

To: Kentucky Licensed Specialists in Hearing Instruments

From: Kentucky Licensing Board for Specialists in Hearing Instruments

Date: October 4, 2000

Re: Opinion and Declaratory Ruling regarding state law governing disposable hearing instruments by the Kentucky Licensing Board for Specialists in Hearing Instruments

Dear Kentucky licensed specialists in hearing instruments:

This correspondence is in response to various inquiries to the Kentucky Licensing Board for Specialists in Hearing Instruments for an opinion on the issue of temporary hearing aids sold in Kentucky to Kentucky residents by licensees of the Board.

Please keep in mind that this correspondence is an opinion of the Board based solely on the facts presented, which will be summarized below. The Board has authorized this opinion as an Opinion and Declaratory Ruling pursuant to KRS 13A.130(3) and KRS 13A.010(2)(b) as the agency with jurisdiction to interpret the statutes and regulations governing the practice of fitting hearing instruments in the Commonwealth of Kentucky.

I. Whether disposable hearing aids are “hearing instruments.”

The Board is first presented with the question whether the disposable hearing aids are “hearing instruments” under Kentucky law. The Board has been made aware of at least one national retailer which has marketed disposable hearing aids to clients in Kentucky through licensees of the Board. The Board has information as to these facts.

These disposable hearing aids are completely self-sealed and contain no serviceable parts, including the battery, which cannot be replaced. These disposable hearing aids have a limited lifespan of months and not years when compared to a hearing instrument custom made and fitted by a licensee.

After appropriate measurement of human hearing by means of an audiometer by a licensee of the Board, the client may purchase such a disposable hearing aid for use by the client. At whatever point in time the disposable hearing aid ceases to function for the client, the client then may order a replacement.

Kentucky Revised Statute (KRS) 334.010(5) defines "hearing instrument" as "any wearable instrument or device designed for or represented as aiding or improving defective human hearing and any parts, attachments, or accessories of such an instrument or device."

Clearly under Kentucky law, a disposable hearing instrument as well as a replacement hearing instrument of identical model and manufacture, is a "hearing instrument."

II. Whether Kentucky law must be followed regarding the sale of a disposable hearing instrument.

KRS Chapter 334 mandates that a licensee of the Board complete many requirements before fitting and selling a hearing instrument. Because disposable hearing instruments are "hearing instruments" under the law, all requirements of selling a disposable hearing instrument must be met just as with any other hearing instrument.

III. Conclusion.

As the agency authorized by the Kentucky General Assembly to regulate the practice of fitting and selling hearing instruments in this state, the Board is empowered to interpret its statutes and regulations. In summary, the Board concludes that disposable hearing instruments are "hearing instruments" under Kentucky law. As such, all requirements of KRS Chapter 334 must be met by a licensee of the Board in the fitting and sale of any disposable hearing instrument.

The Board will be drafting a further Opinion and Declaratory Ruling in the reasonable future on how specific provisions of KRS Chapter 334 may apply to various situations regarding the fitting and sale of disposable hearing instruments.

Sincerely yours,

Kentucky Licensing Board for Specialists in
Hearing Instruments

By: 
Michael K. Stone, Board Chair