A BILL FOR AN ACT

CONCERNING THE CONTINUATION OF THE LICENSING OF HEARING AID PROVIDERS, AND, IN CONNECTION THERewith, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2019 SUNSET 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
providers by combining the audiologist practice act with the hearing aid provider practice act and:

! Continuing the licensing of hearing aid providers for 11 years, to 2031 (sections 4 and 5 of the bill);
! Requiring final agency actions to be appealed directly to the court of appeals (section 1);
! Requiring a hearing aid provider to be licensed before directly or indirectly selling or negotiating to sell any hearing aid for the hearing impaired (section 2);
! 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 (section 2);
! 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 (section 2);
! Requiring hearing aid providers to maintain a surety bond (section 2);
! Adding failure to practice according to commonly accepted professional standards to the grounds for discipline (section 2);
! 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 (section 2);
! Repealing references to the national competency examination and the National Board for Certification in Hearing Instrument Sciences (section 2);
! Restoring the deceptive trade practice provisions related to the sale of hearing aids (section 3); and
! Making conforming amendments necessary to combine the audiologist practice act with the hearing aid provider practice act and make the additional recommended changes (sections 6 through 32).

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

SECTION 1. In Colorado Revised Statutes, 12-20-408, amend (2)(e) and (2)(f); and repeal (2)(g) as follows:

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

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

(f) PART 1 OF article 210 of this title 12 concerning audiologists.

and

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

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

PART 2

HEARING AID PROVIDERS

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

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

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

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

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

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

(II) Ear molds, excluding batteries and cords.

(b) The term does not include a surgically implanted hearing device:

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

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

(a) Selecting and adapting hearing aids for sale;

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

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

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

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

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

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

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

(3) Nothing in this article PART 2:

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

(4) (b) Nothing in this article PART 2: Prohibits a business or licensee from

(a) hiring and employing unlicensed staff to assist with conducting business practices and to assist in dispensing hearing aids if the unlicensed staff are properly supervised by a licensee; except that the employees UNLICENSED STAFF may not conduct hearing tests or perform the initial fitting of hearing aids. OR

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

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

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

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

(a) Eliciting patient case histories, including medical, otological, pharmacological, occupational, and previous amplification history and patient attitudes and expectations;
(b) Administering otoscopy for the purpose of identifying possible otological conditions, including conditions described in section 6-1-701 (2)(d), that may indicate the need for medical referral or that may have a bearing on needed rehabilitative measures, outcomes, or recommendations;

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

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

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

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

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

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

(i) Providing counseling and aural rehabilitative services in the use and care of hearing instruments and assistive devices and for effectively using communication coping strategies and other approaches to foster optimal patient rehabilitation; and
(j) Providing supervision and training of those entering the dispensing profession.

12-210-205. [Formerly 12-230-105] Title protection - use of title. It is unlawful for any person to use the title "hearing aid provider" or "hearing aid dispenser" OR ANY OTHER TITLE THAT IMPLIES THE PERSON IS QUALIFIED AS A HEARING AID PROVIDER unless the person is licensed as a hearing aid provider pursuant to this article 230 PART 2.

12-210-206. [Formerly 12-230-201] License required - application - qualifications - rules. (1) A hearing aid provider shall obtain a license pursuant to this section before:

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

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

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

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

(I) The applicant's name, business address, and business telephone number, and other contact information as determined by the director;
(II) A statement indicating whether:

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

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

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

(D) Disciplinary action was taken.

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

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

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

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

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

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

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

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

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

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

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

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

(2) The director may specify by rule what constitutes substantially equivalent qualifications for the purposes of this section.
12-210-209. [Formerly 12-230-204] Apprentice license - expiration - rules. (1) A person training to be a licensed hearing aid provider shall submit to the director an application containing the information described in subsection (2) of this section and shall pay an apprentice license fee determined and collected pursuant to section 12-20-105.

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

(3) During the training period:

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

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

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

(a) Discipline under section 12-210-213 for engaging in an act that constitutes grounds for discipline under section 12-210-215; and


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

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

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

12-210-211. Bond required - rules. (1) BEFORE THE DIRECTOR ISSUES A LICENSE TO AN APPLICANT FOR A HEARING AID PROVIDER LICENSE, THE APPLICANT SHALL POST A SURETY BOND, OR AN ALTERNATIVE TO THE SURETY BOND AS DETERMINED BY THE DIRECTOR, IN THE AMOUNT OF TEN THOUSAND DOLLARS. A LICENSED HEARING AID PROVIDER SHALL MAINTAIN THE REQUIRED BOND AT ALL TIMES.

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

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

12-210-212. [Formerly 12-230-301] Director - powers - duties - rules. (1) The director, in accordance with section 12-20-403, may make investigations and inspections as necessary to determine whether an applicant or licensee has violated this article 230 PART 2 or any rule adopted by the director.
(2) The director may apply for injunctive relief in accordance with section 12-20-406 to enjoin any act or practice that constitutes a violation of this article 230 PART 2. Upon a showing that a person is engaging in or intends to engage in the act or practice, the court shall grant an injunction, restraining order, or other appropriate order, regardless of the existence of another remedy.

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

12-210-213. [ Formerly 12-230-302] Disciplinary actions. (1) If the director determines that an applicant or licensee has committed any of the acts specified in section 12-230-401 12-210-215, the director may:

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

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

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

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

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

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

12-210-214. [ Formerly 12-230-303] Cease-and-desist orders -
unauthorized practice - penalties. (1) If it appears to the director, based
upon credible evidence as presented in a written complaint by any person,
that a licensee is acting in a manner that is a threat to the health and safety
of the public, or a person is acting or has acted without the required
license, the director, in accordance with the procedures specified in
section 12-20-405, may issue an order to cease and desist the activity. The
order must set forth the statutes and rules alleged to have been violated,
the facts alleged to have constituted the violation, the specific harm that
threatens the health and safety of the public, and the requirement that all
unlawful acts or unlicensed practices immediately cease.

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


(1) The following acts constitute grounds for discipline:

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

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

(c) Using false or misleading advertising;

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

(e) Directly or indirectly giving or offering to give money or anything of value to any person who advises another in a professional capacity as an inducement to influence the person or have the person influence others to purchase or contract to purchase products sold or offered for sale by a licensee, or influencing persons to refrain from dealing in the products of competitors;

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) ANY DISCIPLINARY ACTION TAKEN BY ANOTHER STATE, A
LOCAL JURISDICTION, OR THE FEDERAL GOVERNMENT AGAINST AN
APPLICANT OR LICENSEE CONSTITUTES PRIMA FACIE EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION, INCLUDING DENIAL OF A LICENSE UNDER THIS PART 2; EXCEPT THAT THIS SUBSECTION (2) APPLIES ONLY TO DISCIPLINE FOR ACTS OR OMISSIONS THAT ARE SUBSTANTIALLY SIMILAR TO THOSE SET OUT AS GROUNDS FOR DISCIPLINARY ACTION UNDER THIS SECTION.

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

PART 3

DECEPTIVE TRADE PRACTICES

12-210-301. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Dispenser" means a person licensed as a hearing aid provider pursuant to part 2 of this article 210 who dispenses hearing aids.

12-210-302. Dispensing hearing aids - deceptive trade practices. (1) In addition to any other deceptive trade practices under section 6-1-105, a dispenser engages in a deceptive trade practice when the dispenser:

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

(i) Bears the business address of the dispenser, together with specifications as to the make and serial number of the hearing aid furnished and the full terms of the sale clearly stated. If the dispenser dispenses a hearing aid that is not new, the dispenser shall clearly mark on the hearing aid container and the receipt the term "used" or "reconditioned", whichever is
(II) BEARS, IN NO SMALLER TYPE THAN THE LARGEST USED IN THE BODY OF THE RECEIPT, IN SUBSTANCE, A PROVISION THAT THE BUYER HAS BEEN ADVISED AT THE OUTSET OF THE BUYER'S RELATIONSHIP WITH THE DISPENSER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A DISPENSER IN CONNECTION WITH THE PRACTICE OF DISPENSING, FITTING, OR DEALING IN HEARING AIDS IS NOT AN EXAMINATION, DIAGNOSIS, OR PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS STATE AND, THEREFORE, MUST NOT BE REGARDED AS MEDICAL OPINION OR ADVICE;

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

AND

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

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

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

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

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

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

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

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

(IV) ACUTE OR CHRONIC DIZZINESS;

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

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

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

(VIII) PAIN OR DISCOMFORT IN THE EAR;

(e) FAILS TO PROVIDE A MINIMUM THIRTY-DAY RESCISSION PERIOD
WITH THE FOLLOWING TERMS:
(I) The buyer has the right to cancel the purchase for any reason before the expiration of the rescission period by giving or mailing written notice of cancellation to the dispenser and presenting the hearing aid to the dispenser, unless the hearing aid has been lost or significantly damaged beyond repair while in the buyer's possession and control. The rescission period is tolled for any period during which a dispenser takes possession or control of a hearing aid after its original delivery.

(II) The buyer, upon cancellation, is entitled to receive a full refund of any payment made for the hearing aid within thirty days after returning the hearing aid to the dispenser, unless the hearing aid was significantly damaged beyond repair while in the buyer's possession and control.

(III) (A) The dispenser shall provide a written receipt or contract to the buyer that includes, in immediate proximity to the space reserved for the signature of the buyer, the following specific statement in all capital letters of no less than ten-point, bold-faced type:

THE BUYER HAS THE RIGHT TO CANCEL

THIS PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO 12 MIDNIGHT ON THE APPlicable RESCISSION PERIOD, WHICH MUST BE NO SHORTER THAN THIRTY DAYS AFTER RECEIPT OF THE HEARING AID) CALENDAR DAY AFTER RECEIPT OF THE HEARING AID BY GIVING OR MAILING THE DISPENSER WRITTEN NOTICE OF CANCELLATION AND BY RETURNING THE
HEARING AID, UNLESS THE HEARING AID HAS BEEN SIGNIFICANTLY DAMAGED BEYOND REPAIR WHILE THE HEARING AID WAS IN THE BUYER'S CONTROL.

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

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

REFUND REQUEST - THIS FORM MUST BE POSTMARKED BY [DATE TO BE FILLED IN].

NO REFUND WILL BE GIVEN UNTIL THE HEARING AID OR HEARING AIDS ARE RETURNED TO THE DISPENSER.

A SPACE FOR THE BUYER'S ADDRESS, TELEPHONE NUMBER, AND
signature must be provided. The buyer is required only to sign, list the buyer's current address and telephone number, and mail the refund request form to the dispenser. If the hearing aid is sold in the buyer's home, the buyer may require the dispenser to arrange the return of the hearing aid.

(f) Represents that the service or advice of a person licensed to practice medicine will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing aids when that is not true or using the terms "doctor", "clinic", "state-licensed clinic", "state-registered", "state-certified", or "state-approved", or any other term, abbreviation, or symbol when it would:

(I) falsely give the impression that service is being provided by persons trained in medicine or that the dispenser's service has been recommended by the state when that is not the case; or

(II) be false or misleading;

(g) directly or indirectly:

(I) gives or offers to give, or permits or causes to be given, money or anything of value to any person who advises another in a professional capacity as an inducement to influence the person or have the person influence others to purchase or contract to purchase products sold or offered for sale by the dispenser; except that a dispenser does not violate this subsection (1)(g)(I) if the dispenser pays an independent advertising or marketing agent compensation for advertising or marketing services the agent rendered on the dispenser's behalf,
INCLUDING COMPENSATION THAT IS PAID FOR THE RESULTS OR
PERFORMANCE OF THE SERVICES ON A PER-PATIENT BASIS; OR

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

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

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

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

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

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

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

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

SECTION 4. In Colorado Revised Statutes, add part 4 to article
210 of title 12 as follows:

PART 4
REPEAL OF ARTICLE

12-210-401. Repeal of article. This article 210 is repealed, effective September 1, 2031. Before the repeal, this article 210 is
scheduled for review in accordance with section 24-34-104.

SECTION 5. In Colorado Revised Statutes, 24-34-104, repeal
(19)(a)(VI); and add (32) as follows:

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

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

(32) (a) The following agencies, functions, or both, are
scheduled for repeal on September 1, 2031:

(I) Notwithstanding subsection (7) of this section, the
licensing of audiologists and hearing aid providers by the
division of professions and occupations in accordance with
article 210 of title 12.

(b) This subsection (32) is repealed, effective September 1,
2033.

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

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

**SECTION 7.** In Colorado Revised Statutes, 6-1-701, amend (2)(a)(III) and (2)(e)(III)(B) as follows:

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

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

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

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

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

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

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

SECTION 9. In Colorado Revised Statutes, 10-16-104, amend (19)(b) introductory portion as follows:

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

**SECTION 10.** In Colorado Revised Statutes, 12-20-402, amend (3)(b)(II) as follows:

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

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

**SECTION 11.** In Colorado Revised Statutes, 12-20-404, amend (3)(a)(II)(E) and (3)(a)(II)(F) as follows:

12-20-404. Disciplinary actions - regulator powers - disposition of fines. (3) Waiting period after revocation or surrender. (a) (II) In addition, the waiting period specified in subsection (3)(a)(I) of this section applies when a person regulated under any of the following articles surrenders a license, certification, or registration to avoid discipline:

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

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

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

12-20-406. Injunctive relief. (2) (b) Subsection (2)(a) of this section does not apply to the following:
(V) PART 1 OF article 210 of this title 12 concerning audiologists;
(VII) PART 2 OF ARTICLE 210 of this title 12 concerning hearing aid providers;

SECTION 13. In Colorado Revised Statutes, 12-20-407, amend (1)(a)(V)(H) and (1)(a)(V)(L) as follows:

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

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

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

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

SECTION 14. In Colorado Revised Statutes, 12-30-102, amend (3)(a)(I) and (3)(a)(II) as follows:

12-30-102. Medical transparency act of 2010 - disclosure of information about health care licensees - fines - rules - short title - legislative declaration - definition - review of functions - repeal. (3) (a) As used in this section, "applicant" means a person applying for a new, active license, certification, or registration or to renew, reinstate,
or reactivate an active license, certification, or registration to practice:

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

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

SECTION 15. In Colorado Revised Statutes, 12-30-103, amend (4)(a)(II) as follows:

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

(a) "Health care practitioner" means:

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

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

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

(I) The following health care professionals:

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

SECTION 17. In Colorado Revised Statutes, amend 12-210-101 as follows:

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

SECTION 18. In Colorado Revised Statutes, 12-210-103, amend (1) introductory portion, (1)(a), and (2) as follows:

12-210-103. Scope of article - exemption. (1) This article 210 PART 1 does not apply to a person who is:
(a) Not licensed under this part 1 but is licensed pursuant to section 22-60.5-210 and not licensed under this article for work undertaken as part of his or her employment by, or contractual agreement with, the public schools;

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

SECTION 19. In Colorado Revised Statutes, 12-210-104, amend (1) as follows:

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

SECTION 20. In Colorado Revised Statutes, 12-210-105, amend (2) introductory portion, (3), and (4) introductory portion as follows:

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

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

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

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

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

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

**SECTION 22.** In Colorado Revised Statutes, 12-210-107, amend (1)(a) as follows:

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

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

**SECTION 23.** In Colorado Revised Statutes, 12-210-108, amend (2)(c), (2)(d), (2)(e), (2)(m), and (4) as follows:

(2) The following acts constitute grounds for discipline:

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

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

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

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

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

SECTION 24. In Colorado Revised Statutes, 12-210-109, amend (1) and (2) as follows:

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

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

SECTION 25. In Colorado Revised Statutes, 12-210-110, amend (2) as follows:

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

SECTION 26. In Colorado Revised Statutes, 12-210-111, amend (2) as follows:

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

SECTION 27. In Colorado Revised Statutes, 12-210-112, amend (1) as follows:

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

SECTION 28. In Colorado Revised Statutes, 12-210-113, amend (2) as follows:

12-210-113. Mental and physical examination of licensees.
The director shall include in an order issued to a licensee under subsection (1) of this section the basis of the director's reasonable cause to believe that the licensee is unable to practice with reasonable skill and safety. For the purposes of a disciplinary proceeding authorized by this article 210 PART 1, the licensee is deemed to have waived all objections to the admissibility of the examining health care provider's testimony or examination reports on the ground that they are privileged communications.

SECTION 29. In Colorado Revised Statutes, 12-210-114, amend (2) as follows:

12-210-114. Protection of medical records - licensee's obligations - verification of compliance - noncompliance grounds for discipline - rules. (2) Upon initial licensure under this article 210 PART 1, the licensee shall attest to the director that the licensee has developed a plan in compliance with this section.

SECTION 30. In Colorado Revised Statutes, 25-1.5-604, amend (c)(2) as follows:

25-1.5-604. Regulation of services during emergency. (c) A host entity that uses volunteer health practitioners to provide health or veterinary services in this state shall:

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

SECTION 31. Repeal of relocated and nonrelocated provisions in this act. In Colorado Revised Statutes, repeal article 230

SECTION 33. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.