

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.

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

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

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

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

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

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

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

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

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

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

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

33 **G.S. 93D-7. Persons Engaged in the Fitting and Selling of Hearing Aids Before the**  
34 **Passage of this Act.** Every person engaged in fitting and selling hearing aids upon the effective  
35 date of this Act shall be issued a License by the Board, upon presentation of evidence  
36 satisfactory to the Board that he is a person of good moral character, is twenty-one (21) years of  
37 age or older, and has been engaged in fitting and selling hearing aids in this State for at least  
38 two years prior to the effective date of this Act, provided such person pays a fee of fifty  
39 (\$50.00) dollars for the issuance of a License by the Board; and provided he makes application  
40 to the Board for such License within sixty (60) days after the effective date of this Act. Upon  
41 payment of an additional five (\$5.00) dollars, a License Certificate shall be issued.

42 **G.S. 93D-8. Examination of Applicants: Issue of License Certificate.** (a) Every applicant  
43 for a License who is notified by the Board that he has fulfilled the requirements of G.S. 93D-  
44 5(a) excepting those making application pursuant to G.S. 93D-6 and G.S. 93D-7, shall appear  
45 at a time, place and before such persons as the Board may designate, to be examined by written  
46 and practical tests in order to demonstrate that he is qualified for the fitting and selling of  
47 hearing aids. The Board shall give one examination of the type prescribed herein each year at a  
48 duly pre-scribed time and place, which shall be publicized for at least ninety (90) days in  
49 advance. Additional examinations may be given at the discretion of the Board. The  
50 examination provided in this Section shall not include questions requiring a medical or surgical  
51 education but shall consist of:

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

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

19 (a) Any applicant who has fulfilled the requirements of G.S. 93D-5(a) may apply to the  
20 Board for an Apprenticeship License.

21 (b) Upon receiving an application as provided under G.S. 93D-5(a) accompanied by a  
22 fee of five dollars (\$5.00), the Board may issue an Apprenticeship License which shall entitle  
23 the applicant to fit and sell hearing aids under the supervision of a holder of a regular License

24 (c) No Apprenticeship License shall be issued by the Board under this Section unless  
25 the applicant shows to the satisfaction of the Board that he is or will be supervised and trained  
26 by a hearing aid fitter and seller who holds a License.

27 (d) If a person twenty-one (21) years of age or older who holds an Apprenticeship  
28 License issued under this Section does not take the next succeeding examination given after a  
29 minimum of one full year of apprenticeship, his Apprenticeship License shall not be renewed,  
30 except for good cause shown to the satisfaction of the Board.

31 (e) If a person who holds an Apprenticeship License takes and fails to pass the next  
32 succeeding examination given after one full year of apprenticeship, the Board may renew the  
33 Apprenticeship License for a period of time to end thirty (30) days after the results of the  
34 examination given next after the date of renewal of said Apprenticeship License. In no event  
35 shall more than one renewal of Apprenticeship License or two examinations for License be  
36 permitted. The fee for Apprenticeship license renewal shall be twenty-five dollars (\$25.00).

37 (f) The Apprenticeship License may be revoked for cause as determined by the Board  
38 in its discretion.

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

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

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

46 Every person who engages in the fitting and selling of hearing aids shall pay to the Board  
47 an annual license renewal fee of twenty five dollars (\$25.00). Such payment shall be made  
48 prior to the first day of April in each year. In case of default in payment the License shall expire  
49 30 days after notice by the Secretary-Treasurer to the last known address of the licensee by  
50 registered mail. The Board may reinstate an expired license upon the showing of good cause for  
51 late payment of fees, upon payment of said fees within 60 days after expiration of the License,

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

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

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

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

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

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

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

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

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

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

38 Any person who violates any of the provisions of this Chapter and any person who holds  
39 himself out to the public as a fitter and seller of hearing aids without having first obtained a  
40 License or Apprentice License as provided for herein, shall be deemed guilty of a misdemeanor  
41 and upon conviction shall be punished by a fine of not more than one thousand dollars  
42 (\$1,000.00) nor less than five hundred dollars (\$500.00) or imprisonment for not more than six  
43 months, or both, in the discretion of the Court.

44 **G.S. 93D-16. Severability.**

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

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

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

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