

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

Attachment A

DRAFT

LLS NO. 20-0520.01 Yelana Love x2295

SUNSET BILL

Sunset Process - House Health and Insurance Committee

BILL TOPIC: "Sunset Continue Hearing Aid Providers"
DEADLINES: Finalize by: JAN 27, 2020 File by: JAN 29, 2020

A BILL FOR AN ACT

101 CONCERNING THE CONTINUATION OF THE LICENSING OF HEARING AID
102 PROVIDERS, AND, IN CONNECTION THEREWITH, IMPLEMENTING
103 THE RECOMMENDATIONS CONTAINED IN THE 2019 SUNSET
104 REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sunset Process - House Health and Insurance Committee. The bill implements the recommendations of the department of regulatory agencies' sunset review and report on the licensing of hearing aid

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

providers by:

- Continuing the licensing of hearing aid providers for 11 years, to 2031 (*recommendation 1, sections 1 and 2* of the bill);
- Combining the audiologist practice act with the hearing aid provider practice act (*recommendation 2, sections 3 through 32*);
- Restoring the deceptive trade practice provisions related to the sale of hearing aids (*recommendation 3, sections 33 and 34*);
- Requiring a hearing aid provider to be licensed before directly or indirectly selling or negotiating to sell any hearing aid for the hearing impaired (*recommendation 4, section 35*);
- Prohibiting a person who is not licensed as a hearing aid provider from using any titles that imply the person is qualified as a hearing aid provider (*recommendation 5, section 36*);
- Removing language specifying that the hearing aid provider practice act does not prohibit an individual from performing tasks that would be permissible if the licensee was not licensed (*recommendation 6, sections 37 and 38*);
- Requiring hearing aid providers to maintain a surety bond (*recommendation 7, section 39*);
- Adding failure to practice according to commonly accepted professional standards to the grounds for discipline (*recommendation 8, section 40*);
- Authorizing the director of the division of professions and occupations to accept disciplinary action taken by another state, a local jurisdiction, or the federal government as prima facie evidence of misconduct if the basis for the action would be grounds for discipline in Colorado (*recommendation 9, section 41*);
- Requiring final agency actions to be appealed directly to the court of appeals (*recommendation 10, section 42*); and
- Repealing references to the national competency examination and the National Board for Certification in Hearing Instrument Sciences (*recommendation 11, section 43*).

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 *Recommendation 1*

1 **SECTION 1.** In Colorado Revised Statutes, amend 12-230-106
2 as follows:

3 **12-230-106. Repeal of article - review of functions.** This article
4 230 is repealed, effective September 1, 2020 2031. Before the repeal, the
5 licensing and supervisory functions of the director are scheduled for
6 review in accordance with section 24-34-104.

7 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, repeal
8 (19)(a)(VI); and add (32) as follows:

9 **24-34-104. General assembly review of regulatory agencies**
10 **and functions for repeal, continuation, or reestablishment - legislative**
11 **declaration - repeal.** (19) (a) The following agencies, functions, or both,
12 are scheduled for repeal on September 1, 2020:

13 ~~(VI) The licensing of hearing aid providers by the division of~~
14 ~~professions and occupations in accordance with article 230 of title 12;~~

15 (32) (a) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, ARE
16 SCHEDULED FOR REPEAL ON SEPTEMBER 1, 2031:

17 (I) THE LICENSING OF HEARING AID PROVIDERS BY THE DIVISION OF
18 PROFESSIONS AND OCCUPATIONS IN ACCORDANCE WITH ARTICLE 230 OF
19 TITLE 12.

20 (b) THIS SUBSECTION (32) IS REPEALED, EFFECTIVE SEPTEMBER 1,
21 2033.

22 *Recommendation 2 - To draft this recommendation, I have moved the*
23 *hearing aid providers practice act into part 2 of article 210 and made*
24 *the audiology practice act part 1 of article 210. If this recommendation*
25 *2 is accepted, all other recommendations that are also accepted will be*
26 *incorporated into this recommendation 2.*

27 **SECTION 3.** In Colorado Revised Statutes, add with amended

1 and relocated provisions part 2 to article 210 of title 12 as follows:

2 PART 2

3 HEARING AID PROVIDERS

4 12-210-201. [Formerly 12-230-101] Applicability of common
5 provisions. Articles 1, 20, and 30 of this title 12 apply, according to their
6 terms, to this article ~~230~~ PART 2.

7 12-210-202. [Formerly 12-230-102] Definitions - rules. As used
8 in this article ~~230~~ PART 2, unless the context otherwise requires:

9 (1) "Apprentice" means a person who holds a current license as
10 an apprentice pursuant to this article ~~230~~ PART 2.

11 (2) "Dispense", with regard to a hearing aid, means to sell or
12 transfer title, possession, or the right to use by lease, bailment, or any
13 other method. The term does not apply to wholesale transactions with
14 distributors or dealers.

15 ~~(3) (a) "Hearing aid" means a wearable device designed or offered
16 to be customized for the purpose of compensating for impaired human
17 hearing and includes:~~

18 ~~(i) Any parts, attachments, or accessories to the instrument or
19 device, as defined in rules adopted by the director; and~~

20 ~~(ii) Ear molds, excluding batteries and cords;~~

21 ~~(b) The term does not include a surgically implanted hearing
22 device.~~

23 ~~(4) (3) "Hearing aid provider" means a person engaged in the
24 practice of dispensing, fitting, or dealing in hearing aids.~~

25 ~~(5) (4) "Practice of dispensing, fitting, or dealing in hearing aids"
26 includes:~~

27 (a) Selecting and adapting hearing aids for sale;

1 (b) Testing human hearing for purposes of selecting and adapting
2 hearing aids for sale; and

3 (c) Making impressions for ear molds and counseling and
4 instructing prospective users for purposes of selecting, fitting, adapting,
5 or selling hearing aids.

6 ~~(6) "Surgically implanted hearing device" means a device that is~~
7 ~~designed to produce useful hearing sensations to a person with a hearing~~
8 ~~impairment and that has, as one or more components, a unit that is~~
9 ~~surgically implanted into the ear, skull, or other interior part of the body.~~
10 ~~The term includes any associated unit that may be worn on the body.~~

11 **12-210-203. [Formerly 12-230-103] Scope of article -**
12 **exemption.** (1) This article ~~230~~ PART 2 does not apply to persons A
13 PERSON who are IS:

14 (a) NOT LICENSED UNDER THIS PART 2 BUT IS licensed pursuant to
15 section 22-60.5-210 and who are not licensed under this article ~~230~~ for
16 work undertaken as part of their THE PERSON'S employment by, or
17 contractual agreement with, the public schools; or

18 (b) Engaged in the practice of audiology or the practice of
19 dispensing, fitting, or dealing in hearing aids in the discharge of their THE
20 PERSON'S official duties in the service of the United States armed forces,
21 public health service, Coast Guard, or veterans administration.

22 (2) This article ~~230~~ PART 2 does not apply to the wholesale sales
23 of hearing aids.

24 (3) Nothing in this article ~~230~~ PART 2:

25 (a) Authorizes a hearing aid provider to engage in the practice of
26 medicine as defined in section 12-240-107; OR

27 ~~(4) (b) Nothing in this article 230~~ Prohibits a business or licensee

1 from:

2 (a) (I) Hiring and employing unlicensed staff to assist with
3 conducting business practices and to assist in dispensing hearing aids if
4 the unlicensed staff are properly supervised by a licensee; except that the
5 ~~employees~~ UNLICENSED STAFF may not conduct hearing tests or perform
6 the initial fitting of hearing aids; or

7 (b) (II) Performing tasks that would be permissible if the licensee
8 was not licensed.

9 (5) (4) This ~~article 230~~ PART 2 does not apply to the dispensing of
10 hearing aids outside of this state.

11 (6) (5) An audiologist licensed pursuant to PART 1 OF THIS article
12 210 ~~of this title 12~~ is not required to obtain a license pursuant to this
13 ~~article 230~~ PART 2.

14 **12-210-204. [Formerly 12-230-104] Scope of practice.** (1) The
15 scope of practice for a hearing aid provider includes:

16 (a) Eliciting patient case histories, including medical, otological,
17 pharmacological, occupational, and previous amplification history and
18 patient attitudes and expectations;

19 (b) Administering otoscopy for the purpose of identifying possible
20 otological conditions, including conditions described in section 6-1-701
21 (2)(d), that may indicate the need for medical referral or that may have a
22 bearing on needed rehabilitative measures, outcomes, or
23 recommendations;

24 (c) Administering and interpreting tests of human hearing,
25 including appropriate objective and subjective methodology and
26 measures;

27 (d) Determining a person's candidacy for hearing aids or hearing

1 assistive devices, referring the person for surgically implanted hearing
2 device evaluation, or recommending other clinical, rehabilitative, or
3 medical interventions;

4 (e) Prescribing, selecting, and fitting appropriate hearing
5 instruments and assistive devices, including appropriate technology,
6 electroacoustic targets, programming parameters, and special
7 applications, as indicated;

8 (f) Assessing hearing instrument efficacy using appropriate fitting
9 verification methodology, including available fitting validation methods;

10 (g) Taking ear impressions and preparing ear molds for hearing
11 instruments, assistive devices, telecommunications applications, ear
12 protection, and other related applications;

13 (h) Designing and modifying ear molds and auditory equipment
14 to meet individual patient needs;

15 (i) Providing counseling and aural rehabilitative services in the
16 use and care of hearing instruments and assistive devices and for
17 effectively using communication coping strategies and other approaches
18 to foster optimal patient rehabilitation; and

19 (j) Providing supervision and training of those entering the
20 dispensing profession.

21 **12-210-205. [Formerly 12-230-105] Title protection - use of**
22 **title.** It is unlawful for any person to use the title "hearing aid provider"
23 or "hearing aid dispenser" unless ~~he or she~~ THE PERSON is licensed as a
24 hearing aid provider pursuant to this ~~article 230~~ PART 2.

25 **12-210-206. [Formerly 12-230-201] License required -**
26 **application - qualifications - rules.** (1) A hearing aid provider shall
27 obtain a license pursuant to this section before engaging in the practice

1 of dispensing, fitting, or dealing in hearing aids.

2 (2) (a) An applicant shall submit an application to the director
3 containing the information described in this subsection (2) and shall pay
4 a fee determined and collected pursuant to section 12-20-105. The
5 director may deny an application for licensure if the required information
6 is not submitted or if an applicant's apprentice license, issued pursuant to
7 section ~~12-230-204~~ 12-210-209, has been revoked. If an applicant or
8 licensee fails to notify the director of a change in the submitted
9 information within thirty days after the change, the failure is ~~cause~~
10 GROUND~~s~~ for disciplinary action.

11 (b) An applicant shall include the following information in every
12 application for licensure pursuant to this section:

13 (I) The applicant's name, business address, and business telephone
14 number, and other contact information as determined by the director;

15 (II) A statement indicating whether:

16 (A) A hearing aid provider license, certificate, or registration was
17 issued to the applicant by a local, state, or national health care agency;

18 (B) The license, certificate, or registration was suspended or
19 revoked;

20 (C) Charges or complaints are pending against the applicant; and

21 (D) Disciplinary action was taken.

22 (3) In order to qualify for licensure pursuant to this section, an
23 applicant must either:

24 (a) Have passed the national competency examination of the
25 National Board for Certification in Hearing Instrument Sciences
26 (NBC-HIS), unless the director determines, by rule, that this examination
27 no longer meets the minimum standards necessary for licensure, in which

1 case only an examination that the applicant passed prior to the date of the
2 ruling will be acceptable; or

3 (b) Have passed an appropriate entry-level examination, as
4 determined by the director, and:

5 (I) Completed at least six months of training with an audiologist
6 or licensed hearing aid provider pursuant to section ~~12-230-204~~
7 12-210-209; or

8 (II) Have an associate's degree in hearing aid fitting and
9 dispensing that, at the time the applicant was enrolled and graduated, was
10 offered by an institution of higher education or a postsecondary education
11 program accredited by a national, regional, or state agency recognized by
12 the United States department of education, or a program approved by the
13 director.

14 **12-210-207. [Formerly 12-230-202] Licensure - expiration -**
15 **renewal - reinstatement - fees.** (1) (a) The director shall license all
16 applicants who meet the requirements for licensure in this ~~article 230~~
17 PART 2.

18 (b) The director shall issue or deny a license within sixty days
19 after the date the application is received.

20 (c) The director shall give each licensee a license bearing a unique
21 license number. The licensee shall include the license number on all
22 written contracts and receipts.

23 (2) Licenses issued pursuant to this ~~article 230~~ PART 2 are subject
24 to the renewal, expiration, reinstatement, and delinquency fee provisions
25 specified in section 12-20-202 (1) and (2). A person whose license has
26 expired is subject to the penalties set forth in this ~~article 230~~ PART 2 or in
27 section 12-20-202 (1).

1 **12-210-208. [Formerly 12-230-203] Licensure by endorsement**
2 **- rules.** (1) The director shall issue a license by endorsement to practice
3 as a hearing aid provider in this state to an individual who possesses an
4 active license in good standing to practice in that profession in another
5 state or territory of the United States or in a foreign country if the
6 applicant:

7 (a) Presents proof satisfactory to the director that the individual
8 possesses a valid license from another state or jurisdiction that requires
9 qualifications substantially equivalent to the qualifications for licensure
10 in this state and meets all other requirements for licensure pursuant to this
11 ~~article 230~~ PART 2; and

12 (b) Pays the licensure fee established under section 12-20-105.

13 (2) The director may specify by rule what constitutes substantially
14 equivalent qualifications for the purposes of this section.

15 **12-210-209. [Formerly 12-230-204] Apprentice license -**
16 **expiration - rules.** (1) A person training to be a licensed hearing aid
17 provider shall submit to the director an application containing the
18 information described in subsection (2) of this section and shall pay an
19 apprentice license fee determined and collected pursuant to section
20 12-20-105.

21 (2) ~~On and after June 1, 2014,~~ The director shall issue an
22 apprentice license to a person who provides, to the director's satisfaction,
23 verification of training to become a licensed hearing aid provider, which
24 training is under the direct supervision of a licensed hearing aid provider
25 whose license is in good standing.

26 (3) During the training period:

27 (a) An apprentice is not permitted to sell hearing aids

1 independently of the supervising licensed hearing aid provider; AND

2 (b) A supervising licensed hearing aid provider retains ultimate
3 responsibility for the care provided by the apprentice and is subject to
4 disciplinary action by the director for failure to provide adequate
5 supervision.

6 (4) Any person issued an apprentice license under this section is
7 subject to:

8 (a) Discipline under section ~~12-230-302~~ 12-210-212 for engaging
9 in an act that constitutes grounds for discipline under section ~~12-230-401~~
10 12-210-214; and

11 (b) A cease-and-desist order under sections 12-20-405 and
12 ~~12-230-303~~ 12-210-213 for engaging in behavior set forth in section
13 ~~12-20-405~~ 12-210-213.

14 (5) An apprentice license issued under this section is renewable
15 and is subject to section ~~12-230-202 (2)~~ 12-210-207 (2).

16 (6) A person in this state training to be a licensed hearing aid
17 provider must possess a valid apprentice license issued by the director
18 pursuant to this ~~article 230~~ PART 2 and rules promulgated pursuant to this
19 ~~article 230~~ PART 2.

20 **12-210-210. [Formerly 12-230-205] Retention of records -**
21 **licensee's obligation.** Each licensee who sells a hearing aid or provides
22 goods or services to a customer shall develop a written plan to ensure the
23 maintenance of customer records. The records must be retained for at
24 least seven years and identify the customer by name; the goods or
25 services, except batteries, minor parts, and accessories, provided to each
26 customer; and the date and price of each transaction.

27 **12-210-211. [Formerly 12-230-301] Director - powers - duties**

1 - rules. (1) The director, in accordance with section 12-20-403, may
2 make investigations and inspections as necessary to determine whether an
3 applicant or licensee has violated this ~~article 230~~ PART 2 or any rule
4 adopted by the director.

5 (2) The director may apply for injunctive relief in accordance with
6 section 12-20-406 to enjoin any act or practice that constitutes a violation
7 of this ~~article 230~~ PART 2. Upon a showing that a person is engaging in or
8 intends to engage in the act or practice, the court shall grant an injunction,
9 restraining order, or other appropriate order, regardless of the existence
10 of another remedy.

11 (3) ~~No later than December 31, 2013, and thereafter as necessary;~~
12 The director shall adopt rules pursuant to section 12-20-204.

13 **12-210-212. [Formerly 12-230-302] Disciplinary actions.** (1) If
14 the director determines that an applicant or licensee has committed any
15 of the acts specified in section ~~12-230-401~~ 12-210-214, the director may:

16 (a) Issue a letter of admonition under the circumstances specified
17 in and in accordance with section 12-20-404 (4);

18 (b) Place a licensee on probation pursuant to section 12-20-404
19 (1)(b);

20 (c) Impose an administrative fine not to exceed two thousand five
21 hundred dollars for each separate offense; or

22 (d) Take disciplinary action as authorized in section 12-20-404
23 (1)(d).

24 (2) The director may send a licensee a confidential letter of
25 concern under the circumstances specified in section 12-20-404 (5).

26 (3) The director shall not enforce any provisions of this ~~article 230~~
27 PART 2 or rules promulgated pursuant to this ~~article 230~~ PART 2 that are

1 held unconstitutional, invalid, or inconsistent with federal laws or
2 regulations, including regulations promulgated by the United States food
3 and drug administration.

4 **12-210-213. [Formerly 12-230-303] Cease-and-desist orders -**
5 **unauthorized practice - penalties.** (1) If it appears to the director, based
6 upon credible evidence as presented in a written complaint by any person,
7 that a licensee is acting in a manner that is a threat to the health and safety
8 of the public, or a person is acting or has acted without the required
9 license, the director, in accordance with the procedures specified in
10 section 12-20-405, may issue an order to cease and desist the activity. The
11 order must set forth the statutes and rules alleged to have been violated,
12 the facts alleged to have constituted the violation, the specific harm that
13 threatens the health and safety of the public, and the requirement that all
14 unlawful acts or unlicensed practices immediately cease.

15 (2) A person who practices or offers or attempts to practice as a
16 hearing aid provider or who engages in the practice of dispensing, fitting,
17 or dealing in hearing aids without an active hearing aid provider license
18 issued under this ~~article 230~~ PART 2 is subject to penalties pursuant to
19 section 12-20-407 (1)(a).

20 **12-210-214. [Formerly 12-230-401] Grounds for discipline.**

21 (1) The following acts constitute grounds for discipline:

22 (a) Making a false or misleading statement or omission in an
23 application for licensure;

24 (b) Violating any provision of this ~~article 230~~ PART 2, an
25 applicable provision of article 20 or 30 of this title 12, a rule promulgated
26 by the director under this ~~article 230~~ PART 2, or an order issued by the
27 director under this ~~article 230~~ PART 2;

- 1 (c) Using false or misleading advertising;
- 2 (d) Representing that the service or advice of a person licensed to
3 practice medicine will be used or made available in the selection, fitting,
4 adjustment, maintenance, or repair of hearing aids when that is not true
5 or using the terms "doctor", "clinic", "state-licensed clinic",
6 "state-registered", "state-certified", "state-approved", or any other term,
7 abbreviation, or symbol when it would give the false impression that
8 service is being provided by persons trained in medicine or that the
9 licensee's service has been recommended by the state when that is not the
10 case, or when it would be false or misleading;
- 11 (e) Directly or indirectly giving or offering to give money or
12 anything of value to any person who advises another in a professional
13 capacity as an inducement to influence the person or have the person
14 influence others to purchase or contract to purchase products sold or
15 offered for sale by a licensee, or influencing persons to refrain from
16 dealing in the products of competitors;
- 17 (f) Employing a device, a scheme, or AN artifice with the intent to
18 defraud a purchaser of a hearing aid;
- 19 (g) Selling a hearing aid to a child under eighteen years of age
20 without receiving documentation that the child has been examined by a
21 licensed physician and an audiologist within six months prior to the
22 fitting;
- 23 (h) Intentionally disposing of, concealing, diverting, converting,
24 or otherwise failing to account for any funds or assets of a purchaser of
25 a hearing aid that is under the applicant's, licensee's, or apprentice's
26 control;
- 27 (i) Making a false or misleading statement of fact concerning

1 goods or services or the buyer's right to cancel with the intention or effect
2 of deterring or preventing the buyer from exercising the buyer's right to
3 cancel, or refusing to honor a buyer's request to cancel a contract for the
4 purchase of a hearing aid, if the request was made during the rescission
5 period set forth in section 6-1-701 (2)(e);

6 (j) Charging, collecting, or recovering any cost or fee for any good
7 or service that has been represented by the licensee as free;

8 (k) Failing to adequately supervise a licensed hearing aid provider
9 apprentice or any employee pursuant to section ~~12-230-103 (4)(a)~~ or
10 ~~12-230-204 (2)~~ 12-210-203 (3)(b)(I) OR 12-210-209 (2);

11 (l) Employing a sales agent or employee who violates any
12 provision of this ~~article 230~~ PART 2, a rule promulgated by the director
13 under this ~~article 230~~ PART 2, or an order issued by the director under this
14 ~~article 230~~ PART 2;

15 (m) Failing to comply with a stipulation or agreement made with
16 the director or with a final agency order;

17 (n) Failing to respond in an honest, materially responsive, and
18 timely manner to a complaint issued pursuant to this ~~article 230~~ PART 2;

19 (o) Being convicted of, accepting a plea of guilty or nolo
20 contendere to, or receipt of a deferred sentence in any court for a felony
21 or for any crime involving fraud, deception, false pretense, theft,
22 misrepresentation, false advertising, or dishonest dealing;

23 (p) Selling, dispensing, adjusting, providing training or teaching
24 in regard to, or otherwise servicing surgically implanted hearing devices
25 unless the hearing aid provider is an audiologist or a physician; and

26 (q) Violating the "Colorado Consumer Protection Act", article 1
27 of title 6.

1 **SECTION 4. Repeal of relocated and nonrelocated provisions**
2 **in this act.** In Colorado Revised Statutes, repeal article 230 of title 12;
3 except that 12-230-106 is not relocated.

4 **SECTION 5.** In Colorado Revised Statutes, amend 6-1-114 as
5 follows:

6 **6-1-114. Criminal penalties.** Upon a first conviction, any person
7 who promotes a pyramid promotional scheme in this state or who violates
8 ~~article 230~~ PART 2 OF ARTICLE 210 of title 12 or section 6-1-701 or
9 6-1-717 is guilty of a class 1 misdemeanor, as defined in section
10 18-1.3-501, and, upon a second or subsequent conviction for a violation
11 of ~~article 230~~ PART 2 OF ARTICLE 210 of title 12 or section 6-1-701, is
12 guilty of a class 6 felony, as defined in section 18-1.3-401.

13 **SECTION 6.** In Colorado Revised Statutes, 8-2-111.6, amend (5)
14 as follows:

15 **8-2-111.6. Health care employers - immunity from civil**
16 **liability - requirements - exception to blacklisting prohibition -**
17 **legislative declaration - definition.** (5) For the purposes of this section,
18 "health care worker" means any person registered, certified, or licensed
19 pursuant to ~~articles 200 to 225, 235 to 300~~ ARTICLES 200 AND 205, PART
20 1 OF ARTICLE 210, AND ARTICLES 215 TO 225, 235 TO 300, and 310 of title
21 12 or article 3.5 of title 25, or any person who interacts directly with a
22 patient or assists with the patient care process, who is currently employed
23 by, or WHO is a prospective employee of, the employer making the
24 inquiry.

25 **SECTION 7.** In Colorado Revised Statutes, 10-16-104, amend
26 (19)(b) introductory portion as follows:

27 **10-16-104. Mandatory coverage provisions - definitions -**

1 rules. (19) **Hearing aids for children - legislative declaration.** (b) Any
2 health benefit plan that provides hospital, surgical, or medical expense
3 insurance, except supplemental policies covering a specified disease or
4 other limited benefit, must provide coverage for hearing aids for minor
5 children who have a hearing loss that has been verified by a physician
6 licensed pursuant to article 240 of title 12 and by an audiologist licensed
7 pursuant to PART 1 OF article 210 of title 12. The hearing aids must be
8 medically appropriate to meet the needs of the child according to accepted
9 professional standards. Coverage must include the purchase of the
10 following:

11 **SECTION 8.** In Colorado Revised Statutes, 12-20-402, amend
12 (3)(b)(II) as follows:

13 **12-20-402. Immunity.** (3) (b) The immunity granted by
14 subsection (1) of this section to a person who lodges a complaint does not
15 apply to proceedings under:

16 (II) ~~Article 230~~ PART 2 OF ARTICLE 210 of this title 12 concerning
17 hearing aid providers.

18 **SECTION 9.** In Colorado Revised Statutes, 12-20-404, amend
19 (3)(a)(II)(E) and (3)(a)(II)(F) as follows:

20 **12-20-404. Disciplinary actions - regulator powers -**
21 **disposition of fines.** (3) **Waiting period after revocation or surrender.**

22 (a) (II) In addition, the waiting period specified in subsection (3)(a)(I) of
23 this section applies when a person regulated under any of the following
24 articles surrenders a license, certification, or registration to avoid
25 discipline:

26 (E) PART 1 OF article 210 of this title 12 concerning audiologists;

27 (F) ~~Article 230~~ PART 2 OF ARTICLE 210 of this title 12 concerning

1 hearing aid providers;

2 **SECTION 10.** In Colorado Revised Statutes, 12-20-406, amend
3 (2)(b)(V) and (2)(b)(VII) as follows:

4 **12-20-406. Injunctive relief.** (2) (b) Subsection (2)(a) of this
5 section does not apply to the following:

6 (V) PART 1 OF article 210 of this title 12 concerning audiologists;

7 (VII) ~~Article 230~~ PART 2 OF ARTICLE 210 of this title 12
8 concerning hearing aid providers;

9 **SECTION 11.** In Colorado Revised Statutes, 12-20-407, amend
10 (1)(a)(V)(H) and (1)(a)(V)(L) as follows:

11 **12-20-407. Unauthorized practice of profession or occupation**
12 **- penalties - exclusions.** (1) (a) A person commits a class 2 misdemeanor
13 and shall be punished as provided in section 18-1.3-501 for the first
14 offense and, for the second or any subsequent offense, commits a class 6
15 felony and shall be punished as provided in section 18-1.3-401, if the
16 person:

17 (V) Practices or offers or attempts to practice any of the following
18 professions or occupations without an active license, certification, or
19 registration issued under the part or article of this title 12 governing the
20 particular profession or occupation:

21 (H) Audiology, as regulated under PART 1 OF article 210 of this
22 title 12;

23 (L) Practice as a hearing aid provider or engages in the practice
24 of dispensing, fitting, or dealing in hearing aids, as regulated under ~~article~~
25 ~~230~~ PART 2 OF ARTICLE 210 of this title 12;

26 **SECTION 12.** In Colorado Revised Statutes, 12-20-408, amend
27 (2)(f) and (2)(g) as follows:

1 **12-20-408. Judicial review.** (2) A district court of competent
2 jurisdiction has initial jurisdiction to review all final actions and orders
3 of a regulator that are subject to judicial review and shall conduct the
4 judicial review proceedings in accordance with section 24-4-106 (3) for
5 the following:

6 (f) PART 1 OF article 210 of this title 12 concerning audiologists;
7 and

8 (g) ~~Article 230~~ PART 2 OF ARTICLE 210 of this title 12 concerning
9 hearing aid providers.

10 **SECTION 13.** In Colorado Revised Statutes, 12-30-102, amend
11 (3)(a)(I) and (3)(a)(II) as follows:

12 **12-30-102. Medical transparency act of 2010 - disclosure of**
13 **information about health care licensees - fines - rules - short title -**
14 **legislative declaration - definition - review of functions - repeal.**

15 (3) (a) As used in this section, "applicant" means a person applying for
16 a new, active license, certification, or registration or to renew, reinstate,
17 or reactivate an active license, certification, or registration to practice:

18 (I) Audiology pursuant to PART 1 OF article 210 of this title 12;

19 (II) As a licensed hearing aid provider pursuant to part 2 of article
20 ~~230~~ ARTICLE 210 of this title 12;

21 **SECTION 14.** In Colorado Revised Statutes, 12-30-103, amend
22 (4)(a)(II) as follows:

23 **12-30-103. Solicitation of accident victims - waiting period -**
24 **definitions.** (4) As used in this section:

25 (a) "Health care practitioner" means:

26 (II) An audiologist licensed under PART 1 OF article 210 of this
27 title 12;

1 **SECTION 15.** In Colorado Revised Statutes, 12-30-108, amend
2 (4)(a)(I)(B) as follows:

3 **12-30-108. Confidential agreement to limit practice - violation**
4 **grounds for discipline.** (4) (a) This section does not apply to:

5 (I) The following health care professionals:

6 (B) Hearing aid providers regulated pursuant to ~~article 230~~ PART
7 2 OF ARTICLE 210 of this title 12;

8 **SECTION 16.** In Colorado Revised Statutes, amend 12-210-101
9 as follows:

10 **12-210-101. Applicability of common provisions.** Articles 1, 20,
11 and 30 of this title 12 apply, according to their terms, to this ~~article 210~~
12 PART 1.

13 **SECTION 17.** In Colorado Revised Statutes, 12-210-103, amend
14 (1) introductory portion, (1)(a), and (2) as follows:

15 **12-210-103. Scope of article - exemption.** (1) This ~~article 210~~
16 PART 1 does not apply to a person who is:

17 (a) NOT LICENSED UNDER THIS PART 1 BUT IS licensed pursuant to
18 section 22-60.5-210 ~~and not licensed under this article 210~~ for work
19 undertaken as part of ~~his or her~~ THE PERSON'S employment by, or
20 contractual agreement with, the public schools;

21 (2) Nothing in this ~~article 210~~ PART 1 authorizes an audiologist to
22 engage in the practice of medicine as defined in section 12-240-107.

23 **SECTION 18.** In Colorado Revised Statutes, 12-210-104, amend
24 (1) as follows:

25 **12-210-104. Title protection - use of title.** (1) It is unlawful for
26 any person to use the following titles unless ~~he or she~~ THE PERSON is
27 licensed pursuant to this ~~article 210~~ PART 1: "Audiologist", "hearing and

1 balance audiologist", "vestibular audiologist", or any other title, or
2 abbreviation that implies that the person is an audiologist.

3 **SECTION 19.** In Colorado Revised Statutes, 12-210-105, amend
4 (2) introductory portion, (3), and (4) introductory portion as follows:

5 **12-210-105. License required - application - fee - liability**
6 **insurance - disclosure - exemption.** (2) To qualify for licensure as an
7 audiologist under this ~~article 210~~ PART 1, a person must have:

8 (3) An audiologist desiring to be licensed pursuant to this ~~article~~
9 ~~210~~ PART 1 must submit to the director an application containing the
10 information described in subsection (4) of this section and must pay to the
11 director all required fees in the amounts determined and collected by the
12 director pursuant to section 12-20-105. The director may deny an
13 application for a license if the required information and fees are not
14 submitted. If an applicant or licensee fails to notify the director of a
15 change in the submitted information within thirty days after the change,
16 the failure is grounds for disciplinary action pursuant to section
17 12-210-108.

18 (4) An applicant must include the following information in an
19 application for a license as an audiologist under this ~~article 210~~ PART 1:

20 **SECTION 20.** In Colorado Revised Statutes, amend 12-210-106
21 as follows:

22 **12-210-106. Licensure - expiration - renewal - reinstatement**
23 **- fees.** (1) The director shall issue a license to an applicant who satisfies
24 the requirements of this ~~article 210~~ PART 1.

25 (2) Licenses issued under this ~~article 210~~ PART 1 are subject to the
26 renewal, expiration, reinstatement, and delinquency fee provisions
27 specified in section 12-20-202 (1) and (2). A person whose license has

1 expired is subject to the penalties set forth in this ~~article 210~~ PART 1 or in
2 section 12-20-202 (1).

3 **SECTION 21.** In Colorado Revised Statutes, 12-210-107, amend
4 (1)(a) as follows:

5 **12-210-107. Licensure by endorsement - rules.** (1) The director
6 shall issue a license by endorsement to engage in the practice of
7 audiology in this state to an individual who possesses an active license in
8 good standing to practice audiology in another state or territory of the
9 United States or in a foreign country if the applicant:

10 (a) Presents satisfactory proof to the director that the individual
11 possesses a valid license from another state or jurisdiction that requires
12 qualifications substantially equivalent to the qualifications for licensure
13 in this state and meets all other requirements for licensure pursuant to this
14 ~~article 210~~ PART 1; and

15 **SECTION 22.** In Colorado Revised Statutes, 12-210-108, amend
16 (2)(c), (2)(d), (2)(e), (2)(m), and (4) as follows:

17 **12-210-108. Disciplinary actions - grounds for discipline.**
18 (2) The following acts constitute grounds for discipline:

19 (c) Violating any provision of this ~~article 210~~ PART 1, including
20 failure to comply with the license requirements of section 12-210-105 or
21 failure to report information as required under section 12-30-102 or
22 12-210-105 (5), or violating an applicable provision of article 20 or 30 of
23 this title 12;

24 (d) Violating any rule promulgated by the director under this
25 ~~article 210~~ PART 1;

26 (e) Aiding or abetting a violation, or conspiring to violate, any
27 provision of this ~~article 210~~ PART 1, an applicable provision of article 20

1 or 30 of this title 12, OR any rule promulgated or any order issued under
2 this ~~article 210~~ PART 1 by the director;

3 (m) Employing a sales agent or employee who violates any
4 provision of this ~~article 210~~ PART 1;

5 (4) Any disciplinary action taken by another state, A local
6 jurisdiction, or the federal government against an applicant or licensee
7 constitutes prima facie evidence of grounds for disciplinary action,
8 including denial of a license under this ~~article 210~~ PART 1; except that this
9 subsection (4) applies only to discipline for acts or omissions that are
10 substantially similar to those set out as grounds for disciplinary action
11 under this ~~article 210~~ PART 1.

12 **SECTION 23.** In Colorado Revised Statutes, 12-210-109, amend
13 (1) and (2) as follows:

14 **12-210-109. Director - powers - duties - rules.** (1) The director
15 may conduct investigations and inspections in accordance with section
16 12-20-403 as necessary to determine whether an applicant or licensee has
17 violated this ~~article 210~~ PART 1 or any rule adopted by the director under
18 this ~~article 210~~ PART 1.

19 (2) The director may seek an injunction in accordance with section
20 12-20-406 to enjoin any act or practice that constitutes a violation of this
21 ~~article 210~~ PART 1.

22 **SECTION 24.** In Colorado Revised Statutes, 12-210-110, amend
23 (2) as follows:

24 **12-210-110. Cease-and-desist orders - unauthorized practice**
25 **- penalties.** (2) A person who practices or offers or attempts to practice
26 audiology services without an active audiologist license issued under this
27 ~~article 210~~ PART 1 is subject to penalties pursuant to section 12-20-407

1 (1)(a).

2 **SECTION 25.** In Colorado Revised Statutes, 12-210-111, amend

3 (2) as follows:

4 **12-210-111. Professional liability insurance required - rules.**

5 (2) The professional liability insurance required by this section must

6 cover all acts ~~with~~ WITHIN the scope of practice of an audiologist as

7 defined in this ~~article 210~~ PART 1.

8 **SECTION 26.** In Colorado Revised Statutes, 12-210-112, amend

9 (1) as follows:

10 **12-210-112. Confidential agreements to limit practice -**

11 **violation grounds for discipline.** (1) Except as specified in subsection

12 (2) of this section, section 12-30-108 concerning confidential agreements

13 to limit practice applies to this ~~article 210~~ PART 1.

14 **SECTION 27.** In Colorado Revised Statutes, 12-210-113, amend

15 (2) as follows:

16 **12-210-113. Mental and physical examination of licensees.**

17 (2) The director shall include in an order issued to a licensee under

18 subsection (1) of this section the basis of the director's reasonable cause

19 to believe that the licensee is unable to practice with reasonable skill and

20 safety. For the purposes of a disciplinary proceeding authorized by this

21 ~~article 210~~ PART 1, the licensee is deemed to have waived all objections

22 to the admissibility of the examining health care provider's testimony or

23 examination reports on the ground that they are privileged

24 communications.

25 **SECTION 28.** In Colorado Revised Statutes, 12-210-114, amend

26 (2) as follows:

27 **12-210-114. Protection of medical records - licensee's**

1 **obligations - verification of compliance - noncompliance grounds for**
2 **discipline - rules.** (2) Upon initial licensure under this ~~article 210~~ PART
3 1, the licensee shall attest to the director that the licensee has developed
4 a plan in compliance with this section.

5 **SECTION 29.** In Colorado Revised Statutes, **repeal** 12-210-115.

6 **SECTION 30.** In Colorado Revised Statutes, **add** part 3 to article
7 210 of title 12 as follows:

8 PART 3

9 REPEAL OF ARTICLE

10 **12-210-301. Repeal of article.** THIS ARTICLE 210 IS REPEALED,
11 EFFECTIVE SEPTEMBER 1, 2031. BEFORE THE REPEAL, THIS ARTICLE 210 IS
12 SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

13 **SECTION 31.** In Colorado Revised Statutes, 24-34-104, **add** (32)
14 as follows:

15 **24-34-104. General assembly review of regulatory agencies**
16 **and functions for repeal, continuation, or reestablishment - legislative**
17 **declaration - repeal.** (32) (a) THE FOLLOWING AGENCIES, FUNCTIONS, OR
18 BOTH, ARE SCHEDULED FOR REPEAL ON SEPTEMBER 1, 2031:

19 (I) NOTWITHSTANDING SUBSECTION (7) OF THIS SECTION, THE
20 LICENSING OF AUDIOLOGISTS AND HEARING AID PROVIDERS BY THE
21 DIVISION OF PROFESSIONS AND OCCUPATIONS IN ACCORDANCE WITH
22 ARTICLE 210 OF TITLE 12.

23 (b) THIS SUBSECTION (32) IS REPEALED, EFFECTIVE SEPTEMBER 1,
24 2033.

25 **SECTION 32.** In Colorado Revised Statutes, 25-1.5-604, **amend**
26 (c)(2) as follows:

27 **25-1.5-604. Regulation of services during emergency.** (c) A

1 host entity that uses volunteer health practitioners to provide health or
2 veterinary services in this state shall:

3 (2) Comply with any laws other than this part 6 relating to the
4 management of emergency health or veterinary services, including section
5 12-30-103, part 2 of article 30 of title 12, and ~~articles 200 to 225 and 235~~
6 ~~to 300~~ ARTICLES 200 AND 205, PART 1 OF ARTICLE 210, AND ARTICLES 215
7 TO 225 AND 235 TO 300 of title 12.

8 ***Recommendation 3***

9 SECTION 33. In Colorado Revised Statutes, **add** part 5 to article
10 230 of title 12 as follows:

11 PART 5

12 DECEPTIVE TRADE PRACTICES

13 **12-230-501. Definitions.** AS USED IN THIS PART 2, UNLESS THE
14 CONTEXT OTHERWISE REQUIRES:

15 (1) "DISPENSER" MEANS A PERSON LICENSED AS A HEARING AID
16 PROVIDER PURSUANT TO PART 2 OF THIS ARTICLE 230 WHO DISPENSES
17 HEARING AIDS.

18 **12-230-502. Dispensing hearing aids - deceptive trade**
19 **practices.** (1) IN ADDITION TO ANY OTHER DECEPTIVE TRADE PRACTICES
20 UNDER SECTION 6-1-105, A DISPENSER ENGAGES IN A DECEPTIVE TRADE
21 PRACTICE WHEN THE DISPENSER:

22 (a) FAILS TO DELIVER TO EACH PERSON TO WHOM THE DISPENSER
23 DISPENSES A HEARING AID A RECEIPT THAT:

24 (I) BEARS THE BUSINESS ADDRESS OF THE DISPENSER, TOGETHER
25 WITH SPECIFICATIONS AS TO THE MAKE AND SERIAL NUMBER OF THE
26 HEARING AID FURNISHED AND THE FULL TERMS OF THE SALE CLEARLY
27 STATED. IF THE DISPENSER DISPENSES A HEARING AID THAT IS NOT NEW,

1 THE DISPENSER SHALL CLEARLY MARK ON THE HEARING AID CONTAINER
2 AND THE RECEIPT THE TERM "USED" OR "RECONDITIONED", WHICHEVER IS
3 APPLICABLE, WITHIN THE TERMS OF THE GUARANTEE, IF ANY.

4 (II) BEARS, IN NO SMALLER TYPE THAN THE LARGEST USED IN THE
5 BODY OF THE RECEIPT, IN SUBSTANCE, A PROVISION THAT THE BUYER HAS
6 BEEN ADVISED AT THE OUTSET OF THE BUYER'S RELATIONSHIP WITH THE
7 DISPENSER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A
8 DISPENSER IN CONNECTION WITH THE PRACTICE OF DISPENSING, FITTING,
9 OR DEALING IN HEARING AIDS IS NOT AN EXAMINATION, DIAGNOSIS, OR
10 PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS
11 STATE AND, THEREFORE, MUST NOT BE REGARDED AS MEDICAL OPINION OR
12 ADVICE;

13 (III) BEARS, IN NO SMALLER TYPE THAN THE LARGEST USED IN THE
14 BODY OF THE RECEIPT, A PROVISION INDICATING THAT DISPENSERS WHO
15 ARE LICENSED BY THE DEPARTMENT ARE REGULATED BY THE DIVISION;
16 AND

17 (IV) BEARS A PROVISION LABELED "WARRANTY" IN WHICH THE
18 EXACT WARRANTY TERMS AND PERIODS AVAILABLE FROM THE
19 MANUFACTURER ARE DOCUMENTED, OR INCLUDES AN ORIGINAL OR
20 PHOTOCOPY OF THE ORIGINAL MANUFACTURER'S WARRANTY WITH THE
21 RECEIPT;

22 (b) DISPENSES A HEARING AID TO A CHILD UNDER EIGHTEEN YEARS
23 OF AGE WITHOUT RECEIVING DOCUMENTATION THAT THE CHILD HAS BEEN
24 EXAMINED BY A LICENSED PHYSICIAN AND AN AUDIOLOGIST WITHIN SIX
25 MONTHS PRIOR TO THE FITTING;

26 (c) (I) FAILS TO RECEIVE FROM A LICENSED PHYSICIAN, BEFORE
27 DISPENSING, FITTING, OR SELLING A HEARING AID TO ANY PERSON, A

1 WRITTEN PRESCRIPTION OR RECOMMENDATION, ISSUED WITHIN THE
2 PREVIOUS SIX MONTHS, THAT SPECIFIES THAT THE PERSON IS A CANDIDATE
3 FOR A HEARING AID; EXCEPT THAT ANY PERSON EIGHTEEN YEARS OF AGE
4 OR OLDER WHO OBJECTS TO MEDICAL EVALUATION ON THE BASIS OF
5 RELIGIOUS OR PERSONAL BELIEFS MAY WAIVE THE REQUIREMENT BY
6 DELIVERING TO THE DISPENSER A WRITTEN WAIVER;

7 (II) DISPENSES, ADJUSTS, PROVIDES TRAINING OR TEACHING IN
8 REGARD TO, OR OTHERWISE SERVICES SURGICALLY IMPLANTED HEARING
9 DEVICES UNLESS THE DISPENSER IS AN AUDIOLOGIST OR PHYSICIAN;

10 (d) FAILS TO RECOMMEND IN WRITING, PRIOR TO FITTING OR
11 DISPENSING A HEARING AID, THAT THE BEST INTERESTS OF THE
12 PROSPECTIVE USER WOULD BE SERVED BY CONSULTING A LICENSED
13 PHYSICIAN SPECIALIZING IN DISEASES OF THE EAR, OR ANY LICENSED
14 PHYSICIAN, IF ANY OF THE FOLLOWING CONDITIONS EXIST:

15 (I) VISIBLE CONGENITAL OR TRAUMATIC DEFORMITY OF THE EAR;

16 (II) ACTIVE DRAINAGE OF THE EAR, OR A HISTORY OF DRAINAGE OF
17 THE EAR WITHIN THE PREVIOUS NINETY DAYS;

18 (III) HISTORY OF SUDDEN OR RAPIDLY PROGRESSIVE HEARING
19 LOSS;

20 (IV) ACUTE OR CHRONIC DIZZINESS;

21 (V) UNILATERAL HEARING LOSS OF SUDDEN ONSET WITHIN THE
22 PREVIOUS NINETY DAYS;

23 (VI) AUDIOMETRIC AIR-BONE GAP EQUAL TO OR GREATER THAN
24 FIFTEEN DECIBELS AT 500 HERTZ (Hz), 1,000 Hz, AND 2,000 Hz;

25 (VII) VISIBLE EVIDENCE OF SIGNIFICANT CERUMEN
26 ACCUMULATION ON, OR A FOREIGN BODY IN, THE EAR CANAL; OR

27 (VIII) PAIN OR DISCOMFORT IN THE EAR;

1 (e) FAILS TO PROVIDE A MINIMUM THIRTY-DAY RESCISSION PERIOD
2 WITH THE FOLLOWING TERMS:

3 (I) THE BUYER HAS THE RIGHT TO CANCEL THE PURCHASE FOR ANY
4 REASON BEFORE THE EXPIRATION OF THE RESCISSION PERIOD BY GIVING OR
5 MAILING WRITTEN NOTICE OF CANCELLATION TO THE DISPENSER AND
6 PRESENTING THE HEARING AID TO THE DISPENSER, UNLESS THE HEARING
7 AID HAS BEEN LOST OR SIGNIFICANTLY DAMAGED BEYOND REPAIR WHILE
8 IN THE BUYER'S POSSESSION AND CONTROL. THE RESCISSION PERIOD IS
9 TOLLED FOR ANY PERIOD DURING WHICH A DISPENSER TAKES POSSESSION
10 OR CONTROL OF A HEARING AID AFTER ITS ORIGINAL DELIVERY.

11 (II) THE BUYER, UPON CANCELLATION, IS ENTITLED TO RECEIVE A
12 FULL REFUND OF ANY PAYMENT MADE FOR THE HEARING AID WITHIN
13 THIRTY DAYS AFTER RETURNING THE HEARING AID TO THE DISPENSER;
14 UNLESS THE HEARING AID WAS SIGNIFICANTLY DAMAGED BEYOND REPAIR
15 WHILE IN THE BUYER'S POSSESSION AND CONTROL.

16 (III) (A) THE DISPENSER SHALL PROVIDE A WRITTEN RECEIPT OR
17 CONTRACT TO THE BUYER THAT INCLUDES, IN IMMEDIATE PROXIMITY TO
18 THE SPACE RESERVED FOR THE SIGNATURE OF THE BUYER, THE FOLLOWING
19 SPECIFIC STATEMENT IN ALL CAPITAL LETTERS OF NO LESS THAN
20 TEN-POINT, BOLD-FACED TYPE:

21 **THE BUYER HAS THE RIGHT TO CANCEL THIS**
22 **PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO 12**
23 **MIDNIGHT ON THE [INSERT APPLICABLE RESCISSION PERIOD, WHICH**
24 **MUST BE NO SHORTER THAN THIRTY DAYS AFTER RECEIPT OF THE HEARING**
25 **AID] CALENDAR DAY AFTER RECEIPT OF THE HEARING AID**
26 **BY GIVING OR MAILING THE DISPENSER WRITTEN NOTICE**
27 **OF CANCELLATION AND BY RETURNING THE HEARING AID,**

1 UNLESS THE HEARING AID HAS BEEN SIGNIFICANTLY
2 DAMAGED BEYOND REPAIR WHILE THE HEARING AID WAS
3 IN THE BUYER'S CONTROL.

4 (B) THE WRITTEN CONTRACT OR RECEIPT PROVIDED TO THE BUYER
5 MUST ALSO CONTAIN A STATEMENT, IN PRINT SIZE NO SMALLER THAN
6 TEN-POINT TYPE, THAT THE SALE IS VOID AND UNENFORCEABLE IF THE
7 HEARING AID BEING PURCHASED IS NOT DELIVERED TO THE CONSUMER
8 WITHIN THIRTY DAYS AFTER THE DATE THE WRITTEN CONTRACT IS SIGNED
9 OR THE RECEIPT IS ISSUED, WHICHEVER OCCURS LATER. THE WRITTEN
10 CONTRACT OR RECEIPT MUST ALSO INCLUDE THE DISPENSER'S LICENSE
11 NUMBER, IF THE DISPENSER IS REQUIRED TO BE LICENSED BY THE STATE,
12 AND A STATEMENT THAT THE DISPENSER WILL PROMPTLY REFUND ALL
13 MONEY PAID FOR THE PURCHASE OF THE HEARING AID IF IT IS NOT
14 DELIVERED TO THE CONSUMER WITHIN THE THIRTY-DAY PERIOD. THE
15 BUYER CANNOT WAIVE THIS REQUIREMENT, AND ANY ATTEMPT TO WAIVE
16 IT IS VOID.

17 (IV) A REFUND REQUEST FORM MUST BE ATTACHED TO EACH
18 RECEIPT AND MUST CONTAIN THE INFORMATION IN SUBSECTION (1)(a)(I)
19 OF THIS SECTION AND THE STATEMENT, IN ALL CAPITAL LETTERS OF NO
20 LESS THAN TEN-POINT, BOLD-FACED TYPE:

21 **REFUND REQUEST - THIS FORM MUST BE**
22 **POSTMARKED BY _____ [DATE TO BE FILLED IN]. NO REFUND**
23 **WILL BE GIVEN UNTIL THE HEARING AID OR HEARING AIDS**
24 **ARE RETURNED TO THE DISPENSER.**

25 A SPACE FOR THE BUYER'S ADDRESS, TELEPHONE NUMBER, AND
26 SIGNATURE MUST BE PROVIDED. THE BUYER IS REQUIRED ONLY TO SIGN,
27 LIST THE BUYER'S CURRENT ADDRESS AND TELEPHONE NUMBER, AND MAIL

1 THE REFUND REQUEST FORM TO THE DISPENSER. IF THE HEARING AID IS
2 SOLD IN THE BUYER'S HOME, THE BUYER MAY REQUIRE THE DISPENSER TO
3 ARRANGE THE RETURN OF THE HEARING AID.

4 (f) REPRESENTS THAT THE SERVICE OR ADVICE OF A PERSON
5 LICENSED TO PRACTICE MEDICINE WILL BE USED OR MADE AVAILABLE IN
6 THE SELECTION, FITTING, ADJUSTMENT, MAINTENANCE, OR REPAIR OF
7 HEARING AIDS WHEN THAT IS NOT TRUE OR USING THE TERMS "DOCTOR",
8 "CLINIC", "STATE-LICENSED CLINIC", "STATE-REGISTERED",
9 "STATE-CERTIFIED", OR "STATE-APPROVED", OR ANY OTHER TERM,
10 ABBREVIATION, OR SYMBOL WHEN IT WOULD:

11 (I) FALSELY GIVE THE IMPRESSION THAT SERVICE IS BEING
12 PROVIDED BY PERSONS TRAINED IN MEDICINE OR THAT THE DISPENSER'S
13 SERVICE HAS BEEN RECOMMENDED BY THE STATE WHEN THAT IS NOT THE
14 CASE; OR

15 (II) BE FALSE OR MISLEADING;

16 (g) DIRECTLY OR INDIRECTLY:

17 (I) GIVES OR OFFERS TO GIVE, OR PERMITS OR CAUSES TO BE GIVEN,
18 MONEY OR ANYTHING OF VALUE TO ANY PERSON WHO ADVISES ANOTHER
19 IN A PROFESSIONAL CAPACITY AS AN INDUCEMENT TO INFLUENCE THE
20 PERSON OR HAVE THE PERSON INFLUENCE OTHERS TO PURCHASE OR
21 CONTRACT TO PURCHASE PRODUCTS SOLD OR OFFERED FOR SALE BY THE
22 DISPENSER; EXCEPT THAT A DISPENSER DOES NOT VIOLATE THIS
23 SUBSECTION (1)(g)(I) IF THE DISPENSER PAYS AN INDEPENDENT
24 ADVERTISING OR MARKETING AGENT COMPENSATION FOR ADVERTISING OR
25 MARKETING SERVICES THE AGENT RENDERED ON THE DISPENSER'S BEHALF,
26 INCLUDING COMPENSATION THAT IS PAID FOR THE RESULTS OR
27 PERFORMANCE OF THE SERVICES ON A PER-PATIENT BASIS; OR

1 (II) INFLUENCES OR ATTEMPTS TO INFLUENCE ANY PERSON TO
2 REFRAIN FROM DEALING IN THE PRODUCTS OF COMPETITORS;

3 (h) DISPENSES A HEARING AID TO A PERSON WHO HAS NOT BEEN
4 GIVEN TESTS UTILIZING APPROPRIATE ESTABLISHED PROCEDURES AND
5 INSTRUMENTATION IN THE FITTING OF HEARING AIDS, EXCEPT WHEN
6 SELLING A REPLACEMENT HEARING AID WITHIN ONE YEAR AFTER THE DATE
7 OF THE ORIGINAL PURCHASE;

8 (i) MAKES A FALSE OR MISLEADING STATEMENT OF FACT
9 CONCERNING GOODS OR SERVICES OR THE BUYER'S RIGHT TO CANCEL WITH
10 THE INTENTION OR EFFECT OF DETERRING OR PREVENTING THE BUYER
11 FROM EXERCISING THE BUYER'S RIGHT TO CANCEL, OR REFUSES TO HONOR
12 A BUYER'S REQUEST TO CANCEL A CONTRACT FOR THE PURCHASE OF A
13 HEARING AID, IF THE REQUEST WAS MADE DURING THE RESCISSION PERIOD
14 SET FORTH IN SUBSECTION (1)(e) OF THIS SECTION;

15 (j) EMPLOYS A DEVICE, A SCHEME, OR AN ARTIFICE WITH THE
16 INTENT TO DEFRAUD A BUYER OF A HEARING AID;

17 (k) INTENTIONALLY DISPOSES OF, CONCEALS, DIVERTS, CONVERTS,
18 OR OTHERWISE FAILS TO ACCOUNT FOR ANY FUNDS OR ASSETS OF A BUYER
19 OF A HEARING AID THAT IS UNDER THE DISPENSER'S CONTROL; OR

20 (l) CHARGES, COLLECTS, OR RECOVERS ANY COST OR FEE FOR ANY
21 GOOD OR SERVICE THAT HAS BEEN REPRESENTED BY THE DISPENSER AS
22 FREE.

23 (2) (a) THIS SECTION APPLIES TO A DISPENSER WHO DISPENSES
24 HEARING AIDS IN THIS STATE.

25 (b) THIS SECTION DOES NOT APPLY TO THE DISPENSING OF HEARING
26 AIDS OUTSIDE OF THIS STATE SO LONG AS THE TRANSACTION EITHER
27 CONFORMS TO THIS SECTION OR TO THE APPLICABLE LAWS AND RULES OF

1 THE JURISDICTION IN WHICH THE TRANSACTION TAKES PLACE.

2 SECTION 34. In Colorado Revised Statutes, 6-1-701, amend
3 (2)(a)(III) and (2)(e)(III)(B) as follows:

4 6-1-701. Dispensing hearing aids - deceptive trade practices -
5 definitions. (2) In addition to any other deceptive trade practices under
6 section 6-1-105, a dispenser engages in a deceptive trade practice when
7 the dispenser:

8 (a) Fails to deliver to each person to whom the dispenser
9 dispenses a hearing aid a receipt that:

10 (III) Bears, in no smaller type than the largest used in the body of
11 the receipt, a provision indicating that dispensers who are licensed
12 ~~certified, or registered~~ by the department of regulatory agencies are
13 regulated by the division of professions and occupations in the
14 department of regulatory agencies; AND

15 (e) Fails to provide a minimum thirty-day rescission period with
16 the following terms:

17 (III) (B) The written contract or receipt provided to the buyer must
18 also contain a statement, in print size no smaller than ten-point type, that
19 the sale is void and unenforceable if the hearing aid being purchased is
20 not delivered to the consumer within thirty days after the date the written
21 contract is signed or the receipt is issued, whichever occurs later. The
22 written contract or receipt must also include the dispenser's license
23 ~~certification, or registration~~ number, if the dispenser is required to be
24 licensed ~~certified or registered~~ by the state, and a statement that the
25 dispenser will promptly refund all moneys MONEY paid for the purchase
26 of a hearing aid if it is not delivered to the consumer within the thirty-day
27 period. The buyer cannot waive this requirement, and any attempt to

1 waive it is void.

2 ***Recommendation 4***

3 **SECTION 35.** In Colorado Revised Statutes, 12-230-201, amend
4 (1) as follows:

5 **12-230-201. License required - application - qualifications.**

6 (1) A hearing aid provider shall obtain a license pursuant to this section
7 before:

8 (a) Engaging in the practice of dispensing, fitting, or dealing in
9 hearing aids; OR

10 (b) DIRECTLY OR INDIRECTLY SELLING OR NEGOTIATING TO SELL
11 ANY HEARING AID FOR THE HEARING IMPAIRED.

12 ***Recommendation 5***

13 **SECTION 36.** In Colorado Revised Statutes, amend 12-230-105
14 as follows:

15 **12-230-105. Title protection - use of title.** It is unlawful for any
16 person to use the title "hearing aid provider" or "hearing aid dispenser"
17 OR ANY OTHER TITLE THAT IMPLIES THE PERSON IS QUALIFIED AS A
18 HEARING AID PROVIDER unless ~~he or she~~ THE PERSON is licensed as a
19 hearing aid provider pursuant to this article 230.

20 ***Recommendation 6***

21 **SECTION 37.** In Colorado Revised Statutes, 12-230-103, amend
22 (4) as follows:

23 **12-230-103. Scope of article - exemption.** (4) Nothing in this
24 article 230 prohibits a business or licensee from

25 (a) hiring and employing unlicensed staff to assist with conducting
26 business practices and to assist in dispensing hearing aids if the
27 unlicensed staff are properly supervised by a licensee; except that the

1 ~~employees~~ UNLICENSED STAFF may not conduct hearing tests or perform
2 the initial fitting of hearing aids. ~~or~~

3 ~~(b) Performing tasks that would be permissible if the licensee was~~
4 ~~not licensed.~~

5 **SECTION 38.** In Colorado Revised Statutes, 12-230-401, amend
6 (1)(k) as follows:

7 **12-230-401. Grounds for discipline.** (1) The following acts
8 constitute grounds for discipline:

9 (k) Failing to adequately supervise a licensed hearing aid provider
10 apprentice or any employee pursuant to section 12-230-103 ~~(4)(a)~~ (4) or
11 12-230-204 (2);

12 ***Recommendation 7***

13 **SECTION 39.** In Colorado Revised Statutes, add 12-230-206 as
14 follows:

15 **12-230-206. Bond required - rules.** (1) BEFORE THE DIRECTOR
16 ISSUES A LICENSE TO AN APPLICANT FOR A HEARING AID PROVIDER
17 LICENSE, THE APPLICANT SHALL POST A SURETY BOND, OR AN
18 ALTERNATIVE TO THE SURETY BOND AS DETERMINED BY THE DIRECTOR, IN
19 THE AMOUNT OF TEN THOUSAND DOLLARS. A LICENSED HEARING AID
20 PROVIDER SHALL MAINTAIN THE REQUIRED BOND AT ALL TIMES.

21 (2) THE DIRECTOR MAY FILE A CLAIM ON THE BOND OR ASSIST A
22 CONSUMER IN FILING A CLAIM ON THE BOND.

23 (3) THE DIRECTOR, BY RULE, SHALL DETERMINE THE
24 REQUIREMENTS FOR THE SURETY BOND.

25 ***Recommendation 8***

26 **SECTION 40.** In Colorado Revised Statutes, 12-230-401, amend
27 (1)(p) and (1)(q); and add (1)(r) as follows:

1 **12-230-401. Grounds for discipline.** (1) The following acts
2 constitute grounds for discipline:

3 (p) Selling, dispensing, adjusting, providing training or teaching
4 in regard to, or otherwise servicing surgically implanted hearing devices
5 unless the hearing aid provider is an audiologist or a physician; and

6 (q) Violating the "Colorado Consumer Protection Act", article 1
7 of title 6; AND

8 (r) FAILING TO PRACTICE ACCORDING TO COMMONLY ACCEPTED
9 PROFESSIONAL STANDARDS.

10 ***Recommendation 9***

11 **SECTION 41.** In Colorado Revised Statutes, 12-230-401, add (2)
12 as follows:

13 **12-230-401. Grounds for discipline.** (2) ANY DISCIPLINARY
14 ACTION TAKEN BY ANOTHER STATE, A LOCAL JURISDICTION, OR THE
15 FEDERAL GOVERNMENT AGAINST AN APPLICANT OR LICENSEE
16 CONSTITUTES PRIMA FACIE EVIDENCE OF GROUNDS FOR DISCIPLINARY
17 ACTION, INCLUDING DENIAL OF A LICENSE UNDER THIS ARTICLE 230;
18 EXCEPT THAT THIS SUBSECTION (2) APPLIES ONLY TO DISCIPLINE FOR ACTS
19 OR OMISSIONS THAT ARE SUBSTANTIALLY SIMILAR TO THOSE SET OUT AS
20 GROUNDS FOR DISCIPLINARY ACTION UNDER THIS SECTION.

21 ***Recommendation 10***

22 **SECTION 42.** In Colorado Revised Statutes, 12-20-408, amend
23 (2)(e) and (2)(f); and repeal (2)(g) as follows:

24 **12-20-408. Judicial review.** (2) A district court of competent
25 jurisdiction has initial jurisdiction to review all final actions and orders
26 of a regulator that are subject to judicial review and shall conduct the
27 judicial review proceedings in accordance with section 24-4-106 (3) for

1 the following:

2 (e) Article 200 of this title 12 concerning acupuncturists; AND

3 (f) Article 210 of this title 12 concerning audiologists. and

4 (g) ~~Article 230 of this title 12 concerning hearing aid providers.~~

5 ***Recommendation 11***

6 **SECTION 43.** In Colorado Revised Statutes, 12-230-201, amend
7 (3)(a) as follows:

8 **12-230-201. License required - application - qualifications -**
9 **rules.** (3) In order to qualify for licensure pursuant to this section, an
10 applicant must either:

11 (a) Have passed ~~the national~~ A competency examination of the
12 ~~National Board for Certification in Hearing Instrument Sciences~~
13 ~~(NBC-HIS), unless the director determines, by rule, that this examination~~
14 ~~no longer meets the minimum standards necessary for licensure, in which~~
15 ~~case, only an examination that the applicant passed prior to the date of the~~
16 ~~ruling will be acceptable~~ AS DETERMINED BY THE DIRECTOR BY RULE; or

17 **SECTION 44. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2020 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.