

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

Attachment B

DRAFT

LLS NO. 20-0526.01 Yelana Love x2295

SUNSET BILL

Sunset Process - House Health and Insurance Committee

BILL TOPIC: "Sunset Continue Licensing Audiologists"
DEADLINES: Finalize by: JAN 27, 2020 File by: JAN 29, 2020

A BILL FOR AN ACT

101 CONCERNING THE CONTINUATION OF THE LICENSING OF
102 AUDIOLOGISTS, AND, IN CONNECTION THEREWITH,
103 IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE
104 2019 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY
105 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

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

agencies' sunset review and report on the licensing of audiologists by:

- Continuing the licensing of audiologists 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 through 35*);
- Amending the language in the grounds for discipline referring to an alcohol or substance use disorder (*recommendation 4, section 36*);
- Requiring licensees and insurance carriers to report any malpractice settlements or judgments to the director of the division of professions and occupations in the department of regulatory agencies within 30 days (*recommendation 5, sections 37 through 40*); and
- Requiring final agency actions to be appealed directly to the court of appeals (*recommendation 6, section 41*).

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

2 ***Recommendation 1***

3 **SECTION 1.** In Colorado Revised Statutes, **amend** 12-210-115
4 as follows:

5 **12-210-115. Repeal of article - review of functions.** This article
6 210 is repealed, effective September 1, ~~2020~~ 2031. Before the repeal, the
7 licensing and supervisory functions of the director are scheduled for
8 review in accordance with section 24-34-104.

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

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

1 (V) ~~The licensing of audiologists by the division of professions~~
2 ~~and occupations in accordance with article 210 of title 12;~~

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

5 (I) THE LICENSING OF AUDIOLOGISTS BY THE DIVISION OF
6 PROFESSIONS AND OCCUPATIONS IN ACCORDANCE WITH ARTICLE 210 OF
7 TITLE 12.

8 (b) THIS SUBSECTION (32) IS REPEALED, EFFECTIVE SEPTEMBER 1,
9 2033.

10 *Recommendation 2 - To draft this recommendation, I have moved the*
11 *hearing aid providers practice act into part 2 of article 210 and made*
12 *the audiology practice act part 1 of article 210. If this recommendation*
13 *2 is accepted, all other recommendations that are also accepted will be*
14 *incorporated into this recommendation 2.*

15 SECTION 3. In Colorado Revised Statutes, add with amended
16 and relocated provisions part 2 to article 210 of title 12 as follows:

17 PART 2

18 HEARING AID PROVIDERS

19 12-210-201. [Formerly 12-230-101] **Applicability of common**
20 **provisions.** Articles 1, 20, and 30 of this title 12 apply, according to their
21 terms, to this article ~~230~~ PART 2.

22 12-210-202. [Formerly 12-230-102] **Definitions - rules.** As used
23 in this article ~~230~~ PART 2, unless the context otherwise requires:

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

26 (2) "Dispense", with regard to a hearing aid, means to sell or
27 transfer title, possession, or the right to use by lease, bailment, or any

1 other method. The term does not apply to wholesale transactions with
2 distributors or dealers.

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

6 ~~(I) Any parts, attachments, or accessories to the instrument or~~
7 ~~device, as defined in rules adopted by the director; and~~

8 ~~(II) Ear molds, excluding batteries and cords;~~

9 ~~(b) The term does not include a surgically implanted hearing~~
10 ~~device.~~

11 ~~(4) (3) "Hearing aid provider" means a person engaged in the~~
12 ~~practice of dispensing, fitting, or dealing in hearing aids.~~

13 ~~(5) (4) "Practice of dispensing, fitting, or dealing in hearing aids"~~
14 ~~includes:~~

15 ~~(a) Selecting and adapting hearing aids for sale;~~

16 ~~(b) Testing human hearing for purposes of selecting and adapting~~
17 ~~hearing aids for sale; and~~

18 ~~(c) Making impressions for ear molds and counseling and~~
19 ~~instructing prospective users for purposes of selecting, fitting, adapting,~~
20 ~~or selling hearing aids.~~

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

26 **12-210-203. [Formerly 12-230-103] Scope of article -**
27 **exemption. (1) This article 230 PART 2 does not apply to persons A**

1 PERSON who are IS:

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

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

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

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

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

15 (4) (b) ~~Nothing in this article 230~~ Prohibits a business or licensee
16 from:

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

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

24 (5) (4) This ~~article 230~~ PART 2 does not apply to the dispensing of
25 hearing aids outside of this state.

26 (6) (5) An audiologist licensed pursuant to PART 1 OF THIS article
27 210 ~~of this title 12~~ is not required to obtain a license pursuant to this

1 ~~article 230~~ PART 2.

2 **12-210-204. [Formerly 12-230-104] Scope of practice.** (1) The
3 scope of practice for a hearing aid provider includes:

4 (a) Eliciting patient case histories, including medical, otological,
5 pharmacological, occupational, and previous amplification history and
6 patient attitudes and expectations;

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

12 (c) Administering and interpreting tests of human hearing,
13 including appropriate objective and subjective methodology and
14 measures;

15 (d) Determining a person's candidacy for hearing aids or hearing
16 assistive devices, referring the person for surgically implanted hearing
17 device evaluation, or recommending other clinical, rehabilitative, or
18 medical interventions;

19 (e) Prescribing, selecting, and fitting appropriate hearing
20 instruments and assistive devices, including appropriate technology,
21 electroacoustic targets, programming parameters, and special
22 applications, as indicated;

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

25 (g) Taking ear impressions and preparing ear molds for hearing
26 instruments, assistive devices, telecommunications applications, ear
27 protection, and other related applications;

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

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

7 (j) Providing supervision and training of those entering the
8 dispensing profession.

9 **12-210-205. [Formerly 12-230-105] Title protection - use of**
10 **title.** It is unlawful for any person to use the title "hearing aid provider"
11 or "hearing aid dispenser" unless ~~he or she~~ THE PERSON is licensed as a
12 hearing aid provider pursuant to this article ~~230~~ PART 2.

13 **12-210-206. [Formerly 12-230-201] License required -**
14 **application - qualifications - rules.** (1) A hearing aid provider shall
15 obtain a license pursuant to this section before engaging in the practice
16 of dispensing, fitting, or dealing in hearing aids.

17 (2) (a) An applicant shall submit an application to the director
18 containing the information described in this subsection (2) and shall pay
19 a fee determined and collected pursuant to section 12-20-105. The
20 director may deny an application for licensure if the required information
21 is not submitted or if an applicant's apprentice license, issued pursuant to
22 section ~~12-230-204~~ 12-210-209, has been revoked. If an applicant or
23 licensee fails to notify the director of a change in the submitted
24 information within thirty days after the change, the failure is cause
25 GROUNDS for disciplinary action.

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

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

3 (II) A statement indicating whether:

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

6 (B) The license, certificate, or registration was suspended or
7 revoked;

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

9 (D) Disciplinary action was taken.

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

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

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

20 (I) Completed at least six months of training with an audiologist
21 or licensed hearing aid provider pursuant to section ~~12-230-204~~
22 12-210-209; or

23 (II) Have an associate's degree in hearing aid fitting and
24 dispensing that, at the time the applicant was enrolled and graduated, was
25 offered by an institution of higher education or a postsecondary education
26 program accredited by a national, regional, or state agency recognized by
27 the United States department of education, or a program approved by the

1 director.

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

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

8 (c) The director shall give each licensee a license bearing a unique
9 license number. The licensee shall include the license number on all
10 written contracts and receipts.

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

16 **12-210-208. [Formerly 12-230-203] Licensure by endorsement**
17 **- rules.** (1) The director shall issue a license by endorsement to practice
18 as a hearing aid provider in this state to an individual who possesses an
19 active license in good standing to practice in that profession in another
20 state or territory of the United States or in a foreign country if the
21 applicant:

22 (a) Presents proof satisfactory to the director that the individual
23 possesses a valid license from another state or jurisdiction that requires
24 qualifications substantially equivalent to the qualifications for licensure
25 in this state and meets all other requirements for licensure pursuant to this
26 ~~article 230~~ PART 2; and

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

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

3 **12-210-209. [Formerly 12-230-204] Apprentice license -**
4 **expiration - rules.** (1) A person training to be a licensed hearing aid
5 provider shall submit to the director an application containing the
6 information described in subsection (2) of this section and shall pay an
7 apprentice license fee determined and collected pursuant to section
8 12-20-105.

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

14 (3) During the training period:

15 (a) An apprentice is not permitted to sell hearing aids
16 independently of the supervising licensed hearing aid provider; AND

17 (b) A supervising licensed hearing aid provider retains ultimate
18 responsibility for the care provided by the apprentice and is subject to
19 disciplinary action by the director for failure to provide adequate
20 supervision.

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

23 (a) Discipline under section ~~12-230-302~~ 12-210-212 for engaging
24 in an act that constitutes grounds for discipline under section ~~12-230-401~~
25 12-210-214; and

26 (b) A cease-and-desist order under sections 12-20-405 and
27 ~~12-230-303~~ 12-210-213 for engaging in behavior set forth in section

1 12-210-213.

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

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

8 **12-210-210. [Formerly 12-230-205] Retention of records -**
9 **licensee's obligation.** Each licensee who sells a hearing aid or provides
10 goods or services to a customer shall develop a written plan to ensure the
11 maintenance of customer records. The records must be retained for at
12 least seven years and identify the customer by name; the goods or
13 services, except batteries, minor parts, and accessories, provided to each
14 customer; and the date and price of each transaction.

15 **12-210-211. [Formerly 12-230-301] Director - powers - duties**
16 **- rules.** (1) The director, in accordance with section 12-20-403, may
17 make investigations and inspections as necessary to determine whether an
18 applicant or licensee has violated this ~~article-230~~ PART 2 or any rule
19 adopted by the director.

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

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

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

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

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

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

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

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

14 (3) The director shall not enforce any provisions of this ~~article 230~~
15 ~~PART 2~~ or rules promulgated pursuant to this ~~article 230~~ ~~PART 2~~ that are
16 held unconstitutional, invalid, or inconsistent with federal laws or
17 regulations, including regulations promulgated by the United States food
18 and drug administration.

19 **12-210-213. [Formerly 12-230-303] Cease-and-desist orders -**
20 **unauthorized practice - penalties.** (1) If it appears to the director, based
21 upon credible evidence as presented in a written complaint by any person,
22 that a licensee is acting in a manner that is a threat to the health and safety
23 of the public, or a person is acting or has acted without the required
24 license, the director, in accordance with the procedures specified in
25 section 12-20-405, may issue an order to cease and desist the activity. The
26 order must set forth the statutes and rules alleged to have been violated,
27 the facts alleged to have constituted the violation, the specific harm that

1 threatens the health and safety of the public, and the requirement that all
2 unlawful acts or unlicensed practices immediately cease.

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

8 **12-210-214. [Formerly 12-230-401] Grounds for discipline.**

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

10 (a) Making a false or misleading statement or omission in an
11 application for licensure;

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

16 (c) Using false or misleading advertising;

17 (d) Representing that the service or advice of a person licensed to
18 practice medicine will be used or made available in the selection, fitting,
19 adjustment, maintenance, or repair of hearing aids when that is not true
20 or using the terms "doctor", "clinic", "state-licensed clinic",
21 "state-registered", "state-certified", "state-approved", or any other term,
22 abbreviation, or symbol when it would give the false impression that
23 service is being provided by persons trained in medicine or that the
24 licensee's service has been recommended by the state when that is not the
25 case, or when it would be false or misleading;

26 (e) Directly or indirectly giving or offering to give money or
27 anything of value to any person who advises another in a professional

1 capacity as an inducement to influence the person or have the person
2 influence others to purchase or contract to purchase products sold or
3 offered for sale by a licensee, or influencing persons to refrain from
4 dealing in the products of competitors;

5 (f) Employing a device, a scheme, or AN artifice with the intent to
6 defraud a purchaser of a hearing aid;

7 (g) Selling a hearing aid to a child under eighteen years of age
8 without receiving documentation that the child has been examined by a
9 licensed physician and an audiologist within six months prior to the
10 fitting;

11 (h) Intentionally disposing of, concealing, diverting, converting,
12 or otherwise failing to account for any funds or assets of a purchaser of
13 a hearing aid that is under the applicant's, licensee's, or apprentice's
14 control;

15 (i) Making a false or misleading statement of fact concerning
16 goods or services or the buyer's right to cancel with the intention or effect
17 of deterring or preventing the buyer from exercising the buyer's right to
18 cancel, or refusing to honor a buyer's request to cancel a contract for the
19 purchase of a hearing aid, if the request was made during the rescission
20 period set forth in section 6-1-701 (2)(e);

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

23 (k) Failing to adequately supervise a licensed hearing aid provider
24 apprentice or any employee pursuant to section ~~12-230-103 (4)(a)~~ or
25 ~~12-230-204 (2)~~ 12-210-203 (3)(b)(I) OR 12-210-209 (2);

26 (l) Employing a sales agent or employee who violates any
27 provision of this ~~article 230~~ PART 2, a rule promulgated by the director

1 under this ~~article 230~~ PART 2, or an order issued by the director under this
2 ~~article 230~~ PART 2;

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

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

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

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

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

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

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

21 **6-1-114. Criminal penalties.** Upon a first conviction, any person
22 who promotes a pyramid promotional scheme in this state or who violates
23 ~~article 230~~ PART 2 OF ARTICLE 210 of title 12 or section 6-1-701 or
24 6-1-717 is guilty of a class 1 misdemeanor, as defined in section
25 18-1.3-501, and, upon a second or subsequent conviction for a violation
26 of ~~article 230~~ PART 2 OF ARTICLE 210 of title 12 or section 6-1-701, is
27 guilty of a class 6 felony, as defined in section 18-1.3-401.

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

3 **8-2-111.6. Health care employers - immunity from civil**
4 **liability - requirements - exception to blacklisting prohibition -**
5 **legislative declaration - definition.** (5) For the purposes of this section,
6 "health care worker" means any person registered, certified, or licensed
7 pursuant to ~~articles 200 to 225, 235 to 300~~ ARTICLES 200 AND 205, PART
8 1 OF ARTICLE 210, AND ARTICLES 215 TO 225, 235 TO 300, and 310 of title
9 12 or article 3.5 of title 25, or any person who interacts directly with a
10 patient or assists with the patient care process, who is currently employed
11 by, or WHO is a prospective employee of, the employer making the
12 inquiry.

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

15 **10-16-104. Mandatory coverage provisions - definitions -**
16 **rules.** (19) **Hearing aids for children - legislative declaration.** (b) Any
17 health benefit plan that provides hospital, surgical, or medical expense
18 insurance, except supplemental policies covering a specified disease or
19 other limited benefit, must provide coverage for hearing aids for minor
20 children who have a hearing loss that has been verified by a physician
21 licensed pursuant to article 240 of title 12 and by an audiologist licensed
22 pursuant to PART 1 OF article 210 of title 12. The hearing aids must be
23 medically appropriate to meet the needs of the child according to accepted
24 professional standards. Coverage must include the purchase of the
25 following:

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

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

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

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

8 **12-20-404. Disciplinary actions - regulator powers -**
9 **disposition of fines. (3) Waiting period after revocation or surrender.**

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

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

15 (F) ~~Article 230~~ PART 2 OF ARTICLE 210 of this title 12 concerning
16 hearing aid providers;

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

19 **12-20-406. Injunctive relief.** (2) (b) Subsection (2)(a) of this
20 section does not apply to the following:

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

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

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

26 **12-20-407. Unauthorized practice of profession or occupation**
27 **- penalties - exclusions.** (1) (a) A person commits a class 2 misdemeanor

1 and shall be punished as provided in section 18-1.3-501 for the first
2 offense and, for the second or any subsequent offense, commits a class 6
3 felony and shall be punished as provided in section 18-1.3-401, if the
4 person:

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

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

11 (L) Practice as a hearing aid provider or engages in the practice
12 of dispensing, fitting, or dealing in hearing aids, as regulated under article
13 ~~230~~ PART 2 OF ARTICLE 210 of this title 12;

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

16 **12-20-408. Judicial review.** (2) A district court of competent
17 jurisdiction has initial jurisdiction to review all final actions and orders
18 of a regulator that are subject to judicial review and shall conduct the
19 judicial review proceedings in accordance with section 24-4-106 (3) for
20 the following:

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

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

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

27 **12-30-102. Medical transparency act of 2010 - disclosure of**

1 **information about health care licensees - fines - rules - short title -**
2 **legislative declaration - definition - review of functions - repeal.**

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

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

7 (II) As a licensed hearing aid provider pursuant to part 2 of article
8 ~~230~~ ARTICLE 210 of this title 12;

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

11 **12-30-103. Solicitation of accident victims - waiting period -**
12 **definitions.** (4) As used in this section:

13 (a) "Health care practitioner" means:

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

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

18 **12-30-108. Confidential agreement to limit practice - violation**
19 **grounds for discipline.** (4) (a) This section does not apply to:

20 (I) The following health care professionals:

21 (B) Hearing aid providers regulated pursuant to ~~article 230~~ PART
22 2 OF ARTICLE 210 of this title 12;

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

25 **12-210-101. Applicability of common provisions.** Articles 1, 20,
26 and 30 of this title 12 apply, according to their terms, to this ~~article 210~~
27 PART 1.

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

3 **12-210-103. Scope of article - exemption.** (1) This ~~article 210~~
4 PART 1 does not apply to a person who is:

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

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

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

13 **12-210-104. Title protection - use of title.** (1) It is unlawful for
14 any person to use the following titles unless ~~he or she~~ THE PERSON is
15 licensed pursuant to this ~~article 210~~ PART 1: "Audiologist", "hearing and
16 balance audiologist", "vestibular audiologist", or any other title or
17 abbreviation that implies that the person is an audiologist.

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

20 **12-210-105. License required - application - fee - liability**
21 **insurance - disclosure - exemption.** (2) To qualify for licensure as an
22 audiologist under this ~~article 210~~ PART 1, a person must have:

23 (3) An audiologist desiring to be licensed pursuant to this ~~article~~
24 ~~210~~ PART 1 must submit to the director an application containing the
25 information described in subsection (4) of this section and must pay to the
26 director all required fees in the amounts determined and collected by the
27 director pursuant to section 12-20-105. The director may deny an

1 application for a license if the required information and fees are not
2 submitted. If an applicant or licensee fails to notify the director of a
3 change in the submitted information within thirty days after the change,
4 the failure is grounds for disciplinary action pursuant to section
5 12-210-108.

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

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

10 **12-210-106. Licensure - expiration - renewal - reinstatement**
11 **- fees.** (1) The director shall issue a license to an applicant who satisfies
12 the requirements of this ~~article 210~~ PART 1.

13 (2) Licenses issued under this ~~article 210~~ PART 1 are subject to the
14 renewal, expiration, reinstatement, and delinquency fee provisions
15 specified in section 12-20-202 (1) and (2). A person whose license has
16 expired is subject to the penalties set forth in this ~~article 210~~ PART 1 or in
17 section 12-20-202 (1).

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

20 **12-210-107. Licensure by endorsement - rules.** (1) The director
21 shall issue a license by endorsement to engage in the practice of
22 audiology in this state to an individual who possesses an active license in
23 good standing to practice audiology in another state or territory of the
24 United States or in a foreign country if the applicant:

25 (a) Presents satisfactory proof to the director that the individual
26 possesses a valid license from another state or jurisdiction that requires
27 qualifications substantially equivalent to the qualifications for licensure

1 in this state and meets all other requirements for licensure pursuant to this
2 ~~article 210~~ PART 1; and

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

5 **12-210-108. Disciplinary actions - grounds for discipline.**

6 (2) The following acts constitute grounds for discipline:

7 (c) Violating any provision of this ~~article 210~~ PART 1, including
8 failure to comply with the license requirements of section 12-210-105 or
9 failure to report information as required under section 12-30-102 or
10 12-210-105 (5), or violating an applicable provision of article 20 or 30 of
11 this title 12;

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

14 (e) Aiding or abetting a violation, or conspiring to violate, any
15 provision of this ~~article 210~~ PART 1, an applicable provision of article 20
16 or 30 of this title 12, OR any rule promulgated or any order issued under
17 this ~~article 210~~ PART 1 by the director;

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

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

27 **SECTION 23.** In Colorado Revised Statutes, 12-210-109, amend

1 (1) and (2) as follows:

2 **12-210-109. Director - powers - duties - rules.** (1) The director
3 may conduct investigations and inspections in accordance with section
4 12-20-403 as necessary to determine whether an applicant or licensee has
5 violated this ~~article 210~~ PART 1 or any rule adopted by the director under
6 ~~this article 210~~ PART 1.

7 (2) The director may seek an injunction in accordance with section
8 12-20-406 to enjoin any act or practice that constitutes a violation of this
9 ~~article 210~~ PART 1.

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

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

17 **SECTION 25.** In Colorado Revised Statutes, 12-210-111, **amend**
18 (2) as follows:

19 **12-210-111. Professional liability insurance required - rules.**
20 (2) The professional liability insurance required by this section must
21 cover all acts ~~with~~ WITHIN the scope of practice of an audiologist as
22 defined in this ~~article 210~~ PART 1.

23 **SECTION 26.** In Colorado Revised Statutes, 12-210-112, **amend**
24 (1) as follows:

25 **12-210-112. Confidential agreements to limit practice -**
26 **violation grounds for discipline.** (1) Except as specified in subsection
27 (2) of this section, section 12-30-108 concerning confidential agreements

1 **12-210-201. Definitions.** AS USED IN THIS PART 2, UNLESS THE
2 CONTEXT OTHERWISE REQUIRES:

3 (1) "DISPENSER" MEANS A PERSON LICENSED IN THE PRACTICE OF
4 AUDIOLOGY PURSUANT TO PART 1 OF THIS ARTICLE 210 WHO DISPENSES
5 HEARING AIDS.

6 **12-210-202. Dispensing hearing aids - deceptive trade**
7 **practices.** (1) IN ADDITION TO ANY OTHER DECEPTIVE TRADE PRACTICES
8 UNDER SECTION 6-1-105, A DISPENSER ENGAGES IN A DECEPTIVE TRADE
9 PRACTICE WHEN THE DISPENSER:

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

12 (I) BEARS THE BUSINESS ADDRESS OF THE DISPENSER, TOGETHER
13 WITH SPECIFICATIONS AS TO THE MAKE AND SERIAL NUMBER OF THE
14 HEARING AID FURNISHED AND THE FULL TERMS OF THE SALE CLEARLY
15 STATED. IF THE DISPENSER DISPENSES A HEARING AID THAT IS NOT NEW,
16 THE DISPENSER SHALL CLEARLY MARK ON THE HEARING AID CONTAINER
17 AND THE RECEIPT THE TERM "USED" OR "RECONDITIONED", WHICHEVER IS
18 APPLICABLE, WITHIN THE TERMS OF THE GUARANTEE, IF ANY.

19 (II) BEARS, IN NO SMALLER TYPE THAN THE LARGEST USED IN THE
20 BODY OF THE RECEIPT, IN SUBSTANCE, A PROVISION THAT THE BUYER HAS
21 BEEN ADVISED AT THE OUTSET OF THE BUYER'S RELATIONSHIP WITH THE
22 DISPENSER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A
23 DISPENSER IN CONNECTION WITH THE PRACTICE OF DISPENSING, FITTING,
24 OR DEALING IN HEARING AIDS IS NOT AN EXAMINATION, DIAGNOSIS, OR
25 PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS
26 STATE AND, THEREFORE, MUST NOT BE REGARDED AS MEDICAL OPINION OR
27 ADVICE;

1 (III) BEARS, IN NO SMALLER TYPE THAN THE LARGEST USED IN THE
2 BODY OF THE RECEIPT, A PROVISION INDICATING THAT DISPENSERS WHO
3 ARE LICENSED BY THE DEPARTMENT ARE REGULATED BY THE DIVISION;
4 AND

5 (IV) BEARS A PROVISION LABELED "WARRANTY" IN WHICH THE
6 EXACT WARRANTY TERMS AND PERIODS AVAILABLE FROM THE
7 MANUFACTURER ARE DOCUMENTED, OR INCLUDES AN ORIGINAL OR
8 PHOTOCOPY OF THE ORIGINAL MANUFACTURER'S WARRANTY WITH THE
9 RECEIPT;

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

14 (c) (I) FAILS TO RECEIVE FROM A LICENSED PHYSICIAN, BEFORE
15 DISPENSING, FITTING, OR SELLING A HEARING AID TO ANY PERSON, A
16 WRITTEN PRESCRIPTION OR RECOMMENDATION, ISSUED WITHIN THE
17 PREVIOUS SIX MONTHS, THAT SPECIFIES THAT THE PERSON IS A CANDIDATE
18 FOR A HEARING AID; EXCEPT THAT ANY PERSON EIGHTEEN YEARS OF AGE
19 OR OLDER WHO OBJECTS TO MEDICAL EVALUATION ON THE BASIS OF
20 RELIGIOUS OR PERSONAL BELIEFS MAY WAIVE THE REQUIREMENT BY
21 DELIVERING TO THE DISPENSER A WRITTEN WAIVER;

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

25 (d) FAILS TO RECOMMEND IN WRITING, PRIOR TO FITTING OR
26 DISPENSING A HEARING AID, THAT THE BEST INTERESTS OF THE
27 PROSPECTIVE USER WOULD BE SERVED BY CONSULTING A LICENSED

1 PHYSICIAN SPECIALIZING IN DISEASES OF THE EAR, OR ANY LICENSED
2 PHYSICIAN, IF ANY OF THE FOLLOWING CONDITIONS EXIST:

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

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

6 (III) HISTORY OF SUDDEN OR RAPIDLY PROGRESSIVE HEARING
7 LOSS;

8 (IV) ACUTE OR CHRONIC DIZZINESS;

9 (V) UNILATERAL HEARING LOSS OF SUDDEN ONSET WITHIN THE
10 PREVIOUS NINETY DAYS;

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

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

15 (VIII) PAIN OR DISCOMFORT IN THE EAR;

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

18 (I) THE BUYER HAS THE RIGHT TO CANCEL THE PURCHASE FOR ANY
19 REASON BEFORE THE EXPIRATION OF THE RESCISSION PERIOD BY GIVING OR
20 MAILING WRITTEN NOTICE OF CANCELLATION TO THE DISPENSER AND
21 PRESENTING THE HEARING AID TO THE DISPENSER, UNLESS THE HEARING
22 AID HAS BEEN LOST OR SIGNIFICANTLY DAMAGED BEYOND REPAIR WHILE
23 IN THE BUYER'S POSSESSION AND CONTROL. THE RESCISSION PERIOD IS
24 TOLLED FOR ANY PERIOD DURING WHICH A DISPENSER TAKES POSSESSION
25 OR CONTROL OF A HEARING AID AFTER ITS ORIGINAL DELIVERY.

26 (II) THE BUYER, UPON CANCELLATION, IS ENTITLED TO RECEIVE A
27 FULL REFUND OF ANY PAYMENT MADE FOR THE HEARING AID WITHIN

1 THIRTY DAYS AFTER RETURNING THE HEARING AID TO THE DISPENSER,
2 UNLESS THE HEARING AID WAS SIGNIFICANTLY DAMAGED BEYOND REPAIR
3 WHILE IN THE BUYER'S POSSESSION AND CONTROL.

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

9 **THE BUYER HAS THE RIGHT TO CANCEL THIS**
10 **PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO 12**
11 **MIDNIGHT ON THE [INSERT APPLICABLE RESCISSION PERIOD, WHICH**
12 **MUST BE NO SHORTER THAN THIRTY DAYS AFTER RECEIPT OF THE HEARING**
13 **AID] CALENDAR DAY AFTER RECEIPT OF THE HEARING AID**
14 **BY GIVING OR MAILING THE DISPENSER WRITTEN NOTICE**
15 **OF CANCELLATION AND BY RETURNING THE HEARING AID,**
16 **UNLESS THE HEARING AID HAS BEEN SIGNIFICANTLY**
17 **DAMAGED BEYOND REPAIR WHILE THE HEARING AID WAS**
18 **IN THE BUYER'S CONTROL.**

19 (B) THE WRITTEN CONTRACT OR RECEIPT PROVIDED TO THE BUYER
20 MUST ALSO CONTAIN A STATEMENT, IN PRINT SIZE NO SMALLER THAN
21 TEN-POINT TYPE, THAT THE SALE IS VOID AND UNENFORCEABLE IF THE
22 HEARING AID BEING PURCHASED IS NOT DELIVERED TO THE CONSUMER
23 WITHIN THIRTY DAYS AFTER THE DATE THE WRITTEN CONTRACT IS SIGNED
24 OR THE RECEIPT IS ISSUED, WHICHEVER OCCURS LATER. THE WRITTEN
25 CONTRACT OR RECEIPT MUST ALSO INCLUDE THE DISPENSER'S LICENSE
26 NUMBER, IF THE DISPENSER IS REQUIRED TO BE LICENSED BY THE STATE,
27 AND A STATEMENT THAT THE DISPENSER WILL PROMPTLY REFUND ALL

1 MONEY PAID FOR THE PURCHASE OF THE HEARING AID IF IT IS NOT
2 DELIVERED TO THE CONSUMER WITHIN THE THIRTY-DAY PERIOD. THE
3 BUYER CANNOT WAIVE THIS REQUIREMENT, AND ANY ATTEMPT TO WAIVE
4 IT IS VOID.

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

9 **REFUND REQUEST - THIS FORM MUST BE**
10 **POSTMARKED BY _____ [DATE TO BE FILLED IN]. NO REFUND**
11 **WILL BE GIVEN UNTIL THE HEARING AID OR HEARING AIDS**
12 **ARE RETURNED TO THE DISPENSER.**

13 A SPACE FOR THE BUYER'S ADDRESS, TELEPHONE NUMBER, AND
14 SIGNATURE MUST BE PROVIDED. THE BUYER IS REQUIRED ONLY TO SIGN,
15 LIST THE BUYER'S CURRENT ADDRESS AND TELEPHONE NUMBER, AND MAIL
16 THE REFUND REQUEST FORM TO THE DISPENSER. IF THE HEARING AID IS
17 SOLD IN THE BUYER'S HOME, THE BUYER MAY REQUIRE THE DISPENSER TO
18 ARRANGE THE RETURN OF THE HEARING AID.

19 (f) REPRESENTS THAT THE SERVICE OR ADVICE OF A PERSON
20 LICENSED TO PRACTICE MEDICINE WILL BE USED OR MADE AVAILABLE IN
21 THE SELECTION, FITTING, ADJUSTMENT, MAINTENANCE, OR REPAIR OF
22 HEARING AIDS WHEN THAT IS NOT TRUE OR USING THE TERMS "DOCTOR",
23 "CLINIC", "STATE-LICENSED CLINIC", "STATE-REGISTERED",
24 "STATE-CERTIFIED", OR "STATE-APPROVED", OR ANY OTHER TERM,
25 ABBREVIATION, OR SYMBOL WHEN IT WOULD:

26 (I) FALSELY GIVE THE IMPRESSION THAT SERVICE IS BEING
27 PROVIDED BY PERSONS TRAINED IN MEDICINE OR THAT THE DISPENSER'S

1 SERVICE HAS BEEN RECOMMENDED BY THE STATE WHEN THAT IS NOT THE
2 CASE; OR

3 (II) BE FALSE OR MISLEADING;

4 (g) DIRECTLY OR INDIRECTLY:

5 (I) GIVES OR OFFERS TO GIVE, OR PERMITS OR CAUSES TO BE GIVEN,
6 MONEY OR ANYTHING OF VALUE TO ANY PERSON WHO ADVISES ANOTHER
7 IN A PROFESSIONAL CAPACITY AS AN INDUCEMENT TO INFLUENCE THE
8 PERSON OR HAVE THE PERSON INFLUENCE OTHERS TO PURCHASE OR
9 CONTRACT TO PURCHASE PRODUCTS SOLD OR OFFERED FOR SALE BY THE
10 DISPENSER; EXCEPT THAT A DISPENSER DOES NOT VIOLATE THIS
11 SUBSECTION (1)(g)(I) IF THE DISPENSER PAYS AN INDEPENDENT
12 ADVERTISING OR MARKETING AGENT COMPENSATION FOR ADVERTISING OR
13 MARKETING SERVICES THE AGENT RENDERED ON THE DISPENSER'S BEHALF,
14 INCLUDING COMPENSATION THAT IS PAID FOR THE RESULTS OR
15 PERFORMANCE OF THE SERVICES ON A PER-PATIENT BASIS; OR

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

18 (h) DISPENSES A HEARING AID TO A PERSON WHO HAS NOT BEEN
19 GIVEN TESTS UTILIZING APPROPRIATE ESTABLISHED PROCEDURES AND
20 INSTRUMENTATION IN THE FITTING OF HEARING AIDS, EXCEPT WHEN
21 SELLING A REPLACEMENT HEARING AID WITHIN ONE YEAR AFTER THE DATE
22 OF THE ORIGINAL PURCHASE;

23 (i) MAKES A FALSE OR MISLEADING STATEMENT OF FACT
24 CONCERNING GOODS OR SERVICES OR THE BUYER'S RIGHT TO CANCEL WITH
25 THE INTENTION OR EFFECT OF DETERRING OR PREVENTING THE BUYER
26 FROM EXERCISING THE BUYER'S RIGHT TO CANCEL, OR REFUSES TO HONOR
27 A BUYER'S REQUEST TO CANCEL A CONTRACT FOR THE PURCHASE OF A

1 HEARING AID, IF THE REQUEST WAS MADE DURING THE RESCISSION PERIOD
2 SET FORTH IN SUBSECTION (1)(e) OF THIS SECTION;

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

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

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

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

13 (b) THIS SECTION DOES NOT APPLY TO THE DISPENSING OF HEARING
14 AIDS OUTSIDE OF THIS STATE SO LONG AS THE TRANSACTION EITHER
15 CONFORMS TO THIS SECTION OR TO THE APPLICABLE LAWS AND RULES OF
16 THE JURISDICTION IN WHICH THE TRANSACTION TAKES PLACE.

17 **SECTION 34.** In Colorado Revised Statutes, amend 6-1-114 as
18 follows:

19 **6-1-114. Criminal penalties.** Upon a first conviction, any person
20 who promotes a pyramid promotional scheme in this state or who violates
21 PART 2 OF ARTICLE 210 OF TITLE 12, article 230 of title 12, or section
22 6-1-701 or 6-1-717 is guilty of a class 1 misdemeanor, as defined in
23 section 18-1.3-501, and, upon a second or subsequent conviction for a
24 violation of PART 2 OF ARTICLE 210 OF TITLE 12, article 230 of title 12, or
25 section 6-1-701, is guilty of a class 6 felony, as defined in section
26 18-1.3-401.

27 **SECTION 35.** In Colorado Revised Statutes, 6-1-701, amend

1 (2)(a)(III) and (2)(e)(III)(B) as follows:

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

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

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

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

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

27 ***Recommendation 4***

1 **SECTION 36.** In Colorado Revised Statutes, 12-210-108, amend
2 (2)(q) as follows:

3 **12-210-108. Disciplinary actions - grounds for discipline.**

4 (2) The following acts constitute grounds for discipline:

5 (q) ~~Having an alcohol use disorder, as defined in section~~
6 ~~27-81-102, or a substance use disorder, as defined in section 27-82-102,~~
7 ~~or Excessively or habitually using or abusing alcohol or habit-forming~~
8 ~~drugs or habitually using a controlled substance, as defined in section~~
9 ~~18-18-102 (5), or other drugs or substances having similar effects; except~~
10 ~~that the director has the discretion not to discipline the licensee if he or~~
11 ~~she~~ THE LICENSEE is participating in good faith in an alcohol or substance
12 use disorder treatment program approved by the director;

13 ***Recommendation 5***

14 **SECTION 37.** In Colorado Revised Statutes, 12-210-108, amend
15 (2)(t) and (2)(u); and add (2)(v) as follows:

16 **12-210-108. Disciplinary actions - grounds for discipline.**

17 (2) The following acts constitute grounds for discipline:

18 (t) Failing to respond in an honest, materially responsive, and
19 timely manner to a complaint lodged against the licensee; and

20 (u) In any court of competent jurisdiction, being convicted of,
21 pleading guilty or nolo contendere to, or receiving a deferred sentence for
22 a felony or a crime involving fraud, deception, false pretense, theft,
23 misrepresentation, false advertising, or dishonest dealing; AND

24 (v) FAILING TO NOTIFY THE DIRECTOR, IN WRITING AND WITHIN
25 THIRTY DAYS AFTER A JUDGMENT OR SETTLEMENT IS ENTERED, OF A FINAL
26 JUDGMENT BY A COURT OF COMPETENT JURISDICTION AGAINST THE
27 LICENSEE INVOLVING MALPRACTICE OF AUDIOLOGY OR A SETTLEMENT BY

1 THE LICENSEE IN RESPONSE TO CHARGES OR ALLEGATIONS OF
2 MALPRACTICE OF AUDIOLOGY AND, IN THE CASE OF A JUDGMENT, FAILING
3 TO INCLUDE IN THE NOTICE THE NAME OF THE COURT, THE CASE NUMBER,
4 AND THE NAMES OF ALL PARTIES TO THE ACTION.

5 **SECTION 38.** In Colorado Revised Statutes, add 10-1-125.7 as
6 follows:

7 **10-1-125.7. Reporting of malpractice claims against**
8 **audiologists.** (1) EACH INSURANCE COMPANY LICENSED TO DO BUSINESS
9 IN THIS STATE AND ENGAGED IN THE WRITING OF MALPRACTICE INSURANCE
10 FOR AUDIOLOGISTS SHALL SEND TO THE DIRECTOR OF THE DIVISION OF
11 PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF REGULATORY
12 AGENCIES, IN THE FORM PRESCRIBED BY THE COMMISSIONER,
13 INFORMATION RELATING TO EACH MALPRACTICE CLAIM AGAINST A
14 LICENSED AUDIOLOGIST THAT IS SETTLED OR IN WHICH JUDGMENT IS
15 RENDERED AGAINST THE INSURED.

16 (2) THE INFORMATION MUST INCLUDE INFORMATION DEEMED
17 NECESSARY BY THE DIRECTOR OF THE DIVISION OF PROFESSIONS AND
18 OCCUPATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES TO
19 CONDUCT A FURTHER INVESTIGATION AND HEARING.

20 **SECTION 39.** In Colorado Revised Statutes, amend 13-64-303
21 as follows:

22 **13-64-303. Judgments and settlements - reported.** Any final
23 judgment, settlement, or arbitration award against any health care
24 professional or health care institution for medical malpractice shall be
25 reported within fourteen days by such THE professional's or institution's
26 medical malpractice insurance carrier in accordance with section
27 10-1-120, 10-1-121, 10-1-124, ~~or 10-1-125, C.R.S.~~ OR 10-1-125.7, or by

1 such THE professional or institution if there is no commercial medical
2 malpractice insurance coverage, to the licensing agency of the health care
3 professional or health care institution for review, investigation, and,
4 where appropriate, disciplinary or other action. Any health care
5 professional, health care institution, or insurance carrier that knowingly
6 fails to report as required by this section shall be subject to a civil penalty
7 of not more than two thousand five hundred dollars. Such penalty shall
8 be determined and collected by the district court in the city and county of
9 Denver. All penalties collected pursuant to this section shall be
10 transmitted to the state treasurer, who shall credit the same to the general
11 fund.

12 **SECTION 40.** In Colorado Revised Statutes, 25-51-104, **amend**
13 (1)(c) as follows:

14 **25-51-104. Payment and financial resolution.** (1) If a patient
15 accepts an offer of compensation made pursuant to section 25-51-103 (5)
16 and receives the compensation, the payment of compensation to the
17 patient is not a payment resulting from:

18 (c) A malpractice claim settled or in which judgment is rendered
19 against a professional for purposes of reporting by malpractice insurance
20 companies under section 10-1-120, 10-1-121, 10-1-124, 10-1-125, or
21 10-1-125.5, OR 10-1-125.7;

22 ***Recommendation 6***

23 **SECTION 41.** In Colorado Revised Statutes, 12-20-408, **amend**
24 (2)(e); and **repeal** (2)(f) as follows:

25 **12-20-408. Judicial review.** (2) A district court of competent
26 jurisdiction has initial jurisdiction to review all final actions and orders
27 of a regulator that are subject to judicial review and shall conduct the

1 judicial review proceedings in accordance with section 24-4-106 (3) for
2 the following:

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

4 (f) ~~Article 210 of this title 12 concerning audiologists; and~~

5 **SECTION 42. Act subject to petition - effective date.** This act
6 takes effect at 12:01 a.m. on the day following the expiration of the
7 ninety-day period after final adjournment of the general assembly (August
8 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
9 referendum petition is filed pursuant to section 1 (3) of article V of the
10 state constitution against this act or an item, section, or part of this act
11 within such period, then the act, item, section, or part will not take effect
12 unless approved by the people at the general election to be held in
13 November 2020 and, in such case, will take effect on the date of the
14 official declaration of the vote thereon by the governor.