

1974 Bill 242

Third Session, 17th Legislature, 23 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 242

The Hearing Aid Sales Act

MR. WILSON

First Reading

Second Reading

Third Reading

Bill 242
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1974

THE HEARING AID SALES ACT

(Assented to , 1974)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. In this Act,

- (a) "certificate of registration" means a certificate of registration issued by the Minister under this Act;
- (b) "Council" means the Advisory Council on Hearing Aids;
- (c) "Department" means the Department of Health and Social Development;
- (d) "hearing aid" means any instrument or device designed for or representing as aiding, improving or correcting defective human hearing and any parts, attachments or accessories of such an instrument or device;
- (e) "Minister" means the Minister of Health and Social Development;
- (f) "practice of fitting hearing aids" means the evaluation or measurement of the powers or range of human hearing by means of an audiometer or by any other means devised, and the consequent selection or adaption or sale of hearing aids intended to compensate for hearing loss;
- (g) "prescribed" means prescribed by the regulations;
- (h) "unethical conduct" means
 - (i) the obtaining of any fee or the making of any sale by fraud or misrepresentation, or
 - (ii) employing directly or indirectly any suspended or unregistered person to perform any work covered by this Act, or
 - (iii) using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or any other representation, however disseminated or published, which is misleading, deceiving, improbable or untruthful, or

- (iv) advertising a particular model, type or kind of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type or kind, where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model, type or kind than that advertised, or
- (v) representing that the services or advice of a duly qualified medical practitioner will be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing aids when that is not true, or using the word "doctor", "clinic" or other like words, abbreviations or symbols which tend to connote the medical profession when such use is not accurate, or
- (vi) habitual intemperance, or
- (vii) gross immorality, or
- (viii) permitting another to use his certificate.

2. The Minister may delegate any of the powers conferred upon him by or under this Act to the Deputy Minister of the Department or any other official of the Department designated by the Minister.

3. (1) No person shall engage in the sale of or practice of fitting hearing aids or display a sign or in any other way advertise or hold himself out as a person who practices the fitting of hearing aids unless he holds a current, unsuspended, unrevoked certificate of registration issued by the Minister as provided in this Act.

(2) The certificate required by subsection (1) shall be kept conspicuously posted in the holder's office or place of business.

4. Any person who practices the fitting of or dealing in hearing aids shall deliver to each person supplied with a hearing aid by him or at his order or direction, a receipt which shall contain his signature and show the address of his regular place of practice and the number of his certificate, together with a specification of the hearing aid furnished and the amount charged therefor.

5. (1) This Act does not apply to a person while he is engaged in the practice of fitting hearing aids if his practice is part of the academic curriculum of an accredited institution of higher education or part of a program conducted by a public, charitable institution or non-profit organization, that is primarily supported by voluntary contributions.

(2) This Act shall not be construed to prevent a legally qualified medical practitioner from treating or fitting hearing aids to the human ear.

6. An applicant for registration shall pay the prescribed fee and shall show to the satisfaction of the Minister that he

- (a) is a resident of Alberta,
- (b) is a person of good moral character,
- (c) is 18 years of age or older,
- (d) has Grade 12 standing or such other academic standing as is, in the opinion of the Minister, equivalent thereto or has continuously engaged in the practice of fitting hearing aids in Alberta during the three years preceding the date this Act comes into force, and
- (e) is free of contagious or infectious disease.

7. (1) An applicant for registration who is notified by the Minister that he has fulfilled the requirements of section 6 shall appear at a time and place and before such persons as the Minister may designate, to be examined by written and practical tests in order to demonstrate that he is qualified to practise the fitting of hearing aids.

(2) The Minister or persons designated by him shall hold at least one examination of the type prescribed in subsection (1) in each year, and such additional examinations as the volume of applications may make appropriate.

8. The examination provided in subsection (1) of section 7 shall consist of

- (a) tests of knowledge in the following areas as they pertain to the fitting of hearing aids,
 - (i) basic physics of sound,
 - (ii) the human hearing mechanism, including the science of hearing and the causes and rehabilitation of abnormal hearing and hearing disorders, and
 - (iii) structure and function of hearing aids, and
- (b) tests of proficiency in the following techniques as they pertain to the fitting of hearing aids,
 - (i) pure tone audiometry, including air conduction testing and bone conduction testing,
 - (ii) live voice or recorded voice speech audiometry, including speech reception, threshold testing and speech discrimination testing,

- (iii) effective masking,
- (iv) recording and evaluation of audiograms and speech audometry to determine hearing aid candidacy,
- (v) selection and adaption of hearing aids and testing of hearing aids, and
- (vi) taking earmold impressions.

9. (1) Upon payment of the prescribed fee, the Minister shall register each applicant who satisfactorily passes the examination and thereupon the Minister shall issue to the applicant a certificate of registration.

(2) A certificate of registration is effective for one year from the date of its issue.

10. (1) Any person registered under this Act may, after a hearing of which he has received not less than ten days notice, have his certificate revoked or suspended for a fixed period by the Minister for any of the following causes :

- (a) his conviction of an offence involving moral turpitude;
- (b) where his certificate has been secured by fraud or deceit practised upon the Minister ;
- (c) for unethical conduct, or for gross ignorance or inefficiency in his profession;
- (d) practising while knowingly suffering from a contagious or infectious disease;
- (e) advertising professional methods or professional superiority;
- (f) practising the fitting of hearing aids under a false or alias name.

(2) For the purposes of this section, the record of conviction, or a certified copy thereof certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of such conviction.

(3) At the hearing referred to in subsection (1), the person registered is entitled to hear the evidence, cross-examine, call witnesses, present argument and be represented by counsel or agent.

(4) Notice of the decision of the Minister following a hearing under subsection (1), together with reasons in writing therefor, shall be served upon the person affected **thereby, either personally or by registered mail addressed to such person at his last known place of address.**

(5) Where the person affected by a decision after a hearing under subsection (1) deems himself aggrieved

thereby, he may, within five days of receipt of the decision, appeal the decision to the district court of the district within which he carried on business, and the court may confirm, revoke or modify the decision.

11. (1) The Advisory Council on Hearing Aids is hereby established and shall consist of five members to be appointed by the Lieutenant Governor in Council.

(2) Members of the Council shall be residents of Alberta.

(3) One member shall be a legally qualified medical practitioner who holds certification of otolaryngology from the Royal College of Physicians and Surgeons of Canada.

(4) Three members shall be persons experienced in the fitting of hearing aids, who possess the qualifications prescribed in section 6, but all successors to the position of such members, who are appointed to the Council after the date on which the Minister first issues a certificate of registration as provided in section 9, shall be persons who hold valid certificates of registration under this Act.

(5) No member of the Council shall be an employee of the Department.

12. (1) The Council shall have the responsibility and duty of advising the Minister in all matters relating to this Act, shall prepare the examinations required by this Act, subject to the approval of the Minister, and shall assist the Minister in carrying out the provisions of this Act.

(2) The Minister shall consider and be guided by the recommendations of the Council in all matters relating to this Act.

13. (1) The Council shall meet at least once each year at a place and time determined by the Council.

(2) The Council shall also meet at such other times and places as are specified by the Minister or the Council.

14. The Lieutenant Governor in Council may make regulations

- (a) prescribing the fees payable on an application for registration and on the issuance of a certificate of registration;
- (b) prescribing forms and providing for their use;
- (c) governing the conduct of meetings of the Council;
- (d) regulating the practise and procedure on hearings under section 10.

15. (1) Any person who contravenes any of the provisions of this Act is guilty of an offence and liable on summary conviction to a fine of not more than \$500 or to imprisonment for not more than 90 days, or to both.

(2) Where any provision of this Act is contravened, in addition to any proceeding had under subsection (1), such contravention may be restrained by action at the instance of the Minister.

16. This Act comes into force on the day upon which it is assented to.