

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0520.01 Yelana Love x2295

HOUSE BILL 20-1218

HOUSE SPONSORSHIP

Buckner, Lontine

SENATE SPONSORSHIP

Danielson,

House Committees

Health & Insurance
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE LICENSING OF HEARING AID**
102 **PROVIDERS, AND, IN CONNECTION THEREWITH, IMPLEMENTING**
103 **RECOMMENDATIONS CONTAINED IN THE 2019 SUNSET REPORT**
104 **BY THE DEPARTMENT OF REGULATORY AGENCIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sunset Process - House Health and Insurance Committee. The bill implements the recommendations of the department of regulatory agencies' sunset review and report on the licensing of hearing aid

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

providers by combining the audiologist practice act with the hearing aid provider practice act and:

- ! Continuing the licensing of hearing aid providers for 11 years, to 2031 (**sections 4 and 5** of the bill);
- ! Requiring final agency actions to be appealed directly to the court of appeals (**section 1**);
- ! Requiring a hearing aid provider to be licensed before directly or indirectly selling or negotiating to sell any hearing aid for the hearing impaired (**section 2**);
- ! Prohibiting a person who is not licensed as a hearing aid provider from using any titles that imply the person is qualified as a hearing aid provider (**section 2**);
- ! Removing language specifying that the hearing aid provider practice act does not prohibit an individual from performing tasks that would be permissible if the licensee was not licensed (**section 2**);
- ! Requiring hearing aid providers to maintain a surety bond (**section 2**);
- ! Adding failure to practice according to commonly accepted professional standards to the grounds for discipline (**section 2**);
- ! Authorizing the director of the division of professions and occupations to accept disciplinary action taken by another state, a local jurisdiction, or the federal government as prima facie evidence of misconduct if the basis for the action would be grounds for discipline in Colorado (**section 2**);
- ! Repealing references to the national competency examination and the National Board for Certification in Hearing Instrument Sciences (**section 2**);
- ! Restoring the deceptive trade practice provisions related to the sale of hearing aids (**section 3**); and
- ! Making conforming amendments necessary to combine the audiologist practice act with the hearing aid provider practice act and make the additional recommended changes (**sections 6 through 32**).

1 *Be it enacted by the General Assembly of the State of Colorado:*

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

4 **12-230-106. Repeal of article - review of functions.** This article

1 230 is repealed, effective September 1, 2020 2031. Before the repeal, the
2 licensing and supervisory functions of the director are scheduled for
3 review in accordance with section 24-34-104.

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

6 **24-34-104. General assembly review of regulatory agencies**
7 **and functions for repeal, continuation, or reestablishment - legislative**
8 **declaration - repeal.** (19) (a) The following agencies, functions, or both,
9 are scheduled for repeal on September 1, 2020:

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

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

14 (I) THE LICENSING OF HEARING AID PROVIDERS BY THE DIVISION OF
15 PROFESSIONS AND OCCUPATIONS IN ACCORDANCE WITH ARTICLE 230 OF
16 TITLE 12.

17 (b) THIS SUBSECTION (32) IS REPEALED, EFFECTIVE SEPTEMBER 1,
18 2033.

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

21 **6-1-701. Dispensing hearing aids - deceptive trade practices -**
22 **definitions.** (2) In addition to any other deceptive trade practices under
23 section 6-1-105, a dispenser engages in a deceptive trade practice when
24 the dispenser:

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

27 (III) Bears, in no smaller type than the largest used in the body of

1 the receipt, a provision indicating that dispensers who are licensed
2 ~~certified, or registered~~ by the department of regulatory agencies are
3 regulated by the division of professions and occupations in the
4 department of regulatory agencies; AND

5 (c) (I) ~~Fails to receive from a licensed physician, before~~
6 ~~dispensing, fitting, or selling a hearing aid to any person, a written~~
7 ~~prescription or recommendation, issued within the previous six months,~~
8 ~~that specifies that the person is a candidate for a hearing aid; except that~~
9 ~~any person eighteen years of age or older who objects to medical~~
10 ~~evaluation on the basis of religious or personal beliefs may waive the~~
11 ~~requirement by delivering to the dispenser a written waiver;~~

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

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

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

1 **12-20-408. Judicial review.** (2) A district court of competent
2 jurisdiction has initial jurisdiction to review all final actions and orders
3 of a regulator that are subject to judicial review and shall conduct the
4 judicial review proceedings in accordance with section 24-4-106 (3) for
5 the following:

- 6 (e) Article 200 of this title 12 concerning acupuncturists; AND
- 7 (f) Article 210 of this title 12 concerning audiologists. and
- 8 (g) ~~Article 230 of this title 12 concerning hearing aid providers.~~

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

11 **12-230-103. Scope of article - exemption.** (4) Nothing in this
12 article 230 prohibits a business or licensee from

13 ~~(a) hiring and employing unlicensed staff to assist with conducting~~
14 ~~business practices and to assist in dispensing hearing aids if the~~
15 ~~unlicensed staff are properly supervised by a licensee; except that the~~
16 ~~employees UNLICENSED STAFF may not conduct hearing tests or perform~~
17 ~~the initial fitting of hearing aids. or~~

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

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

22 **12-230-104. Scope of practice.** (1) The scope of practice for a
23 hearing aid provider includes:

24 (e) Prescribing, selecting, and fitting appropriate hearing
25 instruments and assistive devices, including appropriate technology,
26 electroacoustic targets, programming parameters, and special
27 applications, as indicated, WITH EITHER THE INITIAL TESTING OR THE FIRST

1 FITTING PERFORMED IN-PERSON;

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

4 12-230-105. Title protection - use of title. It is unlawful for any
5 person to use the title "hearing aid provider" or "hearing aid dispenser"
6 OR ANY OTHER TITLE THAT IMPLIES THE PERSON IS QUALIFIED AS A
7 HEARING AID PROVIDER unless he or she THE PERSON is licensed as a
8 hearing aid provider pursuant to this article 230.

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

11 12-230-201. License required - application -
12 qualifications. (1) A hearing aid provider shall obtain a license pursuant
13 to this section before:

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

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

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

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

26 SECTION 9. In Colorado Revised Statutes, add 12-230-206 and
27 12-230-207 as follows:

1 **12-230-206. Financial assurance required - rules.** (1) BEFORE
2 THE DIRECTOR ISSUES A LICENSE TO AN APPLICANT FOR A HEARING AID
3 PROVIDER LICENSE, THE APPLICANT SHALL POST A SURETY BOND IN THE
4 AMOUNT OF TEN THOUSAND DOLLARS, MAINTAIN A ONE-MILLION-DOLLAR
5 PROFESSIONAL LIABILITY POLICY, OR COMPLY WITH AN ALTERNATIVE AS
6 DETERMINED BY THE DIRECTOR. A LICENSED HEARING AID PROVIDER
7 SHALL MAINTAIN THE REQUIRED BOND, POLICY, OR ALTERNATIVE AT ALL
8 TIMES.

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

11 (3) THE DIRECTOR, BY RULE, SHALL DETERMINE THE
12 REQUIREMENTS FOR THE FINANCIAL ASSURANCE REQUIRED BY THIS
13 SECTION.

14 **12-230-207. Continuing education.** EACH LICENSED HEARING AID
15 PROVIDER IN ACTIVE PRACTICE WITHIN THE STATE OF COLORADO SHALL
16 ANNUALLY ATTEND NOT LESS THAN EIGHT HOURS OF CONTINUING
17 EDUCATION ON SUBJECTS RELATED TO THE SCOPE OF PRACTICE SPECIFIED
18 IN SECTION 12-230-104.

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

21 **12-230-401. Grounds for discipline.** (1) The following acts
22 constitute grounds for discipline:

23 (k) Failing to adequately supervise a licensed hearing aid provider
24 apprentice or any employee pursuant to section 12-230-103 ~~(4)(a)~~ (4) or
25 12-230-204 (2);

26 (p) Selling, dispensing, adjusting, providing training or teaching
27 in regard to, or otherwise servicing surgically implanted hearing devices

1 unless the hearing aid provider is an audiologist or a physician; and
2 (q) Violating the "Colorado Consumer Protection Act", article 1
3 of title 6; AND
4 (r) FAILING TO PRACTICE ACCORDING TO COMMONLY ACCEPTED
5 PROFESSIONAL STANDARDS.
6 (2) ANY DISCIPLINARY ACTION TAKEN BY ANOTHER STATE, A
7 LOCAL JURISDICTION, OR THE FEDERAL GOVERNMENT AGAINST AN
8 APPLICANT OR LICENSEE CONSTITUTES PRIMA FACIE EVIDENCE OF
9 GROUNDS FOR DISCIPLINARY ACTION, INCLUDING DENIAL OF A LICENSE
10 UNDER THIS ARTICLE 230; EXCEPT THAT THIS SUBSECTION (2) APPLIES
11 ONLY TO DISCIPLINE FOR ACTS OR OMISSIONS THAT ARE SUBSTANTIALLY
12 SIMILAR TO THOSE SET OUT AS GROUNDS FOR DISCIPLINARY ACTION UNDER
13 THIS SECTION.

14 **SECTION 11.** In Colorado Revised Statutes, **add** part 5 to article
15 230 of title 12 as follows:

16 **PART 5**

17 **DECEPTIVE TRADE PRACTICES**

18 **12-230-501. Definitions.** AS USED IN THIS PART 5, UNLESS THE
19 CONTEXT OTHERWISE REQUIRES:

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

23 **12-230-502. Dispensing hearing aids - deceptive trade**
24 **practices.** (1) IN ADDITION TO ANY OTHER DECEPTIVE TRADE PRACTICES
25 UNDER SECTION 6-1-105, A DISPENSER ENGAGES IN A DECEPTIVE TRADE
26 PRACTICE WHEN THE DISPENSER:

27 (a) FAILS TO DELIVER TO EACH PERSON TO WHOM THE DISPENSER

1 DISPENSES A HEARING AID A RECEIPT THAT:

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

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

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

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

27 (b) DISPENSES A HEARING AID TO A CHILD UNDER EIGHTEEN YEARS

1 OF AGE WITHOUT RECEIVING DOCUMENTATION THAT THE CHILD HAS BEEN
2 EXAMINED BY A LICENSED PHYSICIAN AND AN AUDIOLOGIST WITHIN SIX
3 MONTHS PRIOR TO THE FITTING;

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

7 (d) FAILS TO RECOMMEND IN WRITING, PRIOR TO FITTING OR
8 DISPENSING A HEARING AID, THAT THE BEST INTERESTS OF THE
9 PROSPECTIVE USER WOULD BE SERVED BY CONSULTING A LICENSED
10 PHYSICIAN SPECIALIZING IN DISEASES OF THE EAR, OR ANY LICENSED
11 PHYSICIAN, IF ANY OF THE FOLLOWING CONDITIONS EXIST:

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

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

15 (III) HISTORY OF SUDDEN OR RAPIDLY PROGRESSIVE HEARING
16 LOSS;

17 (IV) ACUTE OR CHRONIC DIZZINESS;

18 (V) UNILATERAL HEARING LOSS OF SUDDEN ONSET WITHIN THE
19 PREVIOUS NINETY DAYS;

20 (VI) AUDIOMETRIC AIR-BONE GAP EQUAL TO OR GREATER THAN
21 FIFTEEN DECIBELS AT 500 HERTZ (HZ), 1,000 HZ, AND 2,000 HZ;

22 (VII) VISIBLE EVIDENCE OF SIGNIFICANT CERUMEN
23 ACCUMULATION ON, OR A FOREIGN BODY IN, THE EAR CANAL; OR

24 (VIII) PAIN OR DISCOMFORT IN THE EAR;

25 (e) FAILS TO PROVIDE A MINIMUM THIRTY-DAY RESCISSION PERIOD
26 WITH THE FOLLOWING TERMS:

27 (I) THE BUYER HAS THE RIGHT TO CANCEL THE PURCHASE FOR ANY

1 REASON BEFORE THE EXPIRATION OF THE RESCISSION PERIOD BY GIVING OR
2 MAILING WRITTEN NOTICE OF CANCELLATION TO THE DISPENSER AND
3 PRESENTING THE HEARING AID TO THE DISPENSER, UNLESS THE HEARING
4 AID HAS BEEN LOST OR SIGNIFICANTLY DAMAGED BEYOND REPAIR WHILE
5 IN THE BUYER'S POSSESSION AND CONTROL. THE RESCISSION PERIOD IS
6 TOLLED FOR ANY PERIOD DURING WHICH A DISPENSER TAKES POSSESSION
7 OR CONTROL OF A HEARING AID AFTER ITS ORIGINAL DELIVERY.

8 (II) THE BUYER, UPON CANCELLATION, IS ENTITLED TO RECEIVE A
9 FULL REFUND OF ANY PAYMENT MADE FOR THE HEARING AID WITHIN
10 THIRTY DAYS AFTER RETURNING THE HEARING AID TO THE DISPENSER,
11 UNLESS THE HEARING AID WAS SIGNIFICANTLY DAMAGED BEYOND REPAIR
12 WHILE IN THE BUYER'S POSSESSION AND CONTROL.

13 (III) (A) THE DISPENSER SHALL PROVIDE A WRITTEN RECEIPT OR
14 CONTRACT TO THE BUYER THAT INCLUDES, IN IMMEDIATE PROXIMITY TO
15 THE SPACE RESERVED FOR THE SIGNATURE OF THE BUYER, THE FOLLOWING
16 SPECIFIC STATEMENT IN ALL CAPITAL LETTERS OF NO LESS THAN
17 TEN-POINT, BOLD-FACED TYPE:

18 **THE BUYER HAS THE RIGHT TO CANCEL**
19 **THIS PURCHASE FOR ANY REASON AT ANY**
20 **TIME PRIOR TO 12 MIDNIGHT ON THE [INSERT**
21 **APPLICABLE RESCISSION PERIOD, WHICH MUST BE NO**
22 **SHORTER THAN THIRTY DAYS AFTER RECEIPT OF THE**
23 **HEARING AID] CALENDAR DAY AFTER RECEIPT OF**
24 **THE HEARING AID BY GIVING OR MAILING THE**
25 **DISPENSER WRITTEN NOTICE OF**
26 **CANCELLATION AND BY RETURNING THE**
27 **HEARING AID, UNLESS THE HEARING AID HAS**

1 **BEEN SIGNIFICANTLY DAMAGED BEYOND**
2 **REPAIR WHILE THE HEARING AID WAS IN THE**
3 **BUYER'S CONTROL.**

4 (B) THE WRITTEN CONTRACT OR RECEIPT PROVIDED TO THE BUYER
5 MUST ALSO CONTAIN A STATEMENT, IN PRINT SIZE NO SMALLER THAN
6 TEN-POINT TYPE, THAT THE SALE IS VOID AND UNENFORCEABLE IF THE
7 HEARING AID BEING PURCHASED IS NOT DELIVERED TO THE CONSUMER
8 WITHIN THIRTY DAYS AFTER THE DATE THE WRITTEN CONTRACT IS SIGNED
9 OR THE RECEIPT IS ISSUED, WHICHEVER OCCURS LATER. THE WRITTEN
10 CONTRACT OR RECEIPT MUST ALSO INCLUDE THE DISPENSER'S LICENSE
11 NUMBER, IF THE DISPENSER IS REQUIRED TO BE LICENSED BY THE STATE,
12 AND A STATEMENT THAT THE DISPENSER WILL PROMPTLY REFUND ALL
13 MONEY PAID FOR THE PURCHASE OF THE HEARING AID IF IT IS NOT
14 DELIVERED TO THE CONSUMER WITHIN THE THIRTY-DAY PERIOD. THE
15 BUYER CANNOT WAIVE THIS REQUIREMENT, AND ANY ATTEMPT TO WAIVE
16 IT IS VOID.

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

21 **REFUND REQUEST - THIS FORM MUST BE**
22 **POSTMARKED BY _____ [DATE TO BE FILLED IN].**
23 **NO REFUND WILL BE GIVEN UNTIL THE**
24 **HEARING AID OR HEARING AIDS ARE**
25 **RETURNED TO THE DISPENSER.**

26 A SPACE FOR THE BUYER'S ADDRESS, TELEPHONE NUMBER, AND
27 SIGNATURE MUST BE PROVIDED. THE BUYER IS REQUIRED ONLY TO SIGN,

1 LIST THE BUYER'S CURRENT ADDRESS AND TELEPHONE NUMBER, AND MAIL
2 THE REFUND REQUEST FORM TO THE DISPENSER. IF THE HEARING AID IS
3 SOLD IN THE BUYER'S HOME, THE BUYER MAY REQUIRE THE DISPENSER TO
4 ARRANGE THE RETURN OF THE HEARING AID.

5 (f) REPRESENTS THAT THE SERVICE OR ADVICE OF A PERSON
6 LICENSED TO PRACTICE MEDICINE WILL BE USED OR MADE AVAILABLE IN
7 THE SELECTION, FITTING, ADJUSTMENT, MAINTENANCE, OR REPAIR OF
8 HEARING AIDS WHEN THAT IS NOT TRUE OR USING THE TERMS "DOCTOR",
9 "CLINIC", "STATE-LICENSED CLINIC", "STATE-REGISTERED",
10 "STATE-CERTIFIED", OR "STATE-APPROVED", OR ANY OTHER TERM,
11 ABBREVIATION, OR SYMBOL WHEN IT WOULD:

12 (I) FALSELY GIVE THE IMPRESSION THAT SERVICE IS BEING
13 PROVIDED BY PERSONS TRAINED IN MEDICINE OR THAT THE DISPENSER'S
14 SERVICE HAS BEEN RECOMMENDED BY THE STATE WHEN THAT IS NOT THE
15 CASE; OR

16 (II) BE FALSE OR MISLEADING;

17 (g) DIRECTLY OR INDIRECTLY:

18 (I) GIVES OR OFFERS TO GIVE, OR PERMITS OR CAUSES TO BE GIVEN,
19 MONEY OR ANYTHING OF VALUE TO ANY PERSON WHO ADVISES ANOTHER
20 IN A PROFESSIONAL CAPACITY AS AN INDUCEMENT TO INFLUENCE THE
21 PERSON OR HAVE THE PERSON INFLUENCE OTHERS TO PURCHASE OR
22 CONTRACT TO PURCHASE PRODUCTS SOLD OR OFFERED FOR SALE BY THE
23 DISPENSER; EXCEPT THAT A DISPENSER DOES NOT VIOLATE THIS
24 SUBSECTION (1)(g)(I) IF THE DISPENSER PAYS AN INDEPENDENT
25 ADVERTISING OR MARKETING AGENT COMPENSATION FOR ADVERTISING OR
26 MARKETING SERVICES THE AGENT RENDERED ON THE DISPENSER'S BEHALF,
27 INCLUDING COMPENSATION THAT IS PAID FOR THE RESULTS OR

1 PERFORMANCE OF THE SERVICES ON A PER-PATIENT BASIS; OR

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

4 (h) DISPENSES A HEARING AID TO A PERSON WHO HAS NOT BEEN
5 GIVEN TESTS UTILIZING APPROPRIATE ESTABLISHED PROCEDURES AND
6 INSTRUMENTATION IN THE FITTING OF HEARING AIDS, EXCEPT WHEN
7 SELLING A REPLACEMENT HEARING AID WITHIN ONE YEAR AFTER THE DATE
8 OF THE ORIGINAL PURCHASE;

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

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

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

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

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

26 (b) THIS SECTION DOES NOT APPLY TO THE DISPENSING OF HEARING
27 AIDS OUTSIDE OF THIS STATE SO LONG AS THE TRANSACTION EITHER

1 CONFORMS TO THIS SECTION OR TO THE APPLICABLE LAWS AND RULES OF
2 THE JURISDICTION IN WHICH THE TRANSACTION TAKES PLACE.

3 **SECTION 12. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly (August
6 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within such period, then the act, item, section, or part will not take effect
10 unless approved by the people at the general election to be held in
11 November 2020 and, in such case, will take effect on the date of the
12 official declaration of the vote thereon by the governor.