

MAINE STATE LEGISLATURE

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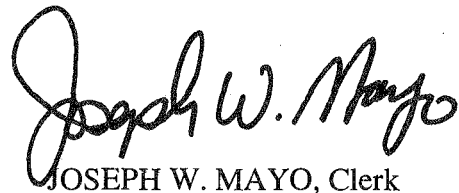
H.P. 396

House of Representatives, January 28, 1997

**An Act to Amend the Laws Regarding the Licensure of Hearing Aid
Dealers and Fitters.**

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Business and Economic Development suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative FARNSWORTH of Portland.
Cosponsored by Representative VIGUE of Winslow.

Be it enacted by the People of the State of Maine as follows:

2
4 **Sec. 1. 32 MRSA §1658-A, sub-§1**, as amended by PL 1995, c.
502, Pt. H, §26, is further amended to read:

6 **1. License for person.** No person may engage in the sale of
7 or practice of fitting and dealing in hearing aids or display a
8 sign or in any other way advertise as or profess to be a person
9 who practices the fitting, dealing and sale of hearing aids,
10 unless that person holds a valid license issued by the board as
11 provided in section 1658-I. ~~The board shall issue a license to~~
12 ~~any person who applies for the license and who is qualified for~~
13 ~~the license pursuant to section 1658-I, upon payment of a fee set~~
14 ~~by the board in an amount not to exceed \$185. Licenses expire~~
15 ~~annually on January 31st or on another date as the Commissioner~~
16 ~~of Professional and Financial Regulation determines.~~ The license
17 required by this chapter must be conspicuously posted in the
18 licensee's office or place of business. The board shall, for
19 cost, issue duplicate licenses to license holders operating more
20 than one office. A license issued under this chapter confers on
21 the holder the right to select, fit and sell hearing aids.

22
24 **Sec. 2. 32 MRSA §1658-A, sub-§2**, as amended by PL 1995, c.
502, Pt. H, §27, is further amended to read:

26 **2. License for business organization.** Any corporation,
27 partnership, trust, association or other like organization
28 engaged in the business of selling or offering for sale hearing
29 aids at retail in the State shall apply to the board for a
30 license to engage in that business. No business entity may so
31 engage in the business of selling or offering for sale hearing
32 aids without a license to do so. The board shall issue a license
33 upon payment by the business entity of a fee set by the board in
34 an amount not to exceed \$185 and upon filing of a sworn statement
35 from a person with authority from the business entity. That
36 sworn statement must list the names and addresses of all hearing
37 aid dealers and fitters directly or indirectly employed by the
38 entity and must certify that the entity employs only hearing aid
39 dealers and fitters who are duly licensed by the State. ~~Licenses~~
40 ~~expire annually on January 31st or on another date as the~~
41 ~~Commissioner of Professional and Financial Regulation~~
42 ~~determines. Licenses may be renewed annually by each business~~
43 ~~engaged in the fitting and sale of hearing aids by filing an~~
44 ~~application for a renewal of its license accompanied by a fee set~~
45 ~~by the board in an amount not to exceed \$185. A license may be~~
46 ~~renewed up to 90 days after the date of its expiration upon~~
47 ~~payment of a late fee of \$10 in addition to the renewal fee. Any~~
48 ~~application for renewal submitted more than 90 days after the~~
49 ~~license expiration date is subject to all requirements governing~~
50 ~~new applicants under this chapter. The commissioner may~~

2 ~~establish dates for the renewal of licenses. At least one of the~~
3 ~~licensees employed by the business entity must have been licensed~~
4 ~~for a minimum of 2 years and have at least 3,000 hours of work~~
5 ~~experience as a hearing aid dispenser or be certified by the~~
6 ~~National Board for Certification in Hearing Instrument Sciences.~~

7 The license required by this chapter must be conspicuously posted
8 in the licensee's office or place of business.

10 **Sec. 3. 32 MRSA §1658-I, sub-§1, ¶D**, as amended by PL 1977, c.
11 78, §178, is further amended to read:

12 D. Has obtained a trainee permit pursuant to section 1658-J
13 and has received a minimum of 750 hours of training in the
14 practice of fitting and dealing in hearing aids under the
15 direct supervision of a licensee for--at--least--a--30--day
16 period during a period of not fewer than 6 nor more than 12
17 months.

20 **Sec. 4. 32 MRSA §1658-I, sub-§2**, as amended by PL 1981, c.
21 703, Pt. A, §63, is further amended to read:

22 2. **Examination.** The applicant for license by examination
23 shall appear at a time, place and before such persons as the
24 board may designate, to be examined by means of written,
25 practical and oral tests in order to demonstrate that he the
26 applicant is qualified to practice the fitting and sale of
27 hearing aids. The board may appoint a consultant to assist in
28 preparing the examination itself as well as conducting and
29 supervising the testing. The examination administered as directed
30 by the board constituting standards for licensing shall may not
31 be conducted in such a manner that college training be required
32 in order to pass the examination. Nothing in this examination may
33 imply that the applicant possesses the degree of medical
34 competence normally expected by physicians.

36 **Sec. 5. 32 MRSA §1658-J**, as amended by PL 1995, c. 502, Pt.
37 H, §28, is further amended to read:

40 **§1658-J. Trainee permit**

42 An applicant who fulfills the requirements as set forth in
43 section 1658-I, subsection 1, paragraphs A to D C, may obtain a
44 trainee permit upon application to the board, accompanied by a
45 fee set by the board in an amount not to exceed \$50 and the
46 signature of the licensed hearing aid dealer and fitter who is
47 responsible for the direct supervision of the trainee. A trainee
48 permit is valid for 18 months. Giving due consideration to the
49 public interest, the board may approve the renewal of a trainee
50 permit once.

2 A person holding a trainee permit may not engage in the
3 practice of dealing in or fitting of hearing aids, except while
4 under supervision by a licensed hearing aid dealer and fitter.

6 A person who holds a ~~temporary~~ trainee permit ~~must--be~~
7 ~~notified~~ shall notify the board in writing upon completion of the
8 ~~training~~ required under section 1658-I, subsection 1, paragraph
9 ~~D,~~ and shall take ~~sit~~ for the next scheduled licensing
10 examination. ~~After--sueessfully--passing~~ If the holder of a
11 ~~trainee permit~~ successfully passes the examination, the person
12 ~~must-be-issued~~ board shall issue a license upon the payment of
13 the annual license fee required under section 1658-M 1658-P.

14 If the holder of a trainee permit fails the examination,
15 that person may ~~apply-for-and-be-issued-a-new-trainee-permit-upon~~
16 ~~payment-of-an-additional-fee-set-by-the-board-in-an-amount-not-to~~
17 ~~exceed-\$50~~ retake the examination, upon payment of a fee not to
18 exceed \$25, within one year after completing the training
19 required under section 1658-I, subsection 1. ~~An-applicant-may~~
20 ~~not-be-issued-more-than-3-trainee-permits.~~

22 **Sec. 6. 32 MRSA §1658-K, sub-§2, ¶¶B, C and E, as repealed and**
23 **replaced by PL 1975, c. 463, §3, are amended to read:**

24 B. Live voice or recorded voice speech audiometry,
25 including speech reception threshold testing and speech
26 discrimination recognition testing;

27 C. Criteria for masking, ~~eyes-and-bi-eyes-fittings;~~

28 E. Taking ear mold impressions, ~~.~~

29 **Sec. 7. 32 MRSA §1658-K, sub-§2, ¶¶F and G, as repealed and**
30 **replaced by PL 1975, c. 463, §3, are repealed.**

31 **Sec. 8. 32 MRSA §1658-L, as amended by PL 1983, c. 468, §8,**
32 **is further amended to read:**

33 **§1658-L. Notice to board of place of business; notice to holders**
34 **of license; how given by board**

35 A ~~person-who-holds-a-liense~~ licensee shall notify the board
36 in writing of the regular address of the place or places where he
37 the licensee engages or intends to engage in the fitting or the
38 sale of hearing aids.

39 The board shall keep a record of the ~~plaae~~ places of
40 business of ~~persens-who-hold-lienses~~ licensees.

41

2 Any notice required to be given by the board to a person who
holds a license shall licensee must be mailed to him the licensee
4 licensee has notified the board.

6 **Sec. 9. 32 MRSA §1658-M**, as amended by PL 1995, c. 502, Pt.
H, §29, is repealed and the following enacted in its place:

8 **§1658-M. Annual renewal of license; fees; effect of failure to**
10 **renew**

12 **1. License renewal.** Annual renewal of licenses under this
chapter must be in accordance with the following.

14 **A. Licenses issued to hearing aid dealers and business**
16 **organizations pursuant to section 1658-A, subsection 1 may**
18 **be renewed annually upon application by the licensee**
20 **accompanied by a fee set by the board. The board shall**
22 **notify every licensee of the date of expiration of the**
24 **license and the amount of the fee required for renewal for a**
26 **12-month period. The notice must be mailed to the**
28 **licensee's last known address at least 30 days in advance of**
30 **the expiration of the license. The license may be renewed**
32 **up to 90 days after the date of its expiration upon payment**
34 **of a late fee of \$10 in addition to the renewal fee. A**
36 **person who submits an application for renewal more than 90**
38 **days after the license expiration date is subject to all**
40 **requirements governing new applicants under this chapter,**
42 **except that the board, giving consideration to the**
44 **protection of the public, may waive examination if the**
46 **renewal application is made within 2 years from the date of**
48 **the expiration.**

34 **B. Notwithstanding this section, an annual renewal**
36 **certificate may not be issued by the board to a licensee**
38 **until the applicant submits proof satisfactory to the board**
40 **that, during the year preceding the applicant's application**
42 **for renewal, the applicant has participated in continuing**
44 **education in fitting and dealing in hearing aids according**
46 **to requirements established by the board.**

42 **Sec. 10. 32 MRSA §1658-N, first ¶**, as repealed and replaced by
44 PL 1983, c. 413, §80, is amended to read:

46 The board shall investigate or cause to be investigated all
48 complaints made to it and all cases of noncompliance with or
violation of this chapter. Any person may register a complaint of
fraud, deceit, gross negligence, incompetency or misconduct
against any licensee under this chapter. These complaints shall

2 ~~must be in writing, and shall be sworn to by the person making~~
~~them, and filed with the secretary-treasurer of the board.~~

4 **Sec. 11. 32 MRSA §1658-N, sub-§5,** as repealed and replaced by
6 PL 1983, c. 413, §80, is amended to read:

8 **5. Negligence.** Incompetence, negligence or neglect in the
10 conduct of the practice of fitting and dealing in hearing aids,
12 including, but not limited to, the improper fitting of a hearing
14 aid, the sale of a hearing aid to a person with normal hearing,
16 making an ear mold impression or fitting an ear mold without
18 prior inspection of the external ear canal, making ear mold
20 impression or fitting an ear mold after prior inspection revealed
22 the presence of ~~debris or fluid~~, or impacted, cerumen in the ear
24 canal, failure to indicate the need for medical or audiological
evaluation when the prospective purchaser's history reveals a
probable risk of disease or progressive hearing impairment, the
failure to make the required medical referrals, the incorrect
reporting of hearing test results to any person, the failure to
be present to fit the final hearing aid on the ear of the
purchaser, and the tampering with a satisfactorily performing
hearing aid owned by a purchaser or potential purchaser so as to
cause that hearing aid to no longer perform correctly;

26 **Sec. 12. 32 MRSA §1658-P** is enacted to read:

28 **§1658-P. Fees**

30 The board may charge fees in the following categories in
amounts not to exceed those specified in this section.

32 1. Application. The fee for an application is \$25.

34 2. Original dealer license. The fee for an original dealer
36 license is \$185.

38 3. Original business license. The fee for an original
business license is \$185.

40 4. Renewal of dealer or business license. The fee for a
42 renewal of dealer or business license is \$185.

44 5. Trainee permit, including first examination. The fee
for a trainee permit, including a first examination, is \$50.

46 6. Retake of practical examination. The fee for a retake
48 of a practical examination is \$25.

50 **Sec. 13. 32 MRSA §1659, 2nd ¶,** as enacted by PL 1983, c. 413,
§81, is amended to read:

2 The board shall may not refuse to renew a license for any
4 reason other than failure to pay a required fee, unless it has
6 afforded the licensee an opportunity for an adjudicatory
8 hearing. The board shall hold an adjudicatory hearing at the
10 written request of any person who is denied a license without a
12 hearing for any reason other than failure to pay a required fee,
14 provided that the request for hearing is received by the board
16 within 30 days of the applicant's receipt of written notice of
the denial of his the applicant's application, the reasons for
the denial and his the applicant's right to request a hearing.
Hearings shall must be conducted in conformity with the Maine
Administrative Procedure Act, Title 5, chapter 375, subchapter
IV, to the extent applicable. The board may subpoena witnesses,
records and documents in any hearing it conducts.

18 Sec. 14. 32 MRSA §1660-B, sub-§4, as enacted by PL 1981, c.
703, Pt. A, §73, is repealed.

22 SUMMARY

24 This bill amends the Maine Revised Statutes, Title 32,
26 chapter 23-A, Hearing Aid Dealers and Fitters, to revise the
28 requirements for the trainee permit to include a more extensive
period of supervised work experience and to centralize and revise
fee information to include an application fee and a separate fee
for the retake of the practical examination. Language is also
revised in chapter 23-A to make it gender-neutral.