

§ 93D-7.1. Disclosure of locked hearing aid software; additional disclosures and record keeping.

(a) Definitions. – The following definitions apply in this section:

- (1) Locked hearing aid. – A prescription hearing aid or an over-the-counter hearing aid that uses either proprietary programming software or locked, nonproprietary programming software that restricts programming or servicing of the device to specific facilities or providers.
- (2) Locked, nonproprietary programming software. – Software that any provider or seller can render inaccessible to other hearing aid programmers.
- (3) Proprietary programming software. – Software used to program hearing aids that is supplied by a hearing aid distributor or manufacturer for exclusive use by affiliated providers or sellers. This software is locked and inaccessible to nonaffiliated providers or sellers.

(b) Disclosure of Locked, Nonproprietary or Proprietary Programming Software. – To the extent not inconsistent with federal law, any person licensed under this Chapter who engages in fitting or selling of locked hearing aids shall, at the time of purchase of any locked hearing aid, provide the purchasing patient with a written notice, in 12-point type or larger, stating:

"The locked hearing aid being purchased uses locked, nonproprietary or proprietary programming software and can only be serviced or programmed at specific facilities or locations."

The purchasing patient shall sign the notice at the time of purchase with physical or electronic signature. The licensee shall retain a copy of the signed notice in the patient's file for at least three years, subject to the conditions of subsection (d) of this section.

(c) Written Receipt of Sale. – Upon consummation of a sale of a locked hearing aid, in addition to complying with G.S. 93D-7, the licensee shall give to the purchasing patient a written receipt signed, with physical or electronic signature, by or on behalf of the licensee and the patient, containing all of the following information:

- (1) The date of consummation of the sale.
- (2) The make, model number, and serial number of the hearing aid sold.
- (3) Whether the locked hearing aid is new, used, or reconditioned.
- (4) The licensee's name and license number, and the name and license number of any other hearing aid dispenser, apprentice, temporary licensee, or trainee licensee who provided any recommendation or consultation regarding the purchase.
- (5) The address of the principal place of business of the licensee, and the address and office hours at which the licensee shall be available for fitting or post-fitting adjustments and servicing of the hearing aid sold.
- (6) The terms of any guarantee or written warranty made to the purchasing patient with respect to the locked hearing aid.

If multiple locked hearing aids are sold in a single transaction, a single written notice under subsection (b) of this section and a single written receipt under this subsection may be used to satisfy the requirements of this section, provided that the required information for each locked hearing aid sold is documented.

(d) Record Keeping. – The licensee shall maintain, for a period of at least three years after the sale of a locked hearing aid, the following records for each locked hearing aid transaction:

- (1) A copy of the written notice described in subsection (b) of this section as signed by the purchasing patient.
- (2) A copy of the written receipt described in subsection (c) of this section.
- (3) The results of any audiologic tests or measurements performed as part of the fitting and dispensing of the locked hearing aid or aids.

- (4) A copy of any written recommendations prepared as part of the fitting and dispensing of the locked hearing aid or aids.

These records shall be kept at the licensee's principal place of practice and shall be made available for inspection by the Board. (2025-94, s. 9(a).)