of \$2,000.00 (what I paid in cash for this (these) hearing aids), plus the \$190.00 discount I was due for paying cash for the items at the time of purchase, September 5, 1984. I purchased this (these) hearing aid(s), in a hurry before leaving Anchorage for Florida, where we generally stay through February of each year. After having received no answer to my last two letters to them requesting a refund (see Atchmnts 6 and 8), I decided to wait until our return to Anchorage in early March but now find we will have to remain here longer than expected. That is why I am now writing you to see if you can help me.

At the time I purchased these items I was assured by Jerry Callahan, the salesman, that I had thirty days in which to try them and if I was not totally satisfied I could return them and get full reimbursement. Because of the rush we were in to leave Anchorage at the time of purchase, I neglected to deduct the \$190.00 discount which was stated on the contract (Atch 1 below) at the time of purchase. I, therefore, paid them \$2000.00 which I should only have paid them \$1810.00. Jerry Callahan should have known this at the time I signed the contract but said nary a word. Of course, he had come to the house about 10 in the morning to put me through a series of tests and then had given me the usual salesman's spiel and by that time I was weary, and hungry, and simply for the pitch about the \$190.00 discount for cash. I should add that I am 74 years of age and, while my hearing is impaired, I am doing very nicely without any kind of a hearing aid at this time.

Listed in chronological order by attachments are the following:

Atch #1 -- Contract for Purchase, dated September 5, 1984. This shows the \$190.00 discount I was due for paying cash. Please note I had 30 days in which to try the merchandise and "if for any reason a refund will be made if not satisfied."

Atch #2 -- copy of my check for \$2,000.00 with endorsement on reverse.

Atch #3 -- letter dated October 17, 1984, wherein I asked for a 30-day extension trial period because I was having trouble with bleeding and "squealing" in my left ear.

Atch #4 -- statement from Eglin Air Force Regional Hospital personnel that I not wear the hearing aids for two weeks to allow recovery.

Atch #5 -- letter dated October 29, 1984, from Miracle Ear granting me a 30-day extension, through November 30, 1984, telling me where to go for assistance and my notes talking with the Miracle Ear people in Tallahassee, Florida, the closest place they advised I could have the ear molds made and/or pared down or modified to fit my ear.

Atch #6 -- letter dated November 17, 1984, from me to Miracle Ear, explaining the problem I was having getting a new mold made and the requirement they were placing on me to travel back and forth to Tallahassee for assistance. Please note that in the next to the last paragraph I stated I was returning the hearing aids and asked for a refund of my money. This was within the 30 day extension granted in Atch #5.

Atch #7 -- registered receipt number R1257140 dated November 20, 1984, for return of the hearing aids, insured for \$2000.00 and receipt from them dated November 26, 1984.

* Atch #8 -- letter dated January 18, 1985, from me to them asking what had happened to my request for reimbursement and again asking for reimbursement.

I have received no replies to either of the letters mentioned in Atchs. 6 and 8 above.

I thought I was dealing with reputable people but I am now convinced these people are frauds. I want the return of my money in the amount of \$12,000.00 plus the \$190.00 discount I was supposed to have gotten for a cash payment of \$2,000.00.

If I have come to the wrong people in this matter then please direct this request to the proper persons who will ensure that a consumer is not bilked by a supposedly reputable company.

Thanking you in advance, I am,

Sincerely yours

Jody M. Thomas
(Mrs.) Jay N. Thomas

* Atch # 9 -- receipt from Miracle Ear dated January 24, 1984, showing they received my letter of January 18, 1985 (atch # 8 above)

RECEIVED
Department of Law



JUL 24 1984

CONSUMER COMPLAINT

ATTORNEY GENERAL

20397-85-AI-46-0

Office of the Attorney General
ANCHORAGE Consumer Protection Section
Anchorage, Alaska

1031 W. 4th
Suite 110
Anchorage, AK
99501
279-0428

1st National Center
100 Cushman, Ste. 400
Fairbanks, AK
99701
456-8588

JUNEAU

S.S. Fuller Bldg.
4th & Harris, Ste. 214
Pouch K
Juneau, AK 99811
465-3692

VALDEZ

P. O. Box 671
Valdez, AK
99686
835-2462

I WISH TO FILE A CONSUMER COMPLAINT AGAINST THE PERSON OR COMPANY NAMED IN 7 BELOW. I REALIZE THAT A COPY OF THIS COMPLAINT WILL BE SENT TO THE PERSON OR BUSINESS I HAVE COMPLAINED OF. (PLEASE TYPE OR PRINT)

1. NAME Last First M.I. HINES LLOYD W.		2. TODAY'S DATE JULY 20, 1984	
3. MAILING ADDRESS 4800 BRYN MAWR CT.		CITY ANCHORAGE	STATE ALASKA
4. HOME ADDRESS (if different)		CITY	STATE
5. HOME TELEPHONE NO. 333-7682		6. BUSINESS TELEPHONE NO. 333-9411	
7. NAME OF THE PERSON OR COMPANY COMPLAINED ABOUT CUSTOM HEARING AID CENTER		NAME OF SALESPERSON: THOMAS S. GARCIA	
8. COMPANY'S ADDRESS 3136 NEW SEWARD HIGHWAY		CITY ANCHORAGE	STATE ALASKA
9. COMPANY'S TELEPHONE NO. 274-7330		10. DATE OF TRANSACTION September 6, 1983	
11. WERE YOU ATTRACTED TO THE SERVICE OR PRODUCT BY AN ADVERTISEMENT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
12. IF YES, WHEN AND WHERE DID YOU SEE THE ADVERTISEMENT?			
13. WAS A WRITTEN CONTRACT SIGNED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
14. HAVE YOU COMPLAINED TO THE INDIVIDUAL OR COMPANY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		15. IF YES, NAME OF PERSON TO WHOM YOU COMPLAINED.	
16. HAVE YOU CONTACTED A PRIVATE ATTORNEY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		17. IF YES, NAME OF ATTORNEY.	
18. IS THERE A COURT OR ADMINISTRATIVE PROCEEDING PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		19. IF YES, NAME COURT OR AGENCY.	

AUTOMOBILE REPAIR ONLY

20. DID YOU REQUEST A SIGNED COPY OF REPAIRS TO BE MADE?	<input type="checkbox"/> YES <input type="checkbox"/> NO	DID YOU RECEIVE IT?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DID YOU REQUEST A WRITTEN PRICE ESTIMATE?	<input type="checkbox"/> YES <input type="checkbox"/> NO	DID YOU RECEIVE IT?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DID COSTS EXCEED WRITTEN ESTIMATE?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
WERE YOU NOTIFIED OF ADDITIONAL COSTS BEFORE WORK WAS DONE?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
DID YOU REQUEST THAT REPLACED PARTS BE RETURNED TO YOU?	<input type="checkbox"/> YES <input type="checkbox"/> NO	RECEIVED/OR ALLOWED TO INSPECT PARTS?	<input type="checkbox"/> YES <input type="checkbox"/> NO
		DID YOU RECEIVE IT?	<input type="checkbox"/> YES <input type="checkbox"/> NO

Please state the year, make, model name and V.I.N. (Vehicle Identification No.) of your auto. (Check your registration papers.)

Year Make Model V.I.N.

I hereby certify that I have read the information contained in this complaint and that all of the information I have given is true and complete to the best of my knowledge, information and belief. I further authorize the Attorney General to use this information as he deems necessary and proper.

Lloyd W. Hines
Signature

On the reverse side of this form
Summarize your complaint. Be brief,
But complete.

HOW TO WRITE YOUR COMPLAINT:

Start at the beginning. Describe all the events in the order they happened.

Put down the names of any witnesses.

Please attach copies of any documents which explain or support your complaint, including the cancelled checks, copies of advertisements, letters, etc.

I HAVE A HEARING LOSS AND I'M WEARING HEARING AIDS. BUT ALWAYS SEARCHING FOR SOMETHING BETTER. THOMAS S. GARCIA, WHO CALLS HIMSELF "CUSTOM HEARING AID CENTER" STATED HIS HEARING AIDS WERE COMPUTERS. AFTER TRYING THEM OUT, I FOUND THEM TO BE VERY INFERIOR TO WHAT I HAD BEEN USING. DUE TO THE FACT THEY DID NOT FILTER OUT BACKGROUND NOISE, I FINALLY RETURNED THESE HEARING AIDS TO HIM.

AFTER SEVERAL CALLS BACK TO HIM, HE COULD NOT TALK ME INTO CONTINUING WITH THEM, SO HE FINALLY AGREED TO PREPARE ANOTHER PAIR. I INFORMED HIM I WAS GOING SOUTH FOR A FEW MONTHS. AND HE AGREED TO SEND THE NEW ONES TO ME. I NEVER RECEIVED THE HEARING AIDS AND UPON RETURN TO ANCHORAGE, APPROXIMATELY MAY 1, 1984. MR. GARCIA, OFFICE & ALL WERE GONE AND HE LEFT NO FORWARDING ADDRESS.

I AGREED TO PAY HIM HIS PRICE OF \$1300.00, 50% DOWN, CHECK No. 662 DATED SEPTEMBER 6, 1983 FOR \$650.00.

I AM NOW DESIROUS OF RECOVERING THE ABOVE PAYMENT, SINCE I HAVE TOTALLY LOST CONFIDENCE IN HIS PROFESSIONAL ABILITY AS WELL AS HIS HONESTY.

WHAT TYPE OF SETTLEMENT DO YOU WISH THIS OFFICE TO ATTEMPT TO OBTAIN?

(Please use additional sheets if necessary)

ALASKA TREATMENT CENTER

3710 E. 20th Avenue • Anchorage, AK 99504 • (907) 272-0586

Dear Dave

here is another letter of dissatisfaction
= dealers to add to the collection.

Gen

ALASKA TREATMENT CENTER

3710 E. 20th Avenue • Anchorage, AK 99504 • (907) 272-0586

Dear Sir
I can't mind spending my money but
I don't like to be fupped out of it
I have spent approximately \$1200 for
hearing aids. that have never worked Right
I think that are just a pile of junk.
at an unreasonable price.

A. E. Kimmel

PO. 170461

Seldotna AK

Phone 262-4994

99669

(Alaska opticians)

RENDEZVOUS
P.O. Box 9382
Ketchikan, Alaska 99901
(907) 225-6837

June 13, 1985

David Canterbury, ED, CCCA
Chief of Communicative Disorders Program
State of Alaska
Depart. of Health and Social Service
3401 E. 42nd St.
Anchorage, Alaska 99504

Dear Mr. Canterbury;

At the present time I am director of an adult day care center here in Ketchikan and had the opportunity to meet Susan Bunting, regional Audiologist, during her recent visit to Ketchikan.

I had accompanied one of our participants for her hearing evaluation. This woman, Caroline Thompson, had purchased two hearing aids from Miracle Ear Hearing Center, Dahlberg hearing systems, 2909 Arctic Blvd. Suite 101, Anchorage, Alaska 99503. Their representative Jack Hurd sold these two hearing aids to Caroline 8-9-84 and finalized the contract 10-9-84 to the total sum of \$1400.00. \$700 paid initially and the other \$700 C.O.D. Needless to say Caroline expected miracles from these hearing aids but the miracle did not occur. All through the winter the hearing aides have buzzed and cause general discomfort.

After meeting Ms. Bunting several items were clarified:

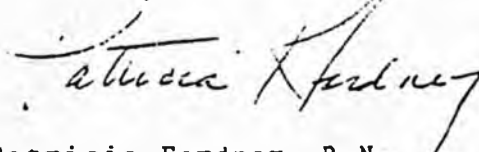
1. The hearing aid is a Dahlberg not a Miracle Ear
2. The fit is not correct for Caroline. New molds were made.
3. The price was excessive.
4. The dealer is from out of town thereby eliminating any follow up contact for problems or questions

The consumer must be protected, especially our senior citizens, from this type of fraud through proper legislation. Better educating of our population in the above matters is imperative, and we need more audiologist to serve the Alaskan population.

Caroline already suffers from low self-esteem and chronic depression and lives on a marginal income and to be taken advantage of hurts deeply.

If action can be taken and the problems remedied then our seniors will be better served.

Sincerely,



Patricia Fordney, R.N.
Program Director

Oct 2-75

Dear Dr. Canterbury,

I had a fraud dealing with hearing aids. The Alaska Hearing Center received \$450.00 check from me for a hearing aid & also took my old one to be repaired which I had only bought two years before for \$600.00. So I do strongly support the legislation to regulate the dispensing of hearing aids. I have made my complaint to the consumer protection section. I am out my money & no hearing aids. Which I need for both ears. I would like to find this guy whose name is Lou Delegge. I even wrote to Dear Bud but he didn't put my letter in the paper. This happened 5-16-85

MARGARET POWELL
617 N. LANE ST.
ANCHORAGE, AK 99508



Sincerely
Margaret R. Powell
617 N. LANE ST.
Anchorage, ak.
99508

MARGARET POWELL
617 N. LANE ST.
ANCHORAGE, AK 99508



State of Alaska
Dept. of Health & Social Services
ATTN: Dr. Canterbury
1231 Gambell St.
Anchorage, Ak. 99501

ALASKA TREATMENT CENTER

3710 E. 20th Avenue • Anchorage, AK 99508 • (907) 272-0586

May 7, 1985

David Canterbury
Chief of Communicative Disorders Program
Department of Health and Social Services
3401 E. 42nd Avenue
Anchorage, Alaska 99504

Dear Mr. Canterbury:

Enclosed is a receipt for a used hearing aid sold to an elderly woman on Medicaid. She did understand the aid was used when she purchased it. There is no indication as to the make or age of the aid or if it had been reconditioned prior to the sale.


A visual check revealed this to be a modular unit that snapped into an "all purpose" ear mold. The model of this aid could not be determined.

This aid fit very poorly resulting in discomfort and feedback. The consumer had used a kitchen knife to try and modify the mold so that it fit comfortably. She and her family were extremely dissatisfied with this aid as well as the method of sale.

Through this Center, she was fit with a postauricular aid with good subjective and objective results.

I will send further documentation of abuse as received.

Sincerely,


Jeri Powers, MS
Audiologist

JP/vm

Anchorage Hearing Aids

3605 S. Arctic Blvd.
 Box 281
 Anchorage, Alaska 99503
 (907) 333-0978

office 338-7877

Model	SERIAL NO.	POWER CODE	STONE	RESPONSE	COLOR INSTRU.	TEMPLE COLOR	LENGTH OF TEMPLE	BATTERY NO.	DELIVERY DATE	<input type="checkbox"/> NEW <input checked="" type="checkbox"/> USED
Right		Rt.								
Left	X	Lf.								

TESTING	\$	<u>NC</u>
CUSTOM EAR MOLD	\$	<u>NC</u>
LAB FEE	\$	<u>NC</u>
TOTAL	\$	<u> </u>
CREDITS:		
Amount of Trade-In	\$	<u> </u>
Make of Trade-In	\$	<u> </u>
Balance	\$	<u> </u>
Sales Tax	\$	<u> </u>
Cash Price <i>Paid</i>	\$	<u>350.00</u>
Down Payment	\$	<u> </u>
Unpaid Cash Price	\$	<u> </u>
FINANCE CHARGE	\$	<u> </u>
BALANCE DUE	\$	<u> </u>

SPECIAL COMMENTS

ONE USED AID

Client's Signature (in ink)
MARKET SCHENCK
 (Print Client's Full Name)

Street BARTLETT
 Street FLOWER AV
 City ANCHORAGE State AK Zip 99503
 Telephone 335-7675

Aid to be Used by _____
 Mr. Mrs. Miss

Address _____ Street _____ City _____

Consultant BURTON SELMYER
 Date 12/17/83

Check No. _____ For Amount _____
 or
 Amount Cash Received _____ By _____

BUYER'S RIGHT TO CANCEL - If this Agreement was solicited at a residence other than that of the Seller and you do not want the goods or services, you may cancel this Agreement by mailing a notice to the Seller. The notice must say that you do not want the goods or services and must be mailed before 12 midnight of the fifth business day after you sign this Agreement.



NORTON SOUND HEALTH CORPORATION

P.O. BOX 966
NOME, ALASKA 99762
(907) 443 5411

June 25, 1985

David Canterbury, Ed.D.
Communicative Disorders Program
3401 E. 42nd Ave.
Anchorage, Alaska 99504

RE: House Bill 430

Dear Dave:

Thank you for providing me with a copy of the above House Bill. I am encouraged by this Bill in that better regulation of hearing aid dispensing will be enforced. It's frustrating when someone from your region ends up with hearing aids that are inappropriate or monstrously expensive or unreturnable! I assume most States have this kind of regulation (at least they do where I've been), and it's about time Alaska quit hiding behind that "wilderness-anything-goes" excuse.

After reading this comprehensive bill, I find only one area of possible conflict. Under Section 08.11.110 Exemptions is listed "a physician..." Usually, physicians are their own employers, so I don't see who is going to supervise their audiological procedures. I would think that a physician would either make an appropriate referral to an audiologist, or only practice limited hearing screening procedures (unless he/she is also a certified audiologist).

I think it is important to set up a supervision structure for those held exempt from licensure - perhaps with the State?

Let me know if any further comments are needed. I know you'll keep me informed.

Sincerely,

NORTON SOUND REGIONAL HOSPITAL

Beverly Short
Audiologist

BS/kn

cc: File



Illinois Hearing Aid Consumer Protection

A consumer protection service provided through
the Illinois Department of Public Health - IDPH.

CALL TOLL-FREE 1-800-572-3270

VOLUME 85-1

The Illinois Hearing Aid Consumer Protection Program

"A Hearing Aid Can Be A Good Sound Investment." This is the promotional theme for the new Illinois law designed to promote the benefits of hearing aids and protect the public from fraudulent dispensing practices which threaten the health, safety and welfare of Illinois citizens.

The Illinois Hearing Aid Consumer Protection Act (HACPA-Supplement to Ill. Rev. Stat. 1983, chap. 111, par. 7403 et seq.) supports sound hearing aid dispensing practices through the certification of dispensers and the follow-up of complaints and/or inquiries. The Illinois Department of Public Health is responsible for administering the provisions of the Hearing Aid Consumer Protection Act (HACPA) by initiating a four component action plan which focuses on:

1. health promotion/
consumer education;
2. continuing education services for hearing aid dispensers;
3. certification of dispensers; and
4. follow-up of inquiries and complaints.

The Illinois Department of Public Health has developed and implemented a system to follow-up consumer inquiries and problems. Inquiries can be received by the toll-free action line or by

mail. Program staff are available to respond to all inquiries and initiate follow-up activities, whether received by the toll-free action line or by mail. Should a reconciliation be unattainable, the individual case and all documentation will be forwarded to the Department and after review, if warranted, to the Board. The Board has the authority, by mandate, to conduct hearings and make recommendations to the Director, should disciplinary action be indicated. The Board is comprised of:

Jack D. Clemis, M.D.
Board Chairman, Otolaryngologist,
Chicago, Illinois

Thomas Regnier, Hearing Aid
Dispenser, Illinois Society of
Hearing Aid Specialists, Peoria,
Illinois

Gail Gudmundsen, Hearing Aid
Dispenser, Illinois Speech, Hearing
and Language Association, Hoffman
Estates, Illinois

Bee White, Senior Advocate,
Springfield, Illinois*

To facilitate the promotion of the HACPA, its provisions, and the service it provides to consumers, program staff are currently developing a statewide networking effort to involve all state and community programs which provide a link to the senior citizens. By successfully educating these interested allied agencies to the services and provision of the HACPA, a larger population of hearing aid consumers can be served.

* One Board position is currently vacant due to the recent resignation of Richard Gelula, Chicago Hearing Society, Chicago, Illinois.



THE ILLINOIS HEARING AID DISPENSERS EXAMINATION

To carry out the requirements for the hearing aid dispensers examinations as stated in the Illinois Hearing Aid Consumer Protection Act, the Department of Public Health convened a statewide committee of hearing aid dispensers to review available tests and decide upon a test for Illinois hearing aid dispensers. This committee chose to work with the Educational Testing Service (ETS) to develop the Illinois Hearing Aid Dispensers' Examination. Guided by the committee, ETS designed a job analysis survey that was completed by over half of the practicing dispensers in Illinois. Based on the survey results and the committee's recommendations, ETS developed multiple forms of a 75-question exam, using questions drafted by the committee.

This first examination is intended for temporary certificate holders. Those temporary certificate holders who registered with IDPH on or before May 31, 1985 will be notified by ETS regarding the examination scheduled for August 24, 1985. On this date, two examinations will be conducted simultaneously in Springfield and Chicago. The times and locations will be announced in registration packages. Registration packages must be completed and returned to ETS so that an entrance ticket to the examination can be mailed to each registrant.

The examination will consist of multiple-choice questions. Each question will have four options and only one correct answer. Test-takers are encouraged to choose the option they think is more than likely correct when they do

not know the correct answer. There is no penalty for guessing on this examination.

Test-takers will have ample time to complete this exam. The three and one-half hours scheduled for the test should allow sufficient time for all test-takers. You need only bring one or two #2 pencils. No notes, dictionaries, etc., will be allowed in the test room. You may bring a silent, hand-held calculator. Calculators, however, are not really needed for this exam.

The examination questions will cover the following subjects:

1. ACOUSTICS
2. NATURE OF THE EAR
(normal ear, hearing process, disorders of the ear)
3. HEARING MEASUREMENT
(data collection and measurement)
4. HEARING AID TECHNOLOGY
5. SELECTION OF HEARING AIDS
6. DISPENSING AND SERVICING HEARING AIDS
7. CONSUMER PROTECTION REGULATIONS
—(Federal and State)

In developing this examination, the committee has made every effort to limit the examination to basic information that all hearing aid dispensers should know so that the public may be adequately protected.

The passing score on the examination will be set in a meeting of the committee on July 11. The committee, in reviewing the test, will define what it expects a person to know in order to be minimally qualified as a hearing aid dispenser.

Test-takers will be informed of the passing score as they begin the examination on August 24. Again, the purpose of the passing score will be to assure that the public is adequately protected. This is not a competitive examination in which the top group passes and the rest fail. If all test-takers are minimally qualified, as defined above, all will pass this examination.

The practicum component of the examination is only available to those who successfully complete the written examination. (The written exam will be offered October 19, 1985 only, at the ETS Headquarters in Evanston for those who fail the written component and wish to retake the examination.) The practicums will be comprised of eight stations each, manned by two examiners (certified hearing aid dispensers). All examiners will be trained by ETS to objectively and uniformly evaluate the practicum performance. This examination component is scheduled to take approximately one hour per person. Admission tickets with the assigned date and location will be mailed with notifications of passing the written examination. The practicums will be conducted:

October 22, 23, 24, 25 and December 4
(Chicago Metropolitan Area)

November 12, 13, (Springfield)



AT YOUR FINGER TIPS;

A toll-free action line was established earlier this year to facilitate

the consumer service component of the Hearing Aid Consumer Protection Act (HACPA). Since its development, over 400 calls have been received by the Illinois Department of Public Health. A majority of the calls received focused on consumer education and awareness about the newly enacted program.

The toll-free telephone line (1-800-572-3270) is provided to respond to problems, questions, or about hearing aid goods and services. In addition, a telecommunication device for the deaf (TDD) can be accessed through this same number. Program staff are available 8:00 a.m. - 5:00 p.m. Monday - Friday to accept calls. A telephone answering device will accept telephone calls received after work hours. The toll-free action line is being promoted on posters and pamphlets developed and disseminated by the Hearing Aid Consumer Protection Program. Copies are available upon request by contacting the toll-free action line. All telephone calls are forwarded to IDPH Vision and Hearing Regional Consultants for follow-up.

"CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT"

The Consumer Fraud and Deceptive Business Practices Act protects consumers, borrowers, and businessmen against fraud, unfair methods of competition and deceptive acts or practices in the conduct of any trade or commerce. It also clarifies the powers of the Attorney General. For these reasons, it is crucial that hearing aid dispensers and consumers understand the Consumer Fraud and Deceptive Business Practices Act. Several major points of this Act are identified below.

1. If a sale of merchandise involving \$25 or more is made or contracted to be made to a consumer as a result of or in connection with a person's contact

with or call on the consumer, that consumer may void the contract or transaction by notifying the seller within three full business days following that day on which the contract was signed or the sale was made. In addition, the consumer must return in its original condition, any merchandise delivered to the consumer under the contract or sale.

2. At the time of a transaction, the dispenser should furnish the consumer with a completed receipt or contract containing a "Notice of Cancellation" informing the consumer that the transaction may be cancelled within three days.

3. The following statement shall be, located near the consumer's signature on the contract or on the front page of the receipt (if a contract is not used) in at least 10-point type.

"YOU, THE CONSUMER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT."

4. Attached to the receipt or contract shall be a completed form in duplicate, captioned "NOTICE OF CANCELLATION", which shall be easily detachable and shall contain in 10-point bold face type the information identified in the Consumer Fraud and Deceptive Business Practices Act.

These points are provided only to highlight a few of the major issues contained in this Act. If you would like to obtain a copy of this Act, contact the Illinois Department of Public Health.

ROSTER OF PREFERRED MAILING ADDRESSES FOR HEARING AID DISPENSER APPLICANTS

If the place of business of a certificant is changed from that address provided on the certificate and maintained on file by the Illinois Department of Public Health (IDPH), the certificant should notify IDPH in writing within 10 working days of the change. After a change in the business location, the dispenser should leave a forwarding address with the post office for one year and a forwarding telephone number for six months where the consumer can contact the dispenser.

A roster of preferred mailing addresses for Certified and Temporary Hearing Aid Dispenser applicants is now available to the general public. This list identifies each applicants preferred mailing address and the dispenser's certification status.

The cost of the roster is 25c/page which covers duplication, postage and handling expenses.

To obtain this list, contact the HACP Action Line by calling 1-800-572-3270.

IDPH WORKSHOP

Hearing Aid Dispensing Practices: An Overview

The Illinois Department of Public Health is offering a workshop entitled "Hearing Aid Dispensing Practices: An Overview," to orient hearing aid dispensers to the use of acceptable and appropriate dispensing practices. Especially designed for Temporary Certified Dispensers, the workshop was created to augment the skill and knowledge of dispensers. Experts from the field of medicine and the hearing aid industry will provide information regarding hearing aid selection and

fitting. The workshop will be offered at two locations:

August 1, 1985
Holiday Inn East
3100 S. Dirksen Parkway
I-55 Junction By Pass 66
Stevenson Drive
Audiovisual Room
Springfield, Illinois

August 2, 1985
Holiday Inn
4400 Frontage Road
Churchill Room
Hillside, Illinois

 AGENDA 

- | | | |
|------------|--|---|
| 8:00 a.m. | Registration | |
| 8:30 a.m. | Consumer Protection: The Responsibilities of the Dispenser. | James R. Nelson, Chief, Division of Health Promotion and Screening, IDPH |
| 9:00 a.m. | Shall I Sign the Medical Waiver? | Leonard Rybak, M.D., Ph.D.
Otolaryngologist, Springfield Memorial Medical Center (Springfield)

Richard Wiet, M.D.,
Otolaryngologist, Hinsdale, IL (Hillside) |
| 10:00 a.m. | BREAK | |
| 10:15 a.m. | Hearing Aid Selection: Options and Alternatives | Ronald Regan, President, Argosy Electronics, Edina, Minnesota |
| 11:45 a.m. | LUNCH | |
| 1:00 p.m. | Earmolds: Making a Good Impression | Marie Jablin, Vice President Marketing & Audiological Research, Audiovox, Bensonville, IL |
| 2:45 p.m. | BREAK | |
| 3:00 p.m. | The Educational Testing Service (ETS): Test Preparation and Administration | Terri Strand, Ph.D., Professional Associate, cTS, Evanston, IL (Springfield) |

3:00 p.m. (Continued)

George Elford, Director, Mid-western Region, Educational Testing Service, Evanston, Illinois (Hillside)

4:00 p.m. Laboratory Session: Introduction IDPH Staff to the Qualitone Acoustic Appraiser and the Bioacoustic Audiometric Simulator*

5:00 p.m. CLOSURE

* This equipment will be used in the practicum component of the Illinois Hearing Aid Dispenser Examination.

Those interested in attending this workshop should complete the following registration form.

REGISTRATION

Hearing Aid Dispensing Practices: An Overview

Please check the date and location you plan to attend. Advance registration fee is \$40.00 (includes lunch, coffee and materials). At site registration will be \$50.00.

____ August 1, 1985 (Springfield) . ____ August 2, 1985 (Hillside)

Please type or print

NAME: _____

CERTIFICATION I.D. NUMBER: _____

BUSINESS ADDRESS: _____

HOME TELEPHONE: () _____ WORK TELEPHONE: () _____

Please make checks payable to: IDPH/Hearing Aid Program
(Your cancelled check is your receipt)

Mail registration to: Hearing Aid Program
Division of Health Promotion and Screening
Illinois Department of Public Health
535 West Jefferson Street
Springfield, Illinois 62761

NO REFUNDS WILL BE AVAILABLE AFTER JULY 19, 1985

such receipt in Court shall be grounds for dismissal of the action.

For repeal of Act, see note preceding § 7001 of this chapter.

7025.16. Penalties

§ 25.16. Any person who is found to have violated any provision of this Act is guilty of a Class A misdemeanor. On conviction of a second or subsequent offense, the violator shall be guilty of a Class 4 felony.

For repeal of Act, see note preceding § 7001 of this chapter.

7025. State powers and functions

§ 26. It is declared to be the public policy of this State, pursuant to paragraphs (b) and (i) of Section 6 of Article VII of the Illinois Constitution of 1970, that any power or function set forth in this Act to be exercised by the State is an exclusive State power or function. Such power or function shall not be exercised concurrently, either directly or indirectly, by any unit of local government, including home rule units, except as otherwise provided in this Act.

For repeal of Act, see note preceding § 7001 of this chapter.

7025. Administrative Procedure Act

§ 27. "The Illinois Administrative Procedure Act", approved September 22, 1975, as amended,¹ is hereby expressly accepted and incorporated herein as if all of the provisions of such Act were included in this Act, except that the provision of paragraph (c) of Section 16 of "The Illinois Administrative Procedure Act", as amended,² which provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention, or continuation or renewal of the license, is specifically excluded, and for the purpose of this Act the notice required under Section 10 of "The Illinois Administrative Procedure Act", as amended,³ is considered sufficient when mailed to the last known address of a party.

¹ Chapter 127, § 1001 et seq.

² Chapter 127, § 1016.

³ Chapter 127, § 1010.

For repeal of Act, see note preceding § 7001 of this chapter.

7025. Rights under prior laws

§ 28. Rights and obligations incurred and any actions commenced under the "Veterinary Medicine and Surgery Practice Act", approved August 14, 1961, as amended,¹ as it existed prior to the effective date of this Act shall not be impaired by the enactment of this Act. Rules adopted under the former Act, unless clearly inconsistent with the provisions of this Act, shall remain in effect until amended or rescinded.

All licenses heretofore legally issued in this State permitting the holder thereof to practice veterinary medicine and surgery and valid and in effect on the taking effect of this Act shall have the same force, and be subject to the same authority of the Department to revoke or suspend them as licenses issued under this Act.

¹ Paragraph 6901 et seq. (repealed) of this chapter.

For repeal of Act, see note preceding § 7001 of this chapter.

HEARING AID CONSUMER PROTECTION ACT

AN ACT to regulate the selling, practice of fitting, dispensing or servicing of hearing aids in the State of Illinois. P.A. 83-928, am. veto overridden Nov. 1, 1983, eff. July 1, 1984.

Repeal of Act

P.A. 81-959, the Regulatory Agency Sunset Act, eff. Sept. 22, 1979, which provides for the legislative review of programs and agencies which regulate professions, occupations, business, industry and trade in Illinois, as amended by P.A. 83-928, § 37, eff. July 1, 1984, provided in section 1.8 of the Act for repeal of "The Hearing Aid Consumer Protection Act", enacted by the 13rd General Assembly, as now or hereafter amended", effective Dec. 31, 1995. *For complete text of the Regulatory Agency Sunset Act, see § 1901 et seq. of chapter 137.*

Amended 1/7/84

7401. Purpose

Paragraph effective July 1, 1984.

§ 1. The purpose of this Act is to protect the hearing-impaired public from incompetent and dishonest dispensers of hearing aids who could endanger the health, safety and welfare of the People of this State. The Federal Food and Drug Administration has recommended that State legislation is necessary in order to establish standards of competency and to impose stringent penalties for those who violate the public trust in this field of health care.

For repeal of Act, see note preceding this paragraph.

7402. Short title

Paragraph effective July 1, 1984.

§ 2. This Act shall be known as the Hearing Aid Consumer Protection Act.

For repeal of Act, see note preceding § 7401 of this chapter.

7403. Definitions

Paragraph effective July 1, 1984.

§ 3. As used in this Act, except as the context requires otherwise:

(a) "Department" means the Department of Public Health.

(b) "Director" means the Director of the Department of Public Health.

(c) "Certification" means a certificate issued by the State under this Act to a hearing aid dispenser.

(d) "Temporary certificate" means a certificate issued while the applicant is in training or is qualifying to become a certified hearing aid dispenser.

(e) "Clinical Audiologist" means a person with a Masters Degree in Audiology who holds a certificate of clinical competence in Audiology from the American Speech and Hearing Association or its equivalent.

(f) "Hearing Aid Audiologist" means a person who has been so certified after qualification by examination and experience by the National Board of Certification of the National Hearing Aid Society.

(g) "Licensed Physician" means a physician licensed to practice medicine in all of its branches.

(h) "Board" means the Hearing Aid Consumer Protection Board.

(i) "Hearing aid" means any instrument or device designed, intended or offered for the purpose of effectively compensating for impaired human hearing and any parts, attachments or accessories, including earmold. However, batteries, cords and individual or group auditory training devices and any instrument or device used by a public utility in providing telephone or other communication services are excluded.

(j) "Practice of fitting, dispensing and servicing of hearing aids" means the selection, adaptation, sale and service of hearing aids and include the testing of hearing by means of an audiometer properly calibrated to American National Standard Institute standards.

(k) "Sell" or "sale" means any transfer of title or of the right to use by lease, bailment, or any other contract, excluding wholesale transactions with distributors or dealers.

For repeal of Act, see note preceding § 7401 of this chapter.

7404. Consumer information—Medical evaluation—Waiver—Complaint procedure—Liability insurance
Paragraph effective July 1, 1984.

§ 4. Every person fitted and sold a hearing aid shall be given, at no charge, the "User Instructional Brochure", supplied by all hearing aid manufacturers, containing advice to the user regarding requirements for evaluation by licensed physicians, specific waivers to the medical evaluation requirements, hearing aid manufacturer evaluations, purchase privileges and technical data.

Any person who fits, dispenses, services or sells hearing aids shall deliver to each person supplied with a hearing aid a receipt which shall contain the seller's signature, number, the manufacturer's specifications, the type, model and serial number of the hearing aid furnished and the full sales price clearly stated. If a used hearing aid is sold, the receipt and the container thereof shall be clearly marked as "used" or "reconditioned", whichever is applicable, with terms of guarantee, if any.

A hearing aid dispenser shall not sell a hearing aid unless the prospective user has presented to the hearing aid dispenser a written statement signed by a licensed physician which states that the patient's hearing loss has been medically evaluated and the patient may be considered a candidate for a hearing aid. The medical evaluation must have taken place within the 6 months immediately preceding the time the written statement is presented by the prospective hearing aid user to the hearing aid dispenser. If the prospective hearing aid user is 18 years of age or older, the hearing aid dispenser may afford the prospective user an opportunity to waive the medical evaluation requirement of this Section, provided that the hearing aid dispenser:

- (i) informs the prospective user that the exercise of the waiver is not in the user's best health interest;
- (ii) does not in any way actively encourage the prospective user to waive such a medical evaluation; and
- (iii) affords the prospective user the opportunity to sign the following statement:

I have been advised by _____ (Hearing aid dispenser's name) that the Food and Drug Administration has determined that my best interest would be served if I had a

medical evaluation by a licensed physician (preferably a physician who specializes in diseases of the ear) before purchasing a hearing aid. I do not wish a medical evaluation before purchasing a hearing aid.

The hearing aid dispenser shall retain such proof of medical examination or waiver for at least 4 years.

If the parent or guardian of any individual under the age of 18 years is a member of any church or religious denomination, whose tenets and practices include reliance upon spiritual means through prayer alone and objects to medical treatment and so states in writing to the hearing aid dispenser, such individual shall undergo a hearing examination as provided by this Section, but no proof, ruling out any medically treatable problem causing hearing loss, shall be required.

All persons certified under this Act shall have conspicuously displayed in their business establishment a sign indicating that formal complaints regarding hearing aid goods or services may be made to the Department. Such sign shall give the address of the Department. All persons purchasing hearing aids shall be provided with a written statement indicating that formal complaints regarding hearing aid goods or services may be made to the Department and shall give the address of the Department.

Any person wishing to make a complaint against a hearing aid dispenser under this Act, shall file it with the Department within 2 years from the date of the action upon which the complaint is based. The Department shall investigate all such complaints.

All persons certified under this Act shall maintain liability insurance as set forth by rule and shall be responsible for the annual calibration of all audiometers in use by such persons. Such annual calibrations shall be in conformance with the standards set by American National Standard Institute.

For repeal of Act, see note preceding § 7401 of this chapter.

7405. Certified hearing aid dispensers

Paragraph effective July 1, 1984.

§ 5. No person shall engage in the selling, practice of fitting, dispensing or servicing hearing aids or display a sign, advertise or represent oneself as a person who practices the fitting and selling of hearing aids after January 1, 1985, unless such person holds a current certificate issued by the Department as provided in this Act. For purposes of this Act, such person shall be known as a certified hearing aid dispenser. The certificate shall be conspicuously displayed in the place of business. Duplicate certificates shall be issued by the Department to valid certificate holders operating more than one office, with such additional payment as may be required.

Nothing in this Act shall prohibit a corporation, partnership, trust, association or other organization maintaining an established business address, from engaging in the business of fitting and selling or offering for sale hearing aids at retail without a certificate, provided it employs only certified individuals in the direct fitting and dispensing of such products. Each such corporation, partnership, trust, association or other organization shall file annually, with the Department, a list of all certified hearing aid dispensers employed by it. Such organizations shall also file with the Department a statement that they comply with this Act, the rules issued pursuant to it and the regulations of the Federal Food and Drug Administration

and the Federal Trade Commission insofar as they are applicable.

For repeal of Act, see note preceding § 7401 of this chapter.

7406. Sale of hearing aids by business organizations—Registration—Disclosure statement—Consent to service of process—Right of cancellation by consumer of mail order—Other requirements

Paragraph effective July 1, 1984.

§ 6. Nothing in this Act shall prohibit a corporation, partnership, trust, association or other organization maintaining an established business address, from engaging in the business of selling or offering for sale hearing aids at retail by mail to persons 18 years of age or older who have not been examined by a licensed physician or tested by a certified hearing aid dispenser provided that:

(a) Each such organization is registered by the Department prior to engaging in business in this State.

(b) Each such organization files with the Department prior to registration and annually thereafter, a Disclosure Statement containing the following:

(1) the name under which the organization is doing or intends to do business and the name of any affiliated company which the organization recommends or will recommend to persons as a supplier of goods or services or in connection with other business transactions of the organization;

(2) the organization's principal business address and the name and address of its agent in this State authorized to receive process;

(3) the business form of the organization, whether corporate, partnership, or otherwise and the state of other sovereign power under which the organization is organized;

(4) the names of the directors or persons performing similar functions and names and addresses of the chief executive officer, and the financial, accounting, sales, and other principal executive officers, if the organization is a corporation, association, or other similar entity; of all general partners, if the organization is a partnership; and of the owner, if the organization is a sole proprietorship, together with a statement of the business background during the past 5 years for each such person;

(5) a statement as to whether the organization or any person identified in the disclosure statement:

(i) has during the 5 year period immediately preceding the date of the disclosure statement been convicted of a felony, pleaded nolo contendere to a felony charge, or been held liable in a civil action by final judgment, if such felony or civil action involved fraud, embezzlement, or misappropriation of property, and a description thereof; or

(ii) is subject to any currently effective injunctive or restrictive order as a result of a proceeding or pending action brought by any public agency or department, and a description thereof; or

(iii) is a defendant in any pending criminal or material civil action relating to fraud, embezzlement, misappropriation of property or violations of the antitrust or trade regulation laws of the United States or any state, and a description thereof; or

(iv) has during the 5 year period immediately preceding the date of the disclosure statement had entered against

such person or organization a final judgment in any material civil proceeding, and a description thereof; or

(v) has during the 5 year period immediately preceding the date of the disclosure statement been adjudicated a bankrupt or reorganized due to insolvency or was a principal executive officer or general partner of any company that has been adjudicated a bankrupt or reorganized due to insolvency during such 5 year period, and a description thereof;

(6) the length of time the organization and any predecessor of the organization has conducted a business dealing with hearing aid goods or services;

(7) a financial statement of the organization audited by an independent certified public accountant, as of the close of the most recent fiscal year of the organization. If the financial statement is filed later than 120 days following the close of the fiscal year of the organization it must be accompanied by a statement of the organization of any material changes in the financial condition of the organization. The Department may in its discretion waive the requirement for audited statements for organizations who have not previously had such certified audits, if the unaudited financial statement is prepared by an independent certified public accountant. If the unaudited financial statement is filed later than 120 days following the close of the fiscal year of the organization, it must be accompanied by a statement of the organization of any material changes in the financial condition of the organization;

(8) a general description of the business, including without limitation a description of the goods, training programs, supervision, advertising, promotion and other services provided by the organization;

(9) a statement of any compensation or other benefit given or promised to a public figure arising, in whole or in part, from (i) the use of the public figure in the name or symbol of the organization or (ii) the endorsement or recommendation of the organization by the public figure in advertisements;

(10) a statement setting forth such additional information and such comments and explanations relative to the information contained in the disclosure statement as the organization may desire to present.

(c) Each such organization files with the Department prior to registration and annually thereafter a statement that they comply with the Act, the rules issued pursuant to it and the regulations of the Federal Food and Drug Administration and the Federal Trade Commission insofar as they are applicable.

(d) Each such organization files with the Department at the time of registration an irrevocable consent to service of process authorizing the Department and any of its successors to be served any notice, process or pleading in any action or proceeding against such organization arising out of or in connection with any violation of this Act. Such service shall have the effect of conferring personal jurisdiction over such organization in any court of competent jurisdiction.

(e) Each such organization affords the prospective user an opportunity to waive the medical evaluation requirement of Section 4 of this Act and the testing requirement of subsection (j) of Section 3 and subsection (2) of Section 18 provided that the organization:

(1) informs the prospective user that the exercise of the waiver is not in the user's best health interest;

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- 2) does not in any way actively encourage the prospective user to waive such a medical evaluation or test; and
- 3) affords the prospective user the opportunity to sign following statement:

"I have been advised by _____ (Hearing Aid dispenser's name) that the Food and Drug Administration and the State of Illinois have determined that my best interest could be served if I had a medical evaluation by a licensed physician, preferably a physician who specialized in diseases of the ear, before purchasing a hearing aid; or a fit by a certified hearing aid dispenser utilizing established procedures and instrumentation in the fitting of hearing aids. I do not wish either a medical evaluation or test before purchasing a hearing aid".

(c) Where a sale, lease, or rental of hearing aids is sold or contracted to be sold to a consumer by mail order, that consumer may avoid the contract or sale by notifying the seller within 45 full business days following that day on which the hearing aids were mailed by the seller to the consumer and by returning to the seller in its original condition, any hearing aid delivered to the consumer under the contract or sale. At the time the hearing aid is mailed the seller shall furnish the consumer with a fully completed receipt or copy of any contract pertaining to such sale containing a "Notice of Cancellation" informing the consumer that he may cancel the sale at any time within such 45 days and which shows the date of the mailing and contains the name, address and telephone number of the seller, and in immediate proximity to the space reserved in the contract for the signature of the consumer or on the front page of the receipt if a contract is not used and in bold face type of a minimum size of 10 points, a statement in substantially the following form:

"You, the buyer, may cancel this transaction at any time prior to midnight of the 45th business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right".

Attached to the receipt or contract shall be a completed form in duplicate, captioned "NOTICE OF CANCELLATION" which shall be easily detachable and which shall contain in 10 point bold face type the following information and statements in the same language as that used in the contract:

NOTICE OF CANCELLATION

enter date of transaction

(DATE)

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN 45 BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN 10 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE, OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE

SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLER'S EXPENSE AND RISK. IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER AND THE SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION. IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE SELLER, OR IF YOU AGREE TO RETURN THE GOODS TO THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM, TO (name of seller), AT (address of seller's place of business) AND (seller's telephone number) NO LATER THAN MIDNIGHT OF _____ (date).

I HEREBY CANCEL THIS TRANSACTION.

(Date) _____

(Buyer's Signature)

Such written "Notice of Cancellation" may be sent by the consumer to the seller to cancel the contract. The 45 day period provided for in this Section does not commence until the consumer is furnished the Notice of Cancellation, the address and phone number at which such notice to the seller can be given is furnished.

If the conditions of this Section are met, the seller must return to the consumer the full amount of any payment made or consideration given under the contract or for the merchandise.

It is an unlawful practice within the meaning of this Act for a seller to: (1) mail hearing aids to a consumer other than by certified mail; (2) fail, before furnishing copies of the "Notice of Cancellation" to the consumer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the seller's telephone number, the date of the mailing, and the date, not earlier than the 45th business day following the date of the mailing, by which the consumer may give notice of cancellation; (3) include in any contract or receipt any confession of judgment or any waiver of any of the rights to which the consumer is entitled under this Section including specifically his right to cancel the sale in accordance with the provisions of this Section; (4) misrepresent in any manner the consumer's right to cancel; (5) use any undue influence, coercion, or any other wilful act or representation to interfere with the consumer's exercise of his rights under this Section; (6) fail or refuse to honor any valid notice of cancellation by a consumer and within 10 business days after the receipt of such notice, to (i) Refund all payments made under the contract or sale, (ii) return any goods or property traded in, in substantially as good condition as when received by the person, (iii) cancel and return any negotiable instrument executed by the consumer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction; (7) negotiate, transfer, sell or assign any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the 50th business day following the day of the mailing; or (8) fail, within 10 business days of receipt of the consumer's notice of cancellation, to notify him where-

20 days

Consumer's
business days
45 days

10 days

5 days after
that they
cancel
the

10 days

or the seller intends to repossess or to abandon any shipped or delivered goods.

(g) Each such organization employs only certified individuals in the dispensing of hearing aids and files annually, with the Department, a list of all certified hearing aid dispensers employed by it.

¹ Paragraph 7404 of this chapter.
² Paragraph 7403 of this chapter.
³ Paragraph 7418 of this chapter.

For repeal of Act, see note preceding § 7401 of this chapter.

7407. Exemptions

Paragraph effective July 1, 1984.

§ 7. The following are exempt from this Act:

(a) Persons who measure human hearing and who fit hearing aids for the sole purpose of audiological evaluations. Such persons shall not sell or dispense hearing aids or accessories thereto unless certified under this Act.

(b) Licensed physicians.

(c) Persons who only repair or manufacture hearing aids and their accessories.

For repeal of Act, see note preceding § 7401 of this chapter.

7408. Examination of hearing aid dispensers—Requirements of applicants

Paragraph effective July 1, 1984.

§ 8. In order to protect the hearing-impaired individual the Department shall authorize or shall conduct an appropriate examination for persons who dispense, fit or service hearing aids. The Department may use the test prepared by the National Institute for Hearing Instruments Studies. Those who successfully pass such an examination shall be issued a certificate as a hearing aid dispenser which shall be effective for a 3-year period. Applicants shall be:

- (1) At least 18 years of age;
- (2) Of good moral character;
- (3) A high school graduate or the equivalent;
- (4) Free of contagious or infectious disease; and
- (5) A citizen or person who has the status as a legal alien.

An applicant for certification by examination shall, by means of written and practical tests, demonstrate that such person is qualified to practice the fitting, selling and servicing of hearing aids.

The renewal of a certificate shall be contingent upon compliance with the continuing education requirement as determined by the Board.

For repeal of Act, see note preceding § 7401 of this chapter.

7409. Matters included in examination

Paragraph effective July 1, 1984.

§ 9. The examination required by Section 8¹ shall demonstrate the applicant's technical qualifications by:

(a) Tests of knowledge in the following areas as they pertain to the fitting and selling of hearing aids:

- (1) Characteristics of sound;
- (2) The nature of the ear; and

(3) The function and maintenance of hearing aids.

(b) Practical tests of proficiency in the following techniques as they pertain to the fitting of hearing aids:

(1) Pure tone audiometry including air conduction testing and bone conduction testing;

(2) Live voice or recorded voice speech audiometry, including speech reception, threshold testing and speech discrimination testing;

(3) Masking;

(4) Proper selection and adaptation of a hearing aid in relation to the above procedure;

(5) Taking earmold impressions;

(6) Proper maintenance procedures; and

(7) A general knowledge of the medical and physical contra-indications to the use and fitting of a hearing aid.

(c) Knowledge of the general medical and hearing rehabilitation facilities in the area being served.

¹ Paragraph 7408 of this chapter.

For repeal of Act, see note preceding § 7401 of this chapter.

7410. Provisional certificates

Paragraph effective July 1, 1984.

§ 10. For the period of 6 months immediately following the effective date of this Act, an applicant for certification shall be issued a certificate, provided the applicant:

(a) Has been engaged, at a place of business in Illinois, as a hearing aid dispenser for a total of at least 2 years within the 3-year period immediately prior to July 1, 1984;

(b) Is a person of good moral character;

(c) Is 18 years of age or older;

(d) Is free of contagious or infectious disease;

(e) Agrees, in writing, to comply with the provisions of this Act, the rules issued hereunder and the applicable regulations of the Federal Food and Drug Administration and the Federal Trade Commission;

(f) Pays the appropriate fee; and

(g) Is a citizen or has the status of a legal alien.

However, within 3 years of the effective date of this Act, all persons granted a certificate under this Section shall be required to pass the examination required by Section 8.¹ Those who do not pass the examination within this period shall immediately surrender their certificate to the Department and cease operating as a hearing aid dispenser. Upon failure to do so, the Department shall seize the certificate.

¹ Paragraph 7408 of this chapter.

For repeal of Act, see note preceding § 7401 of this chapter.

7411. Temporary certificates

Paragraph effective July 1, 1984.

§ 11. An applicant who fulfills the requirements regarding age, character, education and health, as set forth in Section 8,¹ may obtain a temporary certificate upon application to the Department. Previous experience or a waiting period shall not be a requirement to obtain a temporary or qualifying certificate. Upon receiving such application, when accompanied by the appropriate fee, the Department shall issue a temporary certificate which entitles the applicant to engage in the fitting, dispensing and

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ing of hearing aids for a period not to exceed one year. A temporary certificate shall not be renewable and the applicant must take the examination within a year after receiving the temporary certificate. All applicants for a temporary certificate shall be employed by a person who has a certificate as a hearing aid dispenser. Such person shall be responsible for the supervision and training of the applicant and shall maintain personal contact and records.

The Department may issue a temporary certificate to an applicant starting a hearing aid dealership as sole owner, principal of a firm, or employee-manager for a corporation if the applicant's training is provided by a manufacturer or by a person who holds a valid certificate issued under this Act and if the new dealer, not later than 5 days prior to the commencement of operation under a temporary certificate, obtains and files with the Department a surety bond in the sum of at least \$5,000, which shall be conditioned on the satisfactory performance, pursuant to and in accordance with this Act and the rules hereunder, during the period covered by the temporary certificate.

Paragraph 7408 of this chapter.

For repeal of Act, see note preceding § 7401 of this chapter.

7412. Registration of person licensed or certified in another state

Paragraph effective July 1, 1984.

§ 12. The Department may register as a hearing aid dispenser without examination, but upon payment of the required fee, an applicant who has a certificate or license in good standing to practice in another state, if the requirements in such state are substantially equal to the requirements imposed by this Act. Applicants who meet such endorsement requirements may practice in this State pending action on their application. If the application is denied, their right to practice ceases on the date of denial.

For repeal of Act, see note preceding § 7401 of this chapter.

7413. Expiration and renewal of certificates

Paragraph effective July 1, 1984.

§ 13. The expiration date and renewal period for each certificate issued under this Act shall be set by rule. A hearing aid dispenser whose certificate has expired may have it reinstated within 5 years after the expiration thereof, by making a renewal application therefor and by paying the required fee. However, any hearing aid dispenser whose certificate expired while: (1) on active duty with the Armed Forces of the United States, or the State Militia called into service or training, or (2) in training or education under the supervision of the United States preliminary to induction into the military service, may have the certificate renewed, reinstated or restored without paying any lapsed renewal fees if, within 2 years after honorable termination of such service, training or education, except under conditions other than honorable, such person must furnish the Department with satisfactory evidence of being so engaged and that the service, training or education has been terminated.

If the hearing aid dispenser has not practiced for 5 years or more, the Board shall determine, by an evaluation program established by rule, such person's fitness to resume active status and may require the hearing aid

dispenser to complete a period of evaluated experience and may require successful completion of the examination.

Any hearing aid dispenser whose certificate has expired for more than 5 years prior to July 1, 1984 may have it restored by making application, and filing acceptable proof, to the Department of his fitness to have such certificate restored, including sworn evidence certifying to active practice in another jurisdiction and by paying the required restoration fee.

For repeal of Act, see note preceding § 7401 of this chapter.

7414. Powers and duties of department

Paragraph effective July 1, 1984.

§ 14. The powers and duties of the Department are:

(a) To supervise issuance of certificates and to administer examinations to applicants. However, the Department may authorize a testing service to provide this function or it may use the test prepared by the National Institute for Hearing Instrument Studies.

(b) To certify persons who are qualified to engage in the fitting, selling and dispensing of hearing aids;

(c) To provide the equipment and facilities necessary for the examination;

(d) To issue and to renew certificates;

(e) To suspend or revoke certificates or to take such other disciplinary action as provided in this Act;

(f) To consider all recommendations of the Board and to inform it of all actions of the Department insofar as hearing aid dispensers are concerned, including any instances where the actions of the Department are contrary to the recommendations of the Board; and

(g) To promulgate rules necessary to implement this Act.

For repeal of Act, see note preceding § 7401 of this chapter.

7415. Fees—Disposition of fees

Paragraph effective July 1, 1984.

§ 15. (a) The following are fees to be charged and are not refundable:

(1) The fee for application for a certificate is \$25.

(2) In addition to the application fee, applicants for any examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the actual cost of the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application and fee for the examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the fee.

(3) The fee for the renewal of a certificate shall be \$30 per year.

(4) The fee for the reinstatement of a certificate which has expired for not more than 5 years is \$10, plus payment of all lapsed renewal fees.

(5) The fee for the restoration of a certificate which has expired for more than 5 years is \$100.

(6) The fee for the issuance of a duplicate certificate, for the issuance of a replacement certificate which has been lost or destroyed or for the issuance of a certificate with a change of name or address, other than during the renewal

period, is \$10. No fee is required for name and address changes on Department records when no duplicate certificate is issued.

(7) The fee for a certification of a registrant's record for any purpose is \$10.

(8) The fee to have the scoring of an examination administered by the Department reviewed and verified is \$10, plus any fee charged by the testing service.

(9) The fee for a wall certificate shall be the actual cost of such certificate.

(10) The fee for a roster of persons registered as hearing aid dispensers shall be the actual cost of such roster.

(b) The moneys received as license fees by the Department of Public Health under this Act shall be deposited in the Hearing Aid Dispenser Examining and Certification Fund, which is hereby created as a special fund in the State Treasury, and shall be used only for the administration of this Act, including: (1) costs directly related to certification of persons under this Act; and (2) by the Hearing Aid Consumer Protection Board in the exercise of its powers and performance of its duties, and such use shall be made by the Department of Public Health with full consideration of all recommendations of the Hearing Aid Consumer Protection Board.

For the fiscal year beginning July 1, 1984, the moneys deposited in the Hearing Aid Dispenser Examining and Certification Fund shall be appropriated to the Department for expenses of the Department and the Hearing Aid Consumer Protection Board in the administration of this Act.

Moneys in the Hearing Aid Dispenser Examining and Certification Fund may be invested and reinvested, with all earnings received from such investment to be deposited in the Hearing Aid Dispenser Examining and Certification Fund and used for the same purposes as fees deposited in such fund.

Upon the completion of any audit of the Department as prescribed by the Illinois State Auditing Act,¹ which audit includes an audit of the Hearing Aid Dispenser Examining and Certification Fund, the Department shall make a copy of the audit open to inspection by any interested person, which copy shall be submitted to the Department by the Auditor General, in addition to the copies of audit reports required to be submitted to other State officers and agencies by Section 3-14 of the Illinois State Auditing Act.²

¹ Chapter 15, § 301-1 et seq.

² Chapter 15, § 302-14.

For repeal of Act, see note preceding § 7401 of this chapter.

7416. Hearing aid consumer protection board—Establishment—Members

Paragraph effective July 1, 1984.

§ 16. There shall be established a Hearing Aid Consumer Protection Board which shall assist, advise and make recommendations to the Department pursuant to this Act.

The Board shall consist of 5 members who shall be residents of Illinois. One shall be a licensed physician who specializes in otology or otolaryngology; one shall be a member of a consumer-oriented organization concerned with the hearing impaired; one shall be from the general public, preferably a senior citizen; and 2 shall be certified hearing aid dispensers. Each such certified hearing aid

dispenser shall have at least 5 years of experience, excepting those appointed to the first Board. One of the certified hearing aid dispensers shall be a Certified Clinical Audiologist, the other shall be a Certified Hearing Aid Audiologist.

Members of the Board shall be appointed by the Director. The term of office of each shall be 3 years, except for those of the first Board, 2 shall be appointed for 2 year terms. Before a member's term expires, the Director shall appoint a successor to assume member's duties at the expiration of his predecessor's term. A vacancy shall be filled by appointment for the unexpired term. The members shall annually designate one member as chairman. No member of the Board who has served 2 or more successive and full terms may be reappointed. The Director may remove members for good cause.

Members of the Board shall receive reimbursement for actual and necessary travel and for other expenses, not to exceed the limit established by the Department.

For repeal of Act, see note preceding § 7401 of this chapter.

7417. Duties of board

Paragraph effective July 1, 1984.

§ 17. The Board shall advise the Department in all matters relating to this Act and shall assist as requested by the Director.

The Board shall respond to issues and problems relating to the improvement of services to the hearing-impaired and shall make such recommendations as it considers advisable. It shall file an annual report with the Director and shall meet at least twice a year.

The Board shall recommend specialized education programs for persons wishing to become certified as hearing aid dispensers and shall, by rule, establish minimum standards of continuing education required for certificate renewal.

The Board shall hear charges brought against hearing aid dispensers and shall recommend disciplinary action to the Director.

For repeal of Act, see note preceding § 7401 of this chapter.

7418. Disciplinary actions by department—Grounds

Paragraph effective July 1, 1984.

§ 18. The Department may refuse to issue or renew a certificate or it may revoke, suspend, place on probation, censure or reprimand a certificate holder for any of the following:

(a) Material misstatement in furnishing information to the Department

(b) Violations of this Act, or the rules promulgated hereunder;

(c) Conviction of any crime under the laws of the United States or any state or territory thereof which is a felony or misdemeanor, an essential element of which is dishonesty, or of any crime which is directly related to the practice of the profession;

(d) Making any misrepresentation for the purpose of obtaining a certificate or renewing a certificate, including falsification of the continuing education requirement;

(e) Professional incompetence;

(f) Malpractice;

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- (j) Aiding or assisting another person in violating any provision of this Act or the rules promulgated hereunder;
- (k) Failing, within 60 days, to provide information in response to a written request made by the Department;
- (l) Engaging in dishonorable, unethical or unprofessional conduct which is likely to deceive, defraud or harm the public;
- (m) Knowingly employing, directly or indirectly, any suspended or unregistered person to perform any services covered by this Act;
- (n) Habitual intoxication or addiction to the use of drugs;
- (o) Discipline by another state, the District of Columbia, territory, or a foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth herein;
- (p) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership or association any fee, commission, rebate or other form of compensation for any professional services not actually rendered;
- (q) A finding by the Board that the registrant, after having his certificate placed on probationary status has violated the terms of probation;
- (r) Willfully making or filing false records or reports;
- (s) Willfully failing to report an instance of suspected child abuse or neglect as required by the "Abused and Neglected Child Reporting Act", approved June 26, 1975, as amended;¹
- (t) Physical illness, including but not limited to, deterioration through the aging process, or loss of motor skill which results in the inability to practice the profession with reasonable judgment, skill or safety;
- (u) Solicitation of professional services other than by permitted advertising;
- (v) Participating in subterfuge or misrepresentation in the fitting and servicing of a hearing aid;
- (w) Advertising a particular model or type of hearing aid for sale, when prospective purchasers cannot purchase the advertised model or type, where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model or type than that advertised;
- (x) Representing that the services of a licensed physician will be used or made available in the fitting, adjustment, maintenance or repair of hearing aids when that is not true, or using the words "doctor", "audiologist", "clinic", "Clinical Audiologist", "Certified Hearing Aid Audiologist", "State Certified", "Certified Hearing Aid Dispenser" or any other term, abbreviation or symbol when it would give the impression that service is being provided by persons awarded that degree or title, or that the person's service who is holding the certificate has been recommended by a governmental agency, when such is not the case;
- (y) Advertising a manufacturer's product or using a manufacturer's name or trademark implying a relationship which does not exist;
- (z) Directly or indirectly giving or offering anything of value to any person who advises another in a professional capacity, as an inducement to influence the purchase of a product sold or offered for sale by a hearing aid dispenser or influencing persons to refrain from dealing in the products of competitors;

(x) Conducting business while suffering from a contagious disease;

(y) Engaging in the fitting and sale of hearing aids under a name with fraudulent intent;

(z) Dispensing a hearing aid to a person who has not been given tests utilizing appropriate established procedures and instrumentation in the fitting of hearing aids, except where there is the replacement of a hearing aid, of the same make and model;

(aa) Unavailability or unwillingness to adequately provide for service and repair of hearing aids fitted and sold by the dispenser;

(bb) Violating the regulations of the Federal Food and Drug Administration or the Federal Trade Commission as they affect hearing aids;

(cc) Violating any provision of the "Consumer Fraud and Deceptive Business Practices Act", approved July 24, 1961, as amended.²

¹ Chapter 21 § 2051 et seq.

² Chapter 121 1/2 § 261 et seq.

For repeal of Act, see note preceding § 7401 of this chapter.

7419. Dispensing of hearing aids without certificate—Injunction—Costs

Paragraph effective July 1, 1981

§ 19. The practice of fitting, dispensing and servicing hearing aids by any person not at that time holding a valid and current certificate under this Act is hereby declared to be inimical to the public welfare and constitutes a public nuisance. The Director of the Department, through the Attorney General or the State's Attorney of any county, may maintain an action in the name of the people of the State of Illinois and may apply for an injunction in the circuit court to enjoin any such person from engaging in such practice. Upon the filing of a verified petition in such court, the court, if satisfied by affidavit, or otherwise, that such person has been engaged in such practice without a current certificate to do so, may issue a temporary injunction without notice or bond, enjoining the defendant from any such further practice. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as other civil cases. If it is established that the defendant has been, or is engaged in any unlawful practice, the court may enter an order or judgment perpetually enjoining the defendant from further such practice. In all proceedings hereunder, the court, in its discretion, may apportion the costs among the parties interested in the suit, including cost of filing complaint, service of process, witness fees and expenses, court reporter charges and reasonable attorneys fees. In case of violation of any injunction issued pursuant to this Section, the court, may try and punish the offender for contempt of court. Such injunction proceedings shall be in addition to all penalties and other remedies in this Act.

For repeal of Act, see note preceding § 7401 of this chapter.

7420. Inactive status

Paragraph effective July 1, 1981

§ 20. Any hearing aid dispenser who notifies the Department, on the prescribed forms, may place such certificate on inactive status and shall be exempt from payment of renewal fees until such person notifies the Department

M. D. Kelly

cite to the Department and if such person fails to do so, the Department shall seize such certificate.

For repeal of Act, see note preceding § 7401 of this chapter.

7427. Restoration of certificate

Paragraph effective July 1, 1981.

§ 27. At any time after the suspension or revocation of any certificate, the Department may restore it to the accused person, upon the written recommendation of the Board.

For repeal of Act, see note preceding § 7401 of this chapter.

7428. Payment of costs—Filing or receipt

Paragraph effective July 1, 1981.

§ 28. The Department shall not be required to certify any record to the Court or to file any answer in court or otherwise appear in any court in a judicial review proceeding, unless there is filed in the court, with the complaint, a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record, which costs shall be computed at the rate of 20 cents per page of such record. Failure on the part of the plaintiff to file such receipt in court shall be grounds for dismissal of the action.

For repeal of Act, see note preceding § 7401 of this chapter.

7429. Certain orders as prima facie proof

Paragraph effective July 1, 1981.

§ 29. An order or a certified copy thereof, over the seal of the Department and purporting to be signed by the Director, shall be prima facie proof:

- (a) That such signature is the signature of the Director;
- (b) That the Director is duly appointed and qualified; and
- (c) That the Board, and the members thereof, are qualified to act.

For repeal of Act, see note preceding § 7401 of this chapter.

7430. Determination of mental illness—Automatic suspension of certificate

Paragraph effective July 1, 1981.

§ 30. The determination by a circuit court that a certificate holder is subject to involuntary admission or judicial admission, as provided in the "Mental Health and Developmental Disabilities Code", approved September 5, 1978, as amended,¹ operates as an automatic suspension of the holder's certificate. Such suspension will end upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and the court issues an order so finding and discharging the patient and upon the recommendation of the Board to the Director that the registrant be allowed to resume his practice.

¹ Chapter 91½, § 1-100 et seq.

For repeal of Act, see note preceding § 7401 of this chapter.

7431. Applicability of Administrative Procedure Act—Review under Administrative Review Law

Paragraph effective July 1, 1981.

§ 31. The provisions of "The Illinois Administrative Procedure Act", approved September 22, 1973, as amended,¹ shall apply to this Act. All final administrative decisions of the Department are subject to judicial review pursuant to the provisions of Article 3 of the "Code of Civil Procedure", approved August 19, 1981, as amended.² Any circuit court, upon the application of the certificate holder or the Department, may order the attendance of witnesses and the production of relevant records in any Departmental hearing relative to the application for or refusal, recall, suspension or revocation of a certificate.

¹ Chapter 127, § 1001 et seq.

² Chapter 110, § 3-101 et seq.

For repeal of Act, see note preceding § 7401 of this chapter.

7432. Public policy

Paragraph effective July 1, 1981.

§ 32. It is declared to be the public policy of this State, pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution of 1970, that any power or function set forth in this Act to be exercised by the State is an exclusive State power or function. Such power or function shall not be exercised concurrently, either directly or indirectly, by any unit of local government, including home rule units, except as otherwise provided in this Act.

For repeal of Act, see note preceding § 7401 of this chapter.

7433. Violations of act—Unlawful practice under Consumer Fraud and Deceptive Business Practices Act

Paragraph effective July 1, 1981.

§ 33. The advertising, offering for sale, sale or distribution of hearing aid goods and services to consumers by any person in violation of any of the provisions of this Act is an unlawful practice pursuant to Section 20 of the "Consumer Fraud and Deceptive Business Practices Act"; approved July 24, 1961, as amended.¹

¹ Chapter 121½, § 262a.

For repeal of Act, see note preceding § 7401 of this chapter.

7434. Powers of attorney general—Award of actual damages

Paragraph effective July 1, 1981.

§ 34. All remedies, penalties and authority granted to the Attorney General by the "Consumer Fraud and Deceptive Practices Act", approved July 24, 1961, as now or hereafter amended,¹ shall be available to him for the enforcement of this Act, and Sections 3, 4, 5, 6, 6.1, 7 and 10 of that Act² are hereby incorporated by reference into this Act. In addition, in any action brought by the Attorney General to enforce this Act, the court may order that persons who incurred actual damages be awarded the amount at which actual damages are assessed.

¹ Chapter 121½, § 261 et seq.

² Chapter 121½, §§ 263 to 267 and 270.

For repeal of Act, see note preceding § 7401 of this chapter.

in writing, of his intention to resume the practice of fitting, dispensing and servicing hearing aids and pays the current renewal fee. However, if such period of inactive status is more than 5 years, the hearing aid dispenser shall also provide the Department with sworn evidence certifying to active practice in another jurisdiction that is satisfactory to the Department. If such person has not practiced in any jurisdiction for 5 years or more, he shall be required to restore his certificate as provided in this Act. Any hearing aid dispenser whose certificate has an inactive status shall not practice in Illinois.

For repeal of Act, see note preceding § 7411 of this chapter.

7421. Investigation by department—Notice of charges—Hearing

Paragraph effective July 1, 1984.

§ 21. The Department may investigate the actions of any applicant or any person holding or claiming to hold a certificate. The Department shall, before refusing to issue a certificate or disciplining a registrant, notify, in writing, at least 10 days prior to the date set for the hearing, the applicant for, or holder of, a certificate. The notification shall set forth the charges and the date of the hearing. The hearing shall determine whether the applicant or holder is entitled to hold such certificate, and shall afford such person an opportunity to be heard in person or by counsel. Such written notice may be served by certified or registered mail to the respondent at his last known address. At the time and place fixed in the notice, the Board shall hear the charges and the parties shall be accorded opportunity to present such statements, testimony and evidence as may be pertinent to the charges or defenses. The Board may continue such hearing from time to time. Pursuant to rule, the Director may conduct informal hearings, and shall so inform the Board.

For repeal of Act, see note preceding § 7301 of this chapter.

7422. Findings and recommendation of board

Paragraph effective July 1, 1984.

§ 22. At the conclusion of the hearing, the Board shall present to the Director a written report of its finding and recommendation as to whether or not the accused person violated this Act or failed to comply with the conditions required in this Act or any rule promulgated pursuant hereto. The Board shall specify the nature of the violation or failure to comply and shall make its recommendations to the Director.

The report of findings and recommendation of the Board shall be the basis for the Department's action with respect to certificates or the imposition of any disciplinary action. The findings are not admissible in evidence against the person in a criminal prosecution brought for the violation of this Act, but the hearing and findings are not a bar to a criminal prosecution brought for violating this Act.

For repeal of Act, see note preceding § 7301 of this chapter.

7423. Record of proceedings—Service upon respondent of copy of board's report—Motion for rehearing—Order

Paragraph effective July 1, 1984.

§ 23. The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case

involving the refusal to issue a certificate or to discipline a registrant. The notice of hearing, the complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the Board and the orders of the Department shall be the record of such proceeding.

In any case involving the refusal to issue a certificate or to discipline a registrant, a copy of the Board's report shall be served upon the respondent by the Department, as provided in this Act for the service of the notice of hearing. Within 20 days after such service, the respondent may present to the Department a motion in writing for a rehearing, which motion shall specify the particular grounds therefor. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon such denial, the Director may enter an order in accordance with recommendations of the Board. If the respondent orders and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which such a motion may be filed shall commence upon the delivery of the transcript to the respondent.

Whenever the Director is satisfied that substantial justice has not been done either in an examination or in the revocation, suspension or refusal to issue a certificate, the Director may order a re-examination or rehearing.

For repeal of Act, see note preceding § 7301 of this chapter.

7424. Violations of act—Injunctions

Paragraph effective July 1, 1984.

§ 24. If any registrant violates any provision of this Act, the Director may, through the Attorney General, petition for an order enjoining such violation or for an order enforcing compliance with this Act or any rule issued pursuant hereto. Upon the filing of a verified petition in such court, the court may issue a temporary injunction, without notice or bond, enjoining such continued violation, and if it is established that such person has violated or is violating the injunction, the Court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to all other remedies and penalties.

For repeal of Act, see note preceding § 7301 of this chapter.

7425. Powers of circuit court

Paragraph effective July 1, 1984.

§ 25. Any circuit court may, upon application of the prosecutor or of the applicant or registrant against whom disciplinary proceedings are pending, enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt.

For repeal of Act, see note preceding § 7301 of this chapter.

7426. Surrender of certificate

Paragraph effective July 1, 1984.

§ 26. Upon the revocation or suspension of any certificate, the registrant shall forthwith surrender the certifi-

Repealed

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Department of Human Resources
HEALTH DIVISION Board of Examiners for Speech Pathology
and Audiology

1400 S.W. 5th AVENUE, PORTLAND, OREGON 97201 PHONE

228-6479

November 15, 1982

TO: Oregon Licensed Audiologists

FROM: Duane Anderson, Executive Secretary, Board of Examiners
for Speech Pathology and Audiology

SUBJECT: Law concerning use of the term "Audiologist"

On July 1, 1983 the Board mailed the attached memos to all Oregon registered hearing aid dealers. During their October 15, 1983 meeting the Board requested that we mail copies of this material to all licensed audiologists in Oregon. The Board plans to pursue legal action against any person in Oregon who uses the term "Audiologist" in any context and is not licensed as an audiologist under ORS 681.

attachment

AN EQUAL OPPORTUNITY EMPLOYER

Mailing Address: P.O. Box 231, Portland, Oregon 97207

228-6479

July 1, 1983

TO: Oregon Registered Hearing Aid Dealers
FROM: Board of Examiners for Speech Pathology and Audiology
SUBJECT: Use of the Term "Audiologist" and Related Words

During the last few years the Board of Examiners for Speech Pathology and Audiology has made numerous attempts to discourage hearing aid dealers from using the term "audiologist" and related terms in their telephone directory and newspaper advertising. In addition, several hearing aid dealers are displaying their NHAS certificate which identifies them as a "Certified Hearing Aid Audiologist".

Recently we requested an advisory statement on this matter from the Consumer Protection Section of the Department of Justice. The attached memo from their office should resolve any misunderstandings which may currently exist. If you have any questions, please feel free to contact our office or the Consumer Protection Section of the Department of Justice.

attachment



STATE OF OREGON

INTEROFFICE MEMO

TO: Board of Examiners for Speech Pathology and Audiology DATE: June 15, 1983

FROM: Daryl Dodson Wilson
Assistant Attorney General

SUBJECT: Hearing Aid Dealer's Use of the Term "Audiology" and
Related Words

A review of ORS Chapter 681 and ORS Chapter 694 shows that a hearing aid dealer who falsely represents that the services of an audiologist are available, or who claims to be giving "audiological testing" when no licensed audiologist is performing the test, may be in violation of several statutes. The penalties may be cumulative.

1. Hearing aid dealers are generally governed by ORS Chapter 694.

ORS 694.015(5) anticipates that hearing aid dealers will be conducting some hearing tests in conjunction with the provision of hearing aids. These tests include evaluation or measurement of the powers or range of human hearing. In offering these tests, a dealer may not advertise that the services of either an "audiologist" or "clinical audiologist" is available for selection, fitting, adjustment, maintenance or repair of hearing aids, when no properly licensed audiologist is performing the service. A dealer may have his or her license suspended or revoked or may be put on probation for these false representations. ORS 694.136(8).

A problem may arise when a dealer offers "audiological" testing without having a licensed audiologist performing the test. Even though "audiological" and related terms may have trade or common meaning, these words should only be used in advertisements in Oregon in accordance with the definition in ORS 681.205 (see 2. below). It would seem that the Oregon statutory scheme anticipates that only licensed audiologists may conduct "audiological" tests.

ORS Chapter 694 also provides criminal sanctions for some misrepresentations. A false claim that an audiologist's services will be used, are used, or made available may be punishable by up to a \$500 fine and up to 90 days of imprisonment. ORS 694.911(1).

A hearing aid dealer should also be concerned that no false, misleading or deceptive name is used in his or her business. ORS 694.136(11). A dealer would also violate the

To: Board of Examiners for Speech Pathology and Audiology
Page 2
June 15, 1983

statutes by making a false, misleading or deceptive representation regarding any guarantee or services provided.
ORS 694.136(2).

2. ORS Chapter 681 dealing with audiologists and speech pathologists may also be of concern to hearing aid dealers.

Both hearing aid dealers and audiologists measure the powers or range of human hearing. See ORS 694.015(5) and ORS 681.205(4). However, the focus and extent of the testing and evaluation are quite different. ORS Chapter 681 provides that only a licensed audiologist may represent that he or she is engaged in the practice of audiology.

Although many of the terms used in these statutes may have meanings in the hearing aid trade, the statutory definition takes precedence in Oregon. Thus, the terms "audiology" and "practice of audiology" carry a particular meaning, whether used by audiologists or by hearing aid dealers. See ORS 681.205(1) and (4). Any person holding him or herself out as a "hearing clinician", "hearing therapist" or "audiologist" or a similar title or description of service must be a licensed audiologist. ORS 681.250(2). Similar titles or descriptions of service might include "audiological testing" and "audiological service". Remember, the common meaning of these words must give way when the statute provides a definition.

It is a misdemeanor to falsely use any of these titles or descriptions of service. ORS 681.991. The District Attorney's office would prosecute the case. Class A misdemeanor carries a penalty of a maximum \$2,500 fine and a maximum one year in prison. See ORS 161.555(3) and ORS 161.615 and 161.635.

3. The Oregon Unlawful Trade Practices Act (UTPA) ORS 646.605 to 646.638 governs some activities of hearing aid dealers.

A variety of unconscionable tactics and unlawful trade practices are prescribed by the UTPA. A hearing aid dealer might be in conflict with the Unlawful Trade Practices Act if he or she said that "audiological testing services" were available when no licensed audiologist actually performed the services. The unlawful business practice in that case might include causing a likelihood of confusion or misunderstanding as to the affiliation, connection or association with another; or representing that services have quantities or qualities that they do not have or that a person has a status or qualification or connection that he does not have. See ORS 646.608(1)(c) and (e).

To: Board of Examiners for Speech Pathology and Audiology
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A hearing aid dealer who said that audiological testing was performed, when no licensed audiologist performed those tests, might be found in violation of the Unlawful Trade Practices Act for that false advertising, as well as being in violation of ORS Chapter 681 and ORS Chapter 694. The penalties for violation of the Unlawful Trade Practices Act include injunction, restitution for actual damages, possible punitive damages, attorneys fees and other relief granted by the court. The statute provides for suit by the Attorney General, the District Attorney or by a private citizen. This is the area of concern to the Consumer Protection Division (Financial Fraud Unit) of the Department of Justice.

4. Other regulations are also pertinent to hearing aid dealers.

Oregon common law and statutes provide other remedies for a person who has been defrauded. Separate statutes cover home solicitations. See ORS 646.611 and 83.720. A dealer might want to take extra steps to check compliance with these laws before sales are made.

kp

You can call the Illinois Department of Public Health toll-free:

1-800-572-3270

(TDD OR VOICE AVAILABLE)



IF...

**YOU
PURCHASE
WISELY**

Division of Health Promotion and Screening
Illinois Department of Public Health
535 West Jefferson
Springfield, Illinois 62761

A consumer protection service
provided through the Hearing Aid
Consumer Protection Program

Printed by Authority of the State of Illinois
6/85

Illinois Department of Public Health

Remember these important facts:

1. **MEDICAL CLEARANCE** from a licensed physician should be obtained before buying a hearing aid. This identifies medically treatable conditions which affect your hearing.
 2. Obtain a **HEARING EVALUATION** from a certified dispenser or clinical audiologist before purchasing a hearing aid.
 3. Be sure the hearing aid dispenser is **CERTIFIED** by the Illinois Department of Public Health.
 4. Ask if a **TRIAL PERIOD OR RETURN PRIVILEGE** is offered. If so, make sure that this and the cost of this trial period are stated in the contract.
 5. Ask if the hearing aid has a **MANUFACTURER'S WARRANTY** and/or **SERVICE CONTRACT**. Find out what services each provide, what costs are involved and the time period they cover.
 6. Illinois Law requires a dispenser who sells hearing aids door-to-door or in a customer's home to give a **NOTICE OF CANCELLATION** to the buyer. The Notice explains the legal right of the buyer to cancel the purchase within three days of the sale.
 7. Make sure that the **DELIVERY DATE** of the hearing aid is written in the contract.
 8. If possible, do not pay the full price of the hearing aid in advance. Make a **DEPOSIT** and pay the balance when the hearing aid is delivered.
 9. If the hearing aid is uncomfortable, causing problems or not working properly, **CONTACT YOUR DISPENSER** immediately.
 10. Ask about the dispenser's **REPAIR POLICY**. Can repairs be done at the office or must hearing aids be mailed to the manufacturer? How long will these repairs take and are "loaner" aids available?
 11. Keep all information received as
- RECORD OF PURCHASE**, such as receipts, warranties, etc., for future reference.
12. You may want to **BRING A FRIEND** along to assist you when you purchase a hearing aid.
 13. A hearing aid is an important investment. Don't be afraid to **ASK QUESTIONS** or seek a second opinion.
- There is a law to protect Illinois consumers from dishonest and incompetent hearing aid dispensing practices. The **ILLINOIS HEARING AID CONSUMER PROTECTION ACT**, administered by the Illinois Department of Public Health, requires that:
1. All dispensers must be **CERTIFIED** to dispense hearing aids, and
 2. Should a consumer have an **INQUIRY** or **COMPLAINT** regarding a hearing aid and/or dispenser, the **ILLINOIS DEPARTMENT OF PUBLIC HEALTH** will investigate and offer assistance.

"The Logo: A Hearing Aid Can Be a Good Sound Investment" by service mark is the property of the Illinois Department of Public Health



Illinois Marketing and Consumer Protection

Consumer protection services provided through
the Illinois Department of Public Health (IDPH)

CALL TOLL FREE 1-800-372-3770

IF YOU HAVE ANY QUESTIONS ABOUT THE HEARING AID CONSUMER PROTECTION ACT, OR WOULD LIKE A COPY OF THIS ACT, PLEASE CONTACT THE VISION/HEARING CONSULTANT AT ONE OF THE OFFICES LISTED BELOW.

Region 1

Illinois Department of Public Health
4302 N. Main Street
Rockford, Illinois 61105
815/987-7511

Region 2

Illinois Department of Public Health
5415 University
Peoria, Illinois 61614
309/691-2200, ext. 312

Region 3

Illinois Department of Public Health
4500 South Sixth Street Road
Springfield, Illinois 62706
217/786-6345

Region 4

Illinois Department of Public Health
Cottonwood Road
Edwardsville, Illinois 62025
618/288-5756

Region 5

Illinois Department of Public Health
2209 Main Street
Marion, Illinois 62959
618/997-4371

Region 6

Illinois Department of Public Health
2125 South First Street
Champaign, Illinois 61820
217/333-6914

Region 7

Illinois Department of Public Health
245 West Roosevelt Road
Bldg. 5
West Chicago, Illinois 60185
312/293-6842

Region 8

Illinois Department of Public Health
160 N. LaSalle, Room 1112
Chicago, Illinois 60601
312/793-3880

A SYNOPSIS OF THE HEARING AID CONSUMER PROTECTION ACT

PUBLIC ACT 83-0928

EFFECTIVE JULY 1, 1984

For more information call
1-800-572-3270
(Voice or TDD)



ILLINOIS DEPARTMENT OF PUBLIC HEALTH
DIVISION OF HEALTH PROMOTION AND SCREENING
535 WEST JEFFERSON STREET
SPRINGFIELD, ILLINOIS 62761

Printed by Authority of the
State of Illinois
5/84

Illinois Department of Public Health
Division of Health Promotion and Screening
Hearing Aid Consumer Program

HEARING AID CONSUMER PROTECTION ACT

The Illinois "Hearing Aid Consumer Protection Act" was enacted into law by the 83rd General Assembly. The purpose of the Act is to protect the hearing impaired public from incompetent and dishonest dispensers of hearing aids who could endanger the health, safety and welfare of the people of this State.

ILLINOIS DEPARTMENT OF PUBLIC HEALTH

The Illinois Department of Public Health is mandated to supervise the issuance of certificates to hearing aid dispensers, administer examinations to applicants for the hearing aid dispenser certificate, suspend or revoke certificates or take such other disciplinary action, if the provisions of the Act are violated, and to promulgate rules necessary to implement this Act, which becomes effective July 1, 1984.

Under the direction of the Division of Health Promotion and Screening, Vision and Hearing Section, the Department will initiate a four point action plan to implement Public Act 83-0928:

1. Health Promotion - Consumer Education
2. Continuing Education for Dispenser of Hearing Aids
3. Certification of Dispensers of Hearing Aids
4. Follow-up and Investigation of Complaints

WHAT THE CONSUMER SHOULD KNOW ABOUT THE HEARING AID CONSUMER PROTECTION ACT

1. No person shall engage in the selling, practice of fitting, dispensing or servicing hearing aids, or display signs, advertise, or represent oneself as a person who practices the fitting and selling of hearing aids after January 1, 1985, unless such holds a current certificate issued by the Department as provided in this Act.

2. The certificate shall be conspicuously displayed in the place of business. A sign must be conspicuously displayed in the dispenser's business and a written statement must be given to each hearing aid purchaser indicating that complaints regarding hearing aids may be made to the Illinois Department of Public Health.

3. Every person fitted and sold a hearing aid shall be given, at no charge, the "User Instructional Brochure" supplied by the manufacturer.

4. The dispenser shall provide a receipt to each hearing aid purchaser with the seller's signature, phone number, the manufacturer's specifications, the make, model and serial number of the hearing aid furnished, the dispenser's certification number, and the full sales term clearly stated. The receipt and container for a used hearing aid shall be clearly marked as such.

5. A hearing aid dispenser shall not sell a hearing aid unless the prospective user presents to the dispenser a written statement signed by a licensed physician which states that the patient's hearing loss has been medically evaluated.

The medical waiver requirement may only be waived by the patient when the patient is 18 years or older. The dispenser must inform the user that the exercise of the waiver is not in the user's best health interest; and the dispenser cannot in any way encourage the user to waive medical evaluation.