

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Hearing Instrument Consumer Protection Act
5 is amended by changing Sections 1, 3, 6, 6.1, 8, 9.5, 16, and
6 17 as follows:

7 (225 ILCS 50/1) (from Ch. 111, par. 7401)

8 (Section scheduled to be repealed on January 1, 2016)

9 Sec. 1. Purpose. The purpose of this Act is to protect the
10 deaf or hard of hearing ~~hearing-impaired~~ public from the
11 practice of dispensing ~~incompetent and dishonest dispensers of~~
12 hearing instruments that ~~who~~ could endanger the health, safety
13 and welfare of the People of this State. The Federal Food and
14 Drug Administration has recommended that State legislation is
15 necessary in order to establish standards of competency and to
16 impose stringent penalties for those who violate the public
17 trust in this field of health care.

18 (Source: P.A. 89-72, eff. 12-31-95.)

19 (225 ILCS 50/3) (from Ch. 111, par. 7403)

20 (Section scheduled to be repealed on January 1, 2016)

21 Sec. 3. Definitions. As used in this Act, except as the
22 context requires otherwise:

1 "Department" means the Department of Public Health.

2 "Director" means the Director of the Department of Public
3 Health.

4 "License" means a license issued by the State under this
5 Act to a hearing instrument dispenser.

6 "Licensed Audiologist" means a person licensed as an
7 audiologist under the Illinois Speech-Language Pathology and
8 Audiology Practice Act.

9 "National Board Certified Hearing Instrument Specialist"
10 means a person who has had at least 2 years in practice as a
11 licensed hearing instrument dispenser and has been certified
12 after qualification by examination by the National Board for
13 Certification in Hearing Instruments Sciences.

14 "Licensed physician" or "physician" means a physician
15 licensed in Illinois to practice medicine in all of its
16 branches pursuant to the Medical Practice Act of 1987.

17 "Trainee" means a person who is licensed to perform the
18 functions of a hearing instrument dispenser in accordance with
19 the Department rules and only under the direct supervision of a
20 hearing instrument dispenser or audiologist who is licensed in
21 the State.

22 "Board" means the Hearing Instrument Consumer Protection
23 Board.

24 "Hearing instrument" or "hearing aid" means any wearable
25 instrument or device designed for or offered for the purpose of
26 aiding or compensating for impaired human hearing and that can

1 provide more than 15 dB full on gain via a 2cc coupler at any
2 single frequency from 200 through 6000 cycles per second, and
3 any parts, attachments, or accessories, including ear molds.
4 "Hearing instrument" or "hearing aid" do not include batteries,
5 cords, or group auditory training devices and any instrument or
6 device used by a public utility in providing telephone or other
7 communication services are excluded.

8 "Practice of fitting, dispensing, or servicing of hearing
9 instruments" means the measurement of human hearing with an
10 audiometer, calibrated to the current American National
11 Standard Institute standards, for the purpose of making
12 selections, recommendations, adaptations, services, or sales of
13 hearing instruments including the making of earmolds as a part
14 of the hearing instrument.

15 "Sell" or "sale" means any transfer of title or of the
16 right to use by lease, bailment, or any other contract,
17 excluding wholesale transactions with distributors or dealers.

18 "Hearing instrument dispenser" means a person who is a
19 hearing care professional that engages in the selling, practice
20 of fitting, selecting, recommending, dispensing, or servicing
21 of hearing instruments or the testing for means of hearing
22 instrument selection or who advertises or displays a sign or
23 represents himself or herself as a person who practices the
24 testing, fitting, selecting, servicing, dispensing, or selling
25 of hearing instruments.

26 "Fund" means the Hearing Instrument Dispenser Examining

1 and Disciplinary Fund.

2 "Hearing Care Professional" means a person who is a
3 licensed audiologist, a licensed hearing instrument dispenser,
4 or a licensed physician.

5 (Source: P.A. 98-362, eff. 8-16-13.)

6 (225 ILCS 50/6) (from Ch. 111, par. 7406)

7 (Section scheduled to be repealed on January 1, 2016)

8 Sec. 6. Mail order and Internet sales. Nothing in this Act
9 shall prohibit a corporation, partnership, trust, association,
10 or other organization, maintaining an established business
11 address, from engaging in the business of selling or offering
12 for sale hearing instruments at retail by mail or by Internet
13 to persons 18 years of age or older who have not been examined
14 by a licensed physician or tested by a licensed hearing
15 instrument dispenser provided that:

16 (a) The organization is registered by the Department prior
17 to engaging in business in this State and has paid the fee set
18 forth in this Act.

19 (b) The organization files with the Department, prior to
20 registration and annually thereafter, a Disclosure Statement
21 containing the following:

22 (1) the name under which the organization is doing or
23 intends to do business and the name of any affiliated
24 company which the organization recommends or will
25 recommend to persons as a supplier of goods or services or

1 in connection with other business transactions of the
2 organization;

3 (2) the organization's principal business address and
4 the name and address of its agent in this State authorized
5 to receive service of process;

6 (3) the business form of the organization, whether
7 corporate, partnership, or otherwise and the state or other
8 sovereign power under which the organization is organized;

9 (4) the names of the directors or persons performing
10 similar functions and names and addresses of the chief
11 executive officer, and the financial, accounting, sales,
12 and other principal executive officers, if the
13 organization is a corporation, association, or other
14 similar entity; of all general partners, if the
15 organization is a partnership; and of the owner, if the
16 organization is a sole proprietorship, together with a
17 statement of the business background during the past 5
18 years for each such person;

19 (5) a statement as to whether the organization or any
20 person identified in the disclosure statement:

21 (i) has during the 5 year period immediately
22 preceding the date of the disclosure statement been
23 convicted of a felony, pleaded nolo contendere to a
24 felony charge, or been held liable in a civil action by
25 final judgment, if such felony or civil action involved
26 fraud, embezzlement, or misappropriation of property,

1 and a description thereof; or

2 (ii) is subject to any currently effective
3 injunctive or restrictive order as a result of a
4 proceeding or pending action brought by any government
5 agency or department, and a description thereof; or

6 (iii) is a defendant in any pending criminal or
7 material civil action relating to fraud, embezzlement,
8 misappropriation of property or violations of the
9 antitrust or trade regulation laws of the United States
10 or any state, and a description thereof; or

11 (iv) has during the 5 year period immediately
12 preceding the date of the disclosure statement had
13 entered against such person or organization a final
14 judgment in any material civil proceeding, and a
15 description thereof; or

16 (v) has during the 5 year period immediately
17 preceding the date of the disclosure statement been
18 adjudicated a bankrupt or reorganized due to
19 insolvency or was a principal executive officer or
20 general partner of any company that has been
21 adjudicated a bankrupt or reorganized due to
22 insolvency during such 5 year period, and a description
23 thereof;

24 (6) the length of time the organization and any
25 predecessor of the organization has conducted a business
26 dealing with hearing instrument goods or services;

1 (7) a financial statement of the organization as of the
2 close of the most recent fiscal year of the organization.
3 If the financial statement is filed later than 120 days
4 following the close of the fiscal year of the organization
5 it must be accompanied by a statement of the organization
6 of any material changes in the financial condition of the
7 organization;

8 (8) a general description of the business, including
9 without limitation a description of the goods, training
10 programs, supervision, advertising, promotion and other
11 services provided by the organization;

12 (9) a statement of any compensation or other benefit
13 given or promised to a public figure arising, in whole or
14 in part, from (i) the use of the public figure in the name
15 or symbol of the organization or (ii) the endorsement or
16 recommendation of the organization by the public figure in
17 advertisements;

18 (10) a statement setting forth such additional
19 information and such comments and explanations relative to
20 the information contained in the disclosure statement as
21 the organization may desire to present.

22 (b-5) If a device being sold does not meet the definition
23 of a hearing instrument or hearing device as stated in this
24 Act, the organization shall include a disclaimer in all written
25 or electronic promotions. The disclaimer shall include the
26 following language:

1 "This is not a hearing instrument or hearing aid as
2 defined in the Hearing Instrument Consumer Protection Act,
3 but a personal amplifier and not intended to replace a
4 properly fitted and calibrated hearing instrument."

5 (c) The organization files with the Department prior to
6 registration and annually thereafter a statement that it
7 complies with the Act, the rules issued pursuant to it, and the
8 regulations of the Federal Food and Drug Administration and the
9 Federal Trade Commission insofar as they are applicable.

10 (d) The organization files with the Department at the time
11 of registration an irrevocable consent to service of process
12 authorizing the Department and any of its successors to be
13 served any notice, process, or pleading in any action or
14 proceeding against the organization arising out of or in
15 connection with any violation of this Act. Such service shall
16 have the effect of conferring personal jurisdiction over such
17 organization in any court of competent jurisdiction.

18 (e) Before dispensing a hearing instrument to a resident of
19 this State, the organization informs the prospective users that
20 they need the following for proper fitting of a hearing
21 instrument:

22 (1) the results of an audiogram performed within the
23 past 6 months by a licensed audiologist or a licensed
24 hearing instrument dispenser; and

25 (2) an earmold impression obtained from the
26 prospective user and taken by a licensed hearing instrument

1 dispenser or licensed audiologist.

2 (f) The prospective user receives a medical evaluation or
3 the organization affords the prospective user an opportunity to
4 waive the medical evaluation requirement of Section 4 of this
5 Act and the testing requirement of subsection (z) of Section
6 18, provided that the organization:

7 (1) informs the prospective user that the exercise of
8 the waiver is not in the user's best health interest;

9 (2) does not in any way actively encourage the
10 prospective user to waive the medical evaluation or test;
11 and

12 (3) affords the prospective user the option to sign the
13 following statement:

14 "I have been advised by (hearing
15 instrument dispenser's name) that the Food and Drug
16 Administration and the State of Illinois have
17 determined that my best interest would be served if I
18 had a medical evaluation by a licensed physician,
19 preferably a physician who specialized in diseases of
20 the ear, before purchasing a hearing instrument; or a
21 test by a licensed audiologist or licensed hearing
22 instrument dispenser utilizing established procedures
23 and instrumentation in the fitting of hearing
24 instruments. I do not wish either a medical evaluation
25 or test before purchasing a hearing instrument."

26 (g) Where a sale, lease, or rental of hearing instruments

1 is sold or contracted to be sold to a consumer by mail order,
2 the consumer may void the contract or sale by notifying the
3 seller within 45 business days following that day on which the
4 hearing instruments were mailed by the seller to the consumer
5 and by returning to the seller in its original condition any
6 hearing instrument delivered to the consumer under the contract
7 or sale. At the time the hearing instrument is mailed, the
8 seller shall furnish the consumer with a fully completed
9 receipt or copy of any contract pertaining to the sale that
10 contains a "Notice of Cancellation" informing the consumer that
11 he or she may cancel the sale at any time within 45 business
12 days and disclosing the date of the mailing and the name,
13 address, and telephone number of the seller. In immediate
14 proximity to the space reserved in the contract for the
15 signature of the consumer, or on the front page of the receipt
16 if a contract is not used, and in bold face type of a minimum
17 size of 10 points, there shall be a statement in substantially
18 the following form:

19 "You, the buyer, may cancel this transaction at any
20 time prior to midnight of the 45th business day after the
21 date of this transaction. See the attached notice of
22 cancellation form for an explanation of this right."

23 Attached to the receipt or contract shall be a completed
24 form in duplicate, captioned "NOTICE OF CANCELLATION" which
25 shall be easily detachable and which shall contain in at least
26 10 point bold face type the following information and

1 statements in the same language as that used in the contract:

2 "NOTICE OF CANCELLATION
 3 enter date of transaction
 4
 5 (DATE)

6 YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR
 7 OBLIGATION, WITHIN 45 BUSINESS DAYS FROM THE ABOVE DATE.

8 IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY
 9 YOU UNDER THE CONTRACT OR SALE LESS ANY NONREFUNDABLE
 10 RESTOCKING FEE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU
 11 WILL BE RETURNED WITHIN 10 BUSINESS DAYS FOLLOWING RECEIPT BY
 12 THE SELLER OF YOUR CANCELLATION NOTICE AND ALL MERCHANDISE
 13 PERTAINING TO THIS TRANSACTION, AND ANY SECURITY INTEREST
 14 ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

15 IF YOU CANCEL, YOU MUST RETURN TO THE SELLER, IN
 16 SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS
 17 DELIVERED TO YOU UNDER THIS CONTRACT OR SALE.

18 TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED
 19 AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER
 20 WRITTEN NOTICE, OR SEND A TELEGRAM, TO (name of seller), AT
 21 (address of seller's place of business) AND (seller's
 22 telephone number) NO LATER THAN MIDNIGHT OF
 23(date).

24 I HEREBY CANCEL THIS TRANSACTION.

25 (Date).....

26

1 (Buyers Signature)"

2 The written "Notice of Cancellation" may be sent by the
3 consumer to the seller to cancel the contract. The 45-day
4 period does not commence until the consumer is furnished the
5 Notice of Cancellation and the address and phone number at
6 which such notice to the seller can be given.

7 If the conditions of this Section are met, the seller must
8 return to the consumer the amount of any payment made or
9 consideration given under the contract or for the merchandise
10 less a nonrefundable restocking fee.

11 It is an unlawful practice for a seller to: (1) hold a
12 consumer responsible for any liability or obligation under any
13 mail order transaction if the consumer claims not to have
14 received the merchandise unless the merchandise was sent by
15 certified mail or other delivery method by which the seller is
16 provided with proof of delivery; (2) fail, before furnishing
17 copies of the "Notice of Cancellation" to the consumer, to
18 complete both copies by entering the name of the seller, the
19 address of the seller's place of business, the seller's
20 telephone number, the date of the mailing, and the date, not
21 earlier than the 45th business day following the date of the
22 mailing, by which the consumer may give notice of cancellation;
23 (3) include in any contract or receipt any confession of
24 judgment or any waiver of any of the rights to which the
25 consumer is entitled under this Section including specifically
26 his right to cancel the sale in accordance with the provisions

1 of this Section; (4) misrepresent in any manner the consumer's
2 right to cancel; (5) use any undue influence, coercion, or any
3 other wilful act or representation to interfere with the
4 consumer's exercise of his rights under this Section; (6) fail
5 or refuse to honor any valid notice of cancellation and return
6 of merchandise by a consumer and, within 10 business days after
7 the receipt of such notice and merchandise pertaining to such
8 transaction, to (i) refund payments made under the contract or
9 sale, (ii) return any goods or property traded in, in
10 substantially as good condition as when received by the person,
11 (iii) cancel and return any negotiable instrument executed by
12 the consumer in connection with the contract or sale and take
13 any action necessary or appropriate to terminate promptly any
14 security interest created in the transaction; (7) negotiate,
15 transfer, sell, or assign any note or other evidence of
16 indebtedness to a finance company or other third party prior to
17 the 50th business day following the day of the mailing; or (8)
18 fail to provide the consumer of a hearing instrument with
19 written information stating the name, address, and telephone
20 number of the Department and informing the consumer that
21 complaints regarding hearing instrument goods or services may
22 be made to the Department.

23 (h) The organization employs only licensed hearing
24 instrument dispensers in the dispensing of hearing instruments
25 and files with the Department, by January 1 of each year, a
26 list of all licensed hearing instrument dispensers employed by

1 it.

2 (Source: P.A. 98-362, eff. 8-16-13.)

3 (225 ILCS 50/6.1)

4 (Section scheduled to be repealed on January 1, 2016)

5 Sec. 6.1. Reciprocity. The Department shall issue a license
6 to any hearing instrument dispenser who (i) has been certified
7 by the National Board for Certification in Hearing Instrument
8 Sciences and has been actively practicing for a minimum of 5
9 years or (ii) has a valid license as a hearing instrument
10 dispenser, or its equivalent, from another state that has an
11 examination that is comparable to the examination required
12 under this Act or is provided by the International Hearing
13 Society, (iii) ~~(ii)~~ has completed the specific academic and
14 training requirements, or their equivalent, under this Act,
15 (iv) ~~(iii)~~ has been actively practicing as a hearing instrument
16 dispenser for at least 3 months or is certified by the National
17 Board for Certification in Hearing Instrument Sciences, and (v)
18 ~~(iv)~~ has paid the required fee.

19 (Source: P.A. 96-683, eff. 1-1-10.)

20 (225 ILCS 50/8) (from Ch. 111, par. 7408)

21 (Section scheduled to be repealed on January 1, 2016)

22 Sec. 8. Applicant qualifications; examination.

23 (a) In order to protect persons who are deaf or hard of
24 hearing ~~with hearing impairments~~, the Department shall

1 authorize or shall conduct an appropriate examination for
2 persons who dispense, test, select, recommend, fit, or service
3 hearing instruments. The frequency of holding these
4 examinations shall be determined by the Department by rule.
5 Those who successfully pass such an examination shall be issued
6 a license as a hearing instrument dispenser, which shall be
7 effective for a 2-year period.

8 (b) Applicants shall be:

9 (1) at least 18 years of age;

10 (2) of good moral character;

11 (3) the holder of an associate's degree ~~a high school~~
12 ~~graduate~~ or the equivalent;

13 (4) free of contagious or infectious disease; and

14 (5) a citizen or person who has the status as a legal
15 alien.

16 Felony convictions of the applicant and findings against
17 the applicant involving matters set forth in Sections 17 and 18
18 shall be considered in determining moral character, but such a
19 conviction or finding shall not make an applicant ineligible to
20 register for examination.

21 (c) Prior to engaging in the practice of fitting,
22 dispensing, or servicing hearing instruments, an applicant
23 shall demonstrate, by means of written and practical
24 examinations, that such person is qualified to practice the
25 testing, selecting, recommending, fitting, selling, or
26 servicing of hearing instruments as defined in this Act. An

1 applicant must ~~who fails to~~ obtain a license within 12 months
2 after passing either ~~both~~ the written or ~~and~~ practical
3 examination, whichever is passed first, or ~~examinations~~ must
4 take and pass those examinations again in order to be eligible
5 to receive a license.

6 The Department shall, by rule, determine the conditions
7 under which an individual is examined.

8 (d) Proof of having met the minimum requirements of
9 continuing education as determined by the Board shall be
10 required of all license renewals. Pursuant to rule, the
11 continuing education requirements may, upon petition to the
12 Board, be waived in whole or in part if the hearing instrument
13 dispenser can demonstrate that he or she served in the Coast
14 Guard or Armed Forces, had an extreme hardship, or obtained his
15 or her license by examination or endorsement within the
16 preceding renewal period.

17 (e) Persons applying for an initial license must
18 demonstrate having earned, at a minimum, an associate degree or
19 its equivalent from an accredited institution of higher
20 education that is recognized by the U.S. Department of
21 Education or that meets the U.S. Department of Education
22 equivalency as determined through a National Association of
23 Credential Evaluation Services (NACES) member, and meet the
24 other requirements of this Section. In addition, the applicant
25 must demonstrate the successful completion of 12 semester hours
26 or 18 quarter hours of academic undergraduate course work in an

1 accredited institution consisting of 3 semester hours of
2 anatomy and physiology of the speech and hearing mechanism, 3
3 semester hours of hearing science, 3 semester hours of
4 introduction to audiology, and 3 semester hours of aural
5 rehabilitation, or the quarter hour equivalent. Persons
6 licensed before January 1, 2003 who have a valid license on
7 that date may have their license renewed without meeting the
8 requirements of this subsection.

9 (Source: P.A. 96-683, eff. 1-1-10.)

10 (225 ILCS 50/9.5)

11 (Section scheduled to be repealed on January 1, 2016)

12 Sec. 9.5. Trainees.

13 (a) In order to receive a trainee license, a person must
14 apply to the Department and provide acceptable evidence of his
15 or her completion of the required courses pursuant to
16 subsection (e) of Section 8 of this Act, or its equivalent as
17 determined by the Department. A trainee license expires 12 ~~6~~
18 months from the date of issue and is non-renewable.

19 (b) A trainee shall perform the functions of a hearing
20 instrument dispenser in accordance with the Department rules
21 and only under the direct supervision of a hearing instrument
22 dispenser or audiologist who is licensed in the State. For the
23 purposes of this Section, "direct supervision" means that the
24 licensed hearing instrument dispenser or audiologist shall
25 give final approval to all work performed by the trainee and

1 shall be physically present anytime the trainee has contact
2 with the client. The licensed hearing instrument dispenser or
3 audiologist is responsible for all of the work that is
4 performed by the trainee.

5 (c) The Department may limit the number of trainees that
6 may be under the direct supervision of the same licensed
7 hearing instrument dispenser or licensed audiologist.

8 (d) The Department may establish a trainee licensing fee by
9 rule.

10 (Source: P.A. 96-846, eff. 6-1-10.)

11 (225 ILCS 50/16) (from Ch. 111, par. 7416)

12 (Section scheduled to be repealed on January 1, 2016)

13 Sec. 16. Hearing Instrument Consumer Protection Board.
14 There shall be established a Hearing Instrument Consumer
15 Protection Board which shall assist, advise and make
16 recommendations to the Department.

17 The Board shall consist of 6 members who shall be residents
18 of Illinois. One shall be a licensed physician who specializes
19 in otology or otolaryngology; one shall be a member of a
20 consumer-oriented organization concerned with the deaf or hard
21 of hearing ~~hearing-impaired~~; one shall be from the general
22 public, preferably a senior citizen; 2 shall be licensed
23 hearing instrument dispensers who are National Board Certified
24 Hearing Instrument Specialists; and one shall be a licensed
25 audiologist. If a vote of the Board results in a tie, the

1 Director shall cast the deciding vote.

2 Members of the Board shall be appointed by the Director
3 after consultation with appropriate professional organizations
4 and consumer groups. The term of office of each shall be 4
5 years. Before a member's term expires, the Director shall
6 appoint a successor to assume member's duties at the expiration
7 of his or her predecessor's term. A vacancy shall be filled by
8 appointment for the unexpired term. The members shall annually
9 designate one member as chairman. No member of the Board who
10 has served 2 successive, full terms may be reappointed. The
11 Director may remove members for good cause.

12 Members of the Board shall receive reimbursement for actual
13 and necessary travel and for other expenses, not to exceed the
14 limit established by the Department.

15 (Source: P.A. 91-932, eff. 1-1-01; 91-949, eff. 2-9-01.)

16 (225 ILCS 50/17) (from Ch. 111, par. 7417)

17 (Section scheduled to be repealed on January 1, 2016)

18 Sec. 17. Duties of the Board. The Board shall advise the
19 Department in all matters relating to this Act and shall assist
20 as requested by the Director.

21 The Board shall respond to issues and problems relating to
22 the improvement of services to the deaf or hard of hearing
23 ~~hearing-impaired~~ and shall make such recommendations as it
24 considers advisable. It shall file an annual report with the
25 Director and shall meet at least twice a year. The Board may

1 meet at any time at the call of the chair.

2 The Board shall recommend specialized education programs
3 for persons wishing to become licensed as hearing instrument
4 dispensers and shall, by rule, establish minimum standards of
5 continuing education required for license renewal. No more than
6 5 hours of continuing education credit per year, however, can
7 be obtained through programs sponsored by hearing instrument
8 manufacturers.

9 The Board shall hear charges brought by any person against
10 hearing instrument dispensers and shall recommend disciplinary
11 action to the Director.

12 Members of the Board are immune from liability in any
13 action based upon a licensing proceeding or other act performed
14 in good faith as a member of the Board.

15 (Source: P.A. 93-525, eff. 8-12-03.)