

1 SEC. 2. NEW SECTION. A chiropractor shall not use in his practice the procedures otherwise authorized by law unless he has received  
2 training in their use by a college of chiropractic offering courses of  
3 instructions approved by the board of chiropractic examiners.

4 Any chiropractor licensed as of the effective date of this Act may  
5 use the procedures authorized by law if he files with the board of chiropractic examiners an affidavit that he has completed the necessary  
6 training and is fully qualified in these procedures and possesses that  
7 degree of proficiency and will exercise that care which is common to  
8 physicians in this state.  
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1 SEC. 3. Section one hundred fifty-one point seven (151.7), Code  
2 1973, is amended to read as follows:

3 151.7 Probation—advertising restrictions. The license of a chiropractor shall be placed on probation upon a showing at a hearing conducted by the board of chiropractic examiners that such licensee is  
4 guilty of false, fraudulent or misleading advertising or that such  
5 licensee advertised in any publication or through any communication  
6 media the prices for which his services are available. For purposes of  
7 this section "advertising" is defined as a chiropractor publicizing himself, his partner, or associate as a chiropractor through newspaper or  
8 magazine advertisements, radio or television announcements, display  
9 advertisements in city or telephone directories, or other means of commercial publicity, or authorizing or permitting others to do so on his  
10 behalf. "Advertising" does not include a simple boldface listing in a  
11 phone directory, professional cards, letterheads, or professionally  
12 discreet lettering identifying premises where chiropractic is practiced.  
13 Any proceeding for the probation of a chiropractic license shall be  
14 conducted by the board of chiropractic examiners in a manner substantially in accord with the provisions of section 148.7.  
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Approved May 29, 1974

## CHAPTER 1145

### HEARING AID DEALERS

#### H. F. 708

AN ACT relating to licensing and regulation of hearing aid dealers, appropriating license fees for purposes of administration, providing penalties for a violation, and to provide an appropriation.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. NEW SECTION. Definitions. As used in this Act,  
2 unless the context requires otherwise:

3 1. "Department" means the state department of health.

4 2. "Board" means the board of examiners for the licensing and regulation of hearing aid dealers.

5 3. "Hearing aid" means a wearable instrument or device designed  
6 for or offered for the purpose of aiding or compensating for impaired  
7 human hearing, and any parts, attachments, or accessories, including  
8 earmold, but excluding batteries and cords.  
9

10 4. "Hearing aid dealer" means any person engaged in the fitting,  
 11 dispensing and the sale of hearing aids and providing hearing aid  
 12 services or maintenance, by means of procedures stipulated by this  
 13 Act or the board.

14 5. "Hearing aid fitting" means the measurement of human hearing  
 15 by any means for the purpose of selections, adaptations, and sales of  
 16 hearing aids, and the instruction and counseling pertaining thereto,  
 17 and demonstration of techniques in the use of hearing aids, and the  
 18 making of earmold impressions as part of the fitting of hearing aids.

19 6. "Dispense" or "sell" means a transfer of title or of the right to  
 20 use by lease, bailment, or any other means, but excludes a wholesale  
 21 transaction with a distributor or dealer, and excludes the temporary,  
 22 charitable loan or educational loan of a hearing aid without remun-  
 23 eration.

24 7. "Person" means a natural person.

25 8. "Temporary permit" means a permit issued while the applicant  
 26 is in training to become a licensed hearing aid dealer.

27 9. "License" means a license issued by the state under this Act to  
 28 hearing aid dealers.

1 SEC. 2. NEW SECTION. **Establishment of board.** A board for the  
 2 licensing and regulation of hearing aid dealers is established. The  
 3 board shall consist of three licensed hearing aid dealers and two mem-  
 4 bers who are not licensed hearing aid dealers who shall represent the  
 5 general public. Members, who shall be residents of the state of Iowa,  
 6 shall be appointed by the governor, subject to the approval of two-  
 7 thirds of the members of the senate. A licensed member shall be  
 8 actively employed as a hearing aid dealer and shall have been so  
 9 engaged for five years preceding his appointment, the last two of  
 10 which shall have been in Iowa. However, hearing aid dealers ap-  
 11 pointed to the initial board shall have not less than five years expe-  
 12 rience and shall fulfill the qualifications relating to experience for  
 13 licensure as provided in this Act.

14 No more than two members of the board shall be employees of, or  
 15 dealers principally, for the same hearing aid manufacturer.

16 Professional associations or societies composed of licensed hearing  
 17 aid dealers may recommend the names of potential board members to  
 18 the governor, but the governor shall not be bound by the recommenda-  
 19 tions. A board member shall not be required to be a member of any  
 20 professional association or society composed of licensed hearing aid  
 21 dealers.

1 SEC. 3. NEW SECTION. **Term of office.** Appointments shall be for  
 2 three-year terms and shall commence on July first of the year in which  
 3 the appointment is made. Vacancies shall be filled for the unexpired  
 4 term by appointment of the governor and shall be subject to senate  
 5 confirmation. Members shall serve a maximum of three terms or  
 6 nine years, whichever is least. For members appointed to the initial  
 7 board, the governor shall appoint one hearing aid dealer for a one-  
 8 year term, one hearing aid dealer for a two-year term, and one hear-  
 9 ing aid dealer for a three-year term; one member representing the  
 10 general public for a one-year term and one member representing the  
 11 general public for a three-year term.

1     **SEC. 4. NEW SECTION. Duties of the board.** Members of the  
 2 board shall annually elect a chairman and a secretary-treasurer from  
 3 their membership. The board shall prepare examinations drawn from  
 4 comparable examinations given in other states which license hearing  
 5 aid dealers, direct the department in administering the provisions of  
 6 this Act, determine who is eligible for licensure, suspend or revoke  
 7 licenses or temporary permits for cause, and promulgate rules and  
 8 regulations for the administration of the provisions of this Act pur-  
 9 suant to chapter seventeen A (17A) of the Code within the limits of  
 10 funds appropriated to the board.

1     **SEC. 5. NEW SECTION. Public members.** The public members of  
 2 the board shall not participate in administering or grading any por-  
 3 tion of an examination, except that for the initial examination the pub-  
 4 lic members may participate in administering and grading the exam-  
 5 ination.

1     **SEC. 6. NEW SECTION. Disclosure of confidential information.** A  
 2 member of the board shall not disclose information relating to the  
 3 following:

- 4         1. Criminal history or prior misconduct of the applicant.
- 5         2. Information relating to the contents of the examination.
- 6         3. Information relating to the examination results other than final  
 7 score except for information about the results of an examination which  
 8 is given to the person who took the examination.

9     A member of the board who willfully communicates or seeks to com-  
 10 municate such information, and any person who willfully requests,  
 11 obtains, or seeks to obtain such information, is guilty of a public  
 12 offense which is punishable by a fine not exceeding one hundred dol-  
 13 lars or by imprisonment in the county jail for not more than thirty  
 14 days.

1     **SEC. 7. NEW SECTION. Meetings and expenses.** The members of  
 2 the board shall set their own per diem compensation at a rate not ex-  
 3 ceeding forty dollars per day for the time actually spent in traveling  
 4 to and from, and attending duly authorized functions of the board  
 5 and its committees, and shall receive all necessary traveling and inci-  
 6 dental expenses incurred in the discharge of their duties within the  
 7 limits of funds appropriated to the board. The board shall meet at  
 8 least one time per year at the seat of government and may hold addi-  
 9 tional meetings as deemed necessary. Additional meetings shall be  
 10 held at the call of the chairman or a majority of the members of the  
 11 board. At any meeting of the board, a majority of the members shall  
 12 constitute a quorum.

1     **SEC. 8. NEW SECTION. Duties of department.** The department,  
 2 with the advice and assistance of the board shall:

- 3         1. Employ personnel, and authorize disbursements necessary to  
 4 carry out the provisions of this Act.
- 5         2. Register and issue licenses to persons whom the board deems  
 6 qualified to engage in the fitting or selection and sale of hearing aids.
- 7         3. Purchase, maintain, or rent equipment and other facilities nec-  
 8 essary to carry out the examination of applicants.
- 9         4. Designate the time and place for examining applicants, and con-  
 10 duct and supervise the examinations as directed by the board.

1     **SEC. 9. NEW SECTION. Applications.** Applications for licensure  
 2 or for a temporary permit shall be on forms prescribed and furnished  
 3 by the board and shall not require that a recent photograph of the  
 4 applicant be attached to the application form. An applicant shall not  
 5 be ineligible for certification because of age, citizenship, sex, race,  
 6 religion, marital status, or national origin although the application  
 7 may require citizenship information. The board may consider the  
 8 past felony record of an applicant only if the felony conviction relates  
 9 directly to the practice of fitting or selection and sale of hearing aids.  
 10 Character references may be required, but shall not be obtained from  
 11 licensed hearing aid dealers.

1     **SEC. 10. NEW SECTION. Issuance of licenses.** After the effective  
 2 date of this Act, an applicant may obtain a license, if the applicant:  
 3     1. Successfully passes the qualifying examination prescribed in sec-  
 4 tion twelve (12) of this Act.  
 5     2. Is free of contagious or infectious disease.  
 6     3. Pays the necessary fees set by the board pursuant to section sev-  
 7 enteen (17) of this Act.

1     **SEC. 11. NEW SECTION. Examinations.** Examinations for licens-  
 2 ing shall be given as often as deemed necessary by the board, but no  
 3 less than one time per year. The scope of the examination and meth-  
 4 ods of procedure shall be prescribed by the board. Any written exami-  
 5 nation may be given by representatives of the board.  
 6 All examinations in theory shall be in writing and the identity of  
 7 the person taking the examination shall be concealed until after the  
 8 examination papers have been graded. For examinations in practice,  
 9 the identity of the person taking the examination shall also be con-  
 10 cealed as far as possible.

11 As soon as practicable after the close of each examination, a report  
 12 shall be filed by the board. The report shall show the action of the  
 13 board upon each application, and the department shall notify each  
 14 applicant of the result of his examination. Applicants who fail the  
 15 examination once shall be allowed to take the examination at the next  
 16 scheduled time. Thereafter, the applicant shall be allowed to take  
 17 the examination at the discretion of the board.

18 An applicant who has failed the examination may request in writ-  
 19 ing information from the board concerning his examination grade  
 20 and subject areas or questions which he failed to answer correctly,  
 21 except that if the board administers a uniform, standardized exami-  
 22 nation, the board shall only be required to provide the examination  
 23 grade and such other information concerning the applicant's examina-  
 24 tion results which are available to the board.

1     **SEC. 12. NEW SECTION. Scope of examination.** The examination  
 2 required by this Act shall be designed to demonstrate the applicant's  
 3 adequate technical qualifications including, but not limited to, the fol-  
 4 lowing:  
 5     1. Written tests of knowledge in areas such as physics of sound,  
 6 anatomy and physiology of hearing, and the function of hearing aids,  
 7 as these areas pertain to the fitting or selection and sale of hearing  
 8 aids.

9 2. Practical tests of proficiency in hearing testing techniques as  
10 these techniques pertain to the fitting or selection and sale of hearing  
11 aids.

12 3. Evidence of knowledge of the medical and rehabilitation facilities  
13 that are available in the area served, for children and adults who have  
14 hearing problems.

15 4. Evidence of knowledge of situations in which it is commonly be-  
16 lieved that a hearing aid is inappropriate.

17 5. The procedures and use of equipment established by the board  
18 for the fitting or selection and sale of hearing aids.

19 6. Practical tests of proficiency in the taking of earmold impres-  
20 sions.

21 The board shall not require the applicant to possess the degree of  
22 professional competence normally expected of physicians.

1 **SEC. 13. NEW SECTION. Temporary permit.** A person who has  
2 not been employed as a hearing aid dealer prior to the effective date of  
3 the Act, may obtain a temporary permit from the department upon  
4 completion of the application accompanied by the written verification  
5 of employment from a licensed hearing aid dealer. The department  
6 shall issue a temporary permit for one year which shall not be re-  
7 newed or reissued. The fee for issuance of the temporary permit  
8 shall be set by the board pursuant to section seventeen (17) of this  
9 Act. The temporary permit entitles an applicant to engage in the fit-  
10 ting or selection and sale of hearing aids under the supervision of a  
11 person holding a valid license.

1 **SEC. 14. NEW SECTION. Reciprocity.** If the board determines  
2 that another state or jurisdiction has requirements equivalent to or  
3 higher than those provided in this Act, the department may issue a  
4 license by reciprocity to applicants who hold valid certificates or  
5 licenses to deal in and fit hearing aids in the other state or jurisdic-  
6 tion. An applicant for a license by reciprocity is not required to take  
7 a qualifying examination, but is required to pay the license fee as pro-  
8 vided in section seventeen (17) of this Act. The holder of a license of  
9 reciprocity is registered in the same manner as the holder of a regular  
10 license. Fees, grounds for renewal, and procedures for the suspension  
11 and revocation of license by reciprocity are the same as for a regular  
12 license.

1 **SEC. 15. NEW SECTION. License renewal.** Licenses shall be re-  
2 newed annually in a manner determined by the board. The renewal  
3 fee shall be determined by the board pursuant to section seventeen  
4 (17) of this Act. The department shall notify every person licensed  
5 under this chapter of the date of expiration of his license and the  
6 amount of fee required for its renewal for one year. The notice shall  
7 be mailed at least one month in advance of the expiration date. A per-  
8 son who fails to renew his license by the expiration date shall be  
9 allowed to do so within thirty days following its expiration, but the  
10 board may assess a reasonable penalty.

1 **SEC. 16. NEW SECTION. Continuing education.** Beginning Janu-  
2 ary 1, 1976, in addition to payment of the annual renewal fee, each  
3 hearing aid dealer applying for the renewal of his license shall furnish  
4 to the department satisfactory evidence that he has completed at least

5 two days of education programs during the year preceding the date of  
6 his application for renewal selected from the following:

- 7 1. Education programs conducted by the board;
- 8 2. Training school conducted by one of the various hearing aid man-  
9 ufacturers for their representatives, which is approved by the board;
- 10 3. Periodic training sessions conducted by the national hearing aid  
11 society which is approved by the board; or
- 12 4. Other educational means approved by the board.

13 The department shall send a written notice to this effect to every  
14 person holding a valid license at least thirty days prior to the license  
15 renewal date each year, directed to the last known address of such  
16 licensee.

17 In the event that any licensee shall fail to meet the annual educa-  
18 tional requirement, his license shall be suspended or withheld by the  
19 board. The board shall reinstate the licensee upon the presentation  
20 of satisfactory evidence of educational study of a standard approved  
21 by the board, and upon the payment of all fees due.

1 SEC. 17. NEW SECTION. Fees. The fees for the examination shall  
2 be set by the board on the basis of the annual cost of administration.  
3 The fees for the temporary permit, license, renewal of a license, and  
4 issuance of a duplicate license, shall be set by the board on the basis  
5 of the cost of sustaining the board and the administrative costs of the  
6 department. The fees for licensure and permit shall be based upon,  
7 but not limited to:

- 8 1. Per diem, expenses, and travel of members of the board.
- 9 2. Supplies and other expenses.
- 10 3. Costs submitted by the department.

1 SEC. 18. NEW SECTION. Display of license. A person shall not  
2 engage in business as a hearing aid dealer, or display a sign, or in any  
3 other way advertise or represent himself as a hearing aid dealer after  
4 January 1, 1975, unless he holds a valid license issued by the depart-  
5 ment as provided in this Act. The license shall be conspicuously  
6 posted in his office or place of business. The department shall issue  
7 duplicate licenses to valid license holders operating more than one  
8 office. A license confers upon the holder the right to operate a busi-  
9 ness as a hearing aid dealer.

1 SEC. 19. NEW SECTION. Exceptions. This Act shall not prohibit  
2 a corporation, partnership, trust, association, or other organization  
3 maintaining an established business address, from engaging in the  
4 business of selling or offering for sale hearing aids at retail without a  
5 license, if it employs only licensed hearing aid dealers in the direct fit-  
6 ting or selection and sale of hearing aids. Such an organization shall  
7 file annually with the board a list of all licensed hearing aid dealers  
8 and persons holding temporary permits directly or indirectly employed  
9 by it. Such an organization shall also file with the board a statement  
10 on a form approved by the board that the organization submits itself  
11 to the rules and regulations of the board and the provisions of this Act  
12 which the department deems applicable.

13 This Act shall not apply to a person who engages in the practices  
14 covered by this Act if this activity is part of the academic curriculum  
15 of an accredited institution of higher education, or part of a program  
16 conducted by a public or charitable institution, or nonprofit organiza-

17 tion, unless the institution or organization also dispenses or sells hear-  
18 ing aids.

19 This Act shall not prevent any person from engaging in practices  
20 covered by this Act, provided the person, or organization employing  
21 the person, does not dispense or sell hearing aids.

1 SEC. 20. NEW SECTION. **Rights of purchaser.** A hearing aid  
2 dealer shall deliver, to each person supplied with a hearing aid, a re-  
3 ceipt which contains the licensee's signature and shows his business  
4 address and the number of his license, together with specifications as  
5 to the make, model and serial number of the hearing aid furnished,  
6 and full terms of sale clearly stated, including the date of consumma-  
7 tion of the sale of the hearing aid. If a hearing aid is sold which is  
8 not new, the receipt and the container must be clearly marked "used"  
9 or "reconditioned", with the terms of guarantee, if any.

10 The receipt shall bear the following statement in type no smaller  
11 than the largest used in the body copy portion of the receipt:

12 "The purchaser has been advised that any examination or represen-  
13 tation made by a licensed hearing aid dealer in connection with the  
14 fitting or selection and selling of this hearing aid is not an examina-  
15 tion, diagnosis, or prescription by a person licensed to practice medi-  
16 cine in this state and therefore, must not be regarded as medical opin-  
17 ion or advice."

18 Whenever any of the following conditions are found to exist either  
19 from observations by the licensed hearing aid dealer or person holding  
20 a temporary permit or on the basis of information furnished by a pro-  
21 spective hearing aid user, the hearing aid dealer or person holding a  
22 temporary permit shall, prior to fitting and selling a hearing aid to  
23 any individual, suggest to that individual in writing that his best in-  
24 terests would be served if he would consult a licensed physician spe-  
25 cializing in diseases of the ear, or if no such licensed physician is avail-  
26 able in the community, then to a duly licensed physician:

- 27 1. Visible congenital or traumatic deformity of the ear.
- 28 2. History of, or active drainage from the ear within the previous  
29 ninety days.
- 30 3. History of sudden or rapidly progressive hearing loss within the  
31 previous ninety days.
- 32 4. Acute or chronic dizziness.
- 33 5. Unilateral hearing loss of sudden or recent onset within the pre-  
34 vious ninety days.
- 35 6. Significant air-bone gap (greater than or equal to 15dB ANSI  
36 500, 1000 and 2000 Hz. average).
- 37 7. Obstruction of the ear canal, either by structures of undeter-  
38 mined origin, such as foreign bodies, impacted cerumen, redness,  
39 swelling or tenderness from localized infections of the otherwise nor-  
40 mal ear canal.

41 A copy of the written recommendation shall be retained by the  
42 licensed hearing aid dealer for the period of seven years. A person  
43 receiving the written recommendation who elects to purchase a hear-  
44 ing aid shall sign a receipt for the same, and the receipt shall be kept  
45 with the other papers retained by the licensed hearing aid dealer for  
46 the period of seven years. Nothing in this section required to be per-  
47 formed by a licensed hearing aid dealer shall mean that the hearing

48 aid dealer is engaged in the diagnosis of illness or the practice of  
49 medicine or any other activity prohibited by this Act.

50 No hearing aid shall be sold by any individual licensed under this  
51 bill to a person twelve years of age or younger, unless within the pre-  
52 ceding six months a recommendation for a hearing aid has been made  
53 by a physician specializing in otolaryngology. A replacement of an  
54 identical hearing aid within one year shall be an exception to this  
55 requirement.

56 A licensed hearing aid dealer shall, upon the consummation of a sale  
57 of a hearing aid, keep and maintain records in his office or place of  
58 business at all times and each such record shall be kept and main-  
59 tained for a seven-year period. These records shall include:

60 1. Results of test techniques as they pertain to fitting of the hear-  
61 ing aids.

62 2. A copy of the written receipt and the written recommendation.

1 SEC. 21. NEW SECTION. **Notice of address.** A licensee or person  
2 holding a temporary permit shall notify the department in writing of  
3 the address of the place where he engages or intends to engage in busi-  
4 ness as a hearing aid dealer. The department shall keep a record of  
5 the place of business of licensees and persons holding temporary per-  
6 mits.

7 Any notice required to be given by the department to a licensee  
8 shall be adequately served if sent by certified mail to the address of  
9 the last place of business recorded.

1 SEC. 22. NEW SECTION. **Deposit of fees.** The department shall  
2 deposit all fees collected under the provisions of this Act in the gen-  
3 eral fund of the state. Compensation and travel expenses of mem-  
4 bers and employees of the board, and other expenses necessary for the  
5 board to administer and carry out the provisions of this Act shall  
6 be paid from funds appropriated from the general fund of the state  
7 and there is appropriated from the general fund of the state to the  
8 board of hearing aid examiners for support, maintenance, equipment  
9 and miscellaneous purposes of the board for the licensing and regu-  
10 lation of hearing aid dealers for the fiscal year commencing July 1,  
11 1974 and ending June 30, 1975, the sum of four thousand five hundred  
12 (4,500) dollars, or so much thereof as may be necessary.

1 SEC. 23. NEW SECTION. **Complaints.** Any person wishing to make  
2 a complaint against a licensee or holder of a temporary permit shall  
3 file a written statement with the board within twelve months from  
4 the date of the action upon which the complaint is based. If the board  
5 determines that the complaint alleges facts which, if proven, would  
6 be cause for the suspension or revocation of the license of the licensee  
7 or holder of a temporary permit, it shall make an order fixing a time  
8 and place for a hearing and requiring the licensee or holder of a tem-  
9 porary permit complained against to appear and defend. The order  
10 shall contain a copy of the complaint, and the order and copy of the  
11 complaint shall be served upon the licensee or holder of a temporary  
12 permit at least twenty days before the date set for hearing, either  
13 personally or as provided in section twenty-one (21) of this Act. Con-  
14 tinuance or adjournment of a hearing date may be made for good  
15 cause. At the hearing the licensee or holder of a temporary permit  
16 may be represented by counsel. The licensee or holder of a tempo-



17 rary permit and the board may take depositions in advance of hearing  
18 and after service of the complaint, and either may compel the attend-  
19 ance of witnesses by subpoenas issued by the board. The board shall  
20 issue such subpoenas at the request of a licensee or holder of a tempo-  
21 rary permit. Either party taking depositions shall give at least five  
22 days written notice to the other party of the time and place of such  
23 depositions, and the other party may attend, with counsel, if desired,  
24 and cross-examine.

25 If the board determines from the evidence and proofs submitted  
26 that the licensee or holder of a temporary permit is guilty of violat-  
27 ing any of the provisions of this Act, or any of the regulations promul-  
28 gated by the board pursuant to this Act, the department shall,  
29 within thirty days after the hearing, issue an order refusing to issue  
30 or renew, or revoking or suspending, as the case may be, the hearing  
31 aid dealer's license or temporary permit. The order shall include the  
32 findings of fact and the conclusions of law made by the board and  
33 counsel. A copy of the order shall be sent to the licensee or holder  
34 of a temporary permit by registered mail. The records of the depart-  
35 ment shall reflect the action taken by the board on the charges, and  
36 the department shall preserve a record of the proceedings in a man-  
37 ner similar to that used by courts of record in this state.

38 The final order of the board in the proceedings may be appealed to  
39 the district court of the county where the licensee or holder of a tem-  
40 porary permit resides, or in which the licensed hearing aid dealer's  
41 principal place of business is located.

42 The department shall send a copy of the complaint and a copy of  
43 the board's final order to the attorney general for purposes of infor-  
44 mation in the event the licensee or holder of a temporary permit pur-  
45 sues a court appeal and for consideration as to whether the violations  
46 are flagrant enough to justify prosecution. The attorney general and  
47 all county attorneys shall assist the department in the enforcement of  
48 the provisions of this Act.

1 SEC. 24. NEW SECTION. **Suspension or revocation.** The board may  
2 revoke or suspend a license or temporary permit permanently or for a  
3 fixed period for any of the following causes:

4 1. Conviction of a felony. The record of conviction, or a certified  
5 copy, shall be conclusive evidence of conviction.

6 2. Procuring a license or temporary permit by fraud or deceit.

7 3. Unethical conduct in any of the following forms:

8 a. Obtaining a fee or making a sale by fraud or misrepresentation.

9 b. Knowingly employing, directly or indirectly, any suspended or  
10 unregistered person to perform any work covered by this Act.

11 c. Using or causing or promoting the use of any advertising mat-  
12 ter, promotional literature, testimonial, guarantee, warranty, label,  
13 brand, insignia, or any other representation, however disseminated or  
14 published, which is misleading, deceptive or untruthful.

15 d. Advertising a particular model or type of hearing aid for  
16 sale when purchasers or prospective purchasers responding to the  
17 advertisement cannot purchase the advertised model or type, if it is  
18 established that the purpose of the advertisement is to obtain pros-  
19 pects for the sale of a different model or type than that advertised.

20 e. Representing that the service or advice of a person licensed to  
21 practice medicine, or one who is certificated as a clinical audiologist by

- 22 the board of examiners of speech pathology and audiology or its equiv-  
23 alent, will be used or made available in the fitting or selection, adjust-  
24 ment, maintenance, or repair of hearing aids when that is not true,  
25 or using the words "doctor", "clinic", "clinical audiologist", "state  
26 approved", or similar words, abbreviations, or symbols which tend to  
27 connote the medical or other professions, except where the title "cer-  
28 tified hearing aid audiologist" has been granted by the national hear-  
29 ing aid society, or that the hearing aid dealer has been recommended  
30 by this state or the board when such is not accurate.
- 31 f. Habitual intemperance.
- 32 g. Permitting another person to use his license or temporary per-  
33 mit.
- 34 h. Advertising a manufacturer's product or using a manufacturer's  
35 name or trademark to imply a relationship with the manufacturer that  
36 does not exist.
- 37 i. Directly or indirectly giving or offering to give, or permitting or  
38 causing to be given money or anything of value to a person who  
39 advises another in a professional capacity, as an inducement to influ-  
40 ence the person or cause him to influence others to purchase or con-  
41 tract to purchase products sold or offered for sale by a hearing aid  
42 dealer, or to influence others to refrain from dealing in the products  
43 of competitors.
- 44 j. Conducting business while suffering from a contagious or infec-  
45 tious disease.
- 46 k. Engaging in the fitting or selection and sale of hearing aids  
47 under a false name or alias, with fraudulent intent.
- 48 l. Selling a hearing aid to a person who has not been given tests  
49 utilizing appropriate established procedures and instrumentation in  
50 fitting or selection of hearing aids, except in cases of selling replace-  
51 ment hearing aids of the same make or model within one year of the  
52 original sale.
- 53 m. Gross incompetence or negligence in fitting or selection and sell-  
54 ing of hearing aids.
- 55 n. Using an advertisement or other representation which has the  
56 effect of misleading or deceiving purchasers or prospective purchasers  
57 into the belief that any hearing aid or device, or part or accessory  
58 thereof, is a new invention or involves a new mechanical or scientific  
59 principle when such is not the fact.
- 60 o. Representing, directly or by implication, that a hearing aid uti-  
61 lizing bone conduction has certain specified features, such as the ab-  
62 sence of anything in the ear or leading to the ear, or the like, without  
63 disclosing clearly and conspicuously that the instrument operates on  
64 the bone conduction principle, and that in many cases of hearing loss,  
65 this type of instrument may not be suitable.
- 66 p. Stating or implying that the use of a hearing aid will restore nor-  
67 mal hearing or preserve hearing or prevent or retard progressions of  
68 hearing impairment or any other false or misleading claim regarding  
69 the use or benefit of a hearing aid.
- 70 q. Representing or implying that a hearing aid is or will be "cus-  
71 tom-made", "made to order", "prescription made", or in any other  
72 sense especially fabricated for an individual person when such is not  
73 the case.

74 r. Violating any of the provisions of section seven hundred thirteen  
75 point twenty-four (713.24) of the Code.

76 s. Such other acts or omissions as the board may determine to be  
77 unethical conduct.

1 SEC. 25. NEW SECTION. **Prohibitions.** A person shall not:

2 1. Sell, barter, or offer to sell or barter a license or temporary  
3 permit.

4 2. Purchase or procure by barter a license or temporary permit  
5 with intent to use it as evidence of the holder's qualifications to engage  
6 in business as a hearing aid dealer.

7 3. Alter a license or temporary permit with fraudulent intent.

8 4. Use or attempt to use as a valid license a license or temporary  
9 permit which has been purchased, fraudulently obtained, counter-  
10 feited, or materially altered.

11 5. Willfully make a false statement in an application for a license  
12 or temporary permit or for renewal of a license or temporary permit.

1 SEC. 26. NEW SECTION. **Consumer protection.** Nothing in this  
2 Act shall be construed to limit the right of a person who desires to  
3 file a complaint against a licensee or holder of a temporary permit  
4 from filing a complaint with the attorney general pursuant to the pro-  
5 visions of section seven hundred thirteen point twenty-four (713.24)  
6 of the Code.

1 SEC. 27. NEW SECTION. **Penalties.** A violation of any provision  
2 of this Act is punishable, upon conviction, by a fine of not more than  
3 five hundred dollars or by imprisonment for not more than ninety  
4 days in the county jail, or by both such fine and imprisonment.

1 SEC. 28. The provisions of this Act shall become effective January  
2 1, 1975, except that the governor shall appoint the members of the  
3 board to terms which shall commence July 1, 1974, and the board shall  
4 commence its duties.

Approved May 28, 1974

## CHAPTER 1146

### AGRICULTURE DEPARTMENT

#### H. F. 1302

AN ACT relating to the publications by the department of agriculture.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section one hundred fifty-nine point nine (159.9), Code  
2 1973, is amended to read as follows:

3 **159.9 Publication and distribution of rules.** A sufficient number of  
4 ~~the rules pamphlets setting forth the statutes and rules~~ of the depart-  
5 ment shall be published from time to time to supply the various needs  
6 for the same. ~~A copy of the rules and~~ shall be furnished to any resi-  
7 dent of the state upon request.

Approved May 2, 1974