

HB1218_L.001

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Health & Insurance.HB20-1218 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, amend 12-230-106
4 as follows:

5 **12-230-106. Repeal of article - review of functions.** This article
6 230 is repealed, effective September 1, 2020 2031. Before the repeal, the
7 licensing and supervisory functions of the director are scheduled for
8 review in accordance with section 24-34-104.

9 SECTION 2. In Colorado Revised Statutes, 24-34-104, repeal
10 (19)(a)(VI); and add (32) as follows:

11 **24-34-104. General assembly review of regulatory agencies
12 and functions for repeal, continuation, or reestablishment - legislative
13 declaration - repeal.** (19) (a) The following agencies, functions, or both,
14 are scheduled for repeal on September 1, 2020:

15 (VI) ~~The licensing of hearing aid providers by the division of
16 professions and occupations in accordance with article 230 of title 12;~~

17 (32) (a) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, ARE
18 SCHEDULED FOR REPEAL ON SEPTEMBER 1, 2031:

19 (I) THE LICENSING OF HEARING AID PROVIDERS BY THE DIVISION OF
20 PROFESSIONS AND OCCUPATIONS IN ACCORDANCE WITH ARTICLE 230 OF
21 TITLE 12.

22 (b) THIS SUBSECTION (32) IS REPEALED, EFFECTIVE SEPTEMBER 1,
23 2033.

24 SECTION 3. In Colorado Revised Statutes, 6-1-701, amend
25 (2)(a)(III) and (2)(e)(III)(B); and repeal (2)(c)(I) as follows:

26 **6-1-701. Dispensing hearing aids - deceptive trade practices -
27 definitions.** (2) In addition to any other deceptive trade practices under
28 section 6-1-105, a dispenser engages in a deceptive trade practice when
29 the dispenser:

30 (a) Fails to deliver to each person to whom the dispenser
31 dispenses a hearing aid a receipt that:

32 (III) Bears, in no smaller type than the largest used in the body of
33 the receipt, a provision indicating that dispensers who are licensed
34 ~~certified, or registered~~ by the department of regulatory agencies are
35 regulated by the division of professions and occupations in the
36 department of regulatory agencies; AND

37 (c) (I) ~~Fails to receive from a licensed physician, before
38 dispensing, fitting, or selling a hearing aid to any person, a written
39 prescription or recommendation, issued within the previous six months;~~

1 that specifies that the person is a candidate for a hearing aid; except that
2 any person eighteen years of age or older who objects to medical
3 evaluation on the basis of religious or personal beliefs may waive the
4 requirement by delivering to the dispenser a written waiver;

5 (e) Fails to provide a minimum thirty-day rescission period with
6 the following terms:

7 (III) (B) The written contract or receipt provided to the buyer must
8 also contain a statement, in print size no smaller than ten-point type, that
9 the sale is void and unenforceable if the hearing aid being purchased is
10 not delivered to the consumer within thirty days after the date the written
11 contract is signed or the receipt is issued, whichever occurs later. The
12 written contract or receipt must also include the dispenser's license
13 certification, or registration number, if the dispenser is required to be
14 licensed certified or registered by the state, and a statement that the
15 dispenser will promptly refund all moneys MONEY paid for the purchase
16 of a hearing aid if it is not delivered to the consumer within the thirty-day
17 period. The buyer cannot waive this requirement, and any attempt to
18 waive it is void.

19 **SECTION 4.** In Colorado Revised Statutes, 12-20-408, amend
20 (2)(e) and (2)(f); and repeal (2)(g) as follows:

21 **12-20-408. Judicial review.** (2) A district court of competent
22 jurisdiction has initial jurisdiction to review all final actions and orders
23 of a regulator that are subject to judicial review and shall conduct the
24 judicial review proceedings in accordance with section 24-4-106 (3) for
25 the following:

26 (e) Article 200 of this title 12 concerning acupuncturists; AND

27 (f) Article 210 of this title 12 concerning audiologists. and

28 (g) ~~Article 230 of this title 12 concerning hearing aid providers.~~

29 **SECTION 5.** In Colorado Revised Statutes, 12-230-103, amend
30 (4) as follows:

31 **12-230-103. Scope of article - exemption.** (4) Nothing in this
32 article 230 prohibits a business or licensee from

33 (a) hiring and employing unlicensed staff to assist with conducting
34 business practices and to assist in dispensing hearing aids if the
35 unlicensed staff are properly supervised by a licensee; except that the
36 employees UNLICENSED STAFF may not conduct hearing tests or perform
37 the initial fitting of hearing aids. or

38 (b) ~~Performing tasks that would be permissible if the licensee was~~
39 ~~not licensed.~~

40 **SECTION 6.** In Colorado Revised Statutes, 12-230-104, amend
41 (1)(e) as follows:

42 **12-230-104. Scope of practice.** (1) The scope of practice for a
43 hearing aid provider includes:

1 (e) Prescribing, selecting, and fitting appropriate hearing
2 instruments and assistive devices, including appropriate technology,
3 electroacoustic targets, programming parameters, and special
4 applications, as indicated, WITH EITHER THE INITIAL TESTING OR THE FIRST
5 FITTING PERFORMED IN-PERSON;

6 **SECTION 7.** In Colorado Revised Statutes, **amend** 12-230-105
7 as follows:

8 **12-230-105. Title protection - use of title.** It is unlawful for any
9 person to use the title "hearing aid provider" or "hearing aid dispenser"
10 OR ANY OTHER TITLE THAT IMPLIES THE PERSON IS QUALIFIED AS A
11 HEARING AID PROVIDER unless ~~he or she~~ THE PERSON is licensed as a
12 hearing aid provider pursuant to this article 230.

13 **SECTION 8.** In Colorado Revised Statutes, 12-230-201, **amend**
14 (1) and (3)(a) as follows:

15 **12-230-201. License required - application -**
16 **qualifications.** (1) A hearing aid provider shall obtain a license pursuant
17 to this section before:

18 (a) Engaging in the practice of dispensing, fitting, or dealing in
19 hearing aids; OR

20 (b) DIRECTLY OR INDIRECTLY SELLING OR NEGOTIATING TO SELL
21 ANY HEARING AID FOR THE HEARING IMPAIRED.

22 (3) In order to qualify for licensure pursuant to this section, an
23 applicant must either:

24 (a) Have passed ~~the national~~ A competency examination of the
25 ~~National Board for Certification in Hearing Instrument Sciences~~
26 ~~(NBC-IHS), unless the director determines, by rule, that this examination~~
27 ~~no longer meets the minimum standards necessary for licensure, in which~~
28 ~~case, only an examination that the applicant passed prior to the date of the~~
29 ~~ruling will be acceptable~~ AS DETERMINED BY THE DIRECTOR BY RULE; or

30 **SECTION 9.** In Colorado Revised Statutes, **add** 12-230-206 and
31 12-230-207 as follows:

32 **12-230-206. Financial assurance required - rules.** (1) BEFORE
33 THE DIRECTOR ISSUES A LICENSE TO AN APPLICANT FOR A HEARING AID
34 PROVIDER LICENSE, THE APPLICANT SHALL POST A SURETY BOND IN THE
35 AMOUNT OF TEN THOUSAND DOLLARS, MAINTAIN A ONE-MILLION-DOLLAR
36 PROFESSIONAL LIABILITY POLICY, OR COMPLY WITH AN ALTERNATIVE AS
37 DETERMINED BY THE DIRECTOR. A LICENSED HEARING AID PROVIDER
38 SHALL MAINTAIN THE REQUIRED BOND, POLICY, OR ALTERNATIVE AT ALL
39 TIMES.

40 (2) THE DIRECTOR MAY FILE A CLAIM ON, OR ASSIST A CONSUMER
41 IN FILING A CLAIM, ON THE BOND, POLICY, OR ALTERNATIVE.

42 (3) THE DIRECTOR, BY RULE, SHALL DETERMINE THE
43 REQUIREMENTS FOR THE FINANCIAL ASSURANCE REQUIRED BY THIS

1 SECTION.

2 **12-230-207. Continuing education.** EACH LICENSED HEARING AID
3 PROVIDER IN ACTIVE PRACTICE WITHIN THE STATE OF COLORADO SHALL
4 ANNUALLY ATTEND NOT LESS THAN EIGHT HOURS OF CONTINUING
5 EDUCATION ON SUBJECTS RELATED TO THE SCOPE OF PRACTICE SPECIFIED
6 IN SECTION 12-230-104.

7 **SECTION 10.** In Colorado Revised Statutes, 12-230-401, amend
8 (1)(k), (1)(p), and (1)(q); and add (1)(r) and (2) as follows:

9 **12-230-401. Grounds for discipline.** (1) The following acts
10 constitute grounds for discipline:

11 (k) Failing to adequately supervise a licensed hearing aid provider
12 apprentice or any employee pursuant to section 12-230-103 ~~(4)(a)~~ (4) or
13 12-230-204 (2);

14 (p) Selling, dispensing, adjusting, providing training or teaching
15 in regard to, or otherwise servicing surgically implanted hearing devices
16 unless the hearing aid provider is an audiologist or a physician; and

17 (q) Violating the "Colorado Consumer Protection Act", article 1
18 of title 6; AND

19 (r) FAILING TO PRACTICE ACCORDING TO COMMONLY ACCEPTED
20 PROFESSIONAL STANDARDS.

21 (2) ANY DISCIPLINARY ACTION TAKEN BY ANOTHER STATE, A
22 LOCAL JURISDICTION, OR THE FEDERAL GOVERNMENT AGAINST AN
23 APPLICANT OR LICENSEE CONSTITUTES PRIMA FACIE EVIDENCE OF
24 GROUNDS FOR DISCIPLINARY ACTION, INCLUDING DENIAL OF A LICENSE
25 UNDER THIS ARTICLE 230; EXCEPT THAT THIS SUBSECTION (2) APPLIES
26 ONLY TO DISCIPLINE FOR ACTS OR OMISSIONS THAT ARE SUBSTANTIALLY
27 SIMILAR TO THOSE SET OUT AS GROUNDS FOR DISCIPLINARY ACTION UNDER
28 THIS SECTION.

29 **SECTION 11.** In Colorado Revised Statutes, add part 5 to article
30 230 of title 12 as follows:

31 PART 5

32 DECEPTIVE TRADE PRACTICES

33 **12-230-501. Definitions.** AS USED IN THIS PART 5, UNLESS THE
34 CONTEXT OTHERWISE REQUIRES:

35 (1) "DISPENSER" MEANS A PERSON LICENSED AS A HEARING AID
36 PROVIDER PURSUANT TO PART 2 OF THIS ARTICLE 230 WHO DISPENSES
37 HEARING AIDS.

38 **12-230-502. Dispensing hearing aids - deceptive trade**
39 **practices.** (1) IN ADDITION TO ANY OTHER DECEPTIVE TRADE PRACTICES
40 UNDER SECTION 6-1-105, A DISPENSER ENGAGES IN A DECEPTIVE TRADE
41 PRACTICE WHEN THE DISPENSER:

42 (a) FAILS TO DELIVER TO EACH PERSON TO WHOM THE DISPENSER
43 DISPENSES A HEARING AID A RECEIPT THAT:

1 (I) BEARS THE BUSINESS ADDRESS OF THE DISPENSER, TOGETHER
2 WITH SPECIFICATIONS AS TO THE MAKE AND SERIAL NUMBER OF THE
3 HEARING AID FURNISHED AND THE FULL TERMS OF THE SALE CLEARLY
4 STATED. IF THE DISPENSER DISPENSES A HEARING AID THAT IS NOT NEW,
5 THE DISPENSER SHALL CLEARLY MARK ON THE HEARING AID CONTAINER
6 AND THE RECEIPT THE TERM "USED" OR "RECONDITIONED", WHICHEVER IS
7 APPLICABLE, WITHIN THE TERMS OF THE GUARANTEE, IF ANY.

8 (II) BEARS, IN NO SMALLER TYPE THAN THE LARGEST USED IN THE
9 BODY OF THE RECEIPT, IN SUBSTANCE, A PROVISION THAT THE BUYER HAS
10 BEEN ADVISED AT THE OUTSET OF THE BUYER'S RELATIONSHIP WITH THE
11 DISPENSER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A
12 DISPENSER IN CONNECTION WITH THE PRACTICE OF DISPENSING, FITTING,
13 OR DEALING IN HEARING AIDS IS NOT AN EXAMINATION, DIAGNOSIS, OR
14 PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS
15 STATE AND, THEREFORE, MUST NOT BE REGARDED AS MEDICAL OPINION OR
16 ADVICE;

17 (III) BEARS, IN NO SMALLER TYPE THAN THE LARGEST USED IN THE
18 BODY OF THE RECEIPT, A PROVISION INDICATING THAT DISPENSERS WHO
19 ARE LICENSED BY THE DEPARTMENT ARE REGULATED BY THE DIVISION;
20 AND

21 (IV) BEARS A PROVISION LABELED "WARRANTY" IN WHICH THE
22 EXACT WARRANTY TERMS AND PERIODS AVAILABLE FROM THE
23 MANUFACTURER ARE DOCUMENTED, OR INCLUDES AN ORIGINAL OR
24 PHOTOCOPY OF THE ORIGINAL MANUFACTURER'S WARRANTY WITH THE
25 RECEIPT;

26 (b) DISPENSES A HEARING AID TO A CHILD UNDER EIGHTEEN YEARS
27 OF AGE WITHOUT RECEIVING DOCUMENTATION THAT THE CHILD HAS BEEN
28 EXAMINED BY A LICENSED PHYSICIAN AND AN AUDIOLOGIST WITHIN SIX
29 MONTHS PRIOR TO THE FITTING;

30 (c) DISPENSES, ADJUSTS, PROVIDES TRAINING OR TEACHING IN
31 REGARD TO, OR OTHERWISE SERVICES SURGICALLY IMPLANTED HEARING
32 DEVICES UNLESS THE DISPENSER IS AN AUDIOLOGIST OR PHYSICIAN;

33 (d) FAILS TO RECOMMEND IN WRITING, PRIOR TO FITTING OR
34 DISPENSING A HEARING AID, THAT THE BEST INTERESTS OF THE
35 PROSPECTIVE USER WOULD BE SERVED BY CONSULTING A LICENSED
36 PHYSICIAN SPECIALIZING IN DISEASES OF THE EAR, OR ANY LICENSED
37 PHYSICIAN, IF ANY OF THE FOLLOWING CONDITIONS EXIST:

38 (I) VISIBLE CONGENITAL OR TRAUMATIC DEFORMITY OF THE EAR;

39 (II) ACTIVE DRAINAGE OF THE EAR, OR A HISTORY OF DRAINAGE OF
40 THE EAR WITHIN THE PREVIOUS NINETY DAYS;

41 (III) HISTORY OF SUDDEN OR RAPIDLY PROGRESSIVE HEARING
42 LOSS;

43 (IV) ACUTE OR CHRONIC DIZZINESS;

1 (V) UNILATERAL HEARING LOSS OF SUDDEN ONSET WITHIN THE
2 PREVIOUS NINETY DAYS;
3 (VI) AUDIOMETRIC AIR-BONE GAP EQUAL TO OR GREATER THAN
4 FIFTEEN DECIBELS AT 500 HERTZ (Hz), 1,000 Hz, AND 2,000 Hz;
5 (VII) VISIBLE EVIDENCE OF SIGNIFICANT CERUMEN
6 ACCUMULATION ON, OR A FOREIGN BODY IN, THE EAR CANAL; OR
7 (VIII) PAIN OR DISCOMFORT IN THE EAR;
8 (e) FAILS TO PROVIDE A MINIMUM THIRTY-DAY RESCISSION PERIOD
9 WITH THE FOLLOWING TERMS:
10 (I) THE BUYER HAS THE RIGHT TO CANCEL THE PURCHASE FOR ANY
11 REASON BEFORE THE EXPIRATION OF THE RESCISSION PERIOD BY GIVING OR
12 MAILING WRITTEN NOTICE OF CANCELLATION TO THE DISPENSER AND
13 PRESENTING THE HEARING AID TO THE DISPENSER, UNLESS THE HEARING
14 AID HAS BEEN LOST OR SIGNIFICANTLY DAMAGED BEYOND REPAIR WHILE
15 IN THE BUYER'S POSSESSION AND CONTROL. THE RESCISSION PERIOD IS
16 TOLLED FOR ANY PERIOD DURING WHICH A DISPENSER TAKES POSSESSION
17 OR CONTROL OF A HEARING AID AFTER ITS ORIGINAL DELIVERY.
18 (II) THE BUYER, UPON CANCELLATION, IS ENTITLED TO RECEIVE A
19 FULL REFUND OF ANY PAYMENT MADE FOR THE HEARING AID WITHIN
20 THIRTY DAYS AFTER RETURNING THE HEARING AID TO THE DISPENSER,
21 UNLESS THE HEARING AID WAS SIGNIFICANTLY DAMAGED BEYOND REPAIR
22 WHILE IN THE BUYER'S POSSESSION AND CONTROL.
23 (III) (A) THE DISPENSER SHALL PROVIDE A WRITTEN RECEIPT OR
24 CONTRACT TO THE BUYER THAT INCLUDES, IN IMMEDIATE PROXIMITY TO
25 THE SPACE RESERVED FOR THE SIGNATURE OF THE BUYER, THE FOLLOWING
26 SPECIFIC STATEMENT IN ALL CAPITAL LETTERS OF NO LESS THAN
27 TEN-POINT, BOLD-FACED TYPE:
28 **THE BUYER HAS THE RIGHT TO CANCEL**
29 **THIS PURCHASE FOR ANY REASON AT ANY**
30 **TIME PRIOR TO 12 MIDNIGHT ON THE [INSERT**
31 **APPLICABLE RESCISSION PERIOD, WHICH MUST BE NO**
32 **SHORTER THAN THIRTY DAYS AFTER RECEIPT OF THE**
33 **HEARING AID] CALENDAR DAY AFTER RECEIPT OF**
34 **THE HEARING AID BY GIVING OR MAILING THE**
35 **DISPENSER WRITTEN NOTICE OF**
36 **CANCELLATION AND BY RETURNING THE**
37 **HEARING AID, UNLESS THE HEARING AID HAS**
38 **BEEEN SIGNIFICANTLY DAMAGED BEYOND**
39 **REPAIR WHILE THE HEARING AID WAS IN THE**
40 **BUYER'S CONTROL.**
41 (B) THE WRITTEN CONTRACT OR RECEIPT PROVIDED TO THE BUYER
42 MUST ALSO CONTAIN A STATEMENT, IN PRINT SIZE NO SMALLER THAN
43 TEN-POINT TYPE, THAT THE SALE IS VOID AND UNENFORCEABLE IF THE

1 HEARING AID BEING PURCHASED IS NOT DELIVERED TO THE CONSUMER
2 WITHIN THIRTY DAYS AFTER THE DATE THE WRITTEN CONTRACT IS SIGNED
3 OR THE RECEIPT IS ISSUED, WHICHEVER OCCURS LATER. THE WRITTEN
4 CONTRACT OR RECEIPT MUST ALSO INCLUDE THE DISPENSER'S LICENSE
5 NUMBER, IF THE DISPENSER IS REQUIRED TO BE LICENSED BY THE STATE,
6 AND A STATEMENT THAT THE DISPENSER WILL PROMPTLY REFUND ALL
7 MONEY PAID FOR THE PURCHASE OF THE HEARING AID IF IT IS NOT
8 DELIVERED TO THE CONSUMER WITHIN THE THIRTY-DAY PERIOD. THE
9 BUYER CANNOT WAIVE THIS REQUIREMENT, AND ANY ATTEMPT TO WAIVE
10 IT IS VOID.

11 (IV) A REFUND REQUEST FORM MUST BE ATTACHED TO EACH
12 RECEIPT AND MUST CONTAIN THE INFORMATION IN SUBSECTION (1)(a)(I)
13 OF THIS SECTION AND THE STATEMENT, IN ALL CAPITAL LETTERS OF NO
14 LESS THAN TEN-POINT, BOLD-FACED TYPE:

15 **REFUND REQUEST - THIS FORM MUST BE**
16 **POSTMARKED BY _____ [DATE TO BE FILLED IN].**
17 **NO REFUND WILL BE GIVEN UNTIL THE**
18 **HEARING AID OR HEARING AIDS ARE**
19 **RETURNED TO THE DISPENSER.**

20 A SPACE FOR THE BUYER'S ADDRESS, TELEPHONE NUMBER, AND
21 SIGNATURE MUST BE PROVIDED. THE BUYER IS REQUIRED ONLY TO SIGN,
22 LIST THE BUYER'S CURRENT ADDRESS AND TELEPHONE NUMBER, AND MAIL
23 THE REFUND REQUEST FORM TO THE DISPENSER. IF THE HEARING AID IS
24 SOLD IN THE BUYER'S HOME, THE BUYER MAY REQUIRE THE DISPENSER TO
25 ARRANGE THE RETURN OF THE HEARING AID.

26 (f) REPRESENTS THAT THE SERVICE OR ADVICE OF A PERSON
27 LICENSED TO PRACTICE MEDICINE WILL BE USED OR MADE AVAILABLE IN
28 THE SELECTION, FITTING, ADJUSTMENT, MAINTENANCE, OR REPAIR OF
29 HEARING AIDS WHEN THAT IS NOT TRUE OR USING THE TERMS "DOCTOR",
30 "CLINIC", "STATE-LICENSED CLINIC", "STATE-REGISTERED",
31 "STATE-CERTIFIED", OR "STATE-APPROVED", OR ANY OTHER TERM,
32 ABBREVIATION, OR SYMBOL WHEN IT WOULD:

33 (I) FALSELY GIVE THE IMPRESSION THAT SERVICE IS BEING
34 PROVIDED BY PERSONS TRAINED IN MEDICINE OR THAT THE DISPENSER'S
35 SERVICE HAS BEEN RECOMMENDED BY THE STATE WHEN THAT IS NOT THE
36 CASE; OR

37 (II) BE FALSE OR MISLEADING;

38 (g) DIRECTLY OR INDIRECTLY:

39 (I) GIVES OR OFFERS TO GIVE, OR PERMITS OR CAUSES TO BE GIVEN,
40 MONEY OR ANYTHING OF VALUE TO ANY PERSON WHO ADVISES ANOTHER
41 IN A PROFESSIONAL CAPACITY AS AN INDUCEMENT TO INFLUENCE THE
42 PERSON OR HAVE THE PERSON INFLUENCE OTHERS TO PURCHASE OR
43 CONTRACT TO PURCHASE PRODUCTS SOLD OR OFFERED FOR SALE BY THE

1 DISPENSER; EXCEPT THAT A DISPENSER DOES NOT VIOLATE THIS
2 SUBSECTION (1)(g)(I) IF THE DISPENSER PAYS AN INDEPENDENT
3 ADVERTISING OR MARKETING AGENT COMPENSATION FOR ADVERTISING OR
4 MARKETING SERVICES THE AGENT RENDERED ON THE DISPENSER'S BEHALF,
5 INCLUDING COMPENSATION THAT IS PAID FOR THE RESULTS OR
6 PERFORMANCE OF THE SERVICES ON A PER-PATIENT BASIS; OR

7 (II) INFLUENCES OR ATTEMPTS TO INFLUENCE ANY PERSON TO
8 REFRAIN FROM DEALING IN THE PRODUCTS OF COMPETITORS;

9 (h) DISPENSES A HEARING AID TO A PERSON WHO HAS NOT BEEN
10 GIVEN TESTS UTILIZING APPROPRIATE ESTABLISHED PROCEDURES AND
11 INSTRUMENTATION IN THE FITTING OF HEARING AIDS, EXCEPT WHEN
12 SELLING A REPLACEMENT HEARING AID WITHIN ONE YEAR AFTER THE DATE
13 OF THE ORIGINAL PURCHASE;

14 (i) MAKES A FALSE OR MISLEADING STATEMENT OF FACT
15 CONCERNING GOODS OR SERVICES OR THE BUYER'S RIGHT TO CANCEL WITH
16 THE INTENTION OR EFFECT OF DETERRING OR PREVENTING THE BUYER
17 FROM EXERCISING THE BUYER'S RIGHT TO CANCEL, OR REFUSES TO HONOR
18 A BUYER'S REQUEST TO CANCEL A CONTRACT FOR THE PURCHASE OF A
19 HEARING AID, IF THE REQUEST WAS MADE DURING THE RESCISSION PERIOD
20 SET FORTH IN SUBSECTION (1)(e) OF THIS SECTION;

21 (j) EMPLOYS A DEVICE, A SCHEME, OR AN ARTIFICE WITH THE
22 INTENT TO DEFRAUD A BUYER OF A HEARING AID;

23 (k) INTENTIONALLY DISPOSES OF, CONCEALS, DIVERTS, CONVERTS,
24 OR OTHERWISE FAILS TO ACCOUNT FOR ANY FUNDS OR ASSETS OF A BUYER
25 OF A HEARING AID THAT IS UNDER THE DISPENSER'S CONTROL; OR

26 (l) CHARGES, COLLECTS, OR RECOVERS ANY COST OR FEE FOR ANY
27 GOOD OR SERVICE THAT HAS BEEN REPRESENTED BY THE DISPENSER AS
28 FREE.

29 (2) (a) THIS SECTION APPLIES TO A DISPENSER WHO DISPENSES
30 HEARING AIDS IN THIS STATE.

31 (b) THIS SECTION DOES NOT APPLY TO THE DISPENSING OF HEARING
32 AIDS OUTSIDE OF THIS STATE SO LONG AS THE TRANSACTION EITHER
33 CONFORMS TO THIS SECTION OR TO THE APPLICABLE LAWS AND RULES OF
34 THE JURISDICTION IN WHICH THE TRANSACTION TAKES PLACE.

35 **SECTION 12. Act subject to petition - effective date.** This act
36 takes effect at 12:01 a.m. on the day following the expiration of the
37 ninety-day period after final adjournment of the general assembly (August
38 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
39 referendum petition is filed pursuant to section 1 (3) of article V of the
40 state constitution against this act or an item, section, or part of this act
41 within such period, then the act, item, section, or part will not take effect
42 unless approved by the people at the general election to be held in

1 November 2020 and, in such case, will take effect on the date of the
2 official declaration of the vote thereon by the governor."

3 Page 1, line 103, strike "THE".

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