

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Representative Hogue**

**A BILL ACT 46 OF 1991**  
**HOUSE BILL 1164**

**For An Act To Be Entitled**

8 "AN ACT TO AMEND TITLE 17, CHAPTER 83 OF THE ARKANSAS CODE  
9 OF 1987 ANNOTATED RELATING TO THE ARKANSAS BOARD OF  
10 HEARING AID DISPENSERS; AND FOR OTHER PURPOSES."

11

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

13

14 SECTION 1. Title 17, Chapter 83 of the Arkansas Code of 1987 Annotated  
15 is hereby amended to read as follows:

16 "17-83-101. Definitions.

17 As used in this chapter, unless the context otherwise requires:

18 (1) 'Board' means the Arkansas Board of Hearing Aid Dispensers;

19 (2) 'License' and 'permit' mean, respectively, license as  
20 provided for in 17-83-306, and training permit as provided for in 17-83-308;

21 (3) 'Current' means valid, effective, unexpired, or unsuspended  
22 and unrevoked with reference to a license or permit;

23 (4) 'Licensed' means holding a current license;

24 (5) 'Hearing aid' means any instrument or device designed for or  
25 represented as aiding, improving, or correcting defective human hearing and  
26 any parts, attachments, or accessories of such an instrument or device;

27 (6) 'Practice of dispensing hearing aids' means conducting and  
28 interpreting hearing tests for purposes of selecting suitable hearing aids,  
29 making earmolds or ear impressions and providing appropriate counseling  
30 pertaining to the selling, renting, leasing, pricing, delivery and warranty of  
31 hearing aids;

32 (7) 'Established place of business' means a place of business at  
33 a permanent address which is open to the public during normal business hours  
34 for fitting and dispensing hearing aids;

35 (8) 'Unethical conduct' includes, but is not limited to:

36 (A) Obtaining any fee or making any sale by fraud or

1 misrepresentation;

2 (B) Employing directly or indirectly any unlicensed person  
3 to perform any work covered by this chapter;

4 (C) Using or causing or promoting the use of any  
5 advertising matter, promotional literature, testimonial, guarantee, warranty,  
6 label, brand, insignia, or any other representation, however made, which is  
7 misleading or untruthful;

8 (D) Advertising a particular model, type, or kind of  
9 hearing aid for sale when prospective purchasers responding to the  
10 advertisement cannot purchase or are dissuaded from purchasing the advertised  
11 model, type, or kind if the purpose of the advertisement is to obtain  
12 prospects for the sale of a model, type, or kind other than that advertised;

13 (E) Falsely representing that the services or advice of a  
14 person licensed to practice medicine will be used or made available in the  
15 selection, fitting, adjustment, maintenance, or repair of hearing aids or  
16 using the words 'doctor,' 'audiologist,' or 'clinic,' or like words,  
17 abbreviations, or symbols which suggest the medical profession when such use  
18 is not accurate;

19 (F) Permitting another to use the holder's license or  
20 permit;

21 (G) In any manner making false representations concerning a  
22 competitor or his products, business methods, selling prices, values, credit  
23 terms, policies, services, reliability, ability to perform contracts, credit  
24 standing, integrity, or morals;

25 (H) In any manner using, imitating, or simulating the  
26 trademark, trade name, corporate name, brand, model name, or number or label  
27 of any competitor, manufacturer, or product when it implies or represents a  
28 relationship that does not exist;

29 (I) Obtaining information concerning the business of a  
30 competitor by bribery of any employee or agent of the competitor, by the  
31 impersonation of one in authority, or by any other unfair or deceptive means;  
32 and

33 (J) Directly or indirectly giving or offering to give  
34 anything of value to any person who advises others in a professional capacity  
35 as an inducement to influence others to purchase products sold by a hearing

1 aid dispenser or to refrain from dealing with a competitor;

2 (9) 'Sponsor' means a licensed person who trains and directly  
3 supervises a training permit holder.

4

5 17-83-102. Applicability and construction.

6 (a) This chapter shall not apply to an audiologist who does not sell or  
7 repair hearing aids or to any person while engaged in the practice of  
8 recommending hearing aids as part of the academic curriculum of an accredited  
9 institution of higher education or part of a program conducted by a public  
10 charitable institution or nonprofit organization which is primarily supported  
11 by voluntary contributions.

12 (b) This chapter shall not be construed to prohibit any doctor who  
13 holds a valid license issued by the Arkansas State Medical Board, specializing  
14 in otology or otolaryngology, from treating or fitting hearing aids to the  
15 human ear, or to prohibit any corporation, partnership, trust, association, or  
16 other like organization from engaging in the business of fitting and selling  
17 hearing aids at retail, if it employs only natural persons licensed under this  
18 chapter in the direct fitting and sale of such products.

19 (c) Nothing in this chapter shall be construed as preventing or  
20 restricting the activities and services of a person pursuing a course of study  
21 leading to a degree in audiology in a college or university, which is an  
22 accredited institution of higher education, if such activities and services  
23 constitute a part of a supervised course of study and the person is designated  
24 as an audiology intern, audiology trainee, or by any other such titles clearly  
25 indicating the training status appropriate to his level of training.

26

27 17-83-103. Penalty - Injunction.

28 (a) Any person convicted of violating any provision of this chapter  
29 shall be guilty of a misdemeanor and upon conviction shall be subject to a  
30 fine not to exceed five hundred dollars (\$500) or to imprisonment in the  
31 county jail for not more than ninety (90) days, or both.

32 (b) Any violation of the provisions of this chapter may be enjoined by  
33 the chancery courts of this state.

34

35 17-83-104. Bills of sale.

1           Whether supplied by him or at his order or direction, any person who  
2 practices the dispensing of hearing aids shall deliver to each person supplied  
3 with a hearing aid:

- 4           (1) A bill of sale containing his signature;
- 5           (2) The address of his established place of business;
- 6           (3) The number of his license;
- 7           (4) A description of the make, model, and condition of the  
8 hearing aid furnished and whether it is new, used, or rebuilt; and
- 9           (5) The amount charged.

10

11           17-83-201. Creation and composition.

12           (a) There is created the Arkansas Board of Hearing Aid Dispensers.

13           (b) The board shall be composed of eight (8) members, appointed by the  
14 Governor for terms of three (3) years:

15           (1) At least four (4) of the members shall be hearing aid  
16 dispensers licensed under this chapter, who has held a valid license for at  
17 least three (3) years. The Governor shall consider nominations from the  
18 Arkansas Hearing Aid Society and the Arkansas Speech, Hearing and Language  
19 Association;

20           (2) At least one (1) member shall be a physician licensed to  
21 practice medicine in Arkansas and specializing in otology or otolaryngology;

22           (3) At least one (1) member shall be an audiologist holding a  
23 master's degree or doctorate degree in audiology from a recognized college or  
24 university;

25           (4) One (1) member shall not be actively engaged in or retired  
26 from the practice of dispensing hearing aids. The member shall be sixty (60)  
27 years of age or older and shall represent the elderly. The member shall be  
28 appointed from the state at large subject to confirmation by the Senate and  
29 shall be a full voting member but shall not participate in the grading of  
30 examinations.

31           (c) (1) All terms shall expire on July 31 of the designated year.

32           (2) Each member shall serve for the term of his appointment and  
33 until his successor has been appointed and qualified.

34           (3) No member shall serve more than two (2) terms consecutively.

35           (d) In the event of a vacancy on the board, a new member shall be

1 appointed to serve out the unexpired term.

2 (e) The Governor may remove any member for cause.

3 (f) Any board member who was appointed to a seven (7) year term or to  
4 fill a vacancy for the remainder of a seven (7) year term shall not have his  
5 or her term reduced to a three (3) year term as provided for in subsection  
6 (b).

7

8 17-83-202. Organization and proceedings.

9 (a) (1) The board shall meet at least twice a year at times and places  
10 to be designated by the board and upon such notice as the board may prescribe.

11 (2) The board shall elect a chairman, vice-chairman and  
12 secretary-treasurer annually, each to serve in his respective capacity for one  
13 (1) year.

14 (b) Any five (5) of the eight (8) members of the board, when properly  
15 convened, may conduct business of the board. The board may appoint one (1) or  
16 more of its members, or any other person they deem appropriate, as examiners  
17 for the purpose of hearing evidence, reporting findings thereon, and making  
18 recommendations to the entire board for decision on any matter over which the  
19 board has authority.

20 (c) The board shall keep a record of all of its proceedings and  
21 transactions and shall annually make a report to the Governor showing all  
22 receipts and disbursements and a summary of all business transacted during the  
23 year.

24

25 17-83-203. Powers and duties.

26 The powers and duties of the Arkansas Board of Hearing Aid Dispensers  
27 are:

28 (1) To authorize all disbursements necessary to carry out the  
29 provisions of this chapter and to receive and account for all fees;

30 (2) To prepare, supervise, and administer qualifying examinations  
31 to test the knowledge and proficiency of applicants;

32 (3) To register, issue, and renew licenses and permits to persons  
33 qualified under this chapter and to suspend, revoke, or refuse to renew  
34 licenses and permits pursuant to this chapter;

35 (4) To purchase and maintain or rent audiometric equipment and

1 facilities necessary to carry out the examination of applicants for licenses;

2           (5) To make rules and regulations not inconsistent with the laws  
3 of this state which are necessary to the enforcement and orderly  
4 administration of this chapter. However, no rule or regulation shall be  
5 promulgated which in any manner serves to restrict the number of licenses  
6 which may be issued in any city, town, or county of this state;

7           (6) To require the periodic inspection and calibration of  
8 audiometric testing equipment and to carry out the periodic inspection of  
9 facilities of persons who practice the fitting or selling of hearing aids;

10           (7) To employ and retain the services of attorneys, accountants,  
11 and other necessary assistants in carrying out the provisions of this chapter;

12           (8) To require, of the board deems necessary, an applicant or  
13 dealer or licensee to furnish a surety bond, in an amount fixed by the board,  
14 for the benefit of any person damaged as the result of a violation of this  
15 chapter. All requirements pertaining to the surety bond may be promulgated by  
16 regulation of the board;

17           (9) To set the following fees:

18                   (A) an application fee not to exceed one hundred dollars  
19 (\$100.00);

20                   (B) an examination fee not to exceed seventy-five dollars  
21 (\$75.00);

22                   (C) a reexamination fee not to exceed seventy-five dollars  
23 (\$75.00);

24                   (D) a permanent registration fee not to exceed thirty-five  
25 dollars (\$35.00);

26                   (E) an annual license fee not to exceed one hundred fifty  
27 dollars (\$150.00);

28                   (F) a late penalty of ten percent (10%) of the annual  
29 license fee if paid within thirty (30) days after expiration;

30                   (G) a license reinstatement fee not to exceed one and one-  
31 half (1 1/2) times the annual license fee, if the renewal fee is not paid  
32 within the thirty (30) day grace period; and

33                   (H) a training permit fee not to exceed seventy-five  
34 dollars (\$75.00).

35

1           17-83-204. Disposition of funds - Compensation of members.

2           (a) (1) Fees collected by the board shall be used to pay expenses in  
3 administering this chapter.

4           (2) All moneys shall be received, disbursed, and accounted for by  
5 the secretary-treasurer, or a person designated by the board, who shall be  
6 bonded at the expense of the board.

7           (3) All moneys not expended by the board to pay expenses in  
8 administering this chapter shall be retained by the board from year to year to  
9 be expended for the purposes expressed in this chapter.

10          (b) Each member of the board shall be paid a reasonable sum, not to  
11 exceed twenty-five dollars (\$25.00) per day, for each day of actual service on  
12 the board and shall be reimbursed all reasonable and necessary travel  
13 expenses.

14

15           17-83-301. Application of Administrative Procedure Act.

16          The Administrative Procedure Act, as amended, 25-15-201 et seq., shall  
17 apply to the authority and procedures of the board in exercising control over  
18 licensing under this chapter.

19

20           17-83-302. License required.

21          No person shall engage in the sale of hearing aids, or display a sign or  
22 in any other way advertise or hold himself out as a person who practices the  
23 dispensing of hearing aids unless he is licensed under this chapter and has  
24 his license or training permit conspicuously posted in his office or place of  
25 business.

26

27           17-83-303. Unlawful practices.

28          It shall be unlawful for any person to:

29           (1) Sell or purchase a license or permit in a manner not  
30 authorized by this chapter;

31           (2) Willfully alter, with the intent to defraud, any license or  
32 permit;

33           (3) Represent as a valid license or permit one which has been  
34 purchased, fraudulently obtained, counterfeited, or materially altered; or

35           (4) Willfully make a false material statement in any application

1 to the board.

2

3 17-83-304. Applications - Qualifications of applicants.

4 (a) An applicant for a license under this chapter shall:

5 (1) Submit a written application and request for examination in  
6 the form and within the time prescribed by the board;

7 (2) Pay an application and examination fee as prescribed by the  
8 board, pursuant to this chapter; and

9 (3) Show to the satisfaction of the board that he:

10 (A) Is twenty-one (21) years of age or older;

11 (B) Has an education equivalent to a four-year course in an  
12 accredited high school;

13 (C) Is of good moral character; and

14 (D) Has satisfactorily completed a training program,  
15 approved by the board, in the basics of testing for and fitting of hearing  
16 aids.

17 (b) Before an applicant is issued a license, he must satisfactorily  
18 pass the examination in the form and within the time prescribed by the board.

19

20 17-83-305. Examinations.

21 (a) The examination provided in 17-83-304 shall be given by the board  
22 at least once each year and at such additional times as may be necessary to  
23 meet the volume of applications. However, no candidate shall be required to  
24 wait more than ninety (90) days from the date of his application to have the  
25 examination administered unless he so requests.

26 (b) The examination may be written or practical, or both, and shall  
27 consist of:

28 (1) Tests of knowledge in the following areas as they pertain to  
29 the fitting of hearing aids:

30 (A) Basic physics of sound;

31 (B) The human hearing mechanism, including the science of  
32 hearing and the causes and rehabilitations of abnormal hearing and hearing  
33 disorders;

34 (C) Structure and function of hearing aids;

35 (D) Pure tone audiometry, including air conduction testing



1 and bone conduction testing;

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

5 (F) Effective masking;

6 (G) Recording and evaluation of audiograms and speech  
7 audiometry to determine hearing aid candidacy;

8 (H) Selection and adaptation of hearing aids; and

9 (I) Taking earmold impressions;

10 (2) Testing of other knowledge and skills as may be required to  
11 determine an applicant's ability and suitability for the practice of  
12 dispensing hearing aids to the public.

13 (c) The tests under this section shall not include questions requiring  
14 a medical or surgical education.

15 (d) Applicants who fail to pass the required examination may retake the  
16 examination by paying a reexamination fee as prescribed by the board pursuant  
17 to this chapter, for each additional examination taken.

18

19 17-83-306. Issuance and renewal.

20 (a) Upon payment of a permanent registration fee and an annual license  
21 fee as prescribed by the board pursuant to this chapter, the board shall  
22 register and issue licenses to applicants who have fulfilled the requirements  
23 of this chapter.

24 (b) All licenses shall expire on the date or dates set by the board and  
25 all licenses shall be renewed annually.

26 (c)(1) The fee for renewal of a license, as prescribed by the board  
27 pursuant to this chapter, shall be paid before the expiration of the license.  
28 Failure to make such payment before the expiration date of the license shall  
29 result in the payment of the license renewal fee, plus a late penalty as  
30 prescribed by the board pursuant to this chapter, if paid within thirty (30)  
31 days after expiration.

32 (2) If the renewal fee is not paid within the thirty-day grace  
33 period, the board shall renew such license upon payment of the required fee as  
34 prescribed by the board pursuant to this chapter, and satisfaction of all  
35 other requirements contained in this chapter for the renewal of the license.

1 (d)(1) The board shall require that all applicants seeking renewal of  
2 their licenses shall show proof of attending, during the preceding year, a  
3 minimum of ten (10) hours of board approved continuing education in the  
4 methods and techniques of testing for and fitting hearing aids.

5 (2) The board shall require that all applicants seeking renewal  
6 of their licenses shall present written evidence of annual calibration of all  
7 audiometers to current national standards.

8

9 17-83-307. Training permits.

10 (a) An applicant who fulfills the requirements of and pays the fees  
11 prescribed by the board pursuant to this chapter and has successfully passed  
12 the entry-level training permit examination, shall be issued a training permit  
13 for a period not to exceed six (6) months, if he pays a training permit fee as  
14 prescribed by the board pursuant to this chapter and shows to the satisfaction  
15 of the board that, during the period of the training permit, he will be  
16 directly trained and supervised by a sponsor who has continuously held a valid  
17 Arkansas hearing aid dispensers license for a period of not less than three  
18 (3) years.

19 (b) It shall be a violation of this chapter for any person holding a  
20 training permit to practice the dispensing of hearing aids except under the  
21 direct supervision of a person who has continuously held a valid Arkansas  
22 hearing aid dispenser's license for a period of not less than three (3) years.

23 (c) It shall be a violation of this chapter for any sponsor of a  
24 temporary permit holder to knowingly allow or require that temporary permit  
25 holder to practice the dispensing of hearing aids except under the sponsor's  
26 direct supervision.

27

28 17-83-308. Suspension, revocation, or nonrenewal.

29 The board may suspend, revoke, or refuse to renew the license or permit  
30 of any person for any of the following causes:

31 (1) Being convicted of a crime involving moral turpitude. A  
32 record of a conviction, certified by the judge or the clerk of the court where  
33 the conviction occurred, shall be sufficient evidence to warrant suspension,  
34 revocation, or refusal to renew;

35 (2) Securing a license or training permit under this chapter

1 through fraud or deceit;

2 (3) Unethical conduct, gross ignorance, or inefficiency in the  
3 conduct of his practice;

4 (4) Using a false name or an alias in his practice;

5 (5) Violation of any provision of this chapter;

6 (6) Failure of any of the requirements for issuance of the  
7 license or training permit.

8

9 17-83-309. Notification and use of business address.

10 (a) Every person who holds a license or training permit shall notify  
11 the board in writing of the address of the place where he engages or intends  
12 to engage in the practice of dispensing hearing aids.

13 (b) Any notice required to be given by the board to a person may be  
14 given by mailing it to him at that address.

15 (c) It shall be the responsibility of every person who holds a license  
16 or training permit to notify the board, by certified letter, of every change  
17 in his office address or place of practice within ten (10) days of such  
18 change."

19

20 SECTION 2. All provisions of this act of a general and permanent nature  
21 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
22 Revision Commission shall incorporate the same in the Code.

23

24 SECTION 3. If any provision of this act or the application thereof to  
25 any person or circumstance is held invalid, such invalidity shall not affect  
26 other provisions or applications of the act which can be given effect without  
27 the invalid provision or application, and to this end the provisions of this  
28 act are declared to be severable.

29

30 SECTION 4. All laws and parts of laws in conflict with this act are  
31 hereby repealed.

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APPROVED: 2-7-91

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