

CHAPTER 250

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 95-1011

BY REPRESENTATIVES George, Knox, Acquafresca, Entz, Friednash, Gordon, Hagedorn, Hernandez, Keller, Lamm, Lawrence, Lyle, Moellenberg, Morrison, Reeser, Saliman, Schwarz, Snyder, Sullivan, Taylor, and Tool;
also SENATORS Martinez, Casey, Pascoe, Rupert, and Weissmann.

AN ACT

CONCERNING THE REGULATION OF PERSONS WHO TREAT THE HEARING IMPAIRED, AND, IN CONNECTION THEREWITH, REQUIRING REGISTRATION OF AUDIOLOGISTS AND HEARING AID DEALERS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. Title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 5.5
Audiologists and Hearing Aid Dealers

PART 1
AUDIOLOGISTS

12-5.5-101. Definitions. AS USED IN THIS PART 1, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AUDIOLOGIST" MEANS A PERSON WHO MEETS THE FOLLOWING REQUIREMENTS; EXCEPT THAT AN AUDIOLOGIST WHO IS ENGAGED IN THE PRACTICE OF AUDIOLOGY ON OR BEFORE JULY 1, 1995, SHALL DEMONSTRATE COMPLIANCE WITH SUCH REQUIREMENTS NOT LATER THAN JULY 1, 1997:

(a) HOLDS A MASTER'S OR DOCTORATE DEGREE IN AUDIOLOGY OR AN EQUIVALENT

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

DEGREE, AS DETERMINED BY THE DIRECTOR; AND

(b) HAS OBTAINED A CERTIFICATE OF COMPETENCY IN AUDIOLOGY FROM A NATIONALLY RECOGNIZED CERTIFICATION AGENCY OR HAS BEEN CERTIFIED OR LICENSED AS A SCHOOL AUDIOLOGIST BY THE COLORADO DEPARTMENT OF EDUCATION PURSUANT TO SECTION 22-60-104, C.R.S.

(2) "DIRECTOR" MEANS THE DIRECTOR OF REGISTRATIONS.

(3) "DIVISION" MEANS THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES.

(4) "REGISTRANT" MEANS AN AUDIOLOGIST WHO HOLDS A CURRENT CERTIFICATE OF REGISTRATION FROM THE DIVISION OF REGISTRATIONS PURSUANT TO THIS PART 1.

12-5.5-101.5. Scope of article. THIS ARTICLE SHALL NOT APPLY TO PERSONS WHO ARE CERTIFIED OR LICENSED PURSUANT TO SECTION 22-60-104 (1), C.R.S., AND WHO ARE NOT REGISTERED UNDER THIS ARTICLE FOR WORK UNDERTAKEN AS PART OF THEIR EMPLOYMENT BY, OR CONTRACTUAL AGREEMENT WITH, THE PUBLIC SCHOOLS.

12-5.5-102. Registration required - application - bond. (1) AN AUDIOLOGIST SHALL REGISTER WITH THE DIVISION OF REGISTRATIONS BEFORE PERFORMING AUDIOLOGY SERVICES IN THIS STATE. UPON REGISTERING, THE AUDIOLOGIST SHALL BE GIVEN A CERTIFICATE OF REGISTRATION BEARING A UNIQUE REGISTRATION NUMBER. THE AUDIOLOGIST SHALL INCLUDE THE REGISTRATION NUMBER ON ALL WRITTEN CONTRACTS AND RECEIPTS, AS REQUIRED PURSUANT TO SECTION 6-1-105.5 (2) (a), C.R.S.

(2) AN AUDIOLOGIST DESIRING TO REGISTER PURSUANT TO THIS SECTION SHALL SUBMIT TO THE DIRECTOR AN APPLICATION CONTAINING THE INFORMATION DESCRIBED IN SUBSECTION (3) OF THIS SECTION AND SHALL PAY A FEE TO BE DETERMINED AND COLLECTED BY THE DIRECTOR PURSUANT TO SECTION 24-34-105, C.R.S. THE DIRECTOR MAY DENY AN APPLICATION FOR REGISTRATION IF THE REQUIRED INFORMATION IS NOT SUBMITTED. IF AN APPLICANT OR REGISTRANT DOES NOT NOTIFY THE DIRECTOR OF A CHANGE IN THE SUBMITTED INFORMATION WITHIN THIRTY DAYS AFTER SUCH CHANGE, SUCH FAILURE SHALL BE CAUSE FOR DISCIPLINARY ACTION.

(3) THE FOLLOWING INFORMATION SHALL BE INCLUDED IN EVERY APPLICATION FOR REGISTRATION UNDER THIS SECTION:

(a) THE AUDIOLOGIST'S NAME, BUSINESS ADDRESS, AND BUSINESS TELEPHONE NUMBER;

(b) A LISTING OF THE AUDIOLOGIST'S EDUCATION, EXPERIENCE, AND DEGREES OR CREDENTIALS, INCLUDING ALL DEGREES OR CREDENTIALS AWARDED TO SUCH AUDIOLOGIST THAT ARE RELATED TO THE PRACTICE OF AUDIOLOGY;

(c) A STATEMENT INDICATING WHETHER ANY LICENSE, CERTIFICATE, OR REGISTRATION IN AUDIOLOGY WAS ISSUED TO THE AUDIOLOGIST BY A LOCAL, STATE, OR NATIONAL HEALTH CARE AGENCY, WHETHER ANY SUCH LICENSE, CERTIFICATE, OR REGISTRATION WAS SUSPENDED OR REVOKED, WHETHER CHARGES OR COMPLAINTS

ARE PENDING AGAINST SUCH LICENSE, CERTIFICATE, OR REGISTRATION, AND WHETHER DISCIPLINARY ACTION WAS TAKEN;

(d) THE LENGTH OF TIME AND THE LOCATIONS WHERE THE APPLICANT HAS BEEN ENGAGED IN THE PRACTICE OF AUDIOLOGY;

(e) IF THE AUDIOLOGIST WILL PROVIDE SERVICES TO PATIENTS, PROOF OF HAVING OBTAINED MALPRACTICE COVERAGE IN AN AMOUNT DETERMINED AS APPROPRIATE BY THE DIRECTOR.

(4) A STUDENT ENROLLED IN A COURSE OF STUDY AT AN ACCREDITED INSTITUTION AND PRACTICING AUDIOLOGY UNDER THE SUPERVISION OF A REGISTERED AUDIOLOGIST SHALL BE EXEMPT FROM THE REQUIREMENTS OF THIS SECTION.

12-5.5-102.5. Temporary registration. THE DIRECTOR SHALL GRANT A TEMPORARY REGISTRATION CERTIFICATE TO ANY APPLICANT WHO HAS OBTAINED A MASTER'S OR DOCTORATE DEGREE IN AUDIOLOGY AND IS PRACTICING AUDIOLOGY IN A YEAR OF "CLINICAL FELLOWSHIP", AS REQUIRED FOR CERTIFICATION BY A NATIONAL ACCREDITING ORGANIZATION. NO TEMPORARY REGISTRATION CERTIFICATE ISSUED PURSUANT TO THIS SECTION SHALL BE VALID FOR MORE THAN TWELVE MONTHS.

12-5.5-103. Registration procedure. (1) THE DIRECTOR SHALL REGISTER ALL APPLICANTS WHO MEET THE REQUIREMENTS OF THIS PART 1 AND SHALL PROVIDE EACH REGISTRANT WITH A CERTIFICATE INDICATING THAT THE PERSON NAMED IN SUCH CERTIFICATE IS REGISTERED IN THE STATE OF COLORADO AS AN AUDIOLOGIST.

(2) ALL CERTIFICATES ISSUED UNDER THIS SECTION SHALL EXPIRE ON DECEMBER 31 FOLLOWING THE DATE OF ISSUANCE, BUT MAY BE RENEWED BY PAYMENT OF THE RENEWAL FEE ESTABLISHED BY THE DIRECTOR PURSUANT TO SECTION 24-34-105, C.R.S., AND CONTINUED COMPLIANCE WITH THE PROVISIONS OF THIS PART 1. A REGISTRATION THAT HAS EXPIRED MAY BE REINSTATED WITHIN TWO YEARS AFTER SUCH EXPIRATION UPON PAYMENT OF THE APPROPRIATE RENEWAL FEE IF THE APPLICANT MEETS ALL OTHER REQUIREMENTS OF THIS PART 1.

(3) ALL FEES COLLECTED UNDER THIS PART 1 SHALL BE DEPOSITED IN ACCORDANCE WITH SECTION 12-5.5-104.

12-5.5-104. Division of registrations cash fund. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT ALL DIRECT AND INDIRECT COSTS INCURRED IN THE IMPLEMENTATION OF THIS PART 1 BE FUNDED BY ANNUAL REGISTRATION AND RENEWAL FEES. ALL FEES COLLECTED BY THE DIRECTOR SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE DIVISION OF REGISTRATIONS CASH FUND, CREATED BY SECTION 24-34-105, C.R.S.

12-5.5-105. Grounds for discipline - disciplinary actions. (1) (a) IF, AFTER INVESTIGATION, NOTICE, AND THE OPPORTUNITY FOR HEARING IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., THE DIRECTOR DETERMINES THAT AN APPLICANT OR REGISTRANT HAS COMMITTED ANY OF THE ACTS SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (1), THE DIRECTOR MAY:

(I) IMPOSE AN ADMINISTRATIVE FINE NOT TO EXCEED TWO THOUSAND FIVE

HUNDRED DOLLARS FOR EACH SEPARATE OFFENSE;

(II) ISSUE A LETTER OF ADMONITION;

(III) PLACE A REGISTRANT ON PROBATION, WHICH SHALL ENTAIL CLOSE SUPERVISION ON SUCH TERMS AND FOR SUCH TIME AS THE DIRECTOR DEEMS APPROPRIATE; OR

(IV) DENY, REFUSE TO RENEW, REVOKE, OR SUSPEND THE REGISTRATION OF AN APPLICANT OR REGISTRANT.

(b) THE FOLLOWING ACTS SHALL CONSTITUTE GROUNDS FOR DISCIPLINE:

(I) USING FALSE OR MISLEADING ADVERTISING OR MAKING A FALSE OR MISLEADING STATEMENT OR OMISSION IN AN APPLICATION FOR REGISTRATION;

(II) CONVICTION OR ACCEPTANCE OF A PLEA OF GUILTY OR NOLO CONTENDERE OR RECEIPT OF A DEFERRED SENTENCE IN ANY COURT TO A CRIME INVOLVING FRAUD, DECEPTION, FALSE PRETENSE, THEFT, MISREPRESENTATION, FALSE ADVERTISING, OR DISHONEST DEALING;

(III) FAILING TO COMPLY WITH A STIPULATION OR AGREEMENT MADE WITH THE DIRECTOR OR A FINAL AGENCY ORDER;

(IV) VIOLATION OF ANY PROVISION OF THIS PART 1, INCLUDING FAILURE TO COMPLY WITH THE REGISTRATION REQUIREMENTS OF SECTION 12-5.5-102, OR VIOLATION OF ANY RULE PROMULGATED BY THE DIRECTOR UNDER THIS PART 1;

(V) VIOLATING THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6, C.R.S.;

(VI) EMPLOYING A SALES AGENT OR EMPLOYEE WHO VIOLATES ANY PROVISION OF THIS PART 1;

(VII) FAILING TO NOTIFY THE DIRECTOR OF A CHANGE IN THE INFORMATION FILED PURSUANT TO SECTION 12-5.5-102;

(VIII) CAUSING PHYSICAL HARM TO A CUSTOMER;

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

(2) ANY DISCIPLINARY ACTION TAKEN WITH RESPECT TO AN AUDIOLOGIST BY ANOTHER STATE OR LOCAL JURISDICTION OR THE FEDERAL GOVERNMENT SHALL BE DEEMED PRIMA FACIE EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION, INCLUDING DENIAL OF REGISTRATION UNDER THIS PART 1; EXCEPT THAT THIS SUBSECTION (2) SHALL APPLY ONLY TO DISCIPLINARY ACTIONS THAT ARE SUBSTANTIALLY SIMILAR TO THOSE SET OUT AS GROUNDS FOR DISCIPLINARY ACTION UNDER THIS PART 1.

(3) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN INSTANCE OF MISCONDUCT THAT IN THE OPINION OF THE DIRECTOR DOES NOT WARRANT FORMAL

ACTION BUT SHOULD NOT BE DISMISSED AS BEING WITHOUT MERIT, THE DIRECTOR MAY SEND A LETTER OF ADMONITION BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE REGISTRANT WHO IS THE SUBJECT OF THE COMPLAINT OR INVESTIGATION AND A COPY THEREOF TO ANY PERSON MAKING SUCH COMPLAINT. SUCH LETTER SHALL ADVISE THE REGISTRANT OF HIS OR HER RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER PROVEN RECEIPT, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED TO ADJUDICATE THE PROPRIETY OF THE CONDUCT UPON WHICH THE LETTER OF ADMONITION IS BASED. IF SUCH REQUEST IS TIMELY MADE, THE LETTER OF ADMONITION SHALL BE DEEMED VACATED AND THE MATTER SHALL BE PROCESSED BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

(4) ALL ADMINISTRATIVE FINES COLLECTED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE GENERAL FUND.

12-5.5-106. Director - powers - duties. (1) THE DIRECTOR MAY MAKE SUCH INVESTIGATIONS AND INSPECTIONS AS ARE NECESSARY TO DETERMINE WHETHER AN APPLICANT HAS VIOLATED THIS PART 1 OR ANY RULE ADOPTED BY THE DIRECTOR.

(2) THE DIRECTOR MAY APPLY TO A COURT OF COMPETENT JURISDICTION FOR AN ORDER ENJOINING ANY ACT OR PRACTICE WHICH CONSTITUTES A VIOLATION OF THIS PART 1, AND, UPON A SHOWING THAT A PERSON IS ENGAGING IN OR INTENDS TO ENGAGE IN ANY SUCH ACT OR PRACTICE, AN INJUNCTION, RESTRAINING ORDER, OR OTHER APPROPRIATE ORDER SHALL BE GRANTED BY THE COURT REGARDLESS OF THE EXISTENCE OF ANOTHER REMEDY. ALL PROCEEDINGS RELATED TO SUCH INJUNCTION OR RESTRAINING ORDER SHALL BE GOVERNED BY THE COLORADO RULES OF CIVIL PROCEDURE.

(3) THE DIRECTOR OR THE ADMINISTRATIVE LAW JUDGE APPOINTED FOR A HEARING UNDER THIS PART 1 MAY ISSUE A SUBPOENA COMPELLING THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, OR RECORDS. THE DIRECTOR MAY ALSO ISSUE A SUBPOENA COMPELLING THE TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, OR RECORDS FOR INVESTIGATION PURPOSES. ANY SUCH SUBPOENA SHALL BE SERVED IN THE SAME MANNER AS SUBPOENAS ISSUED BY DISTRICT COURTS.

(4) THE DIRECTOR SHALL DETERMINE THE AMOUNT OF MALPRACTICE COVERAGE THAT MUST BE OBTAINED BY AN AUDIOLOGIST WHO PROVIDES SERVICES TO PATIENTS.

(5) THE DIRECTOR SHALL ADOPT ALL RULES NECESSARY FOR THE ENFORCEMENT AND ADMINISTRATION OF THIS PART 1, INCLUDING, BUT NOT LIMITED TO, A REQUIREMENT THAT REGISTRANTS MAINTAIN FOR AT LEAST SEVEN YEARS RECORDS IDENTIFYING CUSTOMERS BY NAME, THE GOODS OR SERVICES PROVIDED TO EACH CUSTOMER, AND THE DATE AND PRICE OF EACH TRANSACTION.

PART 2 HEARING AID DEALERS

12-5.5-201. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DIRECTOR" MEANS THE DIRECTOR OF REGISTRATIONS.

(2) "DIVISION" MEANS THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES.

(3) "HEARING AID DEALER" MEANS A PERSON ENGAGED IN THE PRACTICE OF DISPENSING, FITTING, OR DEALING IN HEARING AIDS, WHO HAS PASSED AN EXAMINATION CONDUCTED UNDER THE AUSPICES OF THE NATIONAL BOARD FOR CERTIFICATION IN HEARING INSTRUMENT SCIENCES, OR AN EQUIVALENT EXAMINATION AS DETERMINED BY THE DIRECTOR; EXCEPT THAT A HEARING AID DEALER WHO IS ENGAGED IN THE PRACTICE OF AUDIOLOGY ON OR BEFORE JULY 1, 1995, SHALL DEMONSTRATE, NOT LATER THAN JULY 1, 1997, THAT HE OR SHE HAS PASSED SUCH AN EXAMINATION.

(4) "REGISTRANT" MEANS A HEARING AID DEALER WHO HOLDS A CURRENT CERTIFICATE OF REGISTRATION FROM THE DIVISION OF REGISTRATIONS PURSUANT TO THIS PART 2.

12-5.5-202. Registration required - application - bond. (1) A HEARING AID DEALER SHALL REGISTER PURSUANT TO THIS PART 2 BEFORE SELLING OR NEGOTIATING TO SELL, DIRECTLY OR INDIRECTLY, ANY HEARING DEVICE FOR THE HEARING IMPAIRED, UNLESS SUCH DEALER HOLDS A CURRENT REGISTRATION PURSUANT TO PART 1 OF THIS ARTICLE. UPON REGISTERING, THE HEARING AID DEALER SHALL BE GIVEN A CERTIFICATE OF REGISTRATION BEARING A UNIQUE REGISTRATION NUMBER. THE HEARING AID DEALER SHALL INCLUDE THE REGISTRATION NUMBER ON ALL WRITTEN CONTRACTS AND RECEIPTS, AS REQUIRED PURSUANT TO SECTION 6-1-105.5 (2) (a), C.R.S. A HEARING AID DEALER WHO IS ALSO AN AUDIOLOGIST AND IS REGISTERED ONLY UNDER PART 1 OF THIS ARTICLE SHALL INCLUDE THE REGISTRATION NUMBER ISSUED PURSUANT TO SUCH PART 1 ON ALL WRITTEN CONTRACTS AND RECEIPTS.

(2) (a) A HEARING AID DEALER DESIRING TO REGISTER PURSUANT TO THIS SECTION SHALL SUBMIT TO THE DIRECTOR AN APPLICATION CONTAINING THE INFORMATION DESCRIBED IN THIS SUBSECTION (2), AND SHALL PAY A FEE TO BE DETERMINED AND COLLECTED PURSUANT TO SECTION 24-34-105, C.R.S. THE DIRECTOR MAY DENY AN APPLICATION FOR REGISTRATION IF THE REQUIRED INFORMATION IS NOT SUBMITTED. IF AN APPLICANT OR REGISTRANT DOES NOT NOTIFY THE DIRECTOR OF A CHANGE IN THE SUBMITTED INFORMATION WITHIN THIRTY DAYS AFTER SUCH CHANGE, SUCH FAILURE SHALL BE CAUSE FOR DISCIPLINARY ACTION.

(b) THE FOLLOWING INFORMATION SHALL BE INCLUDED IN EVERY APPLICATION FOR REGISTRATION UNDER THIS SECTION:

(I) THE NAME, BUSINESS ADDRESS, AND BUSINESS TELEPHONE NUMBER OF THE HEARING AID DEALER;

(II) THE LOCATION OF EACH OFFICE FROM WHICH SALES OF HEARING DEVICES FOR THE HEARING IMPAIRED ARE INTENDED TO BE MADE;

(III) PROOF OF HAVING OBTAINED A SURETY BOND OR AN ALTERNATIVE, AS AUTHORIZED IN SECTION 11-35-101, C.R.S., IN AN AMOUNT NOT TO EXCEED FIVE

THOUSAND DOLLARS;

(IV) A STATEMENT INDICATING WHETHER ANY HEARING AID DEALER LICENSE, CERTIFICATE, OR REGISTRATION WAS ISSUED TO THE HEARING AID DEALER BY A LOCAL, STATE, OR NATIONAL HEALTH CARE AGENCY, WHETHER ANY SUCH LICENSE, CERTIFICATE, OR REGISTRATION WAS SUSPENDED OR REVOKED, WHETHER CHARGES OR COMPLAINTS ARE PENDING AGAINST SUCH LICENSE, CERTIFICATE, OR REGISTRATION, AND WHETHER DISCIPLINARY ACTION WAS TAKEN.

12-5.5-203. Registration procedure. (1) THE DIRECTOR SHALL REGISTER ALL APPLICANTS WHO MEET THE REQUIREMENTS OF THIS PART 2 AND SHALL PROVIDE EACH REGISTRANT WITH A CERTIFICATE INDICATING THAT THE PERSON NAMED IN SUCH CERTIFICATE IS REGISTERED IN THE STATE OF COLORADO AS A HEARING AID DEALER.

(2) ALL CERTIFICATES ISSUED UNDER THIS SECTION SHALL EXPIRE ON DECEMBER 31 FOLLOWING THE DATE OF ISSUANCE, BUT MAY BE RENEWED BY PAYMENT OF A RENEWAL FEE ESTABLISHED BY THE DIRECTOR PURSUANT TO SECTION 24-34-105, C.R.S., AND CONTINUED COMPLIANCE WITH THE PROVISIONS OF THIS PART 2. A REGISTRATION THAT HAS EXPIRED MAY BE REINSTATED WITHIN TWO YEARS AFTER SUCH EXPIRATION UPON PAYMENT OF THE APPROPRIATE RENEWAL FEE IF THE APPLICANT MEETS ALL OTHER REQUIREMENTS OF THIS PART 2.

(3) THE DIRECTOR SHALL ISSUE OR DENY A CERTIFICATE OF REGISTRATION WITHIN SIXTY DAYS AFTER THE DATE OF RECEIPT OF THE APPLICATION.

(4) ALL FEES COLLECTED UNDER THIS PART 2 SHALL BE DEPOSITED IN ACCORDANCE WITH SECTION 12-5.5-204.

12-5.5-204. Division of registrations cash fund. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT ALL DIRECT AND INDIRECT COSTS INCURRED IN THE IMPLEMENTATION OF THIS PART 2 BE FUNDED BY ANNUAL REGISTRATION AND RENEWAL FEES. ALL FEES COLLECTED BY THE DIRECTOR SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE DIVISION OF REGISTRATIONS CASH FUND, CREATED BY SECTION 24-34-105, C.R.S.

12-5.5-205. Grounds for discipline - disciplinary action. (1) (a) IF, AFTER INVESTIGATION, NOTICE, AND THE OPPORTUNITY FOR HEARING IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., THE DIRECTOR DETERMINES THAT AN APPLICANT OR REGISTRANT HAS COMMITTED ANY OF THE ACTS SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (1), THE DIRECTOR MAY:

(I) IMPOSE AN ADMINISTRATIVE FINE NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH SEPARATE OFFENSE;

(II) ISSUE A LETTER OF ADMONITION;

(III) PLACE A REGISTRANT ON PROBATION, WHICH SHALL ENTAIL CLOSE SUPERVISION ON SUCH TERMS AND FOR SUCH TIME AS THE DIRECTOR DEEMS APPROPRIATE; OR

(IV) DENY, REFUSE TO RENEW, REVOKE, OR SUSPEND THE REGISTRATION OF AN

APPLICANT OR REGISTRANT.

(b) THE FOLLOWING ACTS SHALL CONSTITUTE GROUNDS FOR DISCIPLINE:

(I) MISREPRESENTING OR CONCEALING A MATERIAL FACT FROM A PURCHASER OF A HEARING DEVICE FOR THE HEARING IMPAIRED;

(II) EMPLOYING A DEVICE, SCHEME, OR ARTIFICE WITH THE INTENT TO DEFRAUD A PURCHASER OF A HEARING DEVICE FOR THE HEARING IMPAIRED;

(III) DISPOSING OF, CONCEALING, DIVERTING, CONVERTING, OR OTHERWISE FAILING TO ACCOUNT FOR ANY FUNDS OR ASSETS OF A PURCHASER OF A HEARING DEVICE FOR THE HEARING IMPAIRED THAT IS UNDER THE CONTROL OF SUCH PERSON;

(IV) VIOLATING THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6, C.R.S.;

(V) REFUSING TO HONOR A BUYER'S REQUEST TO CANCEL A CONTRACT FOR THE PURCHASE OF A HEARING DEVICE FOR THE HEARING IMPAIRED, IF SUCH REQUEST WAS MADE DURING THE RESCISSION PERIOD SET FORTH IN SECTION 6-1-105.5 (2) (e), C.R.S.;

(VI) FAILING TO NOTIFY THE DIRECTOR OF ANY CHANGE IN THE INFORMATION FILED PURSUANT TO SECTION 12-5.5-202;

(VII) CONVICTION OR ACCEPTANCE OF A PLEA OF GUILTY OR NOLO CONTENDERE OR RECEIPT OF A DEFERRED SENTENCE IN ANY COURT TO A CRIME INVOLVING FRAUD, DECEPTION, FALSE PRETENSE, THEFT, MISREPRESENTATION, FALSE ADVERTISING, OR DISHONEST DEALING;

(VIII) FAILING TO COMPLY WITH A STIPULATION OR AGREEMENT MADE WITH THE DIRECTOR OR A FINAL AGENCY ORDER;

(IX) CAUSING PHYSICAL HARM TO A CUSTOMER;

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

(2) ANY DISCIPLINARY ACTION TAKEN WITH RESPECT TO A HEARING AID DEALER BY ANOTHER STATE OR LOCAL JURISDICTION OR THE FEDERAL GOVERNMENT SHALL BE DEEMED PRIMA FACIE EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION, INCLUDING DENIAL OF REGISTRATION UNDER THIS PART 2; EXCEPT THAT THIS SUBSECTION (2) SHALL APPLY ONLY TO DISCIPLINARY ACTIONS THAT ARE SUBSTANTIALLY SIMILAR TO THOSE SET OUT AS GROUNDS FOR DISCIPLINARY ACTION UNDER THIS PART 2.

(3) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN INSTANCE OF MISCONDUCT THAT IN THE OPINION OF THE DIRECTOR DOES NOT WARRANT FORMAL ACTION BUT SHOULD NOT BE DISMISSED AS BEING WITHOUT MERIT, THE DIRECTOR MAY SEND A LETTER OF ADMONITION BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE REGISTRANT WHO IS THE SUBJECT OF THE COMPLAINT OR

INVESTIGATION AND A COPY THEREOF TO ANY PERSON MAKING SUCH COMPLAINT. SUCH LETTER SHALL ADVISE THE REGISTRANT OF HIS OR HER RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER PROVEN RECEIPT, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED TO ADJUDICATE THE PROPRIETY OF THE CONDUCT UPON WHICH THE LETTER OF ADMONITION IS BASED. IF SUCH REQUEST IS TIMELY MADE, THE LETTER OF ADMONITION SHALL BE DEEMED VACATED AND THE MATTER SHALL BE PROCESSED BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

(4) ALL ADMINISTRATIVE FINES COLLECTED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE GENERAL FUND.

12-5.5-206. Director - powers - duties. (1) THE DIRECTOR MAY MAKE SUCH INVESTIGATIONS AND INSPECTIONS AS ARE NECESSARY TO DETERMINE WHETHER AN APPLICANT HAS VIOLATED THIS PART 2 OR ANY RULE PROMULGATED BY THE DIRECTOR.

(2) THE DIRECTOR MAY APPLY TO A COURT OF COMPETENT JURISDICTION FOR AN ORDER ENJOINING ANY ACT OR PRACTICE WHICH CONSTITUTES A VIOLATION OF THIS PART 2, AND, UPON A SHOWING THAT A PERSON IS ENGAGING IN OR INTENDS TO ENGAGE IN ANY SUCH ACT OR PRACTICE, AN INJUNCTION, RESTRAINING ORDER, OR OTHER APPROPRIATE ORDER SHALL BE GRANTED BY THE COURT REGARDLESS OF THE EXISTENCE OF ANOTHER REMEDY. ALL PROCEEDINGS RELATED TO SUCH INJUNCTION OR RESTRAINING ORDER SHALL BE GOVERNED BY THE COLORADO RULES OF CIVIL PROCEDURE.

(3) THE DIRECTOR OR THE ADMINISTRATIVE LAW JUDGE APPOINTED FOR A HEARING UNDER THIS PART 2 MAY ISSUE A SUBPOENA COMPELLING THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, OR RECORDS. THE DIRECTOR MAY ALSO ISSUE A SUBPOENA COMPELLING THE TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, OR RECORDS FOR INVESTIGATION PURPOSES. ANY SUCH SUBPOENA SHALL BE SERVED IN THE SAME MANNER AS SUBPOENAS ISSUED BY DISTRICT COURTS.

(4) THE DIRECTOR SHALL ADOPT ALL RULES NECESSARY FOR THE ENFORCEMENT OR ADMINISTRATION OF THIS PART 2, INCLUDING, BUT NOT LIMITED TO, RULES THAT REQUIRE:

(a) WRITTEN DISCLOSURES TO PURCHASERS, AS MAY BE NEEDED TO PROTECT SUCH PURCHASERS; AND

(b) THAT REGISTRANTS MAINTAIN FOR AT LEAST SEVEN YEARS RECORDS IDENTIFYING CUSTOMERS BY NAME, THE GOODS OR SERVICES PROVIDED TO EACH CUSTOMER, AND THE DATE AND PRICE OF EACH TRANSACTION.

(5) THE DIRECTOR MAY REQUIRE HEARING AID DEALERS TO MAKE DISCLOSURES TO PURCHASERS IN THEIR WRITTEN CONTRACTS OF SALE OR IN SEPARATE WRITTEN DOCUMENTS IF THE DIRECTOR FINDS THAT SUCH DISCLOSURES ARE NECESSARY FOR THE PROTECTION OF PURCHASERS.

12-5.5-207. Repeal of article. (1) THIS ARTICLE IS REPEALED, EFFECTIVE JULY

1, 2000.

(2) PRIOR TO SUCH REPEAL, THE REGISTRATION FUNCTIONS OF THE DIRECTOR SHALL BE REVIEWED AS PROVIDED IN SECTION 24-34-104, C.R.S.

SECTION 2. The introductory portion to 6-1-105.5 (2) and 6-1-105.5 (2) (e), Colorado Revised Statutes, 1992 Repl. Vol., as amended, are amended, and the said 6-1-105.5 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

6-1-105.5. Hearing aid dealers - deceptive trade practices. (2) In addition to any other deceptive trade practices under section 6-1-105, a hearing aid dealer OR, WITH RESPECT TO ONLY PARAGRAPH (a) OF THIS SUBSECTION (2), AN AUDIOLOGIST engages in a deceptive trade practice when such dealer:

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

(I) The buyer shall have the right to cancel the purchase for any reason before the expiration of the ~~trial~~ RESCISSION period by giving or mailing written notice of cancellation to the seller. THE THIRTY-DAY RESCISSION PERIOD SHALL BE TOLLED FOR ANY PERIOD DURING WHICH A HEARING AID DEALER 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 of return of the hearing aid to the seller; except that, if the hearing aid is returned for any reason other than a defect in such hearing aid, the seller may retain an itemized amount to cover the minimum costs of materials used by the dealer and a manufacturer's return fee, but such amount may not be greater than five percent of the total charge for the hearing aid.

(III) (A) The seller shall provide a written receipt or contract to the buyer which 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 OF THE 30th CALENDAR DAY AFTER RECEIPT OF THE HEARING AID BY GIVING OR MAILING THE SELLER WRITTEN NOTICE OF CANCELLATION AND BY RETURNING THE HEARING AID. BY LAW, THE SELLER IS ALLOWED TO RETAIN AN ITEMIZED AMOUNT, NOT TO EXCEED FIVE PERCENT OF THE TOTAL CHARGE FOR THE HEARING AID, TO COVER THE COSTS OF A MANUFACTURER'S RETURN FEE AND THE MINIMUM COSTS OF MATERIALS USED BY THE DEALER, UNLESS THE HEARING AID IS RETURNED BECAUSE IT IS DEFECTIVE."

(B) THE WRITTEN CONTRACT OR RECEIPT PROVIDED TO THE BUYER SHALL 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 SHALL ALSO INCLUDE THE HEARING AID DEALER'S REGISTRATION NUMBER AND A STATEMENT THAT THE HEARING AID DEALER SHALL PROMPTLY REFUND ALL MONEYS PAID FOR THE PURCHASE OF A HEARING AID IF IT IS NOT DELIVERED TO THE CONSUMER WITHIN SUCH THIRTY-DAY PERIOD. SUCH STATEMENT IS NOT SUBJECT TO WAIVER BY THE BUYER.

(IV) A refund request form shall be attached to each receipt and shall contain the information in subparagraph (I) of paragraph (a) of this subsection (2) 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 seller." A space for the buyer's address, telephone number, and signature must be provided. The buyer shall only be required to sign, list the buyer's current address and telephone number, and mail the refund request form to the seller. If the hearing aid is sold in the buyer's home, at the buyer's option, the seller shall be responsible for arranging the return of the hearing aid.

(3) FINES COLLECTED PURSUANT TO THIS PART 1 SHALL BE DISTRIBUTED IN THE FOLLOWING MANNER: FIFTY PERCENT SHALL BE DIVIDED BY THE COURT BETWEEN STATE AND LOCAL LAW ENFORCEMENT AGENCIES ASSISTING WITH THE PROSECUTION, INCLUDING BUT NOT LIMITED TO THE OFFICE OF THE ATTORNEY GENERAL AND THE DISTRICT ATTORNEY'S OFFICE, AND FIFTY PERCENT SHALL BE PAID TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE GENERAL FUND.

SECTION 3. 11-35-101 (1), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

11-35-101. Alternatives to surety bonds permitted - requirements. (1) The requirement of a surety bond as a condition to licensure or authority to conduct business or perform duties in this state provided in sections 10-2-408, 12-5.5-202 (2) (b), 12-6-111, 12-6-112, 12-6-112.2, 12-11-101 (1) (d), 12-11-104, 12-11-106, 12-14-124 (1), 12-20-103 (3), 12-20-106, 12-59-115 (1), 12-60-509 (2.5) (b), 33-4-101 (1), 33-12-104 (1), 35-33-403 (3), 35-55-104 (1), 37-91-107 (2) and (3), 38-29-119 (2), 38-39-102 (3) (b), 39-21-105 (4), 39-27-104 (2) (a), (2.5) (a), and (2.5) (b), 39-27-204 (4) (a), (4.5), and (6), 39-28-105 (1), 42-6-115 (2), and 42-7-301 (6), C.R.S., may be satisfied by a savings account or deposit in or a certificate of deposit issued by a state or national bank doing business in this state or by a savings account or deposit in or a certificate of deposit issued by a state or federal savings and loan association doing business in this state. Such savings account, deposit, or certificate of deposit shall be in the amount specified by statute, if any, and shall be assigned to the appropriate state agency for the use of the people of the state of Colorado. The aggregate liability of the bank or savings and loan association shall in no event exceed the amount of the deposit. For the purposes of the sections referred to in this section, "bond" includes the savings account, deposit, or certificate of deposit authorized by this section.

SECTION 4. 24-34-104 (29.1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-34-104. General assembly review of regulatory agencies and functions for

termination, continuation, or reestablishment. (29.1) The following ~~function~~ FUNCTIONS of the specified ~~agency~~ AGENCIES shall terminate on July 1, 2000:

(a) The licensing of debt management through the banking board and the state bank commissioner in accordance with article 20 of title 12, C.R.S.;

(b) THE REGISTRATION OF AUDIOLOGISTS AND HEARING AID DEALERS BY THE DIVISION OF REGISTRATIONS, PURSUANT TO ARTICLE 5.5 OF TITLE 12, C.R.S.

SECTION 5. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of registrations cash fund not otherwise appropriated, to the department of regulatory agencies, for allocation to the division of registrations, for the fiscal year beginning July 1, 1995, the sum of thirty-six thousand three hundred ninety-three dollars (\$36,393) and 0.7 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of law, for the fiscal year beginning July 1, 1995, the sum of two thousand five hundred five dollars (\$2,505), or so much thereof as may be necessary, for the implementation of this act. Such appropriation shall be from cash funds received by the department of regulatory agencies from the division of registration cash fund.

(3) In addition to any other appropriation, there is hereby appropriated, to the department of administration, for allocation to the division of administrative hearings, for the fiscal year beginning July 1, 1995, the sum of one thousand two hundred twenty-one dollars (\$1,221), or so much thereof as may be necessary, for the implementation of this act. Such appropriation shall be from cash funds received by the department of regulatory agencies from the division of registration cash fund.

SECTION 6. Effective date - applicability. This act shall take effect July 1, 1995, and shall apply to audiologists and hearing aid dealers practicing on or after January 1, 1996, except as otherwise specifically provided.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 5, 1995