

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0526.01 Yelana Love x2295

HOUSE BILL 20-1219

HOUSE SPONSORSHIP

Buckner, Lontine

SENATE SPONSORSHIP

Danielson,

House Committees

Health & Insurance
Finance

Senate Committees

A BILL FOR AN ACT

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

Bill Summary

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

Sunset Process - House Health and Insurance Committee. The bill implements the recommendations of the department of regulatory

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

agencies' sunset review and report on the licensing of audiologists by 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**).

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

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

4 **12-210-115. Repeal of article - review of functions.** This article
5 210 is repealed, effective September 1, ~~2020~~ 2031. Before the repeal, the
6 licensing and supervisory functions of the director are scheduled for
7 review in accordance with section 24-34-104.

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

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

14 (V) ~~The licensing of audiologists by the division of professions~~

1 ~~and occupations in accordance with article 210 of title 12;~~

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

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

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

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

11 **6-1-701. Dispensing hearing aids - deceptive trade practices**
12 **- definitions.** (2) In addition to any other deceptive trade practices under
13 section 6-1-105, a dispenser engages in a deceptive trade practice when
14 the dispenser:

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

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

22 (c) ~~(f) Fails to receive from a licensed physician, before~~
23 ~~dispensing, fitting, or selling a hearing aid to any person, a written~~
24 ~~prescription or recommendation, issued within the previous six months,~~
25 ~~that specifies that the person is a candidate for a hearing aid; except that~~
26 ~~any person eighteen years of age or older who objects to medical~~
27 ~~evaluation on the basis of religious or personal beliefs may waive the~~

1 ~~requirement by delivering to the dispenser a written waiver;~~
2 (H) Dispenses, adjusts, provides training or teaching in regard to,
3 or otherwise services surgically implanted hearing devices unless the
4 dispenser is an audiologist or physician;
5 (e) Fails to provide a minimum thirty-day rescission period with
6 the following terms:
7 (III) (B) The written contract or receipt provided to the buyer
8 must also contain a statement, in print size no smaller than ten-point type,
9 that the sale is void and unenforceable if the hearing aid being purchased
10 is not delivered to the consumer within thirty days after the date the
11 written contract is signed or the receipt is issued, whichever occurs later.
12 The written contract or receipt must also include the dispenser's license
13 ~~certification, or registration~~ number, if the dispenser is required to be
14 licensed ~~certified or registered~~ by the state, and a statement that the
15 dispenser will promptly refund all ~~moneys~~ MONEY paid for the purchase
16 of a hearing aid if it is not delivered to the consumer within the thirty-day
17 period. The buyer cannot waive this requirement, and any attempt to
18 waive it is void.

19 **SECTION 4.** In Colorado Revised Statutes, 12-210-108, **amend**
20 (2)(q), (2)(t), and (2)(u); and **add** (2)(v) as follows:

21 **12-210-108. Disciplinary actions - grounds for discipline.**

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

23 (q) ~~Having an alcohol use disorder, as defined in section~~
24 ~~27-81-102, or a substance use disorder, as defined in section 27-82-102,~~
25 ~~or~~ Excessively or habitually using or abusing alcohol or habit-forming
26 drugs or habitually using a controlled substance, as defined in section
27 18-18-102 (5), or other drugs or substances having similar effects; except

1 that the director has the discretion not to discipline the licensee if ~~he or~~
2 ~~she~~ THE LICENSEE is participating in good faith in an alcohol or substance
3 use disorder treatment program approved by the director;

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

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

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

18 **SECTION 5.** In Colorado Revised Statutes, **add 12-210-107.5**
19 **as follows:**

20 **12-210-107.5. Continuing education.** (1) AN AUDIOLOGIST
21 LICENSED PURSUANT TO THIS ARTICLE 210 SHALL COMPLETE AT LEAST TEN
22 HOURS OF CONTINUING EDUCATION EACH RENEWAL PERIOD.

23 (2) APPLICANTS FOR LICENSE RENEWAL, REACTIVATION, OR
24 REINSTATEMENT SHALL ATTEST DURING THE APPLICATION PROCESS AS TO
25 WHETHER THEY ARE IN COMPLIANCE WITH THIS SECTION.

26 (3) THE DIRECTOR MAY AUDIT COMPLIANCE WITH THIS SECTION.
27 AUDIOLOGISTS SHALL SUBMIT DOCUMENTATION OF THEIR COMPLIANCE

1 WITH THIS SECTION UPON REQUEST BY THE DIRECTOR.

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

4 **10-1-125.7. Reporting of malpractice claims against**
5 **audiologists.** (1) EACH INSURANCE COMPANY LICENSED TO DO BUSINESS
6 IN THIS STATE AND ENGAGED IN THE WRITING OF MALPRACTICE
7 INSURANCE FOR AUDIOLOGISTS SHALL SEND TO THE DIRECTOR OF THE
8 DIVISION OF PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF
9 REGULATORY AGENCIES, IN THE FORM PRESCRIBED BY THE
10 COMMISSIONER, INFORMATION RELATING TO EACH MALPRACTICE CLAIM
11 AGAINST A LICENSED AUDIOLOGIST THAT IS SETTLED OR IN WHICH
12 JUDGMENT IS RENDERED AGAINST THE INSURED.

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

17 **SECTION 7.** In Colorado Revised Statutes, 12-20-408, **amend**
18 (2)(e); and **repeal** (2)(f) as follows:

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

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

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

26 **SECTION 8.** In Colorado Revised Statutes, **add** part 2 to article
27 210 of title 12 as follows:

1 PART 2

2 DECEPTIVE TRADE PRACTICES

3 12-210-201. **Definitions.** AS USED IN THIS PART 2, UNLESS THE
4 CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

1 STATE AND, THEREFORE, MUST NOT BE REGARDED AS MEDICAL OPINION OR
2 ADVICE;

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

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

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

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

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

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

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

27 (III) HISTORY OF SUDDEN OR RAPIDLY PROGRESSIVE HEARING

1 LOSS;

2 (IV) ACUTE OR CHRONIC DIZZINESS;

3 (V) UNILATERAL HEARING LOSS OF SUDDEN ONSET WITHIN THE

4 PREVIOUS NINETY DAYS;

5 (VI) AUDIOMETRIC AIR-BONE GAP EQUAL TO OR GREATER THAN

6 FIFTEEN DECIBELS AT 500 HERTZ (HZ), 1,000 HZ, AND 2,000 HZ;

7 (VII) VISIBLE EVIDENCE OF SIGNIFICANT CERUMEN

8 ACCUMULATION ON, OR A FOREIGN BODY IN, THE EAR CANAL; OR

9 (VIII) PAIN OR DISCOMFORT IN THE EAR;

10 (e) FAILS TO PROVIDE A MINIMUM THIRTY-DAY RESCISSION PERIOD

11 WITH THE FOLLOWING TERMS:

12 (I) THE BUYER HAS THE RIGHT TO CANCEL THE PURCHASE FOR ANY

13 REASON BEFORE THE EXPIRATION OF THE RESCISSION PERIOD BY GIVING

14 OR MAILING WRITTEN NOTICE OF CANCELLATION TO THE DISPENSER AND

15 PRESENTING THE HEARING AID TO THE DISPENSER, UNLESS THE HEARING

16 AID HAS BEEN LOST OR SIGNIFICANTLY DAMAGED BEYOND REPAIR WHILE

17 IN THE BUYER'S POSSESSION AND CONTROL. THE RESCISSION PERIOD IS

18 TOLLED FOR ANY PERIOD DURING WHICH A DISPENSER TAKES POSSESSION

19 OR CONTROL OF A HEARING AID AFTER ITS ORIGINAL DELIVERY.

20 (II) THE BUYER, UPON CANCELLATION, IS ENTITLED TO RECEIVE A

21 FULL REFUND OF ANY PAYMENT MADE FOR THE HEARING AID WITHIN

22 THIRTY DAYS AFTER RETURNING THE HEARING AID TO THE DISPENSER,

23 UNLESS THE HEARING AID WAS SIGNIFICANTLY DAMAGED BEYOND REPAIR

24 WHILE IN THE BUYER'S POSSESSION AND CONTROL.

25 (III) (A) THE DISPENSER SHALL PROVIDE A WRITTEN RECEIPT OR

26 CONTRACT TO THE BUYER THAT INCLUDES, IN IMMEDIATE PROXIMITY TO

27 THE SPACE RESERVED FOR THE SIGNATURE OF THE BUYER, THE FOLLOWING

1 SPECIFIC STATEMENT IN ALL CAPITAL LETTERS OF NO LESS THAN
2 TEN-POINT, BOLD-FACED TYPE:

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

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

1 IT IS VOID.

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

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

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

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

24 (I) FALSELY GIVE THE IMPRESSION THAT SERVICE IS BEING
25 PROVIDED BY PERSONS TRAINED IN MEDICINE OR THAT THE DISPENSER'S
26 SERVICE HAS BEEN RECOMMENDED BY THE STATE WHEN THAT IS NOT THE
27 CASE; OR

1 (II) BE FALSE OR MISLEADING;

2 (g) DIRECTLY OR INDIRECTLY:

3 (I) GIVES OR OFFERS TO GIVE, OR PERMITS OR CAUSES TO BE

4 GIVEN, MONEY OR ANYTHING OF VALUE TO ANY PERSON WHO ADVISES

5 ANOTHER IN A PROFESSIONAL CAPACITY AS AN INDUCEMENT TO

6 INFLUENCE THE PERSON OR HAVE THE PERSON INFLUENCE OTHERS TO

7 PURCHASE OR CONTRACT TO PURCHASE PRODUCTS SOLD OR OFFERED FOR

8 SALE BY THE DISPENSER; EXCEPT THAT A DISPENSER DOES NOT VIOLATE

9 THIS SUBSECTION (1)(g)(I) IF THE DISPENSER PAYS AN INDEPENDENT

10 ADVERTISING OR MARKETING AGENT COMPENSATION FOR ADVERTISING OR

11 MARKETING SERVICES THE AGENT RENDERED ON THE DISPENSER'S BEHALF,

12 INCLUDING COMPENSATION THAT IS PAID FOR THE RESULTS OR

13 PERFORMANCE OF THE SERVICES ON A PER-PATIENT BASIS; OR

14 (II) INFLUENCES OR ATTEMPTS TO INFLUENCE ANY PERSON TO

15 REFRAIN FROM DEALING IN THE PRODUCTS OF COMPETITORS;

16 (h) DISPENSES A HEARING AID TO A PERSON WHO HAS NOT BEEN

17 GIVEN TESTS UTILIZING APPROPRIATE ESTABLISHED PROCEDURES AND

18 INSTRUMENTATION IN THE FITTING OF HEARING AIDS, EXCEPT WHEN

19 SELLING A REPLACEMENT HEARING AID WITHIN ONE YEAR AFTER THE DATE

20 OF THE ORIGINAL PURCHASE;

21 (i) MAKES A FALSE OR MISLEADING STATEMENT OF FACT

22 CONCERNING GOODS OR SERVICES OR THE BUYER'S RIGHT TO CANCEL WITH

23 THE INTENTION OR EFFECT OF DETERRING OR PREVENTING THE BUYER

24 FROM EXERCISING THE BUYER'S RIGHT TO CANCEL, OR REFUSES TO HONOR

25 A BUYER'S REQUEST TO CANCEL A CONTRACT FOR THE PURCHASE OF A

26 HEARING AID, IF THE REQUEST WAS MADE DURING THE RESCISSION PERIOD

27 SET FORTH IN SUBSECTION (1)(e) OF THIS SECTION;

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

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

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

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

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

15 **SECTION 9.** In Colorado Revised Statutes, **amend** 13-64-303
16 as follows:

17 **13-64-303. Judgments and settlements - reported.** Any final
18 judgment, settlement, or arbitration award against any health care
19 professional or health care institution for medical malpractice shall be
20 reported within fourteen days by ~~such~~ THE professional's or institution's
21 medical malpractice insurance carrier in accordance with section
22 10-1-120, 10-1-121, 10-1-124, ~~or~~ 10-1-125, ~~C.R.S.~~ OR 10-1-125.7, or by
23 ~~such~~ THE professional or institution if there is no commercial medical
24 malpractice insurance coverage, to the licensing agency of the health care
25 professional or health care institution for review, investigation, and,
26 where appropriate, disciplinary or other action. Any health care
27 professional, health care institution, or insurance carrier that knowingly

1 fails to report as required by this section shall be subject to a civil penalty
2 of not more than two thousand five hundred dollars. Such penalty shall
3 be determined and collected by the district court in the city and county of
4 Denver. All penalties collected pursuant to this section shall be
5 transmitted to the state treasurer, who shall credit the same to the general
6 fund.

7 **SECTION 10.** In Colorado Revised Statutes, 25-51-104, **amend**
8 (1)(c) as follows:

9 **25-51-104. Payment and financial resolution.** (1) If a patient
10 accepts an offer of compensation made pursuant to section 25-51-103 (5)
11 and receives the compensation, the payment of compensation to the
12 patient is not a payment resulting from:

13 (c) A malpractice claim settled or in which judgment is rendered
14 against a professional for purposes of reporting by malpractice insurance
15 companies under section 10-1-120, 10-1-121, 10-1-124, 10-1-125, ~~or~~
16 10-1-125.5, OR 10-1-125.7;

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