SB1721

LRB10327016AMQ53383b

103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1721

Introduced 2/9/2023, by Sen. Laura Fine

SYNOPSIS AS INTRODUCED:

See Index

Amends the Hearing Instrument Consumer Protection Act. Defines terms. Makes changes of references to "hearing instruments" to "hearing aids" when referring to the instrument or device. Provides that all hearing instruments or hearing aids must be dispensed or sold in accordance with Food and Drug Administration and Federal Trade Commission regulations governing the dispensing and sale of personal sound amplification products or hearing aids. Provides that a person age 17 or younger must be evaluated in person by either a licensed audiologist or a physician before receiving a prescription for a hearing aid. Provides requirements for a hearing aid prescription for individuals age 17 or younger. Provides that a person age 18 or older must be evaluated by a hearing instrument professional in person or via telehealth before receiving a prescription for a hearing aid. Provides requirements for a hearing aid prescription for individuals age 18 or older. Provides that hearing aid dispensing technicians are exempt from licensure under this Act but are otherwise subject to the practices and provisions of this Act. Provides that a trainee may be supervised by more than one licensed hearing instrument professional. Provides that hearing aid dispensing technicians may be employed by a hearing instrument professional to assist in the dispensing and servicing of hearing instruments without a license. Provides for duties of a hearing aid dispensing technician. Provides that continuing education credit per licensing period must include a minimum of (1) 2 hours in Illinois law and ethics, (2) one hour in sexual harassment prevention training, and (3) one hour in implicit bias awareness (rather than just a minimum of 2 hours in Illinois law and ethics). Makes other changes. Makes a corresponding change to the Public Utilities Act. Effective January 1, 2024.

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A BILL FOR

AN ACT concerning regulation.

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

Section 5. The Public Utilities Act is amended by changing Section 13-703 as follows:

(220 ILCS 5/13-703) (from Ch. 111 2/3, par. 13-703)

(Section scheduled to be repealed on December 31, 2026)

Sec. 13-703. (a) The Commission shall design and implement a program whereby each telecommunications carrier providing local exchange service shall provide a telecommunications device capable of servicing the needs of those persons with a hearing or speech disability together with a single party line, at no charge additional to the basic exchange rate, to any subscriber who is certified as having a hearing or speech disability by a hearing instrument ~~care~~ professional, as defined in the Hearing Instrument Consumer Protection Act, a speech-language pathologist, or a qualified State agency and to any subscriber which is an organization serving the needs of those persons with a hearing or speech disability as determined and specified by the Commission pursuant to subsection (d).

(b) The Commission shall design and implement a program, whereby each telecommunications carrier providing local

exchange service shall provide a telecommunications relay system, using third party intervention to connect those persons having a hearing or speech disability with persons of normal hearing by way of intercommunications devices and the telephone system, making available reasonable access to all phases of public telephone service to persons who have a hearing or speech disability. In order to design a telecommunications relay system which will meet the requirements of those persons with a hearing or speech disability available at a reasonable cost, the Commission shall initiate an investigation and conduct public hearings to determine the most cost-effective method of providing telecommunications relay service to those persons who have a hearing or speech disability when using telecommunications devices and therein solicit the advice, counsel, and physical assistance of Statewide nonprofit consumer organizations that serve persons with hearing or speech disabilities in such hearings and during the development and implementation of the system. The Commission shall phase in this program, on a geographical basis, as soon as is practicable, but no later than June 30, 1990.

(c) The Commission shall establish a competitively neutral rate recovery mechanism that establishes charges in an amount to be determined by the Commission for each line of a subscriber to allow telecommunications carriers providing local exchange service to recover costs as they are incurred

under this Section. Beginning no later than April 1, 2016, and on a yearly basis thereafter, the Commission shall initiate a proceeding to establish the competitively neutral amount to be charged or assessed to subscribers of telecommunications carriers and wireless carriers, Interconnected VoIP service providers, and consumers of prepaid wireless telecommunications service in a manner consistent with this subsection (c) and subsection (f) of this Section. The Commission shall issue its order establishing the competitively neutral amount to be charged or assessed to subscribers of telecommunications carriers and wireless carriers, Interconnected VoIP service providers, and purchasers of prepaid wireless telecommunications service on or prior to June 1 of each year, and such amount shall take effect June 1 of each year.

Telecommunications carriers, wireless carriers, Interconnected VoIP service providers, and sellers of prepaid wireless telecommunications service shall have 60 days from the date the Commission files its order to implement the new rate established by the order.

(d) The Commission shall determine and specify those organizations serving the needs of those persons having a hearing or speech disability that shall receive a telecommunications device and in which offices the equipment shall be installed in the case of an organization having more than one office. For the purposes of this Section,

"organizations serving the needs of those persons with hearing or speech disabilities" means centers for independent living as described in Section 12a of the Rehabilitation of Persons with Disabilities Act and not-for-profit organizations whose primary purpose is serving the needs of those persons with hearing or speech disabilities. The Commission shall direct the telecommunications carriers subject to its jurisdiction and this Section to comply with its determinations and specifications in this regard.

(e) As used in this Section:

"Prepaid wireless telecommunications service" has the meaning given to that term under Section 10 of the Prepaid Wireless 9-1-1 Surcharge Act.

"Retail transaction" has the meaning given to that term under Section 10 of the Prepaid Wireless 9-1-1 Surcharge Act.

"Seller" has the meaning given to that term under Section 10 of the Prepaid Wireless 9-1-1 Surcharge Act.

"Telecommunications carrier providing local exchange service" includes, without otherwise limiting the meaning of the term, telecommunications carriers which are purely mutual concerns, having no rates or charges for services, but paying the operating expenses by assessment upon the members of such a company and no other person.

"Wireless carrier" has the meaning given to that term under Section 2 of the Emergency Telephone System Act.

(f) Interconnected VoIP service providers, sellers of

prepaid wireless telecommunications service, and wireless carriers in Illinois shall collect and remit assessments determined in accordance with this Section in a competitively neutral manner in the same manner as a telecommunications carrier providing local exchange service. However, the assessment imposed on consumers of prepaid wireless telecommunications service shall be collected by the seller from the consumer and imposed per retail transaction as a percentage of that retail transaction on all retail transactions occurring in this State. The assessment on subscribers of wireless carriers and consumers of prepaid wireless telecommunications service shall not be imposed or collected prior to June 1, 2016.

Sellers of prepaid wireless telecommunications service shall remit the assessments to the Department of Revenue on the same form and in the same manner which they remit the fee collected under the Prepaid Wireless 9-1-1 Surcharge Act. For the purposes of display on the consumers' receipts, the rates of the fee collected under the Prepaid Wireless 9-1-1 Surcharge Act and the assessment under this Section may be combined. In administration and enforcement of this Section, the provisions of Sections 15 and 20 of the Prepaid Wireless 9-1-1 Surcharge Act (except subsections (a), (a-5), (b-5), (e), and (e-5) of Section 15 and subsections (c) and (e) of Section 20 of the Prepaid Wireless 9-1-1 Surcharge Act and, from June 29, 2015 (the effective date of Public Act 99-6), the

seller shall be permitted to deduct and retain 3% of the assessments that are collected by the seller from consumers and that are remitted and timely filed with the Department) that are not inconsistent with this Section, shall apply, as far as practicable, to the subject matter of this Section to the same extent as if those provisions were included in this Section. Beginning on January 1, 2018, the seller is allowed to deduct and retain 3% of the assessments that are collected by the seller from consumers and that are remitted timely and timely filed with the Department, but only if the return is filed electronically as provided in Section 3 of the Retailers' Occupation Tax Act. Sellers who demonstrate that they do not have access to the Internet or demonstrate hardship in filing electronically may petition the Department to waive the electronic filing requirement. The Department shall deposit all assessments and penalties collected under this Section into the Illinois Telecommunications Access Corporation Fund, a special fund created in the State treasury. On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the amount available to the Commission for distribution out of the Illinois Telecommunications Access Corporation Fund. The amount certified shall be the amount (not including credit memoranda) collected during the second preceding calendar month by the Department, plus an amount the Department determines is necessary to offset any amounts which were

erroneously paid to a different taxing body or fund. The amount paid to the Illinois Telecommunications Access Corporation Fund shall not include any amount equal to the amount of refunds made during the second preceding calendar month by the Department to retailers under this Section or any amount that the Department determines is necessary to offset any amounts which were payable to a different taxing body or fund but were erroneously paid to the Illinois Telecommunications Access Corporation Fund. The Commission shall distribute all the funds to the Illinois Telecommunications Access Corporation and the funds may only be used in accordance with the provisions of this Section. The Department shall deduct 2% of all amounts deposited in the Illinois Telecommunications Access Corporation Fund during every year of remitted assessments. Of the 2% deducted by the Department, one-half shall be transferred into the Tax Compliance and Administration Fund to reimburse the Department for its direct costs of administering the collection and remittance of the assessment. The remaining one-half shall be transferred into the Public Utility Fund to reimburse the Commission for its costs of distributing to the Illinois Telecommunications Access Corporation the amount certified by the Department for distribution. The amount to be charged or assessed under subsections (c) and (f) is not imposed on a provider or the consumer for wireless Lifeline service where the consumer does not pay the provider for the service. Where

the consumer purchases from the provider optional minutes, texts, or other services in addition to the federally funded Lifeline benefit, a consumer must pay the charge or assessment, and it must be collected by the seller according to this subsection (f).

Interconnected VoIP services shall not be considered an intrastate telecommunications service for the purposes of this Section in a manner inconsistent with federal law or Federal Communications Commission regulation.

(g) The provisions of this Section are severable under Section 1.31 of the Statute on Statutes.

(h) The Commission may adopt rules necessary to implement this Section.

(Source: P.A. 99-6, eff. 6-29-15; 99-143, eff. 7-27-15; 99-642, eff. 7-28-16; 99-847, eff. 8-19-16; 99-933, eff. 1-27-17; 100-20, eff. 7-1-17; 100-201, eff. 8-18-17; 100-303, eff. 8-24-17; 100-863, eff. 8-14-18.)

Section 10. The Hearing Instrument Consumer Protection Act is amended by changing Sections 1, 3, 4, 5, 6, 7, 8, 9, 9.5, 11, 14, 16, 17, 18, 19, and 20 and by adding Section 4.5 and 12 as follows:

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

(Section scheduled to be repealed on January 1, 2026)

Sec. 1. Purpose. The purpose of this Act is to protect the

deaf or hard of hearing public from the practice of dispensing hearing aids ~~instruments~~ that could endanger the health, safety and welfare of the People of this State. The Federal Food and Drug Administration and Federal Trade Commission has recommended that State legislation is necessary in order to establish standards of competency and to impose stringent penalties for those who violate the public trust in this field of health care.

(Source: P.A. 98-827, eff. 1-1-15.)

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

(Section scheduled to be repealed on January 1, 2026)

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

"Controlling interest" means an ownership interest of greater than 50% in a licensed hearing aid dispensing practice in this State that is held by a manufacturer of hearing aids or medical devices.

"Department" means the Department of Public Health.

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

"Direct supervision" means that the licensed hearing instrument professional must give final approval to all work performed by the person under supervision and must be physically present any time the person under supervision has contact with a client.

"Federal Trade Commission" means the United States federal agency which regulates business practices and commerce.

"Food and Drug Administration" means the United States federal agency which regulates hearing instruments or hearing aids as medical devices.

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

"Licensed audiologist" means a person licensed as an audiologist under the Illinois Speech-Language Pathology and Audiology Practice Act and who can prescribe hearing aids in accordance with this Act.

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

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

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

"Board" means the Hearing Instrument Consumer Protection Board.

"Hearing instrument" or "hearing aid" means any instrument or device, including an instrument or device dispensed pursuant to a prescription, that is designed, intended, or offered for the purpose of improving a person's hearing and any parts, attachments, or accessories, including earmolds. "Hearing instrument" or "hearing aid" does not include batteries, cords, and individual or group auditory training devices and any instrument or device used by a public utility in providing telephone or other communication services ~~wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and that can provide more than 15 dB full on gain via a 2cc coupler at any single frequency from 200 through 6000 cycles per second, and any parts, attachments, or accessories, including ear molds. "Hearing instrument" or "hearing aid" do not include batteries, cords, or group auditory training devices and any instrument or device used by a public utility in providing telephone or other communication services are excluded~~.

"Practice of prescribing, fitting, dispensing, or servicing of hearing aids ~~instruments~~" means the measurement of human hearing with an audiometer, calibrated to the current American National Standard Institute standards, for the purpose of prescribing hearing aids and making selections, recommendations, adaptions, services, or sales of hearing aids ~~instruments~~ including the making of earmolds as a part of the

hearing aid ~~instrument~~.

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

"Hearing instrument dispenser" means a person who is a hearing instrument ~~care~~ professional that engages in the selling, practice of fitting, selecting, recommending, dispensing, prescribing, or servicing of hearing aids ~~instruments~~ or the testing for means of hearing aid ~~instrument~~ selection or who advertises or displays a sign or represents himself or herself as a person who practices the testing, fitting, selecting, servicing, dispensing, prescribing, or selling of hearing aids ~~instruments~~.

"Fund" means the Hearing Instrument Dispenser Examining and Disciplinary Fund.

"Hearing instrument ~~care~~ professional" means a person who is a licensed audiologist, a licensed hearing instrument dispenser, or a licensed physician.

"Over-the-counter hearing aid" means a hearing instrument or hearing aid that meets the Food and Drug Administration's requirements for this class of device and which may be dispensed or sold without a hearing assessment, licensed hearing instrument professional fitting and dispensing engagement, or return for credit privileges as provided by federal law.

"Prescription hearing aid" means a hearing instrument or

hearing aid that meets the Food and Drug Administration's requirements for this class of device and which requires: (i) a hearing assessment and prescription for medically necessary hearing aids prior to purchase, (ii) fitting and dispensing by a licensed hearing instrument professional, and (ii) return for credit privileges.

"Personal sound amplification product" means an amplification device, as defined by the Food and Drug Administration or the Federal Trade Commission, that is not labeled as a hearing aid and is not intended to treat hearing loss.

"Proprietary programming software" means software used to program hearing aids that is supplied by a hearing aid distributor or manufacturer for the exclusive use by affiliated hearing instrument professionals and is inaccessible to the purchaser and nonaffiliated licensed hearing instrument professionals.

"Locked, nonproprietary software" means software that any hearing instrument professional can render inaccessible to other hearing aid programmers, hearing instrument professionals, or the purchaser.

(Source: P.A. 98-362, eff. 8-16-13; 98-827, eff. 1-1-15.)

(225 ILCS 50/4) (from Ch. 111, par. 7404)

(Section scheduled to be repealed on January 1, 2026)

Sec. 4. Disclosure; waiver; complaints; insurance. The

hearing instrument dispenser shall give at no charge to every person fitted and sold a hearing aid ~~instrument~~ the "User Instructional Brochure", supplied by the hearing aid ~~instrument~~ manufacturer containing information required by the U.S. Food and Drug Administration.

All hearing instruments or hearing aids must be dispensed or sold in accordance with Food and Drug Administration and Federal Trade Commission regulations governing the dispensing and sale of personal sound amplification products or hearing aids.

A consumer who purchases an over-the-counter hearing aid must be provided a sales receipt at the time of the transaction.

~~Whenever a sale or service of one or more hearing instrument involving $50 or more is made or contracted to be made, whether under a single contract or under multiple contracts, at the time of the transaction, the hearing instrument dispenser shall furnish the consumer with a fully completed receipt or contract pertaining to that transaction, in substantially the same language as that used in the oral presentation to the consumer. The receipt or contract provided to the consumer shall contain the dispenser's name, license number, business address, business phone number, and signature; the name, address, and signature of the hearing instrument consumer; and the name and signature of the purchaser if the consumer and the purchaser are not the same;~~

~~the hearing instrument manufacturer's name, and the model and serial numbers; the date of purchase; and the charges required to complete the terms of the sale fully and clearly stated. When the hearing instrument is delivered to the consumer or purchaser, the serial number shall be written on the original receipt or contract and a copy shall be given to the consumer or purchaser. If a used hearing instrument is sold, the receipt and the container thereof shall be clearly marked as "used" or "reconditioned", whichever is applicable, with terms of guarantee, if any.~~

~~All hearing instruments offered for sale must be accompanied by a 30-business day return privilege. The receipt or contract provided to the consumer shall state that the consumer has a right to return the hearing instrument for a refund within 30 business days of the date of delivery. If a nonrefundable dispensing fee or restocking fee, or both, will be withheld from the consumer in event of return, the terms must be clearly stated on the receipt or contract provided to the consumer.~~

~~A hearing instrument dispenser shall not sell a hearing instrument unless the prospective user has presented to the hearing instrument dispenser a written statement, signed by a licensed physician, which states that the patient's hearing loss has been medically evaluated and the patient is considered a candidate for a hearing instrument. The medical evaluation must have taken place within the 6 months~~

~~immediately preceding the date of the sale of the hearing instrument to the prospective hearing instrument user. If the prospective hearing instrument user is 18 years of age or older, the hearing instrument dispenser may afford the prospective user an opportunity to waive the medical evaluation required by this Section, provided that the hearing instrument dispenser:~~

~~(i) Informs the prospective user that the exercise of a waiver is not in the user's best health interest;~~

~~(ii) Does not in any way actively encourage the prospective user to waive the medical evaluation; and~~

~~(iii) Affords the prospective user the option to sign the following statement:~~

~~"I have been advised by .....(hearing instrument dispenser's name) that the Food and Drug Administration has determined that my best interest would be served if I had a medical evaluation by a licensed physician (preferably a physician who specializes in diseases of the ear) before purchasing a hearing instrument. I do not wish a medical evaluation before purchasing a hearing instrument."~~

The hearing instrument dispenser or the dispenser's ~~his or her~~ employer shall retain proof of the medical examination ~~or the waiver~~ for at least 3 years from the date of the sale.

If the parent or guardian of any individual under the age of 18 years is a member of any church or religious

denomination, whose tenets and practices include reliance upon spiritual means through prayer alone and objects to medical treatment and so states in writing to the hearing instrument dispenser, such individual shall undergo a hearing examination as provided by this Section but no proof, ruling out any medically treatable problem causing hearing loss, shall be required.

All persons licensed under this Act shall have conspicuously displayed in their business establishment a sign indicating that formal complaints regarding hearing aid ~~instrument~~ goods or services may be made to the Department. Such sign shall give the address and telephone number of the Department. All persons purchasing hearing aids ~~instruments~~ shall be provided with a written statement indicating that formal complaints regarding hearing aid ~~instrument~~ goods or services may be made to the Department and disclosing the address and telephone number of the Department.

Any person wishing to make a complaint, against a hearing instrument dispenser under this Act, shall file it with the Department within 3 years from the date of the action upon which the complaint is based. The Department shall investigate all such complaints.

All persons licensed under this Act shall maintain liability insurance as set forth by rule and shall be responsible for the annual calibration of all audiometers in use by such persons. Such annual calibrations shall be in

conformance with the current standards set by American National Standard Institute.

(Source: P.A. 91-932, eff. 1-1-01.)

(225 ILCS 50/4.5 new)

Sec. 4.5. Hearing aids dispensed pursuant to prescription.

(a) A person age 17 or younger must be evaluated in person by either a licensed audiologist or a physician before receiving a prescription for a hearing aid. The evaluation must have been performed no more than 6 months prior to the date that the hearing aid is dispensed. A person age 17 or younger may not waive receipt of a prescription from a hearing instrument professional unless the person is replacing a lost or stolen hearing aid that is subject to warranty replacement.

(b) A hearing aid prescription for individuals age 17 or younger must include, at a minimum, the following information:

(1) name of the patient;

(2) date the prescription is issued;

(3) expiration date of the prescription, which may not exceed 6 months from the date of issuance;

(4) name and license number of the prescribing hearing instrument professional;

(5) results of the following assessments:

(i) age-appropriate pure-tone air conduction audiometry or results of auditory evoked potential testing, including, but not limited to, auditory

brainstem response or otoacoustic emissions testing;

(ii) bone conduction testing, as age appropriate; and

(iii) recorded or live voice speech in quiet, as age appropriate;

(6) documentation of type and style of hearing aid; and

(7) documentation of medical necessity of the recommended features of a hearing aid.

(c) A person age 18 or older must be evaluated by a hearing instrument professional in person or via telehealth before receiving a prescription for a hearing aid. A person age 18 or older may not waive receipt of a prescription from a hearing instrument professional unless he or she is replacing a lost or stolen hearing aid that is subject to warranty replacement.

(d) A hearing aid prescription for individuals age 18 or older must include, at a minimum, the following information:

(1) name of the patient;

(2) date the prescription is issued;

(3) expiration date of the prescription, which may not exceed one year from the date of issuance;

(4) name and license number of the prescribing hearing instrument professional;

(5) results of the following assessments:

(i) hearing handicap inventory or similar standardized, evidence-based tool;

(ii) pure-tone air conduction audiometry;

(iii) bone conduction testing or consumer ear disease risk assessment or a similar standardized evidence-based tool;

(iv) recorded speech in quiet, as medically appropriate;

(v) recorded speech or digits in noise, as medically appropriate;

(6) documentation of type and style of hearing aid; and

(7) documentation of medical necessity of the recommended features of a hearing aid.

(e) Whenever a sale of one or more prescription hearing aids involving $50 or more is made or contracted to be made, whether under a single contract or under multiple contracts, at the time of the transaction, the hearing instrument professional shall furnish the consumer with a fully completed receipt or contract pertaining to that transaction, in substantially the same language as that used in the oral presentation to the consumer. The receipt or contract provided to the consumer shall contain the following: (i) the hearing instrument professional's name, license number, business address, business phone number, and signature; (ii) the name, address, and signature of the hearing aid consumer; (iii) the name and signature of the purchaser if the consumer and the purchaser are not the same person; (iv) the hearing aid

manufacturer's name and the model and serial numbers; (v) the date of purchase; and (vi) the charges required to complete the terms of the sale, which must be fully and clearly stated. When the hearing aid is delivered to the consumer or purchaser, the serial number shall be written on the original receipt or contract and a copy shall be given to the consumer or purchaser. If a used hearing aid is sold, the receipt and the container thereof shall be clearly marked as "used" or "reconditioned", whichever is applicable, with the terms of guarantee, if any.

(f) Before the final sale of any prescription hearing aid that uses proprietary programming software or locked, nonproprietary software, the hearing instrument professional must provide the purchaser with a written notice on the contract in 12-point type or larger that contains specified language informing the purchaser that the hearing aid can only be serviced or programmed at specific facilities or locations. The written notice must be separately signed by the purchaser before the final sale. The hearing instrument professional must maintain a copy of the notice for at least 5 years.

(g) If a hearing aid or medical device manufacturer has a controlling interest in an Illinois hearing aid dispensing clinic, this controlling interest must be disclosed to the purchaser by written notice in 12-point type or larger on the contract that the hearing aid or medical device manufacturer has a controlling interest in the dispensing clinic and lists

the name of any manufacturer. The written notice must be separately signed by the purchaser before the sale. The hearing instrument professional must maintain a copy of the notice for at least 5 years.

(h) All prescription hearing aids offered for sale must be accompanied by a 30-business day return privilege. The receipt or contract provided to the consumer shall state that the consumer has a right to return the hearing aid for a refund within 30 business days of the date of delivery. If a nonrefundable dispensing fee or restocking fee, or both, will be withheld from the consumer in the event of a return, these terms must be clearly stated on the receipt or contract provided to the consumer.

(i) A hearing instrument professional shall not sell a prescription hearing aid to anyone under 18 years of age unless the prospective user has presented to the hearing instrument professional a written statement, signed by a licensed physician, which states that the patient's hearing loss has been medically evaluated and the patient is considered a candidate for a hearing aid. The medical evaluation must have been performed within the 6 months immediately preceding the date of the sale of the hearing aid to the prospective hearing aid user.

(j) A hearing instrument professional shall not sell a prescription hearing aid to anyone age 18 or older if the prospective user had a negative finding on the Consumer Ear

Disease Risk Assessment or a similar standardized assessment. The prospective user shall present to the hearing instrument professional a written statement, signed by a licensed physician, which states that the patient's hearing loss has been medically evaluated and the patient is considered a candidate for a hearing aid. The medical evaluation must have been performed within the 12 months immediately preceding the date of the sale of the hearing aid to the prospective hearing aid user.

(225 ILCS 50/5) (from Ch. 111, par. 7405)

(Section scheduled to be repealed on January 1, 2026)

Sec. 5. License required. No person shall engage in the selling, practice of testing, fitting, selecting, recommending, adapting, dispensing, or servicing hearing aids ~~instruments~~ or display a sign, advertise, or represent oneself as a person who practices the fitting or selling of hearing aids ~~instruments~~ unless such person holds a current license issued by the Department as provided in this Act. Such person shall be known as a licensed hearing instrument dispenser. Individuals licensed pursuant to the provisions of Section 8 of this Act shall be deemed qualified to provide tests of human hearing and hearing aid ~~instrument~~ evaluations for the purpose of dispensing a hearing aid ~~instrument~~ for which any State agency may contract. The license shall be conspicuously displayed in the place of business. Duplicate licenses shall

be issued by the Department to licensees operating more than one office upon the additional payment set forth in this Act. No hearing aids ~~instrument~~ manufacturer may distribute, sell, or otherwise provide hearing aids ~~instruments~~ to any unlicensed hearing instrument ~~care~~ professional for the purpose of selling hearing aids ~~instruments~~ to the consumer.

Except for violations of the provisions of this Act, or the rules promulgated under it, nothing in this Act shall prohibit a corporation, partnership, trust, association, or other entity from engaging in the business of testing, fitting, servicing, selecting, dispensing, selling, or offering for sale hearing aid ~~instruments~~ at retail without a license, provided it employs only licensed individuals in the direct testing, fitting, servicing, selecting, offering for sale, or dispensing of such products. Each such corporation, partnership, trust, association, or other entity shall file with the Department, prior to doing business in this State and by July 1 of each calendar year thereafter, on forms prescribed by the Department, a list of all licensed hearing instrument dispensers employed by it and a statement attesting that it complies with this Act and the rules promulgated under it and the regulations of the Federal Food and Drug Administration and the Federal Trade Commission insofar as they are applicable.

(Source: P.A. 99-204, eff. 7-30-15.)

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

(Section scheduled to be repealed on January 1, 2026)

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

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

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

(1) the name under which the organization is doing or intends to do business and the name of any affiliated company which the organization recommends or will recommend to persons as a supplier of goods or services or in connection with other business transactions of the organization;

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

(3) the business form of the organization, whether

corporate, partnership, or otherwise and the state or other sovereign power under which the organization is organized;

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

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

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

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

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

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

(v) has during the 5-year ~~5 year~~ period immediately preceding the date of the disclosure statement been adjudicated a bankrupt or reorganized due to insolvency or was a principal executive officer or general partner of any company that has been adjudicated a bankrupt or reorganized due to insolvency during such 5-year ~~5 year~~ period, and a description thereof;

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

(7) a financial statement of the organization as of the close of the most recent fiscal year of the organization. If the financial statement is filed later than 120 days following the close of the fiscal year of the organization it must be accompanied by a statement of the

organization of any material changes in the financial condition of the organization;

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

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

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

(b-5) If a device being sold does not meet the definition of an over-the-counter ~~a~~ hearing aid or a prescription hearing aid, ~~instrument or hearing device~~ as stated in this Act, the organization shall include a disclaimer in all written or electronic promotions. The disclaimer shall include the following language:

"This is not a hearing instrument or hearing aid as defined in the Hearing Instrument Consumer Protection Act, but a personal sound amplification product ~~amplifier~~ and not intended to replace a properly fitted and calibrated

hearing aid or treat hearing loss ~~instrument~~.".

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

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

(e) Before dispensing a hearing aid by mail or over the Internet ~~instrument~~ to a resident of this State, the organization informs the prospective users that they need to obtain a prescription issued by a hearing instrument professional that meets the requirements of Section 4.5 of this Act. ~~the following for proper fitting of a hearing instrument:~~

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

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

~~instrument dispenser or licensed audiologist.~~

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

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

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

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

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

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

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

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

Attached to the receipt or contract shall be a completed form in duplicate, captioned "NOTICE OF CANCELLATION" which shall be easily detachable and which shall contain in at least

10 point bold face type the following information and statements in the same language as that used in the contract:

"NOTICE OF CANCELLATION

enter date of transaction

.....

(DATE)

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

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

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

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

I HEREBY CANCEL THIS TRANSACTION.

(Date).....

.....

(Buyers Signature)"

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

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

It is an unlawful practice for a seller to: (1) hold a consumer responsible for any liability or obligation under any mail order transaction if the consumer claims not to have received the merchandise unless the merchandise was sent by certified mail or other delivery method by which the seller is provided with proof of delivery; (2) fail, before furnishing copies of the "Notice of Cancellation" to the consumer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the seller's telephone number, the date of the mailing, and the date, not earlier than the 45th business day following the date of the mailing, by which the consumer may give notice of cancellation; (3) include in any contract or receipt any confession of judgment or any waiver of any of the rights to which the consumer is entitled under this Section including

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

(h) The organization employs only licensed audiologists and licensed hearing instrument dispensers in the dispensing

of hearing aids ~~instruments~~ and files with the Department, by January 1 of each year, a list of all licensed audiologists and licensed hearing instrument dispensers employed by it.

(Source: P.A. 98-362, eff. 8-16-13; 98-827, eff. 1-1-15.)

(225 ILCS 50/7) (from Ch. 111, par. 7407)

(Section scheduled to be repealed on January 1, 2026)

Sec. 7. Exemptions.

(a) The following are exempt from this Act:

(1) Licensed physicians. This exemption, however, does not apply to a physician's employee or subcontractor who is not a physician.

(2) Persons who only repair or manufacture hearing instruments and their accessories for wholesale.

(b) Audiometers used by persons exempt from this Act to dispense hearing instruments must meet the annual calibration requirements and current standards set by the American National Standards Institute.

(c) Audiologists licensed under the Illinois Speech-Language Pathology and Audiology Practice Act are exempt from licensure under this Act, but are otherwise subject to the practices and provisions of this Act.

(d) Hearing aid dispensing technicians are exempt from licensure under this Act but are otherwise subject to the practices and provisions of this Act.

(Source: P.A. 91-932, eff. 1-1-01.)

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

(Section scheduled to be repealed on January 1, 2026)

Sec. 8. Applicant qualifications; examination.

(a) In order to protect persons who are deaf or hard of hearing, the Department shall authorize or shall conduct an appropriate examination, which may be the International Hearing Society's licensure examination, for persons who dispense, test, select, recommend, fit, or service hearing aids ~~instruments~~. The frequency of holding these examinations shall be determined by the Department by rule. Those who successfully pass such an examination shall be issued a license as a hearing instrument dispenser, which shall be effective for a 2-year period.

(b) Applicants shall be:

(1) at least 18 years of age;

(2) of good moral character;

(3) the holder of an associate's degree or the equivalent;

(4) free of contagious or infectious disease; and

(5) a citizen or person lawfully present in the United States.

Felony convictions of the applicant and findings against the applicant involving matters set forth in Sections 17 and 18 shall be considered in determining moral character, but such a conviction or finding shall not make an applicant

ineligible to register for examination.

(c) Prior to engaging in the practice of fitting, dispensing, or servicing hearing aids ~~instruments~~, an applicant shall demonstrate, by means of written and practical examinations, that such person is qualified to practice the testing, selecting, recommending, fitting, selling, or servicing of hearing aids ~~instruments~~ as defined in this Act. An applicant must obtain a license within 12 months after passing either the written or practical examination, whichever is passed first, or must take and pass those examinations again in order to be eligible to receive a license.

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

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

(e) Persons applying for an initial license must demonstrate having earned, at a minimum, an associate degree or its equivalent from an accredited institution of higher education that is recognized by the U.S. Department of

Education or that meets the U.S. Department of Education equivalency as determined through a National Association of Credential Evaluation Services (NACES) member, and meet the other requirements of this Section. In addition, the applicant must demonstrate the successful completion of (1) 12 semester hours or 18 quarter hours of academic undergraduate course work in an accredited institution consisting of 3 semester hours of anatomy and physiology of the hearing mechanism, 3 semester hours of hearing science, 3 semester hours of introduction to audiology, and 3 semester hours of aural rehabilitation, or the quarter hour equivalent or (2) an equivalent program as determined by the Department that is consistent with the scope of practice of a hearing instrument dispenser as defined in Section 3 of this Act. Persons licensed before January 1, 2003 who have a valid license on that date may have their license renewed without meeting the requirements of this subsection.

(Source: P.A. 102-1030, eff. 5-27-22.)

(225 ILCS 50/9) (from Ch. 111, par. 7409)

(Section scheduled to be repealed on January 1, 2026)

Sec. 9. Areas of examination. The examination required by Section 8 shall be set forth by rule and demonstrate the applicant's technical qualifications by:

(a) Tests of knowledge in the following areas as they pertain to the testing, selecting, recommending, fitting,

and selling of hearing aids ~~instruments~~:

(1) characteristics of sound;

(2) the nature of the ear; and

(3) the function and maintenance of hearing aids ~~instruments~~.

(b) Practical tests of proficiency in techniques as they pertain to the fitting of hearing aids ~~instruments~~ shall be prescribed by the Department, set forth by rule, and include candidate qualifications in the following areas:

(1) pure tone audiometry including air conduction testing and bone conduction testing;

(2) live voice or recorded voice speech audiometry, including speech reception, threshold testing and speech discrimination testing;

(3) masking;

(4) proper selection and adaptation of a hearing instrument;

(5) taking earmold impressions;

(6) proper maintenance procedures; and

(7) a general knowledge of the medical and physical contra-indications to the use and fitting of a hearing aids ~~instrument~~.

(c) Knowledge of the general medical and hearing rehabilitation facilities in the area being served.

(d) Knowledge of the provisions of this Act and the

rules promulgated hereunder.

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

(225 ILCS 50/9.5)

(Section scheduled to be repealed on January 1, 2026)

Sec. 9.5. Trainees.

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

(b) A trainee shall perform the functions of a hearing instrument dispenser in accordance with the Department rules and only under the direct supervision of a hearing instrument dispenser or audiologist who is licensed in the State. ~~For the purposes of this Section, "direct supervision" means that the licensed hearing instrument dispenser or audiologist shall give final approval to all work performed by the trainee and shall be physically present anytime the trainee has contact with the client.~~ The licensed hearing instrument dispenser or audiologist is responsible for all of the work that is performed by the trainee.

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

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

(e) A trainee may be supervised by more than one licensed hearing instrument professional. The trainee must complete a hearing instrument consumer protection program license verification form for each supervising licensed hearing instrument professional.

(Source: P.A. 98-827, eff. 1-1-15.)

(225 ILCS 50/12 new)

Sec. 12. Hearing aid dispensing technicians.

(a) Hearing aid dispensing technicians may be employed by a hearing instrument professional to assist in the dispensing and servicing of hearing instruments without a license. A hearing aid dispensing technician must work under the direct supervision of a licensed hearing instrument professional.

(b) The duties of a hearing aid dispensing technician are limited to the following:

(1) packaging and mailing earmold orders, repaired devices, and manufacturer or lab returns;

(2) maintaining an inventory of supplies;

(3) performing checks on hearing aids and other amplification devices and equipment;

(4) troubleshooting and performing minor repairs to hearing aids, earmolds, and other amplification devices;

(5) cleaning of hearing aids and other amplification

devices;

(6) performing electroacoustic analysis of hearing aids and other amplification devices;

(7) instructing patients in proper use and care of hearing aids and other amplification devices;

(8) demonstration of alerting and assistive listening devices;

(9) performing infection control duties within the clinic or service; and

(10) contacting hearing instrument manufacturers and suppliers regarding status of orders and repairs.

(c) The licensed hearing instrument professional is responsible for all services performed by the hearing aid dispensing technician under the professional's direct supervision.

(225 ILCS 50/14) (from Ch. 111, par. 7414)

(Section scheduled to be repealed on January 1, 2026)

Sec. 14. Powers and duties of the Department. The powers and duties of the Department are:

(a) To issue licenses and to administer examinations to applicants, which must be offered at least on a quarterly basis;

(b) To license persons who are qualified to engage in the testing, recommending, fitting, selling, and dispensing of hearing instruments;

(c) To provide the equipment and facilities necessary for the examination;

(d) To issue and to renew licenses;

(e) To suspend or revoke licenses or to take such other disciplinary action as provided in this Act;

(f) To consider all recommendations and requests of the Board and to inform it of all actions of the Department insofar as hearing instrument dispensers are concerned, including any instances where the actions of the Department are contrary to the recommendations of the Board;

(g) To promulgate rules necessary to implement this Act;

(h) (Blank); and

(i) To conduct such consumer education programs and awareness programs for persons with a hearing impairment as may be recommended by the Board.

(Source: P.A. 91-932, eff. 1-1-01.)

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

(Section scheduled to be repealed on January 1, 2026)

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

The Board shall consist of 7 ~~6~~ members who shall be residents of Illinois. One shall be a licensed physician who specializes in otology or otolaryngology; one shall be a

member of a consumer-oriented organization concerned with the deaf or hard of hearing; one shall be from the general public, preferably a senior citizen; 2 shall be licensed hearing instrument dispensers who are National Board Certified Hearing Instrument Specialists; and 2 ~~one~~ shall be a licensed audiologist. If a vote of the Board results in a tie, the Director shall cast the deciding vote.

Members of the Board shall be appointed by the Director after consultation with appropriate professional organizations and consumer groups. As soon as practical after the effective date of this amendatory Act of the 103rd General Assembly, the Director shall appoint the members of the Board. The term of office of each shall be 4 years. Before a member's term expires, the Director shall appoint a successor to assume member's duties at the expiration of his or her predecessor's term. A vacancy shall be filled by appointment for the unexpired term. The members shall annually designate one member as chairman. No member of the Board who has served 2 successive, full terms may be reappointed. The Director may remove members for good cause.

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

(Source: P.A. 98-827, eff. 1-1-15.)

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

(Section scheduled to be repealed on January 1, 2026)

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

The Board shall respond to issues and problems relating to the improvement of services to the deaf or hard of hearing and shall make such recommendations as it considers advisable. It shall file an annual report with the Director and shall meet at least twice a year. The Board may meet at any time at the call of the chair.

The Board shall recommend specialized education programs for persons wishing to become licensed as hearing instrument dispensers and shall, by rule, establish minimum standards of continuing education required for license renewal. No more than 5 hours of continuing education credit per year, however, can be obtained through programs sponsored by hearing instrument manufacturers. Continuing education credit ~~A minimum of 2 hours of continuing education credit~~ per licensing period must include a minimum of (i) 2 hours ~~be obtained~~ in Illinois law and ethics, (ii) one hour in sexual harassment prevention training, and (iii) one hour in implicit bias awareness. Continuing education offered by a college, university, or bar association, the International Hearing Society, the American Academy of Audiology, the American Speech-Language-Hearing Association, the Illinois Speech-Language-Hearing Association, the Illinois Academy of

Audiology, or the Illinois Hearing Society regarding Illinois law and ethics shall be accepted toward satisfaction of the Illinois law and ethics continuing education requirement.

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

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

(Source: P.A. 98-827, eff. 1-1-15; 99-204, eff. 7-30-15.)

(225 ILCS 50/18) (from Ch. 111, par. 7418)

(Section scheduled to be repealed on January 1, 2026)

Sec. 18. Discipline by the Department. The Department may refuse to issue or renew a license or it may revoke, suspend, place on probation, censure, fine, or reprimand a licensee for any of the following:

(a) Material misstatement in furnishing information to the Department or to any other State or federal agency.

(b) Violations of this Act, or the rules promulgated hereunder.

(c) Conviction of any crime under the laws of the United States or any state or territory thereof which is a felony or misdemeanor, an essential element of dishonesty, or of any crime which is directly related to the practice of the profession.

(d) Making any misrepresentation for the purpose of obtaining a license or renewing a license, including falsification of the continuing education requirement.

(e) Professional incompetence.

(f) Malpractice.

(g) Aiding or assisting another person in violating any provision of this Act or the rules promulgated hereunder.

(h) Failing, within 30 days, to provide in writing information in response to a written request made by the Department.

(i) Engaging in dishonorable, unethical, or unprofessional conduct which is likely to deceive, defraud, or harm the public.

(j) Knowingly employing, directly or indirectly, any suspended or unlicensed person to perform any services covered by this Act.

(k) Habitual intoxication or addiction to the use of drugs.

(l) Discipline by another state, the District of Columbia, territory, or a foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth herein.

(m) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate, or other form of compensation

for any service not actually rendered. Nothing in this paragraph (m) affects any bona fide independent contractor or employment arrangements among health care professionals, health facilities, health care providers, or other entities, except as otherwise prohibited by law. Any employment arrangements may include provisions for compensation, health insurance, pension, or other employment benefits for the provision of services within the scope of the licensee's practice under this Act. Nothing in this paragraph (m) shall be construed to require an employment arrangement to receive professional fees for services rendered.

(n) A finding by the Board that the licensee, after having his or her license placed on probationary status, has violated the terms of probation.

(o) Willfully making or filing false records or reports.

(p) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

(q) Physical illness, including, but not limited to, deterioration through the aging process, or loss of motor skill which results in the inability to practice the profession with reasonable judgement, skill or safety.

(r) Solicitation of services or products by advertising that is false or misleading. An advertisement

is false or misleading if it:

(1) contains an intentional misrepresentation of fact;

(2) contains a false statement as to the licensee's professional achievements, education, skills, or qualifications in the hearing instrument dispensing profession;

(3) makes a partial disclosure of a relevant fact, including:

(i) the advertisement of a discounted price of an item without identifying in the advertisement or at the location of the item either the specific product being offered at the discounted price or the usual price of the item; and

(ii) the advertisement of the price of a specifically identified hearing instrument if more than one hearing instrument appears in the same advertisement without an accompanying price;

(4) contains a representation that a product innovation is new when, in fact, the product was first offered by the manufacturer to the general public in this State not less than 12 months before the date of the advertisement;

(5) contains any other representation, statement, or claim that is inherently misleading or deceptive; or

(6) contains information that the licensee manufactures hearing instruments at the licensee's office location unless the following statement includes a statement disclosing that the instruments are manufactured by a specified manufacturer and assembled by the licensee.

(s) Participating in subterfuge or misrepresentation in the fitting or servicing of a hearing instrument.

(t) (Blank).

(u) Representing that the service of a licensed physician or other health professional will be used or made available in the fitting, adjustment, maintenance, or repair of hearing instruments or hearing aids when that is not true, or using the words "doctor", "audiologist", "clinic", "Clinical Audiologist", "Certified Hearing Aid Audiologist", "State Licensed", "State Certified", "Hearing Instrument ~~Care~~ Professional", "Licensed Hearing Instrument Dispenser", "Licensed Hearing Aid Dispenser", "Board Certified Hearing Instrument Specialist", "Hearing Instrument Specialist", "Licensed Audiologist", or any other term, abbreviation, or symbol which would give the impression that service is being provided by persons who are licensed or awarded a degree or title, or that an entity utilizes the services of an individual who is licensed or has been awarded a degree or title, or that the person's service who is holding the license has been

recommended by a governmental agency or health provider, when such is not the case.

(v) Advertising a manufacturer's product or using a manufacturer's name or trademark implying a relationship which does not exist.

(w) Directly or indirectly giving or offering anything of value to any person who advises another in a professional capacity, as an inducement to influence the purchase of a product sold or offered for sale by a hearing instrument dispenser or influencing persons to refrain from dealing in the products of competitors.

(x) Conducting business while suffering from a contagious disease.

(y) Engaging in the fitting or sale of hearing instruments under a name with fraudulent intent.

(z) Dispensing a hearing instrument to a person who has not been given tests utilizing appropriate established procedures and instrumentation in the fitting of prescription hearing aids ~~instruments, except where there is the replacement of a hearing instrument, of the same make and model within one year of the dispensing of the original hearing instrument~~.

(aa) Unavailability or unwillingness to adequately provide for service or repair of hearing instruments or hearing aids fitted and sold by the dispenser.

(bb) Violating the regulations of the Federal Food and

Drug Administration or the Federal Trade Commission as they affect hearing aids or instruments.

(cc) Violating any provision of the Consumer Fraud and Deceptive Business Practices Act.

(dd) Violating the Health Care Worker Self-Referral Act.

(ee) Failing to notify the purchaser that the hearing aids dispensed are locked or can only be programmed using proprietary software.

(ff) Failing to adequately supervise a hearing aid technician or allowing a hearing aid technician to practice beyond the hearing aid technician's training or the duties set forth in Section 12.

(gg) Failing to notify the purchaser that a hearing aid manufacturer or a medical device manufacturer has a controlling interest in the hearing aid dispensing clinic in this State.

(hh) Filing a false claim with a third-party payer.

The Department, with the approval of the Board, may impose a fine not to exceed $1,000 plus costs for the first violation and not to exceed $5,000 plus costs for each subsequent violation of this Act, and the rules promulgated hereunder, on any person or entity described in this Act. Such fine may be imposed as an alternative to any other disciplinary measure, except for probation. The imposition by the Department of a fine for any violation does not bar the violation from being

alleged in subsequent disciplinary proceedings. Such fines shall be deposited in the Fund.

(Source: P.A. 100-201, eff. 8-18-17.)

(225 ILCS 50/19) (from Ch. 111, par. 7419)

(Section scheduled to be repealed on January 1, 2026)

Sec. 19. Injunctions; civil penalties.

(a) The practice of fitting, dispensing, and servicing hearing instruments <u>or hearing aids</u> by any person not at that time in possession of a valid and current license under this Act is hereby declared to be a Class A misdemeanor. The Director of the Department, through the Attorney General or the State's Attorney of any county, may maintain an action in the name of the people of the State of Illinois and may apply for an injunction in the circuit court to enjoin such person from engaging in such practice. Any person may apply for an injunction in the circuit court to enjoin a person from engaging without a license in practices for which a license is required under this Act. Upon the filing of a verified petition in such court, the court, if satisfied by affidavit or otherwise, that such person has been engaged in such practice without a current license to do so, may enter a temporary restraining order without notice or bond, enjoining the defendant from such further practice. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as other civil

cases. If it is established that the defendant has been, or is engaged in any unlawful practice, the court may enter an order or judgment perpetually enjoining the defendant from further such practice. In all proceedings hereunder, the court, in its discretion, may apportion the costs among the parties interested in the action, including cost of filing the complaint, service of process, witness fees and expenses, court reporter charges and reasonable attorneys fees. In case of violation of any injunctive order entered pursuant to this Section, the court~~,~~ may try and punish the offender for contempt of court. Such injunctive proceedings shall be in addition to all penalties and other remedies in this Act. Any such costs that may accrue to the Department shall be placed in the Fund.

(b) A person who engages in the selling of hearing instruments or hearing aids or the practice of fitting, dispensing, or servicing hearing instruments or hearing aids or displays a sign, advertises, or represents himself or herself as a person who practices the fitting and selling of hearing instruments or hearing aids without being licensed or exempt under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed $5,000 for each offense, as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a

hearing for the discipline of a licensee.

(c) The Department may investigate any actual, alleged, or suspected unlicensed activity.

(d) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

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

(225 ILCS 50/20) (from Ch. 111, par. 7420)

(Section scheduled to be repealed on January 1, 2026)

Sec. 20. Inactive status. A hearing instrument dispenser who notifies the Department, on the prescribed forms, may place his or her license on inactive status and shall be exempt from payment of renewal fees until he or she notifies the Department in writing, of the intention to resume the practice of testing, fitting, dispensing, selecting, recommending, and servicing hearing aids ~~instruments~~ and pays the current renewal fee and demonstrates compliance with any continuing education that may be required. However, if such period of inactive status is more than 2 years, the hearing instrument dispenser shall also provide the Department with sworn evidence certifying to active practice in another jurisdiction that is satisfactory to the Department. If such person has not practiced in any jurisdiction for 2 years or more, he or she

shall be required to restore his or her license by retaking and passing the examinations required in Section 8. Any hearing instrument dispenser whose license is on inactive status shall not practice in Illinois.

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

Section 99. Effective date. This Act takes effect January 1, 2024.

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