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HEARING INSTRUMENT SPECIALIST AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: Aaron Osmond

LONG TITLE

General Description:

This bill modifies the requirements for practicing as an audiologist or as a hearing instrument specialist.

Highlighted Provisions:

This bill:

- requires a licensed audiologist or a licensed hearing instrument specialist to inform each patient about the performance of a hearing instrument with a telecoil switch when offering to sell the patient a hearing instrument; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-41-17, as enacted by Laws of Utah 1998, Chapter 249

58-46a-502, as enacted by Laws of Utah 1994, Chapter 28

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **58-41-17** is amended to read:

H.B. 112

58-41-17. Requirements for selling hearing aids.

(1) As used in this section:

(a) "Hearing aid" means [~~any~~] a wearable instrument or device designed or offered for the purpose of aiding or compensating for impaired human hearing [~~and any~~], including its parts, attachments, or accessories [~~thereto~~].

(b) "Hearing aid" does not include [~~any type of~~] a device [~~which~~] that is surgically implanted in the cochlea or under the skin near the ear.

(2) A person licensed under this chapter who offers to sell a hearing aid to a consumer shall inform the consumer about the performance of a hearing aid with a telecoil switch, including increased access to telephones and noninvasive access to assistive listening systems.

[~~(2) Any~~] (3) A person licensed under this chapter who sells a hearing aid to a consumer shall provide a written receipt or written contract to the consumer[~~. The written receipt or contract shall provide the consumer with a 30-day right to cancel the purchase if the consumer finds that the hearing aid does not function adequately for the consumer and to obtain a refund if the consumer returns the hearing aid to the seller in the same condition, ordinary wear and tear excluded, as when purchased~~] that provides the consumer with a 30-day right to cancel the purchase and to obtain a refund if the consumer returns the hearing aid to the seller in the same condition as when purchased, excluding ordinary wear and tear.

(4) The written receipt or contract shall notify the consumer of the 30-day right to cancel in at least [~~10 point type~~] 12-point font.

(5) The 30-day right to cancel shall commence from [~~either~~] the date the hearing aid is originally delivered to the consumer or the date the written receipt or contract is delivered to the consumer, whichever is later.

(6) The 30-day period shall be tolled for any period during which the hearing aid seller, dealer, or fitter has possession or control of the hearing aid after its original delivery.

[~~(3)~~] (7) Upon exercise of the 30-day right to cancel a hearing aid purchase, the seller of the hearing aid is entitled to a cancellation fee equal to the actual cost that will be incurred by the seller in order to return the hearing aid to the manufacturer, provided that the written receipt or contract states the exact amount that will be retained by the seller as a cancellation fee.

Section 2. Section **58-46a-502** is amended to read:

58-46a-502. Additional requirements for practicing as a hearing instrument specialist.

A person engaging in the practice of a hearing instrument specialist shall:

(1) have a regular place or places of business from which the person conducts business as a hearing instrument specialist and the place or places of business shall be represented to a patient and others with whom business is conducted by the street address at which the place of business is located;

(2) include in all advertising or other representation the street address at which the business is located and the telephone number of the business at that street address;

(3) provide as part of each transaction between a licensee and a patient related to testing for hearing loss and selling of a hearing instrument written documentation provided to the patient that includes:

(a) identification of all services and products provided to the patient by the hearing instrument specialist and the charges for each service or product;

(b) a statement whether any hearing instrument provided to a patient is "new," "used," or "reconditioned" and the terms and conditions of any warranty or guarantee that applies to each instrument;

(c) the identity and license number of each hearing instrument specialist or hearing instrument intern who provided services or products to the patient;

[~~(4) provide services or products to a patient only after the patient has been professionally informed with respect to the services, products, and expected results, and informed consent with respect to the provision of such services or products by a licensee and the expected results is obtained from the patient in writing in a form approved by the division in collaboration with the board;~~]

(4) before providing services or products to a patient:

(a) advise the patient regarding services and products offered to the patient, including the expected results of the services and products;

(b) inform each patient who is being offered a hearing instrument about the performance of a hearing instrument with a telecoil switch, including increased access to telephones and noninvasive access to assistive listening systems; and

(c) obtain written informed consent from the patient regarding offered services,

products, and the expected results of the services and products in a form approved by the division in collaboration with the board;

(5) refer all individuals under the age of 18 who seek testing of hearing to a physician or surgeon, osteopathic physician, or audiologist, licensed under the provisions of Title 58, Occupations and Professions, and shall dispense a hearing aid to that individual only on prescription of a physician or surgeon, osteopathic physician, or audiologist;

(6) obtain the patient's informed consent and agreement to purchase the hearing instrument based on that informed consent either by the hearing instrument specialist or the hearing instrument intern, before designating an appropriate hearing instrument; and

(7) if a hearing instrument does not substantially enhance the patient's hearing consistent with the representations of the hearing instrument specialist at the time informed consent was given prior to the sale and fitting of the hearing instrument, provide:

(a) necessary intervention to produce satisfactory hearing recovery results consistent with representations made; or

(b) for the refund of fees paid by the patient for the hearing instrument to the hearing instrument specialist within a reasonable time after finding that the hearing instrument does not substantially enhance the patient's hearing.

Legislative Review Note
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Office of Legislative Research and General Counsel