

Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/consumers. For convenience, sections of the New York City Licensing Law (and Rules, if enacted) are included as a handout in this packet. The Law (and Rules) are current as of January 2009.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

NEW YORK CITY ADMINISTRATIVE CODE
TITLE 20: CONSUMER AFFAIRS
CHAPTER 2: LICENSES
SUBCHAPTER 25: PRODUCTS FOR THE DISABLED; SALE, RENTAL, REPAIR AND SERVICING

§ 20-425 Definitions. Whenever used in this subchapter the following terms shall mean:

a. "Disabled" means a person who has a physical or medical impairment resulting from anatomical or physiological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques.

b. "Products for the Disabled" means any instrument or device either represented as an aid for or designed specifically or substantially for the disabled. This includes but is not limited to: braces, crutches, prosthetic devices, ostomy supplies and equipment, orthotic devices, self-help aids and wheelchairs. This subchapter does not apply to prosthetic dental devices, or any product, instrument or device the manufacturing, retailing or distribution of which is licensed by any other state or local law.

c. "Person" means any firm, partnership, association, corporation or individual.

d. "Dealer" means any person who engages in a business which substantially involves the selling, renting, repairing, or adjusting of products for the disabled, and who is not licensed or registered by any other state or local law.

e. "Repair and Service" includes repair, adjustment, modification, maintenance, removal or installation of any integral parts, attachments or accessories to products for the disabled, whether done for compensation, other consideration, or under a warranty.

f. "Written Estimate" means a signed writing containing:

1. a listing of the parts to be replaced and the cost of the replacements; and

2. a general description of the labor required for the repair and its

cost; and

3. a statement of additional charges, if any, for the estimate, any service call, or any other extra charge excluding tax; and

4. the promised date of completion of the repair or delivery of purchased goods; and

5. a form statement that the final cost, excluding tax, will not exceed the estimated cost by more than twenty percent. This statement need not be given if the final cost, excluding tax, will not be more than the estimated cost.

g. "Final Bill" means a signed writing containing:

1. an itemization of each replacement part, including a description by make and model or serial number or by class and type or such other description as will reasonably identify each part, and including the charge for each replacement part; and

2. a statement of the labor required for the repair and the total cost of such labor; and

3. a statement of additional charges, if any, for the estimate, pickup and delivery, service charge and any other charges.

§ 20-426 License required. a. It shall be unlawful for any dealer to engage in the selling, renting, fitting, repairing, or servicing of, or making adjustments to, products for the disabled without a license therefor.

b. An application for a license shall be made to the commissioner.

c. Any person maintaining more than one facility where such services are performed may file a single application for a license, but must pay a separate fee for each facility.

d. If the business is to be carried on under a fictitious name, such name shall be stated on the application for a license. If the dealer is a partnership, any identifying data prescribed by the commissioner must be stated for each partner. If the dealer is a corporation, data as to each of the officers and directors as well as the individual in charge of each place of business must be included.

e. A license issued under this subchapter is not assignable or transferable.

f. Every license issued under this subchapter must be posted conspicuously on the licensee's premises and must be accessible for inspection by any interested person.

§ 20-427 Fees. The annual license fee shall be one hundred dollars.

§ 20-428 Denial of license. The commissioner may deny or refuse to renew a license if any applicant, partner, officer or director

identified in the application for a license:

a. Previously held a license issued under this subchapter which was revoked or suspended without the terms of the suspension being fulfilled;

b. Has committed an act which, if committed by a licensee, would be grounds for suspension or revocation of a license issued pursuant to this subchapter;

c. Has acted in the capacity of a licensee under this subchapter without a license therefor;

d. Has been convicted of a crime or offense which relates to the operation of a business dealing in the sale, rental, repair or servicing of products for the disabled.

§ 20-429 Power and duties of the commissioner. a. The commissioner may make and promulgate such rules and regulations as may be necessary for the proper implementation and enforcement of this subchapter.

b. In addition to any other powers of the commissioner, and not in limitation thereof, the commissioner shall have the power to enforce the provisions of this subchapter, to investigate any violation thereof, and to investigate the business, business practices and business methods of any person who is or may be subject to this subchapter, if in the opinion of the commissioner such investigation is warranted. Each person shall be obliged upon the request of the commissioner to supply such information as may be required concerning the business practices or methods or the proposed business practices or methods.

c. For the purpose of enforcing the provisions of this subchapter, and in conducting investigations relating to any violation thereof, and for the purpose of investigating the character, competence and integrity of any person who is or may be subject to this subchapter, and the business or business practices or methods thereof, the commissioner, or the commissioner's designee shall have the power to compel the attendance of witnesses and the production of books and records, in accordance with the provisions of chapter one of this title of this code.

§ 20-430 Duties of licensees. a. All work performed by a dealer shall be recorded legibly on an invoice which shall contain the license number and the exact name and business address of the person or business entity. The invoice shall fully, separately and clearly describe the type and make of the device, all service work performed, all parts supplied, the date or dates thereof, and all charges made and the computations thereof. A copy of the invoice shall be delivered to the customer and the other shall be retained by the dealer for a period of at least three years from the date of such delivery.

b. Upon request by telephone, in person or in writing, the dealer must

provide information as to price and anticipated delivery date for the rental, sale, repair or service of any product covered by this subchapter.

c. The dealer must give a prospective customer a written estimate for labor and parts required for a specific job if he or she intends to take the job. No charge for work performed or parts supplied in excess of twenty percent over written estimate shall be made unless the consent of the customer was obtained as described in section 20-425 of this subchapter before such work was done, parts supplied or services rendered.

d. The dealer shall return all replaced parts to the customer, except such parts as may be exempted from this requirement by regulations of the commissioner and except such parts as the service dealer requires for return to the manufacturer or distributor under a warranty arrangement.

e. A dealer shall not make the remuneration, salary, wage or other compensation of any partner, staff member, or employee contingent or dependent upon, or in any manner determined by the value, price, quantity or type of parts replaced, upon any apparatus serviced or repaired by any person required to be licensed by this subchapter.

f. Every dealer shall maintain any additional records required to be kept by regulations adopted by the commissioner for a period of three years. Such records must be available for inspection by the commissioner or other law enforcement officials.

g. No dealer shall charge a total price, excluding tax, which is more than twenty percent above the written estimate.

h. No dealer shall fail to deliver the repaired item or purchased goods, together with a final bill, as defined above, on the promised completion date, unless the consumer is notified of the delay and the anticipated completion date. If complete repair is delayed for an unreasonable period of time the consumer shall have the right to the immediate return of the property.

§ 20-431 Revocation or suspension of a license. After due notice and hearing subject to section 20-432 the commissioner or the commissioner's designee may revoke or suspend any license required under this subchapter or deny renewal of one upon a determination that a licensee:

a. Has been convicted of a crime or offense which in the judgment of the commissioner would constitute evidence that the licensee would be unfit to properly discharge his or her responsibilities under this subchapter.

b. Has practiced fraud or misrepresentation upon a customer or in establishing his or her qualifications for a license under this subchapter.

c. Has made false promises of a character likely to influence,

persuade or induce a customer to authorize the sale, repair, maintenance or servicing of any product covered by this subchapter.

d. Has failed to perform work or service in accordance with accepted trade standards.

e. Has violated any of the provisions of this subchapter or the regulations promulgated thereunder or has knowingly caused, permitted, aided or abetted another in committing such violation.

§ 20-432 Complaints; hearing, remedies. The commissioner shall receive and investigate complaints from the public against any person issued a license pursuant to this subchapter, and after due notice and hearing, the commissioner may suspend or revoke the license or order any other measures deemed reasonable.

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RULES OF THE CITY OF NEW YORK
TITLE 6: DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 2: LICENSES
SUBCHAPTER Y: PRODUCTS FOR THE DISABLED; SALE, RENTAL, REPAIR AND SERVICING

§2-271 Definitions.

Dealer. "Dealer" as defined in §20-425(f) of the Administrative Code:

(1) A person shall be deemed a "dealer" whenever:

(i) more than \$4,000 of the annual gross receipts of the person's business during the previous tax year resulted from the selling, renting, repairing or adjusting of products for the disabled; or

(ii) more than 10 percent of the annual gross income of the person's business during the previous tax year was derived from selling, renting, repairing or adjusting of products for the disabled.

(2) A business located outside of New York City shall be deemed a "dealer" whenever the amount of its annual gross receipts or income derived from the sale, rental, repair or adjustment of products for the disabled for consumers residing in New York City equals or exceeds the amounts set forth in either subparagraph (1)(i) or (1)(ii) above.

Licensed or registered by any other state or local law. A person "licensed or registered by any other state or local law" for purposes of exemption from the requirements of obtaining a license under the Products for the Disabled Law does not include a person licensed or registered by state or local law for an activity other than the selling, renting, repairing or adjusting of products for the disabled as defined in this subchapter. Not exempt, for example, are persons:

(1) certified by Medicaid;

(2) licensed by the New York City Department of Consumer Affairs as secondhand dealers;

(3) licensed by the New York State Department of Education as pharmacists; or

(4) possessing state tax certificates.

Products for the disabled. "Products for the disabled" includes, in addition to the items set forth in §20-425 of the Administrative Code, the following:

(1) orthotic devices except stock orthotic devices that are not custom fitted, nor substantially intended for use by the disabled (e.g. ace bandages and stock support hose);

(2) prosthetic devices except stock breast prostheses;

(3) self-help aids except:

(i) assistive devices for the blind, and

(ii) walkers, walkerettes and canes;

(4) ostomy supplies except non-durable or disposable stock ostomy supplies; (5) orthopedic or support shoes except those not designed specifically or substantially for the disabled.

Written response. For purposes of this subchapter whenever a dealer is required to obtain a "written" response from a consumer, such a response may be oral when the consumer is physically unable to write.

§2-272 Prohibited Practices.

No dealer or any of his or her agents or employees shall:

(a) commence service work before the consumer receives a written estimate and authorizes the repair, except as provided in §2-273(d);

(b) fail to make repairs for a consumer because the consumer is exercising a right to have the product repaired under a valid warranty or guarantee agreement, when the dealer holds himself out as, or is, authorized by a manufacturer to service or repair such products;

(c) require or attempt to require a consumer to waive any rights provided in this subchapter.

§2-273 Written Estimate.

(a) Prior to entering into an agreement for the repair or servicing of products for the disabled, the dealer must inform the consumer of the consumer's right to a written estimate, and of any charges attached thereto.

(b) If the written estimate does not contain a statement that the final cost, excluding tax, will not exceed the estimated cost by more than twenty per cent, then the final cost, excluding tax, may not exceed the estimated cost.

(c) Prior to beginning the repair or servicing, except as provided in §2-273(d) below, a dealer must obtain written approval of the charges disclosed in the written estimate from the consumer or the consumer's agent.

(d) If the consumer requests that the repair or servicing of his or her product commence without awaiting receipt of the written estimate, then the dealer may orally communicate the information required to be contained in the written estimate to the consumer and may obtain the consumer's oral consent thereto. The dealer must then immediately mail or otherwise deliver a copy of the written estimate containing the information required in the Notice in §2-275(c) to the consumer. Once the written estimate is mailed or otherwise delivered to the consumer, the dealer may commence the repairs or servicing.

(e) If the consumer does not authorize the repair or servicing of a product which has been delivered to the dealer for the purpose of making an estimate, no charge may be imposed, other than any charge previously agreed upon between the dealer and consumer for the estimate, pick up, or delivery of the product, and the product shall immediately be returned or made available to the consumer in the same condition as when released to the dealer.

§2-274 Delay in Delivery.

(a) Delivery of the repaired or purchased item must be made by the date promised or stated for delivery in the written estimate, unless the consumer is notified of the delay and the new anticipated completion date in writing or by oral communication supplemented within one day by a writing. If complete repair is going to be delayed more than ten days the consumer must be informed of his or her right to request the immediate return of the property, completely reassembled.

(b) In the event that the consumer chooses to exercise this right, the dealer must immediately initiate and carry to completion whatever steps are necessary to secure the return of the consumer's product, and may charge the consumer only for work specified on the written estimate which was authorized and actually completed prior to the requested return of the product. Any deposit paid by the consumer in excess of what the dealer is entitled to receive, as described above, shall be returned immediately to the consumer.

§2-275 Display of Required Information.

Each dealer shall prominently and conspicuously display, in the area where products for the disabled are sold, rented, or accepted for repair or servicing, a sign which contains the following information:

- (a) The true identity of the dealer, i.e.:
- (1) in the case of a corporation, the true and complete corporate name;
 - (2) in the case of a partnership, the name of the partnership and the name of at least one of the partners;
 - (3) in all other cases, the name of at least one of the owners of the business;
- (b) The business' current Department of Consumer Affairs License Number, and the telephone number of the Department's complaint division.

(c) The following notice, which shall be not less than 18 inches by 24 inches in dimension with letters of not less than 1 inch case print:

NOTICE

THE NEW YORK CITY PRODUCTS FOR THE DISABLED LAW

PROVIDES THAT:

- (1) The consumer is entitled to a written estimate for all repairs.
 - (2) No repair work shall be done without the consumer's author- ization.
 - (3) The service dealer must return replaced parts to the consumer except:
 - (i) when the consumer specifically gives up the right to have removed parts returned;
 - (ii) when the dealer must return such parts to the manufacturer;
 - (iii) when there is no charge for the replacement of such parts;
 - (iv) when the dealer purchases the parts from the consumer.
 - (4) The consumer is entitled to a final bill and an invoice at the time that the repair is completed. It is advisable for the consumer to retain both the bill and the invoice.
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If the dealer charges for a written estimate, that fact shall be disclosed in Item 1 of the Notice set forth above.

§2-276 Return of Removed Parts.

Unless a consumer expressly waives in writing the right to have removed parts returned to him or her, all such parts shall be returned, except such parts as the service dealer requires for return to the manufacturer or distributor under a warranty arrangement and except where the part:

(a) is replaced under a service contract or maintenance agreement for a fixed fee and for a specified time, and where no additional charge is made to the consumer for repairs; or

(b) can be rebuilt and the dealer purchases it from the consumer for that purpose and indicates the credited value in the written estimate; and

(c) is considered by the dealer to be unsafe in which case he or she shall so inform the consumer and give the consumer the option of whether or not to accept the returned part.

§2-277 Final Bill and Invoice.

The final bill and invoice shall be delivered to the consumer at the same time. The final bill, in addition to the requirements specified in §20-425(g) of the Administrative Code, shall contain:

- (a) the date of the final bill;
- (b) the true legal identity, business address and license number of the dealer, as shown on the license issued by this Department;
- (c) the name and address of the consumer;
- (d) the complete signature of the dealer or his or her agent;
- (e) a statement of total charges, which shall include the basis for the computation of labor charges including the total time spent on repair and the labor rate per hour; and
- (f) a statement of whether a replacement part is used, rebuilt, or reconditioned.

§2-278 Records Required to be Maintained by Dealer.

(a) The dealer must maintain, for a period of at least three years, for each consumer with whom business is transacted, a record containing the following information:

- (1) all documents required by or described in this subchapter including:
 - (i) written estimates;
 - (ii) written authorizations of the estimates;
 - (iii) written notifications of delays in delivery dates;
 - (iv) final bills and invoices; and
 - (v) written waivers regarding the return of replaced parts.
- (2) any document signed by the consumer or the consumer's agent, including copies of all correspondence between the dealer and the consumer regarding a product for the disabled.
- (3) manufacturers' warranties or guarantees for repaired or serviced products, as applicable.
- (4) dealer's warranties or guarantees for repaired or serviced products, as applicable.
- (5) originals or copies of medical or other prescriptions for products for the disabled filled by the dealer for consumers.
- (6) when estimates or authorization to commence work were oral:
 - (i) the date(s) and time(s) of such conversations;
 - (ii) the name of the consumer, or the consumer's agent, authorizing the dealer to commence work;
 - (iii) the name of the dealer or the dealer's agent receiving the oral authorization to commence work.

(b) The records referred to in this subchapter must be maintained on the licensed premises for a period of at least three years and be made available upon request to the commissioner, the commissioner's designee or other law enforcement officials.