

LEG. FINANCE - BILLS 1985 - 1986 2398

HB 430 cont. - CS HB 430 2398

ADOPTED

Alaska State Legislature

REPRESENTATIVE
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DISTRICT 5A

CHAIR, LABOR & COMMERCE
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House of Representatives

MEMORANDUM

April 2, 1986

TO: Rep. Al Adams, Chair
All Members, House Finance Committee

FROM: Representative Mike Navarre

Subject: House Bill 430

In conferring with various people in the field of audiology and consumer protection, I would like to offer the following amendments to the CS For House Bill 430 (HESS):

page 21, between lines 3 and 4, insert: "If the goods have been damaged, the hearing aid dealer may deduct from any refund due you the reasonable costs incurred in repairing the goods to make them suitable for resale. If the goods have been damaged beyond repair, you are liable for the full purchase price."

page 22, line 22, insert a subsection (e) the reads:

" (e) If the goods returned by the purchaser have been damaged the hearing aid dealer may deduct from any refund due the purchaser the reasonable costs incurred in repairs necessary to make the goods suitable for resale. If the goods are damaged beyond repair, the purchaser is liable for the full purchase price."

3/17/86

CS FOR HB 430 (LABOR & COMMERCE)
SECTIONAL ANALYSIS

Section 1 states the legislative findings and purpose of the bill.

Section 2 adds audiologists and hearing aid dealers to the centralized licensing chapter.

Section 3 adds audiologists and hearing aid dealers to those others provided with services by the department, without requiring a board or commission.

Section 4 adds audiologists and hearing aid dealers to 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 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.

08.11.060 requires malpractice insurance for audiologists.

08.11.070 allows audiologists to fit and sell hearing aids. Requires audiologists to comply with applicable provisions of consumer protection language of bill.

08.11.080 define grounds for disciplinary actions against audiologists.

08.11.090 lists disciplinary sanctions.

08.11.100 lists prohibited acts.

08.11.110 makes violations of prohibited acts a class B misdemeanor (actual penalties defined elsewhere).

08.11.120 provides for exemptions under this chapter; prevents those individuals who may be exempt, but who are not audiologists, from holding forth as an audiologist.

08.11.130 states the Administrative Procedure Act applies to regulations under this chapter.

08.11.200 is the definition section for this chapter.

Section 8 adds a new chapter to AS 08, addressing hearing aid dealers. The following sections are within this chapter:

08.55.010 provides for qualifications for license.

08.55.020 provides for 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 a contract with a consumer for the purchase or lease of a hearing aid, to provide the consumer with an instructional brochure; the dealer's registration number, specifications, make, model and serial number of the hearing aid; a clear statement of the full terms of the contract; written information on the consumer's right to file a complaint, including the address of the department;

also requires that any used or reconditioned hearing aid be clearly labeled as such, and 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 years of age 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 four years after sale date of hearing aid.

08.55.070 provides method of mailing hearing aids to consumer.

08.55.080 provides the consumer may file a complaint with the department within three years of purchase date; requires dealer to post notice of consumer's right to file complaint.

08.55.090 requires liability insurance for hearing aid dealers; empowers department to set insurance requirements.

08.55.100 requires hearing aid dealers keep audiometers calibrated to national standards.

08.55.110 provides dealer will inform consumer of consumer's right to cancel purchase or lease of hearing aid; lists valid reasons for cancellation; provides facsimile of "notice of right to cancel" form hearing aid dealer must provide, form provides for terms of cancellation; provides for refund of purchase price less reasonable costs incurred by dealer; return of goods traded as part of sale or lease, return of negotiable instruments signed by the purchaser as part of sale or lease, cancellation of security interest taken by dealer as part of sale or lease; requires a dealer to collect a hearing aid from the consumer within 20 days of receipt of the cancellation or else consumer can retain possession; requires consumer make hearing aid available for dealer to collect, or else cancellation is void; provides notice of cancellation requirements.

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 lists grounds for disciplinary sanctions.

08.55.140 lists disciplinary sanctions the department may impose.

08.55.150 lists prohibited acts.

08.55.160 makes violation of prohibited acts a class B misdemeanor.

08.55.170 requires a hearing aid dealer to notify the department of the address of their regular place of business.

08.55.180 states the Administrative Procedure act applies to this chapter.

08.55.200 is the definition section for this chapter.

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 & officers.

Section 12 adds failure to comply with AS. 08.55 to AS 45.50.471(b), the unlawful acts and practices section of Trade & Commerce.

Section 13 adds "dealing in hearing aids" and "hearing aid" to the AS 45.50.561, the definitions section of Trade and Commerce.

Section 14 adds "audiologists" and "hearing aid dealers" to AS 47.17.090(9) as "practitioners of the healing arts".

Introduced: 5/9/85
Referred: Labor & Commerce,
Health, Education & Social
Services and Finance

BY NAVARRE, GRUENBERG,
HURLEY AND THOMPSON

1 IN THE HOUSE

2 HOUSE BILL NO. 430

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST 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 communicatively handicapped
18 persons of the state.

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

20 (26) regulation of audiologists under AS 08.11;

21 (27) 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 OR
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 board [BY ONE OF THE BOARDS] listed in AS 08.01.010;

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

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

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

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

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

26 CHAPTER 11. AUDIOLOGISTS.

27 Sec. 08.11.010. QUALIFICATIONS FOR LICENSE. (a) The department
28 shall issue a license to practice audiology to an individual who

29 (1) is 18 years of age or more;

1 (2) applies on a form provided by the department;
2 (3) pays the fee required under AS 08.11.050;
3 (4) furnishes evidence satisfactory to the department that
4 the person

5 (A) has not engaged in conduct that is a ground for
6 imposing disciplinary sanctions under AS 08.11.070;

7 (B) holds a master's degree, doctorate, or the equiva-
8 lent, in audiology from an accredited educational institution
9 approved by the department; and

10 (5) has good moral character.

11 Sec. 08.11.020. TEMPORARY LICENSE TO PRACTICE AUDIOLOGY. (a)
12 Pending disposition of the application the department shall issue a
13 temporary license for the practice of audiology to an individual who
14 is licensed to practice audiology in another state and has submitted
15 to the department an application for a license under this chapter.

16 (b) The department may issue a temporary license to the follow-
17 ing:

18 (1) an individual from another state for the practice of
19 audiology in this state

20 (A) for five days or less in a calendar year; and

21 (B) in cooperation with an audiologist licensed under
22 this chapter;

23 (2) a nonresident individual of the state for the practice
24 of audiology in the state for 30 days or fewer in a calendar year, if
25 the individual is licensed as an audiologist in another state, terri-
26 tory of the United States, foreign country, or province that has
27 requirements for a license to practice audiology that are substan-
28 tially equivalent to or higher than the requirements of this chapter.

29 (3) a nonresident individual of the state for the practice

1 of audiology in this state for 30 days or fewer in a calendar year, if
2 the individual meets the qualifications and requirements for a license
3 under this chapter, and resides in a state or territory of the United
4 States or a foreign country or province that does not license audiologists.
5

6 (c) The department may impose limitations that it determines are
7 appropriate on a temporary license issued under this section.

8 Sec. 08.11.030. DURATION OF LICENSE. A license issued under
9 this chapter is valid until January 30 of the year following its
10 issuance, and is subject to renewal.

11 Sec. 08.11.040. RENEWAL OF LICENSES. (a) The department shall
12 renew the license of a person licensed under this chapter if the
13 person submits to the department on or before January 30 of each year
14 an application for renewal and pays the renewal fee.

15 (b) If a person fails to renew a license under (a) of this
16 section, the license lapses.

17 (c) The department may reinstate a lapsed license if the license
18 has lapsed for less than two years and if the person submits to the
19 department an application for renewal and pays a delinquency fee in
20 addition to the renewal fee.

21 (d) A suspended license is subject to expiration and must be
22 renewed as provided in this section, but the renewal does not entitle
23 the person while the license remains suspended to practice audiology
24 or to engage in other activity or conduct that violates the order or
25 judgment that suspended the license.

26 Sec. 08.11.050. FEES. The following fees shall be imposed under
27 this chapter:

- 28 (1) application\$ 25
- 29 (2) credential review 50

1 (3) license under AS 08.11.010100
 2 (4) temporary license 50
 3 (5) renewal of license under AS 08.11.040100
 4 (6) delinquency 25
 5 (7) reinstatement100

6 Sec. 08.11.060. MALPRACTICE INSURANCE. A person licensed under
 7 this chapter shall maintain insurance against liability for negligence
 8 in the practice of audiology.

9 Sec. 08.11.070. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANC-
 10 TIONS. After a hearing, the department may impose a disciplinary
 11 sanction on a person licensed under this chapter when the department
 12 finds that the person

13 (1) secured a license through deceit, fraud, or intentional
 14 misrepresentation;

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

17 (3) advertised professional services in a false or mislead-
 18 ing manner;

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

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

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

25 (A) professional incompetence;

26 (B) addiction to or severe dependency on alcohol or
 27 another drug that impairs the person's ability to practice
 28 safely;

29 (C) physical or mental disability;

- 1 (7) permitted another person to use the licensee's license;
2 (8) employed a person who does not have a valid current
3 license to practice audiology to perform work covered by this chapter;
4 (9) violated the code of ethics established by the depart-
5 ment for the practice of audiology;
6 (10) violated a provision of this chapter.

7 Sec. 08.11.080. DISCIPLINARY SANCTIONS. (a) When it finds that
8 a licensee has committed an act listed in AS 08.11.070, the department
9 may impose the following sanctions singly or in combination:

- 10 (1) permanently revoke a license to practice;
11 (2) suspend a license for a determinate period of time;
12 (3) censure a licensee;
13 (4) issue a letter of reprimand;
14 (5) place a licensee on probationary status and require the
15 licensee to

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

18 (B) limit practice to those areas prescribed;

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

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

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

27 (c) The department may summarily suspend a license before final
28 hearing or during the appeals process if the department finds that the
29 licensee poses a clear and immediate danger to the public welfare and

1 safety if the licensee continues to practice. A person whose license
2 is suspended under this section is entitled to a hearing by the de-
3 partment no later than seven days after the effective date of the
4 order. The person may appeal the suspension after the hearing to the
5 superior court.

6 (d) The department may reinstate a license that has been sus-
7 pended or revoked if the department finds after a hearing that the
8 person is able to practice with reasonable skill and safety.

9 (e) One year after revocation of a license issued under this
10 chapter, the person whose license was revoked may reapply for a li-
11 cense to practice audiology. The department may require an examina-
12 tion for reinstatement.

13 Sec. 08.11.090. PROHIBITED ACTS. Unless a person is licensed
14 under this chapter, the person may not

15 (1) practice audiology;

16 (2) use a title indicating or representing that the person
17 practices or is licensed to practice audiology;

18 (3) advertise that the person practices audiology.

19 Sec. 08.11.100. PENALTIES. A person who violates AS 08.11.090
20 is guilty of a class B misdemeanor.

21 Sec. 08.11.110. EXEMPTIONS. (a) This chapter does not apply to
22 a person who practices audiology consistent with the accepted stan-
23 dards and code of ethics of the person's profession and as part of the
24 person's duties as

25 (1) a physician licensed under AS 08.64;

26 (2) a nurse licensed under AS 08.68;

27 (3) an employee of a governmental unit, educational insti-
28 tution, or nonprofit agency who is required to practice audiology
29 during the employment, if

1 (A) the employer maintains appropriate supervision of
2 the person's practice of audiology;

3 (B) the person practices audiology as part of the
4 duties for which the person is employed;

5 (C) the person practices audiology in the facility
6 where the person is employed or under the supervision of the
7 governmental unit, educational institution, or nonprofit agency
8 where the person is employed; and

9 (D) the person does not render or offer to render
10 audiology services to the public for compensation in addition to
11 the salary the person receives from the governmental unit, educa-
12 tional institution, or nonprofit agency;

13 (4) a student, intern, or resident pursuing a course of
14 study in audiology at an accredited college or a clinical training
15 facility approved by the department, if the activities of the student,
16 intern, or resident constitute part of a supervised course of study
17 and the student, intern, or resident is designated as an "audiology
18 intern," "audiology trainee," or other title approved by the depart-
19 ment that clearly indicates that the person is training to be an
20 audiologist.

21 (b) Notwithstanding the provisions of this chapter,

22 (1) a person licensed as a hearing aid dealer under AS 08.-
23 55 may consult about the selling of hearing aids;

24 (2) a person holding a Class A certificate issued by the
25 Conference of Executives of American Schools of the Deaf may perform
26 the functions for which the person qualifies.

27 (c) A person exempt under this section may not use a title or
28 description stating or implying that the person is an audiologist
29 licensed under this chapter.

1 (d) A person exempt under (a)(3) of this section may consult
2 with and disseminate research findings and scientific information to
3 accredited academic institutions or governmental agencies, and offer
4 lectures to the public for a fee, monetary or otherwise, without being
5 licensed under this chapter.

6 Sec. 08.11.120. PROCEDURES. The Administrative Procedure Act
7 (AS 44.62) applies to regulations and proceedings under this chapter.

8 Sec. 08.11.200. DEFINITIONS. In this chapter, unless the con-
9 text indicates otherwise,

10 (1) "audiologist" means a person who practices audiology;

11 (2) "department" means the Department of Commerce and
12 Economic Development;

13 (3) "practice of audiology" means the application of prin-
14 ciples, methods, and procedures of measurement, testing, appraisal,
15 prediction, consultation, counseling and instruction related to hear-
16 ing and hearing impairment for the purpose of modifying communicative
17 disorders involving speech, language, auditory function, including
18 auditory training, speech reading and hearing aid evaluation, or other
19 behavior related to hearing impairment.

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

21 CHAPTER 55. HEARING AID DEALERS.

22 Sec. 08.55.010. QUALIFICATIONS FOR LICENSE. (a) The department
23 shall issue a license to act as a hearing aid dealer to an individual
24 who

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

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

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

28 (4) has good moral character;

29 (5) has a business license issued under AS 43.70.020;

1 (6) furnishes evidence satisfactory to the department that
2 the individual has not engaged in conduct that is a ground for impos-
3 ing disciplinary sanctions under AS 08.55.040.

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

7 (b) On or before the expiration of one year after the issuance
8 of a license under this chapter, a licensee may apply for renewal of
9 the license, and the department shall renew the license if the li-
10 censee pays the renewal fee and provides evidence satisfactory to the
11 department that the individual has not engaged in conduct that is a
12 ground for imposing disciplinary sanctions under AS 08.55.040.

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. FEES. The following fees shall be imposed under
19 this chapter:

- 20 (1) application\$ 25
21 (2) license under AS 08.55.010 100
22 (3) renewal of license under AS 08.55.020 100
23 (4) renewal delinquency 50

24 Sec. 08.55.040. GROUNDS FOR IMPOSITION OF DISCIPLINARY SANC-
25 TIONS. After a hearing, the department may impose a disciplinary
26 sanction on a person licensed under this chapter when the department
27 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 person's ability to continue to practice competently and
8 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 person'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 person could normally be reached during regular
27 business hours;
- 28 (11) permitted another person to use the licensee's license;
- 29 (12) dealt in hearing aids while suffering from a serious

1 disease that was contagious or infectious;

2 (13) violated a provision of this chapter.

3 Sec. 08.55.050. DISCIPLINARY SANCTIONS. (a) When it finds that
4 a licensee has committed an act listed in AS 08.55.040, the department
5 may impose the following sanctions singly or in combination:

6 (1) permanently revoke a license to practice;

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

8 (3) censure a licensee;

9 (4) issue a letter of reprimand;

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

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

14 (B) limit practice to those areas prescribed;

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

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

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

23 (c) The department may summarily suspend a license before final
24 hearing or during the appeals process if the department finds that the
25 licensee poses a clear and immediate danger to the public welfare and
26 safety if the licensee continues to practice. A person whose license
27 is suspended under this section is entitled to a hearing by the de-
28 partment no later than seven days after the effective date of the
29 order. The person may appeal the suspension after the hearing to the

1 superior court.

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

6 Sec. 08.55.060. PROHIBITED ACTS. (a) Unless a person is li-
7 censed under this chapter, the person may not

8 (1) deal in hearing aids;

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

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

12 (b) A person may not

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

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

18 (3) materially alter a license issued under this chapter
19 with fraudulent intent;

20 (4) use or attempt to use as valid a license to deal in
21 hearing aids that has been purchased, fraudulently obtained, counter-
22 feited, or materially altered.

23 Sec. 08.55.070. NOTICE OF PLACE OF BUSINESS. A person who holds
24 a license under this chapter shall notify the department in writing of
25 the regular address of the place or places where the person deals or
26 intends to deal in hearing aids.

27 Sec. 08.55.080. PROCEDURES. The Administrative Procedure Act
28 (AS 44.62) applies to regulations and proceedings under this chapter.

29 Sec. 08.55.200. DEFINITIONS. In this chapter

- 1 (1) "audiologist" means a person licensed under AS 08.11;
2 (2) "dealing in hearing aids" means the sale, lease, or
3 rental, or attempted sale, lease, or rental of hearing aids, and the
4 recommendation, selection, fitting, or adaptation of hearing aids;
5 (3) "department" means the Department of Commerce and
6 Economic Development;
7 (4) "hearing aid" means a prosthetic instrument or device
8 designed for or represented as aiding, improving, or correcting defec-
9 tive human hearing and the parts, attachments, or accessories of the
10 instrument or device; "hearing aid" does not include cochlear im-
11 plants, middle-ear implants, vibro-tactile speech-reading aids, other
12 aids for cued speech, or group or individual auditory training units
13 and assistive devices.

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

15 (1) "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; and a hospital as
23 defined in AS 18.20.130, including a governmentally owned or operated
24 hospital; a corporate entity covered under AS 21.88.050(b)(12); and an
25 employee of a health care provider acting within the course and scope
26 of employment;

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

28 (9) "health care provider" means an audiologist licensed
29 under AS 08.11, a chiropractor licensed under AS 08.20; a dental

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

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

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

14 (54) Department of Commerce and Economic Development con-
15 cerning the licensing and regulation of hearing aid dealers (AS 08.-
16 55).

17 * Sec. 12. AS 45.45 is amended by adding new sections to read:

18 ARTICLE 7. SALE OF HEARING AIDS.

19 Sec. 45.45.400. STATEMENT FOR PROSPECTIVE PURCHASERS. (a)

20 Before selling a hearing aid, a person dealing in hearing aids shall
21 deliver to the prospective purchaser a written statement, signed by
22 the person dealing in hearing aids, that must include

23 (1) the name and address of the prospective purchaser;

24 (2) the date of the sale;

25 (3) the make, serial number, model number, and manufacturer
26 of the hearing aid sold;

27 (4) the address or principal place of business of the
28 person dealing in hearing aids;

29 (5) a statement that the prospective purchaser has the

1 right to cancel the purchase within 45 days of the purchase and the
2 procedure to be followed if the prospective purchaser decides to
3 cancel;

4 (6) the number of the license issued under AS 08.55 of the
5 person dealing in hearing aids;

6 (7) the terms of a guarantee or express warranty made to
7 the purchaser for the hearing aid;

8 (8) the address of the department and the procedure for
9 making a complaint.

10 (b) A hearing aid dealer shall keep a duplicate copy of the
11 statement required under this section for one year. The hearing aid
12 dealer shall provide the statement to the department on request.

13 Sec. 45.45.410. RIGHT TO CANCEL HEARING AID PURCHASE. (a) In
14 addition to the other rights and remedies the purchaser may have, the
15 purchaser of a hearing aid has the right to cancel the purchase within
16 45 days.

17 (b) Cancellation of the purchase is effective when the purchaser
18 returns the hearing aid to the seller or the seller's agent, or mails
19 a letter, return receipt requested, to the seller or the seller's
20 agent at the last known address of the seller or the seller's agent,
21 cancelling the purchase and offering to return the hearing aid to the
22 seller or seller's agent.

23 (c) The seller shall, without request,

24 (1) refund to the purchaser within 10 days after the can-
25 cellation, all deposits, including a down payment, less five percent
26 of the total purchase price for each 15 days that has elapsed from the
27 date of the sale to the date of the cancellation as reasonable rental
28 for the hearing aid, and less the reasonable price of ear molds or
29 custom casings purchased; and

1 (2) return all goods traded in to the seller for the sale,
2 less a reasonable cost actually incurred by the seller to prepare the
3 goods traded in for sale.

4 Sec. 45.45.420. DEFINITIONS. In AS 45.45.400 - 45.45.420

5 (1) "audiologist" means a person licensed under AS 08.11;

6 (2) "dealing in hearing aids" means the sale, lease, or
7 rental, or attempted sale, lease, or rental of hearing aids, and the
8 recommendation, selection, fitting, or adaptation of hearing aids;

9 (3) "department" means the Department of Commerce and
10 Economic Development;

11 (4) "hearing aid" means a prosthetic instrument or device
12 designed for or represented as aiding, improving, or correcting defec-
13 tive human hearing and the parts, attachments, or accessories of the
14 instrument or device; "hearing aid" does not include cochlear im-
15 plants, middle-ear implants, vibro-tactile speech-reading aids, other
16 aids for cued speech, or group or individual auditory training units
17 and assistive devices.

18 * Sec. 13. AS 45.50.471(b) is amended by adding a new paragraph to
19 read:

20 (26) failing to comply with AS 45.45.400 - 45.45.420

21 * Sec. 14. AS 47.17.070(6) is amended to read:

22 (6) "practitioner of the healing arts" includes chiroprac-
23 tors, dentists, health aides, nurses, optometrists, osteopaths, phys-
24 ical therapists, physicians, psychiatrists, psychologists, audiolo-
25 gists licensed under AS 08.11, hearing aid dealers licensed under
26 AS 08.55, religious healing practitioners, and surgeons;

Offered: 3/7/86
Referred: Health, Education &
Social Services and Finance

Original sponsors: Navarre, Gruenberg,
Hurley and Thompson

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2

CS FOR HOUSE BILL NO. 430 (L&C)

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 OR
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;

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

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

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

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

26 CHAPTER 11. AUDIOLOGISTS.

27 Sec. 08.11.010. QUALIFICATIONS FOR AUDIOLOGIST LICENSE. (a)
28 The department shall issue a license to practice audiology to an
29 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. 08.11.060. MALPRACTICE INSURANCE. An audiologist shall
18 maintain insurance against liability for negligence in the practice of
19 audiology for the audiologist who works for the audiologist.

20 Sec. 08.11.070. DEALING IN HEARING AIDS. An audiologist may
21 deal in hearing aids as a hearing aid dealer without being licensed as
22 a hearing aid dealer under AS 08.55, but shall comply with AS 08.55.-
23 050, 08.55.070, 08.55.100, 08.55.110(a), 08.55.110(b)(3) and (c) -
24 (g), and 08.55.130(7) - (13) when dealing in hearing aids.

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

- 29 (1) secured a license through deceit, fraud, or intentional

- 1 misrepresentation;
- 2 (2) engaged in deceit, fraud, or intentional misrepresenta-
3 tion in the course of practicing audiology;
- 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 person's ability to continue to practice competently and
8 safely;
- 9 (5) continued to practice audiology after becoming unfit
10 due to
- 11 (A) professional incompetence;
- 12 (B) use of drugs or alcohol in a manner that affects
13 the person's ability to practice audiology competently and
14 safely;
- 15 (C) physical or mental disability;
- 16 (6) permitted another person to use the licensee's license;
- 17 (7) employed a person who does not have a valid current
18 license to practice audiology to perform work covered by this chapter;
- 19 (8) failed to comply with a provision of this chapter or a
20 regulation adopted under this chapter, or an order of the department.
- 21 Sec. 08.11.090. DISCIPLINARY SANCTIONS. (a) When it finds that
22 an audiologist has committed an act listed in AS 08.11.080, the de-
23 partment may impose the following sanctions singly or in combination:
- 24 (1) permanently revoke a license to practice;
- 25 (2) suspend a license for a determinate period of time;
- 26 (3) censure a licensee;
- 27 (4) issue a letter of reprimand;
- 28 (5) place a licensee on probationary status and require the
29 licensee to

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

3 (B) limit practice to those areas prescribed;

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

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

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

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

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

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

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

28 (1) practice audiology;

29 (2) use a title indicating or representing that the person

1 practices as an audiologist;

2 (3) advertise that the person practices audiology.

3 Sec. 08.11.110. PENALTY. A person who violates AS 08.11.100 is
4 guilty of a class B misdemeanor.

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

9 (1) a physician licensed under AS 08.64;

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

12 (A) the employer maintains appropriate supervision of
13 the individual's practice of audiology;

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

16 (C) the individual practices audiology in the facility
17 where the individual is employed or under the supervision of the
18 federal governmental unit where the individual is employed; and

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

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

1 audiologist.

2 (b) Notwithstanding the provisions of this chapter,

3 (1) a nurse licensed under AS 08.68 may perform hearing
4 sensitivity evaluations;

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

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

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

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

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

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

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

1 Sec. 08.11.200. DEFINITIONS. In this chapter, unless the con-
2 text indicates otherwise,

3 (1) "audiologist" means an individual who is licensed under
4 AS 08.11.010 to practice audiology in the state;

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

7 (3) "department" means the Department of Commerce and
8 Economic Development;

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

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

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

19 CHAPTER 55. HEARING AID DEALERS.

20 Sec. 08.55.010. QUALIFICATIONS FOR LICENSE. (a) The department
21 shall issue a license to act as a hearing aid dealer to an individual
22 who

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

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

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

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

27 (5) furnishes evidence satisfactory to the department that
28 the individual has not engaged in conduct that is a ground for impos-
29 ing disciplinary sanctions under AS 08.55.130;

1 (6) submits with the application a statement disclosing
2 whether the applicant

3 (A) has, during the five-year period immediately
4 preceding the date of the application been convicted of a felony,
5 or had a final judgment entered against the applicant in a civil
6 action, if the felony or civil action involved fraud, embezzle-
7 ment, or misappropriation of property;

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

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

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

22 (7) furnishes a description of each item in (6) of this
23 subsection that the applicant disclosed as being applicable to the
24 applicant.

25 (b) An individual who is a physician or an audiologist may deal
26 in hearing aids without being licensed under this chapter, but shall
27 comply with AS 08.55.050, 08.55.070, 08.55.100, 08.55.110(a), 08.55.-
28 110(b)(3) and (c) - (g), and 08.55.130(7) - (13) when dealing in
29 hearing aids.

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

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

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

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

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

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

25 (1) taxes and contributions due the state and political
26 subdivisions of the state;

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

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

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

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

- 10 (1) application;
- 11 (2) hearing aid dealer license;
- 12 (3) renewal of license;
- 13 (4) renewal delinquency;
- 14 (5) duplicate license.

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

- 19 (1) an instructional brochure that contains operating
20 instructions, purchase privileges, and performance data for the hear-
21 ing aid;
- 22 (2) a statement of the dealer's registration number;
- 23 (3) a statement of the manufacturer's specifications, make,
24 model, and serial number for the hearing aid;
- 25 (4) a clear statement of the full terms of the contract;
- 26 and
- 27 (5) a written statement indicating that the consumer may
28 file a written complaint about a hearing aid or a hearing aid dealer
29 with the department and giving the mailing address and location

1 address of the department.

2 (b) Before the sale of a used hearing aid, the hearing aid
3 dealer shall clearly mark the receipt and the container for the hear-
4 ing aid as "used" or "reconditioned," whichever is applicable, and
5 with the terms of a guarantee that the dealer provides.

6 Sec. 08.55.060. PRIOR HEARING EVALUATION. (a) A hearing aid
7 dealer who is not a physician or an audiologist may not sell or lease
8 a hearing aid unless the prospective user of the hearing aid presents
9 to the hearing aid dealer a written statement signed by a physician or
10 an audiologist stating that the physician or the audiologist has
11 evaluated the prospective user's hearing and that the prospective user
12 is a candidate for a hearing aid.

13 (b) The exam on which the physician or the audiologist bases the
14 statement required in (a) of this section must have occurred within
15 the six months immediately preceding the date when the prospective
16 user presents the statement to the hearing aid dispenser.

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

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

23 (2) does not actively encourage the prospective user to
24 waive the evaluation; and

25 (3) is not a physician or an audiologist, affords the
26 prospective user the opportunity to sign the following statement:

27 I have been advised by (HEARING AID DEALER'S
28 NAME) that it would be in my best interest if
29 I had a hearing evaluation by a licensed

1 Sec. 08.55.110. CANCELLATION OPTION. (a) In addition to the
2 cancellation allowed under AS 45.02.350, a person who has purchased or
3 leased a hearing aid from a hearing aid dealer may cancel the sale or
4 lease as provided under (b) of this section or by giving written
5 notice of the intention to cancel the sale or lease to the dealer not
6 later than 30 days following the later of (1) the date the person
7 receives the hearing aid, or (2) the date the hearing aid dealer
8 provides the person with the notice under (c) of this section. The
9 person may use the notice received under (c) of this section to cancel
10 the sale or lease by signing the form where indicated.

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

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

21 (2) the hearing aid dealer, if not a physician or audio-
22 logist, has violated a provision of this chapter in the sale or lease
23 of the hearing aid to the person;

24 (3) the hearing aid dealer who is a physician or audio-
25 logist has violated AS 08.55.050, 08.55.070, 08.55.100, 08.55.110(a),
26 08.55.110(b)(3) or (c) - (g), or 08.55.130(7) - (13) in the sale or
27 lease of the hearing aid to the person.

28 (c) A hearing aid dealer shall give a person who has purchased
29 or leased a hearing aid from the dealer notice of the right to cancel

1 the purchase or lease that is substantially identical to the following
2 form with all of the information filled in except the signature and
3 date lines for the purchaser or lessee:

4 NOTICE OF RIGHT TO CANCEL

5 _____
6 Name of Hearing Aid Dealer

7 _____
8 Address of Hearing Aid Dealer

9 _____
10 Date of Sale or Lease

11 You may cancel this transaction, without
12 penalty or obligation, within 30 days from the
13 date you receive the hearing aid or this notice,
14 whichever is later.

15 You may also cancel this transaction, without
16 penalty or obligation, within 60 days from the
17 date you receive the hearing aid or this notice,
18 whichever is later, if the hearing aid dealer is
19 not a licensed physician or a licensed audiologist
20 and if a licensed physician or a licensed audio-
21 logist advises you in writing to cancel this
22 transaction.

23 If you cancel this transaction, the property
24 you traded in, the payments you made under the
25 sale or lease (less certain costs allowed by state
26 law) and any negotiable instrument executed by you
27 will be returned within 10 business days following
28 receipt by the hearing aid dealer of your cancel-
29 lation notice, and the hearing aid dealer will

1 cancel any security interest arising out of the
2 sale or lease.

3 If you cancel, you must make available to the
4 hearing aid dealer, in as good a condition as when
5 received, less normal wear and tear, the goods
6 delivered to you under this sale or lease, unless
7 the dealer notifies you to keep the goods or to
8 hold them until the dealer collects them.

9 If you make the goods available for the
10 hearing aid dealer to collect after your cancella-
11 tion, and the hearing aid dealer does not collect
12 them from you within 20 days of your cancellation,
13 you may retain or dispose of the goods without
14 further obligation to the hearing aid dealer. If
15 you fail to make the goods available for the
16 hearing aid dealer to collect after your cancel-
17 lation, then the sale or lease is not cancelled
18 and you remain liable for performance of the
19 obligations of the sale or lease.

20 To cancel this transaction, mail (by cer-
21 tified mail, return receipt request) or deliver a
22 signed and dated copy of this notice or another
23 written notice to (name of hearing aid dealer), at
24 (address of hearing aid dealer's place of busi-
25 ness) and (hearing aid dealer's telephone number)
26 no later than midnight of (Date).

27 I hereby cancel this transaction.

28 (Date) _____
29 _____

1 (Purchaser's or Lessee's signature)

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

4 _____
5 Purchaser's or Lessee's signature

6 _____
7 Date

8 (d) If a purchaser or lessee of a hearing aid cancels the pur-
9 chase or lease under (a) or (b) of this section, the hearing aid
10 dealer shall and within 10 days of receipt of a notice of the cancel-
11 lation

12 (1) refund to the purchaser or lessee all deposits, in-
13 cluding the downpayment, less (A) 10 percent of the total purchase
14 price for each 30 days that the purchaser or lessee had the hearing
15 aid, to pay for the reasonable rental value of the hearing aid; (B)
16 the reasonable price of ear molds or custom casings prepared for the
17 purchaser or lessee; and (C) the reasonable costs actually incurred by
18 the hearing aid dealer to make goods that were traded in by the pur-
19 chaser or lessee ready for sale; the hearing aid dealer may retain the
20 money allowed under this paragraph only up to the amount of a down-
21 payment made by the purchaser or lessee;

22 (2) return to the purchaser or lessee all goods traded in
23 to the hearing aid dealer as part of the sale or lease;

24 (3) return to the purchaser or lessee a negotiable instru-
25 ment signed by the purchaser or lessee; and

26 (4) cancel a security interest taken by the hearing aid
27 dealer for the purchase or lease.

28 (e) If a hearing aid dealer fails to collect the hearing aid
29 from the consumer within 20 days of receipt of the cancellation, the

1 purchaser or lessee may retain or dispose of the hearing aid without
2 further obligation to the dealer.

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

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

10 Sec. 08.55.120. TESTING OF HEARING. (a) A hearing aid dealer
11 may take threshold measurements to determine the degree of hearing
12 impairment of a person, but may not test or use the threshold mea-
13 surements to determine the cause of a hearing impairment or charge a
14 fee for taking the threshold measurements test.

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

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

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

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

29 (2) engaged in deceit, fraud, or intentional

1 misrepresentation in the course of providing professional services or
2 engaging in professional activities;

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

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

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

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

11 (A) professional incompetence;

12 (B) addiction to or severe dependency on alcohol or
13 another drug that impairs the individual's ability to prac-
14 tice safely;

15 (C) physical or mental disability;

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

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

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

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

27 (11) included in a contract or receipt for the purchase or
28 lease of a hearing aid a confession of judgment or a waiver of a right
29 of the consumer under this chapter;

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

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

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

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

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

14 (1) permanently revoke a license to practice;

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

16 (3) censure a licensee;

17 (4) issue a letter of reprimand;

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

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

22 (B) limit practice to those areas prescribed;

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

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

28 (b) The department may withdraw a limitation, condition, or
29 probationary status if it finds that the deficiency that required the

1 sanction has been remedied.

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

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

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

16 (1) deal in hearing aids;

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

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

20 (b) A person may not

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

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

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

28 (4) use or attempt to use as valid a license to deal in
29 hearing aids that has been purchased, fraudulently obtained,

1 counterfeited, or materially altered.

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

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

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

10 Sec. 08.55.200. DEFINITIONS. In this chapter

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

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

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

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

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

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

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

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

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

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

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

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

29 (54) Department of Commerce and Economic Development

1 concerning the licensing and regulation of hearing aid dealers (AS
2 08.55).

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

5 (26) dealing in hearing aids and failing to comply with
6 AS 08.55.

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

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

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

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

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

19
20

COMMITTEE REPORT
SENATE

FURTHER:

5/4/86

Date 5/11/86

Mr. President

The Committee on FINANCE considered CSHB 430(Fin)
regulating audiologists, hearing aid dealers and the dispensing of
hearing aids.

and (a majority of the committee) (the committee) reports it back with
the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt SCS for CSHB 430(RVC)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
1.8 (Revenue) Dept. Commerce
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature] N/K
[Signature] N/K

[Signature]
Co-Chairman
[Signature]
Chairman recommendation

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.

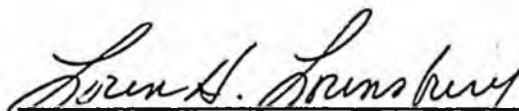
Although the division is aware of only 12 audiologists and approximately 10 legitimate hearing aid dealers, complaints filed with Consumer Protection in the Department of Law, the Communicable Disease Control Section of the Department of Health & Social Services and the Office of the Ombudsman document 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



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

Date: 5/1/86

**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						
---------	--	--	--	--	--	--

REVENUE		1.8	1.1	1.3	2.0	1.6
---------	--	-----	-----	-----	-----	-----

FUNDING: (Thousands of dollars)

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

POSITIONS:

FULLTIME		-0-	-0-	-0-	-0-	-0-
PARTTIME						
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 Phone: 465-2144
 Division: Occupational Licensing Date: 4/23/86

Approved by Commissioner: _____ Date: _____
 Agency: Commerce and Economic Development

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 (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>
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<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> Application/Credentials Review Fee (\$20 x 2) .04</p> <p> Hearing Aid Dealers License (\$80 x 2) .2</p> <p>10 Hearing Aid Dealers renewing (\$80 x 10) .8</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.

Offered: 5/4/86
Referred: Finance

Original sponsors: Navarre, Gruenberg,
Hurley, et al

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 430 (L&C)

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 OR
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;

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

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

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

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

26 CHAPTER 11. AUDIOLOGISTS.

27 Sec. 08.11.010. QUALIFICATIONS FOR AUDIOLOGIST LICENSE. The
28 department shall issue a license to practice audiology to an indi-
29 vidual 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;

1 (3) advertised professional services in a false or mislead-
2 ing manner;

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

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

8 (A) professional incompetence;

9 (B) use of drugs or alcohol in a manner that affects
10 the person's ability to practice audiology competently and safe-
11 ly;

12 (C) physical or mental disability;

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

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

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

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

21 (1) permanently revoke a license to practice;

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

23 (3) censure a licensee;

24 (4) issue a letter of reprimand;

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

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

29 (B) limit practice to those areas prescribed;

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

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

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

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

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

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

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

25 (1) practice audiology;

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

28 (3) advertise that the person practices audiology.

29 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 (e) 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. HEARING 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 sanctions 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 (1) 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 (prefer-
26 ably a physician who specializes in diseases of
27 the ear) before purchasing or leasing a hearing aid.

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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.

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

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

11 (2) the hearing aid dealer, if not a physician or audio-
12 logist, has violated a provision of this chapter in the sale or lease
13 of the hearing aid to the person;

14 (3) the hearing aid dealer who is a physician or audio-
15 logist has violated (a) or (c) - (h) of this section or AS 08.55.050,
16 08.55.070, 08.55.100, or 08.55.130(7) - (13) in the sale or lease of
17 the hearing aid to the person.

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

23 NOTICE OF RIGHT TO CANCEL

24 _____
25 Name of Hearing Aid Dealer

26 _____
27 Address of Hearing Aid Dealer

28 _____
29 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

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Date

(d) If a purchaser or lessee of a hearing aid cancels the purchase or lease under (a) or (b) of this section, the hearing aid dealer shall within 20 days of receipt of a notice of the cancellation

(1) refund to the purchaser or lessee all deposits, including the downpayment, less (A) 10 percent of the total purchase price for each 30 days that the purchaser or lessee had the hearing aid, to pay for the reasonable rental value of the hearing aid; (B) the reasonable price of ear molds or custom casings prepared for the purchaser or lessee; and (C) the reasonable costs actually incurred by the hearing aid dealer to make goods that were traded in by the purchaser or lessee ready for sale; the hearing aid dealer may retain the money allowed under this paragraph only up to the amount of a downpayment made by the purchaser or lessee;

(2) return to the purchaser or lessee all goods traded in to the hearing aid dealer as part of the sale or lease;

(3) return to the purchaser or lessee a negotiable instrument signed by the purchaser or lessee; and

(4) cancel a security interest taken by the hearing aid dealer for the purchase or lease.

(e) If the hearing aid returned by the purchaser or lessee has been damaged, the hearing aid dealer may deduct from any refund due the purchaser or lessee the reasonable costs incurred in repairs necessary to make the hearing aid suitable for resale. If the hearing aid is damaged beyond repair, the purchaser or lessee is liable for the full purchase price.

(f) The purchaser or lessee may retain or dispose of the hearing aid if within 20 days of receipt of the notice of cancellation, the hearing aid dealer fails

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 SANC-
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