

SENATE BILL No. 841

October 25, 2005, Introduced by Senator STAMAS and referred to the Committee on Health Policy.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending sections 1301, 1302, 1304, 1305, 1307, and 1308 (MCL
339.1301, 339.1302, 339.1304, 339.1305, 339.1307, and 339.1308),
sections 1301, 1305, and 1307 as amended by 1988 PA 463, and by
adding section 1303a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1301. As used in this article:

2 (a) "Hearing aid" means an instrument or device designed for
3 regular and constant use in or proximate to the human ear and
4 represented as aiding or improving defective human hearing.

5 ~~—— (b) "Hearing aid dealer" means an individual who engages in~~
6 ~~the sale or offering for sale at retail of a hearing aid.~~

1 (B) ~~—(e)— "Hearing ~~aid salesperson~~"~~ **HEALTH CARE ASSISTANT"**

2 means an individual who engages in the sale or offering for sale at
3 retail of a hearing aid and who is ~~—an—~~ **A DIRECT** employee of a
4 hearing ~~aid dealer~~ **HEALTH CARE PROVIDER.**

5 (C) **"HEARING HEALTH CARE PROVIDER" MEANS AN INDIVIDUAL WHO**
6 **ENGAGES IN THE SALE OR OFFERING FOR SALE AT RETAIL OF A HEARING**
7 **AID.**

8 (d) "Practice of selling or fitting a hearing aid" means the
9 selection, adaptation, **DISPENSING**, and sale of a hearing aid and
10 includes the testing of hearing by means of an audiometer and other
11 means for the sale of a hearing aid. The practice also includes the
12 making of an impression for an ear mold.

13 (e) "Unethical conduct" means **ANY OF THE FOLLOWING:**

14 (i) Selling a hearing aid intended to be used by an individual
15 16 years of age or less without an otologic examination and
16 approval by a physician and an audiologic evaluation and
17 recommendation.

18 (ii) Canvassing from house to house or place of business either
19 in person or by an agent for selling a hearing aid without prior
20 referral or request.

21 (iii) Failing to properly and reasonably accept responsibility
22 for the actions of a licensed trainee.

23 (iv) Offering, paying, causing to be paid, or inferring that a
24 payment might be made, directly or indirectly, of money or other
25 thing of value to an audiologist, otologist, physician, clinic, or
26 other similar medical person or institution as a consideration for
27 a referral by a medical person or institution or as a part of an

1 agreement with a medical person or institution.

2 Sec. 1302. This article ~~shall~~ **DOES** not prohibit a person
3 from engaging in the business of selling or offering for sale a
4 hearing aid at retail without a license, if the person employs only
5 licensed hearing ~~aid dealers and salespersons~~ **HEALTH CARE**
6 **PROVIDERS AND HEARING HEALTH CARE ASSISTANTS** in the direct sale and
7 fitting of the ~~product~~ **HEARING AID**. Each person shall file
8 annually with the department a list of each licensed hearing ~~aid~~
9 ~~dealer or salesperson~~ **HEALTH CARE PROVIDER OR HEARING HEALTH CARE**
10 **ASSISTANT** directly ~~or indirectly~~ employed by the person and a
11 statement on a form approved by the department that the person will
12 ~~submit to~~ **COMPLY WITH** the rules promulgated under this article and
13 the **APPLICABLE** provisions of this article. ~~which the department~~
14 ~~considers applicable.~~ A person engaging in the business of selling
15 or offering for sale a hearing aid at retail shall maintain a place
16 of business in this state ~~which~~ **THAT** is an actual, established
17 physical location from which the person conducts business and where
18 each applicable book or record is maintained. A branch office of
19 the person shall be under the personal direct supervision of a
20 hearing ~~aid dealer~~ **HEALTH CARE PROVIDER** or hearing ~~aid~~
21 ~~salesperson~~ **HEALTH CARE ASSISTANT** as qualified in section 1305.

22 **SEC. 1303A. (1) THE BOARD OF HEARING HEALTH CARE PROVIDERS IS**
23 **CREATED. SIX MEMBERS OF THE BOARD SHALL BE QUALIFIED HEARING HEALTH**
24 **CARE PROVIDERS WHO HAVE BEEN ACTIVELY ENGAGED IN THE SALE OF**
25 **HEARING AIDS FOR AT LEAST 3 YEARS.**

26 **(2) NOT MORE THAN 2 MEMBERS OF THE BOARD SHALL BE EMPLOYEES**
27 **OF, FRANCHISED BY, OR ASSOCIATED EXCLUSIVELY WITH THE SAME HEARING**

1 **AID MANUFACTURER.**

2 Sec. 1304. (1) The department shall issue a license as a
3 hearing ~~aid dealer~~ **HEALTH CARE PROVIDER** or ~~salesperson~~ **HEARING**
4 **HEALTH CARE ASSISTANT** to each ~~person~~ **INDIVIDUAL** it finds
5 qualified under this article.

6 (2) Upon the request of a person, the department shall furnish
7 a list of licensed hearing ~~aid dealers~~ **HEALTH CARE PROVIDERS**.

8 Sec. 1305. (1) An individual ~~wishing to sell or fit~~ **DESIRING**
9 **TO ENGAGE IN THE PRACTICE OF SELLING, FITTING, OR DISPENSING** a
10 hearing aid ~~in connection with the sale of a hearing aid~~ as a
11 ~~dealer~~ **HEARING HEALTH CARE PROVIDER** shall ~~make application~~ **APPLY**
12 to the department. An individual employed by a ~~dealer~~ **HEARING**
13 **HEALTH CARE PROVIDER** as a hearing ~~aid salesperson~~ **HEALTH CARE**
14 **ASSISTANT** shall ~~make application~~ **APPLY** to the department.

15 (2) ~~An~~ **THE DEPARTMENT SHALL ISSUE A LICENSE TO AN** applicant
16 for a license as a hearing ~~aid dealer shall be issued a license~~
17 **HEALTH CARE PROVIDER** if the applicant is over 18 years of age, is
18 of good moral character, is a graduate of an accredited high school
19 or secondary school, has served as a licensed hearing aid
20 salesperson **OR HEALTH CARE ASSISTANT** for a period of 2 years under
21 the ~~direction~~ **DIRECT EMPLOYMENT** and supervision of a licensed
22 hearing aid dealer **OR HEALTH CARE PROVIDER**, and passes a written
23 **AND PRACTICAL** examination as prescribed by the department and the
24 board.

25 (3) ~~An~~ **THE DEPARTMENT SHALL ISSUE TO AN** applicant ~~for a~~
26 license as a hearing ~~aid salesperson shall be issued a license~~
27 **HEALTH CARE ASSISTANT** if the applicant is at least 18 years of age,

1 is of good moral character, is a graduate from an accredited high
2 school or secondary school, successfully completes additional
3 training and education as may be required by the department, passes
4 a written **AND PRACTICAL** examination as prescribed by the department
5 and the board, and has served at least 6 months as a trainee
6 licensed by the department.

7 (4) The department and the board shall encourage the
8 establishment of a specialized educational course of training for
9 an individual wishing to become a licensed hearing ~~aid dealer~~
10 **HEALTH CARE PROVIDER** or hearing ~~aid salesperson~~ **HEALTH CARE**
11 **ASSISTANT**.

12 (5) In place of the written examination provided in subsection
13 (2), the department may accept successful completion of the basic
14 home study course, **AS APPROVED BY THE BOARD**, conducted by the
15 ~~national~~ **INTERNATIONAL** hearing ~~aid~~ society or may waive the
16 examination provided for in subsection (2) when proof satisfactory
17 to the department and the board is submitted showing that the
18 applicant has successfully passed an examination given by the
19 official hearing aid examining board in another state, if the
20 examination and passing requirements at the time taken, were
21 substantially equal to those required by the department.

22 Sec. 1307. (1) The department may grant a trainee license to
23 an applicant working for and under the direct supervision of a
24 licensed ~~dealer~~ **HEARING HEALTH CARE PROVIDER** on the following
25 conditions:

26 (a) The trainee license ~~shall be~~ **IS** valid for a 12-month
27 period **AND MAY BE RENEWED FOR UP TO 3 YEARS**. A new trainee license

1 may be issued by the ~~board~~ **DEPARTMENT** upon the filing of an
2 application.

3 (b) The trainee license ~~shall provide~~ **PROVIDES** that the
4 individual to whom it was issued shall work for and under the
5 ~~direction~~ **DIRECT EMPLOYMENT** and supervision of a named licensed
6 hearing ~~aid dealer~~ **HEALTH CARE PROVIDER**.

7 (2) The department may transfer a license of a trainee upon
8 the filing of an application **BY THE TRAINEE** for a transfer.

9 (3) A trainee license is subject to revocation for the same
10 reasons and in a similar manner as a regular license.

11 Sec. 1308. The written examination provided for in section
12 1305 shall test the applicant's knowledge and shall be a practical
13 demonstration of the ~~potential seller's~~ **APPLICANT'S** ability in
14 giving a basic audiometric test, in taking an ear mold impression,
15 and in following the prescribed rules in fitting and referral for
16 otologic examination.

17 Enacting section 1. Section 1303 of the occupational code,
18 1980 PA 299, MCL 339.1303, is repealed.