# CHAPTER 153A

# HEARING INSTRUMENT DISPENSING



**153A.01** [Repealed, 1988 c 689 art 2 s 269]

**153A.02** [Repealed, 1988 c 689 art 2 s 269]

**153A.03** [Repealed, 1988 c 689 art 2 s 269]

**153A.04** [Repealed, 1988 c 689 art 2 s 269]

**153A.05** [Repealed, 1988 c 689 art 2 s 269]

**153A.06** [Repealed, 1988 c 689 art 2 s 269]

**153A.07** [Repealed, 1988 c 689 art 2 s 269]

**153A.08** [Repealed, 1988 c 689 art 2 s 269]

**153A.09** [Repealed, 1988 c 689 art 2 s 269]

**153A.10** [Repealed, 1988 c 689 art 2 s 269]

**153A.11** [Repealed, 1988 c 689 art 2 s 269]

**153A.12** [Repealed, 1988 c 689 art 2 s 269]

## 153A.13 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 153A.13 to 153A.18.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of the department of health or a designee.

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

Subd. 4. **Hearing instrument dispensing.** "Hearing instrument dispensing" means making ear mold impressions, prescribing, or recommending a hearing instrument, assisting the consumer in instrument selection, selling hearing instruments at retail, or testing human hearing in connection with these activities when the person conducting these activities has a monetary interest in the sale of hearing instruments to the consumer.

Subd. 5. **Dispenser of hearing instruments.** "Dispenser of hearing instruments" means a natural person who engages in hearing instrument dispensing whether or not certified by the commissioner of health or licensed by an existing health–related board, except that any person who helps a dispenser of hearing instruments in an administrative or clerical manner and does not engage in hearing instrument dispensing is not a dispenser of hearing instruments. A person who offers to dispense a hearing instrument, or a person who advertises, holds out to the public, or otherwise represents that the person is authorized to dispense hearing instruments must be certified by the commissioner.

Subd. 6. **Advisory council.** "Advisory council" means the Minnesota hearing instrument dispenser advisory council, or a committee of it, established under section 153A.20.

Subd. 7. **ANSI.** "ANSI" means ANSI S3.6–1989, American National Standard Specification for Audiometers from the American National Standards Institute. This document is available through the Minitex interlibrary loan system.

Subd. 8. **Certification number.** "Certification number" means the number assigned to each certification by the commissioner.

Subd. 9. **Supervision.** "Supervision" means on–site observing and monitoring activities of, and accepting responsibility for, the hearing instrument dispensing activities of a trainee.

**History:** *1988 c 689 art 2 s 55; 1989 c 282 art 2 s 46; 1993 c 201 s 1,2; 1995 c 164 s 24*

## 153A.14 REGULATION.

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

(1) be 18 years of age or older;

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

(3) at a minimum, provide the applicant's name, social security number, business address and phone number, employer, and information about the applicant's education, training, and experience in testing human hearing and fitting hearing instruments;

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

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

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

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

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

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

Subd. 2a. **Exemption from examination requirement.** Persons completing the audiology registration requirements of Minnesota Rules, part 4750.0060, after January 1, 1996, are exempt from the examination requirements of subdivision 2. Minnesota registration or American Speech–Language–Hearing Association certification as an audiologist are not required but may be submitted as evidence qualifying for exemption from the examination if the requirements are completed after January 1, 1996.

Subd. 2b. **Action on applications for certification.** The commissioner shall act on an application for certification according to paragraphs (a) to (c).

(a) The commissioner shall determine if the applicant meets the requirements for certification. The commissioner or advisory council may investigate information provided by an applicant to determine whether the information is accurate and complete.

(b) The commissioner shall notify each applicant of action taken on the application and of the grounds for denying certification if certification is denied.

(c) Applicants denied certification for failure to meet the requirements may make a written request to the commissioner within 30 days of the commissioner's determination to appear before the advisory council and for the advisory council to review the commissioner's decision to deny the applicant's certification. After reviewing the denial, the advisory council shall make a recommendation to the commissioner as to whether the denial should be affirmed.

Subd. 2c. **Reapplication following denial, rejection, revocation, or suspension of certification.** After two years, upon application and evidence that the disqualifying behavior

has ceased, the commissioner may restore or approve certification previously denied, rejected, revoked, or suspended, provided that the applicant has met all conditions and terms of any orders to which the applicant is a subject.

Subd. 2d. **Certification renewal notice.** Certification must be renewed annually. At least 30 days before the deadline for application to renew certification, the commissioner shall mail a renewal notice to the dispenser's last known address. The notice must include a renewal application and notice of fees required for renewal. A dispenser is not relieved from meeting the applicable deadline for renewal on the basis that the dispenser did not receive the renewal notice. In renewing a certificate, a dispenser shall follow the procedures for applying for a certificate specified in subdivision 1.

Subd. 2e. **Renewal requirements.** A certificate must be renewed effective November 1 of each year. To renew a certificate, an applicant must:

(1) annually complete a renewal application on a form provided by the commissioner and submit the annual renewal fee by the deadline;

(2) submit certification to the commissioner that the applicant's audiometric equipment has been calibrated to meet current ANSI standards within 12 months of the date of the application, if the applicant tests hearing;

(3) submit evidence of completion of continuing education requirements, if required; and

(4) submit additional information if requested by the commissioner to clarify information presented in the renewal application. The information must be submitted within 30 days of the commissioner's request.

Subd. 2f. **Late renewals.** The deadline for application to renew certification is October 1 of each year. An application submitted after October 1 and before November 1 shall be a late renewal and must be accompanied by a late fee as required in section 153A.17.

Subd. 2g. **Lapse in certification.** Certification shall lapse if not renewed before November 1 of each year. An applicant whose certification has lapsed less than two years must meet all the requirements of this chapter except the certification by examination requirements of subdivision 2h. The application fees to renew certification following a lapse of less than two years must include the late fee. An applicant whose certification has lapsed for two years or more must meet all the requirements of this chapter except the continuing education requirement of subdivision 2i. Certification application fees of applicants whose certification has lapsed for any amount of time shall not be prorated over the time remaining in the annual certification period.

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

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

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

(i) basic physics of sound;

(ii) the anatomy and physiology of the ear;

(iii) the function of hearing instruments;

(iv) the principles of hearing instrument selection; and

(v) state and federal laws, rules, and regulations.

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

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

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

(iii) masking when indicated;

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

(v) taking ear mold impressions; and

(vi) using an otoscope for the visual observation of the entire ear canal.

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

Subd. 2i. **Continuing education requirement.** On forms provided by the commissioner, each certified dispenser must submit with the application for renewal of certification evidence of completion of ten course hours of continuing education earned within the 12–month period of July 1 to June 30 immediately preceding renewal. Continuing education courses must be directly related to hearing instrument dispensing and approved by the International Hearing Society or qualify for continuing education approved for Minnesota registered audiologists. Evidence of completion of the ten course hours of continuing education must be submitted with renewal applications by October 1 of each year. This requirement does not apply to dispensers certified for less than one year. The first report of evidence of completion of the continuing education credits shall be due October 1, 1997.

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

Subd. 3. **Nontransferability of certificate.** A certificate may not be transferred.

Subd. 4. **Dispensing of hearing instruments without certificate.** Except as provided in subdivision 4a, it is unlawful for any person not holding a valid certificate to dispense a hearing instrument as defined in section 153A.13, subdivision 3. A person who dispenses a hearing instrument without the certificate required by this section is guilty of a gross misdemeanor.

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

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

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

(3) meets all requirements for certification except passage of the examination required by this section.

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

Trainees must be supervised in all areas described in subdivision 4b, and the activities tested by the examination. Two hundred hours of on–site observations must be completed within the trainee period with a minimum of 100 hours involving the supervisor, trainee, and a consumer. In addition, the trainee must complete two monitored activities a week. Monitored activities may be executed by correspondence, telephone, or other telephonic devices, and include, but are not limited to, evaluation of audiograms, written reports, and contracts. The time spent in supervision must be recorded and the record retained by the supervisor.

Subd. 4b. **Hearing testing protocol.** (a) A dispenser when conducting a hearing test for the purpose of hearing instrument dispensing must:

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

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

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

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

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

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

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

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

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

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.

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

Subd. 7. **Contested cases.** The commissioner shall comply with the contested case procedures in chapter 14 when suspending, revoking, or refusing to issue a certificate under this section.

Subd. 8. **Content of contracts.** Oral statements made by a hearing instrument dispenser regarding the provision of warranties, refunds, and service on the hearing instrument or instruments dispensed must be written on, and become part of, the contract of sale, specify the item or items covered, and indicate the person or business entity obligated to provide the warranty, refund, or service.

Subd. 9. **Consumer rights information.** A hearing instrument dispenser shall, at the time of the recommendation or prescription, give a consumer rights brochure, prepared by the commissioner and containing information about legal requirements pertaining to sales of hearing instruments, to each potential buyer of a hearing instrument. A sales contract for a hearing instrument must note the receipt of the brochure by the buyer.

Subd. 10. **Liability for contracts.** Owners of entities in the business of dispensing hearing instruments, employers of persons who dispense hearing instruments, and supervisors of trainees are liable for satisfying all terms of contracts, written or oral, made by their agents, employees, assignees, affiliates, or trainees, including terms relating to products, repairs, warranties, service, and refunds. The commissioner may enforce the terms of hearing instrument sales contracts against the principal, employer, or supervisor of an agent, employee, or trainee and may impose any remedy provided for in this chapter.

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

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

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

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

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

**History:** *1988 c 689 art 2 s 56; 1992 c 464 art 2 s 1; 1993 c 201 s 3; 1995 c 164 s 25*

## 153A.15 PROHIBITED ACTS; ENFORCEMENT; AND PENALTY.

Subdivision 1. **Prohibited acts.** The commissioner may reject an application for a certificate or may act under subdivision 2 against a dispenser of hearing instruments for failure to comply with this chapter. Failure to apply to the commissioner for a certificate, or supplying false or misleading information on the application for a certificate, is a ground for action under subdivision 2. The following acts and conduct are also grounds for action under subdivision 2:

(1) prescribing or otherwise recommending to a consumer or potential consumer the use of a hearing instrument, unless the prescription from a physician or recommendation from a hearing instrument dispenser or audiologist is in writing, is based on an audiogram that is delivered to the consumer or potential consumer when the prescription or recommendation is made, and bears the following information in all capital letters of 12–point or larger boldface type: "THIS PRESCRIPTION OR RECOMMENDATION MAY BE FILLED BY, AND HEARING INSTRUMENTS MAY BE PURCHASED FROM, THE CERTIFIED DISPENSER OF YOUR CHOICE";

(2) failing to give a copy of the audiogram, upon which the prescription or recommendation is based, to the consumer when there has been a charge for the audiogram and the consumer requests a copy;

(3) failing to provide the consumer rights brochure required by section 153A.14, subdivision 9;

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

(5) presenting advertising that is false or misleading;

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

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

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

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

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

(11) failing to comply with restrictions on sales of hearing aids in sections 153A.14, subdivision 9, and 153A.19;

(12) performing the services of a certified hearing instrument dispenser in an incompetent or negligent manner;

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

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

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

(16) failing to cooperate in good faith with the commissioner, the commissioner's designee, or the advisory council in any investigation;

(17) failing to perform hearing instrument dispensing with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment;

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

(19) violating a state or federal court order or judgment, including a conciliation court judgment, relating to the activities of the applicant in hearing instrument dispensing;

(20) having been or being disciplined by the commissioner of the department of health, or other authority, in this or another jurisdiction, if any of the grounds for the discipline are the same or substantially equivalent to those in sections 153A.13 to 153A.19;

(21) misrepresenting the purpose of hearing tests, or in any way communicating that the hearing test or hearing test protocol required by section 153A.14, subdivision 4b, is a medical evaluation, a diagnostic hearing evaluation conducted by an audiologist, or is other than a test to select a hearing instrument, except that the hearing instrument dispenser can deter-

mine the need for or recommend the consumer obtain a medical evaluation consistent with requirements of the United States Food and Drug Administration;

(22) violating any of the provisions of sections 153A.13 to 153A.19; and

(23) aiding or abetting another person in violating any of the provisions of sections 153A.13 to 153A.19.

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

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

(2) revoke the certificate;

(3) suspend the certificate;

(4) impose, for each violation, a civil penalty that deprives the dispenser of any economic advantage gained by the violation and that reimburses the department of health for costs of the investigation and proceeding resulting in disciplinary action, including the amount paid for services of the office of administrative hearings, the amount paid for services of the office of the attorney general, attorney fees, court reporters, witnesses, reproduction of records, advisory council members' per diem compensation, department staff time, and expenses incurred by advisory council members and department staff;

(5) censure or reprimand the dispenser;

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

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

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

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

Subd. 3. **Procedures.** The commissioner shall establish, in writing, internal operating procedures for receiving and investigating complaints and imposing enforcement actions. The written internal operating procedures may include procedures for sharing complaint information with government agencies in this and other states. Establishment of the operating procedures are not subject to rulemaking procedures under chapter 14. Procedures for sharing complaint information must be consistent with the requirements for handling government data under chapter 13.

Subd. 3a. **Discovery.** In all matters relating to the lawful regulation activities under this chapter, the commissioner may issue subpoenas to require the attendance and testimony of witnesses and production of books, records, correspondence, and other information relevant to any matter involved in the investigation. The commissioner or the commissioner's designee may administer oaths to witnesses or take their affirmation. A subpoena may be served upon any person it names anywhere in the state by any person authorized to serve subpoenas or other processes in civil actions of the district courts. If a person to whom a subpoena is issued does not comply with the subpoena, the commissioner may apply to the district court in any district and the court shall order the person to comply with the subpoena. Failure to obey the order of the court may be punished by the court as contempt of court. All information pertaining to individual medical records obtained under this section is health data under section 13.38.

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

**History:** *1988 c 689 art 2 s 57; 1989 c 282 art 2 s 47; 1991 c 202 s 10,11,41; 1992 c 464 art 2 s 1; 1993 c 201 s 4; 1995 c 164 s 26,27*

**153A.16** [Repealed, 1991 c 202 s 42]

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

The expenses for administering the certification requirements including the complaint handling system for hearing aid dispensers in sections 153A.14 and 153A.15 and the consumer information center under section 153A.18 must be paid from initial application and

examination fees, renewal fees, penalties, and fines. All fees are nonrefundable. The certificate application fee is $280, the examination fee is $200, and the trainee application fee is $100, except that the certification application fee for a registered audiologist is $280 minus the audiologist registration fee of $101. In addition, both certification and examination fees are subject to a surcharge of $60 to recover, over a five-year period, the commissioner's accumulated direct expenditures for administering the requirements of this chapter, but not registration of hearing instrument dispensers under section 214.13, before November 1, 1994. The penalty fee for late submission of a renewal application is $70. All fees, penalties, and fines received must be deposited in the state government special revenue fund. The commissioner may prorate the certification fee for new applicants based on the number of quarters remaining in the annual certification period.

**History:** *1988 c 689 art 2 s 59; 1991 c 202 s 12; 1993 c 201 s 5; 1995 c 164 s 28*

## 153A.18 CONSUMER INFORMATION CENTER.

The commissioner shall establish a consumer information center to assist actual and potential purchasers of hearing aids by providing them with information regarding hearing instrument sales. The consumer information center shall disseminate information about consumers' legal rights related to hearing instrument sales, provide information relating to complaints about dispensers of hearing instruments, and provide information about outreach and advocacy services for consumers of hearing instruments. In establishing the center and developing the information, the commissioner shall consult with representatives of hearing instrument dispensers, audiologists, physicians, and consumers.

**History:** *1988 c 689 art 2 s 60; 1995 c 164 s 29*

## 153A.19 HEARING AIDS; RESTRICTIONS ON SALES.

Subdivision 1. [Repealed, 1995 c 164 s 35]

Subd. 2. **30-day guarantee and buyer right to cancel.** No person shall sell a hearing aid in this state unless:

(a) The dispenser provides the buyer with a 30-day written money-back guarantee. The guarantee must permit the buyer to cancel the purchase for any reason within 30 days after receiving the hearing aid by giving or mailing written notice of cancellation to the dispenser. If the hearing aid must be repaired, remade, or adjusted during the 30-day money-back guarantee period, the running of the 30-day period is suspended one day for each 24-hour period that the hearing aid is not in the buyer's possession. A repaired, remade, or adjusted hearing aid must be claimed by the buyer within three working days after notification of availability, after which time the running of the 30-day period resumes. The guarantee must entitle the buyer, upon cancellation, to receive a full refund of payment within 30 days of return of the hearing aid to the dispenser. The dispenser may retain as a cancellation fee ten percent of the buyer's total purchase price of the hearing aid.

(b) The dispenser shall provide the buyer with a contract written in plain English, that contains uniform language and provisions that meet the requirements under the Plain Language Contract Act, sections 325G.29 to 325G.36. The contract must include, but is not limited to, the following: in immediate proximity to the space reserved for the signature of the buyer, or on the first page if there is no space reserved for the signature of the buyer, a clear and conspicuous disclosure of the following specific statement in all capital letters of no less than 12-point boldface type: MINNESOTA STATE LAW GIVES THE BUYER THE RIGHT TO CANCEL THIS PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO MIDNIGHT OF THE 30TH CALENDAR DAY AFTER RECEIPT OF THE HEARING AID(S). THIS CANCELLATION MUST BE IN WRITING AND MUST BE GIVEN OR MAILED TO THE SELLER. IF THE BUYER DECIDES TO RETURN THE HEARING AID(S) WITHIN THIS 30-DAY PERIOD, THE BUYER WILL RECEIVE A REFUND OF $..... (State the dollar amount of refund.)

Subd. 3. **Itemized repair bill.** Any person or company who agrees to repair a hearing aid must provide the owner of the hearing aid, or the owner's representative, with a bill that describes the repair and services rendered. The bill must also include the repairing person's or company's name, address, and phone number.

This subdivision does not apply to a person or company that repairs a hearing aid pursuant to an express warranty covering the entire hearing aid and the warranty covers the entire costs, both parts and labor, of the repair.

Subd. 4. **Repair warranty.** Any guarantee of hearing aid repairs must be in writing and delivered to the owner of the hearing aid, or the owner's representative, stating the repairing person's or company's name, address, telephone number, length of guarantee, model, and serial number of the hearing aid and all other terms and conditions of the guarantee.

Subd. 5. **Misdemeanor.** Any person who is found to have violated this section is guilty of a misdemeanor.

Subd. 6. **Additional.** In addition to the penalties provided in subdivision 5, any person who is found to have violated this section is subject to the penalties and remedies provided in section 325F.69, subdivision 1.

Subd. 7. **Estimates.** Upon the request of the owner of a hearing aid or the owner's representative for a written estimate and prior to the commencement of repairs, a repairing person or company shall provide the customer with a written estimate of the price of repairs. If a repairing person or company provides a written estimate of the price of repairs, it shall not charge more than the total price stated in the estimate for the repairs. If the repairing person or company after commencing repairs determines that additional work is necessary to accomplish repairs that are the subject of a written estimate and if the repairing person or company did not unreasonably fail to disclose the possible need for the additional work when the estimate was made, the repairing person or company may charge more than the estimate for the repairs if the repairing person or company immediately provides the owner or owner's representative a revised written estimate pursuant to this section and receives authorization to continue with the repairs. If continuation of the repairs is not authorized, the repairing person or company shall return the hearing aid as close as possible to its former condition and shall release the hearing aid to the owner or owner's representative upon payment of charges for repairs actually performed and not in excess of the original estimate.

**History:** *1973 c 383 s 1; 1975 c 182 s 1; 1984 c 418 s 1; 1986 c 444; 1987 c 204 s 1; 1988 c 495 s 2,3; 1988 c 689 art 2 s 41–43; 1991 c 202 s 8,41; 1995 c 164 s 30*

## 153A.20 HEARING INSTRUMENT DISPENSER ADVISORY COUNCIL.

Subdivision 1. **Membership.** The commissioner shall appoint nine persons to a hearing instrument dispenser advisory council.

(a) The nine persons must include:

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

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

(3) three audiologists who are certified hearing instrument dispensers, are registered as audiologists under Minnesota Rules, chapter 4750, or if no rules are in effect, audiologists who hold current certificates of clinical competence in audiology from the American Speech–Language–Hearing Association and who represent the occupation of audiology.

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

(c) No two members of the advisory council shall be employees of, or have binding contracts requiring sales exclusively for, the same hearing instrument manufacturer or the same employer.

Subd. 2. **Organization.** The advisory council shall be organized and administered according to section 15.059, except that, notwithstanding any other law to the contrary, the advisory council shall not expire. The council may form committees to carry out its duties.

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

(1) advise the commissioner regarding hearing instrument dispenser certification standards;

(2) advise the commissioner on enforcement of sections 153A.13 to 153A.20;

(3) provide for distribution of information regarding hearing instrument dispenser certification standards;

(4) review applications and make recommendations to the commissioner on granting or denying certification or certification renewal;

(5) review reports of investigations relating to individuals and make recommendations to the commissioner as to whether certification should be denied or disciplinary action taken against the individual; and

(6) perform other duties authorized for advisory councils by chapter 214, or as directed by the commissioner.

**History:** *1995 c 164 s 31*