ENROLLED

Regular Session, 2011

HOUSE BILL NO. 276

BY REPRESENTATIVE MONTOUCET AND SENATOR THOMPSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

AN ACT

To amend and reenact R.S. 37:2442(6)(introductory paragraph), 2446.1(C), 2449(B), and 2449.1(B)(4), (C)(1) and (2), and (E), 2449.2(A)(introductory paragraph) and (B), and 2449.3(A) and to enact R.S. 37:2444.1 and 2444.2, relative to hearing aid dealers; to provide for definitions; to establish a testing period for hearing aids; to establish a three-day cooling off period for the purchase of a hearing aid; to provide for continuing education requirements; to provide for temporary training permits; to provide for guidelines for training of temporary training permit holders; to establish sponsor and co-sponsor requirements; to provide for authority of temporary training permit holders; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:2442(6)(introductory paragraph), 2446.1(C), 2449(B), 2449.1(B)(4), (C)(1) and (2), and (E), 2449.2(A)(introductory paragraph) and (B), and 2449.3(A) are hereby amended and reenacted and R.S. 37:2444.1 and 2444.2 are hereby enacted to read as follows:

§2442. Definitions

The following words or phrases, when used in this Chapter, shall have the following meanings:

* * *

(6) Unethical conduct ~~means~~ includes but is not limited to the following:

* * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

§2444.1. Testing period for hearing aids

A. Any person licensed pursuant to this Chapter who sells a hearing aid to a consumer shall provide a written receipt or written contract to the consumer. The written receipt or contract shall provide the consumer with a thirty-day right to cancel the purchase if the consumer finds that the hearing aid does not function adequately for the consumer. If the consumer cancels the hearing aid purchase based on this Subsection, the consumer may obtain a refund if he returns the hearing aid to the seller in the same condition, ordinary wear and tear excluded, as when purchased. The written receipt or contract shall notify the consumer of the thirty-day right to cancel period in at least ten point type. The thirty-day right to cancel period shall commence from either the date the hearing aid is originally delivered to the consumer or the date the written receipt or contract is delivered to the consumer, whichever is later. The thirty-day period shall be interrupted for any period during which the hearing aid seller, dealer, or fitter has possession or control of the hearing aid after its original delivery.

B. Upon exercise of the thirty-day right to cancel a hearing aid purchase, the seller of the hearing aid is entitled to a cancellation fee not to exceed fifteen percent of all fees charged to the consumer, including testing, fitting, counseling, and the purchase price of the hearing aid. The exact amount of the cancellation fee shall be stated in the written receipt or contract provided to the consumer.

§2444.2. Three-day cooling off period

A. A consumer may cancel any transaction for the purchase of a hearing aid, without any penalty or obligation, within three business days of the date the hearing aid is actually ordered by the consumer. Upon such cancellation, any property traded in for credit, any payments made by the consumer under the contract or sale, and any negotiable instrument executed thereupon shall be returned by the seller to the consumer within ten business days following receipt by the seller of the cancellation notice. Any security interest arising out of the transaction shall be immediately canceled.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

B.(1) Upon cancellation, the consumer shall make available to the seller in the same mode as received, in substantially as good condition as when received, any goods delivered under the contract or sale. If the product, if received by delivery to consumer, is made available to the seller and the seller does not pick it up within twenty days of the date of the notice of cancellation, the consumer bears no further obligation for the return of the product; however, if the consumer fails to make the product available to the seller, or agrees to return the product to the seller and fails to do so, then the consumer remains liable for performance of all obligations under the contract.

(2) The notice of cancellation shall be effective if it is delivered to the seller within the time frame described in Paragraph (1) of this Subsection and shall include a signed and dated copy of the subject contract, receipt, sales form, or other document evidencing all the terms of the transaction and the consumer's written notice to cancel.

* * *

§2446.1. Continuing education requirement

* * *

C. Any person receiving a license by ~~reciprocity~~ endorsement or examination on July first or later in that year shall not be required to have the ~~ten~~ fifteen hours of continuing education until December thirty-first of the following year.

* * *

§2449. Temporary training permit

* * *

B. Upon receiving an application provided ~~under~~ pursuant to Subsection A of this Section, accompanied by a fee of one hundred dollars, the board shall issue a temporary training permit which shall entitle the applicant to participate in the fitting and selling of hearing aids, under direct supervision, for a period ending thirty days after the conclusion of the next examination the applicant is required to take.

* * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

§2449.1. Guidelines for training of temporary training permit holders

* * *

B. The guidelines shall include all of the following:

* * *

(4) The responsibility of the sponsor and co-sponsor for direct ~~and indirect~~ supervision of all aspects of the training.

C. The training period begins on the date of the issuance of the temporary permit. A temporary training permit holder must complete at least one hundred fifty hours of directly supervised practicum that includes:

(1) Twenty-five contact hours of pure tone air conduction, bone conduction, and speech audiometry, recorded ~~and~~ or live voice, with fifteen of the required hours being with actual clients.

(2) Twenty-five contact hours of hearing instrument evaluations, including sound-field measurements with recorded ~~and~~ or live voice.

* * *

E. On completion of the directly supervised practicum required under Subsection C of this Section, the temporary training permit holder shall ~~complete~~ continue the permit holder's training under the ~~indirect~~ direct supervision of the permit holder's sponsor or co-sponsor.

§2449.2. Sponsor and co-sponsor requirements

A. A sponsor and co-sponsor of a temporary training permit holder ~~must~~ shall be a licensed hearing instrument dispenser having the qualifications established by this Chapter and:

* * *

B. A sponsor or co-sponsor, as appropriate, shall directly ~~and indirectly~~ supervise a temporary training permit holder. A sponsor or co-sponsor shall provide direct supervision by being located on the premises and available to the temporary training permit holder for prompt consultation. A sponsor or co-sponsor shall

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

provide ~~indirect~~ direct supervision by reviewing daily a temporary training permit holder's patient contact and daily work.

* * *

§2449.3. Authority of temporary training permit holder

A. A temporary training permit holder may provide routine fitting and dispensing of hearing instruments that have been ordered by the sponsor or co-sponsor. The sponsor~~,~~ or co-sponsor, in consultation with the board, is the sole judge of whether the permit holder has the qualifications necessary to perform routine fitting and dispensing. A sponsor or co-sponsor is accountable to the board for the actions and misdeeds of a temporary training permit holder acting at the sponsor's or co-sponsor's discretion.

* * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.