

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

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NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1997

CHAPTER 156

H.P. 396 - L.D. 541

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

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

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

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

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

2. License for business organization. Any corporation, partnership, trust, association or other like organization engaged in the business of selling or offering for sale hearing aids at retail in the State shall apply to the board for a license to engage in that business. No business entity may so engage in the business of selling or offering for sale hearing aids without a license to do so. The board shall issue a license upon payment by the business entity of a fee set by the board in an amount not to exceed \$185 and upon filing of a sworn statement from a person with authority from the business entity. That sworn statement must list the names and addresses of all hearing aid dealers and fitters directly or indirectly employed by the entity and must certify that the entity employs only hearing aid dealers and fitters who are duly licensed by the State. ~~Licenses expire annually on January 31st or on another date as the Commissioner of Professional and Financial Regulation determines. Licenses may be renewed annually by~~

~~each business engaged in the fitting and sale of hearing aids by filing an application for a renewal of its license accompanied by a fee set by the board in an amount not to exceed \$185. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any application for renewal submitted more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter. The commissioner may establish dates for the renewal of licenses. At least one of the licensees employed by the business entity must have been licensed for a minimum of 2 years and have at least 3,000 hours of work experience as a hearing aid dispenser or be certified by the National Board for Certification in Hearing Instrument Sciences.~~

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

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

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

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

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

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

§1658-J. Trainee permit

An applicant who fulfills the requirements as set forth in section 1658-I, subsection 1, paragraphs A to

~~D C~~, may obtain a trainee permit upon application to the board, accompanied by a fee set by the board in an amount not to exceed \$50 and the signature of the licensed hearing aid dealer and fitter who is responsible for the direct supervision of the trainee. A trainee permit is valid for 18 months. Giving due consideration to the public interest, the board may approve the renewal of a trainee permit once.

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

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

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

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

- B. Live voice or recorded voice speech audiometry, including speech reception threshold testing and speech ~~discrimination~~ recognition testing;
- C. Criteria for masking; ~~eros and bi-eros fittings~~;
- E. Taking ear mold impressions;

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

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

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

A ~~person who holds a license~~ licensee shall notify the board in writing of the regular address of the place or places where ~~he~~ the licensee engages or

intends to engage in the fitting or the sale of hearing aids.

The board shall keep a record of the ~~place~~ places of business of ~~persons who hold licenses~~ licensees.

Any notice required to be given by the board to a ~~person who holds a license~~ licensee must be mailed to ~~him~~ the licensee at the address of the last place of business of which ~~he~~ the licensee has notified the board.

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:

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

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

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

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

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

The board shall investigate or cause to be investigated all 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~~ must be in writing, ~~and shall be sworn to by the person making them, and filed with the secretary treasurer of the board.~~

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

5. Negligence. Incompetence, negligence or neglect in the conduct of the practice of fitting and dealing in hearing aids, including, but not limited to, the improper fitting of a hearing aid, the sale of a hearing aid to a person with normal hearing, making an ear mold impression or fitting an ear mold without prior inspection of the external ear canal, making ear mold impression or fitting an ear mold after prior inspection revealed the presence of ~~debris or fluid,~~ or impacted, cerumen in the ear 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;

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

§1658-P. Fees

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

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

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

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

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

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

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

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

The board ~~shall~~ may not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board 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.

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

Sec. 15. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1997-98	1998-99
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
Licensing and Enforcement		
All Other	\$625	\$625
Allocates additional funds for the Board of Hearing Aid Dealers and Fitters to cover additional examination costs.		

See title page for effective date.

CHAPTER 157

S.P. 62 - L.D. 172

An Act to Provide for Long-range Revenue Forecasts

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

Sec. 1. 5 MRSA §§1710-F and 1710-G, as enacted by PL 1995, c. 368, Pt. J, §1, are amended to read:

§1710-F. Duties of committee