

HOUSE BILL NO. 184

INTRODUCED BY C. KEOGH, R. MINER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO INDIVIDUALS WHO ARE DEAF OR HARD OF HEARING; MODIFYING LANGUAGE IN MONTANA LAWS THAT MAY DIMINISH THE DIGNITY OF INDIVIDUALS WHO ARE DEAF OR HARD OF HEARING; AMENDING SECTIONS 2-18-704, 13-1-101, 20-8-102, 20-8-104, 20-8-107, 20-8-116, 33-22-128, 37-16-102, 49-4-501, 49-4-502, 49-4-602, 53-19-401, AND 53-19-402, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 2-18-704, MCA, is amended to read:

**"2-18-704. Mandatory provisions.** (1) An insurance contract or plan issued under this part must contain provisions that permit:

(a) the member of a group who retires from active service under the appropriate retirement provisions of a defined benefit plan provided by law or, in the case of the defined contribution plan provided in Title 19, chapter 3, part 21, a member with at least 5 years of service and who is at least age 50 while in covered employment to remain a member of the group until the member becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, unless the member is a participant in another group plan with substantially the same or greater benefits at an equivalent cost or unless the member is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost;

(b) the surviving spouse of a member to remain a member of the group as long as the spouse is eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible for equivalent insurance coverage as provided in subsection (1)(a);

(c) the surviving children of a member to remain members of the group as long as they are eligible for retirement benefits accrued by the deceased member as provided by law unless they have equivalent

equivalent therapeutic or diagnostic results as to the diagnosis or treatment of that patient's illness, injury, or disease.

(e) "Various auditory ranges" means a diversity in the hearing process that may occur in the outer, middle, or inner ear, whereby sound waves are not converted to electrical signals and nerve impulses are not transmitted to the brain to be interpreted."

**Section 8.** Section 37-16-102, MCA, is amended to read:

**"37-16-102. Definitions.** Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(2) "Licensed hearing aid dispenser" is an individual who orders, fits, sells, and dispenses prescription hearing aids.

(3) "Over-the-counter hearing aid" has the definition specified in 21 CFR 800.30 in effect on January 1, 2023.

(4) "Permanent place of business" means the primary site in this state at which a person licensed under this chapter conducts testing and fitting of prescription hearing aids and related devices.

(5) "Practice of ordering, selling, dispensing, and fitting prescription hearing aids" means the evaluation or measurement of the powers or range of human hearing by means of an audiometer and a visual examination of the ear and canal or by any other means devised and the consequent ordering, selection, adaption, sale, dispensing, or fitting of prescription hearing aids intended to compensate for ~~hearing loss~~ various auditory ranges as defined in 33-22-128, including eyeglass prescription hearing aids and their fittings, and the making of an impression of the ear and the subsequent selection of a proper ear mold, but does not include batteries, cords, or accessories.

(6) "Prescription hearing aid" has the definition specified in 21 CFR 801.422 in effect on January 1, 2023. The term does not include an over-the-counter hearing aid.

(7) "Various auditory ranges" means a diversity in the hearing process that may occur in the outer, middle, or inner ear, whereby sound waves are not converted to electrical signals and nerve impulses are not

1 transmitted to the brain to be interpreted."

3 **Section 9.** Section 49-4-501, MCA, is amended to read:

4 **"49-4-501. Policy.** It is the policy of this state to secure the constitutional rights of deaf or hard-of-  
5 hearing persons who, ~~because of impairment of hearing or speech, are unable~~ may require accommodations to  
6 readily understand or communicate spoken language and who consequently cannot be fully protected in legal  
7 proceedings unless qualified interpreters are available to assist them."

9 **Section 10.** Section 49-4-502, MCA, is amended to read:

10 **"49-4-502. Definitions.** As used in this part, the following definitions apply:

11 (1) "Appointing authority" means the presiding judge or justice of any court, the presiding officer of  
12 any board, commission, or authority, the director or commissioner of any department or agency, or any other  
13 person presiding at any hearing or other proceeding in which a qualified interpreter is required pursuant to this  
14 part.

15 (2) "Deaf person" means a person ~~whose hearing is totally impaired or whose hearing is so~~  
16 ~~seriously impaired as to prohibit the person from understanding oral communications. The term further includes~~  
17 ~~but is not limited to a person who, because of loss of hearing, cannot communicate spoken language~~ whose  
18 ears do not convert sound waves to electrical signals and nerve impulses that are then transmitted to the brain  
19 to be interpreted and who requires accommodation to understand oral communications with a diversity in the  
20 hearing process that may occur in the outer, middle, or inner ear, whereby sound waves are not converted to  
21 electrical signals and nerve impulses are not transmitted to the brain to be interpreted.

22 (3) "Intermediary interpreter" means a knowledgeable deaf person who, because of the person's  
23 intimate acquaintance with deaf persons who use mainly natural gestures for communicating, can be used as  
24 an intermediary between the deaf person and a qualified interpreter.

25 (4) "Principal party in interest" means a person who is a named party in any proceeding or who will  
26 be directly affected by the decision or action that may be made or taken.

27 (5) "Qualified interpreter" means an interpreter listed by the department of public health and  
28 human services as provided in 49-4-507."