§2442. Definitions

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

            (1) "Board" shall mean the Louisiana Board for Hearing Aid Dealers.

            (2) "Hearing aid" means any wearable instrument or device designed for or represented as aiding or compensating for defective human hearing and any parts, attachments, or accessories of such an instrument or device.

            (3) "License" includes a temporary license and a certificate of endorsement.

            (4) "Practice of selling and fitting hearing aids" means the necessary audiometry and other acoustic measurements essential to determine the parameters needed in amplification, selection, and adaptation of the appropriate hearing instruments, the making of a proper ear impression for the instrument selected, fitted, and delivered, the inspection of the ear canal with an otoscope before taking the impression, and all of the instruction and guidance necessary to maximize use of amplification.

            (5) "Repair service and maintenance" means to restore by replacing a part or putting together what is torn or broken; to restore to a good or sound condition after decay or damage; mend; to fix anything that is broken.

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

            (a) The obtaining of any fee or the making of any sale by fraud or misrepresentation.

            (b) Employing directly or indirectly any suspended or unlicensed person to perform any work covered by this Chapter.

            (c) Using or causing or prompting 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.

            (d) 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.

            (e) Representing that the professional services or advice of a physician or audiologist will be used or made available in the selling, fitting, adjustment, maintenance, or repair of hearing aids when that is not true, or using the words "doctor", "clinic", "clinical", or "research audiologist", "audiologic", or any other like words, abbreviations, or symbols which tend to connote audiological or professional services, when such use is not accurate.            (f) Habitual intemperance.

            (g) Gross immorality.

            (h) Permitting another to use his license or certificate.

            (i) To defame competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or falsely to disparage the products of competitors in any respect, or their business methods, selling prices, values, credit terms, policies, or services.

            (j) To display competitive products in his show window, shop, or in his advertising in such manner as falsely to disparage them.

            (k) To represent falsely that competitors are unreliable but that the disparager is not.

            (l) To quote prices of competitive hearing aids or devices without disclosing that they are not the present current prices, or to show, demonstrate, or represent competitive models as being current models when such is not the fact.

            (m) To imitate or simulate the trademarks, trade names, brands, or labels of competitors, with the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers.

            (n) To use in his advertising the name, model name, or trademark of a particular manufacturer or hearing aids in such manner as to imply a relationship with the manufacturer that does not exist or otherwise to mislead or deceive purchasers or prospective purchasers.

            (o) To use any trade name, corporate name, trademark, or other trade designation, which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the name, nature, or origin of any product of the industry, or of any material used therein, or which is false, deceptive, or misleading in any other material respect.

            (p) To obtain information concerning the business of a competitor by bribery of an employee or agent of such competitor, by false or misleading statements or misrepresentations, by the impersonation of one in authority, or by any other unfair means.

            (q) To directly or indirectly give, or offer to give, or permit or cause to be given money or anything of value to any person who advises another in a professional capacity as an inducement to influence them or have them influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid dealer or to influence persons to refrain from dealing in the products of competitors.

            (r) Sharing of any profits or sharing of any percentage of a licensee's income with any person, firm, corporation, or other business enterprise other than a person licensed to fit and sell hearing aids under the provisions of this Chapter who is a resident of this state and associated with the licensee in fitting and selling hearing aids.

            (s) Representing or implying that his competence in selling and fitting hearing aids is based upon undergraduate or graduate education when such is not correct.

            (t) Representing or implying that a hearing aid is or will be custom made, "made to order," "prescription made," or in any other sense specially fabricated for an individual person when such is not the case.

            (u) Stating or implying that the use of any hearing aid will restore or preserve hearing, or prevent or retard progression of a hearing impairment.

            (v) To sell a hearing aid intended to be used by a person twelve years of age or less without an otologic examination by a medical physician licensed in this state who is acting with audiologic evaluation.

            Added by Acts 1968, No. 302, §2. eff. Jan. 1, 1969. Amended by Acts 1989, No. 752, §1; Acts 1995, No. 892, §2; Acts 2005, No. 261, §1; Acts 2011, No. 93, §1; Acts 2018, No. 206, §3.