

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 243 Hearing Aid Specialists
SPONSOR(S): Kendrick and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 372

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care Regulation Committee	11 Y, 0 N	Bell	Mitchell
2) Elder & Long-Term Care Committee			
3) Health & Families Council			
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 243 excludes licensed hearing aid specialists from the requirement that a certain written statement of a patient's right to refuse or cancel payment, or be reimbursed for payment for other treatment or services, must accompany the advertisement of free and discounted services. The statement reads:

"THE PATIENT AND ANY OTHER PERSON RESPONSIBLE FOR PAYMENT HAS A RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR PAYMENT FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT THAT IS PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED FEE SERVICE, EXAMINATION, OR TREATMENT."

Currently over fourteen other professions, such as naturopaths, dentists, and nurses, are required to make the above disclosure when advertising services that are free or provided at a reduced fee. However, audiologists, who also dispense hearing aids, are not included under s. 456.062, F.S., and do not have to publish a disclosure when advertising free or discounted services.

Hearing aid specialists and audiologists have numerous unique regulations, under part II of chapter 484 and part I of chapter 468, F.S., governing the dispensing of hearing aids such as a required thirty-day money back guarantee, price itemization, and hearing aid returns if a specified physician certifies that it is contraindicated.

Hearing aid specialists and audiologists often work in close contact with one another. Although audiologists are licensed to perform many more services than hearing aid specialists, one of their primary responsibilities is dispensing of hearing aids. Clinics that employ both hearing aid specialists and audiologists must include the disclosure in their advertisements when advertising services that are free or provided at a reduced fee, even though under s. 456.062, F.S., it is only required of hearing aid specialists. In Florida, there are currently 713 licensed hearing aid specialists and 783 licensed audiologists.¹

HB 243 may lower advertising costs for hearing aid specialists and audiologists who employ hearing aid specialists. Hearing aid specialists and audiologists may choose to pass on their cost savings to customers.

The bill takes effect July 1, 2006.

¹ Florida Boards of Hearing Aid Specialists & Speech Language Pathology & Audiology, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – The bill removes a regulation that requires hearing aid specialists to make a certain disclosure in their advertisements when advertising services that are free or provided at a reduced fee.

B. EFFECT OF PROPOSED CHANGES:

The bill amends s. 456.062, F.S., to exclude licensed hearing aid specialists from the requirement that a certain written statement must accompany the advertisement of free and discounted services. The statement reads:

“THE PATIENT AND ANY OTHER PERSON RESPONSIBLE FOR PAYMENT HAS A RIGHT TO REFUSE TO PAY, CANCEL PAYMENT, OR BE REIMBURSED FOR PAYMENT FOR ANY OTHER SERVICE, EXAMINATION, OR TREATMENT THAT IS PERFORMED AS A RESULT OF AND WITHIN 72 HOURS OF RESPONDING TO THE ADVERTISEMENT FOR THE FREE, DISCOUNTED FEE, OR REDUCED FEE SERVICE, EXAMINATION, OR TREATMENT.”

CURRENT SITUATION

Currently over fourteen other professions, such as naturopaths, dentists, and nurses, are required to make the above disclosure when advertising services that are free or provided at a reduced fee. However, audiologists, who also dispense hearing aids, are not included under s. 456.062, F.S., and do not have to publish a disclosure when advertising free or discounted services.

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Hearing Aid Specialists

Hearing aid specialists are regulated under part II of chapter 484, F.S. Generally hearing aid specialists fit and sell hearing amplification systems to individuals in a retail establishment. Some of their duties include conducting hearing tests, interpreting auditory test results, and selecting, fitting, and modifying hearing amplification systems for individuals.

The Department of Health licenses each applicant that the Board of Hearing Aid Specialists certifies:

- Has completed the application form and remitted the required fees;
- Submits three letters of good moral character;

² Florida Boards of Hearing Aid Specialists & Speech Language Pathology & Audiology, 2006.

- Is 18 years of age;
- Is a graduate of an accredited high school or its equivalent;
- Submits two photographs;
- Meets either (1) or (2) below:
 - (1) Has met the requirements of the Board of Hearing Aid Specialist training program; or
 - (2) (a) Has a valid, current license as a hearing aid specialist or its equivalent from another state and has been actively practicing in such capacity for at least 12 months; or (b) Is currently certified by the National Board for Certification in Hearing Instrument Sciences and has been actively practicing for at least 12 months.
- Has passed the licensure examination, which is the International Licensing Examination (ILE) for the Hearing Instrument Dispenser.
- Has submitted a notarized laws and rules affidavit; and
- Has submitted proof of taking a two hour course on the prevention of medical errors.

Audiologists

Audiologists are regulated under part I of chapter 468, F.S. The practice of audiology includes the assessment of hearing and balance. Audiologists do research on hearing loss, tinnitus, and balance system dysfunction. Audiologists also select, fit, and dispense amplification systems such as hearing aids, prevent hearing loss through providing and fitting protective devices, provide consultation on the effects of noise on hearing, and provide consumer education.

The Department of Health licenses each applicant that meets the following requirements:

- Master's degree or Doctoral degree from an accredited college or university with a major emphasis in the area in audiology;
- Sixty (60) semester hours are required of which 30 semester hours must be at the graduate level;
- 300 clock hours in supervised clinical practice;
- Nine (9) months of professional employment;
- Passage of the national exam for active license;
- One (1) hour of HIV/AIDS training; and
- Two (2) hours in prevention of medical errors training.

Additionally, to maintain an active license applicants must have completed:

- A Master's degree or Doctoral degree from an accredited college or university audiology ;
- 30 semester hours in courses acceptable toward a graduate degree; and
- 200 supervised clinical hours in the discipline.

REGULATORY REQUIREMENTS FOR HEARING AID SPECIALISTS & AUDIOLOGISTS

Federal Regulations

Hearing aid specialists and audiologists are required to follow federal laws Title 21, Sec. 801.420 and 801.421 CFR. These laws cover:

- Federal hearing aid definitions;
- Labeling requirements for hearing aids;
- Medical evaluation requirements;
- Waiver to the medical evaluation requirements;
- Availability of hearing aid user instructional brochures; and
- Recordkeeping.

State Regulations

Thirty Day Trial Period

Sections 484.0512 and 468.1246, F.S., require that hearing aid specialists and audiologists must provide the buyer of a hearing aid with written notice of a 30-day trial period and money back guarantee. The guarantee must permit the purchaser to cancel the purchase for a valid reason. A valid reason is defined as, "failure by the purchaser to achieve satisfaction from use of the hearing aid(s), so long as the hearing aid(s) is returned to the seller within the 30-day trial period in good working condition.³ If the hearing aid must be repaired, remade, or adjusted during the 30-day trial period, the running of the 30-day trial period is suspended 1 day for each 24-hour period that the hearing aid is not in the purchaser's possession. A repaired, remade, or adjusted hearing aid must be claimed by the purchaser within 3 working days after notification of availability. The running of the 30-day trial period resumes on the day the purchaser reclaims the repaired, remade, or adjusted hearing aid or on the 4th day after notification of availability.

Itemization of Prices

Sections 484.051 and 468.1245, F.S., require that hearing aid specialists and audiologists must provide an itemized listing of prices at the request of prospective hearing aid purchasers. This list must provide separate prices for each service component and each product.

Cancellation by Medical Authorization

Sections 484.0513 and 468.1255, F.S., gives hearing aid purchasers the right to their money back if the purchasers consults a licensed physician, with a specialty board certification in otolaryngology, internal medicine, or a licensed family practice physician, and the physician certifies in writing that the purchaser has a hearing impairment that contraindicates the use of a hearing aid or will not be improved by the use of a hearing aid. The purchaser must give notice to the seller via certified mail within 60 days following the date of delivery of the hearing aid.

Economics of Health Care Regulation

Economists argue that the regulation of health care usually involves striking a balance between patient safety and quality of care, and the cost and availability of services. Regulating quality is not without cost and it is not without an effect on the market for healthcare services. Regulations that increase the cost of providing health care may lead to increased prices, a decrease in quantity, and hurt the bottom line of the supplier of services, thus, limiting access to health care. If regulations increase the costs of health care too much, consumers may drop out of the market. The decrease in demand may then cause a chain reaction so that health care suppliers drop out of the market, which would limit access to health care (the supply). Even a policy aimed at increasing demand for service, may be constrained by regulatory policies that limit the ability for suppliers to respond, so that the effect may be a large increase in price and a smaller increase in quantity of services provided.⁴

C. SECTION DIRECTORY:

Section 1. Amends s. 456.062, F.S., to exclude a licensed hearing aid specialist from having to publish a disclaimer statement with all advertisements of free or discounted services.

Section 2. Provides an effective date of July 1, 2006.

³ 64B6-6.001(2) F.A.C & 64B30-8.008 (3), F.A.C.

⁴ Health Care Issues Associated with Regulation, Presentation to House Committee on Health Care Regulation, March 2005, Steve Ullmann, Ph.D., University of Miami.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate **[See D. Fiscal Comments]**

D. FISCAL COMMENTS:

HB 243 may lower advertising costs for hearing aid specialists and audiologists who employ hearing aid specialists. Hearing aid specialists and audiologists may choose to pass on their cost savings to customers.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rule making authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Board of Hearing Aid Specialists has stated that audiologists, who also sell hearing aids, are not subject to this same advertising disclosure requirement in s. 456.062, F.S. Placing hearing aid specialists in this category with other health professionals, when they also must offer trial periods, refunds and money back guarantees, may be duplicative or unnecessary.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES