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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2038

02/20/2023 Authored by Hemmingsen-Jaeger The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to health; changing provisions for federal compliance for over-the-counter
1.3 hearing aids; amending Minnesota Statutes 2022, sections 148.512, subdivisions
1.4 10a, 10b, by adding subdivisions; 148.513, subdivision 2a; 148.515, subdivision
1.5 6; 148.5175; 148.5195, subdivision 3; 148.5196, subdivision 1; 148.5197; 148.5198;
1.6 153A.13, subdivisions 3, 4, 5, 6, 7, 9, 10, 11, by adding subdivisions; 153A.14,
1.7 subdivisions 1, 2, 2h, 2i, 2j, 4, 4a, 4b, 4c, 4e, 6, 9, 11; 153A.15, subdivisions 1, 2,
1.8 4; 153A.17; 153A.175; 153A.18; 153A.20; repealing Minnesota Statutes 2022,
1.9 section 153A.14, subdivision 5.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. Minnesota Statutes 2022, section 148.512, subdivision 10a, is amended to read:

1.12 Subd. 10a. **Hearing aid.** "Hearing aid" means ~~an instrument~~ a prescribed aid, or any of
1.13 its parts, worn in the ear canal and designed to or represented as being able to aid ~~or enhance~~
1.14 human hearing. "Hearing aid" includes the aid's parts, attachments, or accessories, including,
1.15 but not limited to, ear molds and behind the ear (BTE) devices with or without an ear mold.
1.16 Batteries and cords are not parts, attachments, or accessories of a hearing aid. Surgically
1.17 implanted hearing aids, and assistive listening devices not worn within the ear canal, are
1.18 not hearing aids.

1.19 Sec. 2. Minnesota Statutes 2022, section 148.512, subdivision 10b, is amended to read:

1.20 Subd. 10b. **Hearing aid dispensing.** "Hearing aid dispensing" means making ear mold
1.21 impressions, prescribing, ~~or recommending~~ a hearing aid, assisting the consumer in
1.22 prescription aid selection, ~~selling hearing aids at retail~~, or testing human hearing in connection
1.23 with these activities regardless of whether the person conducting these activities has a

2.1 monetary interest in the dispensing of prescription hearing aids to the consumer. Hearing
2.2 aid dispensing does not include selling over-the-counter hearing aids.

2.3 Sec. 3. Minnesota Statutes 2022, section 148.512, is amended by adding a subdivision to
2.4 read:

2.5 Subd. 10c. **Over-the-counter hearing aid or OTC hearing aid.** "Over-the-counter
2.6 hearing aid" or "OTC hearing aid" means an air-conduction hearing aid that does not require
2.7 implantation or other surgical intervention and is intended for use by a person age 18 or
2.8 older to compensate for perceived mild to moderate hearing impairment. The device, through
2.9 tools, tests, or software, allows the user to control the hearing aid and customize the hearing
2.10 aid to the user's hearing needs. The device may use wireless technology or may include
2.11 tests for self-assessment of hearing loss. The device is available over-the-counter, without
2.12 the supervision, prescription, or other order, involvement, or intervention of a licensed
2.13 person to consumers through in-person transactions, by mail, or online.

2.14 Sec. 4. Minnesota Statutes 2022, section 148.512, is amended by adding a subdivision to
2.15 read:

2.16 Subd. 13a. **Prescription hearing aid.** "Prescription hearing aid" means a hearing aid
2.17 requiring a prescription from a certified hearing aid dispenser or licensed audiologist that
2.18 is not an OTC hearing aid.

2.19 Sec. 5. Minnesota Statutes 2022, section 148.513, subdivision 2a, is amended to read:

2.20 Subd. 2a. **Hearing aid dispensers.** An audiologist must not hold out as a licensed
2.21 prescription hearing aid dispenser.

2.22 Sec. 6. Minnesota Statutes 2022, section 148.515, subdivision 6, is amended to read:

2.23 Subd. 6. **Dispensing audiologist examination requirements.** (a) Audiologists are
2.24 exempt from the written examination requirement in section 153A.14, subdivision 2h,
2.25 paragraph (a), clause (1).

2.26 (b) After July 31, 2005, all applicants for audiologist licensure under sections 148.512
2.27 to 148.5198 must achieve a passing score on the practical tests of proficiency described in
2.28 section 153A.14, subdivision 2h, paragraph (a), clause (2), within the time period described
2.29 in section 153A.14, subdivision 2h, paragraph (c).

2.30 (c) In order to dispense prescription hearing aids as a sole proprietor, member of a
2.31 partnership, or for a limited liability company, corporation, or any other entity organized

3.1 for profit, a licensee who obtained audiologist licensure under sections 148.512 to 148.5198,
3.2 before August 1, 2005, and who is not certified to dispense prescription hearing aids under
3.3 chapter 153A, must achieve a passing score on the practical tests of proficiency described
3.4 in section 153A.14, subdivision 2h, paragraph (a), clause (2), within the time period described
3.5 in section 153A.14, subdivision 2h, paragraph (c). All other audiologist licensees who
3.6 obtained licensure before August 1, 2005, are exempt from the practical tests.

3.7 (d) An applicant for an audiology license who obtains a temporary license under section
3.8 148.5175 may dispense prescription hearing aids only under supervision of a licensed
3.9 audiologist who dispenses prescription hearing aids.

3.10 Sec. 7. Minnesota Statutes 2022, section 148.5175, is amended to read:

3.11 **148.5175 TEMPORARY LICENSURE.**

3.12 (a) The commissioner shall issue temporary licensure as a speech-language pathologist,
3.13 an audiologist, or both, to an applicant who:

3.14 (1) submits a signed and dated affidavit stating that the applicant is not the subject of a
3.15 disciplinary action or past disciplinary action in this or another jurisdiction and is not
3.16 disqualified on the basis of section 148.5195, subdivision 3; and

3.17 (2) either:

3.18 (i) provides a copy of a current credential as a speech-language pathologist, an audiologist,
3.19 or both, held in the District of Columbia or a state or territory of the United States; or

3.20 (ii) provides a copy of a current certificate of clinical competence issued by the American
3.21 Speech-Language-Hearing Association or board certification in audiology by the American
3.22 Board of Audiology.

3.23 (b) A temporary license issued to a person under this subdivision expires 90 days after
3.24 it is issued or on the date the commissioner grants or denies licensure, whichever occurs
3.25 first.

3.26 (c) Upon application, a temporary license shall be renewed twice to a person who is able
3.27 to demonstrate good cause for failure to meet the requirements for licensure within the
3.28 initial temporary licensure period and who is not the subject of a disciplinary action or
3.29 disqualified on the basis of section 148.5195, subdivision 3. Good cause includes but is not
3.30 limited to inability to take and complete the required practical exam for dispensing
3.31 prescription hearing ~~instruments~~ aids.

4.1 (d) Upon application, a temporary license shall be issued to a person who meets the
4.2 requirements of section 148.515, subdivisions 2a and 4, but has not completed the
4.3 requirement in section 148.515, subdivision 6.

4.4 Sec. 8. Minnesota Statutes 2022, section 148.5195, subdivision 3, is amended to read:

4.5 Subd. 3. **Grounds for disciplinary action by commissioner.** The commissioner may
4.6 take any of the disciplinary actions listed in subdivision 4 on proof that the individual has:

4.7 (1) intentionally submitted false or misleading information to the commissioner or the
4.8 advisory council;

4.9 (2) failed, within 30 days, to provide information in response to a written request by the
4.10 commissioner or advisory council;

4.11 (3) performed services of a speech-language pathologist or audiologist in an incompetent
4.12 or negligent manner;

4.13 (4) violated sections 148.511 to 148.5198;

4.14 (5) failed to perform services with reasonable judgment, skill, or safety due to the use
4.15 of alcohol or drugs, or other physical or mental impairment;

4.16 (6) violated any state or federal law, rule, or regulation, and the violation is a felony or
4.17 misdemeanor, an essential element of which is dishonesty, or which relates directly or
4.18 indirectly to the practice of speech-language pathology or audiology. Conviction for violating
4.19 any state or federal law which relates to speech-language pathology or audiology is
4.20 necessarily considered to constitute a violation, except as provided in chapter 364;

4.21 (7) aided or abetted another person in violating any provision of sections 148.511 to
4.22 148.5198;

4.23 (8) been or is being disciplined by another jurisdiction, if any of the grounds for the
4.24 discipline is the same or substantially equivalent to those under sections 148.511 to 148.5198;

4.25 (9) not cooperated with the commissioner or advisory council in an investigation
4.26 conducted according to subdivision 1;

4.27 (10) advertised in a manner that is false or misleading;

4.28 (11) engaged in conduct likely to deceive, defraud, or harm the public; or demonstrated
4.29 a willful or careless disregard for the health, welfare, or safety of a client;

5.1 (12) failed to disclose to the consumer any fee splitting or any promise to pay a portion
5.2 of a fee to any other professional other than a fee for services rendered by the other
5.3 professional to the client;

5.4 (13) engaged in abusive or fraudulent billing practices, including violations of federal
5.5 Medicare and Medicaid laws, Food and Drug Administration regulations, or state medical
5.6 assistance laws;

5.7 (14) obtained money, property, or services from a consumer through the use of undue
5.8 influence, high pressure sales tactics, harassment, duress, deception, or fraud;

5.9 (15) performed services for a client who had no possibility of benefiting from the services;

5.10 (16) failed to refer a client for medical evaluation or to other health care professionals
5.11 when appropriate or when a client indicated symptoms associated with diseases that could
5.12 be medically or surgically treated;

5.13 (17) had the certification required by chapter 153A denied, suspended, or revoked
5.14 according to chapter 153A;

5.15 (18) used the term doctor of audiology, doctor of speech-language pathology, AuD, or
5.16 SLPD without having obtained the degree from an institution accredited by the North Central
5.17 Association of Colleges and Secondary Schools, the Council on Academic Accreditation
5.18 in Audiology and Speech-Language Pathology, the United States Department of Education,
5.19 or an equivalent;

5.20 (19) failed to comply with the requirements of section 148.5192 regarding supervision
5.21 of speech-language pathology assistants; or

5.22 (20) if the individual is an audiologist or certified prescription hearing instrument aid
5.23 dispenser:

5.24 (i) ~~prescribed or otherwise recommended~~ to a consumer or potential consumer the use
5.25 of a prescription hearing instrument aid, unless the prescription from a physician ~~or~~
5.26 ~~recommendation from~~, an audiologist, or a certified dispenser is in writing, is based on an
5.27 audiogram that is delivered to the consumer or potential consumer when the prescription
5.28 ~~or recommendation~~ is made, and bears the following information in all capital letters of
5.29 12-point or larger boldface type: "THIS PRESCRIPTION ~~OR RECOMMENDATION~~
5.30 MAY BE FILLED BY, AND PRESCRIPTION HEARING INSTRUMENTS AIDS MAY
5.31 BE PURCHASED FROM, THE LICENSED AUDIOLOGIST OR CERTIFIED DISPENSER
5.32 OF YOUR CHOICE";

6.1 (ii) failed to give a copy of the audiogram, upon which the prescription or
 6.2 ~~recommendation~~ is based, to the consumer when the consumer requests a copy;

6.3 (iii) failed to provide the consumer rights brochure required by section 148.5197,
 6.4 subdivision 3;

6.5 (iv) failed to comply with restrictions on sales of prescription hearing instruments aids
 6.6 in sections 148.5197, subdivision 3, and 148.5198;

6.7 (v) failed to return a consumer's prescription hearing instrument aid used as a trade-in
 6.8 or for a discount in the price of a new prescription hearing instrument aid when requested
 6.9 by the consumer upon cancellation of the purchase agreement;

6.10 (vi) failed to follow Food and Drug Administration or Federal Trade Commission
 6.11 regulations relating to dispensing prescription hearing instruments aids;

6.12 (vii) failed to dispense a prescription hearing instrument aid in a competent manner or
 6.13 without appropriate training;

6.14 (viii) delegated prescription hearing instrument aid dispensing authority to a person not
 6.15 authorized to dispense a prescription hearing instrument aid under this chapter or chapter
 6.16 153A;

6.17 (ix) failed to comply with the requirements of an employer or supervisor of a prescription
 6.18 hearing instrument aid dispenser trainee;

6.19 (x) violated a state or federal court order or judgment, including a conciliation court
 6.20 judgment, relating to the activities of the individual's prescription hearing instrument aid
 6.21 dispensing; or

6.22 (xi) failed to include on the audiogram the practitioner's printed name, credential type,
 6.23 credential number, signature, and date.

6.24 Sec. 9. Minnesota Statutes 2022, section 148.5196, subdivision 1, is amended to read:

6.25 Subdivision 1. **Membership.** The commissioner shall appoint 12 persons to a
 6.26 Speech-Language Pathologist and Audiologist Advisory Council. The 12 persons must
 6.27 include:

6.28 (1) three public members, as defined in section 214.02. Two of the public members shall
 6.29 be either persons receiving services of a speech-language pathologist or audiologist, or
 6.30 family members of or caregivers to such persons, and at least one of the public members
 6.31 shall be either a hearing instrument aid user or an advocate of one;

7.1 (2) three speech-language pathologists licensed under sections 148.511 to 148.5198,
 7.2 one of whom is currently and has been, for the five years immediately preceding the
 7.3 appointment, engaged in the practice of speech-language pathology in Minnesota and each
 7.4 of whom is employed in a different employment setting including, but not limited to, private
 7.5 practice, hospitals, rehabilitation settings, educational settings, and government agencies;

7.6 (3) one speech-language pathologist licensed under sections 148.511 to 148.5198, who
 7.7 is currently and has been, for the five years immediately preceding the appointment,
 7.8 employed by a Minnesota public school district or a Minnesota public school district
 7.9 consortium that is authorized by Minnesota Statutes and who is licensed in speech-language
 7.10 pathology by the Professional Educator Licensing and Standards Board;

7.11 (4) three audiologists licensed under sections 148.511 to 148.5198, two of whom are
 7.12 currently and have been, for the five years immediately preceding the appointment, engaged
 7.13 in the practice of audiology and the dispensing of prescription hearing instruments aids in
 7.14 Minnesota and each of whom is employed in a different employment setting including, but
 7.15 not limited to, private practice, hospitals, rehabilitation settings, educational settings, industry,
 7.16 and government agencies;

7.17 (5) one nonaudiologist prescription hearing instrument aid dispenser recommended by
 7.18 a professional association representing prescription hearing instrument aid dispensers; and

7.19 (6) one physician licensed under chapter 147 and certified by the American Board of
 7.20 Otolaryngology, Head and Neck Surgery.

7.21 Sec. 10. Minnesota Statutes 2022, section 148.5197, is amended to read:

7.22 **148.5197 HEARING AID DISPENSING.**

7.23 Subdivision 1. **Content of contracts.** Oral statements made by an audiologist or certified
 7.24 dispenser regarding the provision of warranties, refunds, and service on the prescription
 7.25 hearing aid or aids dispensed must be written on, and become part of, the contract of sale,
 7.26 specify the item or items covered, and indicate the person or business entity obligated to
 7.27 provide the warranty, refund, or service.

7.28 Subd. 2. **Required use of license number.** The audiologist's license number or certified
 7.29 dispenser's certificate number must appear on all contracts, bills of sale, and receipts used
 7.30 in the sale of prescription hearing aids.

7.31 Subd. 3. **Consumer rights information.** An audiologist or certified dispenser shall, at
 7.32 the time of the ~~recommendation~~ or prescription, give a consumer rights brochure, prepared
 7.33 by the commissioner and containing information about legal requirements pertaining to

8.1 dispensing of prescription hearing aids, to each potential consumer of a prescription hearing
8.2 aid. The brochure must contain information about the consumer information center described
8.3 in section 153A.18. A contract for a prescription hearing aid must note the receipt of the
8.4 brochure by the consumer, along with the consumer's signature or initials.

8.5 Subd. 4. **Liability for contracts.** Owners of entities in the business of dispensing
8.6 prescription hearing aids, employers of audiologists or persons who dispense prescription
8.7 hearing aids, supervisors of trainees or audiology students, and prescription hearing aid
8.8 dispensers conducting the transaction at issue are liable for satisfying all terms of contracts,
8.9 written or oral, made by their agents, employees, assignees, affiliates, or trainees, including
8.10 terms relating to products, repairs, warranties, service, and refunds. The commissioner may
8.11 enforce the terms of prescription hearing aid contracts against the principal, employer,
8.12 supervisor, or dispenser who conducted the transaction and may impose any remedy provided
8.13 for in this chapter.

8.14 Sec. 11. Minnesota Statutes 2022, section 148.5198, is amended to read:

8.15 **148.5198 RESTRICTION ON SALE OF PRESCRIPTION HEARING AIDS.**

8.16 Subdivision 1. **45-calendar-day guarantee and buyer right to cancel.** (a) An audiologist
8.17 or certified dispenser dispensing a prescription hearing aid in this state must comply with
8.18 paragraphs (b) and (c).

8.19 (b) The audiologist or certified dispenser must provide the buyer with a 45-calendar-day
8.20 written money-back guarantee. The guarantee must permit the buyer to cancel the purchase
8.21 for any reason within 45 calendar days after receiving the prescription hearing aid by giving
8.22 or mailing written notice of cancellation to the audiologist or certified dispenser. If the buyer
8.23 mails the notice of cancellation, the 45-calendar-day period is counted using the postmark
8.24 date, to the date of receipt by the audiologist or certified dispenser. If the prescription hearing
8.25 aid must be repaired, remade, or adjusted during the 45-calendar-day money-back guarantee
8.26 period, the running of the 45-calendar-day period is suspended one day for each 24-hour
8.27 period that the prescription hearing aid is not in the buyer's possession. A repaired, remade,
8.28 or adjusted prescription hearing aid must be claimed by the buyer within three business
8.29 days after notification of availability, after which time the running of the 45-calendar-day
8.30 period resumes. The guarantee must entitle the buyer, upon cancellation, to receive a refund
8.31 of payment within 30 days of return of the prescription hearing aid to the audiologist or
8.32 certified dispenser. The audiologist or certified dispenser may retain as a cancellation fee
8.33 no more than \$250 of the buyer's total purchase price of the prescription hearing aid.

9.1 (c) The audiologist or certified dispenser shall provide the buyer with a contract written
9.2 in plain English, that contains uniform language and provisions that meet the requirements
9.3 under the Plain Language Contract Act, sections 325G.29 to 325G.36. The contract must
9.4 include, but is not limited to, the following: in immediate proximity to the space reserved
9.5 for the signature of the buyer, or on the first page if there is no space reserved for the
9.6 signature of the buyer, a clear and conspicuous disclosure of the following specific statement
9.7 in all capital letters of no less than 12-point boldface type: "MINNESOTA STATE LAW
9.8 GIVES THE BUYER THE RIGHT TO CANCEL THIS PURCHASE FOR ANY REASON
9.9 AT ANY TIME PRIOR TO MIDNIGHT OF THE 45TH CALENDAR DAY AFTER
9.10 RECEIPT OF THE PRESCRIPTION HEARING AID(S). THIS CANCELLATION MUST
9.11 BE IN WRITING AND MUST BE GIVEN OR MAILED TO THE AUDIOLOGIST OR
9.12 CERTIFIED DISPENSER. IF THE BUYER DECIDES TO RETURN THE PRESCRIPTION
9.13 HEARING AID(S) WITHIN THIS 45-CALENDAR-DAY PERIOD, THE BUYER WILL
9.14 RECEIVE A REFUND OF THE TOTAL PURCHASE PRICE OF THE AID(S) FROM
9.15 WHICH THE AUDIOLOGIST OR CERTIFIED DISPENSER MAY RETAIN AS A
9.16 CANCELLATION FEE NO MORE THAN \$250."

9.17 Subd. 2. **Itemized repair bill.** Any audiologist, certified dispenser, or company who
9.18 agrees to repair a prescription hearing aid must provide the owner of the prescription hearing
9.19 aid, or the owner's representative, with a bill that describes the repair and services rendered.
9.20 The bill must also include the repairing audiologist's, certified dispenser's, or company's
9.21 name, address, and telephone number.

9.22 This subdivision does not apply to an audiologist, certified dispenser, or company that
9.23 repairs a prescription hearing aid pursuant to an express warranty covering the entire
9.24 prescription hearing aid and the warranty covers the entire cost, both parts and labor, of the
9.25 repair.

9.26 Subd. 3. **Repair warranty.** Any guarantee of prescription hearing aid repairs must be
9.27 in writing and delivered to the owner of the prescription hearing aid, or the owner's
9.28 representative, stating the repairing audiologist's, certified dispenser's, or company's name,
9.29 address, telephone number, length of guarantee, model, and serial number of the prescription
9.30 hearing aid and all other terms and conditions of the guarantee.

9.31 Subd. 4. **Misdemeanor.** A person found to have violated this section is guilty of a
9.32 misdemeanor.

10.1 Subd. 5. **Additional.** In addition to the penalty provided in subdivision 4, a person found
 10.2 to have violated this section is subject to the penalties and remedies provided in section
 10.3 325F.69, subdivision 1.

10.4 Subd. 6. **Estimates.** Upon the request of the owner of a prescription hearing aid or the
 10.5 owner's representative for a written estimate and prior to the commencement of repairs, a
 10.6 repairing audiologist, certified dispenser, or company shall provide the customer with a
 10.7 written estimate of the price of repairs. If a repairing audiologist, certified dispenser, or
 10.8 company provides a written estimate of the price of repairs, it must not charge more than
 10.9 the total price stated in the estimate for the repairs. If the repairing audiologist, certified
 10.10 dispenser, or company after commencing repairs determines that additional work is necessary
 10.11 to accomplish repairs that are the subject of a written estimate and if the repairing audiologist,
 10.12 certified dispenser, or company did not unreasonably fail to disclose the possible need for
 10.13 the additional work when the estimate was made, the repairing audiologist, certified
 10.14 dispenser, or company may charge more than the estimate for the repairs if the repairing
 10.15 audiologist, certified dispenser, or company immediately provides the owner or owner's
 10.16 representative a revised written estimate pursuant to this section and receives authorization
 10.17 to continue with the repairs. If continuation of the repairs is not authorized, the repairing
 10.18 audiologist, certified dispenser, or company shall return the prescription hearing aid as close
 10.19 as possible to its former condition and shall release the prescription hearing aid to the owner
 10.20 or owner's representative upon payment of charges for repairs actually performed and not
 10.21 in excess of the original estimate.

10.22 Sec. 12. Minnesota Statutes 2022, section 153A.13, subdivision 3, is amended to read:

10.23 Subd. 3. **Hearing instrument aid.** "Hearing instrument aid" means an instrument, ~~or~~
 10.24 ~~any of its parts, worn in the ear canal and designed to or represented as being able to aid or~~
 10.25 ~~enhance human hearing. "Hearing instrument" includes the instrument's parts, attachments,~~
 10.26 ~~or accessories, including, but not limited to, ear molds and behind the ear (BTE) devices~~
 10.27 ~~with or without an ear mold. Batteries and cords are not parts, attachments, or accessories~~
 10.28 ~~of a hearing instrument. Surgically implanted hearing instruments, and assistive listening~~
 10.29 ~~devices not worn within the ear canal, are not hearing instruments. as defined in section~~
 10.30 148.512, subdivision 10a.

10.31 Sec. 13. Minnesota Statutes 2022, section 153A.13, subdivision 4, is amended to read:

10.32 Subd. 4. **Hearing instrument aid dispensing.** "Hearing instrument aid dispensing"
 10.33 ~~means making ear mold impressions, prescribing, or recommending a hearing instrument,~~

11.1 ~~assisting the consumer in instrument selection, selling hearing instruments at retail, or testing~~
 11.2 ~~human hearing in connection with these activities regardless of whether the person conducting~~
 11.3 ~~these activities has a monetary interest in the sale of hearing instruments to the consumer.~~
 11.4 has the meaning given in section 148.512, subdivision 10b.

11.5 Sec. 14. Minnesota Statutes 2022, section 153A.13, subdivision 5, is amended to read:

11.6 Subd. 5. **Dispenser of prescription hearing instruments aids.** "Dispenser of prescription
 11.7 hearing instruments aids" means a natural person who engages in prescription hearing
 11.8 instrument aid dispensing, whether or not certified by the commissioner of health or licensed
 11.9 by an existing health-related board, except that a person described as follows is not a
 11.10 dispenser of prescription hearing instruments aids:

11.11 (1) a student participating in supervised field work that is necessary to meet requirements
 11.12 of an accredited educational program if the student is designated by a title which clearly
 11.13 indicates the student's status as a student trainee; or

11.14 (2) a person who helps a dispenser of prescription hearing instruments aids in an
 11.15 administrative or clerical manner and does not engage in prescription hearing instrument
 11.16 aid dispensing.

11.17 A person who offers to dispense a prescription hearing instrument aid, or a person who
 11.18 advertises, holds out to the public, or otherwise represents that the person is authorized to
 11.19 dispense prescription hearing instruments aids, must be certified by the commissioner except
 11.20 when the person is an audiologist as defined in section 148.512.

11.21 Sec. 15. Minnesota Statutes 2022, section 153A.13, subdivision 6, is amended to read:

11.22 Subd. 6. **Advisory council.** "Advisory council" means the Minnesota Prescription
 11.23 Hearing Instrument Aid Dispenser Advisory Council, or a committee of ~~it~~ the council,
 11.24 established under section 153A.20.

11.25 Sec. 16. Minnesota Statutes 2022, section 153A.13, subdivision 7, is amended to read:

11.26 Subd. 7. **ANSI.** "ANSI" means ~~ANSI S3.6-1989~~, American National Standard
 11.27 Specification for Audiometers ~~from the American National Standards Institute. This~~
 11.28 ~~document is available through the Minitex interlibrary loan system~~ as defined in the United
 11.29 States Food and Drug Administration, Code of Federal Regulations, title 21, section
 11.30 874.1050.

12.1 Sec. 17. Minnesota Statutes 2022, section 153A.13, subdivision 9, is amended to read:

12.2 Subd. 9. **Supervision.** "Supervision" means monitoring activities of, and accepting
12.3 responsibility for, the prescription hearing instrument aid dispensing activities of a trainee.

12.4 Sec. 18. Minnesota Statutes 2022, section 153A.13, subdivision 10, is amended to read:

12.5 Subd. 10. **Direct supervision or directly supervised.** "Direct supervision" or "directly
12.6 supervised" means the on-site and contemporaneous location of a supervisor and trainee,
12.7 when the supervisor observes the trainee engaging in prescription hearing instrument aid
12.8 dispensing with a consumer.

12.9 Sec. 19. Minnesota Statutes 2022, section 153A.13, subdivision 11, is amended to read:

12.10 Subd. 11. **Indirect supervision or indirectly supervised.** "Indirect supervision" or
12.11 "indirectly supervised" means the remote and independent performance of prescription
12.12 hearing instrument aid dispensing by a trainee when authorized under section 153A.14,
12.13 subdivision 4a, paragraph (b).

12.14 Sec. 20. Minnesota Statutes 2022, section 153A.13, is amended by adding a subdivision
12.15 to read:

12.16 Subd. 12. **Over-the-counter hearing aid or OTC hearing aid.** "Over-the-counter
12.17 hearing aid" or "OTC hearing aid" has the meaning given in section 148.512, subdivision
12.18 10c.

12.19 Sec. 21. Minnesota Statutes 2022, section 153A.13, is amended by adding a subdivision
12.20 to read:

12.21 Subd. 13. **Prescription hearing aid.** "Prescription hearing aid" has the meaning given
12.22 in section 148.512, subdivision 13a.

12.23 Sec. 22. Minnesota Statutes 2022, section 153A.14, subdivision 1, is amended to read:

12.24 Subdivision 1. **Application for certificate.** An applicant must:

12.25 (1) be 21 years of age or older;

12.26 (2) apply to the commissioner for a certificate to dispense prescription hearing instruments
12.27 aids on application forms provided by the commissioner;

13.1 (3) at a minimum, provide the applicant's name, Social Security number, business address
13.2 and phone number, employer, and information about the applicant's education, training,
13.3 and experience in testing human hearing and fitting prescription hearing instruments aids;

13.4 (4) include with the application a statement that the statements in the application are
13.5 true and correct to the best of the applicant's knowledge and belief;

13.6 (5) include with the application a written and signed authorization that authorizes the
13.7 commissioner to make inquiries to appropriate regulatory agencies in this or any other state
13.8 where the applicant has sold prescription hearing instruments aids;

13.9 (6) submit certification to the commissioner that the applicant's audiometric equipment
13.10 has been calibrated to meet current ANSI standards within 12 months of the date of the
13.11 application;

13.12 (7) submit evidence of continuing education credits, if required;

13.13 (8) submit all fees as required under section 153A.17; and

13.14 (9) consent to a fingerprint-based criminal history records check required under section
13.15 144.0572, pay all required fees, and cooperate with all requests for information. An applicant
13.16 must complete a new criminal background check if more than one year has elapsed since
13.17 the applicant last applied for a license.

13.18 Sec. 23. Minnesota Statutes 2022, section 153A.14, subdivision 2, is amended to read:

13.19 Subd. 2. **Issuance of certificate.** (a) The commissioner shall issue a certificate to each
13.20 dispenser of prescription hearing instruments aids who applies under subdivision 1 if the
13.21 commissioner determines that the applicant is in compliance with this chapter, has passed
13.22 an examination administered by the commissioner, has met the continuing education
13.23 requirements, if required, and has paid the fee set by the commissioner. The commissioner
13.24 may reject or deny an application for a certificate if there is evidence of a violation or failure
13.25 to comply with this chapter.

13.26 (b) The commissioner shall not issue a certificate to an applicant who refuses to consent
13.27 to a criminal history background check as required by section 144.0572 within 90 days after
13.28 submission of an application or fails to submit fingerprints to the Department of Human
13.29 Services. Any fees paid by the applicant to the Department of Health shall be forfeited if
13.30 the applicant refuses to consent to the background study.

14.1 Sec. 24. Minnesota Statutes 2022, section 153A.14, subdivision 2h, is amended to read:

14.2 Subd. 2h. **Certification by examination.** An applicant must achieve a passing score,
14.3 as determined by the commissioner, on an examination according to paragraphs (a) to (c).

14.4 (a) The examination must include, but is not limited to:

14.5 (1) A written examination approved by the commissioner covering the following areas
14.6 as they pertain to prescription hearing instrument aid selling:

14.7 (i) basic physics of sound;

14.8 (ii) the anatomy and physiology of the ear;

14.9 (iii) the function of prescription hearing instruments aids; and

14.10 (iv) the principles of prescription hearing instrument aid selection.

14.11 (2) Practical tests of proficiency in the following techniques as they pertain to prescription
14.12 hearing instrument aid selling:

14.13 (i) pure tone audiometry, including air conduction testing and bone conduction testing;

14.14 (ii) live voice or recorded voice speech audiometry including speech recognition
14.15 (discrimination) testing, most comfortable loudness level, and uncomfortable loudness
14.16 measurements of tolerance thresholds;

14.17 (iii) masking when indicated;

14.18 (iv) recording and evaluation of audiograms and speech audiometry to determine proper
14.19 selection and fitting of a prescription hearing instrument aid;

14.20 (v) taking ear mold impressions;

14.21 (vi) using an otoscope for the visual observation of the entire ear canal; and

14.22 (vii) state and federal laws, rules, and regulations.

14.23 (b) The practical examination shall be administered by the commissioner at least twice
14.24 a year.

14.25 (c) An applicant must achieve a passing score on all portions of the examination within
14.26 a two-year period. An applicant who does not achieve a passing score on all portions of the
14.27 examination within a two-year period must retake the entire examination and achieve a
14.28 passing score on each portion of the examination. An applicant who does not apply for
14.29 certification within one year of successful completion of the examination must retake the
14.30 examination and achieve a passing score on each portion of the examination. An applicant

15.1 may not take any part of the practical examination more than three times in a two-year
15.2 period.

15.3 Sec. 25. Minnesota Statutes 2022, section 153A.14, subdivision 2i, is amended to read:

15.4 Subd. 2i. **Continuing education requirement.** On forms provided by the commissioner,
15.5 each certified dispenser must submit with the application for renewal of certification evidence
15.6 of completion of ten course hours of continuing education earned within the 12-month
15.7 period of November 1 to October 31, between the effective and expiration dates of
15.8 certification. Continuing education courses must be directly related to prescription hearing
15.9 ~~instrument~~ aid dispensing and approved by the International Hearing Society, the American
15.10 Speech-Language-Hearing Association, or the American Academy of Audiology. Evidence
15.11 of completion of the ten course hours of continuing education must be submitted by
15.12 December 1 of each year. This requirement does not apply to dispensers certified for less
15.13 than one year.

15.14 Sec. 26. Minnesota Statutes 2022, section 153A.14, subdivision 2j, is amended to read:

15.15 Subd. 2j. **Required use of certification number.** The certification holder must use the
15.16 certification number on all contracts, bills of sale, and receipts used in the sale of prescription
15.17 hearing instruments aids.

15.18 Sec. 27. Minnesota Statutes 2022, section 153A.14, subdivision 4, is amended to read:

15.19 Subd. 4. **Dispensing of prescription hearing instruments aids without**
15.20 **certificate.** Except as provided in subdivisions 4a and 4c, and in sections 148.512 to
15.21 148.5198, it is unlawful for any person not holding a valid certificate to dispense a
15.22 prescription hearing instrument aid as defined in section 153A.13, subdivision 3. A person
15.23 who dispenses a prescription hearing instrument aid without the certificate required by this
15.24 section is guilty of a gross misdemeanor.

15.25 Sec. 28. Minnesota Statutes 2022, section 153A.14, subdivision 4a, is amended to read:

15.26 Subd. 4a. **Trainees.** (a) A person who is not certified under this section may dispense
15.27 prescription hearing instruments aids as a trainee for a period not to exceed 12 months if
15.28 the person:

15.29 (1) submits an application on forms provided by the commissioner;

15.30 (2) is under the supervision of a certified dispenser meeting the requirements of this
15.31 subdivision;

16.1 (3) meets all requirements for certification except passage of the examination required
16.2 by this section; and

16.3 (4) uses the title "dispenser trainee" in contacts with the patients, clients, or consumers.

16.4 (b) A certified prescription hearing instrument aid dispenser may not supervise more
16.5 than two trainees at the same time and may not directly supervise more than one trainee at
16.6 a time. The certified dispenser is responsible for all actions or omissions of a trainee in
16.7 connection with the dispensing of prescription hearing instruments aids. A certified dispenser
16.8 may not supervise a trainee if there are any commissioner, court, or other orders, currently
16.9 in effect or issued within the last five years, that were issued with respect to an action or
16.10 omission of a certified dispenser or a trainee under the certified dispenser's supervision.

16.11 Until taking and passing the practical examination testing the techniques described in
16.12 subdivision 2h, paragraph (a), clause (2), trainees must be directly supervised in all areas
16.13 described in subdivision 4b, and the activities tested by the practical examination. Thereafter,
16.14 trainees may dispense prescription hearing instruments aids under indirect supervision until
16.15 expiration of the trainee period. Under indirect supervision, the trainee must complete two
16.16 monitored activities a week. Monitored activities may be executed by correspondence,
16.17 telephone, or other telephonic devices, and include, but are not limited to, evaluation of
16.18 audiograms, written reports, and contracts. The time spent in supervision must be recorded
16.19 and the record retained by the supervisor.

16.20 Sec. 29. Minnesota Statutes 2022, section 153A.14, subdivision 4b, is amended to read:

16.21 Subd. 4b. **Prescription hearing testing protocol**. A dispenser when conducting a hearing
16.22 test for the purpose of prescription hearing instrument aid dispensing must:

16.23 (1) comply with the United States Food and Drug Administration warning regarding
16.24 potential medical conditions required by Code of Federal Regulations, title 21, section
16.25 ~~801.420~~ 801.422;

16.26 (2) complete a case history of the client's hearing;

16.27 (3) inspect the client's ears with an otoscope; and

16.28 (4) conduct the following tests on both ears of the client and document the results, and
16.29 if for any reason one of the following tests cannot be performed pursuant to the United
16.30 States Food and Drug Administration guidelines, an audiologist shall evaluate the hearing
16.31 and the need for a prescription hearing instrument aid:

17.1 (i) air conduction at 250, 500, 1,000, 2,000, 4,000, and 8,000 Hertz. When a difference
 17.2 of 20 dB or more occurs between adjacent octave frequencies the interoctave frequency
 17.3 must be tested;

17.4 (ii) bone conduction at 500, 1,000, 2,000, and 4,000 Hertz for any frequency where the
 17.5 air conduction threshold is greater than 15 dB HL;

17.6 (iii) monaural word recognition (discrimination), with a minimum of 25 words presented
 17.7 for each ear; and

17.8 (iv) loudness discomfort level, monaural, for setting a prescription hearing instrument's
 17.9 aid's maximum power output; and

17.10 (5) include masking in all tests whenever necessary to ensure accurate results.

17.11 Sec. 30. Minnesota Statutes 2022, section 153A.14, subdivision 4c, is amended to read:

17.12 Subd. 4c. **Reciprocity.** (a) A person who has dispensed prescription hearing instruments
 17.13 aids in another jurisdiction may dispense prescription hearing instruments aids as a trainee
 17.14 under indirect supervision if the person:

17.15 (1) satisfies the provisions of subdivision 4a, paragraph (a);

17.16 (2) submits a signed and dated affidavit stating that the applicant is not the subject of a
 17.17 disciplinary action or past disciplinary action in this or another jurisdiction and is not
 17.18 disqualified on the basis of section 153A.15, subdivision 1; and

17.19 (3) provides a copy of a current credential as a prescription hearing instrument aid
 17.20 dispenser held in the District of Columbia or a state or territory of the United States.

17.21 (b) A person becoming a trainee under this subdivision who fails to take and pass the
 17.22 practical examination described in subdivision 2h, paragraph (a), clause (2), when next
 17.23 offered must cease dispensing prescription hearing instruments aids unless under direct
 17.24 supervision.

17.25 Sec. 31. Minnesota Statutes 2022, section 153A.14, subdivision 4e, is amended to read:

17.26 Subd. 4e. **Prescription hearing aids; enforcement.** Costs incurred by the Minnesota
 17.27 Department of Health for conducting investigations of unlicensed prescription hearing aid
 17.28 dispensers dispensing shall be apportioned between all licensed or credentialed professions
 17.29 that dispense prescription hearing aids.

18.1 Sec. 32. Minnesota Statutes 2022, section 153A.14, subdivision 6, is amended to read:

18.2 Subd. 6. **Prescription hearing instruments aids to comply with federal and state**
18.3 **requirements.** The commissioner shall ensure that prescription hearing instruments aids
18.4 are dispensed in compliance with state requirements and the requirements of the United
18.5 States Food and Drug Administration. Failure to comply with state or federal regulations
18.6 may be grounds for enforcement actions under section 153A.15, subdivision 2.

18.7 Sec. 33. Minnesota Statutes 2022, section 153A.14, subdivision 9, is amended to read:

18.8 Subd. 9. **Consumer rights.** A prescription hearing instrument aid dispenser shall comply
18.9 with the requirements of sections 148.5195, subdivision 3, clause (20); 148.5197; and
18.10 148.5198.

18.11 Sec. 34. Minnesota Statutes 2022, section 153A.14, subdivision 11, is amended to read:

18.12 Subd. 11. **Requirement to maintain current information.** A dispenser must notify the
18.13 commissioner in writing within 30 days of the occurrence of any of the following:

18.14 (1) a change of name, address, home or business telephone number, or business name;

18.15 (2) the occurrence of conduct prohibited by section 153A.15;

18.16 (3) a settlement, conciliation court judgment, or award based on negligence, intentional
18.17 acts, or contractual violations committed in the dispensing of prescription hearing instruments
18.18 aids by the dispenser; and

18.19 (4) the cessation of prescription hearing instrument aid dispensing activities as an
18.20 individual or a business.

18.21 Sec. 35. Minnesota Statutes 2022, section 153A.15, subdivision 1, is amended to read:

18.22 Subdivision 1. **Prohibited acts.** The commissioner may take enforcement action as
18.23 provided under subdivision 2 against a dispenser of prescription hearing instruments aids
18.24 for the following acts and conduct:

18.25 (1) dispensing a prescription hearing instrument aid to a minor person 18 years or younger
18.26 unless evaluated by an audiologist for hearing evaluation and prescription hearing aid
18.27 evaluation;

18.28 (2) being disciplined through a revocation, suspension, restriction, or limitation by
18.29 another state for conduct subject to action under this chapter;

18.30 (3) presenting advertising that is false or misleading;

19.1 (4) providing the commissioner with false or misleading statements of credentials,
19.2 training, or experience;

19.3 (5) engaging in conduct likely to deceive, defraud, or harm the public; or demonstrating
19.4 a willful or careless disregard for the health, welfare, or safety of a consumer;

19.5 (6) splitting fees or promising to pay a portion of a fee to any other professional other
19.6 than a fee for services rendered by the other professional to the client;

19.7 (7) engaging in abusive or fraudulent billing practices, including violations of federal
19.8 Medicare and Medicaid laws, Food and Drug Administration regulations, or state medical
19.9 assistance laws;

19.10 (8) obtaining money, property, or services from a consumer through the use of undue
19.11 influence, high pressure sales tactics, harassment, duress, deception, or fraud;

19.12 (9) performing the services of a certified prescription hearing instrument aid dispenser
19.13 in an incompetent or negligent manner;

19.14 (10) failing to comply with the requirements of this chapter as an employer, supervisor,
19.15 or trainee;

19.16 (11) failing to provide information in a timely manner in response to a request by the
19.17 commissioner, commissioner's designee, or the advisory council;

19.18 (12) being convicted within the past five years of violating any laws of the United States,
19.19 or any state or territory of the United States, and the violation is a felony, gross misdemeanor,
19.20 or misdemeanor, an essential element of which relates to prescription hearing instrument
19.21 aid dispensing, except as provided in chapter 364;

19.22 (13) failing to cooperate with the commissioner, the commissioner's designee, or the
19.23 advisory council in any investigation;

19.24 (14) failing to perform prescription hearing instrument aid dispensing with reasonable
19.25 judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental
19.26 impairment;

19.27 (15) failing to fully disclose actions taken against the applicant or the applicant's legal
19.28 authorization to dispense prescription hearing instruments aids in this or another state;

19.29 (16) violating a state or federal court order or judgment, including a conciliation court
19.30 judgment, relating to the activities of the applicant in prescription hearing instrument aid
19.31 dispensing;

20.1 (17) having been or being disciplined by the commissioner of the Department of Health,
 20.2 or other authority, in this or another jurisdiction, if any of the grounds for the discipline are
 20.3 the same or substantially equivalent to those in sections 153A.13 to 153A.18;

20.4 (18) misrepresenting the purpose of hearing tests, or in any way communicating that the
 20.5 hearing test or hearing test protocol required by section 153A.14, subdivision 4b, is a medical
 20.6 evaluation, a diagnostic hearing evaluation conducted by an audiologist, or is other than a
 20.7 test to select a prescription hearing instrument aid, except that the prescription hearing
 20.8 instrument aid dispenser can determine the need for or recommend the consumer obtain a
 20.9 medical evaluation consistent with requirements of the United States Food and Drug
 20.10 Administration;

20.11 (19) violating any of the provisions of sections 148.5195, subdivision 3, clause (20);
 20.12 148.5197; 148.5198; and 153A.13 to 153A.18; and

20.13 (20) aiding or abetting another person in violating any of the provisions of sections
 20.14 148.5195, subdivision 3, clause (20); 148.5197; 148.5198; and 153A.13 to 153A.18.

20.15 Sec. 36. Minnesota Statutes 2022, section 153A.15, subdivision 2, is amended to read:

20.16 Subd. 2. **Enforcement actions.** When the commissioner finds that a dispenser of
 20.17 prescription hearing instruments aids has violated one or more provisions of this chapter,
 20.18 the commissioner may do one or more of the following:

20.19 (1) deny or reject the application for a certificate;

20.20 (2) revoke the certificate;

20.21 (3) suspend the certificate;

20.22 (4) impose, for each violation, a civil penalty that deprives the dispenser of any economic
 20.23 advantage gained by the violation and that reimburses the Department of Health for costs
 20.24 of the investigation and proceeding resulting in disciplinary action, including the amount
 20.25 paid for services of the Office of Administrative Hearings, the amount paid for services of
 20.26 the Office of the Attorney General, attorney fees, court reporters, witnesses, reproduction
 20.27 of records, advisory council members' per diem compensation, department staff time, and
 20.28 expenses incurred by advisory council members and department staff;

20.29 (5) censure or reprimand the dispenser;

20.30 (6) revoke or suspend the right to supervise trainees;

20.31 (7) revoke or suspend the right to be a trainee;

21.1 (8) impose a civil penalty not to exceed \$10,000 for each separate violation; or

21.2 (9) any other action reasonably justified by the individual case.

21.3 Sec. 37. Minnesota Statutes 2022, section 153A.15, subdivision 4, is amended to read:

21.4 Subd. 4. **Penalties.** Except as provided in section 153A.14, subdivision 4, a person
 21.5 violating this chapter is guilty of a misdemeanor. The commissioner may impose an automatic
 21.6 civil penalty equal to one-fourth the renewal fee on each prescription hearing instrument
 21.7 seller aid dispenser who fails to renew the certificate required in section 153A.14 by the
 21.8 renewal deadline.

21.9 Sec. 38. Minnesota Statutes 2022, section 153A.17, is amended to read:

21.10 **153A.17 EXPENSES; FEES.**

21.11 (a) The expenses for administering the certification requirements, including the complaint
 21.12 handling system for prescription hearing aid dispensers in sections 153A.14 and 153A.15,
 21.13 and the Consumer Information Center under section 153A.18, must be paid from initial
 21.14 application and examination fees, renewal fees, penalties, and fines. The commissioner shall
 21.15 only use fees collected under this section for the purposes of administering this chapter.
 21.16 ~~The legislature must not transfer money generated by these fees from the state government~~
 21.17 ~~special revenue fund to the general fund. Surcharges collected by the commissioner of health~~
 21.18 ~~under section 16E.22 are not subject to this paragraph.~~

21.19 (b) The fees are as follows:

21.20 (1) the initial certification application fee is \$772.50;

21.21 (2) the annual renewal certification application fee is \$750;

21.22 (3) the initial examination fee for the practical portion is \$1,200, and \$600 for each time
 21.23 it is taken, thereafter; for individuals meeting the requirements of section 148.515, subdivision
 21.24 2, the fee for the practical portion of the prescription hearing instrument aid dispensing
 21.25 examination is \$600 each time it is taken;

21.26 (4) the trainee application fee is \$230;

21.27 (5) the penalty fee for late submission of a renewal application is \$260; and

21.28 (6) the fee for verification of certification to other jurisdictions or entities is \$25.

21.29 (c) The commissioner may prorate the certification fee for new applicants based on the
 21.30 number of quarters remaining in the annual certification period.

22.1 (d) All fees are nonrefundable. All fees, penalties, and fines received must be deposited
22.2 in the state government special revenue fund.

22.3 (e) Hearing instrument dispensers who were certified before January 1, 2018, shall pay
22.4 a onetime surcharge of \$22.50 to renew their certification when it expires after October 31,
22.5 2020. The surcharge shall cover the commissioner's costs associated with criminal
22.6 background checks.

22.7 Sec. 39. Minnesota Statutes 2022, section 153A.175, is amended to read:

22.8 **153A.175 PENALTY FEES.**

22.9 (a) The penalty fee for holding oneself out as a prescription hearing instrument aid
22.10 dispenser without a current certificate after the credential has expired and before it is renewed
22.11 is one-half the amount of the certificate renewal fee for any part of the first day, plus one-half
22.12 the certificate renewal fee for any part of any subsequent days up to 30 days.

22.13 (b) The penalty fee for applicants who hold themselves out as prescription hearing
22.14 instrument aid dispensers after expiration of the trainee period and before being issued a
22.15 certificate is one-half the amount of the certificate application fee for any part of the first
22.16 day, plus one-half the certificate application fee for any part of any subsequent days up to
22.17 30 days. This paragraph does not apply to applicants not qualifying for a certificate who
22.18 hold themselves out as prescription hearing instrument aid dispensers.

22.19 (c) The penalty fee for practicing prescription hearing instrument aid dispensing and
22.20 failing to submit a continuing education report by the due date with the correct number or
22.21 type of hours in the correct time period is \$200 plus \$200 for each missing clock hour.
22.22 "Missing" means not obtained between the effective and expiration dates of the certificate,
22.23 the one-month period following the certificate expiration date, or the 30 days following
22.24 notice of a penalty fee for failing to report all continuing education hours. The certificate
22.25 holder must obtain the missing number of continuing education hours by the next reporting
22.26 due date.

22.27 (d) Civil penalties and discipline incurred by certificate holders prior to August 1, 2005,
22.28 for conduct described in paragraph (a), (b), or (c) shall be recorded as nondisciplinary penalty
22.29 fees. Payment of a penalty fee does not preclude any disciplinary action reasonably justified
22.30 by the individual case.

23.1 Sec. 40. Minnesota Statutes 2022, section 153A.18, is amended to read:

23.2 **153A.18 CONSUMER INFORMATION CENTER.**

23.3 The commissioner shall establish a Consumer Information Center to assist actual and
 23.4 potential purchasers of prescription hearing aids by providing them with information
 23.5 regarding prescription hearing instrument aid sales. The Consumer Information Center shall
 23.6 disseminate information about consumers' legal rights related to prescription hearing
 23.7 instrument aid sales, provide information relating to complaints about dispensers of
 23.8 prescription hearing instruments aids, and provide information about outreach and advocacy
 23.9 services for consumers of prescription hearing instruments aids. In establishing the center
 23.10 and developing the information, the commissioner shall consult with representatives of
 23.11 prescription hearing instrument aid dispensers, audiologists, physicians, and consumers.

23.12 Sec. 41. Minnesota Statutes 2022, section 153A.20, is amended to read:

23.13 **153A.20 PRESCRIPTION HEARING INSTRUMENT AID DISPENSER**
 23.14 **ADVISORY COUNCIL.**

23.15 Subdivision 1. **Membership.** (a) The commissioner shall appoint seven persons to a
 23.16 Prescription Hearing Instrument Aid Dispenser Advisory Council.

23.17 (b) The seven persons must include:

23.18 (1) three public members, as defined in section 214.02. At least one of the public members
 23.19 shall be a prescription hearing instrument aid user and one of the public members shall be
 23.20 either a prescription hearing instrument aid user or an advocate of one;

23.21 (2) three prescription hearing instrument aid dispensers certified under sections 153A.14
 23.22 to 153A.20, each of whom is currently, and has been for the five years immediately preceding
 23.23 their appointment, engaged in prescription hearing instrument aid dispensing in Minnesota
 23.24 and who represent the occupation of prescription hearing instrument aid dispensing and
 23.25 who are not audiologists; and

23.26 (3) one audiologist licensed as an audiologist under chapter 148 who dispenses
 23.27 prescription hearing instruments aids, recommended by a professional association
 23.28 representing audiologists and speech-language pathologists.

23.29 (c) The factors the commissioner may consider when appointing advisory council
 23.30 members include, but are not limited to, professional affiliation, geographical location, and
 23.31 type of practice.

24.1 (d) No two members of the advisory council shall be employees of, or have binding
24.2 contracts requiring sales exclusively for, the same prescription hearing instrument aid
24.3 manufacturer or the same employer.

24.4 Subd. 2. **Organization.** The advisory council shall be organized and administered
24.5 according to section 15.059. The council may form committees to carry out its duties.

24.6 Subd. 3. **Duties.** At the commissioner's request, the advisory council shall:

24.7 (1) advise the commissioner regarding prescription hearing instrument aid dispenser
24.8 certification standards;

24.9 (2) provide for distribution of information regarding prescription hearing instrument aid
24.10 dispenser certification standards;

24.11 (3) review investigation summaries of competency violations and make recommendations
24.12 to the commissioner as to whether the allegations of incompetency are substantiated; and

24.13 (4) perform other duties as directed by the commissioner.

24.14 Sec. 42. **REPEALER.**

24.15 Minnesota Statutes 2022, section 153A.14, subdivision 5, is repealed.

153A.14 REGULATION.

Subd. 5. **Rulemaking authority.** The commissioner shall adopt rules under chapter 14 to implement this chapter. The rules may include procedures and standards relating to the certification requirement, the scope of authorized practice, fees, supervision required, continuing education, career progression, disciplinary matters, and examination procedures.