



974128

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/28/2023	.	
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The Committee on Health Policy (Rodriguez) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 1269 - 1890

and insert:

Section 18. Section 468.1115, Florida Statutes, is amended to read:

468.1115 Exemptions.—

(1) ~~No provision of~~ This part may not ~~shall~~ be construed to limit the practice of persons licensed in this state from engaging in the professions for which they are licensed, so long



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11 as they do not hold themselves out to the public as possessing a  
12 license or certificate issued pursuant to this part or use a  
13 title protected by this part.

14 (2) This part may not be construed to prohibit audiologists  
15 from fitting, selling, dispensing, servicing, marketing,  
16 providing customer support for, or distributing over-the-counter  
17 hearing aids to persons 18 years of age or older.

18 (3) ~~The provisions of~~ This part does ~~shall~~ not apply to:

19 (a) Students actively engaged in a training program, if  
20 such persons are acting under the direct supervision of a  
21 licensed speech-language pathologist or a licensed audiologist.

22 (b) Persons practicing a licensed profession or operating  
23 within the scope of their profession, such as doctors of  
24 medicine, clinical psychologists, nurses, or hearing aid  
25 specialists, who are properly licensed under the laws of this  
26 state.

27 (c) Persons certified in the areas of speech-language  
28 impairment or hearing impairment in this state under chapter  
29 1012 when engaging in the profession for which they are  
30 certified, or any person under the direct supervision of such a  
31 certified person, or of a licensee under this chapter, when the  
32 person under such supervision is performing hearing screenings  
33 in a school setting for prekindergarten through grade 12.

34 (d) Laryngectomized individuals, rendering guidance and  
35 instruction to other laryngectomized individuals, who are under  
36 the supervision of a speech-language pathologist licensed under  
37 this part or of a physician licensed under chapter 458 or  
38 chapter 459 and qualified to perform this surgical procedure.

39 (e) Persons licensed by another state as speech-language



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40 pathologists or audiologists who provide services within the  
41 applicable scope of practice set forth in s. 468.1125(10) or  
42 (11) s. ~~468.1125(6) or (7)~~ for no more than 5 calendar days per  
43 month or 15 calendar days per year under the direct supervision  
44 of a Florida-licensed speech-language pathologist or  
45 audiologist. A person whose state of residence does not license  
46 speech-language pathologists or audiologists may also qualify  
47 for this exemption, if the person holds a certificate of  
48 clinical competence from the American Speech-Language and  
49 Hearing Association and meets all other requirements of this  
50 paragraph. In either case, the board shall hold the supervising  
51 Florida licensee fully accountable for the services provided by  
52 the out-of-state licensee.

53 (f) Nonlicensed persons working in a hospital setting who  
54 provide newborn infant hearing screenings, so long as training,  
55 clinical interpretation of the screenings, and the protocol for  
56 followup of infants who fail in-hospital screenings are provided  
57 by a licensed audiologist.

58 (g) An audiologist while engaged in fitting, selling,  
59 dispensing, servicing, marketing, providing customer support  
60 for, or distributing over-the-counter hearing aids.

61 (h) Any person who fits, sells, dispenses, services,  
62 markets, provides customer support for, or distributes  
63 exclusively over-the-counter hearing aids.

64 Section 19. Section 468.1125, Florida Statutes, is  
65 reordered and amended to read:

66 468.1125 Definitions.—As used in this part, the term:

67 (1) "Air-conduction hearing aid" means a hearing aid that  
68 conducts sound to the ear through the air.



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69           (2) "Audiologist" means a person licensed under this part  
70 to practice audiology.

71           (3)~~(2)~~ "Board" means the Board of Speech-Language Pathology  
72 and Audiology.

73           (4)~~(3)~~ "Certified audiology assistant" means a person who  
74 is certified under this part to perform audiology services under  
75 the direct supervision of an audiologist.

76           (5)~~(4)~~ "Certified speech-language pathology assistant"  
77 means a person who is certified under this part to perform  
78 speech pathology services under the direct supervision of a  
79 speech pathologist.

80           (6)~~(5)~~ "Department" means the Department of Health.

81           (8) "Hearing aid" means any wearable device designed for,  
82 offered for the purpose of, or represented as aiding persons  
83 with, or compensating for, impaired hearing, to be worn by a  
84 hearing-impaired person to improve hearing.

85           (9) "Over-the-counter hearing aid" means an air-conduction  
86 hearing aid that does not require implantation or other surgical  
87 intervention and is intended for use only by a person 18 years  
88 of age or older to compensate for perceived mild to moderate  
89 hearing impairment. The device, through tools, tests, or  
90 software, allows the user to control the hearing aid and  
91 customize it to the user's hearing needs. The device may use  
92 wireless technology or may include tests for self-assessment of  
93 hearing loss. The device is available over-the-counter, without  
94 the supervision, prescription, or other order, involvement, or  
95 intervention of a licensed person, to consumers through in-  
96 person transactions, by mail, or online, provided that the  
97 device satisfies the requirements of 21 C.F.R. parts 800, 801,



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98 and 874 (2022), which are specifically incorporated by reference  
99 herein.

100 (10) (a) ~~(6) (a)~~ "Practice of audiology" means the application  
101 of principles, methods, and procedures for the prevention,  
102 identification, evaluation, consultation, habilitation,  
103 rehabilitation, instruction, treatment, and research, relative  
104 to hearing and the disorders of hearing, and to related language  
105 and speech disorders. "Disorders" are defined to include any and  
106 all conditions, whether of organic or nonorganic origin,  
107 peripheral or central, that impede the normal process of human  
108 communication, including, but not limited to, disorders of  
109 auditory sensitivity, acuity, function, or processing, or damage  
110 to the integrity of the physiological system.

111 (b) Any audiologist who has complied with the provisions of  
112 this part may:

113 1. Offer, render, plan, direct, conduct, consult, or  
114 supervise services to individuals or groups of individuals who  
115 have or are suspected of having disorders of hearing, including  
116 prevention, identification, evaluation, treatment, consultation,  
117 habilitation, rehabilitation, instruction, and research.

118 2. Participate in hearing conservation, evaluation of noise  
119 environment, and noise control.

120 3. Conduct and interpret tests of vestibular function and  
121 nystagmus, electrophysiologic auditory-evoked potentials,  
122 central auditory function, and calibration of measurement  
123 equipment used for such purposes.

124 4. Habilitate and rehabilitate, including, but not limited  
125 to, prescription hearing aid evaluation, prescription,  
126 preparation, fitting and dispensing prescription hearing aids,



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127 assistive listening device selection and orientation, auditory  
128 training, aural habilitation, aural rehabilitation, speech  
129 conservation, and speechreading.

130 5. Fabricate earmolds.

131 6. Evaluate tinnitus.

132 7. Include speech and language screening, limited to a  
133 pass/fail determination for identifying individuals with  
134 disorders of communication.

135 (11) (a) ~~(7) (a)~~ "Practice of speech-language pathology" means  
136 the application of principles, methods, and procedures for the  
137 prevention, identification, evaluation, treatment, consultation,  
138 habilitation, rehabilitation, instruction, and research,  
139 relative to the development and disorders of human  
140 communication; to related oral and pharyngeal competencies; and  
141 to behavior related to disorders of human communication.  
142 "Disorders" are defined to include any and all conditions,  
143 whether of organic or nonorganic origin, that impede the normal  
144 process of human communication, including, but not limited to,  
145 disorders and related disorders of speech, phonology,  
146 articulation, fluency, voice, accent, verbal and written  
147 language and related nonoral/nonverbal forms of language,  
148 cognitive communication, auditory and visual processing, memory  
149 and comprehension, interactive communication, mastication,  
150 deglutition, and other oral, pharyngeal, and laryngeal  
151 sensorimotor competencies.

152 (b) Any speech-language pathologist who has complied with  
153 the provisions of this part may:

154 1. Offer, render, plan, direct, conduct, and supervise  
155 services to individuals or groups of individuals who have or are



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156 suspected of having disorders of human communication, including  
157 identification, evaluation, treatment, consultation,  
158 habilitation, rehabilitation, amelioration, instruction, and  
159 research.

160       2. Determine the need for personal alternatives or  
161 augmentative systems, and recommend and train for the  
162 utilization of such systems.

163       3. Perform a hearing screening, limited to a pass/fail  
164 determination, for the purpose of initial identification of  
165 communication disorders.

166       (12) "Prescription hearing aid" means a hearing aid or  
167 sound amplifying device that is not an over-the-counter hearing  
168 aid. Hearing aids intended for use by persons younger than 18  
169 years of age must be prescription hearing aids.

170       ~~(13)-(8)~~ "Speech-language pathologist" means a person  
171 licensed under this part to practice speech pathology.

172       ~~(7)-(9)~~ "Direct supervision" means responsible supervision  
173 and control by a licensed speech-language pathologist who shall  
174 assume legal liability for the services rendered by any  
175 certified speech-language pathology assistant under the  
176 licensee's supervision, or responsible supervision and control  
177 by a licensed audiologist who shall assume legal liability for  
178 the services rendered by any certified audiology assistant under  
179 the licensee's supervision. Direct supervision shall require the  
180 physical presence of the licensed speech-language pathologist  
181 for consultation and direction of the actions of the certified  
182 speech-language pathology assistant, or the physical presence of  
183 the licensed audiologist for consultation and direction of the  
184 actions of the certified audiology assistant, unless the



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185 assistant is acting under protocols established by the board.  
186 The board shall establish rules further defining direct  
187 supervision of a certified speech-language pathology assistant  
188 or a certified audiology assistant.

189 Section 20. Section 468.1225, Florida Statutes, is amended  
190 to read:

191 468.1225 Procedures, equipment, and protocols.—

192 (1) The following minimal procedures shall be used when a  
193 licensed audiologist fits and sells a prescription hearing aid:

194 (a) Pure tone audiometric testing by air and bone to  
195 determine the type and degree of hearing deficiency when  
196 indicated.

197 (b) Effective masking when indicated.

198 (c) Appropriate testing to determine speech reception  
199 thresholds, speech discrimination scores, the most comfortable  
200 listening levels, uncomfortable loudness levels, and the  
201 selection of the best fitting arrangement for maximum hearing  
202 aid benefit when indicated.

203 (2) The following equipment shall be used:

204 (a) A wide range audiometer that ~~which~~ meets the  
205 specifications of the American National Standards Institute for  
206 diagnostic audiometers when indicated.

207 (b) A speech audiometer or a master hearing aid in order to  
208 determine the most comfortable listening level and speech  
209 discrimination when indicated.

210 (3) A final fitting ensuring physical and operational  
211 comfort of the prescription hearing aid shall be made when  
212 indicated.

213 (4) A licensed audiologist who fits and sells prescription





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214 hearing aids shall obtain the following medical clearance: If,  
215 upon inspection of the ear canal with an otoscope in the common  
216 procedure of fitting a prescription hearing aid and upon  
217 interrogation of the client, there is any recent history of  
218 infection or any observable anomaly, the client shall be  
219 instructed to see a physician, and a prescription hearing aid  
220 may shall not be fitted until medical clearance is obtained for  
221 the condition noted. If, upon return, the condition noted is no  
222 longer observable and the client signs a medical waiver, a  
223 prescription hearing aid may be fitted. Any person with a  
224 significant difference between bone conduction hearing and air  
225 conduction hearing must be informed of the possibility of  
226 medical or surgical correction.

227 (5) (a) A licensed audiologist's office must have available,  
228 or have access to, a selection of prescription hearing aid  
229 models, hearing aid supplies, and services complete enough to  
230 accommodate the various needs of the hearing aid wearers.

231 (b) At the time of the initial examination for fitting and  
232 sale of a prescription hearing aid, the attending audiologist  
233 must notify the prospective purchaser of the benefits of  
234 telecoil, also known as "t" coil or "t" switch, technology,  
235 including increased access to telephones and noninvasive access  
236 to assistive listening systems required under the Americans with  
237 Disabilities Act of 1990.

238 (6) Unless otherwise indicated, each audiometric test  
239 conducted by a licensee or a certified audiology assistant in  
240 the fitting and selling of prescription hearing aids must shall  
241 be made in a testing room that has been certified by the  
242 department, or by an agent approved by the department, not to



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243 exceed the following sound pressure levels at the specified  
244 frequencies: 250Hz-40dB, 500Hz-40dB, 750Hz-40dB, 1000Hz-40dB,  
245 1500Hz-42dB, 2000Hz-47dB, 3000Hz-52dB, 4000Hz-57dB, 6000Hz-62dB,  
246 and 8000Hz-67dB. An exception to this requirement shall be made  
247 in the case of a client who, after being provided written notice  
248 of the benefits and advantages of having the test conducted in a  
249 certified testing room, requests that the test be conducted in a  
250 place other than the licensee's certified testing room. Such  
251 request must ~~shall~~ be documented by a waiver that ~~which~~ includes  
252 the written notice and is signed by the licensee and the client  
253 before ~~prior to~~ the testing. The waiver must ~~shall~~ be executed  
254 on a form provided by the department. The executed waiver must  
255 ~~shall~~ be attached to the client's copy of the contract, and a  
256 copy of the executed waiver must ~~shall~~ be retained in the  
257 licensee's file.

258 (7) The board may ~~shall have the power to~~ prescribe the  
259 minimum procedures and equipment used in the conducting of  
260 hearing assessments and for the fitting and selling of  
261 prescription hearing aids. The board shall adopt and enforce  
262 rules necessary to implement ~~carry out the provisions of~~ this  
263 subsection and subsection (6).

264 (8) Any duly authorized officer or employee of the  
265 department may ~~shall have the right to~~ make such inspections and  
266 investigations as ~~are~~ necessary ~~in order~~ to determine the state  
267 of compliance with ~~the provisions of~~ this section and the  
268 applicable rules and may enter the premises of a licensee and  
269 inspect the records of same upon reasonable belief that a  
270 violation of this law is being or has been committed or that the  
271 licensee has failed or is failing to comply with ~~the provisions~~



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272 ~~of~~ this part.

273 (9) Any hearing aid provided to a person younger than 18  
274 years of age must be a prescription hearing aid and may not be  
275 an over-the-counter hearing aid.

276 Section 21. Section 468.1245, Florida Statutes, is amended  
277 to read:

278 468.1245 Itemized listing of prices; delivery of  
279 prescription hearing aid; receipt; guarantee; packaging;  
280 disclaimer.—

281 (1) Before ~~Prior to~~ delivery of services or products to a  
282 prospective purchaser, a licensee must ~~shall~~ disclose, upon  
283 request by the prospective purchaser, an itemized listing of  
284 prices, which must ~~listing shall~~ include separate price  
285 estimates for each service component and each product. Provision  
286 of such itemized listing of prices may ~~shall~~ not be predicated  
287 on the prospective purchaser's payment of any charge or  
288 agreement to purchase any service or product.

289 (2) Any licensee who fits and sells a prescription hearing  
290 aid shall, at the time of delivery, provide the purchaser with a  
291 receipt containing the seller's signature, the address of his or  
292 her regular place of business, and his or her license or  
293 certification number, if applicable, together with the brand,  
294 model, manufacturer or manufacturer's identification code, and  
295 serial number of the prescription hearing aid furnished and the  
296 amount charged for the prescription hearing aid. The receipt  
297 must also ~~shall~~ specify whether the prescription hearing aid is  
298 new, used, or rebuilt, ~~and shall specify~~ the length of time and  
299 other terms of the guarantee, and by whom the prescription  
300 hearing aid is guaranteed. When the client has requested an



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301 itemized list of prices, the receipt must ~~shall~~ also provide an  
302 itemization of the total purchase price, including, but not  
303 limited to, the cost of the aid, ear mold, batteries, and other  
304 accessories, and the cost of any services. Notice of the  
305 availability of this service must be displayed in a conspicuous  
306 manner in the office. The receipt must also ~~shall~~ state that any  
307 complaint concerning the prescription hearing aid and its  
308 guarantee, if not reconciled with the licensee from whom the  
309 prescription hearing aid was purchased, should be directed by  
310 the purchaser to the department. The address and telephone  
311 number of such office must ~~shall~~ be stated on the receipt.

312 (3) A prescription ~~no~~ hearing aid may not be sold to any  
313 person unless both the packaging containing the prescription  
314 hearing aid and the contract provided pursuant to subsection (2)  
315 carry the following disclaimer in 10-point or larger type: "A  
316 hearing aid will not restore normal hearing, nor will it prevent  
317 further hearing loss."

318 Section 22. Section 468.1246, Florida Statutes, is amended  
319 to read:

320 468.1246 Thirty-day trial period; purchaser's right to  
321 cancel; notice; refund; cancellation fee.—

322 (1) A person selling a prescription hearing aid in this  
323 state must provide the buyer with written notice of a 30-day  
324 trial period and money-back guarantee. The guarantee must permit  
325 the purchaser to cancel the purchase for a valid reason as  
326 defined by rule of the board within 30 days after receiving the  
327 prescription hearing aid, by returning the prescription hearing  
328 aid or mailing written notice of cancellation to the seller. If  
329 the prescription hearing aid must be repaired, remade, or



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330 adjusted during the 30-day trial period, the running of the 30-  
331 day trial period is suspended 1 day for each 24-hour period that  
332 the prescription hearing aid is not in the purchaser's  
333 possession. A repaired, remade, or adjusted prescription hearing  
334 aid must be claimed by the purchaser within 3 working days after  
335 notification of availability. The running of the 30-day trial  
336 period resumes on the day the purchaser reclaims a repaired,  
337 remade, or adjusted prescription hearing aid or on the 4th day  
338 after notification of availability.

339 (2) The board, in consultation with the Board of Hearing  
340 Aid Specialists, shall prescribe by rule the terms and  
341 conditions to be contained in the money-back guarantee and any  
342 exceptions thereto. Such rule must ~~shall~~ provide, at a minimum,  
343 that the charges for earmolds and service provided to fit the  
344 prescription hearing aid may be retained by the licensee. The  
345 rules must ~~shall~~ also set forth any reasonable charges to be  
346 held by the licensee as a cancellation fee. ~~Such rule shall be~~  
347 ~~effective on or before December 1, 1994. Should the board fail~~  
348 ~~to adopt such rule, a licensee may not charge a cancellation fee~~  
349 ~~which exceeds 5 percent of the total charge for a hearing aid~~  
350 ~~alone.~~ The terms and conditions of the guarantee, including the  
351 total amount available for refund, must ~~shall~~ be provided in  
352 writing to the purchaser before ~~prior to~~ the signing of the  
353 contract.

354 Section 23. Section 468.1255, Florida Statutes, is amended  
355 to read:

356 468.1255 Cancellation by medical authorization; purchaser's  
357 right to return.—

358 (1) In addition to any other rights and remedies the



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359 purchaser of a prescription hearing aid may have, the purchaser  
360 has ~~shall have~~ the right to rescind the transaction if the  
361 purchaser for whatever reason consults a licensed physician with  
362 specialty board certification in otolaryngology or internal  
363 medicine or a licensed family practice physician, subsequent to  
364 purchasing a prescription hearing aid, and the physician  
365 certifies in writing that the purchaser has a hearing impairment  
366 for which a prescription hearing aid will not provide a benefit  
367 or that the purchaser has a medical condition which  
368 contraindicates the use of a prescription hearing aid.

369 (2) The purchaser of a prescription hearing aid has ~~shall~~  
370 ~~have~~ the right to rescind as provided in subsection (1) only if  
371 the purchaser gives a written notice of the intent to rescind  
372 the transaction to the seller at the seller's place of business  
373 by certified mail, return receipt requested, which notice shall  
374 be posted not later than 60 days following the date of delivery  
375 of the prescription hearing aid to the purchaser, and the  
376 purchaser returns the prescription hearing aid to the seller in  
377 the original condition less normal wear and tear.

378 (3) If the conditions of subsections (1) and (2) are met,  
379 the seller must ~~shall~~, without request, refund to the purchaser,  
380 within 10 days after ~~of~~ the receipt of notice to rescind, a full  
381 and complete refund of all moneys received, less 5 percent. The  
382 purchaser does not ~~shall~~ incur any ~~no~~ additional liability for  
383 rescinding the transaction.

384 Section 24. Section 468.1265, Florida Statutes, is amended  
385 to read:

386 468.1265 Sale or distribution of prescription hearing aids  
387 through mail; penalty.—It is unlawful for any person to sell or



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388 distribute prescription hearing aids through the mail to the  
389 ultimate consumer. Any person who violates this section commits  
390 a misdemeanor of the second degree, punishable as provided in s.  
391 775.082 or s. 775.083.

392 Section 25. Section 468.1275, Florida Statutes, is amended  
393 to read:

394 468.1275 Place of business; display of license.—Each  
395 licensee who fits and sells a prescription hearing aid shall  
396 declare and establish a regular place of business, at which his  
397 or her license shall be conspicuously displayed.

398 Section 26. Section 484.0401, Florida Statutes, is amended  
399 to read:

400 484.0401 Purpose.—The Legislature recognizes that the  
401 dispensing of prescription hearing aids requires particularized  
402 knowledge and skill to ensure that the interests of the hearing-  
403 impaired public will be adequately served and safely protected.  
404 It recognizes that a poorly selected or fitted prescription  
405 hearing aid not only will give little satisfaction but may  
406 interfere with hearing ability and, therefore, deems it  
407 necessary in the interest of the public health, safety, and  
408 welfare to regulate the dispensing of prescription hearing aids  
409 in this state. Restrictions on the fitting and selling of  
410 prescription hearing aids shall be imposed only to the extent  
411 necessary to protect the public from physical and economic harm,  
412 and restrictions shall not be imposed in a manner which will  
413 unreasonably affect the competitive market.

414 Section 27. Section 484.041, Florida Statutes, is reordered  
415 and amended to read:

416 484.041 Definitions.—As used in this part, the term:



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417 (1) "Air-conduction hearing aid" means a hearing aid that  
418 conducts sound to the ear through the air.

419 (2) "Board" means the Board of Hearing Aid Specialists.

420 (3)~~(2)~~ "Department" means the Department of Health.

421 (4)~~(3)~~ "Dispensing prescription hearing aids" means and  
422 includes:

423 (a) Conducting and interpreting hearing tests for purposes  
424 of selecting suitable prescription hearing aids, making earmolds  
425 or ear impressions, and providing appropriate counseling.

426 (b) All acts pertaining to the selling, renting, leasing,  
427 pricing, delivery, and warranty of prescription hearing aids.

428 (7)~~(4)~~ "Hearing aid specialist" means a person duly  
429 licensed in this state to practice the dispensing of  
430 prescription hearing aids.

431 (5) "Hearing aid" means any wearable ~~an amplifying~~ device  
432 designed for, offered for the purpose of, or represented as  
433 aiding persons with, or compensating for, impaired hearing to be  
434 worn by a hearing-impaired person to improve hearing.

435 (11)~~(6)~~ "Trainee" means a person studying prescription  
436 hearing aid dispensing under the direct supervision of an active  
437 licensed hearing aid specialist for the purpose of qualifying  
438 for certification to sit for the licensure examination.

439 (6)~~(7)~~ "Hearing aid establishment" means any establishment  
440 in this ~~the~~ state which employs a licensed hearing aid  
441 specialist who offers, advertises, and performs hearing aid  
442 services for the general public.

443 (8) "Over-the-counter hearing aid" means an air-conduction  
444 hearing aid that does not require implantation or other surgical  
445 intervention and is intended for use only by a person 18 years





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446 of age or older to compensate for perceived mild to moderate  
447 hearing impairment. The device, through tools, tests, or  
448 software, allows the user to control the hearing aid and  
449 customize it to the user's hearing needs. The device may use  
450 wireless technology or may include tests for self-assessment of  
451 hearing loss. The device is available over-the-counter, without  
452 the supervision, prescription, or other order, involvement, or  
453 intervention of a licensed person, to consumers through in-  
454 person transactions, by mail, or online, provided that the  
455 device satisfies the requirements of 21 C.F.R. parts 800, 801,  
456 and 874 (2022), which are specifically incorporated by reference  
457 herein.

458 (9) "Prescription hearing aid" means a hearing aid or sound  
459 amplifying device that is not an over-the-counter hearing aid.  
460 Hearing aids intended for use by persons younger than 18 years  
461 of age must be prescription hearing aids.

462 (10) "Sponsor" means an active, licensed hearing aid  
463 specialist under whose direct supervision one or more trainees  
464 are studying prescription hearing aid dispensing for the purpose  
465 of qualifying for certification to sit for the licensure  
466 examination.

467 Section 28. Subsection (2) of section 484.042, Florida  
468 Statutes, is amended to read:

469 484.042 Board of Hearing Aid Specialists; membership,  
470 appointment, terms.—

471 (2) Five members of the board shall be hearing aid  
472 specialists who have been licensed and practicing the dispensing  
473 of prescription hearing aids in this state for at least the  
474 preceding 4 years. The remaining four members, none of whom



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475 shall derive economic benefit from the fitting or dispensing of  
476 hearing aids, shall be appointed from the resident lay public of  
477 this state. One of the lay members shall be a prescription  
478 hearing aid user but may not ~~neither~~ be nor have been a hearing  
479 aid specialist or a licensee of a closely related profession.  
480 One lay member shall be an individual age 65 or over. One lay  
481 member shall be an otolaryngologist licensed pursuant to chapter  
482 458 or chapter 459.

483 Section 29. Subsection (2) of section 484.044, Florida  
484 Statutes, is amended to read:

485 484.044 Authority to make rules.-

486 (2) The board shall adopt rules requiring that each  
487 prospective purchaser of a prescription hearing aid be notified  
488 by the attending hearing aid specialist, at the time of the  
489 initial examination for fitting and sale of a hearing aid, of  
490 telecoil, "t" coil, or "t" switch technology. The rules shall  
491 further require that hearing aid specialists make available to  
492 prospective purchasers or clients information regarding  
493 telecoils, "t" coils, or "t" switches. ~~These rules shall be~~  
494 ~~effective on or before October 1, 1994.~~

495 Section 30. Subsection (2) of section 484.0445, Florida  
496 Statutes, is amended to read:

497 484.0445 Training program.-

498 (2) A trainee shall perform the functions of a hearing aid  
499 specialist in accordance with board rules only under the direct  
500 supervision of a licensed hearing aid specialist. The term  
501 "direct supervision" means that the sponsor is responsible for  
502 all work being performed by the trainee. The sponsor or a  
503 hearing aid specialist designated by the sponsor shall give



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504 final approval to work performed by the trainee and shall be  
505 physically present at the time the prescription hearing aid is  
506 delivered to the client.

507 Section 31. Subsection (2) of section 484.045, Florida  
508 Statutes, is amended to read:

509 484.045 Licensure by examination.—

510 (2) The department shall license each applicant who the  
511 board certifies meets all of the following criteria:

512 (a) Has completed the application form and remitted the  
513 required fees.†

514 (b) Is of good moral character.†

515 (c) Is 18 years of age or older.†

516 (d) Is a graduate of an accredited high school or its  
517 equivalent.†

518 (e)1. Has met the requirements of the training program; or

519 2.a. Has a valid, current license as a hearing aid  
520 specialist or its equivalent from another state and has been  
521 actively practicing in such capacity for at least 12 months; or

522 b. Is currently certified by the National Board for  
523 Certification in Hearing Instrument Sciences and has been  
524 actively practicing for at least 12 months.†

525 (f) Has passed an examination, as prescribed by board  
526 rule.† ~~and~~

527 (g) Has demonstrated, in a manner designated by rule of the  
528 board, knowledge of state laws and rules relating to the fitting  
529 and dispensing of prescription hearing aids.

530 Section 32. Section 484.0501, Florida Statutes, is amended  
531 to read:

532 484.0501 Minimal procedures and equipment.—



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533 (1) The following minimal procedures shall be used in the  
534 fitting and selling of prescription hearing aids:

535 (a) Pure tone audiometric testing by air and bone to  
536 determine the type and degree of hearing deficiency.

537 (b) Effective masking when indicated.

538 (c) Appropriate testing to determine speech reception  
539 thresholds, speech discrimination scores, the most comfortable  
540 listening levels, uncomfortable loudness levels, and the  
541 selection of the best fitting arrangement for maximum hearing  
542 aid benefit.

543 (2) The following equipment shall be used:

544 (a) A wide range audiometer that ~~which~~ meets the  
545 specifications of the American National Standards Institute for  
546 diagnostic audiometers.

547 (b) A speech audiometer or a master hearing aid in order to  
548 determine the most comfortable listening level and speech  
549 discrimination.

550 (3) A final fitting ensuring physical and operational  
551 comfort of the prescription hearing aid shall be made.

552 (4) The following medical clearance shall be obtained: If,  
553 upon inspection of the ear canal with an otoscope in the common  
554 procedure of a prescription hearing aid fitter and upon  
555 interrogation of the client, there is any recent history of  
556 infection or any observable anomaly, the client must ~~shall~~ be  
557 instructed to see a physician, and a prescription hearing aid  
558 may ~~shall~~ not be fitted until medical clearance is obtained for  
559 the condition noted. If, upon return, the condition noted is no  
560 longer observable and the client signs a medical waiver, a  
561 prescription hearing aid may be fitted. Any person with a



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562 significant difference between bone conduction hearing and air  
563 conduction hearing must be informed of the possibility of  
564 medical correction.

565 (5) (a) A prescription hearing aid establishment ~~office~~ must  
566 have available, or have access to, a selection of prescription  
567 hearing aid models, hearing aid supplies, and services complete  
568 enough to accommodate the various needs of the prescription  
569 hearing aid wearers.

570 (b) At the time of the initial examination for fitting and  
571 sale of a prescription hearing aid, the attending hearing aid  
572 specialist shall ~~must~~ notify the prospective purchaser or client  
573 of the benefits of telecoil, "t" coil, or "t" switch technology,  
574 including increased access to telephones and noninvasive access  
575 to assistive listening systems required under the Americans with  
576 Disabilities Act of 1990.

577 (6) Each audiometric test conducted by a licensee or  
578 authorized trainee in the fitting and selling of prescription  
579 hearing aids must ~~shall~~ be made in a testing room that has been  
580 certified by the department, or by an agent approved by the  
581 department, not to exceed the following sound pressure levels at  
582 the specified frequencies: 250Hz-40dB, 500Hz-40dB, 750Hz-40dB,  
583 1000Hz-40dB, 1500Hz-42dB, 2000Hz-47dB, 3000Hz-52dB, 4000Hz-57dB,  
584 6000Hz-62dB, and 8000Hz-67dB. An exception to this requirement  
585 shall be made in the case of a client who, after being provided  
586 written notice of the benefits and advantages of having the test  
587 conducted in a certified testing room, requests that the test be  
588 conducted in a place other than the licensee's certified testing  
589 room. Such request must ~~shall~~ be documented by a waiver which  
590 includes the written notice and is signed by the licensee and



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591 the client before ~~prior to~~ the testing. The waiver must ~~shall~~ be  
592 executed on a form provided by the department. The executed  
593 waiver must ~~shall~~ be attached to the client's copy of the  
594 contract, and a copy of the executed waiver must ~~shall~~ be  
595 retained in the licensee's file.

596 (7) The board may ~~shall have the power to~~ prescribe the  
597 minimum procedures and equipment which must ~~shall~~ be used in the  
598 conducting of hearing assessments, and for the fitting and  
599 selling of prescription hearing aids, including equipment that  
600 will measure the prescription hearing aid's response curves to  
601 ensure that they meet the manufacturer's specifications. These  
602 procedures and equipment may differ from those provided in this  
603 section in order to take full advantage of devices and equipment  
604 which may hereafter become available and which are demonstrated  
605 to be of greater efficiency and accuracy. The board shall adopt  
606 and enforce rules necessary to implement ~~carry out the~~  
607 ~~provisions of~~ this subsection and subsection (6).

608 (8) Any duly authorized officer or employee of the  
609 department may ~~shall have the right to~~ make such inspections and  
610 investigations as ~~are~~ necessary ~~in order~~ to determine the state  
611 of compliance with ~~the provisions of~~ this section and the  
612 applicable rules and may enter the premises of a licensee and  
613 inspect the records of same upon reasonable belief that a  
614 violation of this law is being or has been committed or that the  
615 licensee has failed or is failing to comply with ~~the provisions~~  
616 ~~of this part act~~.

617 (9) A licensed hearing aid specialist may fit, sell,  
618 dispense, service, market, provide customer support for, and  
619 distribute prescription and over-the-counter hearing aids.



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620 However, over-the-counter hearing aids may be provided only to  
621 persons 18 years of age or older.

622 Section 33. Section 484.051, Florida Statutes, is amended  
623 to read:

624 484.051 Itemization of prices; delivery of prescription  
625 hearing aid; receipt, packaging, disclaimer, guarantee.—

626 (1) Before ~~Prior to~~ delivery of services or products to a  
627 prospective purchaser, any person who fits and sells  
628 prescription hearing aids must ~~shall~~ disclose on request by the  
629 prospective purchaser an itemized listing of prices, which must  
630 ~~listing shall~~ include separate price estimates for each service  
631 component and each product. Provision of such itemized listing  
632 of prices may ~~shall~~ not be predicated on the prospective  
633 purchaser's payment of any charge or agreement to purchase any  
634 service or product.

635 (2) Any person who fits and sells a prescription hearing  
636 aid must ~~shall~~, at the time of delivery, provide the purchaser  
637 with a receipt containing the seller's signature, the address of  
638 her or his regular place of business, and her or his license or  
639 trainee registration number, if applicable, together with the  
640 brand, model, manufacturer or manufacturer's identification  
641 code, and serial number of the prescription hearing aid  
642 furnished and the amount charged for the prescription hearing  
643 aid. The receipt must also ~~shall~~ specify whether the  
644 prescription hearing aid is new, used, or rebuilt, ~~and shall~~  
645 ~~specify~~ the length of time and other terms of the guarantee, and  
646 by whom the prescription hearing aid is guaranteed. If ~~When~~ the  
647 client has requested an itemized list of prices, the receipt  
648 must ~~shall~~ also provide an itemization of the total purchase



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649 price, including, but not limited to, the cost of the aid,  
650 earmold, batteries and other accessories, and any services.  
651 Notice of the availability of this service shall be displayed in  
652 a conspicuous manner in the office. The receipt must also ~~shall~~  
653 state that any complaint concerning the prescription hearing aid  
654 and guarantee therefor, if not reconciled with the licensee from  
655 whom the prescription hearing aid was purchased, should be  
656 directed by the purchaser to the Department of Health. The  
657 address and telephone number of such office must ~~shall~~ be stated  
658 on the receipt.

659 (3) A prescription ~~he~~ hearing aid may not be sold to any  
660 person unless both the packaging containing the prescription  
661 hearing aid and the itemized receipt provided pursuant to  
662 subsection (2) carry the following disclaimer in 10-point or  
663 larger type: "A hearing aid will not restore normal hearing, nor  
664 will it prevent further hearing loss."

665 Section 34. Section 484.0512, Florida Statutes, is amended  
666 to read:

667 484.0512 Thirty-day trial period; purchaser's right to  
668 cancel; notice; refund; cancellation fee; criminal penalty.—

669 (1) A person selling a prescription hearing aid in this  
670 state must provide the buyer with written notice of a 30-day  
671 trial period and money-back guarantee. The guarantee must permit  
672 the purchaser to cancel the purchase for a valid reason, as  
673 defined by ~~rule of the board~~ rule, within 30 days after  
674 receiving the prescription hearing aid, by returning the  
675 prescription hearing aid or mailing written notice of  
676 cancellation to the seller. If the prescription hearing aid must  
677 be repaired, remade, or adjusted during the 30-day trial period,





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678 the running of the 30-day trial period is suspended 1 day for  
679 each 24-hour period that the prescription hearing aid is not in  
680 the purchaser's possession. A repaired, remade, or adjusted  
681 prescription hearing aid must be claimed by the purchaser within  
682 3 working days after notification of availability. The running  
683 of the 30-day trial period resumes on the day the purchaser  
684 reclaims the repaired, remade, or adjusted prescription hearing  
685 aid or on the fourth day after notification of availability,  
686 whichever occurs earlier.

687 (2) The board, in consultation with the Board of Speech-  
688 Language Pathology and Audiology, shall prescribe by rule the  
689 terms and conditions to be contained in the money-back guarantee  
690 and any exceptions thereto. Such rules must ~~rule shall~~ provide,  
691 at a minimum, that the charges for earmolds and service provided  
692 to fit the prescription hearing aid may be retained by the  
693 licensee. The rules must ~~shall~~ also set forth any reasonable  
694 charges to be held by the licensee as a cancellation fee. ~~Such~~  
695 ~~rule shall be effective on or before December 1, 1994. Should~~  
696 ~~the board fail to adopt such rule, a licensee may not charge a~~  
697 ~~cancellation fee which exceeds 5 percent of the total charge for~~  
698 ~~a hearing aid alone.~~ The terms and conditions of the guarantee,  
699 including the total amount available for refund, must ~~shall~~ be  
700 provided in writing to the purchaser before ~~prior to~~ the signing  
701 of the contract.

702 (3) Within 30 days after the return or attempted return of  
703 the prescription hearing aid, the seller shall refund all moneys  
704 that must be refunded to a purchaser pursuant to this section. A  
705 violation of this subsection is a misdemeanor of the first  
706 degree, punishable as provided in s. 775.082 or s. 775.083.



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707 (4) For purposes of this section, the term "seller" or  
708 "person selling a prescription hearing aid" includes:

709 (a) Any ~~natural~~ person licensed under this part or any  
710 other ~~natural~~ person who signs a sales receipt required by s.  
711 484.051(2) or s. 468.1245(2) or ~~who~~ otherwise fits, delivers, or  
712 dispenses a prescription hearing aid.

713 (b) Any business organization, whether a sole  
714 proprietorship, partnership, corporation, professional  
715 association, joint venture, business trust, or other legal  
716 entity, that ~~which~~ dispenses a prescription hearing aid or  
717 enters into an agreement to dispense a prescription hearing aid.

718 (c) Any person who controls, manages, or operates an  
719 establishment or business that dispenses a prescription hearing  
720 aid or enters into an agreement to dispense a prescription  
721 hearing aid.

722 Section 35. Section 484.0513, Florida Statutes, is amended  
723 to read:

724 484.0513 Cancellation by medical authorization; purchaser's  
725 right to return.-

726 (1) In addition to any other rights and remedies the  
727 purchaser of a prescription hearing aid may have, the purchaser  
728 has ~~shall have~~ the right to rescind the transaction if the  
729 purchaser for whatever reason consults a licensed physician with  
730 specialty board certification in otolaryngology or internal  
731 medicine or a licensed family practice physician, subsequent to  
732 purchasing a prescription hearing aid, and the physician  
733 certifies in writing that the purchaser has a hearing impairment  
734 for which a prescription hearing aid will not provide a benefit  
735 or that the purchaser has a medical condition which



736 contraindicates the use of a prescription hearing aid.

737 (2) The purchaser of a prescription hearing aid ~~has shall~~  
738 ~~have~~ the right to rescind as provided in subsection (1) only if  
739 the purchaser gives a written notice of the intent to rescind  
740 the transaction to the seller at the seller's place of business  
741 by certified mail, return receipt requested, which must ~~notice~~  
742 ~~shall~~ be posted within not later than 60 days after following  
743 the date of delivery of the prescription hearing aid to the  
744 purchaser, and the purchaser returns the prescription hearing  
745 aid to the seller in the original condition less normal wear and  
746 tear.

747 (3) If the conditions of subsections (1) and (2) are met,  
748 the seller must ~~shall~~, without request, refund to the purchaser,  
749 within 10 days after ~~of the~~ receipt of the notice to rescind, a  
750 full and complete refund of all moneys received, less 5 percent.  
751 The purchaser does not ~~shall~~ incur any ~~no~~ additional liability  
752 for rescinding the transaction.

753 Section 36. Section 484.053, Florida Statutes, is amended  
754 to read:

755 484.053 Prohibitions; penalties.—

756 (1) A person may not:

757 (a) Practice dispensing prescription hearing aids unless  
758 the person is a licensed hearing aid specialist;

759 (b) Use the name or title "hearing aid specialist" when the  
760 person has not been licensed under this part;

761 (c) Present as her or his own the license of another;

762 (d) Give false, incomplete, or forged evidence to the board  
763 or a member thereof for the purposes of obtaining a license;

764 (e) Use or attempt to use a hearing aid specialist license



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765 that is delinquent or has been suspended, revoked, or placed on  
766 inactive status;

767 (f) Knowingly employ unlicensed persons in the practice of  
768 dispensing prescription hearing aids; or

769 (g) Knowingly conceal information relative to violations of  
770 this part.

771 (2) Any person who violates any provision ~~of the provisions~~  
772 of this section is guilty of a felony of the third degree,  
773 punishable as provided in s. 775.082 or s. 775.083.

774 (3) If a person licensed under this part allows the sale of  
775 a prescription hearing aid by an unlicensed person not  
776 registered as a trainee or fails to comply with the requirements  
777 of s. 484.0445(2) relating to supervision of trainees, the board  
778 must ~~shall~~, upon determination of that violation, order the full  
779 refund of moneys paid by the purchaser upon return of the  
780 prescription hearing aid to the seller's place of business.

781 Section 37. Section 484.054, Florida Statutes, is amended  
782 to read:

783 484.054 Sale or distribution of prescription hearing aids  
784 through mail; penalty.—It is unlawful for any person to sell or  
785 distribute prescription hearing aids through the mail to the  
786 ultimate consumer. Any violation of this section constitutes a  
787 misdemeanor of the second degree, punishable as provided in s.  
788 775.082 or s. 775.083.

789 Section 38. Section 484.059, Florida Statutes, is amended  
790 to read:

791 484.059 Exemptions.—

792 (1) The licensure requirements of this part do not apply to  
793 any person engaged in recommending prescription hearing aids as



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794 part of the academic curriculum of an accredited institution of  
795 higher education, or as part of a program conducted by a public  
796 charitable institution supported primarily by voluntary  
797 contribution, provided this organization does not dispense or  
798 sell prescription hearing aids or accessories.

799 (2) The licensure requirements of this part do not apply to  
800 any person licensed to practice medicine in this ~~the~~ state,  
801 except that such physician must ~~shall~~ comply with the  
802 requirement of periodic filing of the certificate of testing and  
803 calibration of audiometric equipment as provided in this part. A  
804 ~~No~~ person employed by or working under the supervision of a  
805 person licensed to practice medicine may not ~~shall~~ perform any  
806 services or acts which would constitute the dispensing of  
807 prescription hearing aids as defined in s. 484.041 ~~s.~~  
808 ~~484.041(3)~~, unless such person is a licensed hearing aid  
809 specialist.

810 (3) The licensure requirements of this part do not apply to  
811 an audiologist licensed under ~~pursuant to~~ part I of chapter 468.

812 (4) Section ~~The provisions of s. 484.053(1) (a)~~ does ~~shall~~  
813 not apply to registered trainees operating in compliance with  
814 this part and board rules ~~of the board~~.

815 (5) The licensure requirements of this part do not apply to  
816 a person who fits, sells, dispenses, services, markets, provides  
817 customer support for, or distributes exclusively over-the-  
818 counter hearing aids.

819 Section 39. Paragraph (b) of subsection (4) of section  
820 1002.394, Florida Statutes, is amended to read:

821 1002.394 The Family Empowerment Scholarship Program.—

822 (4) AUTHORIZED USES OF PROGRAM FUNDS.—



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823 (b) Program funds awarded to a student with a disability  
824 determined eligible pursuant to paragraph (3) (b) may be used for  
825 the following purposes:

826 1. Instructional materials, including digital devices,  
827 digital periphery devices, and assistive technology devices that  
828 allow a student to access instruction or instructional content  
829 and training on the use of and maintenance agreements for these  
830 devices.

831 2. Curriculum as defined in subsection (2).

832 3. Specialized services by approved providers or by a  
833 hospital in this state which are selected by the parent. These  
834 specialized services may include, but are not limited to:

835 a. Applied behavior analysis services as provided in ss.  
836 627.6686 and 641.31098.

837 b. Services provided by speech-language pathologists as  
838 defined in s. 468.1125 ~~s. 468.1125(8)~~.

839 c. Occupational therapy as defined in s. 468.203.

840 d. Services provided by physical therapists as defined in  
841 s. 486.021(8).

842 e. Services provided by listening and spoken language  
843 specialists and an appropriate acoustical environment for a  
844 child who has a hearing impairment, including deafness, and who  
845 has received an implant or assistive hearing device.

846 4. Tuition or fees associated with full-time or part-time  
847 enrollment in a home education program, an eligible private  
848 school, an eligible postsecondary educational institution or a  
849 program offered by the postsecondary educational institution, a  
850 private tutoring program authorized under s. 1002.43, a virtual  
851 program offered by a department-approved private online provider



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852 that meets the provider qualifications specified in s.  
853 1002.45(2)(a), the Florida Virtual School as a private paying  
854 student, or an approved online course offered pursuant to s.  
855 1003.499 or s. 1004.0961.

856 5. Fees for nationally standardized, norm-referenced  
857 achievement tests, Advanced Placement Examinations, industry  
858 certification examinations, assessments related to postsecondary  
859 education, or other assessments.

860 6. Contributions to the Stanley G. Tate Florida Prepaid  
861 College Program pursuant to s. 1009.98 or the Florida College  
862 Savings Program pursuant to s. 1009.981 for the benefit of the  
863 eligible student.

864 7. Contracted services provided by a public school or  
865 school district, including classes. A student who receives  
866 services under a contract under this paragraph is not considered  
867 enrolled in a public school for eligibility purposes as  
868 specified in subsection (6).

869 8. Tuition and fees for part-time tutoring services  
870 provided by a person who holds a valid Florida educator's  
871 certificate pursuant to s. 1012.56, a person who holds an  
872 adjunct teaching certificate pursuant to s. 1012.57, a person  
873 who has a bachelor's degree or a graduate degree in the subject  
874 area in which instruction is given, a person who has  
875 demonstrated a mastery of subject area knowledge pursuant to s.  
876 1012.56(5), or a person certified by a nationally or  
877 internationally recognized research-based training program as  
878 approved by the department. As used in this paragraph, the term  
879 "part-time tutoring services" does not qualify as regular school  
880 attendance as defined in s. 1003.01(13)(e).



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- 881           9. Fees for specialized summer education programs.  
882           10. Fees for specialized after-school education programs.  
883           11. Transition services provided by job coaches.  
884           12. Fees for an annual evaluation of educational progress  
885 by a state-certified teacher under s. 1002.41(1)(f), if this  
886 option is chosen for a home education student.  
887           13. Tuition and fees associated with programs offered by  
888 Voluntary Prekindergarten Education Program providers approved  
889 pursuant to s. 1002.55 and school readiness providers approved  
890 pursuant to s. 1002.88.  
891           14. Fees for services provided at a center that is a member  
892 of the Professional Association of Therapeutic Horsemanship  
893 International.  
894           15. Fees for services provided by a therapist who is  
895 certified by the Certification Board for Music Therapists or  
896 credentialed by the Art Therapy Credentials Board, Inc.

897  
898 ===== T I T L E   A M E N D M E N T =====

899 And the title is amended as follows:

900           Delete lines 72 - 96

901 and insert:

902           examination; amending s. 468.1115, F.S.; providing  
903           construction and applicability; conforming a cross-  
904           reference; reordering and amending s. 468.1125, F.S.;  
905           providing and revising definitions; amending ss.  
906           468.1225 and 468.1245, F.S.; revising the scope of  
907           practice for audiologists, as it relates to hearing  
908           aids to apply to prescription hearing aids only;  
909           requiring that hearing aids provided to persons





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910 younger than 18 years of age be prescription hearing  
911 aids and not over-the-counter hearing aids; amending  
912 s. 468.1246, F.S.; conforming provisions to changes  
913 made by the act; deleting obsolete language; amending  
914 ss. 468.1255, 468.1265, and 468.1275, F.S.; conforming  
915 provisions to changes made by the act; amending s.  
916 484.0401, F.S.; revising legislative findings and  
917 intent to conform to changes made by the act;  
918 reordering and amending s. 484.041, F.S.; providing  
919 and revising definitions; amending s. 484.042, F.S.;  
920 revising membership requirements for members of the  
921 Board of Hearing Aid Specialists; amending s. 484.044,  
922 F.S.; revising the board's rulemaking authority;  
923 deleting obsolete language; amending ss. 484.0445,  
924 484.045, 484.0501, and 484.051, F.S.; revising the  
925 scope of practice for hearing aid specialists and  
926 making conforming changes to licensure and practice  
927 requirements; amending s. 484.0512, F.S.; conforming  
928 provisions to changes made by the act; deleting  
929 obsolete language; amending ss. 484.0513, 484.053, and  
930 484.054, F.S.; conforming provisions to changes made  
931 by the act; amending s. 484.059, F.S.; conforming  
932 provisions to changes made by the act; providing  
933 applicability; amending s. 1002.394, F.S.; conforming  
934 a cross-reference; providing a