

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0280.01 Kate Meyer x4348

HOUSE BILL 12-1205

HOUSE SPONSORSHIP

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Tochtrop,

House Committees
Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF PERSONS WHO ENGAGE IN BUSINESS**
102 **RELATED TO PERSONS WITH HEARING IMPAIRMENTS, AND, IN**
103 **CONNECTION THEREWITH, IMPLEMENTING THE DEPARTMENT OF**
104 **REGULATORY AGENCIES' SUNSET REVIEW RECOMMENDATIONS**
105 **FOR AUDIOLOGISTS AND HEARING AID PROVIDERS.**

Bill Summary

[Drafting note: This bill reorganizes existing provisions of statutory law for purposes of clarity. Section and subsection numbers and paragraph letters have changed, but no substantive amendments to the operative provisions have been made except where indicated by capitalized or stricken type. Where section and subsection numbers and paragraph letters have changed, the prior designations are indicated by bold, bracketed type.]

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

(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://www.leg.state.co.us/billssummaries.>)

Sunset Process - House Local Government Committee. The bill implements the recommendations made by the department of regulatory agencies (DORA) pursuant to DORA's 2011 sunset review report of the audiology and hearing aid provider licensure program (program). The program is administered by the director (director) of DORA's division of registrations.

In order to implement DORA's third recommendation, which advocates reducing statutory redundancy by consolidating identical program laws under a "general provisions" heading, **sections 2 and 3** of the bill reorganize the existing statutes related to the licensure of audiologists and hearing aid providers. This reorganization includes designating a new article number for the program so that it is grouped with other laws regulating health-related professions and occupations.

Under the new "general provisions" segment, previously distinct grounds for discipline are combined so as to apply to both audiologists and hearing aid providers. Furthermore, the following are added as new grounds for discipline:

- ! Engaging in a deceptive trade practice;
- ! Committing abuse of health insurance;
- ! Aiding and abetting a violation of a law governing the program, or a rule promulgated or order issued by the director; and
- ! Failing to respond in an honest, materially responsive, and timely manner to a complaint letter sent by the director.

Other specific substantive amendments to the laws governing the program include:

- ! Requiring audiologists to report malpractice judgments and settlements;
- ! Amending the laws relating to deceptive trade practices committed specifically by hearing aid providers, including expanding those laws to include all persons dispensing hearing aids; explicitly designating as a ground for discipline the commission of a deceptive trade practice; and granting the director specific authority to promulgate rules related to deceptive trade practices;
- ! Exempting federally employed dispensers who do not provide services to the general public;
- ! Authorizing audiologists to use certain titles under certain

- conditions;
- ! Eliminating the temporary audiologist and intermediate (associate) hearing aid provider license categories, which have been rendered obsolete;
- ! Broadening the universe of acceptable accrediting bodies;
- ! Harmonizing and clarifying definitions related to hearing aid provision and placing licensure qualification provisions under a more appropriate statutory section;
- ! Permitting the director to identify appropriate entry-level examinations for applicants for hearing aid provider licensure, specifying that trainee licenses expire after 2 years, and granting the director the authority to deny trainee licenses to applicants who have failed, or failed to take, the examination for licensure as a hearing aid provider;
- ! Qualifying for hearing aid provider licensure a candidate who either completes at least 6 months of training or acquires an associate's degree in hearing aid fitting and dispensing (in addition to passing an examination approved by the director);
- ! Allowing licensure as an audiologist or hearing aid provider by endorsement;
- ! Imposing a 2-year waiting period before a person who has had his or her license revoked, or who has surrendered his or her license in lieu of discipline, is eligible to apply for a new license; and
- ! Authorizing the director to delegate program duties to a division staff member.

The bill also makes various grammatical and other nonsubstantive changes in order to modernize the program laws, including employing a "people first" approach when alluding to persons with hearing impairments, and **sections 4 through 9** of the bill make conforming amendments.

Section 3 continues the program through September 1, 2019.

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

2 **SECTION 1. Repeal of relocated and nonrelocated provisions**

3 **in this act.** In Colorado Revised Statutes, **repeal** article 5.5 of title 12;

4 except that 12-5.5-102.5 and 12-5.5-301 (1) and (5) are not relocated.

5 **SECTION 2.** In Colorado Revised Statutes, **add with amended**

6 **and relocated provisions** article 32.5 to title 12 as follows:

1 on the body.

2 (2) (c) [Formerly 12-5.5-101 (2) and 12-5.5-201 (1)] "Director"
3 means the director of ~~registrations~~ THE DIVISION, OR THE DIRECTOR'S
4 DESIGNEE UNDER THE DIVISION.

5 (3) (d) [Formerly 12-5.5-301 (3)] "Dispense" means to transfer
6 title, possession, or the right to use by lease, bailment, or any other
7 method, but excludes transactions with distributors or dealers.

8 (3) (e) [Formerly 12-5.5-101 (3) and 12-5.5-201 (2)] "Division"
9 means the division of registrations in the department of regulatory
10 agencies.

11 (4) (f) [Formerly 12-5.5-301 (4)] "Hearing aid" means any A
12 wearable instrument or device designed or offered for the purpose of
13 aiding or compensating for impaired human hearing and any parts,
14 attachments, or accessories ~~thereto~~ TO THE INSTRUMENT OR DEVICE,
15 including ear molds but excluding batteries and cords; except that
16 "hearing aid" does not include a cochlear implant or cochlear prosthesis.

17 (3) (g) [Formerly 12-5.5-201 (3)] "Licensed "Hearing aid
18 provider" means a person engaged in the practice of dispensing, fitting,
19 or dealing in hearing aids. ~~who has passed an examination conducted~~
20 ~~under the auspices of the national board for certification in hearing~~
21 ~~instrument sciences (NBC-IHS) or an equivalent examination as~~
22 ~~determined by the director; except that a licensed hearing aid provider~~
23 ~~who is engaged in the practice of dispensing, fitting, or dealing in hearing~~
24 ~~aids on or before July 1, 1995, shall demonstrate, not later than July 1,~~
25 ~~1997, that he or she has passed such an examination.~~

26 (3.5) (h) [Formerly 12-5.5-101 (3.5)] "Practice of audiology"
27 means:

1 (a) (I) The application of principles, methods, and procedures
2 related to the development, disorders, and conditions of the human
3 auditory-vestibular system, whether ~~such~~ THOSE disorders or conditions
4 are of organic or functional origin, including ~~but not limited to~~, disorders
5 of hearing, balance, tinnitus, auditory processing, and other neural
6 functions, as those principles, methods, and procedures are taught in
7 accredited programs in audiology. The principles, methods, or procedures
8 include diagnosis, assessment, measurement, testing, appraisal,
9 evaluation, rehabilitation, treatment, prevention, conservation,
10 identification, consultation, counseling, intervention, management,
11 interpretation, instruction, or research related to hearing, vestibular
12 function, balance and fall prevention, and associated neural systems, or
13 any abnormal condition related to tinnitus, auditory sensitivity, acuity,
14 function or processing, speech, language, or other aberrant behavior
15 resulting from hearing loss, for the purpose of diagnosing, designing, and
16 implementing audiological management and treatment or other programs
17 for the amelioration of such disorders and conditions. Management and
18 treatment ~~shall include but not be limited to~~, the activities described in
19 SUBPARAGRAPH (II) OF THIS paragraph ~~(b) of this subsection (3.5) (h)~~.

20 ~~(b)~~ (II) Engaging in the practice of prescribing, selecting,
21 specifying, evaluating, assisting in the adjustment to, and dispensing of
22 prosthetic devices for hearing loss, including ~~but not limited to~~, hearing
23 aids and hearing assistive devices by means of specialized audiometric
24 equipment or by any other means accepted by the director;

25 ~~(c)~~ (III) Determining work-related hearing loss or impairment, as
26 defined by federal regulations;

27 ~~(d)~~ (IV) Consulting with, and making referrals to, a physician

1 when appropriate.

2 (6) (i) [Formerly 12-5.5-301 (6)] "Practice of dispensing, fitting,
3 or dealing in hearing aids" MEANS SELLING OR NEGOTIATING TO SELL,
4 DIRECTLY OR INDIRECTLY, A HEARING AID. THE TERM includes the
5 selection and adaptation for the sale of hearing aids FOR SALE TO SPECIFIC
6 INDIVIDUALS and includes the testing of hearing for these purposes. The
7 practice also includes the making of impressions for ear molds and
8 counseling and instruction pertaining to the selection, fitting, adaptation,
9 or sale of hearing aids.

10 (7) (j) [Formerly 12-5.5-301 (7)] "Trial period" means the first
11 thirty days a buyer has a hearing aid in the buyer's possession. ~~Any such~~
12 A trial period may be extended by mutual agreement of the buyer and the
13 licensed hearing aid provider OR AUDIOLOGIST who dispensed the hearing
14 aid.

15 (2) AS USED IN THIS PART 1, UNLESS THE CONTEXT OTHERWISE
16 REQUIRES:

17 (a) "APPLICANT" MEANS A PERSON APPLYING FOR LICENSURE
18 UNDER THIS ARTICLE.

19 (b) "LICENSEE" MEANS A PERSON WHO HOLDS A CURRENT LICENSE
20 AS AN AUDIOLOGIST, HEARING AID PROVIDER, OR HEARING AID PROVIDER
21 TRAINEE ISSUED BY THE DIVISION PURSUANT TO THIS ARTICLE.

22 **12-32.5-102. [Formerly 12-5.5-101.5] Scope of article -**
23 **exemption.** (1) This article ~~shall~~ DOES not apply to persons who are:

24 (a) Licensed pursuant to section 22-60.5-210, C.R.S., and who are
25 not licensed under this article for work undertaken as part of their
26 employment by, or contractual agreement with, the public schools; OR

27 (b) ENGAGED IN THE PRACTICE OF AUDIOLOGY OR THE PRACTICE

1 OF DISPENSING, FITTING, OR DEALING IN HEARING AIDS IN THE DISCHARGE
2 OF THEIR OFFICIAL DUTIES IN THE SERVICE OF THE UNITED STATES ARMED
3 FORCES, PUBLIC HEALTH SERVICE, COAST GUARD, OR VETERANS
4 ADMINISTRATION.

5 (2) Nothing in this ~~part 1 shall be construed to authorize~~ ARTICLE
6 AUTHORIZES an audiologist to engage in the practice of medicine as
7 defined in section 12-36-106.

8 **12-32.5-103. Licensure - certificate - expiration - renewal -**
9 **reinstatement - fees.** (1) (a) [**Formerly 12-5.5-103 (1) and 12-5.5-203**
10 **(1)**] The director shall license all applicants who meet the requirements
11 FOR LICENSURE of this ~~part 1~~ ARTICLE and shall provide each licensee
12 with a certificate indicating that the person named in ~~such~~ THE certificate
13 is licensed in the state of Colorado as an audiologist OR HEARING AID
14 PROVIDER, AS APPROPRIATE.

15 (b) [**Formerly 12-5.5-203 (3)**] The director shall issue or deny a
16 HEARING AID PROVIDER license within sixty days after the date of receipt
17 of the application IS RECEIVED.

18 (2) [**Formerly 12-5.5-103 (2) and 12-5.5-203 (2)**] EXCEPT AS
19 OTHERWISE PROVIDED UNDER SECTION 12-32.5-304 (6), all licenses ~~shall~~
20 ISSUED UNDER THIS ARTICLE expire pursuant to a schedule established by
21 the director and ~~shall~~ MUST be renewed or reinstated pursuant to section
22 24-34-102 (8), C.R.S. The director ~~may~~ SHALL establish renewal fees and
23 delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S.
24 If a person fails to renew his or her license pursuant to the schedule
25 established by the director, ~~of registrations, such~~ THE license ~~shall expire.~~
26 ~~Any~~ EXPIRES. A person whose license has expired ~~shall be~~ IS subject to
27 the penalties ~~provided~~ SET FORTH in this article or IN section 24-34-102

1 (8), C.R.S.

2 (3) [Formerly 12-5.5-103 (3) and 12-5.5-203 (4)] All fees
3 collected under this ~~part 1 shall~~ SECTION MUST be deposited in accordance
4 with section ~~12-5.5-104~~ 12-32.5-105.

5 **12-32.5-104. Licensure by endorsement - rules.** (1) THE
6 DIRECTOR SHALL ISSUE A LICENSE BY ENDORSEMENT TO ENGAGE IN THE
7 PRACTICE OF AUDIOLOGY OR IN DISPENSING, FITTING, OR DEALING IN
8 HEARING AIDS IN THIS STATE TO AN INDIVIDUAL WHO POSSESSES AN
9 ACTIVE LICENSE IN GOOD STANDING TO PRACTICE IN THAT PROFESSION IN
10 ANOTHER STATE OR TERRITORY OF THE UNITED STATES OR IN A FOREIGN
11 COUNTRY IF THE APPLICANT:

12 (a) PRESENTS PROOF SATISFACTORY TO THE DIRECTOR THAT THE
13 INDIVIDUAL POSSESSES A VALID LICENSE FROM ANOTHER STATE OR
14 JURISDICTION THAT REQUIRES QUALIFICATIONS SUBSTANTIALLY
15 EQUIVALENT TO THE QUALIFICATIONS FOR LICENSURE IN THIS STATE AND
16 MEETS ALL OTHER REQUIREMENTS FOR LICENSURE PURSUANT TO THIS
17 ARTICLE; AND

18 (b) PAYS THE LICENSURE FEE ESTABLISHED UNDER SECTION
19 24-34-105, C.R.S.

20 (2) THE DIRECTOR SHALL SPECIFY BY RULE WHAT CONSTITUTES
21 SUBSTANTIALLY EQUIVALENT QUALIFICATIONS FOR THE PURPOSES OF THIS
22 SECTION.

23 **12-32.5-105. [Formerly 12-5.5-104 and 12-5.5-204] Disposition**
24 **of fees - legislative intent.** It is the intent of the general assembly ~~that~~ TO
25 FUND all direct and indirect costs incurred in the implementation of this
26 ~~part 1 be funded by~~ ARTICLE WITH annual license and renewal fees. THE
27 DIRECTOR SHALL TRANSMIT all fees collected ~~by the director shall be~~

1 ~~transmitted~~ UNDER THIS ARTICLE to the state treasurer, who shall credit the
2 same to the division of registrations cash fund created by section
3 24-34-105, C.R.S.

4 **12-32.5-106. Disciplinary actions - grounds for discipline.**

5 (1) ~~(a)~~ **[Formerly 12-5.5-105 (1) (a) and 12-5.5-205 (1) (a)]** If, after
6 investigation, notice, and the opportunity for hearing in accordance with
7 article 4 of title 24, C.R.S., the director determines that an applicant, ~~or~~
8 licensee, ~~OR TRAINEE~~ has committed any of the acts specified in ~~paragraph~~
9 ~~(b) of this subsection~~ ~~(1)~~ (2) OF THIS SECTION, the director may:

10 ~~(I)~~ (a) Impose an administrative fine not to exceed two thousand
11 five hundred dollars for each separate offense;

12 ~~(II)~~ (b) Issue a letter of admonition;

13 ~~(III)~~ (c) Place a licensee on probation, which ~~shall entail~~ ENTAILS
14 close supervision on ~~such~~ THE terms and for ~~such~~ THE PERIOD OF time as
15 THAT the director deems appropriate;

16 ~~(IV)~~ (d) Deny, refuse to renew, revoke, or suspend the license of
17 an applicant or licensee; or

18 ~~(V)~~ (e) Issue a confidential letter of concern.

19 ~~(b)~~ (2) **[Formerly the introductory portions to 12-5.5-105 (1)**
20 **(b) and 12-5.5-205 (1) (b)]** The following acts ~~shall~~ constitute grounds
21 for discipline:

22 ~~(I)~~ (a) **[Formerly 12-5.5-105 (1) (b) (I)]** ~~Using false or misleading~~
23 ~~advertising or~~ Making a false or misleading statement or omission in an
24 application for licensure;

25 ~~(VII)~~ (b) **[Formerly 12-5.5-105 (1) (b) (VII) and 12-5.5-205 (1)**
26 **(b) (VI)]** Failing to notify the director of a change in the information filed
27 pursuant to ~~section 12-5.5-102~~ SECTION 12-32.5-202 OR 12-32.5-302;

1 ~~(IV)~~ (c) **[Formerly 12-5.5-105 (1) (b) (IV)]** ~~Violation of~~
2 VIOLATING any provision of this ~~part~~ ARTICLE, including failure to
3 comply with the license requirements of ~~section 12-5.5-102;~~ or SECTION
4 12-32.5-202 OR 12-32.5-303 OR FAILURE TO MAKE A REPORT REQUIRED
5 UNDER SECTION 12-32.5-202 (5);

6 (d) **[Formerly 12-5.5-105 (1) (b) (IV)]** ~~Violation of~~ VIOLATING
7 any rule promulgated by the director under this ~~part~~ ARTICLE;

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

11 (f) ENGAGING IN A DECEPTIVE TRADE PRACTICE AS DESCRIBED
12 UNDER SECTION 12-32.5-401;

13 (g) USING FALSE OR MISLEADING ADVERTISING;

14 ~~(H)~~ (h) **[Formerly 12-5.5-205 (1) (b) (I)]** Misrepresenting or
15 concealing a material fact from a purchaser of a hearing ~~device for the~~
16 ~~hearing impaired~~ AID;

17 ~~(H)~~ (i) **[Formerly 12-5.5-205 (1) (b) (II)]** Employing a device,
18 scheme, or artifice with the intent to defraud a purchaser of a hearing
19 ~~device for the hearing impaired~~ AID;

20 ~~(H)~~ (j) **[Formerly 12-5.5-205 (1) (b) (III)]** Disposing of,
21 concealing, diverting, converting, or otherwise failing to account for any
22 funds or assets of a purchaser of a hearing ~~device for the hearing impaired~~
23 AID that is under the APPLICANT'S, LICENSEE'S, OR TRAINEE'S control; ~~of~~
24 ~~such person;~~

25 ~~(V)~~ (k) **[Formerly 12-5.5-205 (1) (b) (V)]** Refusing to honor a
26 buyer's request to cancel a contract for the purchase of a hearing ~~device~~
27 ~~for the hearing impaired~~ AID, if ~~such~~ THE request was made during the

1 rescission period set forth in section ~~12-5.5-302 (1) (e)~~ 12-32.5-401 (1)
2 (d);

3 ~~(V)~~ (l) [**Formerly 12-5.5-105 (1) (b) (V) and 12-5.5-205 (1) (b)**
4 **(IV)**] Violating the "Colorado Consumer Protection Act", article 1 of title
5 6, C.R.S.;

6 ~~(VIII)~~ (m) [**Formerly 12-5.5-105 (1) (b) (VIII) and 12-5.5-205**
7 **(1) (b) (IX)**] Causing physical harm to a customer;

8 ~~(IX)~~ (n) [**Formerly 12-5.5-105 (1) (b) (IX) and 12-5.5-205 (1)**
9 **(b) (X)**] Failing to practice according to commonly accepted professional
10 standards;

11 ~~(XI)~~ (o) [**Formerly 12-5.5-105 (1) (b) (XI)**] Providing services
12 beyond the LICENSEE'S scope of the educational preparation, experience,
13 skills, or competence; ~~of the licensee.~~

14 ~~(X)~~ (p) [**Formerly 12-5.5-105 (1) (b) (X) and 12-5.5-205 (1) (b)**
15 **(XI)**] Failing to adequately supervise a licensed hearing aid provider
16 trainee; ~~or associate;~~

17 ~~(VI)~~ (q) [**Formerly 12-5.5-105 (1) (b) (VI)**] Employing a sales
18 agent or employee who violates any provision of this ~~part~~ ARTICLE;

19 (r) COMMITTING ABUSE OF HEALTH INSURANCE PURSUANT TO
20 SECTION 18-13-119, C.R.S.;

21 ~~(III)~~ (s) [**Formerly 12-5.5-105 (1) (b) (III) and 12-5.5-205 (1) (b)**
22 **(VIII)**] Failing to comply with a stipulation or agreement made with the
23 director or WITH a final agency order;

24 (t) FAILING TO RESPOND IN AN HONEST, MATERIALLY RESPONSIVE,
25 AND TIMELY MANNER TO A COMPLAINT ISSUED PURSUANT TO SECTION
26 12-32.5-108; AND

27 ~~(II)~~ (u) [**Formerly 12-5.5-105 (1) (b) (II) and 12-5.5-205 (1) (b)**

1 ~~(VII) and (1) (b) (XII)] Conviction~~ BEING CONVICTED OF, or acceptance
2 of ACCEPTING a plea of guilty or nolo contendere or receipt of a deferred
3 sentence in any court to:

4 (I) ANY FELONY; OR

5 (II) A crime involving fraud, deception, false pretense, theft,
6 misrepresentation, false advertising, or dishonest dealing.

7 ~~(c)~~ (3) [Formerly 12-5.5-105 (1) (c) and 12-5.5-205 (1) (c)]

8 When a complaint or an investigation discloses an instance of misconduct
9 that, in the opinion of the director, warrants formal action, the complaint
10 shall not be resolved by a deferred settlement, action, judgment, or
11 prosecution.

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

17 ~~(2)~~ (5) [Formerly 12-5.5-105 (2) and 12-5.5-205 (2)] Any

18 disciplinary action taken with respect to an audiologist APPLICANT OR
19 LICENSEE by another state or local jurisdiction or the federal government
20 shall be deemed CONSTITUTES prima facie evidence of grounds for
21 disciplinary action, including denial of a license under this part +
22 ARTICLE; except that this subsection ~~(2)~~ shall apply (5) APPLIES only to
23 disciplinary actions that are substantially similar to those set out as
24 grounds for disciplinary action under this part + ARTICLE.

25 ~~(3)~~ (6) [Formerly 12-5.5-105 (3) and 12-5.5-205 (3)] (a) When

26 a complaint or investigation discloses an instance of misconduct that, in
27 the opinion of the director, does not warrant formal action by the director

1 but that should not be dismissed as being without merit, a letter of
2 admonition may be issued and sent, by certified mail, to the licensee.

3 (b) (I) When THE DIRECTOR SENDS a letter of admonition ~~is sent~~
4 ~~by the director, by certified mail,~~ to a licensee ~~such~~ PURSUANT TO
5 PARAGRAPH (a) OF THIS SUBSECTION (6), THE DIRECTOR SHALL ALSO
6 ADVISE THE licensee ~~shall be advised~~ that he or she has the right to
7 request in writing, within twenty days after receipt of the letter, that THE
8 DIRECTOR INITIATE formal disciplinary proceedings ~~be initiated~~ to
9 adjudicate the propriety of the conduct upon which the letter of
10 admonition is based.

11 (c) (II) If the LICENSEE MAKES THE request for adjudication ~~is~~
12 ~~timely made~~ IN A TIMELY MANNER, the DIRECTOR SHALL DEEM THE letter
13 of admonition ~~shall be deemed~~ vacated and SHALL PROCESS the matter
14 ~~shall be processed~~ by means of formal disciplinary proceedings.

15 (4) (7) [Formerly 12-5.5-105 (4), 12-5.5-205 (4), and
16 12-5.5-303] All administrative fines collected pursuant to this section
17 shall be transmitted to the state treasurer, who shall credit them to the
18 general fund.

19 **12-32.5-107. Director - powers - duties - rules.** (1) [Formerly
20 12-5.5-106 (1) and 12-5.5-206 (1)] The director may make ~~such~~
21 investigations and inspections as ~~are~~ necessary to determine whether an
22 applicant OR LICENSEE has violated this ~~part 1~~ ARTICLE or any rule
23 adopted by the director.

24 (2) [Formerly 12-5.5-106 (2) and 12-5.5-206 (2)] The director
25 may apply to a court of competent jurisdiction for an order enjoining any
26 act or practice ~~which~~ THAT constitutes a violation of this ~~part 1, and,~~
27 ARTICLE. Upon a showing that a person is engaging in or intends to

1 engage in ~~any such~~ THE act or practice, THE COURT SHALL GRANT an
2 injunction, restraining order, or other appropriate order, ~~shall be granted~~
3 ~~by the court~~ regardless of the existence of another remedy. All
4 proceedings related to such ~~injunction or restraining order shall be~~
5 ORDERS ARE governed by the Colorado rules of civil procedure.

6 (3) [**Formerly 12-5.5-106 (3) and 12-5.5-206 (3)**] (a) The
7 director or an administrative law judge ~~shall have~~ HAS the power to
8 administer oaths, take affirmations of witnesses, and issue subpoenas to
9 compel the attendance of witnesses and the production of all relevant
10 papers, books, records, documentary evidence, and materials in any
11 hearing, investigation, accusation, or other matter coming before the
12 director pursuant to this ~~part 1~~ ARTICLE. The director may appoint an
13 administrative law judge pursuant to part 10 of article 30 of title 24,
14 C.R.S., to take evidence and to make findings and report them to the
15 director.

16 (b) Upon failure of any witness to comply with such subpoena or
17 process, the district court of the county in which the subpoenaed person
18 or licensee resides or conducts business, upon application by the board or
19 director with notice to the subpoenaed person or licensee, may issue to the
20 person or licensee an order requiring that person or licensee to appear
21 before the director; to produce the relevant papers, books, records,
22 documentary evidence, or materials if so ordered; or to give evidence
23 touching the matter under investigation or in question. Failure to obey the
24 order of the court may be punished by the court as a contempt of court.

25 (4) [**Formerly 12-5.5-106 (4)**] The director shall determine the
26 amount of malpractice coverage that must be obtained by an audiologist
27 who provides services to patients.

1 (5) [Formerly 12-5.5-106 (5) and 12-5.5-206 (4)] NO LATER
2 THAN OCTOBER 1, 2012, the director shall adopt all rules necessary for the
3 enforcement or administration of this ~~part 2~~ ARTICLE, including: ~~but not~~
4 ~~limited to, rules that require:~~

5 (a) ~~Written disclosures to purchasers, as may be needed to protect~~
6 ~~such purchasers; and~~

7 (b) (a) A REQUIREMENT that ~~supervising licensees or~~ licensees
8 ~~designated by such licensees' employers~~ maintain for at least seven years
9 records identifying customers by name; the goods or services, except
10 batteries and minor accessories, provided to each customer; and the date
11 and price of each transaction; AND

12 (b) RULES NECESSARY TO ENFORCE PART 4 OF THIS ARTICLE.

13 (5) (6) [Formerly 12-5.5-206 (5)] The director may require
14 ~~licensed hearing aid providers~~ LICENSEES to make disclosures to
15 purchasers in their written contracts of sale, or in separate written
16 documents, if the director finds that ~~such~~ THE disclosures are necessary
17 for the protection of purchasers.

18 **12-32.5-108. [Formerly 12-5.5-107 and 12-5.5-205.5]**
19 **Cease-and-desist orders - unauthorized practice - penalties.** (1) (a) If
20 it appears to the director, based upon credible evidence as presented in a
21 written complaint by any person, that a licensee is acting in a manner that
22 is an imminent threat to the health and safety of the public or a person is
23 acting or has acted without the required license, the director may issue an
24 order to cease and desist ~~such~~ THE activity. The order ~~shall~~ MUST set forth
25 the statutes and rules alleged to have been violated, the facts alleged to
26 have constituted the violation, and the requirement that all unlawful acts
27 or unlicensed practices immediately cease.

1 (b) Within ten days after service of the order to cease and desist
2 pursuant to paragraph (a) of this subsection (1), the respondent may
3 request a hearing on the question of whether acts or practices in violation
4 of this part 1 have occurred. ~~Such~~ THE hearing shall be conducted
5 pursuant to sections 24-4-104 and 24-4-105, C.R.S.

6 (2) (a) If it appears to the director, based upon credible evidence
7 as presented in a written complaint by any person, that a person has
8 violated any other portion of this ~~part 1~~ ARTICLE, then, in addition to any
9 specific powers granted pursuant to this ~~part 1~~ ARTICLE, the director may
10 issue to ~~such~~ THE person an order to show cause as to why the director
11 should not issue a final order directing ~~such~~ THE person to cease and
12 desist from the unlawful act or ~~unlicensed~~ practice.

13 (b) THE DIRECTOR SHALL PROMPTLY NOTIFY a person against
14 whom an order to show cause has been issued pursuant to paragraph (a)
15 of this subsection (2) ~~shall be promptly notified by the director~~ of the
16 issuance of the order, along with a copy of the order, the factual and legal
17 basis for the order, and the date set by the director for a hearing on the
18 order. ~~Such~~ THE notice may be served by personal service, by first-class
19 United States mail, postage prepaid, or as may be practicable upon any
20 person against whom ~~such~~ THE order is issued. Personal service or
21 mailing of an order or document pursuant to this subsection (2) ~~shall~~
22 ~~constitute~~ CONSTITUTES notice ~~thereof~~ to the person OF THE EXISTENCE
23 AND CONTENTS OF THE ORDER OR DOCUMENT.

24 (c) (I) The hearing on an order to show cause ~~shall~~ MUST be
25 commenced no sooner than ten, and no later than forty-five, calendar days
26 after the date of transmission or service of the notification by the director
27 as provided in paragraph (b) of this subsection (2). The hearing may be

1 continued by agreement of all parties based upon the complexity of the
2 matter, number of parties to the matter, and legal issues presented in the
3 matter, but in no event ~~shall~~ MAY the hearing commence later than sixty
4 calendar days after the date of transmission or service of the notification.

5 (II) If a person against whom an order to show cause has been
6 issued pursuant to paragraph (a) of this subsection (2) does not appear at
7 the hearing, the director may present evidence that notification was
8 properly sent or served upon ~~such~~ THE person pursuant to paragraph (b)
9 of this subsection (2) and ~~such~~ ANY other evidence related to the matter
10 as the director deems appropriate. The director shall issue the order within
11 ten days after the director's determination related to reasonable attempts
12 to notify the respondent, and the order ~~shall become~~ BECOMES final as to
13 that person by operation of law. ~~Such~~ THE CONDUCT OF THE hearing ~~shall~~
14 ~~be conducted pursuant to~~ IS GOVERNED BY sections 24-4-104 and
15 24-4-105, C.R.S.

16 (III) If the director reasonably finds that the person against whom
17 the order to show cause was issued is acting or has acted without the
18 required license or has or is about to engage in acts or practices
19 constituting violations of this ~~part~~ ARTICLE, a final cease-and-desist
20 order may be issued directing ~~such~~ THE person to cease and desist from
21 further unlawful acts or unlicensed practices.

22 (IV) The director shall provide notice, in the manner set forth in
23 paragraph (b) of this subsection (2), of the final cease-and-desist order
24 within ten calendar days after the hearing conducted pursuant to this
25 paragraph (c) to each person against whom the final order has been
26 issued. The final order issued pursuant to subparagraph (III) of this
27 paragraph (c) ~~shall be~~ IS effective when issued and ~~shall be~~ CONSTITUTES

1 a final order for purposes of judicial review.

2 (3) If it appears to the director, based upon credible evidence
3 presented to the director, that a person has engaged in or is about to
4 engage in any unlicensed act or practice, any act or practice constituting
5 a violation of this ~~part~~ ARTICLE, any rule promulgated pursuant to this
6 ~~part~~ ARTICLE, any order issued pursuant to this ~~part~~ ARTICLE, or any
7 act or practice constituting grounds for administrative sanction pursuant
8 to this ~~part~~ ARTICLE, the director may enter into a stipulation with ~~such~~
9 THE person.

10 (4) If any person fails to comply with a final cease-and-desist
11 order or a stipulation, the director may request the attorney general or the
12 district attorney for the judicial district in which the alleged violation
13 exists to bring, and if so requested ~~such~~ THE attorney shall bring, suit for
14 a temporary restraining order and for injunctive relief to prevent any
15 further or continued violation of the final order.

16 (5) A person aggrieved by the final cease-and-desist order may
17 seek judicial review of the director's determination or of the director's
18 final order in a court of competent jurisdiction.

19 (6) ~~Any~~ A person who practices or offers or attempts to practice
20 audiology services WITHOUT AN ACTIVE AUDIOLOGIST LICENSE OR WHO
21 ENGAGES IN THE PRACTICE OF DISPENSING, FITTING, OR DEALING IN
22 HEARING AIDS without an active HEARING AID PROVIDER license issued
23 under this article commits a class 2 misdemeanor and shall be punished
24 as provided in section 18-1.3-501, C.R.S., for the first offense, and, for
25 the second or any subsequent offense, the person commits a class 6 felony
26 and shall be punished as provided in section 18-1.3-401, C.R.S.

27 **12-32.5-109. [Formerly 12-5.5-108 and 12-5.5-206.5]**

1 **Immunity.** The director, the director's staff, any person acting as a
2 witness or consultant to the director, any witness testifying in a
3 proceeding authorized under this ~~part 1~~ ARTICLE, and any person who
4 lodges a complaint pursuant to this ~~part 1 shall be~~ ARTICLE IS immune
5 from liability in any civil action brought against him or her for acts
6 occurring while acting in his or her capacity as director, staff, consultant,
7 or witness, respectively, if ~~such~~ THE individual was acting in good faith
8 within the scope of his or her respective capacity, made a reasonable
9 effort to obtain the facts of the matter as to which he or she acted, and
10 acted in the reasonable belief that the action taken by him or her was
11 warranted by the facts. Any person participating in good faith in lodging
12 a complaint or participating in any investigative or administrative
13 proceeding pursuant to this ~~part 1 shall be~~ ARTICLE IS immune from any
14 civil or criminal liability that may result from ~~such~~ THAT participation.

15 **12-32.5-110. [Formerly 12-5.5-207] Repeal of article.** (1) This
16 article is repealed, effective ~~July 1, 2012~~ SEPTEMBER 1, 2019.

17 (2) Prior to ~~such~~ THIS repeal, the DEPARTMENT OF REGULATORY
18 AGENCIES SHALL REVIEW THE licensing and supervisory functions of the
19 director ~~shall be reviewed~~ as provided in section 24-34-104, C.R.S.

20 PART 2

21 AUDIOLOGISTS - SPECIFIC PROVISIONS

22 **12-32.5-201. Definitions.** AS USED IN THIS PART 2, UNLESS THE
23 CONTEXT OTHERWISE REQUIRES:

24 (1) "APPLICANT" MEANS A PERSON APPLYING TO THE DIVISION FOR
25 LICENSURE AS AN AUDIOLOGIST UNDER THIS ARTICLE.

26 ~~(3.3)~~ (2) **[Formerly 12-5.5-101 (3.3)]** "Licensee" means ~~an~~
27 ~~audiologist~~ A PERSON who holds a current license AS AN AUDIOLOGIST

1 from the division. ~~of registrations pursuant to this part 1.~~

2 **12-32.5-202. [Formerly 12-5.5-102] License required -**
3 **application - fee - bond - disclosure - exemption.** (1) (a) An audiologist
4 shall ~~be licensed with~~ OBTAIN A LICENSE FROM the division ~~of~~
5 ~~registrations~~ before performing ENGAGING IN THE PRACTICE OF audiology
6 services in this state.

7 (b) The ~~audiologist shall be given~~ DIRECTOR SHALL GIVE EACH
8 LICENSEE a license bearing a unique license number. The ~~audiologist~~
9 LICENSEE shall include the license number on all written contracts and
10 receipts, as required pursuant to ~~section 12-5.5-302 (1) (e) (III) (B)~~
11 SECTION 12-32.5-401 (1) (d) (III) (B).

12 (2) TO QUALIFY FOR LICENSURE AS AN AUDIOLOGIST UNDER THIS
13 SECTION, A PERSON MUST HAVE:

14 (a) EARNED A DOCTORAL DEGREE IN AUDIOLOGY FROM A
15 PROGRAM THAT IS OR, AT THE TIME THE APPLICANT WAS ENROLLED AND
16 GRADUATED, WAS OFFERED BY AN INSTITUTION OF HIGHER EDUCATION OR
17 POSTSECONDARY EDUCATION ACCREDITED BY A NATIONAL, REGIONAL, OR
18 STATE AGENCY RECOGNIZED BY THE UNITED STATES DEPARTMENT OF
19 EDUCATION, OR ANOTHER PROGRAM APPROVED BY THE DIRECTOR; OR

20 (b) (I) EARNED A MASTER'S DEGREE FROM A PROGRAM WITH A
21 MAJOR EMPHASIS IN AUDIOLOGY THAT WAS CONFERRED BEFORE JULY 1,
22 2007, FROM A PROGRAM OF HIGHER LEARNING THAT IS OR, AT THE TIME
23 THE APPLICANT WAS ENROLLED AND GRADUATED, WAS OFFERED BY AN
24 INSTITUTION OF HIGHER EDUCATION OR POSTSECONDARY EDUCATION
25 ACCREDITED BY A NATIONAL, REGIONAL, OR STATE AGENCY RECOGNIZED
26 BY THE UNITED STATES DEPARTMENT OF EDUCATION, OR ANOTHER
27 PROGRAM APPROVED BY THE DIRECTOR; AND

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

3 ~~(2)~~ (3) An audiologist desiring to be licensed pursuant to this
4 ~~section~~ ARTICLE shall submit to the director an application containing the
5 information described in subsection ~~(3)~~ (4) of this section and ~~shall~~ MUST
6 pay a fee to be TO THE DIRECTOR ALL REQUIRED FEES IN THE AMOUNTS
7 determined and collected by the director pursuant to section 24-34-105,
8 C.R.S. The director may deny an application for a license if the required
9 information is AND FEES ARE not submitted. If FAILURE BY an applicant
10 or licensee does not TO notify the director of a change in the submitted
11 information within thirty days after such THE change such failure shall be
12 IS cause for disciplinary action.

13 ~~(3)~~ (4) The following information shall MUST be included in every
14 application for a license AS AN AUDIOLOGIST under this ~~section~~ ARTICLE:

15 (a) The audiologist's name, business address, and business
16 telephone number;

17 (b) A listing of the audiologist's education, experience, and
18 degrees or credentials, including all degrees or credentials awarded to
19 such THE audiologist that are related to the practice of audiology;

20 (c) A statement indicating whether any license, certificate, or
21 registration in audiology was issued to the audiologist by a local, state, or
22 national health care agency, whether any such license, certificate, or
23 registration was suspended or revoked, whether charges or complaints are
24 pending against such ANY license, certificate, or registration, and whether
25 disciplinary action was taken;

26 (d) The length of time and the locations where the applicant has
27 been engaged in the practice of audiology; AND

1 (e) If the audiologist will provide services to patients, proof of
2 ~~having~~ THAT THE AUDIOLOGIST HAS obtained malpractice coverage in an
3 amount determined as appropriate by the director.

4 (5) (a) AN APPLICANT OR LICENSEE SHALL REPORT TO THE
5 DIRECTOR EVERY JUDGMENT OR SETTLEMENT OR OTHER DISPOSITION OF
6 ANY JUDGMENT OR ACTION AGAINST THE LICENSEE INVOLVING
7 MALPRACTICE OR IMPROPER PRACTICE OF AUDIOLOGY, WHETHER
8 OCCURRING IN COLORADO OR IN ANY OTHER JURISDICTION.

9 (b) (I) AN APPLICANT OR LICENSEE SHALL MAKE THE REPORT
10 REQUIRED UNDER THIS SUBSECTION (5) WITHIN THIRTY DAYS AFTER THE
11 DATE OF EXECUTION OF THE SETTLEMENT AGREEMENT OR THE DATE OF
12 ENTRY OF FINAL JUDGMENT, AS THE CASE MAY BE.

13 (II) A LICENSEE WHO WAS LICENSED AS OF THE EFFECTIVE DATE OF
14 THIS PARAGRAPH (b) SHALL REPORT A MALPRACTICE SETTLEMENT
15 AGREEMENT OR JUDGMENT DATED WITHIN THIRTY DAYS AFTER THE
16 EFFECTIVE DATE OF THIS PARAGRAPH (b).

17 (c) IN ANY REPORT MADE UNDER THIS SUBSECTION (5), THE
18 APPLICANT OR LICENSEE SHALL INCLUDE THE NAME OF THE COURT, THE
19 CASE NUMBER, AND THE NAMES OF ALL PARTIES TO THE ACTION.

20 ~~(4)~~ (6) A student enrolled in a course of study at an accredited
21 institution and practicing audiology under the supervision of a licensed
22 audiologist ~~shall be~~ IS exempt from ~~the requirements of~~ this section.

23 **12-32.5-203. [Formerly 12-5.5-101.6] Title protection - use of**
24 **title.** (1) It ~~shall be~~ IS unlawful for any person to use the following titles
25 unless HE OR SHE IS licensed pursuant to section ~~12-5.5-102~~ 12-32.5-202:
26 "Audiologist", "hearing and balance audiologist", "vestibular
27 audiologist", or any other title or abbreviation that implies that ~~such~~ THE

1 person is an audiologist.

2 (2) A LICENSEE WHO HAS A DOCTORATE DEGREE IN AUDIOLOGY IS
3 ENTITLED TO USE THE TITLE "DOCTOR" OR "DR." WHEN ACCOMPANIED BY
4 THE WORDS "AUDIOLOGIST" OR "AUDIOLOGY" OR THE LETTERS "AU.D.",
5 "PH.D.", "SC.D.", OR ANY OTHER APPROPRIATE DEGREE DESIGNATION, AND
6 TO USE THE TITLE "DOCTOR OF AUDIOLOGY".

7 PART 3

8 HEARING AID PROVIDERS - SPECIFIC PROVISIONS

9 **12-32.5-301. [Formerly 12-5.5-201] Definitions.** As used in this
10 ~~part 2~~ PART 3, unless the context otherwise requires:

11 (1) "APPLICANT" MEANS A PERSON APPLYING TO THE DIVISION FOR
12 LICENSURE AS A HEARING AID PROVIDER UNDER THIS PART 3.

13 ~~(1) "Director" means the director of registrations.~~

14 ~~(2) "Division" means the division of registrations in the~~
15 ~~department of regulatory agencies.~~

16 ~~(3) "Licensed hearing aid provider" means a person engaged in the~~
17 ~~practice of dispensing, fitting, or dealing in hearing aids, who has passed~~
18 ~~an examination conducted under the auspices of the national board for~~
19 ~~certification in hearing instrument sciences (NBC-HIS) or an equivalent~~
20 ~~examination as determined by the director, except that a licensed hearing~~
21 ~~aid provider who is engaged in the practice of dispensing, fitting, or~~
22 ~~dealing in hearing aids on or before July 1, 1995, shall demonstrate, not~~
23 ~~later than July 1, 1997, that he or she has passed such an examination.~~

24 ~~(4) (2) "Licensee" means a licensed hearing aid provider who~~
25 ~~holds a current license from the division of registrations pursuant to this~~
26 ~~part 2 ARTICLE.~~

27 **12-32.5-302. [Formerly 12-5.5-201.5] Title protection.** It shall

1 ~~be~~ IS unlawful for any person to use the title "hearing aid provider" or
2 "hearing aid dispenser" unless HE OR SHE IS licensed AS A HEARING AID
3 PROVIDER pursuant to this ~~part 2~~ ARTICLE.

4 **12-32.5-303. [Formerly 12-5.5-202] License required -**
5 **application - bond.** (1) A hearing aid provider shall ~~be licensed~~ OBTAIN
6 A LICENSE pursuant to this ~~part 2~~ SECTION before ~~selling or negotiating to~~
7 ~~sell, directly or indirectly, any hearing device for the hearing impaired~~
8 ENGAGING IN THE PRACTICE OF DISPENSING, FITTING, OR DEALING IN
9 HEARING AIDS unless ~~such~~ THE provider holds a current license AS AN
10 AUDIOLOGIST pursuant to ~~part 1~~ PART 2 of this article. Upon licensing, the
11 ~~licensed hearing aid provider shall be given~~ DIVISION SHALL GIVE A
12 LICENSEE a license bearing a unique license number. The licensed hearing
13 aid provider shall include the license number on all written contracts and
14 receipts, as required pursuant to section ~~12-5.5-302 (1) (e) (III) (B).~~ A
15 ~~licensed hearing aid provider who is also an audiologist and is licensed~~
16 ~~only under part 1 of this article shall include the license number issued~~
17 ~~pursuant to such part 1 on all written contracts and receipts~~ 12-32.5-401
18 (1) (d) (III) (B).

19 (2) (a) A hearing aid provider desiring to be licensed pursuant to
20 this section shall submit to the director an application containing the
21 information described in this subsection (2) and shall pay a fee ~~to be~~
22 determined and collected pursuant to section 24-34-105, C.R.S. The
23 director may deny an application for licensure if the required information
24 is not submitted or if an applicant's trainee license, issued pursuant to
25 section ~~12-5.5-202.5~~ 12-32.5-304, has been revoked. If an applicant or
26 licensee does not notify the director of a change in the submitted
27 information within thirty days after such change, ~~such~~ THAT failure shall

1 ~~be~~ IS cause for disciplinary action.

2 (b) AN APPLICANT SHALL INCLUDE the following information ~~shall~~
3 ~~be included~~ in every application for licensure under this section:

4 (I) The name, business address, and business telephone number
5 of the hearing aid provider;

6 (II) The location of each office from which sales of hearing
7 devices for the hearing impaired are intended to be made;

8 (III) Proof of having obtained a surety bond or an alternative, as
9 authorized in section 11-35-101, C.R.S., in an amount not to exceed ten
10 thousand dollars. ~~Such~~ THE surety bond ~~shall~~ MUST require the surety to
11 provide notice to the director within thirty days after receipt of a claim or
12 payment made from ~~such~~ THE surety bond or if the bond is cancelled for
13 any reason.

14 (IV) A statement indicating whether any hearing aid provider
15 license, certificate, or registration was issued to the ~~hearing aid provider~~
16 APPLICANT by a local, state, or national health care agency; whether ~~any~~
17 ~~such~~ THE license, certificate, or registration was suspended or revoked;
18 whether charges or complaints are pending against ~~such~~ THE license,
19 certificate, or registration; and whether disciplinary action was taken.

20 (3) IN ORDER TO QUALIFY FOR LICENSURE UNDER THIS SECTION, A
21 PERSON MUST PASS AN APPROPRIATE ENTRY-LEVEL EXAMINATION, AS
22 DETERMINED BY THE DIRECTOR, AND EITHER:

23 (a) COMPLETE AT LEAST SIX MONTHS OF TRAINING WITH AN
24 AUDIOLOGIST OR LICENSED HEARING AID PROVIDER, PURSUANT TO
25 SECTION 12-32.5-304; OR

26 (b) HAVE AN ASSOCIATE'S DEGREE IN HEARING AID FITTING AND
27 DISPENSING THAT, AT THE TIME THE APPLICANT WAS ENROLLED AND

1 GRADUATED, WAS OFFERED BY AN INSTITUTION OF HIGHER EDUCATION OR
2 A POSTSECONDARY EDUCATION PROGRAM ACCREDITED BY A NATIONAL,
3 REGIONAL, OR STATE AGENCY RECOGNIZED BY THE UNITED STATES
4 DEPARTMENT OF EDUCATION, OR A PROGRAM APPROVED BY THE
5 DIRECTOR.

6 **12-32.5-304. [Formerly 12-5.5-202.5] Trainee license -**
7 **expiration - rules.** (1) A person training to be a licensed hearing aid
8 provider shall submit to the director an application containing the
9 information described in subsection (2) of this section and shall pay a
10 trainee ~~or associate~~ license fee ~~to be~~ determined and collected pursuant
11 to section 24-34-105, C.R.S.

12 (2) The director shall issue a trainee license to any ~~applicant~~
13 PERSON who provides the following to the director's satisfaction:

14 (a) The information required in section ~~12-5.5-202 (2) (b) (I) and~~
15 ~~(2) (b) (IV)~~ 12-32.5-303 (2) (b) (I) AND (2) (b) (IV); and

16 (b) Verification of training to become a licensed hearing aid
17 provider, which training is under the direct and personal supervision of
18 ~~an~~ A LICENSED audiologist or a licensed hearing aid provider whose
19 license is in good standing. ~~For the purposes of this section, "audiologist"~~
20 ~~has the same meaning as set forth in section 12-5.5-101 (1).~~

21 (3) During the training period:

22 (a) A trainee ~~or associate shall not~~ IS NOT PERMITTED TO sell
23 hearing aids independently of the supervising licensed hearing aid
24 provider or audiologist;

25 (b) A trainee shall inform all consumers of his or her status as a
26 trainee; and

27 (c) A supervising ~~registered~~ LICENSED hearing aid provider or

1 LICENSED audiologist ~~shall retain~~ RETAINS ultimate responsibility for the
2 care provided by the trainee ~~or associate~~ and ~~shall~~ WILL be subject to
3 disciplinary action by the director for failure to provide adequate
4 supervision.

5 (4) The director shall promulgate all rules necessary for the
6 enforcement and administration of this section, including rules that

7 (a) ~~Establish the time period during which a trainee license issued~~
8 ~~under this section shall be valid;~~

9 (b) ~~specify the components of the training required to be~~
10 ~~completed by trainees. and associates.~~

11 (5) Any person issued a trainee license ~~including an associate,~~
12 under this section is subject to the disciplinary provisions of section
13 ~~12-5.5-205~~ 12-32.5-106.

14 (6) A TRAINEE LICENSE ISSUED UNDER THIS SECTION EXPIRES TWO
15 YEARS AFTER THE DATE OF ISSUANCE AND IS NOT RENEWABLE.

16 (7) THE DIRECTOR MAY DENY AN APPLICATION FOR A SECOND OR
17 ANY SUBSEQUENT TRAINEE LICENSE TO A PERSON WHO FAILS TO TAKE, OR
18 DOES NOT PASS, AN EXAMINATION FOR LICENSURE AS A HEARING AID
19 PROVIDER DESCRIBED UNDER SECTION 12-32.5-303 (3).

20 (8) AN ASSOCIATE LICENSE ISSUED UNDER FORMER SECTION
21 12-5.5-202.5, AS IT EXISTED PRIOR TO PASSAGE OF HOUSE BILL 12-_____,
22 ENACTED IN 2012, REMAINS VALID UNTIL IT EXPIRES. THE DIRECTOR SHALL
23 NOT RENEW, OR ISSUE NEW, ASSOCIATE LICENSES.

24 **12-32.5-305. [Formerly 12-5.5-206.7] Application of part. The**
25 ~~provisions of This part 2 shall~~ PART 3 DOES not apply to the dispensing of
26 hearing aids outside of this state, except as provided in section ~~12-5.5-205~~
27 ~~(2)~~ 12-32.5-106 (5).

1 PART 4

2 DECEPTIVE TRADE PRACTICES

3 **12-32.5-401. [Formerly 12-5.5-302] Deceptive trade practices.**

4 (1) In addition to any other deceptive trade practices under section
5 6-1-105, C.R.S., ~~or this part 3~~, a licensed hearing aid provider or ~~with~~
6 ~~respect to only paragraph (a) of this subsection (1)~~, an audiologist
7 engages in a deceptive trade practice when ~~such~~ THE HEARING AID
8 provider OR AUDIOLOGIST:

9 (a) Fails to deliver to each person supplied with a hearing aid a
10 receipt that:

11 (I) Bears the business address of the hearing aid provider or
12 audiologist together with specifications as to the make and serial number
13 of the hearing aid furnished and the full terms of the sale clearly stated.
14 If a hearing aid that is not new is sold, ~~the~~ ITS container ~~thereof~~ and the
15 receipt ~~shall~~ MUST be clearly marked as "used" or "reconditioned",
16 whichever is applicable, within the terms of the guarantee, if any.

17 (II) Bears, in no smaller type than the largest used in the body of
18 the receipt, in substance, a provision that the purchaser has been advised
19 at the outset of the purchaser's relationship with the hearing aid provider
20 or audiologist that any examination or representation made by a hearing
21 aid provider or audiologist in connection with the practice of dispensing,
22 fitting, or dealing in hearing aids is not an examination, diagnosis, or
23 prescription by a person licensed to practice medicine in this state and,
24 therefore, must not be regarded as medical opinion or advice;

25 (III) Bears, in no smaller type than the largest used in the body of
26 the receipt, a provision indicating that hearing aid providers and
27 audiologists are regulated by the division of registrations within the

1 department of regulatory agencies;

2 (IV) Bears a provision labeled "warranty" in which the exact
3 warranty terms and periods available from the manufacturer are
4 documented, or includes an original or photocopy of the original
5 manufacturer's warranty with the receipt;

6 ~~(b) Sells a hearing aid to a child under eighteen years of age
7 without receiving documentation that the child has been examined by a
8 licensed physician and an audiologist within six months prior to the
9 fitting;~~

10 ~~(e)~~ (b) (I) Fails to receive from a licensed physician, ~~prior to~~
11 BEFORE dispensing, fitting, or dealing in a hearing aid to any person, a
12 written prescription or recommendation that specifies that the person is
13 in fact in need of a hearing aid; except that any person eighteen years of
14 age or older who objects to medical evaluation on the basis of religious
15 or personal beliefs may waive the requirement by delivering to the
16 ~~registered~~ hearing aid provider a written waiver;

17 (II) Sells, provides, dispenses, adjusts, provides training or
18 teaching in regard to, or otherwise services cochlear implants unless ~~such~~
19 ~~licensed~~ THE hearing aid provider is an audiologist or a physician;

20 ~~(d)~~ (c) Fails to recommend in writing prior to fitting or dispensing
21 a hearing aid that the best interests of the prospective user would be
22 served by consulting a licensed physician specializing in diseases of the
23 ear, or any licensed physician, if any of the following conditions exists:

24 (I) Visible congenital or traumatic deformity of the ear;

25 (II) History of or active drainage of the ear within the previous
26 ninety days;

27 (III) History of sudden or rapidly progressive hearing loss;

1 (IV) Acute or chronic dizziness;

2 (V) Unilateral hearing loss of sudden onset within the previous
3 ninety days;

4 (VI) Audiometric air-bone gap equal to or greater than fifteen
5 decibels at 500 hertz (Hz), 1,000 Hz, and 2,000 Hz;

6 (VII) Visible evidence of significant cerumen accumulation on or
7 a foreign body in the ear canal;

8 (VIII) Pain or discomfort in the ear;

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

11 (I) The buyer shall have the right to cancel the purchase for any
12 reason before the expiration of the rescission period by giving or mailing
13 written notice of cancellation to the seller and presenting the hearing aid
14 to the dealer, unless the hearing aid has been lost or significantly damaged
15 beyond repair while in the buyer's possession and control. The thirty-day
16 rescission period shall be tolled for any period during which ~~a licensed~~ AN
17 AUDIOLOGIST OR hearing aid provider takes possession or control of a
18 hearing aid after its original delivery.

19 (II) The buyer, upon cancellation, is entitled to receive a full
20 refund of any payment made for the hearing aid within thirty days after
21 return of the hearing aid to the seller, unless the hearing aid was
22 significantly damaged beyond repair while the hearing aid was in the
23 buyer's possession and control; except that, if the hearing aid is returned
24 for any reason other than a defect in ~~such~~ THE hearing aid, the seller may
25 retain an itemized amount to cover the minimum costs of materials used
26 by the ~~licensed~~ hearing aid provider or audiologist and a manufacturer's
27 return fee, but ~~such~~ THE amount may not be greater than five percent of

1 the total charge for the hearing aid.

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

6 **THE BUYER HAS THE RIGHT TO CANCEL THIS**
7 **PURCHASE FOR ANY REASON AT ANY TIME**
8 **PRIOR TO 12 MIDNIGHT ~~OF~~ ON THE 30TH**
9 **CALENDAR DAY AFTER RECEIPT OF THE**
10 **HEARING AID BY GIVING OR MAILING THE**
11 **SELLER WRITTEN NOTICE OF CANCELLATION**
12 **AND BY RETURNING THE HEARING AID,**
13 **UNLESS THE HEARING AID HAS BEEN**
14 **SIGNIFICANTLY DAMAGED BEYOND REPAIR**
15 **WHILE THE HEARING AID WAS IN THE BUYER'S**
16 **CONTROL. BY LAW, THE SELLER IS ALLOWED**
17 **TO RETAIN AN ITEMIZED AMOUNT, NOT TO**
18 **EXCEED FIVE PERCENT OF THE TOTAL**
19 **CHARGE FOR THE HEARING AID, TO COVER**
20 **THE COSTS OF A MANUFACTURER'S RETURN**
21 **FEE AND THE MINIMUM COSTS OF MATERIALS**
22 **USED BY THE ~~REGISTERED~~ HEARING AID**
23 **PROVIDER OR AUDIOLOGIST, UNLESS THE**
24 **HEARING AID IS RETURNED BECAUSE IT IS**
25 **DEFECTIVE.**

26 (B) The written contract or receipt provided to the buyer shall also
27 contain a statement, in print size no smaller than ten-point type, that the

1 sale is void and unenforceable if the hearing aid being purchased is not
2 delivered to the consumer within thirty days after the date the written
3 contract is signed or the receipt is issued, whichever occurs later. The
4 written contract or receipt shall also include the ~~licensed~~ hearing aid
5 provider's license number and a statement that the ~~licensed~~ hearing aid
6 provider shall promptly refund all moneys paid for the purchase of a
7 hearing aid if it is not delivered to the consumer within ~~such~~ THE
8 thirty-day period. ~~Such~~ THIS statement is not subject to waiver MAY NOT
9 BE WAIVED by the buyer.

10 (IV) A refund request form ~~shall~~ MUST be attached to each receipt
11 and ~~shall~~ contain the information in subparagraph (I) of paragraph (a) of
12 this subsection (1) and the statement, in all capital letters of no less than
13 ten-point, bold-faced type: "Refund request - this form must be
14 postmarked by _____ (Date to be filled in). No refund will be given
15 until the hearing aid or hearing aids are returned to the seller." A space for
16 the buyer's address, telephone number, and signature ~~shall~~ MUST be
17 provided. The buyer ~~shall only be~~ IS required ONLY to sign, list the buyer's
18 current address and telephone number, and mail the refund request form
19 to the seller. If the hearing aid is sold in the buyer's home, at the buyer's
20 option, the seller ~~shall be~~ IS responsible for arranging the return of the
21 hearing aid.

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

1 service is being provided by persons trained in medicine or that the
2 ~~hearing aid~~ dealer's service has been recommended by the state when ~~such~~
3 THAT is not the case; or when that would be false or misleading;

4 ~~(g)~~ (f) Directly or indirectly gives or offers to give or permits or
5 causes to be given money or anything of value to any person who advises
6 another in a professional capacity as an inducement to influence ~~such~~ THE
7 person or have ~~such~~ THE person influence others to purchase or contract
8 to purchase products sold or offered for sale by AN AUDIOLOGIST OR a
9 ~~licensed~~ hearing aid provider or influences persons to refrain from
10 dealing in the products of competitors;

11 ~~(h)~~ (g) Dispenses a hearing aid to a person who has not been given
12 tests utilizing appropriate established procedures and instrumentation in
13 the fitting of hearing aids, except in cases of selling replacement hearing
14 aids within one year after the date of the original purchase;

15 ~~(i)~~ (h) Makes a false or misleading statement of fact concerning
16 goods or services or the buyer's right to cancel with the intention or effect
17 of deterring or preventing the buyer from exercising the buyer's right to
18 cancel;

19 ~~(j)~~ (i) Charges, collects, or recovers any cost or fee for any good
20 or service that has been represented by the ~~licensed~~ hearing aid provider
21 as free.

22 (2) A HEARING AID PROVIDER ENGAGES IN A DECEPTIVE TRADE
23 PRACTICE WHEN THE PROVIDER SELLS A HEARING AID TO A CHILD UNDER
24 EIGHTEEN YEARS OF AGE WITHOUT RECEIVING DOCUMENTATION THAT THE
25 CHILD HAS BEEN EXAMINED BY A LICENSED PHYSICIAN AND AN
26 AUDIOLOGIST WITHIN SIX MONTHS PRIOR TO THE FITTING.

27 **12-32.5-402. [Formerly 12-5.5-304] Application of part.**

1 (1) THIS PART 4 APPLIES TO ANY AUDIOLOGIST OR HEARING AID PROVIDER
2 WHO DISPENSES HEARING AIDS IN THIS STATE.

3 (2) ~~The provisions of This part 3 shall~~ PART 4 DOES not apply to
4 the dispensing of hearing aids outside of this state so long as the
5 transaction is either ~~in conformance with~~ CONFORMS TO this ~~part 3~~ PART
6 4 or ~~in conformance with~~ TO the applicable laws and rules of the
7 jurisdiction in which the transaction takes place.

8 **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **amend**
9 (43) introductory portion and (50.5) introductory portion; **repeal** (43) (c);
10 and **add** (50.5) (e) as follows:

11 **24-34-104. General assembly review of regulatory agencies**
12 **and functions for termination, continuation, or reestablishment.**

13 (43) The following agencies, functions, or both, ~~shall~~ terminate on July
14 1, 2012:

15 (c) ~~The licensing of audiologists and hearing aid providers by the~~
16 ~~division of registrations, pursuant to article 5.5 of title 12, C.R.S.;~~

17 (50.5) The following agencies, functions, or both, ~~shall~~ terminate
18 on September 1, 2019:

19 (e) THE LICENSING OF AUDIOLOGISTS AND HEARING AID PROVIDERS
20 BY THE DIVISION OF REGISTRATIONS, PURSUANT TO ARTICLE 32.5 OF TITLE
21 12, C.R.S.

22 **SECTION 4.** In Colorado Revised Statutes, 6-1-105, **amend** (1)
23 (yy) as follows:

24 **6-1-105. Deceptive trade practices.** (1) A person engages in a
25 deceptive trade practice when, in the course of such person's business,
26 vocation, or occupation, such person:

27 (yy) Violates any provision of ~~part 3 of article 5.5~~ PART 4 OF

1 ARTICLE 32.5 of title 12, C.R.S.;

2 SECTION 5. In Colorado Revised Statutes, **amend** 6-1-114 as
3 follows:

4 **6-1-114. Criminal penalties.** Upon a first conviction, any person
5 who promotes a pyramid promotional scheme in this state or who violates
6 any provision of ~~part 3~~ PART 4 of article ~~5.5~~ 32.5 of title 12, C.R.S., or
7 section 6-1-717 is guilty of a class 1 misdemeanor, as defined in section
8 18-1.3-501, C.R.S., and, upon a second or subsequent conviction of ~~part~~
9 ~~3~~ PART 4 of article ~~5.5~~ 32.5 of title 12, C.R.S., is guilty of a class 6 felony,
10 as defined in section 18-1.3-401, C.R.S.

11 SECTION 6. In Colorado Revised Statutes, 6-1-501, **amend** (7)
12 (a) as follows:

13 **6-1-501. Definitions.** As used in this part 5, unless the context
14 otherwise requires:

15 (7) "Facilitative device" means a device that has a retail price
16 equal to or greater than one hundred dollars and that is exclusively
17 designed and manufactured to assist a person with a disability with such
18 person's specific disability, through the use of facilitative technology, to
19 be self-sufficient or to maintain or improve that person's quality of life.

20 "Facilitative device" does not include wheelchairs as that term is defined
21 in section 6-1-402 (17). "Facilitative device" does include the following:

22 (a) Telephone communication devices for the hearing impaired
23 and other facilitative listening devices, except for hearing aids as defined
24 in section ~~12-5.5-301~~ (4) 12-32.5-101 (1) (f), C.R.S., and cochlear
25 implants as defined in section ~~12-5.5-301~~ (2) 12-32.5-101 (1) (b), C.R.S.;

26 SECTION 7. In Colorado Revised Statutes, 10-16-104, **amend**
27 (19) (b) introductory portion as follows:

1 **10-16-104. Mandatory coverage provisions - definitions.**
2 **(19) Hearing aids for children - legislative declaration.** (b) Any health
3 benefit plan that provides hospital, surgical, or medical expense
4 insurance, except supplemental policies covering a specified disease or
5 other limited benefit, shall provide coverage for hearing aids for minor
6 children who have a hearing loss that has been verified by a physician
7 licensed pursuant to article 36 of title 12, C.R.S., and by an audiologist
8 licensed pursuant to section ~~12-5.5-102~~ 12-32.5-202 C.R.S. The hearing
9 aids ~~shall~~ MUST be medically appropriate to meet the needs of the child
10 according to accepted professional standards. Coverage ~~shall include~~
11 INCLUDES the purchase of the following:

12 **SECTION 8.** In Colorado Revised Statutes, 11-35-101, **amend**
13 (1) as follows:

14 **11-35-101. Alternatives to surety bonds permitted -**
15 **requirements.** (1) The requirement of a surety bond as a condition to
16 licensure or authority to conduct business or perform duties in this state
17 provided in sections ~~12-5.5-202~~ 12-32.5-303 (2) (b), 12-6-111, 12-6-112,
18 12-6-112.2, 12-6-512, 12-6-513, 12-14-124 (1), 12-59-115 (1), 12-60-509
19 (2.5) (b), 12-61-907, 33-4-101 (1), 33-12-104 (1), 35-55-104 (1),
20 37-91-107 (2) and (3), 38-29-119 (2), 39-21-105 (4), 39-27-104 (2) (a),
21 (2) (b), (2) (c), (2) (d), (2) (e), (2.1) (a), (2.1) (b), (2.1) (c), (2.5) (a), and
22 (2.5) (b), 39-28-105 (1), 42-6-115 (3), and 42-7-301 (6), C.R.S., may be
23 satisfied by a savings account or deposit in or a certificate of deposit
24 issued by a state or national bank doing business in this state or by a
25 savings account or deposit in or a certificate of deposit issued by a state
26 or federal savings and loan association doing business in this state. ~~Such~~
27 THE savings account, deposit, or certificate of deposit shall be in the

1 amount specified by statute, if any, and shall be assigned to the
2 appropriate state agency for the use of the people of the state of Colorado.
3 The aggregate liability of the bank or savings and loan association shall
4 in no event exceed the amount of the deposit. For the purposes of the
5 sections referred to in this section, "bond" includes the savings account,
6 deposit, or certificate of deposit authorized by this section.

7 **SECTION 9.** In Colorado Revised Statutes, 24-34-110, **amend**
8 (3) (a) (I) and (3) (a) (II) as follows:

9 **24-34-110. Medical transparency act of 2010 - disclosure of**
10 **information about health care licensees - fines - rules - short title -**
11 **legislative declaration.** (3) (a) As used in this section, "applicant" means
12 a person applying for a new, active license, certification, or registration
13 or to renew, reinstate, or reactivate an active license, certification, or
14 registration to practice:

15 (I) Audiology pursuant to ~~part 1 of article 5.5~~ ARTICLE 32.5 of title
16 12, C.R.S.;

17 (II) As a licensed hearing aid provider pursuant to ~~part 2 of article~~
18 ~~5.5~~ ARTICLE 32.5 of title 12, C.R.S.;

19 **SECTION 10. Effective date.** This act takes effect July 1, 2012.

20 **SECTION 11. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety.