

ACT 167

H.B. NO. 2941-74

A Bill for an Act Relating to the Sale of Hearing Aids.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 451A-12, Hawaii Revised Statutes, is amended to read:

**“Sec. 451A-12 Receipt required to be furnished to a person supplied with hearing aid.** (a) Any person who practices the fitting and sale of hearing aids shall deliver to each purchaser a receipt containing the licensee’s signature, his business address, and the number of his certificate, together with specifications as to the make and model of the hearing aid furnished and the terms of the sale. If hearing aid which is not new is sold, the receipt and the container thereof shall be clearly marked as ‘used’ or ‘reconditioned’, with the terms of guarantee, if any.

(b) The receipt shall bear, in type no smaller than the largest that is used in the body copy portion, the following: the purchaser has been ad-

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vised at the outset of his relationship with the hearing aid dealer and fitter that any examination or representation made by a hearing aid dealer and fitter in connection with the fitting and selling of this hearing aid is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this State and shall not be considered as medical opinion or advice.

SECTION 2. Section 451A-14, Hawaii Revised Statutes, is amended to read:

**“Sec. 451A-14 Prohibited acts and practices.** No person shall:

- (1) Sell, barter, offer to sell, barter or transfer or assign a license, certificate of endorsement, or temporary permit;
- (2) Purchase or procure by barter a license, certificate of endorsement, or temporary permit with intent to use it as evidence of qualification to practice the fitting and selling of hearing aids;
- (3) Alter a license, certificate of endorsement, or temporary permit with fraudulent intent;
- (4) Use or attempt to use license, certificate of endorsement, or temporary permit which is invalid because it was purchased, fraudulently obtained, forged or materially altered;
- (5) Make a false statement in an application for license, certificate of endorsement, temporary permit, or application for renewal of license;
- (6) Solicit for the sale of hearing aids ‘house to house’ as defined in Section 476-1, Hawaii Revised Statutes.”

SECTION 3. Chapter 451A, Hawaii Revised Statutes, is hereby amended by adding Section 451A-14.1 to read as follows:

**“Sec. 451A-14.1 Requirement of authorization from physician or otorhinolaryngologist; authorization records.** (a) No person engaged in the fitting and selling of hearing aids shall sell, barter, offer to sell or otherwise knowingly establish a commercial relationship with a potential purchaser without first obtaining and maintaining in his possession written authorization by a physician that the purchaser or potential purchaser has been examined by him and that he has prescribed or approved a hearing device, provided, however that in the case of a child ten years of age or under, such written authorization must be by an otorhinolaryngologist.

(b) For the purposes of subsection (a) of this section, such written authorization must be signed by the physician or otorhinolaryngologist within ninety days prior to the date of sale, barter, offer or commencement of a commercial relationship as referred to above; provided, however, that the ninety day limit provided in this subsection shall not apply if the written authorization of the physician or otorhinolaryngologist states that a return visit of the patient is not necessary for subsequent purchases of a hearing device.

(c) Every hearing aid dealer and fitter licensed pursuant to this chapter shall keep a suitable book or file, or a microfilm of such book or file, in which shall be preserved, for a period of not less than five years, every authorization by physicians or otorhinolaryngologists received pursuant

to this section. The book, file, or microfilm of such authorizations shall at all times be open to inspection by the board of hearing aid dealers and fitters and other law enforcement agencies.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 6, 1974.)

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\*Edited accordingly.