

“HEARING AID SALES REGISTRATION LAW”
Act of 1976, P.L. 1182, No. 262

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AN ACT

Relating to the dispensing and sale of hearing aids, providing for the registration and regulation of hearing aid fitters and dealers, making certain acts illegal, prescribing penalties and making an appropriation.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

ARTICLE I

Short Title; Application; Definitions

Section 101. Short Title. - - This act shall be known and may be cited as the “Hearing Aid Sales Registration Law.”

Section 102. Application. - - (a) Except as hereinafter provided, it shall be unlawful for any person to engage in the sale of or practice of fitting hearing aids or display a sign or in any other way to advertise, represent or hold himself out as a hearing aid dealer or fitter, unless he shall first have registered pursuant to the provisions of this act.

(b) Nothing in this act shall prohibit any person from maintaining an established business address or from engaging in the business of selling or offering for sale hearing aids to the users thereof without being registered as a hearing aid fitter: Provided, That said person employs only persons registered under this act as hearing aid dealers and fitters in the direct sale and fitting of such products and that said person shall have registered as a hearing aid dealer under this act. All dealers shall file annually with the department a list of all registered hearing aid dealers and fitters directly or indirectly employed by him.

(c) No individual purchasing a hearing aid from any dealer or fitter may waive the protection or benefits afforded him under any provision of this act, except as specifically set forth herein.

(d) Prior law exclusively governs all suits, actions, prosecutions or proceedings which are pending or may be initiated on the basis of facts or circumstances occurring before the effective date of this act.

Section 103. Definitions. - - As used in this act:

“Advertise,” and any of its variants, means the use of a newspaper, magazine or other publication, book, notice, circular, pamphlet, letter, handbill, poster, sign, placard, card, label, tag, window display, store sign, radio, television announcement, or any other means or methods now or hereafter employed to bring to the attention of the public the practice of fitting and sale of hearing aids.

“Audiologist” means a person holding the Certificate of Clinical Competence in Audiology awarded by the American Speech and Hearing Association or one who can provide evidence of having successfully completed equivalent academic training and clinical experience.

“Business of selling hearing aids” means selling, leasing, or offering for sale or lease new, used, or reconditioned hearing aids exclusive of parts, attachments, or accessories, at retail, either as exact replacements for damaged or worn out units or pursuant to written specifications

provided by an audiologist, otologist, or otolaryngologist but shall not include fitting or the practice of fitting and selling of hearing aids.

“Conviction” means a plea, verdict of guilty, or a conviction following a plea of nolo contendere, made to a charge of a crime involving moral turpitude.

“Department” means the Department of Health of the Commonwealth of Pennsylvania.

“Fitting” includes the physical acts of adjusting the hearing aid to the individual, taking audiograms, and making ear molds, advising the individual with respect to hearing aids, audiogram interpretation, and assisting in the selection of a suitable hearing aid for the sole purpose of the sale of a hearing aid.

“Hearing aid” means any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing together with any parts, attachments, or accessories for such device, including ear molds but excluding batteries and cords.

“Hearing aid dealer” or “dealer” means any person engaged in the business of selling hearing aids.

“Hearing aid fitter” or “fitter” means any individual engaged in the practice of fitting and selling hearing aids.

“Practice of fitting and selling hearing aids” means those practices used solely for the purpose of making selections, adaptations and sale of hearing aids.

“Registrant” means a dealer or fitter holding a certificate of registration.

“Secretary” means the Secretary of the Department of Health of the Commonwealth of Pennsylvania.

ARTICLE II Duties of Department

Section 201. Advisory Council. - - There is hereby created an Advisory Council, which shall advise the department in administering this act. The council shall consist of eight individuals appointed by the Governor, three of whom shall be hearing aid fitters registered under this act with at least three years experience in the Commonwealth, one of whom shall be a hearing aid dealer registered under this act with at least three years experience in the Commonwealth. The remaining four shall consist of a physician certified by the American Board of Otolaryngology specializing in disorders of the ear, an audiologist, and two public members who shall represent the interest of the general public.

The terms of office of members of the council shall be three years or until their successors are qualified. Any vacancy of the council shall be filled for the remainder of the unexpired term, in the same manner as the original appointments.

Members of the council shall receive no compensation, but shall be entitled to reimbursement for actual expenses incurred in the performance of duties under this act.

Section 202. Examinations. - - The department shall prepare, approve, grade and conduct examinations of applicants for a hearing aid fitter’s certificate of registration. The department may provide that the preparation and grading of the examination be conducted by a competent person or organization other than the department: Provided, however, that the department shall establish the guidelines for the examination, and shall approve the actual examination.

Section 203. Records. - - The department shall keep a record of all prosecutions for violations of this act, and of all examinations held for applicants for a registration certificate

together with the names and addresses of all persons taking examinations and of their success or failure to pass such examinations.

Section 204. Publishing Information. - - The department may publish and distribute information including the examination requirements for obtaining a dealer's or fitter's registration certificate to engage in the business of selling or the practice of fitting and selling hearing aids within this Commonwealth.

Section 205. Rules and Regulations. - - (a) The department shall make and promulgate rules and regulations as may be necessary to enable it to carry into effect the provisions of this act. Such rules and regulations shall be adopted, or repealed, in accordance with the provisions of the act of July 31, 1968 (P.L. 769, No.240), known as the "Commonwealth Documents Law," and, when duly promulgated thereunder, such rules and regulations shall have the force and effect of the law.

(205 amended Dec. 21, 1998, P.L. 1190, No. 153)

Section 206. Administration of Act. - - The Attorney General may prosecute any and all persons suspected of violating any of the provisions of this act or the rules and regulations thereunder. The department may employ the personnel necessary to administer the provisions of this act and may incur such other expenses as are necessary for the administration of this act. Inspections or investigations made pursuant to the provisions of this act shall be made by personnel from the department, or by the Attorney General, or by local law enforcement authorities.

Section 207. Continuing Education. - - The department shall approve courses of continuing education for registered hearing aid fitters to include, but not be limited to, the following areas:

- (1) Hearing evaluation.
- (2) Hearing instrumentation technology.
- (3) Ear mold technology.
- (4) Hearing aid repair and maintenance.
- (5) Technical devices to assist the hearing impaired.
- (6) Psychology of the hearing impaired.
- (7) Office procedures and compliance with this act.

Programs held within or outside this Commonwealth may receive approval.

(207 added Dec. 21, 1998, P.L.1190, No.153)

ARTICLE III Registration

Section 301. Applications. - - Each person desiring to obtain a registration certificate from the department to engage in the practice of fitting and selling hearing aids or in the business of selling hearing aids shall make application to the department. The application shall be made upon a form approved by the secretary and shall be made in such manner as is provided by the department and shall be accompanied by the appropriate fee.

Section 302. Applicant Qualifications. - - The secretary may require proof concerning the honesty, truthfulness and good reputation of the applicant, and in addition, shall ascertain that the applicant for a hearing aid fitter's certificate has a thorough knowledge of the following areas demonstrated by passing a practical examination compiled by the department:

- (1) The anatomy and physiology of the ear.

- (2) The function of hearing aids.
- (3) The knowledge and understanding of the grounds for revocation, suspension or probation of the registrant as outlined in this act.
- (4) The knowledge and understanding of violations and penalties as outlined in this act.
- (5) The procedures and use of equipment established by the department for the fitting and selling of hearing aids.
- (6) Taking ear mold impressions.
- (7) Evidence of knowledge regarding the medical and rehabilitation facilities for children and adults that are available in the areas served.
- (8) A knowledge of criteria for medical referral when found to exist either from observation by the registrant or on the basis of information furnished by the prospective hearing aid user to include the following:
 - (i) Visible congenital or traumatic deformity of the ear.
 - (ii) Active drainage of the ear within the previous 90 days or history of this symptom.
 - (iii) Sudden or rapidly progressive hearing loss within the previous 90 days or history of this symptom.
 - (iv) Acute or chronic dizziness.
 - (v) Unilateral hearing loss of sudden or recent onset within the previous 90 days.
 - (vi) Visible evidence of cerumen accumulation or a foreign body in the ear canal.

Section 303. Time of Examination. - - Examinations shall be held by the department at least twice a year with such additional examinations as the secretary may direct. The time and place of any examination shall be fixed by the secretary at least 45 days prior to the date it is to be held.

Section 304. Failure to Pass Examination. - - No applicant shall be eligible for a hearing aid fitter's registration Certificate who fails to obtain an average predetermined by the secretary in every subject upon which he is examined. In case any applicant fails to pass an examination, he shall be examined at the next or any succeeding examination, in compliance with this section only in the subject area in which he failed to obtain an average as determined by the secretary.

Section 305. Issuance of Registration Certificate. - - The secretary shall issue a registration certificate to all applicants who have satisfied the requirements of this act and paid the appropriate fees. No hearing aid fitter's registration certificate shall be issued to any person other than an individual.

Section 306. Temporary Hearing Aid Fitter's Registration Certificate. - - (a) An applicant who has fulfilled the requirements, has made application, and proves to the satisfaction of the department that he has been engaged in the fitting and selling of hearing aids at an established place of business in a state other than the Commonwealth of Pennsylvania for a period of two years within a five-year period immediately prior to his application, may have a temporary fitter's registration certificate issued to him which shall be valid and effective for a period ending 30 days after the conclusion of a qualifying examination given not earlier than 90 days after the date of issue of such temporary fitter's registration certificate, but not later than one year after the date of issue of such temporary fitter's registration certificate.

(b) An applicant who has fulfilled the requirements of section 301 and has made application therefore, and who proves to the satisfaction of the department that he will be supervised and trained by a person who holds a valid fitter's registration certificate issued pursuant to the provisions of section 305 or subsection (a) may have an apprentice fitter's registration certificate issued to him which shall entitle him to be engaged, under such supervision, in the fitting and selling of hearing aids for the following periods:

Period 1. - - The trainee shall work for two months under the direct and personal supervision of, and in the same office as the sponsor fitter registrant. During this stage, the trainee may do testing for the proper selection and fitting of hearing aids and make ear impressions, but the final testing and final fitting for sale of a hearing aid must be approved by the sponsor fitter registrant.

Period 2. - - This training stage lasts for four months or until the time the next examination thereafter is given, whichever is longer. During this time, the trainee may engage in all the activities of a fitter registrant, but shall work under the direct supervision of the sponsor fitter registrant.

These two periods described above shall be completed with no time lapse between periods except as authorized by the department for justifiable cause shown by the trainee or sponsor or both.

A trainee who desires to change sponsors shall furnish the department with a sworn or affirmed request giving reasons for the request accompanied by a sworn or affirmed statement from the new sponsor with the undertakings required by this act, and accompanied by the trainee's temporary certificate of registration. If the transfer is approved, the certificate will be revalidated without charge.

If the sponsor desires to terminate responsibilities he has undertaken with regard to a trainee, he shall give the trainee ten days written notice, giving reasons, and shall notify the department accordingly by certified mail.

On completion of the two periods described in this subsection, the trainee shall take the qualifying examination given by the department and upon passing that examination, shall receive a fitter's certificate of registration.

No trainee shall perform any hearing health services for a customer without the customer being informed that such services are being performed by a trainee rather than by a fitter registrant. Such notice shall be given verbally by the trainee. In each case, records shall be kept by the registrant showing the particular service performed by the trainee. Such temporary registration fitter's certificate shall be effective and valid only while the applicant remains under the direct supervision of a person who holds a valid fitter's registration certificate issued pursuant to the provisions of section 305 or subsection (a). Such registrant shall be responsible for the supervision and training of such fitter applicant.

Section 307. Reciprocal Registration. - - Whenever the department determines that another state or jurisdiction has requirements equivalent to or higher than those in effect pursuant to this act and that such state or jurisdiction has a program equivalent to or stricter than the program for determining whether applicants to this act are qualified as a hearing aid dealer or fitter, the secretary may issue certificates of endorsement to applicants who hold current, unsuspended and unrevoked certificates or licenses to sell or fit and sell hearing aids in such other state or jurisdiction. No such applicants for certificate of endorsement shall be required to submit to or undergo a qualifying examination or requirements other than the payment of fees. The holder of a certificate of endorsement shall be registered in the same manner as registrants.

The fee for an initial certificate of endorsement shall be the same as the fee for an initial registration certificate. Fees, grounds for renewal and procedures for the suspension and revocation of certificates of endorsement shall be the same as for renewal, suspension and revocation of a registration certificate. Such reciprocity provision shall not, however, apply where the state of jurisdiction of the individuals seeking such certificate of endorsement does not extend like reciprocity to an individual registered by the Commonwealth under this act.

Section 308. Renewal of Temporary Registration Certificate. - - If a person who holds a fitter's temporary or apprentice registration certificate issued under the provisions of this act, takes and fails to pass the qualifying examination referred to in this section, the secretary may renew the fitter's temporary registration certificates for a period ending 30 days after the conclusion of the next qualifying examination given after the date of renewal. The secretary shall not issue more than two renewals of such fitter's temporary registration certificate to any applicant, except upon petition by an applicant for good and sufficient cause shown.

Section 309. Persons Excluded from Registration. - - This act does not apply nor affect any physician or surgeon licensed under appropriate licensing laws or to an individual supervised by such physician or surgeon, who does not directly or indirectly engage in the sale or offering for sale of hearing aids, nor to any audiologist or to an individual supervised by such audiologist in conducting fitting procedures and who does not directly or indirectly engage in the sale of offering for sale of hearing aids.

Section 310. Fictitious Names. - - Every person applying for a registration certificate who desires to have a certificate issued under a fictitious name shall file with his application certified copies of the entry made in the register by the county clerk, the Secretary of the Commonwealth, and the affidavit of publication made pursuant to the provisions of the act of May 24, 1945 (P.L.967, No.380), relating to Fictitious Name Act, if such applicant is an individual, proprietorship, partnership or unincorporated association, or pursuant to the act of July 11, 1957 (P.L.783, No.374), known as the "Fictitious Corporate Name Act, " if such applicant is a corporation.

Section 311. Expiration Date. - - Registration certificates issued under this act expire at midnight on April 15 of each year thereafter if not renewed. To renew an unexpired registration certificate the registrant shall, before the time at which the certificate would otherwise expire, apply for renewal on a form prescribed by the secretary and pay the renewal fee prescribed by this act. Each person who files an application for renewal of a hearing aid fitter's certificate must, during the two years immediately preceding the expiration date, complete 20 hours of approved continuing education and submit evidence of the same to the department with the renewal application. A renewal application will not be considered complete without evidence of completion of the continuing education.

Section 312. Renewal of Registration Certificate. - - Except as otherwise provided in this act, an expired registration certificate may be renewed at any time within five years after its expiration on filing of an application for renewal on a form prescribed by the secretary, payment of the renewal fee currently in effect and submitting evidence of completion of continuing education as provided in section 311. If the registration certificate is renewed more than 30 days after its expiration, the registrant, as a condition precedent to renewal, shall also pay the delinquency fee. Renewal under this section shall be effective on the date on which the complete application is filed, on the date on which the renewal fee is paid or whichever last occurs. If so renewed, the registration certificate shall continue in effect through the date provided in section

311 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

(312 amended Dec. 21, 1998, P.L.1190, No.153)

Section 313. No Hearing Aid Fitter's Registration Required Until Examinations Administered. - - In any case, no fitter's registration certificate will be required under the provisions of this act until such time as the department has prepared and administered the examination required by this act on at least three occasions separated by at least a one-year period.

Section 314. Expiration of Suspended Registration Certificate. - - A registration certificate which has been suspended is subject to expiration and shall be renewed as provided in this act, but such renewal does not entitle the holder of the registration certificate while it remains suspended and until it is reinstated, to engage in the business of selling or in the practice of fitting and selling of hearing aids, or in any other activity or conduct in violation of the order or judgment by which the registration certificate was suspended. A registration certificate which has been revoked is subject to expiration, but it may not be renewed. If it is reinstated after its expiration, the registrant, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee currently in effect, plus the delinquency fee, if any, accrued at the time of its revocation. The registrants shall also be required to furnish evidence of completion of the continuing education as provided in section 311.

(314 amended Dec. 21, 1998, P.L.1190, No.153)

Section 315. Failure to Renew. - - A registration certificate which is not renewed within five years after its expiration may not be renewed, restored, reissued, or reinstated.

Section 316. Fees. - - The amount of fees prescribed by this act are those fixed in the following schedule:

(1) The fee for applicants applying for the first time for a registration certificate is \$200 which shall not be refunded, except to applicants who are found to be ineligible to take an examination for a fitter's registration certificate; those applicants are entitled to a refund of \$150.

(2) The fee for an applicant for an apprentice fitter's registration certificate is 50. The additional fee for such applicant, upon taking the qualifying examination, is \$150.

(3) The fee for applicants for a fitter's registration certificate who have failed a previous examination is \$50 for each succeeding examination.

(4) The fee for renewal of a registration certificate is \$100 for each renewal.

(5) The initial registration certificate fee is \$200, unless the initial registration certificate is issued on or after October 15 of any year. If it is issued on or after October 15, the initial registration certificate fee is \$100.

(6) The delinquency fee is \$50.

(7) The fee for issuance of a duplicate registration certificate for a branch office, or upon loss of an original registration certificate or upon change of name authorized by law of a person holding a registration certificate under this act is \$10.

(316 amended Dec. 21, 1998, P.L.1190, No.153)

ARTICLE IV Referral and Medical Examination

Section 401. Misrepresentation of Registrant's Relationship with Purchaser. - - The registrant shall, at the outset of his relationship with the potential purchaser, advise such person

that any examination or representation made by a registered hearing aid dealer or fitter in connection with the practice of fitting and selling of his hearing aid is not an examination, diagnosis or prescription by a person licensed to practice medicine in this Commonwealth and, therefore, must not be regarded as a medical opinion.

Section 402. Referral to Physician. - - Whenever any of the following conditions are found to exist either from observations by the registrant or on the basis of information furnished by the prospective hearing aid user, a registrant shall, prior to fitting and selling a hearing aid to any individual, suggest to that individual in writing that his best interests would be served if he would consult a licensed physician specializing in diseases of the ear, or if no such licensed physician is available, then to a duly licensed physician.

- (1) Visible congenital or traumatic deformity of the ear.
- (2) Active drainage from the ear within the previous 90 days or history of this symptom.
- (3) Sudden or rapidly progressive hearing loss within the previous 90 days or history of this symptom.
- (4) Acute or chronic dizziness.
- (5) Unilateral hearing loss of sudden or recent onset within the previous 90 days.
- (6) Visible evidence of cerumen accumulation of a foreign body in the ear canal.
- (7) Significant air-bone gap, when generally acceptable standards have been established.
- (8) Pain in the ear within the previous 90 days.

Whenever any of the aforementioned conditions are found to exist either from observations by the registrant or on the basis of information furnished by the prospective hearing aid user, the registrant shall not sell or fit a hearing aid to such person without a written recommendation from a licensed physician that a hearing aid may be beneficial to such person.

Section 403. Medical Examination. - - No hearing aid is to be sold to any individual unless, within the preceding six months, the individual has been examined by an otologist or otolaryngologist or any licensed physician, and a written recommendation has been made by such physician that the use of a hearing aid may be beneficial to the physician's patient.

This section does not apply to (i) the replacement of parts or accessories or of a worn out or damaged hearing aid, or (ii) any individual who signs a written waiver as set forth in this section. The waiver form must be in at least ten-point type. The waiver must be read and explained in such a manner that the purchaser will be thoroughly aware of the consequences of signing the waiver. The waiver form shall read as follows:

"I have been advised that my best interests would be served if I had a medical examination by an otologist or otolaryngologist or any licensed physician before my purchase of a hearing aid.

_____ has fully and clearly informed me of the value of such
(Registrant's Name)

medical examination. After such explanation, I voluntarily sign this waiver. I choose not to seek a medical examination before the purchase of the hearing aid."

(Signature of Registrant)

(Signature of Purchaser)

ARTICLE V Duties of Registrants

Section 501. Address of Registrant. - - Before engaging in the business of selling or the practice of fitting and selling hearing aids, each registrant shall notify the department in writing of the address or addresses where he is to engage, or intends to engage in the selling or fitting and selling of hearing aids, and, also, of any changes in such address or addresses. Any notice required to be given by the department to a registrant may be given by United States mail to such address, postage thereon prepaid.

Section 502. Display of Certificate. - - Each holder of a registration certificate shall keep it conspicuously posted in his office or place of business at all times.

Section 503. Branch Offices; Duplicate Certificates. - - If a registrant maintains more than one place of business within this State, he shall apply for and procure a duplicate registration certificate for each branch office so maintained by him. Such application shall state the name of the person and the location of the place or places of business for which such duplicate registration certificate is desired.

Section 503.1. Disclosure Agreement. - - (a) A registrant, prior to the provision of any service, shall provide to the consumer a disclosure agreement which shall be explained in detail by the registrant and shall be signed by the registrant and the consumer.. The disclosure agreement required by this section shall contain the following:

(1) A complete description of what the fitting procedure or process does and does not include.

(2) An itemization and disclosure of any and all fees associated with the fitting procedure or process and the sale and delivery of a hearing aid or similar device, including any cancellation fees authorized pursuant to this act.

(b) The disclosure agreement required by this section shall be written in plain language and in a manner that is easily understood in conformance with the provisions of the act of June 23, 1993 (P.L.128, No.29), known as the "Plain Language Consumer Contract Act." A disclosure agreement provided pursuant to this section must be ten-point type or larger.

(503.1 added Dec. 21, 1998, P.L.1190, No. 153)

Section 504. Receipt to Purchasers. - - A registrant shall, upon the consummation of a sale of a hearing aid, deliver to the purchaser a written receipt, signed by or on behalf of the registrant, containing all of the following:

(1) The date of consummation of the sale.

(2) Specifications as to the make, serial number, and model name or number of the hearing aid or aids sold.

(3) The address of the principal place of business of the registrant.

(4) A statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, as the case may be, if that is the fact.

(5) The number of the registrant's registration certificate.

(6) The terms of any guarantee or express warranty, if any, made to the purchaser with respect to such hearing aid or hearing aids.

(7) A copy of the written waiver forms as required by section 403.

(8) Such receipt shall bear, or have attached to it in no smaller than ten-point type the following:

"The purchaser has been advised at the outset of his relationship with the hearing aid dealer that any examination or representation made by a registered hearing aid dealer and fitter in connection with the practice of fitting and selling of this hearing aid, is not an

examination, diagnosis, or prescription by a person licensed to practice medicine in this Commonwealth and therefore must not be regarded as medical opinion.”

(9) Such receipt shall bear on its face and in no smaller than ten-point bold type the following:

“If your rights are violated you may contact the State Bureau of Consumer Protection of the Pennsylvania Department of Health in Harrisburg or your local district attorney.”

Section 504.1. Return of Hearing Aid. - - (a) No hearing aid shall be sold to any person unless accompanied by a 30-day money-back written guarantee providing that if the person returns the hearing aid in the same condition, ordinary wear and tear excluded, as when purchased within 30 days of the date of delivery, the customer shall be entitled to the refund of the purchase price of the hearing aid and accessories as itemized on the receipt provided under section 504 within 30 days of return of the hearing aid and accessories.

(b) A hearing aid that has been refinished and totally reconditioned by the manufacturer or by the manufacturer’s agent and the manufacturer or manufacturer’s agent certifies that the hearing aid meets all the acoustical standards of a new hearing aid and is in all other respects the equivalent of a new hearing aid with all warranties and guarantees that accompany a new hearing aid shall be considered to be a new hearing aid and so designated and shall be subject to the right of refund under subsection (a).

(c) Notwithstanding the provisions of subsection (a), a hearing aid dealer may retain as a cancellation fee for return of a hearing aid and accessories a charge not to exceed the lesser of 10% of the purchase price or \$150.

(504.1 added Dec. 21, 1998, P.L.1190, No.153)

Section 505. Facilities and Procedures. - - (a) No registered hearing aid fitter shall engage in the practice of fitting and selling hearing aids unless he shall maintain his place of business so as to provide equipment and facilities as follows:

(1) Access to a selection of hearing aid models, supplies, and accessories sufficient to provide for the immediate needs of customers.

(2) An audiometer conforming at all times to specifications for pure-tone and speech diagnostic audiometers as established by the department, and subject to periodic inspection and calibration by the department.

(b) No registered hearing aid fitter shall fit or sell a hearing aid to any individual unless he or a referring audiologist or otolaryngologist or otologist shall have employed the following procedures, using equipment described in this section:

(1) Pure-tone audiometric testing by air and bone conduction, using masking where required.

(2) Such testing as shall reliably determine speech discrimination, speech reception threshold, most comfortable sound tolerance level, and selection of the appropriate ear for fitting, so as to provide maximum benefit from use of a hearing aid.

(c) No registered hearing aid fitter shall fit and sell a hearing aid to any individual unless he shall have fitted the instrument to the wearer so as to insure physical and operational comfort to the wearer in the use of the hearing aid.

Section 506. Sale of Minors. - - No hearing aid shall be sold by an individual registered under this act to a person 18 years of age or younger, unless within the preceding six months a recommendation for a hearing aid has been made by a physician specializing in otolaryngology

or otology. A replacement of an identical hearing aid within six months shall be an exception to this requirement.

Section 507. Records. - - A registrant shall, upon the consummation of a sale of a hearing aid, keep and maintain records in his office or place of business at all times and each such record shall be kept and maintained for a seven-year period. These records shall include:

(1) Results of test techniques as they pertain to fitting of the hearing aid.

(2) A copy of the written receipt required by section 504 and the written recommendation and waiver required by Article IV and written recommendation required by section 506.

ARTICLE VI

Suspension; Revocation; Penalties; Injunction; Civil Damages

Section 601. Causes for Denial, Suspension or Revocation of Certificate. - - The secretary may deny, suspend, or revoke a registration certificate or impose conditions of probation upon a registrant for any of the following causes:

(1) Gross incompetency which includes, but is not limited to, the improper or unnecessary fitting of a hearing aid.

(2) Conviction of any felony or misdemeanor involving moral turpitude.

(3) Obtaining a registration certificate by fraud or deceit.

(4) Use of the term "doctor" or "physician" or "clinic" or "audiologist" or any derivation thereof, as part of the firm name under which the registrant fits and sells hearing aids, unless authorized by law.

(5) Fraud or misrepresentation in the repair, fitting or selling of a hearing aid.

(6) The employment, to perform any act covered by the provisions of this act, of any person whose registration certificate has been suspended or who does not possess a valid registration certificate issued under this act.

(7) Habitual intemperance.

(8) Gross immorality.

(9) Permitting another to use his or her registration certificate for any purpose.

(10) Violate or permit, with notice or knowledge of its commission, the violation by any registered employee of any provision of this act or any rules or regulations duly promulgated under this act.

(11) Any cause which would be grounds for denial of an application for a registration certificate.

(12) Be enjoined from violating any provision of the act of December 17, 1968 (P.L.1224, No.387), known as the "Unfair Trade Practices and Consumer Protection law," or be subject to a final order of the Federal Trade Commission, the Pennsylvania Department of Health, or the Food and Drug Administration of the United States Department of Health, Education and Welfare concerning the sale or offering for sale of unsafe, unhealthful or worthless hearing devices or for engaging in conduct which has the tendency to mislead or deceive.

(13) Failure of an applicant for renewal of a registration certificate to furnish evidence of completion of the continuing education as provided in section 311. ((13) added Dec. 21, 1998, P.L.1190, No.153)

Section 602. Notice of Denial. - - Upon denial of an application for a registration certificate, the secretary shall notify the applicant in writing, stating:

(1) The reason for the denial.

(2) That the applicant has a right to a hearing if he makes written request therefore within 60 days after notice of denial. Service of the notice required by this section shall be made by certified mail addressed to the applicant at the latest address filed by the applicant in writing with the department in the application or otherwise.

Section 603. Investigations and Proceedings. - - The Secretary of Health or the Attorney General shall initiate any disciplinary investigations and proceedings for violation of this act and the Secretary of Health shall suspend, revoke, or impose probationary conditions upon any registrant violating this act.

Section 604. Additional Examination. - - Before setting aside the revocation or suspension of any registrant, the secretary may require the applicant to pass the regular examination given for applicants for registration certificates.

Section 605. Unlawful Acts. - - It is unlawful:

(1) To sell or barter, or offer to sell or barter any registration certificate issued by the department.

(2) To purchase or procure by barter any registration certificate issued by the department with intent to use the same as evidence of the holder's qualification to practice the fitting and selling of hearing aids.

(3) To alter with fraudulent intent in any material manner a registration certificate issued by the department.

(4) To use or attempt to use any registration certificate issued by the department which has been purchased, fraudulently issued, counterfeited, or materially altered as a valid registration certificate.

(5) To engage in the practice of fitting and selling hearing aids under a false or assumed name except as provided in section 310.

(6) To willfully make any false statement in a material regard in an application for an examination before the department for a registration certificate.

(7) To engage in the practice of fitting and selling hearing aids in this Commonwealth without having at the time of so doing a valid unrevoked and unexpired registration certificate.

(8) To advertise by displaying a sign or otherwise or hold oneself out to be a person engaged in the business of selling or the practice of fitting and selling hearing aids without having at the time of so doing a valid, unrevoked registration certificate.

Section 606. Injunctions. - - In addition to other proceedings provided for in this act, whenever any person has engaged, or is about to engage in any acts or practices which constitute and offense against this act, the court may issue an injunction or other appropriate order, restraining such conduct on application of the department, the Attorney General, or the district attorney of the county.

(606 repealed in part Apr. 28, 1978, P.L.202, No. 53)

Section 607. Civil Penalty. - - (a) Any person who violates any of the terms of an injunction or other appropriate order issued under the provisions of section 606 shall forfeit and pay to the Commonwealth a civil penalty equal to the penalty provided in the act of December 17, 1968 (P.L.1224, No. 387), known as the "Unfair Trade Practices and Consumer Protection Law." For the purposes of this section, the court, issuing an injunction or other appropriate order under section 606, shall retain jurisdiction, and the case shall be continued, and in such instances, the Secretary of Health, the Attorney General or the appropriate district attorney acting in the name of the Commonwealth, may petition for recovery of the civil penalties.

(b) If, in any action brought under section 606, the court finds that a person is willfully using or has willfully used a method, act or practice in violation of the provisions of this act, the Secretary of Health, the Attorney General or the appropriate district attorney, acting in the name of the Commonwealth, may recover on behalf of the Commonwealth, a civil penalty equal to the penalty provided in the act of December 17, 1968 (P.L.1224, No.387), known as the "Unfair Trade Practices and Consumer Protection law," per violation, which civil penalty shall be in addition to any other relief which may be granted under section 606.

Section 608. Recovery of Treble Damages and Attorney Fee. - - Any buyer injured by a violation of this act may bring an action for the recovery of damages. Judgment may be entered for three times the amount at which the actual damages are assessed, plus reasonable attorney fees.

ARTICLE VII General Fund Appropriation

Section 701. Appropriation. - - The sum of \$27,500 for the fiscal year ending June 30, 1977, is hereby appropriated to the Department of Health for the administration of this act.

ARTICLE VIII Date of Application; Effective Date

Section 801. Date of Application. - - (a) Notwithstanding any other provision of this act, hearing aid fitters subject to this act shall have a period of two years from the effective date hereof in which to comply with this act; and, no disciplinary action shall be taken against any such person for a period of two years from the effective date of this act.

Section 802. Effective Date. - - The provisions of this act shall take effect immediately.