

CHAPTER 288

PROFESSIONS AND OCCUPATIONS

SENATE BILL 13-039

BY SENATOR(S) Aguilar, Guzman, Jones, Kefalas, Newell, Tochtrop, Todd;
also REPRESENTATIVE(S) McCann, Fields, Ginal, Hullinghorst, Labuda, Pabon, Schafer, Stephens, Young.

AN ACT

CONCERNING THE REGULATION OF AUDIOLOGISTS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** article 29.9 to title 12 as follows:

ARTICLE 29.9
Audiologists

12-29.9-101. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "APPLICANT" MEANS A PERSON APPLYING FOR A LICENSE TO PRACTICE AUDIOLOGY.

(2) "AUDIOLOGIST" MEANS A PERSON ENGAGED IN THE PRACTICE OF AUDIOLOGY.

(3) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OR THE DIRECTOR'S DESIGNEE.

(4) "DIVISION" MEANS THE DIVISION OF PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES.

(5)(a) "HEARING AID" MEANS ANY WEARABLE INSTRUMENT OR DEVICE DESIGNED OR OFFERED TO AID OR COMPENSATE FOR IMPAIRED HUMAN HEARING AND ANY PARTS, ATTACHMENTS, OR ACCESSORIES TO THE INSTRUMENT OR DEVICE, INCLUDING EAR MOLDS BUT EXCLUDING BATTERIES AND CORDS.

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

(b) "HEARING AID" DOES NOT INCLUDE A SURGICALLY IMPLANTED HEARING DEVICE.

(6) "LICENSEE" MEANS AN AUDIOLOGIST WHO HOLDS A CURRENT LICENSE ISSUED BY THE DIVISION PURSUANT TO THIS ARTICLE.

(7) "PRACTICE OF AUDIOLOGY" MEANS:

(a) (I) THE APPLICATION OF PRINCIPLES, METHODS, AND PROCEDURES RELATED TO THE DEVELOPMENT, DISORDERS, AND CONDITIONS OF THE HUMAN AUDITORY-VESTIBULAR SYSTEM, WHETHER THOSE DISORDERS OR CONDITIONS ARE OF ORGANIC OR FUNCTIONAL ORIGIN, INCLUDING DISORDERS OF HEARING, BALANCE, TINNITUS, AUDITORY PROCESSING, AND OTHER NEURAL FUNCTIONS, AS THOSE PRINCIPLES, METHODS, AND PROCEDURES ARE TAUGHT IN ACCREDITED PROGRAMS IN AUDIOLOGY.

(II) THE PRINCIPLES, METHODS, OR PROCEDURES INCLUDE DIAGNOSIS, ASSESSMENT, MEASUREMENT, TESTING, APPRAISAL, EVALUATION, REHABILITATION, TREATMENT, PREVENTION, CONSERVATION, IDENTIFICATION, CONSULTATION, COUNSELING, INTERVENTION, MANAGEMENT, INTERPRETATION, INSTRUCTION, AND RESEARCH RELATED TO HEARING, VESTIBULAR FUNCTION, BALANCE AND FALL PREVENTION, AND ASSOCIATED NEURAL SYSTEMS, AND ANY ABNORMAL CONDITION RELATED TO TINNITUS, AUDITORY SENSITIVITY, ACUITY, FUNCTION OR PROCESSING, SPEECH, LANGUAGE, OR OTHER ABERRANT BEHAVIOR RESULTING FROM HEARING LOSS, FOR THE PURPOSE OF DIAGNOSING, DESIGNING, AND IMPLEMENTING AUDIOLOGICAL MANAGEMENT AND TREATMENT OR OTHER PROGRAMS FOR THE AMELIORATION OF HUMAN AUDITORY-VESTIBULAR SYSTEM DISORDERS AND CONDITIONS.

(b) PRESCRIBING, SELECTING, SPECIFYING, EVALUATING, ASSISTING IN THE ADJUSTMENT TO, AND DISPENSING OF PROSTHETIC DEVICES FOR HEARING LOSS, INCLUDING HEARING AIDS AND HEARING ASSISTIVE DEVICES BY MEANS OF SPECIALIZED AUDIOMETRIC EQUIPMENT OR BY ANY OTHER MEANS ACCEPTED BY THE DIRECTOR;

(c) DETERMINING WORK-RELATED HEARING LOSS OR IMPAIRMENT, AS DEFINED BY FEDERAL REGULATIONS;

(d) PREVENTION OF HEARING LOSS; AND

(e) CONSULTING WITH, AND MAKING REFERRALS TO, A PHYSICIAN WHEN APPROPRIATE.

(8) "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.

12-29.9-102. Scope of article - exemption. (1) THIS ARTICLE DOES NOT APPLY TO A PERSON WHO IS:

(a) LICENSED PURSUANT TO SECTION 22-60.5-210, C.R.S., AND NOT LICENSED UNDER THIS ARTICLE FOR WORK UNDERTAKEN AS PART OF HIS OR HER EMPLOYMENT BY, OR CONTRACTUAL AGREEMENT WITH, THE PUBLIC SCHOOLS;

(b) ENGAGED IN THE PRACTICE OF AUDIOLOGY IN THE DISCHARGE OF HIS OR HER OFFICIAL DUTIES IN THE SERVICE OF THE UNITED STATES ARMED FORCES, PUBLIC HEALTH SERVICE, COAST GUARD, OR VETERANS ADMINISTRATION;

(c) A STUDENT ENROLLED IN A COURSE OF STUDY LEADING TO A DEGREE IN AUDIOLOGY OR THE HEARING OR SPEECH SCIENCES AT AN INSTITUTION OF HIGHER EDUCATION OR POSTSECONDARY EDUCATION ACCREDITED BY A NATIONAL, REGIONAL, OR STATE AGENCY RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION WHO IS PRACTICING AUDIOLOGY, IF THE STUDENT IS SUPERVISED BY A LICENSED AUDIOLOGIST AND THE STUDENT'S DESIGNATED TITLE CLEARLY INDICATES HIS OR HER STATUS AS A STUDENT; OR

(d) OTHERWISE LICENSED AS A HEALTH PROFESSIONAL UNDER THIS TITLE.

(2) NOTHING IN THIS ARTICLE AUTHORIZES AN AUDIOLOGIST TO ENGAGE IN THE PRACTICE OF MEDICINE AS DEFINED IN SECTION 12-36-106.

12-29.9-103. Title protection - use of title. (1) IT IS UNLAWFUL FOR ANY PERSON TO USE THE FOLLOWING TITLES UNLESS HE OR SHE IS LICENSED PURSUANT TO THIS ARTICLE: "AUDIOLOGIST", "HEARING AND BALANCE AUDIOLOGIST", "VESTIBULAR AUDIOLOGIST", OR ANY OTHER TITLE OR ABBREVIATION THAT IMPLIES THAT THE PERSON IS AN AUDIOLOGIST.

(2) A LICENSEE WHO HAS A DOCTORATE DEGREE IN AUDIOLOGY IS ENTITLED TO USE THE TITLE "DOCTOR" OR "DR." WHEN ACCOMPANIED BY THE WORDS "AUDIOLOGIST" OR "AUDIOLOGY" OR THE LETTERS "Au.D.", "Ed.D.", "Ph.D.", "Sc.D.", OR ANY OTHER APPROPRIATE DEGREE DESIGNATION, AND TO USE THE TITLE "DOCTOR OF AUDIOLOGY".

12-29.9-104. License required - application - fee - bond - disclosure - exemption. (1) (a) AN AUDIOLOGIST MUST OBTAIN A LICENSE FROM THE DIVISION BEFORE ENGAGING IN THE PRACTICE OF AUDIOLOGY IN THIS STATE.

(b) 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) TO QUALIFY FOR LICENSURE AS AN AUDIOLOGIST UNDER THIS ARTICLE, A PERSON MUST HAVE:

(a) EARNED A DOCTORAL DEGREE IN AUDIOLOGY FROM A PROGRAM THAT IS OR, AT THE TIME THE APPLICANT WAS ENROLLED AND GRADUATED, WAS OFFERED BY AN INSTITUTION OF HIGHER EDUCATION OR POSTSECONDARY EDUCATION ACCREDITED BY A NATIONAL, REGIONAL, OR STATE AGENCY RECOGNIZED BY THE UNITED STATES

DEPARTMENT OF EDUCATION, OR ANOTHER PROGRAM APPROVED BY THE DIRECTOR;
OR

(b) (I) EARNED A MASTER'S DEGREE FROM A PROGRAM WITH A CONCENTRATION IN AUDIOLOGY THAT WAS CONFERRED BEFORE JULY 1, 2007, FROM A PROGRAM OF HIGHER LEARNING THAT IS OR, AT THE TIME THE APPLICANT WAS ENROLLED AND GRADUATED, WAS OFFERED BY AN INSTITUTION OF HIGHER EDUCATION OR POSTSECONDARY EDUCATION ACCREDITED BY A NATIONAL, REGIONAL, OR STATE AGENCY RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION, OR ANOTHER PROGRAM APPROVED BY THE DIRECTOR; AND

(II) OBTAINED A CERTIFICATE OF COMPETENCY IN AUDIOLOGY FROM A NATIONALLY RECOGNIZED CERTIFICATION AGENCY.

(3) AN AUDIOLOGIST DESIRING TO BE LICENSED PURSUANT TO THIS ARTICLE MUST SUBMIT TO THE DIRECTOR AN APPLICATION CONTAINING THE INFORMATION DESCRIBED IN SUBSECTION (4) OF THIS SECTION AND MUST PAY TO THE DIRECTOR ALL REQUIRED FEES IN THE AMOUNTS DETERMINED AND COLLECTED BY THE DIRECTOR PURSUANT TO SECTION 24-34-105, C.R.S. 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 12-29.9-108.

(4) AN APPLICANT MUST INCLUDE THE FOLLOWING INFORMATION IN AN APPLICATION FOR A LICENSE AS AN AUDIOLOGIST UNDER THIS ARTICLE:

(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 THE AUDIOLOGIST THAT ARE RELATED TO THE PRACTICE OF AUDIOLOGY;

(c) A STATEMENT INDICATING WHETHER A LOCAL, STATE, OR FEDERAL GOVERNMENT AGENCY HAS:

(I) ISSUED A LICENSE, CERTIFICATE, OR REGISTRATION IN AUDIOLOGY TO THE APPLICANT;

(II) SUSPENDED OR REVOKED A LICENSE, CERTIFICATE, OR REGISTRATION ISSUED TO THE APPLICANT;

(III) CHARGES OR COMPLAINTS PENDING AGAINST THE APPLICANT; OR

(IV) TAKEN DISCIPLINARY ACTION AGAINST THE APPLICANT;

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

(e) IF THE AUDIOLOGIST INTENDS TO PROVIDE SERVICES TO PATIENTS, PROOF OF PROFESSIONAL LIABILITY INSURANCE IN THE FORM AND AMOUNT DETERMINED APPROPRIATE BY THE DIRECTOR PURSUANT TO SECTION 12-29.9-112.

(5) AN APPLICANT OR LICENSEE SHALL REPORT AND UPDATE INFORMATION AS REQUIRED BY SECTION 24-34-110, C.R.S. WHEN REPORTING AND UPDATING INFORMATION REGARDING MALPRACTICE JUDGMENTS AND SETTLEMENTS, AS REQUIRED BY SECTION 24-34-110 (4) (h) AND (8) (a), C.R.S., THE APPLICANT OR LICENSEE SHALL INCLUDE THE CASE NUMBER, THE NAME OF THE COURT, AND NAMES OF ALL PARTIES TO THE ACTION.

12-29.9-105. Licensure - certificate - expiration - renewal - reinstatement - fees. (1) THE DIRECTOR SHALL ISSUE A LICENSE TO AN APPLICANT WHO SATISFIES THE REQUIREMENTS OF THIS ARTICLE.

(2) ALL LICENSES ISSUED UNDER THIS ARTICLE EXPIRE PURSUANT TO A SCHEDULE ESTABLISHED BY THE DIRECTOR AND MUST BE RENEWED OR REINSTATED PURSUANT TO SECTION 24-34-102 (8), C.R.S. THE DIRECTOR SHALL ESTABLISH RENEWAL FEES AND DELINQUENCY FEES FOR REINSTATEMENT PURSUANT TO SECTION 24-34-105, C.R.S. IF A PERSON FAILS TO RENEW HIS OR HER LICENSE PURSUANT TO THE SCHEDULE ESTABLISHED BY THE DIRECTOR, THE LICENSE EXPIRES. A PERSON WHOSE LICENSE HAS EXPIRED IS SUBJECT TO THE PENALTIES SET FORTH IN THIS ARTICLE OR IN SECTION 24-34-102 (8), C.R.S.

12-29.9-106. 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; AND

(b) PAYS THE LICENSE FEE ESTABLISHED UNDER SECTION 24-34-105, C.R.S.

(2) THE DIRECTOR MAY SPECIFY BY RULE WHAT CONSTITUTES SUBSTANTIALLY EQUIVALENT QUALIFICATIONS FOR THE PURPOSES OF THIS SECTION.

12-29.9-107. Disposition of fees - legislative intent. IT IS THE INTENT OF THE GENERAL ASSEMBLY TO FUND ALL DIRECT AND INDIRECT COSTS INCURRED IN THE IMPLEMENTATION OF THIS ARTICLE WITH ANNUAL LICENSE AND RENEWAL FEES. THE DIRECTOR SHALL TRANSMIT ALL FEES COLLECTED UNDER THIS ARTICLE TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE DIVISION OF PROFESSIONS AND OCCUPATIONS CASH FUND CREATED BY SECTION 24-34-105, C.R.S.

12-29.9-108. Disciplinary actions - grounds for discipline. (1) UPON PROOF THAT AN APPLICANT OR LICENSEE HAS ENGAGED IN AN ACTIVITY THAT IS GROUNDS FOR DISCIPLINE UNDER SUBSECTION (2) OF THIS SECTION, THE DIRECTOR MAY:

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

(b) ISSUE A LETTER OF ADMONITION;

(c) PLACE A LICENSEE ON PROBATION, WHICH ENTAILS CLOSE SUPERVISION ON THE TERMS AND FOR THE PERIOD OF TIME THAT THE DIRECTOR DEEMS APPROPRIATE; OR

(d) DENY, REFUSE TO RENEW, REVOKE, OR SUSPEND THE LICENSE OF AN APPLICANT OR LICENSEE.

(2) THE FOLLOWING ACTS CONSTITUTE GROUNDS FOR DISCIPLINE:

(a) MAKING A FALSE OR MISLEADING STATEMENT OR OMISSION IN AN APPLICATION FOR LICENSURE;

(b) FAILING TO NOTIFY THE DIRECTOR OF A CHANGE IN THE INFORMATION FILED PURSUANT TO SECTION 12-29.9-104;

(c) VIOLATING ANY PROVISION OF THIS ARTICLE, INCLUDING FAILURE TO COMPLY WITH THE LICENSE REQUIREMENTS OF SECTION 12-29.9-104 OR FAILURE TO REPORT INFORMATION AS REQUIRED UNDER SECTION 12-29.9-104 (5) OR 24-34-110, C.R.S.;

(d) VIOLATING ANY RULE PROMULGATED BY THE DIRECTOR UNDER THIS ARTICLE;

(e) AIDING OR ABETTING A VIOLATION, OR CONSPIRING TO VIOLATE, ANY PROVISION OF THIS ARTICLE OR ANY RULE PROMULGATED OR ORDER ISSUED UNDER THIS ARTICLE BY THE DIRECTOR;

(f) FAILING TO MAINTAIN PROFESSIONAL LIABILITY INSURANCE AS REQUIRED BY SECTION 12-29.9-112;

(g) USING FALSE OR MISLEADING ADVERTISING;

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

(i) CAUSING PHYSICAL HARM TO A CUSTOMER;

(j) FAILING TO PRACTICE AUDIOLOGY ACCORDING TO COMMONLY ACCEPTED PROFESSIONAL STANDARDS;

(k) PROVIDING SERVICES BEYOND THE LICENSEE'S SCOPE OF EDUCATIONAL PREPARATION, EXPERIENCE, SKILLS, OR COMPETENCE;

(l) FAILING TO ADEQUATELY SUPERVISE A TRAINEE FOR ANY OF THE HEALING ARTS;

(m) EMPLOYING A SALES AGENT OR EMPLOYEE WHO VIOLATES ANY PROVISION OF THIS ARTICLE;

(n) COMMITTING ABUSE OF HEALTH INSURANCE AS DESCRIBED IN SECTION 18-13-119, C.R.S.;

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

(p) FALSIFYING INFORMATION IN ANY APPLICATION OR ATTEMPTING TO OBTAIN OR OBTAINING A LICENSE BY FRAUD, DECEPTION, OR MISREPRESENTATION;

(q) EXCESSIVELY OR HABITUALLY USING OR ABUSING ALCOHOL OR HABIT-FORMING DRUGS OR HABITUALLY USING A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 18-18-102, C.R.S., OR OTHER DRUGS 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 A PROGRAM APPROVED BY THE DIRECTOR TO END THE USE OR ABUSE;

(r) (I) FAILING TO NOTIFY THE DIRECTOR, AS REQUIRED BY SECTION 12-29.9-113, OF A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT IMPACTS THE LICENSEE'S ABILITY TO PERFORM AUDIOLOGY WITH REASONABLE SKILL AND SAFETY TO PATIENTS;

(II) FAILING TO ACT WITHIN THE LIMITATIONS CREATED BY A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE LICENSEE UNABLE TO PERFORM AUDIOLOGY WITH REASONABLE SKILL AND SAFETY TO THE PATIENT; OR

(III) FAILING TO COMPLY WITH THE LIMITATIONS AGREED TO UNDER A CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION 12-29.9-113;

(s) REFUSING TO SUBMIT TO A PHYSICAL OR MENTAL EXAMINATION WHEN SO ORDERED BY THE DIRECTOR PURSUANT TO SECTION 12-29.9-114;

(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.

(3) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL ACTION BY THE DIRECTOR AND, IN THE OPINION OF THE DIRECTOR, SHOULD BE DISMISSED, BUT THE DIRECTOR HAS NOTICED INDICATIONS OF POSSIBLE ERRANT CONDUCT BY THE LICENSEE THAT COULD LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED, THE DIRECTOR MAY SEND THE LICENSEE A CONFIDENTIAL LETTER OF CONCERN.

(4) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, WARRANTS FORMAL ACTION, THE DIRECTOR SHALL NOT RESOLVE THE COMPLAINT BY A DEFERRED SETTLEMENT, ACTION, JUDGMENT, OR PROSECUTION.

(5) A PERSON WHOSE LICENSE TO PRACTICE UNDER THIS ARTICLE IS REVOKED, OR WHO SURRENDERS HIS OR HER LICENSE TO AVOID DISCIPLINE, IS INELIGIBLE TO APPLY FOR A NEW LICENSE UNDER THIS ARTICLE FOR TWO YEARS AFTER THE DATE OF REVOCATION OR SURRENDER.

(6) ANY DISCIPLINARY ACTION TAKEN BY ANOTHER STATE, 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; EXCEPT THAT THIS SUBSECTION (6) APPLIES ONLY TO DISCIPLINE FOR ACTS OR OMISSIONS THAT ARE SUBSTANTIALLY SIMILAR TO THOSE SET OUT AS GROUNDS FOR DISCIPLINARY ACTION UNDER THIS ARTICLE.

(7) (a) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES NOT WARRANT FORMAL ACTION BY THE DIRECTOR BUT SHOULD NOT BE DISMISSED AS BEING WITHOUT MERIT, THE DIRECTOR MAY ISSUE AND SEND TO THE LICENSEE A LETTER OF ADMONITION.

(b) (I) WHEN THE DIRECTOR SENDS A LETTER OF ADMONITION TO A LICENSEE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (7), THE DIRECTOR SHALL ALSO ADVISE THE LICENSEE THAT HE OR SHE HAS THE RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER RECEIPT OF THE LETTER, THAT THE DIRECTOR INITIATE FORMAL DISCIPLINARY PROCEEDINGS TO ADJUDICATE THE PROPRIETY OF THE CONDUCT UPON WHICH THE LETTER OF ADMONITION IS BASED.

(II) IF THE LICENSEE MAKES THE REQUEST FOR ADJUDICATION IN A TIMELY MANNER, THE DIRECTOR SHALL VACATE THE LETTER OF ADMONITION AND SHALL PROCESS THE MATTER BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

(8) THE DIRECTOR SHALL TRANSMIT ALL FINES COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE GENERAL FUND.

12-29.9-109. Director - powers - duties - rules. (1) THE DIRECTOR MAY CONDUCT INVESTIGATIONS AND INSPECTIONS AS NECESSARY TO DETERMINE WHETHER AN APPLICANT OR LICENSEE HAS VIOLATED THIS ARTICLE OR ANY RULE ADOPTED BY THE DIRECTOR UNDER THIS ARTICLE.

(2) THE DIRECTOR MAY APPLY TO A COURT OF COMPETENT JURISDICTION FOR AN ORDER ENJOINING ANY ACT OR PRACTICE THAT CONSTITUTES A VIOLATION OF THIS ARTICLE. 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. THE COLORADO RULES OF CIVIL PROCEDURE GOVERN ALL PROCEEDINGS RELATED TO SUCH COURT ORDERS.

(3) (a) THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE MAY ADMINISTER OATHS, TAKE AFFIRMATIONS OF WITNESSES, AND ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF ALL RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY EVIDENCE, AND MATERIALS IN ANY HEARING, INVESTIGATION, ACCUSATION, OR OTHER MATTER COMING BEFORE THE DIRECTOR PURSUANT TO THIS ARTICLE. THE DIRECTOR MAY APPOINT AN ADMINISTRATIVE LAW

JUDGE PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO TAKE EVIDENCE AND TO MAKE FINDINGS AND REPORT THEM TO THE DIRECTOR.

(b) UPON THE FAILURE OF ANY WITNESS TO COMPLY WITH A SUBPOENA OR PROCESS, THE DIRECTOR MAY APPLY TO THE DISTRICT COURT OF THE COUNTY IN WHICH THE SUBPOENAED PERSON OR LICENSEE RESIDES OR CONDUCTS BUSINESS, AND AFTER NOTICE OF THE APPLICATION BY THE DIRECTOR TO THE SUBPOENAED PERSON OR LICENSEE, THE DISTRICT COURT MAY ISSUE TO THE PERSON OR LICENSEE AN ORDER REQUIRING THAT THE PERSON OR LICENSEE APPEAR BEFORE THE DIRECTOR; PRODUCE THE RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY EVIDENCE, OR MATERIALS IF SO ORDERED; OR GIVE EVIDENCE RELEVANT TO THE MATTER UNDER INVESTIGATION OR IN QUESTION. IF THE PERSON OR LICENSEE FAILS TO OBEY THE ORDER OF THE COURT, THE COURT MAY HOLD THE PERSON OR LICENSEE IN CONTEMPT OF COURT.

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

(5) NO LATER THAN DECEMBER 31, 2013, AND AS NECESSARY THEREAFTER, THE DIRECTOR SHALL ADOPT RULES NECESSARY FOR THE ENFORCEMENT OR ADMINISTRATION OF THIS ARTICLE, INCLUDING RULES REQUIRING LICENSEES TO MAINTAIN RECORDS IDENTIFYING CUSTOMERS BY NAME, THE GOODS OR SERVICES PROVIDED TO EACH CUSTOMER OTHER THAN BATTERIES AND MINOR ACCESSORIES, AND THE DATE AND PRICE OF EACH TRANSACTION. LICENSEES SHALL MAINTAIN THE RECORDS FOR AT LEAST SEVEN YEARS AFTER THE LAST TRANSACTION.

12-29.9-110. Cease-and-desist orders - unauthorized practice - penalties.

(1) (a) 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 AN IMMINENT THREAT TO THE HEALTH AND SAFETY OF THE PUBLIC OR A PERSON IS ACTING OR HAS ACTED WITHOUT THE REQUIRED LICENSE, THE DIRECTOR MAY ISSUE AN ORDER TO CEASE AND DESIST THE ACTIVITY. THE DIRECTOR MUST SET FORTH IN THE ORDER THE STATUTES AND RULES ALLEGED TO HAVE BEEN VIOLATED, THE FACTS ALLEGED TO HAVE CONSTITUTED THE VIOLATION, AND THE REQUIREMENT THAT ALL UNLAWFUL ACTS OR UNLICENSED PRACTICES IMMEDIATELY CEASE.

(b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND DESIST PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), THE RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER ACTS OR PRACTICES IN VIOLATION OF THIS ARTICLE HAVE OCCURRED. THE DIRECTOR SHALL CONDUCT THE HEARING PURSUANT TO SECTIONS 24-4-104 AND 24-4-105, C.R.S.

(2) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT BY ANY PERSON, THAT A PERSON HAS VIOLATED ANY PROVISION OF THIS ARTICLE, THEN, IN ADDITION TO ANY OTHER POWERS GRANTED PURSUANT TO THIS ARTICLE, THE DIRECTOR MAY ISSUE TO THE PERSON AN ORDER TO SHOW CAUSE AS TO WHY THE DIRECTOR SHOULD NOT ISSUE A FINAL ORDER DIRECTING THE PERSON TO CEASE AND DESIST FROM THE UNLAWFUL ACT OR PRACTICE.

(b) THE DIRECTOR SHALL PROMPTLY NOTIFY A PERSON AGAINST WHOM HE OR SHE HAS ISSUED AN ORDER TO SHOW CAUSE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) OF THE ISSUANCE OF THE ORDER, ALONG WITH A COPY OF THE ORDER, THE FACTUAL AND LEGAL BASIS FOR THE ORDER, AND THE DATE SET BY THE DIRECTOR FOR A HEARING ON THE ORDER. THE DIRECTOR MAY SERVE THE NOTICE BY PERSONAL SERVICE, BY FIRST-CLASS UNITED STATES MAIL, POSTAGE PREPAID, OR AS MAY BE PRACTICABLE UPON ANY PERSON AGAINST WHOM THE ORDER IS ISSUED. PERSONAL SERVICE OR MAILING OF AN ORDER OR DOCUMENT PURSUANT TO THIS SUBSECTION (2) CONSTITUTES NOTICE TO THE PERSON OF THE EXISTENCE AND CONTENTS OF THE ORDER OR DOCUMENT.

(c) (I) THE DIRECTOR MUST COMMENCE THE HEARING ON AN ORDER TO SHOW CAUSE NO SOONER THAN TEN, AND NO LATER THAN FORTY-FIVE, CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE NOTIFICATION BY THE DIRECTOR AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (2). THE DIRECTOR MAY CONTINUE THE HEARING BY AGREEMENT OF ALL PARTIES BASED UPON THE COMPLEXITY OF THE MATTER, NUMBER OF PARTIES TO THE MATTER, AND LEGAL ISSUES PRESENTED IN THE MATTER, BUT IN NO EVENT MAY THE DIRECTOR COMMENCE THE HEARING LATER THAN SIXTY CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE NOTIFICATION.

(II) IF A PERSON TO WHOM AN ORDER TO SHOW CAUSE HAS BEEN ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) DOES NOT APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT EVIDENCE THAT NOTIFICATION WAS PROPERLY SENT OR SERVED UPON THE PERSON PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2) AND ANY OTHER EVIDENCE RELATED TO THE MATTER AS THE DIRECTOR DEEMS APPROPRIATE. THE DIRECTOR SHALL ISSUE THE ORDER WITHIN TEN DAYS AFTER THE DIRECTOR'S DETERMINATION RELATED TO REASONABLE ATTEMPTS TO NOTIFY THE RESPONDENT, AND THE ORDER BECOMES FINAL AS TO THAT PERSON BY OPERATION OF LAW. THE CONDUCT OF THE HEARING IS GOVERNED BY SECTIONS 24-4-104 AND 24-4-105, C.R.S.

(III) IF THE DIRECTOR REASONABLY FINDS THAT THE PERSON AGAINST WHOM THE ORDER TO SHOW CAUSE WAS ISSUED IS ACTING OR HAS ACTED WITHOUT THE REQUIRED LICENSE OR HAS OR IS ABOUT TO ENGAGE IN ACTS OR PRACTICES CONSTITUTING VIOLATIONS OF THIS ARTICLE, THE DIRECTOR MAY ISSUE A FINAL CEASE-AND-DESIST ORDER DIRECTING THE PERSON TO CEASE AND DESIST FROM FURTHER UNLAWFUL ACTS OR UNLICENSED PRACTICES.

(IV) THE DIRECTOR SHALL PROVIDE NOTICE, IN THE MANNER SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (2), OF THE FINAL CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE HEARING CONDUCTED PURSUANT TO THIS PARAGRAPH (c) TO EACH PERSON AGAINST WHOM THE DIRECTOR HAS ISSUED THE FINAL ORDER. THE FINAL ORDER ISSUED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) IS EFFECTIVE WHEN ISSUED AND CONSTITUTES A FINAL ORDER FOR PURPOSES OF JUDICIAL REVIEW.

(3) THE DIRECTOR MAY ENTER INTO A STIPULATION WITH A PERSON IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE EVIDENCE PRESENTED TO THE DIRECTOR, THAT THE PERSON HAS ENGAGED IN OR IS ABOUT TO ENGAGE IN:

(a) AN UNLICENSED ACT OR PRACTICE;

(b) AN ACT OR PRACTICE CONSTITUTING A VIOLATION OF THIS ARTICLE, A RULE PROMULGATED PURSUANT TO THIS ARTICLE, OR AN ORDER ISSUED PURSUANT TO THIS ARTICLE; OR

(c) AN ACT OR PRACTICE CONSTITUTING GROUNDS FOR ADMINISTRATIVE SANCTION PURSUANT TO THIS ARTICLE.

(4) IF ANY PERSON FAILS TO COMPLY WITH A FINAL CEASE-AND-DESIST ORDER OR A STIPULATION, THE DIRECTOR MAY REQUEST THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE JUDICIAL DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING, AND IF SO REQUESTED THE ATTORNEY SHALL BRING, SUIT FOR A TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER.

(5) A PERSON AGGRIEVED BY A FINAL CEASE-AND-DESIST ORDER MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION OR OF THE DIRECTOR'S FINAL ORDER IN A COURT OF COMPETENT JURISDICTION.

(6) A PERSON WHO PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE AUDIOLOGY SERVICES WITHOUT AN ACTIVE AUDIOLOGIST LICENSE ISSUED UNDER THIS ARTICLE COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S., FOR THE FIRST OFFENSE, AND, FOR THE SECOND OR ANY SUBSEQUENT OFFENSE, THE PERSON COMMITS A CLASS 6 FELONY AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-401, C.R.S.

12-29.9-111. Immunity. THE DIRECTOR, THE DIRECTOR'S STAFF, ANY PERSON ACTING AS A WITNESS OR CONSULTANT TO THE DIRECTOR, ANY WITNESS TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS ARTICLE, AND ANY PERSON WHO LODGES A COMPLAINT PURSUANT TO THIS ARTICLE IS IMMUNE FROM LIABILITY IN ANY CIVIL ACTION BROUGHT AGAINST HIM OR HER FOR ACTS OCCURRING WHILE ACTING IN HIS OR HER CAPACITY AS DIRECTOR, STAFF, CONSULTANT, OR WITNESS, RESPECTIVELY, IF THE INDIVIDUAL WAS ACTING IN GOOD FAITH WITHIN THE SCOPE OF HIS OR HER RESPECTIVE CAPACITY, MADE A REASONABLE EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO WHICH HE OR SHE ACTED, AND ACTED IN THE REASONABLE BELIEF THAT THE ACTION TAKEN BY HIM OR HER WAS WARRANTED BY THE FACTS. ANY PERSON PARTICIPATING IN GOOD FAITH IN LODGING A COMPLAINT OR PARTICIPATING IN ANY INVESTIGATIVE OR ADMINISTRATIVE PROCEEDING PURSUANT TO THIS ARTICLE IS IMMUNE FROM ANY CIVIL OR CRIMINAL LIABILITY THAT MAY RESULT FROM THAT PARTICIPATION.

12-29.9-112. Professional liability insurance required - rules. (1) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1), AN AUDIOLOGIST SHALL NOT PRACTICE AUDIOLOGY UNLESS THE AUDIOLOGIST PURCHASES AND MAINTAINS OR IS COVERED BY PROFESSIONAL LIABILITY INSURANCE IN THE FORM AND AMOUNT DETERMINED BY THE DIRECTOR BY RULE.

(b) THE DIRECTOR, BY RULE, MAY EXEMPT OR ESTABLISH LESSER LIABILITY INSURANCE REQUIREMENTS FOR A CLASS OF AUDIOLOGISTS WHOSE PRACTICE DOES NOT REQUIRE THE LEVEL OF PUBLIC PROTECTION THE DIRECTOR ESTABLISHES

PURSUANT TO THIS PARAGRAPH (b) FOR ALL OTHER AUDIOLOGISTS.

(2) THE PROFESSIONAL LIABILITY INSURANCE REQUIRED BY THIS SECTION MUST COVER ALL ACTS WITH THE SCOPE OF PRACTICE OF AN AUDIOLOGIST AS DEFINED IN THIS ARTICLE.

12-29.9-113. Confidential agreements to limit practice - violation grounds for discipline. (1) IF AN AUDIOLOGIST SUFFERS FROM A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE LICENSEE UNABLE TO PRACTICE AUDIOLOGY WITH REASONABLE SKILL AND SAFETY TO PATIENTS, THE AUDIOLOGIST SHALL NOTIFY THE DIRECTOR OF THE ILLNESS OR CONDITION IN A MANNER AND WITHIN A PERIOD OF TIME DETERMINED BY THE DIRECTOR. THE DIRECTOR MAY REQUIRE THE LICENSEE TO SUBMIT TO AN EXAMINATION TO EVALUATE THE EXTENT OF THE ILLNESS OR CONDITION AND ITS IMPACT ON THE LICENSEE'S ABILITY TO PRACTICE AUDIOLOGY WITH REASONABLE SKILL AND SAFETY TO PATIENTS.

(2)(a) UPON DETERMINING THAT AN AUDIOLOGIST WITH A PHYSICAL OR MENTAL ILLNESS OR CONDITION IS ABLE TO RENDER LIMITED AUDIOLOGY SERVICES WITH REASONABLE SKILL AND SAFETY TO PATIENTS, THE DIRECTOR MAY ENTER INTO A CONFIDENTIAL AGREEMENT WITH THE AUDIOLOGIST IN WHICH THE AUDIOLOGIST AGREES TO LIMIT HIS OR HER PRACTICE BASED ON THE RESTRICTIONS IMPOSED BY THE ILLNESS OR CONDITION, AS DETERMINED BY THE DIRECTOR.

(b) AS PART OF THE AGREEMENT, THE AUDIOLOGIST IS SUBJECT TO PERIODIC REEVALUATIONS OR MONITORING AS DETERMINED APPROPRIATE BY THE DIRECTOR.

(c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR MONITORING.

(d) BY ENTERING INTO AN AGREEMENT WITH THE DIRECTOR UNDER THIS SUBSECTION (2) TO LIMIT HIS OR HER PRACTICE, AN AUDIOLOGIST IS NOT ENGAGING IN CONDUCT THAT IS GROUNDS FOR DISCIPLINE UNDER SECTION 12-29.9-108 (2). THE AGREEMENT DOES NOT CONSTITUTE A RESTRICTION OR DISCIPLINE BY THE DIRECTOR. HOWEVER, IF THE AUDIOLOGIST FAILS TO COMPLY WITH THE TERMS OF AN AGREEMENT ENTERED INTO PURSUANT TO THIS SUBSECTION (2), THE FAILURE CONSTITUTES GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-29.9-108 (2) (r), AND THE LICENSEE IS SUBJECT TO DISCIPLINE IN ACCORDANCE WITH SECTION 12-29.9-108.

(3) THIS SECTION DOES NOT APPLY TO AN AUDIOLOGIST SUBJECT TO DISCIPLINE UNDER SECTION 12-29.9-108 (2) (q).

12-29.9-114. Mental and physical examination of licensees. (1) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT A LICENSEE IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY, THE DIRECTOR MAY REQUIRE THE LICENSEE TO TAKE A MENTAL OR PHYSICAL EXAMINATION BY A HEALTH CARE PROVIDER DESIGNATED BY THE DIRECTOR. IF THE LICENSEE REFUSES TO UNDERGO A MENTAL OR PHYSICAL EXAMINATION, UNLESS DUE TO CIRCUMSTANCES BEYOND THE LICENSEE'S CONTROL, THE DIRECTOR MAY SUSPEND THE LICENSEE'S LICENSE UNTIL THE RESULTS OF THE EXAMINATION ARE KNOWN AND THE DIRECTOR HAS MADE A DETERMINATION OF THE LICENSEE'S FITNESS TO PRACTICE. THE DIRECTOR

SHALL PROCEED WITH AN ORDER FOR EXAMINATION AND DETERMINATION IN A TIMELY MANNER.

(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, 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.

(3) THE LICENSEE MAY SUBMIT TO THE DIRECTOR TESTIMONY OR EXAMINATION REPORTS FROM A HEALTH CARE PROVIDER CHOSEN BY THE LICENSEE PERTAINING TO THE CONDITION THAT THE DIRECTOR ALLEGES MAY PRECLUDE THE LICENSEE FROM PRACTICING WITH REASONABLE SKILL AND SAFETY. THE DIRECTOR MAY CONSIDER TESTIMONY AND REPORTS SUBMITTED BY THE LICENSEE IN CONJUNCTION WITH, BUT NOT IN LIEU OF, TESTIMONY AND EXAMINATION REPORTS OF THE HEALTH CARE PROVIDER DESIGNATED BY THE DIRECTOR.

(4) A PERSON SHALL NOT USE THE RESULTS OF ANY MENTAL OR PHYSICAL EXAMINATION ORDERED BY THE DIRECTOR AS EVIDENCE IN ANY PROCEEDING OTHER THAN ONE BEFORE THE DIRECTOR. THE EXAMINATION RESULTS ARE NOT PUBLIC RECORDS AND ARE NOT AVAILABLE TO THE PUBLIC.

12-29.9-115. Protection of medical records - licensee's obligations - verification of compliance - noncompliance grounds for discipline - rules.

(1) EACH LICENSEE SHALL DEVELOP A WRITTEN PLAN TO ENSURE THE SECURITY OF PATIENT MEDICAL RECORDS. THE PLAN MUST ADDRESS AT LEAST THE FOLLOWING:

(a) THE STORAGE AND PROPER DISPOSAL OF PATIENT MEDICAL RECORDS;

(b) THE DISPOSITION OF PATIENT MEDICAL RECORDS IN THE EVENT THE LICENSEE DIES, RETIRES, OR OTHERWISE CEASES TO PRACTICE OR PROVIDE AUDIOLOGY SERVICES TO PATIENTS; AND

(c) THE METHOD BY WHICH PATIENTS MAY ACCESS OR OBTAIN THEIR MEDICAL RECORDS PROMPTLY IF ANY OF THE EVENTS DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (1) OCCURS.

(2) UPON INITIAL LICENSURE UNDER THIS ARTICLE, THE LICENSEE SHALL ATTEST TO THE DIRECTOR THAT HE OR SHE HAS DEVELOPED A PLAN IN COMPLIANCE WITH THIS SECTION.

(3) A LICENSEE SHALL INFORM EACH PATIENT, IN WRITING, OF THE METHOD BY WHICH THE PATIENT MAY ACCESS OR OBTAIN HIS OR HER MEDICAL RECORDS IF AN EVENT DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION OCCURS.

(4) A LICENSEE WHO FAILS TO COMPLY WITH THIS SECTION IS SUBJECT TO DISCIPLINE IN ACCORDANCE WITH SECTION 12-29.9-108.

(5) THE DIRECTOR MAY ADOPT RULES AS NECESSARY TO IMPLEMENT THIS SECTION.

12-29.9-116. Repeal. THIS ARTICLE IS REPEALED, EFFECTIVE SEPTEMBER 1, 2020. PRIOR TO THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW THE LICENSING AND SUPERVISORY FUNCTIONS OF THE DIRECTOR AS PROVIDED IN SECTION 24-34-104, C.R.S.

SECTION 2. In Colorado Revised Statutes, 24-34-104, **amend** (51.5) introductory portion; and **add** (51.5) (e) as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (51.5) The following agencies, functions, or both, ~~shall~~ terminate on September 1, 2020:

(e) THE LICENSING OF AUDIOLOGISTS BY THE DIVISION OF PROFESSIONS AND OCCUPATIONS PURSUANT TO ARTICLE 29.9 OF TITLE 12, C.R.S.

SECTION 3. In Colorado Revised Statutes, 6-1-501, **amend** (7) introductory portion and (7) (a) as follows:

6-1-501. Definitions. As used in this part 5, unless the context otherwise requires:

(7) "Facilitative device" means a device that has a retail price equal to or greater than one hundred dollars and that is exclusively designed and manufactured to assist a person with a disability with such person's specific disability, through the use of facilitative technology, to be self-sufficient or to maintain or improve that person's quality of life. "Facilitative device" does not include wheelchairs as that term is defined in section 6-1-402 (17). "Facilitative device" does include: ~~the following:~~

(a) Telephone communication devices for the hearing impaired and other facilitative listening devices except for hearing aids, as defined in section ~~12-5.5-301 (4)~~ 12-29.9-101 (5), C.R.S., and ~~cochlear implants~~ SURGICALLY IMPLANTED HEARING DEVICES, as defined in section ~~12-5.5-301 (2)~~ 12-29.9-101 (8), C.R.S.;

SECTION 4. In Colorado Revised Statutes, 10-16-104, **amend** (19) (b) introductory portion as follows:

10-16-104. Mandatory coverage provisions - definitions. (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, ~~shall~~ 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 36 of title 12, C.R.S., and by an audiologist licensed pursuant to ~~section 12-5.5-102~~ ARTICLE 29.9 OF TITLE 12, C.R.S. The hearing aids ~~shall~~ MUST be medically appropriate to meet the needs of the child according to accepted professional standards. Coverage ~~shall~~ MUST include the purchase of the following:

SECTION 5. In Colorado Revised Statutes, 24-34-110, **amend** (3) (a) (I) as follows:

24-34-110. Medical transparency act of 2010 - disclosure of information about health care licensees - fines - rules - short title - legislative declaration.

(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 5-5 29.9 of title 12, C.R.S.;

SECTION 6. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of professions and occupations cash fund created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for the fiscal year beginning July 1, 2013, the sum of \$58,966 and 0.6 FTE, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

(a) \$33,342 and 0.6 FTE to the division of professions and occupations for personal services;

(b) \$1,863 to the division of professions and occupations for operating expenses and capital outlay;

(c) \$1,474 to the division of professions and occupations for disciplinary actions;

(d) \$11,294 to the executive director's office and administrative services for the purchase of legal services; and

(e) \$10,993 to the executive director's office and administrative services for the purchase of computer center services.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2013, the sum of \$11,294, or so much thereof as may be necessary, for the provision of legal services for the department of regulatory agencies related to the implementation of this act. Said sum is from reappropriated funds received from the department of regulatory agencies out of the appropriation made in paragraph (d) of subsection (1) of this section.

(3) In addition to any other appropriation, there is hereby appropriated to the governor - lieutenant governor - state planning and budgeting, for the fiscal year beginning July 1, 2013, the sum of \$10,993, or so much thereof as may be necessary, for allocation to the office of information technology, for the provision of computer center services for the department of regulatory agencies related to the implementation of this act. Said sum is from reappropriated funds received from the department of regulatory agencies out of the appropriation made in paragraph (e) of subsection (1) of this section.

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: May 24, 2013