

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

February 26, 2020

Committee on Health & Insurance.

After consideration on the merits, the Committee recommends the following:

HB20-1218 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

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6 230 is repealed, effective September 1, ~~2020~~ 2031.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22 (b) THIS SUBSECTION (32) IS REPEALED, EFFECTIVE SEPTEMBER 1,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**

1 (2)(a)(III) and (2)(e)(III)(B); and **repeal** (2)(c)(I) as follows:

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

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

8 (III) Bears, in no smaller type than the largest used in the body of
9 the receipt, a provision indicating that dispensers who are licensed
10 ~~certified, or registered~~ by the department of regulatory agencies are
11 regulated by the division of professions and occupations in the
12 department of regulatory agencies; AND

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

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

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

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

36 **12-20-408. Judicial review.** (2) A district court of competent
37 jurisdiction has initial jurisdiction to review all final actions and orders
38 of a regulator that are subject to judicial review and shall conduct the
39 judicial review proceedings in accordance with section 24-4-106 (3) for
40 the following:

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

1 (f) Article 210 of this title 12 concerning audiologists. ~~and~~
2 (g) ~~Article 230 of this title 12 concerning hearing aid providers.~~

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

5 **12-230-103. Scope of article - exemption.** (4) Nothing in this
6 article 230 prohibits a business or licensee from

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

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

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

16 **12-230-104. Scope of practice.** (1) The scope of practice for a
17 hearing aid provider includes:

18 (e) Prescribing, selecting, and fitting appropriate hearing
19 instruments and assistive devices, including appropriate technology,
20 electroacoustic targets, programming parameters, and special
21 applications, as indicated, WITH EITHER THE INITIAL TESTING OR THE FIRST
22 FITTING PERFORMED IN-PERSON;

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

25 **12-230-105. Title protection - use of title.** It is unlawful for any
26 person to use the title "hearing aid provider" or "hearing aid dispenser"
27 OR ANY OTHER TITLE THAT IMPLIES THE PERSON IS QUALIFIED AS A
28 HEARING AID PROVIDER unless ~~he or she~~ THE PERSON is licensed as a
29 hearing aid provider pursuant to this article 230.

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

32 **12-230-201. License required - application -**
33 **qualifications.** (1) A hearing aid provider shall obtain a license pursuant
34 to this section before:

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

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

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

41 (a) Have passed ~~the national~~ A competency examination ~~of the~~

1 National Board for Certification in Hearing Instrument Sciences
2 (NBC-HIS), unless the director determines, by rule, that this examination
3 no longer meets the minimum standards necessary for licensure, in which
4 case, only an examination that the applicant passed prior to the date of the
5 ruling will be acceptable AS DETERMINED BY THE DIRECTOR BY RULE; or

6 **SECTION 9.** In Colorado Revised Statutes, **add** 12-230-206 and
7 12-230-207 as follows:

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

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

18 (3) THE DIRECTOR, BY RULE, SHALL DETERMINE THE
19 REQUIREMENTS FOR THE FINANCIAL ASSURANCE REQUIRED BY THIS
20 SECTION.

21 **12-230-207. Continuing education.** EACH LICENSED HEARING AID
22 PROVIDER IN ACTIVE PRACTICE WITHIN THE STATE OF COLORADO SHALL
23 ANNUALLY ATTEND NOT LESS THAN EIGHT HOURS OF CONTINUING
24 EDUCATION ON SUBJECTS RELATED TO THE SCOPE OF PRACTICE SPECIFIED
25 IN SECTION 12-230-104.

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

28 **12-230-401. Grounds for discipline.** (1) The following acts
29 constitute grounds for discipline:

30 (k) Failing to adequately supervise a licensed hearing aid provider
31 apprentice or any employee pursuant to section 12-230-103 ~~(4)(a)~~ (4) or
32 12-230-204 (2);

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

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

38 (r) FAILING TO PRACTICE ACCORDING TO COMMONLY ACCEPTED
39 PROFESSIONAL STANDARDS.

40 (2) ANY DISCIPLINARY ACTION TAKEN BY ANOTHER STATE, A
41 LOCAL JURISDICTION, OR THE FEDERAL GOVERNMENT AGAINST AN

1 APPLICANT OR LICENSEE CONSTITUTES PRIMA FACIE EVIDENCE OF
2 GROUNDS FOR DISCIPLINARY ACTION, INCLUDING DENIAL OF A LICENSE
3 UNDER THIS ARTICLE 230; EXCEPT THAT THIS SUBSECTION (2) APPLIES
4 ONLY TO DISCIPLINE FOR ACTS OR OMISSIONS THAT ARE SUBSTANTIALLY
5 SIMILAR TO THOSE SET OUT AS GROUNDS FOR DISCIPLINARY ACTION UNDER
6 THIS SECTION.

7 **SECTION 11.** In Colorado Revised Statutes, **add** part 5 to article
8 230 of title 12 as follows:

9 **PART 5**
10 **DECEPTIVE TRADE PRACTICES**

11 **12-230-501. Definitions.** AS USED IN THIS PART 5, UNLESS THE
12 CONTEXT OTHERWISE REQUIRES:

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

16 **12-230-502. Dispensing hearing aids - deceptive trade**
17 **practices.** (1) IN ADDITION TO ANY OTHER DECEPTIVE TRADE PRACTICES
18 UNDER SECTION 6-1-105, A DISPENSER ENGAGES IN A DECEPTIVE TRADE
19 PRACTICE WHEN THE DISPENSER:

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

22 (I) BEARS THE BUSINESS ADDRESS OF THE DISPENSER, TOGETHER
23 WITH SPECIFICATIONS AS TO THE MAKE AND SERIAL NUMBER OF THE
24 HEARING AID FURNISHED AND THE FULL TERMS OF THE SALE CLEARLY
25 STATED. IF THE DISPENSER DISPENSES A HEARING AID THAT IS NOT NEW,
26 THE DISPENSER SHALL CLEARLY MARK ON THE HEARING AID CONTAINER
27 AND THE RECEIPT THE TERM "USED" OR "RECONDITIONED", WHICHEVER IS
28 APPLICABLE, WITHIN THE TERMS OF THE GUARANTEE, IF ANY.

29 (II) BEARS, IN NO SMALLER TYPE THAN THE LARGEST USED IN THE
30 BODY OF THE RECEIPT, IN SUBSTANCE, A PROVISION THAT THE BUYER HAS
31 BEEN ADVISED AT THE OUTSET OF THE BUYER'S RELATIONSHIP WITH THE
32 DISPENSER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A
33 DISPENSER IN CONNECTION WITH THE PRACTICE OF DISPENSING, FITTING,
34 OR DEALING IN HEARING AIDS IS NOT AN EXAMINATION, DIAGNOSIS, OR
35 PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS
36 STATE AND, THEREFORE, MUST NOT BE REGARDED AS MEDICAL OPINION OR
37 ADVICE;

38 (III) BEARS, IN NO SMALLER TYPE THAN THE LARGEST USED IN THE
39 BODY OF THE RECEIPT, A PROVISION INDICATING THAT DISPENSERS WHO
40 ARE LICENSED BY THE DEPARTMENT ARE REGULATED BY THE DIVISION;
41 AND

1 (IV) BEARS A PROVISION LABELED "WARRANTY" IN WHICH THE
2 EXACT WARRANTY TERMS AND PERIODS AVAILABLE FROM THE
3 MANUFACTURER ARE DOCUMENTED, OR INCLUDES AN ORIGINAL OR
4 PHOTOCOPY OF THE ORIGINAL MANUFACTURER'S WARRANTY WITH THE
5 RECEIPT;

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

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

13 (d) FAILS TO RECOMMEND IN WRITING, PRIOR TO FITTING OR
14 DISPENSING A HEARING AID, THAT THE BEST INTERESTS OF THE
15 PROSPECTIVE USER WOULD BE SERVED BY CONSULTING A LICENSED
16 PHYSICIAN SPECIALIZING IN DISEASES OF THE EAR, OR ANY LICENSED
17 PHYSICIAN, IF ANY OF THE FOLLOWING CONDITIONS EXIST:

18 (I) VISIBLE CONGENITAL OR TRAUMATIC DEFORMITY OF THE EAR;
19 (II) ACTIVE DRAINAGE OF THE EAR, OR A HISTORY OF DRAINAGE OF
20 THE EAR WITHIN THE PREVIOUS NINETY DAYS;

21 (III) HISTORY OF SUDDEN OR RAPIDLY PROGRESSIVE HEARING
22 LOSS;

23 (IV) ACUTE OR CHRONIC DIZZINESS;

24 (V) UNILATERAL HEARING LOSS OF SUDDEN ONSET WITHIN THE
25 PREVIOUS NINETY DAYS;

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

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

30 (VIII) PAIN OR DISCOMFORT IN THE EAR;

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

33 (I) THE BUYER HAS THE RIGHT TO CANCEL THE PURCHASE FOR ANY
34 REASON BEFORE THE EXPIRATION OF THE RESCISSION PERIOD BY GIVING OR
35 MAILING WRITTEN NOTICE OF CANCELLATION TO THE DISPENSER AND
36 PRESENTING THE HEARING AID TO THE DISPENSER, UNLESS THE HEARING
37 AID HAS BEEN LOST OR SIGNIFICANTLY DAMAGED BEYOND REPAIR WHILE
38 IN THE BUYER'S POSSESSION AND CONTROL. THE RESCISSION PERIOD IS
39 TOLLED FOR ANY PERIOD DURING WHICH A DISPENSER TAKES POSSESSION
40 OR CONTROL OF A HEARING AID AFTER ITS ORIGINAL DELIVERY.

41 (II) THE BUYER, UPON CANCELLATION, IS ENTITLED TO RECEIVE A

1 FULL REFUND OF ANY PAYMENT MADE FOR THE HEARING AID WITHIN
2 THIRTY DAYS AFTER RETURNING THE HEARING AID TO THE DISPENSER,
3 UNLESS THE HEARING AID WAS SIGNIFICANTLY DAMAGED BEYOND REPAIR
4 WHILE IN THE BUYER'S POSSESSION AND CONTROL.

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

10 **THE BUYER HAS THE RIGHT TO CANCEL**
11 **THIS PURCHASE FOR ANY REASON AT ANY**
12 **TIME PRIOR TO 12 MIDNIGHT ON THE [INSERT**
13 **APPLICABLE RESCISSION PERIOD, WHICH MUST BE NO**
14 **SHORTER THAN THIRTY DAYS AFTER RECEIPT OF THE**
15 **HEARING AID] CALENDAR DAY AFTER RECEIPT OF**
16 **THE HEARING AID BY GIVING OR MAILING THE**
17 **DISPENSER WRITTEN NOTICE OF**
18 **CANCELLATION AND BY RETURNING THE**
19 **HEARING AID, UNLESS THE HEARING AID HAS**
20 **BEEN SIGNIFICANTLY DAMAGED BEYOND**
21 **REPAIR WHILE THE HEARING AID WAS IN THE**
22 **BUYER'S CONTROL.**

23 (B) THE WRITTEN CONTRACT OR RECEIPT PROVIDED TO THE BUYER
24 MUST ALSO CONTAIN A STATEMENT, IN PRINT SIZE NO SMALLER THAN
25 TEN-POINT TYPE, THAT THE SALE IS VOID AND UNENFORCEABLE IF THE
26 HEARING AID BEING PURCHASED IS NOT DELIVERED TO THE CONSUMER
27 WITHIN THIRTY DAYS AFTER THE DATE THE WRITTEN CONTRACT IS SIGNED
28 OR THE RECEIPT IS ISSUED, WHICHEVER OCCURS LATER. THE WRITTEN
29 CONTRACT OR RECEIPT MUST ALSO INCLUDE THE DISPENSER'S LICENSE
30 NUMBER, IF THE DISPENSER IS REQUIRED TO BE LICENSED BY THE STATE,
31 AND A STATEMENT THAT THE DISPENSER WILL PROMPTLY REFUND ALL
32 MONEY PAID FOR THE PURCHASE OF THE HEARING AID IF IT IS NOT
33 DELIVERED TO THE CONSUMER WITHIN THE THIRTY-DAY PERIOD. THE
34 BUYER CANNOT WAIVE THIS REQUIREMENT, AND ANY ATTEMPT TO WAIVE
35 IT IS VOID.

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

40 **REFUND REQUEST - THIS FORM MUST BE**
41 **POSTMARKED BY _____ [DATE TO BE FILLED IN].**

1 **NO REFUND WILL BE GIVEN UNTIL THE**
2 **HEARING AID OR HEARING AIDS ARE**
3 **RETURNED TO THE DISPENSER.**

4 A SPACE FOR THE BUYER'S ADDRESS, TELEPHONE NUMBER, AND
5 SIGNATURE MUST BE PROVIDED. THE BUYER IS REQUIRED ONLY TO SIGN,
6 LIST THE BUYER'S CURRENT ADDRESS AND TELEPHONE NUMBER, AND MAIL
7 THE REFUND REQUEST FORM TO THE DISPENSER. IF THE HEARING AID IS
8 SOLD IN THE BUYER'S HOME, THE BUYER MAY REQUIRE THE DISPENSER TO
9 ARRANGE THE RETURN OF THE HEARING AID.

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

17 (I) FALSELY GIVE THE IMPRESSION THAT SERVICE IS BEING
18 PROVIDED BY PERSONS TRAINED IN MEDICINE OR THAT THE DISPENSER'S
19 SERVICE HAS BEEN RECOMMENDED BY THE STATE WHEN THAT IS NOT THE
20 CASE; OR

21 (II) BE FALSE OR MISLEADING;

22 (g) DIRECTLY OR INDIRECTLY:

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

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

36 (h) DISPENSES A HEARING AID TO A PERSON WHO HAS NOT BEEN
37 GIVEN TESTS UTILIZING APPROPRIATE ESTABLISHED PROCEDURES AND
38 INSTRUMENTATION IN THE FITTING OF HEARING AIDS, EXCEPT WHEN
39 SELLING A REPLACEMENT HEARING AID WITHIN ONE YEAR AFTER THE DATE
40 OF THE ORIGINAL PURCHASE;

41 (i) MAKES A FALSE OR MISLEADING STATEMENT OF FACT

1 CONCERNING GOODS OR SERVICES OR THE BUYER'S RIGHT TO CANCEL WITH
2 THE INTENTION OR EFFECT OF DETERRING OR PREVENTING THE BUYER
3 FROM EXERCISING THE BUYER'S RIGHT TO CANCEL, OR REFUSES TO HONOR
4 A BUYER'S REQUEST TO CANCEL A CONTRACT FOR THE PURCHASE OF A
5 HEARING AID, IF THE REQUEST WAS MADE DURING THE RESCISSION PERIOD
6 SET FORTH IN SUBSECTION (1)(e) OF THIS SECTION;

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

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

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

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

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

21 **SECTION 12. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly (August
24 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
25 referendum petition is filed pursuant to section 1 (3) of article V of the
26 state constitution against this act or an item, section, or part of this act
27 within such period, then the act, item, section, or part will not take effect
28 unless approved by the people at the general election to be held in
29 November 2020 and, in such case, will take effect on the date of the
30 official declaration of the vote thereon by the governor."

31 Page 1, line 103, strike the first "THE".

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