

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 999
HOUSE BILL 965

1 AN ACT TO REGULATE THE PRACTICE OF FITTING AND SELLING HEARING AIDS.

2
3 The General Assembly of North Carolina do enact:
4

5 **Section 1.** The General Statutes of North Carolina are hereby amended by inserting
6 therein immediately following Chapter 93C of the General Statutes a new Chapter 93D to read
7 as follows:

8 **"CHAPTER 93D**

9 **"NORTH CAROLINA STATE HEARING AID DEALERS AND FITTERS BOARD**

10 **G.S. 93D-1. Definitions.** For the purposes of this Act:

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

22 **G.S. 93D-2. Fitting and Selling Without License Unlawful.** It shall be unlawful for any
23 person to fit or sell hearing aids unless he has first obtained a License or Apprentice License
24 from the North Carolina State Hearing Aid Dealers and Fitters Board.

25 **G.S. 93D-3. North Carolina State Hearing Aid Dealers and Fitters Board: Composition**
26 **Organization, Duties and Compensation.** (a) Composition of the Board There is hereby
27 created a Board whose duty it shall be to carry out the purposes and enforce the provisions of
28 this Chapter, and which shall be known as the "North Carolina State Hearing Aid Dealers and
29 Fitters Board". The Board shall be composed of seven (7) members. Four (4) members who
30 have been actively engaged in the fitting and selling of hearing aids for three (3) years shall be
31 appointed by the Governor. These initial appointments are for the following terms: one for one
32 year, one for two years, one for three years and one for four years. All subsequent appointments
33 shall be for terms of four (4) years.

34 Two (2) members shall be appointed by the Governor from a list of four (4) physicians
35 practicing in North Carolina, specializing in the field of Otolaryngology, which list shall be
36 compiled by the Medical Society of North Carolina. These initial appointments shall be for
37 terms of two years and four years respectively. All subsequent appointments shall be for terms
38 of four (4) years.

39 One (1) member shall be appointed by the Governor from a list of two (2) audiologists
40 residing in North Carolina, which list shall be compiled by the North Carolina Speech and
41 Hearing Association. This initial appointment shall be for a term of three (3) years. All
42 subsequent appointments shall be for a term of two (2) years.

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

(b) Organization of the Board. The Board shall choose, at the first regular meeting and annually thereafter, one of its members to serve as president and one as secretary and treasurer. A majority of the Board shall constitute a quorum. The Board shall meet at least once a year, the time and place of the annual meeting and any special meetings to be designated by the president. The secretary and treasurer of the Board shall keep a full record of its proceedings, including a current list of all licensees, which shall at all reasonable times be open to public inspection.

(c) Duties of the Board. The Board shall: (1) authorize all disbursements necessary to carry out the provisions of this Chapter; (2) supervise and administer qualifying examinations to test and determine the knowledge and proficiency of applicants for Licenses; (3) issue Licenses to qualified persons who apply to the Board; (4) obtain audiometric equipment and facilities necessary to carry out the examination of applicants for Licenses; (5) suspend or revoke licenses and Apprentice Licenses pursuant to this Chapter; (6) make and publish rules and regulations (including a Code of Ethics) which are necessary and proper to regulate the fitting and selling of hearing aids and to carry out the provisions of this Chapter; (7) exercise jurisdiction over the hearing of complaints, charges of malpractice including corrupt or unprofessional conduct, and allegations of violations of the Board's rules or regulations, which are made against any fitter and seller of hearing aids in North Carolina; (8) require the periodic inspection and calibration of audiometric testing equipment of persons who are fitting and selling hearing aids; (9) in connection with any matter within the jurisdiction of the Board, summon and subpoena and examine witnesses under oath and to compel their attendance and the production of books, papers, or other documents or writings deemed by the Board to be necessary or material to the inquiry. Each summons or subpoena shall be issued under the hand of the secretary and treasurer or the president of the Board and shall have the force and effect of a summons or subpoena issued by a Court of record. Any witness who shall refuse or neglect to appear in obedience thereto or to testify or produce books, papers, or other documents or writings required shall be liable to contempt charges in the manner set forth in G.S. 150-17. The Board shall pay to any witness subpoenaed before it the fees and per diem as paid witnesses in civil actions in the Superior Court of the county where such hearing is held.

(d) Compensation of the Board; Surplus Funds. Out of the funds coming into the possession of said Board, each member thereof may receive as reimbursement for each day he is actually engaged in the assigned duties of his office, the sum of eight (8) cents per mile for travel plus the actual costs of meals and public lodging while away from home, which costs of meals and lodging may not exceed twenty dollars (\$20.00) per day. Such expenses shall be paid from the fees and assessments received by the Board under the provisions of this Chapter. No part of these expenses or any other expenses of the Board, in any manner whatsoever, shall be paid out of the State treasury. All moneys received in excess of expense allowance and mileage, as above provided, shall be held by the secretary-treasurer as a special fund for meeting other expenses of the Board and carrying out the provisions of this Chapter.

The secretary-treasurer shall give a bond to the Board to be approved by the Board, in the sum of five thousand dollars (\$5,000.00) conditioned upon the faithful performance of the duties of his office.

The Board shall make an annual report of its proceedings to the Governor on the first Monday in June of each year, which report shall contain an account of all moneys received and disbursed by the Board and a complete listing of names and addresses of all licensees. Copies

of the report and list of licensees shall be filed in the Office of the State Auditor, the Secretary of State, and Attorney General.

G.S. 93D-4. Board may Enjoin Illegal Practices. The Board may, if it finds that any person is violating any of the provisions of this Chapter, apply to Superior Court for a temporary or permanent restraining order or injunction to restrain such persons from continuing such illegal practices. If upon application, it appears to the Court that such person has violated or is violating the provisions of this Chapter, the Court shall issue an order restraining the sale or fitting of hearing aids or other conduct in violation of this Chapter. All such actions by the Board for injunctive relief shall be governed by the Rules of Civil Procedure and Article 37, Chapter 1 of the General Statutes; provided, that injunctive relief may be granted regardless of whether criminal prosecution has been or may be instituted under the provisions of this Chapter.

G.S. 93D-5. Requirements for Registration: Examinations. (a) No person shall begin the fitting and selling of hearing aids in this State after the effective date of this Chapter until he is issued a License or Apprentice License by the Board. Except as hereinafter provided, each applicant for a License shall pay a fee of fifty dollars (\$50.00) and shall show to the satisfaction of the Board that he; (1) is a person of good moral character, (2) is twenty-one (21)-years of age or older, provided that, a person who has reached the age of nineteen (19) years or more may be awarded an Apprentice License, (3) has an education equivalent to a four-year course in an accredited high school, (4) is free of contagious or infectious disease.

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

G.S. 93D-6. Persons Selling in other Jurisdictions. Whenever the Board determines that another state or jurisdiction has requirements at least equivalent to those in effect pursuant to this Chapter for the fitting and selling of hearing aids, and that such state or jurisdiction has a program at least equivalent to the program for determining whether applicants pursuant to this Article are qualified to sell and fit hearing aids, the Board may issue, but is not compelled to issue, licenses to applicants therefor who hold current, unsuspended and unrevoked certificates or licenses to fit and sell hearing aids in such other state or jurisdiction. No such applicant shall be required to any examination or procedure required by G.S. 93D-5, except that he shall pay a fee of fifty dollars (\$50.00) to the Board upon application. Such applicant must have one full year of experience satisfactory to the Board before issuance of the License.

G.S. 93D-7. Persons Engaged in the Fitting and Selling of Hearing Aids Before the Passage of this Act. Every person engaged in fitting and selling hearing aids upon the effective date of this Act shall be issued a License by the Board, upon presentation of evidence satisfactory to the Board that he is a person of good moral character, is twenty-one (21) years of age or older, and has been engaged in fitting and selling hearing aids in this State for at least two years prior to the effective date of this Act, provided such person pays a fee of fifty (\$50.00) dollars for the issuance of a License by the Board; and provided he makes application to the Board for such License within sixty (60) days after the effective date of this Act. Upon payment of an additional five (\$5.00) dollars, a License Certificate shall be issued.

G.S. 93D-8. Examination of Applicants: Issue of License Certificate. (a) Every applicant for a License who is notified by the Board that he has fulfilled the requirements of G.S. 93D-5(a) excepting those making application pursuant to G.S. 93D-6 and G.S. 93D-7, shall appear at a time, place and before such persons as the Board may designate, to be examined by written and practical tests in order to demonstrate that he is qualified for the fitting and selling of hearing aids. The Board shall give one examination of the type prescribed herein each year at a duly pre-scribed time and place, which shall be publicized for at least ninety (90) days in advance. Additional examinations may be given at the discretion of the Board. The examination provided in this Section shall not include questions requiring a medical or surgical education but shall consist of:

- (1) Tests of knowledge in the following areas as they pertain to the fitting of hearing aids:
- (a) the basic physics of sound, (b) the human hearing mechanism, including the science of hearing and the cause and rehabilitation of abnormal hearing and hearing disorders, and (c) the structure and function of hearing aids.
- (2) Tests of proficiency in the following techniques as they pertain to the fitting of hearing aids:
- (a) pure tone audiometry, including air conduction testing and bone conduction testing, (b) live voice and recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing, (c) effective masking, (d) recording and evaluation of audiograms and speech audiometry to determine hearing aid candidacy, (e) selection and adaption of hearing aids and testing of hearing aids, (f) taking earmold impressions, and (g) such other skills as may be required for the fitting of hearing aids in the opinion of the Board.
- (h) Upon payment of five dollars (\$5.00) the Board shall issue a License Certificate to each applicant who successfully passes the examination.

G.S. 93D-9. Apprenticeship Licenses.

- (a) Any applicant who has fulfilled the requirements of G.S. 93D-5(a) may apply to the Board for an Apprenticeship License.
- (b) Upon receiving an application as provided under G.S. 93D-5(a) accompanied by a fee of five dollars (\$5.00), the Board may issue an Apprenticeship License which shall entitle the applicant to fit and sell hearing aids under the supervision of a holder of a regular License
- (c) No Apprenticeship License shall be issued by the Board under this Section unless the applicant shows to the satisfaction of the Board that he is or will be supervised and trained by a hearing aid fitter and seller who holds a License.
- (d) If a person twenty-one (21) years of age or older who holds an Apprenticeship License issued under this Section does not take the next succeeding examination given after a minimum of one full year of apprenticeship, his Apprenticeship License shall not be renewed, except for good cause shown to the satisfaction of the Board.
- (e) If a person who holds an Apprenticeship License takes and fails to pass the next succeeding examination given after one full year of apprenticeship, the Board may renew the Apprenticeship License for a period of time to end thirty (30) days after the results of the examination given next after the date of renewal of said Apprenticeship License. In no event shall more than one renewal of Apprenticeship License or two examinations for License be permitted. The fee for Apprenticeship license renewal shall be twenty-five dollars (\$25.00).
- (f) The Apprenticeship License may be revoked for cause as determined by the Board in its discretion.

G.S. 93D-10. Registration and Notice.

The Board shall register each person to whom it grants a License or Apprentice License. The Secretary-Treasurer of the Board shall keep a record of the place of business of all Licensees and Apprentice Licensees. Any notice required to be given by the Board to a person holding a License or Apprentice License may be given by mailing to him at the last address received by the Board from him.

G.S. 93D-11. Annual Fees; Failure to Pay; Expiration of License.

Every person who engages in the fitting and selling of hearing aids shall pay to the Board an annual license renewal fee of twenty five dollars (\$25.00). Such payment shall be made prior to the first day of April in each year. In case of default in payment the License shall expire 30 days after notice by the Secretary-Treasurer to the last known address of the licensee by registered mail. The Board may reinstate an expired license upon the showing of good cause for late payment of fees, upon payment of said fees within 60 days after expiration of the License,

and upon the further payment of a late penalty of ten dollars (\$10.00). After 60 days after the expiration date, the Board may reinstate the License for good cause shown upon application for reinstatement and payment of the late penalty of ten dollars (\$10.00) and renewal fee.

G.S. 93D-12. License to be Displayed at Office.

Every person to whom a License or Apprentice License is granted shall display the same in a conspicuous part of his office wherein the fitting and selling of hearing aids is conducted, or shall have a copy of such License or Apprentice License on his person and exhibit the same upon request when fitting or selling hearing aids outside of his office.

G.S. 93D-13. Discipline, Suspension, Revocation of Licenses and Apprentice Licenses.

(a) The Board may in its discretion administer the punishment of private reprimand, suspension of License or Apprentice License for a fixed period or revocation of License or apprentice License as the case may warrant in their judgment for any violation of the rules and regulations of the Board or for any of the following causes: (1) habitual drunkenness (2) gross incompetence (3) knowingly fitting and selling hearing aids while suffering with a contagious or infectious disease (4) commission of a criminal offense indicating professional unfitness (5) the use of a false name or alias in his business (6) conduct involving wilful deceit (7) conduct involving fraud or any other business conduct involving moral turpitude (8) advertising of a character or nature tending to deceive or mislead the public, (9) advertising declared to be unethical by the Board or prohibited by the Code of Ethics established by the Board, (10) permitting another person to use his License or Apprentice License, and

(a) for violating any of the provisions of this Chapter.

(b) Board action in revoking or suspending a License shall be in accordance with the provisions of G.S. 150-9 through 150-34. Any person whose License has been suspended for any of the grounds or reasons herein set forth, may, after the expiration of ninety days but within two years, apply to the Board to have the same reissued; upon a showing satisfactory to the Board that such reissuance will not endanger the public health and welfare, the Board may reissue a License to such person for a fee of fifty dollars (\$50.00) plus five dollars (\$5.00) for a certificate of License. If application is made subsequent to two years from date of suspension, reissuance shall be in accordance with the provisions of G.S. 93D-8.

G.S. 93D-14. Persons Not Affected.

This Chapter shall not prevent any person from engaging in the measuring of human hearing for the purpose of selection of hearing aids, provided such person or organization employing such person does not sell hearing aids or accessories thereto, nor shall this Chapter apply to any physician licensed to practice medicine or surgery in the State of North Carolina. Nothing in this Chapter shall permit a licensee hereunder to perform any practices or services set forth in Article 17 of Chapter 90 of the General Statutes of North Carolina.

G.S. 93D-15. Violation of Article Forbidden.

Any person who violates any of the provisions of this Chapter and any person who holds himself out to the public as a fitter and seller of hearing aids without having first obtained a License or Apprentice License as provided for herein, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one thousand dollars (\$1,000.00) nor less than five hundred dollars (\$500.00) or imprisonment for not more than six months, or both, in the discretion of the Court.

G.S. 93D-16. Severability.

If any provision of the Act shall be declared unconstitutional or invalid, such invalidity shall not affect other provisions or the application of the Act which can be given effect without the invalid provisions. To this end, the provisions of this Act are declared to be severable."

Sec. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 3. This Act shall be in full force and effect from and after ninety (90) days from its ratification.

1 In the General Assembly read three times and ratified, this the 24th day of June,
2 1969.