Sen. Laura Fine

Filed: 10/20/2023

AMENDMENT TO SENATE BILL 767

AMENDMENT NO. _____. Amend Senate Bill 767 by replacing everything after the enacting clause with the following:

"Section 5. The Hearing Instrument Consumer Protection Act is amended by changing Section 3, 4, 4.6, 5, 6, and 9 as follows:

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

(Text of Section before amendment by P.A. 103-495)

(Section scheduled to be repealed on January 1, 2026)

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

"Department" means the Department of Public Health.

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

"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.

"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 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 fitting, dispensing, or servicing of hearing instruments" means the measurement of human hearing with an audiometer, calibrated to the current American National Standard Institute standards, for the purpose of making selections, recommendations, adaptions, services, or sales of hearing instruments including the making of earmolds as a part of the hearing 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 care professional that engages in the selling, practice of fitting, selecting, recommending, dispensing, or servicing of hearing instruments or the testing for means of hearing 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, or selling of hearing instruments.

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

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

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

(Text of Section after amendment by P.A. 103-495)

(Section scheduled to be repealed on January 1, 2026)

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

"Department" means the Department of Public Health.

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

"Direct supervision" means the final approval given by the licensed hearing instrument professional to all work performed by the person under supervision and that the licensed hearing instrument professional is physically present in the facility any time the person under supervision has contact with a client. "Direct supervision" does not mean that the licensed hearing instrument professional is in the same room when the person under supervision has contact with the 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 or audiologist 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.

"Involvement of a licensed hearing professional ~~person~~"

refers to the supervision ~~supervisor~~, prescription or other order, involvement, or interaction by a licensed hearing instrument professional.

"Practice of prescribing, fitting, dispensing, or servicing of prescription hearing aids" 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 including the making of earmolds as a part of the hearing aid.

"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 professional that engages in the selling, practice of fitting, selecting, recommending, dispensing, prescribing, or servicing of prescription hearing aids or the testing for means of hearing aid 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 prescription hearing aids.

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

"Hearing instrument professional" means a person who is a licensed audiologist, a licensed hearing instrument dispenser,

or a licensed physician.

"Over-the-counter hearing aid" means any instrument or device that:

(1) uses the same fundamental scientific technology as air conduction hearing aids, as defined in 21 CFR 874.3300, or wireless air conduction hearing aids, as defined in 21 CFR 874.3305;

(2) is intended to be used by adults age 18 and older to compensate for perceived mild to moderate hearing impairment;

(3) through tools, tests, or software, allows the user to control the over-the-counter hearing aid and customize it to the user's hearing needs;

(4) may use wireless technology or include tests for self-assessment of hearing loss; and

(5) is available over-the-counter, without the supervision, prescription, or other order, involvement, or intervention of a licensed person, to consumers through in-person transactions, by mail, or online.

"Over-the-counter hearing aid" does not include batteries, cords, and individual or group auditory training devices or any instrument or device used by a public utility in providing telephone or other communication services.

"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.

"Prescribe" means an order for a prescription hearing aid issued by a licensed hearing instrument professional.

"Prescription hearing aid" means any wearable instrument or device designed, intended, or offered for the purpose of improving a person's hearing that may only be obtained with the involvement of a licensed hearing instrument professional. (Source: P.A. 103-495, eff. 1-1-24.)

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

(Text of Section before amendment by P.A. 103-495)

(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 instrument the "User Instructional Brochure", supplied by the hearing instrument manufacturer containing information required by the U.S. Food and Drug Administration.

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 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 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 instruments shall be provided with a written statement indicating that formal complaints regarding hearing 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.)

(Text of Section after amendment by P.A. 103-495)

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

Sec. 4. Disclosure; complaints; insurance. The hearing instrument professional shall give at no charge to every person fitted and sold a hearing aid the "User Instructional Brochure", supplied by the hearing aid 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 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 (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 instrument 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 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.

The hearing instrument professional or the professional's employer shall retain proof of the medical examination for at least 3 years from the date of the sale.

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. For purposes of this paragraph, "business day" means any calendar day except Saturday, Sunday, or a federal holiday.

If the parent or guardian of any individual age 17 or under 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 professional, 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 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 shall be provided with a written statement indicating that formal complaints regarding hearing aid 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 professional 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. 103-495, eff. 1-1-24.)

(225 ILCS 50/4.6)

(This Section may contain text from a Public Act with a delayed effective date)

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

Sec. 4.6. Prescription hearing aids for persons age 18 or older.

(a) A hearing instrument professional may dispense a hearing aid to a person age 18 or older in accordance with the requirements of this Section.

(b) 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 evaluation by a hearing instrument professional unless he or she is replacing a lost or stolen hearing aid that is subject to warranty replacement.

(c) A hearing instrument professional shall not sell 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 who had a negative finding on the Consumer Ear Disease Risk Assessment or similar standardized assessment 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 prescription 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.

(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:

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

(B) pure-tone air conduction audiometry;

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

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

(E) recorded speech or digits in noise, as medically ~~medical~~ appropriate;

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

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

(Source: P.A. 103-495, eff. 1-1-24.)

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

(Text of Section before amendment by P.A. 103-495)

(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 instruments or display a sign, advertise, or represent oneself as a person who practices the fitting or selling of hearing 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 instrument evaluations for the purpose of dispensing a hearing 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 instrument manufacturer may distribute, sell, or otherwise provide hearing instruments to any unlicensed hearing care professional for the purpose of selling hearing 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 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.)

(Text of Section after amendment by P.A. 103-495)

(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 or display a sign, advertise, or represent oneself as a person who practices the fitting or selling of hearing aids 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 evaluations for the purpose of dispensing a hearing aid 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 manufacturer may distribute, sell, or otherwise provide hearing aids to any

unlicensed hearing instrument professional for the purpose of selling hearing aids 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 aids ~~aid~~ 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. 103-495, eff. 1-1-24.)

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

(Text of Section before amendment by P.A. 103-495)

(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 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 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 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 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 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 a hearing 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 amplifier and not intended to replace a properly fitted and calibrated hearing 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 instrument to a resident of this State, the organization informs the prospective users that they need 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) 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 hearing instruments is sold or contracted to be sold to a consumer by mail order, the consumer may void the contract or sale by notifying the seller within 45 business days following that day on which the hearing instruments were mailed by the seller to the consumer and by returning to the seller in its original condition any hearing instrument delivered to the consumer under the contract or sale. At the time the hearing 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 instrument with written information stating the name, address, and telephone number of the Department and informing the consumer that complaints regarding hearing instrument goods or services may be made to the Department.

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

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

(Text of Section after amendment by P.A. 103-495)

(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 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 professional 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 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 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 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 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 hearing aid or a prescription hearing aid, 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 and not intended to replace a properly fitted and calibrated hearing aid or treat hearing loss.".

(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 to a resident of this State, the organization informs (i) the parent or guardian of a person age 17 or younger that he or she must obtain a prescription issued by a licensed audiologist or licensed physician that meets the requirements of Section 4.5 or (ii) a person age 18 or older that he or she must obtain a prescription issued by a hearing instrument professional that meets the requirements of Section 4.6.

(f) (Blank).~~÷~~

(g) Where a sale, lease, or rental of prescription hearing aids are 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 were mailed by the seller to the consumer and by returning to the seller in its original condition any hearing aids delivered to the consumer under the contract or sale. At the time the hearing aid 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 with written information stating the name, address, and telephone number of the Department and informing the consumer that complaints regarding hearing aid goods or services may be made to the Department.

(h) The organization employs only licensed hearing instrument professionals in the dispensing of hearing aids and files with the Department, by January 1 of each year, a list of all licensed hearing instrument professionals employed by it.

(Source: P.A. 103-495, eff. 1-1-24.)

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

(Text of Section before amendment by P.A. 103-495)

(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 instruments:

(1) characteristics of sound;

(2) the nature of the ear; and

(3) the function and maintenance of hearing instruments.

(b) Practical tests of proficiency in techniques as they pertain to the fitting of hearing 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 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.)

(Text of Section after amendment by P.A. 103-495)

(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:

(1) characteristics of sound;

(2) the nature of the ear; and

(3) the function and maintenance of hearing aids.

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

(1) pure-tone ~~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 aid ~~aids~~.

(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. 103-495, eff. 1-1-24.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

Section 99. Effective date. This Act takes effect upon becoming law.".