A BILL FOR AN ACT

CONCERNING THE CONTINUATION OF THE LICENSING OF AUDIOLOGISTS, 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 audiologists by combining the audiologist practice act with the hearing aid provider practice act and:

- Continuing the licensing of audiologists for 11 years, to 2031 (sections 5 and 6 of the bill);
- 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 (section 1);
- Requiring final agency actions to be appealed directly to the court of appeals (section 2);
- Amending the language in the grounds for discipline referring to an alcohol or substance use disorder (section 3);
- Restoring the deceptive trade practice provisions related to the sale of hearing aids (section 4); 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 7 through 35).

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

SECTION 1. In Colorado Revised Statutes, add 10-1-125.7 as follows:

10-1-125.7. Reporting of malpractice claims against audiologists. (1) Each insurance company licensed to do business in this state and engaged in the writing of malpractice insurance for audiologists shall send to the director of the division of professions and occupations in the department of regulatory agencies, in the form prescribed by the commissioner, information relating to each malpractice claim against a licensed audiologist that is settled or in which judgment is rendered against the insured.

(2) The information must include information deemed necessary by the director of the division of professions and occupations in the department of regulatory agencies.
SECTION 2. In Colorado Revised Statutes, 12-20-408, amend (2)(e); and repeal (2)(f) 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) Article 210 of this title 12 concerning audiologists; and

SECTION 3. 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

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to be customized for the purpose of compensating for impaired human hearing and includes:

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

(5) "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 does not apply to persons A PERSON who are:

(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 for
work undertaken as part of their 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 does not apply to the wholesale sales of hearing aids.

(3) Nothing in this article:

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

(b) Nothing in this article

Prohibits a business or licensee from:

(I) 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 may not conduct hearing tests or perform the initial fitting of hearing aids; or

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

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

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

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" unless he or she 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 engaging in the practice of dispensing, fitting, or dealing in hearing aids.

(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, 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 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; or

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

(1) Completed at least six months of training with an audiologist or licensed hearing aid provider pursuant to section 12-230-204; 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 12-230-302 12-210-212 for engaging in an act that constitutes grounds for discipline under section 12-230-401 12-210-214; 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. [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.

12-210-212. [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, 12-210-214, 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 or rules promulgated pursuant to this article that are held unconstitutional, invalid, or inconsistent with federal laws or regulations, including regulations promulgated by the United States food and drug administration.

12-210-213. [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 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, an applicable provision of article 20 or 30 of this title, a rule promulgated by the director under this article, or an order issued by the director under this article;

(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)(I) or 12-210-209 (2);
(l) Employing a sales agent or employee who violates any
provision of this article PART 2, a rule promulgated by the director
under this article PART 2, or an order issued by the director under this
article 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 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.

SECTION 4. 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 in the practice of audiology pursuant to part 1 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 applicable, within the terms of the guarantee, if any.**

(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 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 [INSERT

(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, DIVERTS, 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 5. 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 6. In Colorado Revised Statutes, 24-34-104, repeal (19)(a)(V); 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:

(V) The licensing of audiologists by the division of professions and occupations in accordance with article 210 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 7. 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 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 8. 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 9. 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 10. 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 11. 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 12. 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 13. 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) Article 230 PART 2 OF ARTICLE 210 of this title 12
concerning hearing aid providers;

SECTION 14. 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 15. In Colorado Revised Statutes, 12-30-102, amend (3)(a)(I) and (3)(a)(II) as follows:


(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 16. 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 17. 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 18. 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.

SECTION 19. 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 210 for work
undertaken as part of his or her THE PERSON'S employment by, or
contractual agreement with, the public schools;

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

SECTION 20. 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 THE PERSON is
licensed pursuant to this article 210 PART 1: "Audiologist", "hearing and
balance audiologist", "vestibular audiologist", or any other title or
abbreviation that implies that the person is an audiologist.

SECTION 21. 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 210 PART 1, a person must have:

(3) An audiologist desiring to be licensed pursuant to this article
210 PART 1 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 22. 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 23. 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 24. In Colorado Revised Statutes, 12-210-108, amend (2)(c), (2)(d), (2)(e), (2)(m), (2)(q), (2)(t), (2)(u), and (4); and add (2)(v) 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;

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

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

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

(v) FAILING TO NOTIFY THE DIRECTOR, IN WRITING AND WITHIN THIRTY DAYS AFTER A JUDGMENT OR SETTLEMENT IS ENTERED, OF A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION AGAINST THE LICENSEE INVOLVING MALPRACTICE OF AUDIOLOGY OR A SETTLEMENT BY THE LICENSEE IN RESPONSE TO CHARGES OR ALLEGATIONS OF MALPRACTICE OF AUDIOLOGY AND, IN THE CASE OF A JUDGMENT, FAILING TO INCLUDE IN THE NOTICE THE NAME OF THE COURT, THE CASE NUMBER, AND THE NAMES OF ALL PARTIES TO THE ACTION.

(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 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 PART 1.

SECTION 25. 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 26. 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 27. 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 28. 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 29. In Colorado Revised Statutes, 12-210-113, amend (2) as follows:

12-210-113. Mental and physical examination of licensees. 
(2) 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, 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 30. 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, the licensee shall attest to the director that the licensee has developed a plan in compliance with this section.

SECTION 31. In Colorado Revised Statutes, amend 13-64-303 as follows:

13-64-303. Judgments and settlements - reported. Any final judgment, settlement, or arbitration award against any health care professional or health care institution for medical malpractice shall be reported within fourteen days by the professional's or institution's medical malpractice insurance carrier in accordance with section 10-1-120, 10-1-121, 10-1-124, or 10-1-125, C.R.S., or 10-1-125.7, or by such the professional or institution if there is no commercial medical
malpractice insurance coverage, to the licensing agency of the health care
professional or health care institution for review, investigation, and, where appropriate, disciplinary or other action. Any health care professional, health care institution, or insurance carrier that knowingly fails to report as required by this section shall be subject to a civil penalty of not more than two thousand five hundred dollars. Such penalty shall be determined and collected by the district court in the city and county of Denver. All penalties collected pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the general fund.

SECTION 32. 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 1 OF ARTICLE 210, and 235 ARTICLES 215 to 300 of title 12.

SECTION 33. In Colorado Revised Statutes, 25-51-104, amend (1)(c) as follows:

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

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

SECTION 34. In Colorado Revised Statutes, repeal 12-210-115.

SECTION 35. Repeal of relocated and nonrelocated
provisions in this act. In Colorado Revised Statutes, repeal article 230
of title 12; except that 12-230-106 is not relocated.

SECTION 36. 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.