

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 13-0806.01 Kristen Forrestal x4217

SENATE BILL 13-238

SENATE SPONSORSHIP

Tochtrop,

HOUSE SPONSORSHIP

Ryden,

Senate Committees

Health & Human Services

Appropriations

House Committees

Business, Labor, Economic, & Workforce
Development
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF HEARING AID PROVIDERS BY THE**
102 **DIVISION OF PROFESSIONS AND OCCUPATIONS WITHIN THE**
103 **DEPARTMENT OF REGULATORY AGENCIES, AND, IN CONNECTION**
104 **THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

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

Colorado has regulated hearing aid providers since 1995. The regulation and subsequent licensure of hearing aid providers has been

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.*

HOUSE
3rd Reading Unamended
May 6, 2013

HOUSE
2nd Reading Unamended
May 3, 2013

SENATE
3rd Reading Unamended
April 29, 2013

SENATE
Amended 2nd Reading
April 26, 2013

renewed through sunset reviews as recommended by the department of regulatory agencies (department). Notwithstanding the recommendation by the department in the 2011 sunset report, the general assembly did not enact legislation to continue the licensure of hearing aid providers, and the state regulation of hearing aid providers expired on July 1, 2012.

The bill:

- ! Authorizes the division of professions and occupations within the department to regulate hearing aid providers;
- ! Requires hearing aid providers to obtain a license to practice as hearing aid providers in this state and sets forth the requirements for obtaining a license;
- ! Establishes requirements relating to the sale and delivery of hearing aids by hearing aid providers; and
- ! Establishes grounds and procedures for disciplining hearing aid providers.

The regulation of hearing aid providers is subject to sunset review and repeal on September 1, 2020.

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

2 **SECTION 1.** In Colorado Revised Statutes, **recreate and**
 3 **reenact, with amendments,** article 5.5 of title 12 as follows:

4 **ARTICLE 5.5**

5 **Hearing Aid Providers**

6 PART 1

7 GENERAL PROVISIONS

8 **12-5.5-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
 9 CONTEXT OTHERWISE REQUIRES:

10 (1) "APPLICANT" MEANS A PERSON APPLYING FOR LICENSURE
 11 UNDER THIS ARTICLE.

12 (2) "APPRENTICE" MEANS A PERSON WHO HOLDS A CURRENT
 13 LICENSE AS AN APPRENTICE PURSUANT TO THIS ARTICLE.

14 —
 15 (3) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OR THE
 16 DIRECTOR'S DESIGNEE.

1 (4) "DISPENSE", WITH REGARD TO A HEARING AID, MEANS TO SELL
2 OR TRANSFER TITLE, POSSESSION, OR THE RIGHT TO USE BY LEASE,
3 BAILMENT, OR ANY OTHER METHOD. THE TERM DOES NOT APPLY TO
4 WHOLESALE TRANSACTIONS WITH DISTRIBUTORS OR DEALERS.

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

7 (6) (a) "HEARING AID" MEANS A WEARABLE DEVICE DESIGNED OR
8 OFFERED TO BE CUSTOMIZED FOR THE PURPOSE OF COMPENSATING FOR
9 IMPAIRED HUMAN HEARING AND INCLUDES:

10 (I) ANY PARTS, ATTACHMENTS, OR ACCESSORIES TO THE
11 INSTRUMENT OR DEVICE, AS DEFINED IN RULES ADOPTED BY THE
12 DIRECTOR; AND

13 (II) EAR MOLDS, EXCLUDING BATTERIES AND CORDS.

14 (b) THE TERM DOES NOT INCLUDE A SURGICALLY IMPLANTED
15 HEARING DEVICE.

16 (7) "HEARING AID PROVIDER" MEANS A PERSON ENGAGED IN THE
17 PRACTICE OF DISPENSING, FITTING, OR DEALING IN HEARING AIDS.

18 (8) "LICENSEE" MEANS A PERSON WHO HOLDS A CURRENT LICENSE
19 AS A HEARING AID PROVIDER PURSUANT TO THIS ARTICLE.

20 (9) "PRACTICE OF DISPENSING, FITTING, OR DEALING IN HEARING
21 AIDS" INCLUDES:

22 (a) SELECTING AND ADAPTING HEARING AIDS FOR SALE;

23 (b) TESTING HUMAN HEARING FOR PURPOSES OF SELECTING AND
24 ADAPTING HEARING AIDS FOR SALE; AND

25 (c) MAKING IMPRESSIONS FOR EAR MOLDS AND COUNSELING AND
26 INSTRUCTING PROSPECTIVE USERS FOR PURPOSES OF SELECTING, FITTING,
27 ADAPTING, OR SELLING HEARING AIDS.

1 (10) "SURGICALLY IMPLANTED HEARING DEVICE" MEANS A DEVICE
2 THAT IS DESIGNED TO PRODUCE USEFUL HEARING SENSATIONS TO A
3 PERSON WITH A HEARING IMPAIRMENT AND THAT HAS, AS ONE OR MORE
4 COMPONENTS, A UNIT THAT IS SURGICALLY IMPLANTED INTO THE EAR,
5 SKULL, OR OTHER INTERIOR PART OF THE BODY. THE TERM INCLUDES ANY
6 ASSOCIATED UNIT THAT MAY BE WORN ON THE BODY.

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8 **12-5.5-102. Scope of article - exemption.** (1) THIS ARTICLE DOES
9 NOT APPLY TO PERSONS WHO ARE:

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

14 (b) ENGAGED IN THE PRACTICE OF AUDIOLOGY OR THE PRACTICE
15 OF DISPENSING, FITTING, OR DEALING IN HEARING AIDS IN THE DISCHARGE
16 OF THEIR OFFICIAL DUTIES IN THE SERVICE OF THE UNITED STATES ARMED
17 FORCES, PUBLIC HEALTH SERVICE, COAST GUARD, OR VETERANS
18 ADMINISTRATION.

19 (2) THIS ARTICLE DOES NOT APPLY TO THE WHOLESALE SALES OF
20 HEARING AIDS.

21 (3) NOTHING IN THIS ARTICLE AUTHORIZES A HEARING AID
22 PROVIDER TO ENGAGE IN THE PRACTICE OF MEDICINE AS DEFINED IN
23 SECTION 12-36-106.

24 (4) NOTHING IN THIS ARTICLE PROHIBITS A BUSINESS OR LICENSEE
25 FROM:

26 (a) HIRING AND EMPLOYING UNLICENSED STAFF TO ASSIST WITH
27 CONDUCTING BUSINESS PRACTICES AND TO ASSIST IN DISPENSING HEARING

1 AIDS IF THE UNLICENSED STAFF ARE PROPERLY SUPERVISED BY A LICENSEE;
2 EXCEPT THAT THE EMPLOYEES MAY NOT CONDUCT HEARING TESTS OR
3 PERFORM THE INITIAL FITTING OF HEARING AIDS; OR

4 (b) PERFORMING TASKS THAT WOULD BE PERMISSIBLE IF THE
5 LICENSEE WAS NOT LICENSED.

6 (5) THIS ARTICLE DOES NOT APPLY TO THE DISPENSING OF HEARING
7 AIDS OUTSIDE OF THIS STATE.

8 (6) AN AUDIOLOGIST LICENSED PURSUANT TO ARTICLE 29.9 OF THIS
9 TITLE IS NOT REQUIRED TO OBTAIN A LICENSE PURSUANT TO THIS ARTICLE.

10 **12-5.5-103. Scope of practice.** (1) THE SCOPE OF PRACTICE FOR
11 A HEARING AID PROVIDER INCLUDES:

12 (a) ELICITING PATIENT CASE HISTORIES, INCLUDING MEDICAL,
13 OTOLOGICAL, PHARMACOLOGICAL, OCCUPATIONAL, AND PREVIOUS
14 AMPLIFICATION HISTORY AND PATIENT ATTITUDES AND EXPECTATIONS;

15 (b) ADMINISTERING OTOSCOPY FOR THE PURPOSE OF IDENTIFYING
16 POSSIBLE OTOLOGICAL CONDITIONS, INCLUDING CONDITIONS DESCRIBED
17 IN SECTION 12-5.5-301 (1) (b), THAT MAY INDICATE THE NEED FOR
18 MEDICAL REFERRAL OR THAT MAY HAVE A BEARING ON NEEDED
19 REHABILITATIVE MEASURES, OUTCOMES, OR RECOMMENDATIONS;

20 (c) ADMINISTERING AND INTERPRETING TESTS OF HUMAN HEARING,
21 INCLUDING APPROPRIATE OBJECTIVE AND SUBJECTIVE METHODOLOGY AND
22 MEASURES;

23 (d) DETERMINING A PERSON'S CANDIDACY FOR HEARING AIDS OR
24 HEARING ASSISTIVE DEVICES, REFERRING THE PERSON FOR SURGICALLY
25 IMPLANTED HEARING DEVICE EVALUATION, OR RECOMMENDING OTHER
26 CLINICAL, REHABILITATIVE, OR MEDICAL INTERVENTIONS;

27 (e) PRESCRIBING, SELECTING, AND FITTING APPROPRIATE HEARING

1 INSTRUMENTS AND ASSISTIVE DEVICES, INCLUDING APPROPRIATE
2 TECHNOLOGY, ELECTROACOUSTIC TARGETS, PROGRAMMING PARAMETERS,
3 AND SPECIAL APPLICATIONS, AS INDICATED;

4 (f) ASSESSING HEARING INSTRUMENT EFFICACY USING
5 APPROPRIATE FITTING VERIFICATION METHODOLOGY, INCLUDING
6 AVAILABLE FITTING VALIDATION METHODS;

7 (g) TAKING EAR IMPRESSIONS AND PREPARING EAR MOLDS FOR
8 HEARING INSTRUMENTS, ASSISTIVE DEVICES, TELECOMMUNICATIONS
9 APPLICATIONS, EAR PROTECTION, AND OTHER RELATED APPLICATIONS;

10 (h) DESIGNING AND MODIFYING EAR MOLDS AND AUDITORY
11 EQUIPMENT TO MEET INDIVIDUAL PATIENT NEEDS;

12 (i) PROVIDING COUNSELING AND AURAL REHABILITATIVE SERVICES
13 IN THE USE AND CARE OF HEARING INSTRUMENTS AND ASSISTIVE DEVICES
14 AND FOR EFFECTIVELY USING COMMUNICATION COPING STRATEGIES AND
15 OTHER APPROACHES TO FOSTER OPTIMAL PATIENT REHABILITATION; AND

16 (j) PROVIDING SUPERVISION AND TRAINING OF THOSE ENTERING
17 THE DISPENSING PROFESSION.

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19 **12-5.5-104. Title protection - use of title.** IT IS UNLAWFUL FOR
20 ANY PERSON TO USE THE TITLE "HEARING AID PROVIDER" OR "HEARING AID
21 DISPENSER" UNLESS HE OR SHE IS LICENSED AS A HEARING AID PROVIDER
22 PURSUANT TO THIS ARTICLE.

23 **12-5.5-105. Repeal of article.** (1) THIS ARTICLE IS REPEALED,
24 EFFECTIVE SEPTEMBER 1, 2020.

25 (2) PRIOR TO THIS REPEAL, THE DEPARTMENT OF REGULATORY
26 AGENCIES SHALL REVIEW THE LICENSING AND SUPERVISORY FUNCTIONS OF
27 THE DIRECTOR AS PROVIDED IN SECTION 24-34-104, C.R.S.

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PART 2
LICENSING

12-5.5-201. License required - application - qualifications.

(1) A HEARING AID PROVIDER SHALL OBTAIN A LICENSE PURSUANT TO THIS SECTION BEFORE ENGAGING IN THE PRACTICE OF DISPENSING, FITTING, OR DEALING IN HEARING AIDS.

(2) (a) AN APPLICANT SHALL SUBMIT AN APPLICATION TO THE DIRECTOR CONTAINING THE INFORMATION DESCRIBED IN THIS SUBSECTION (2) AND SHALL PAY A FEE DETERMINED AND COLLECTED PURSUANT TO SECTION 24-34-105, C.R.S. THE DIRECTOR MAY DENY AN APPLICATION FOR LICENSURE IF THE REQUIRED INFORMATION IS NOT SUBMITTED OR IF AN APPLICANT'S APPRENTICE LICENSE, ISSUED PURSUANT TO SECTION 12-5.5-204, HAS BEEN REVOKED. IF AN APPLICANT OR LICENSEE FAILS TO NOTIFY THE DIRECTOR OF A CHANGE IN THE SUBMITTED INFORMATION WITHIN THIRTY DAYS AFTER THE CHANGE, THE FAILURE IS CAUSE FOR DISCIPLINARY ACTION.

(b) AN APPLICANT SHALL INCLUDE THE FOLLOWING INFORMATION IN EVERY APPLICATION FOR LICENSURE PURSUANT TO THIS SECTION:

(I) THE APPLICANT'S NAME, BUSINESS ADDRESS, AND BUSINESS TELEPHONE NUMBER AND OTHER CONTACT INFORMATION AS DETERMINED BY THE DIRECTOR;

(II) A STATEMENT INDICATING WHETHER:

(A) A HEARING AID PROVIDER LICENSE, CERTIFICATE, OR REGISTRATION WAS ISSUED TO THE APPLICANT BY A LOCAL, STATE, OR NATIONAL HEALTH CARE AGENCY;

(B) THE LICENSE, CERTIFICATE, OR REGISTRATION WAS SUSPENDED OR REVOKED;

1 (C) CHARGES OR COMPLAINTS ARE PENDING AGAINST THE
2 APPLICANT; AND

3 (D) DISCIPLINARY ACTION WAS TAKEN.

4 (3) IN ORDER TO QUALIFY FOR LICENSURE PURSUANT TO THIS
5 SECTION, AN APPLICANT MUST EITHER:

6 (a) HAVE PASSED THE NATIONAL COMPETENCY EXAMINATION OF
7 THE NATIONAL BOARD FOR CERTIFICATION IN HEARING INSTRUMENT
8 SCIENCES (NBC-HIS), UNLESS THE DIRECTOR DETERMINES, BY RULE, THAT
9 THIS EXAMINATION NO LONGER MEETS THE MINIMUM STANDARDS
10 NECESSARY FOR LICENSURE, IN WHICH CASE, ONLY AN EXAMINATION THAT
11 THE APPLICANT PASSED PRIOR TO THE DATE OF THE RULING WILL BE
12 ACCEPTABLE; OR

13 (b) HAVE PASSED AN APPROPRIATE ENTRY-LEVEL EXAMINATION,
14 AS DETERMINED BY THE DIRECTOR, AND:

15 (I) COMPLETED AT LEAST SIX MONTHS OF TRAINING WITH AN
16 AUDIOLOGIST OR LICENSED HEARING AID PROVIDER, PURSUANT TO
17 SECTION 12-5.5-204; OR

18 (II) HAVE AN ASSOCIATE'S DEGREE IN HEARING AID FITTING AND
19 DISPENSING THAT, AT THE TIME THE APPLICANT WAS ENROLLED AND
20 GRADUATED, WAS OFFERED BY AN INSTITUTION OF HIGHER EDUCATION OR
21 A POST-SECONDARY EDUCATION PROGRAM ACCREDITED BY A NATIONAL,
22 REGIONAL, OR STATE AGENCY RECOGNIZED BY THE UNITED STATES
23 DEPARTMENT OF EDUCATION, OR A PROGRAM APPROVED BY THE
24 DIRECTOR.

25 **12-5.5-202. Licensure - certificate - expiration - renewal -**
26 **reinstatement - fees.** (1) (a) THE DIRECTOR SHALL LICENSE ALL
27 APPLICANTS WHO MEET THE REQUIREMENTS FOR LICENSURE IN THIS

1 ARTICLE.

2 (b) THE DIRECTOR SHALL ISSUE OR DENY A LICENSE WITHIN SIXTY
3 DAYS AFTER THE DATE THE APPLICATION IS RECEIVED.

4 (c) THE DIRECTOR SHALL GIVE EACH LICENSEE A LICENSE BEARING
5 A UNIQUE LICENSE NUMBER. THE LICENSEE SHALL INCLUDE THE LICENSE
6 NUMBER ON ALL WRITTEN CONTRACTS AND RECEIPTS.

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

16 **12-5.5-203. Licensure by endorsement - rules.** (1) THE
17 DIRECTOR SHALL ISSUE A LICENSE BY ENDORSEMENT TO PRACTICE AS A
18 HEARING AID PROVIDER IN THIS STATE TO AN INDIVIDUAL WHO POSSESSES
19 AN ACTIVE LICENSE IN GOOD STANDING TO PRACTICE IN THAT PROFESSION
20 IN ANOTHER STATE OR TERRITORY OF THE UNITED STATES OR IN A
21 FOREIGN COUNTRY IF THE APPLICANT:

22 (a) PRESENTS PROOF SATISFACTORY TO THE DIRECTOR THAT THE
23 INDIVIDUAL POSSESSES A VALID LICENSE FROM ANOTHER STATE OR
24 JURISDICTION THAT REQUIRES QUALIFICATIONS SUBSTANTIALLY
25 EQUIVALENT TO THE QUALIFICATIONS FOR LICENSURE IN THIS STATE AND
26 MEETS ALL OTHER REQUIREMENTS FOR LICENSURE PURSUANT TO THIS
27 ARTICLE; AND

1 (b) PAYS THE LICENSURE FEE ESTABLISHED UNDER SECTION
2 12-5.5-201.

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

6 **12-5.5-204. Apprentice license - expiration - rules.** (1) A
7 PERSON TRAINING TO BE A LICENSED HEARING AID PROVIDER SHALL
8 SUBMIT TO THE DIRECTOR AN APPLICATION CONTAINING THE INFORMATION
9 DESCRIBED IN SUBSECTION (2) OF THIS SECTION AND SHALL PAY AN
10 APPRENTICE LICENSE FEE DETERMINED AND COLLECTED PURSUANT TO
11 SECTION 12-5.5-201.

12 (2) ON AND AFTER JUNE 1, 2014, THE DIRECTOR SHALL ISSUE AN
13 APPRENTICE LICENSE TO A PERSON WHO PROVIDES, TO THE DIRECTOR'S
14 SATISFACTION, VERIFICATION OF TRAINING TO BECOME A LICENSED
15 HEARING AID PROVIDER, WHICH TRAINING IS UNDER THE DIRECT
16 SUPERVISION OF A LICENSED HEARING AID PROVIDER WHOSE LICENSE IS IN
17 GOOD STANDING.

18 (3) DURING THE TRAINING PERIOD:

19 (a) AN APPRENTICE IS NOT PERMITTED TO SELL HEARING AIDS
20 INDEPENDENTLY OF THE SUPERVISING LICENSED HEARING AID PROVIDER;

21 (b) A SUPERVISING LICENSED HEARING AID PROVIDER RETAINS
22 ULTIMATE RESPONSIBILITY FOR THE CARE PROVIDED BY THE APPRENTICE
23 AND IS SUBJECT TO DISCIPLINARY ACTION BY THE DIRECTOR FOR FAILURE
24 TO PROVIDE ADEQUATE SUPERVISION.

25 (4) ANY PERSON ISSUED AN APPRENTICE LICENSE UNDER THIS
26 SECTION IS SUBJECT TO:

27 (a) DISCIPLINE UNDER SECTION 12-5.5-402 FOR ENGAGING IN AN

1 ACT THAT CONSTITUTES GROUNDS FOR DISCIPLINE UNDER SECTION
2 12-5.5-501; AND

3 (b) A CEASE-AND-DESIST ORDER UNDER SECTION 12-5.5-403 FOR
4 ENGAGING IN BEHAVIOR SET FORTH IN SECTION 12-5.5-403.

5 (5) AN APPRENTICE LICENSE ISSUED UNDER THIS SECTION IS
6 RENEWABLE AND IS SUBJECT TO SECTION 12-5.5-202 (2), C.R.S.

7 (6) AN ASSOCIATE LICENSE ISSUED PURSUANT TO SECTION
8 12-5.5-202.5 AS IT EXISTED PRIOR TO ITS REPEAL IN 2012 REMAINS VALID
9 UNTIL THE EXPIRATION DATE ON THE LICENSE. THE DIRECTOR SHALL NOT
10 RENEW, OR ISSUE NEW, ASSOCIATE LICENSES.

11 (7) ON AND AFTER JUNE 1, 2014, A PERSON IN THIS STATE
12 TRAINING TO BE A LICENSED HEARING AID PROVIDER MUST POSSESS A
13 VALID APPRENTICE LICENSE ISSUED BY THE DIRECTOR PURSUANT TO THIS
14 ARTICLE AND RULES PROMULGATED PURSUANT TO THIS ARTICLE.

15 **12-5.5-205. Disposition of fees - legislative intent.** IT IS THE
16 INTENT OF THE GENERAL ASSEMBLY TO FUND ALL DIRECT AND INDIRECT
17 COSTS INCURRED IN THE IMPLEMENTATION OF THIS ARTICLE WITH ANNUAL
18 LICENSE AND RENEWAL FEES. THE DIRECTOR SHALL TRANSMIT ALL FEES
19 COLLECTED UNDER THIS ARTICLE TO THE STATE TREASURER, WHO SHALL
20 CREDIT THEM TO THE DIVISION OF PROFESSIONS AND OCCUPATIONS CASH
21 FUND CREATED IN SECTION 24-34-105, C.R.S.

22 **12-5.5-206. Retention of records - licensee's obligation.** EACH
23 LICENSEE WHO SELLS A HEARING AID OR PROVIDES GOODS OR SERVICES TO
24 A CUSTOMER SHALL DEVELOP A WRITTEN PLAN TO ENSURE THE
25 MAINTENANCE OF CUSTOMER RECORDS. THE RECORDS MUST BE RETAINED
26 FOR AT LEAST SEVEN YEARS AND IDENTIFY THE CUSTOMER BY NAME; THE
27 GOODS OR SERVICES, EXCEPT BATTERIES, MINOR PARTS, AND ACCESSORIES,

1 PROVIDED TO EACH CUSTOMER; AND THE DATE AND PRICE OF EACH
2 TRANSACTION.

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4 PART 3

5 DIRECTOR: POWERS, DUTIES, AND RULES

6 **12-5.5-301. Director - powers - duties - rules.** (1) THE
7 DIRECTOR MAY MAKE INVESTIGATIONS AND INSPECTIONS AS NECESSARY
8 TO DETERMINE WHETHER AN APPLICANT OR LICENSEE HAS VIOLATED THIS
9 ARTICLE OR ANY RULE ADOPTED BY THE DIRECTOR.

10 (2) THE DIRECTOR MAY APPLY TO A COURT OF COMPETENT
11 JURISDICTION FOR AN ORDER ENJOINING ANY ACT OR PRACTICE THAT
12 CONSTITUTES A VIOLATION OF THIS ARTICLE. UPON A SHOWING THAT A
13 PERSON IS ENGAGING IN OR INTENDS TO ENGAGE IN THE ACT OR PRACTICE,
14 THE COURT SHALL GRANT AN INJUNCTION, RESTRAINING ORDER, OR OTHER
15 APPROPRIATE ORDER, REGARDLESS OF THE EXISTENCE OF ANOTHER
16 REMEDY. ALL PROCEEDINGS RELATED TO SUCH ORDERS ARE GOVERNED BY
17 THE COLORADO RULES OF CIVIL PROCEDURE.

18 (3) (a) THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE HAS THE
19 POWER TO ADMINISTER OATHS, TAKE AFFIRMATIONS OF WITNESSES, AND
20 ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE
21 PRODUCTION OF ALL RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY
22 EVIDENCE, AND MATERIALS IN ANY HEARING, INVESTIGATION,
23 ACCUSATION, OR OTHER MATTER COMING BEFORE THE DIRECTOR
24 PURSUANT TO THIS ARTICLE. THE DIRECTOR MAY APPOINT AN
25 ADMINISTRATIVE LAW JUDGE PURSUANT TO PART 10 OF ARTICLE 30 OF
26 TITLE 24, C.R.S., TO TAKE EVIDENCE AND TO MAKE FINDINGS AND REPORT
27 THEM TO THE DIRECTOR.

1 (b) UPON FAILURE OF ANY WITNESS TO COMPLY WITH A SUBPOENA
2 OR PROCESS, THE DISTRICT COURT OF THE COUNTY IN WHICH THE
3 SUBPOENAED PERSON OR LICENSEE RESIDES OR CONDUCTS BUSINESS, UPON
4 APPLICATION BY THE DIRECTOR WITH NOTICE TO THE SUBPOENAED PERSON
5 OR LICENSEE, MAY ISSUE TO THE PERSON OR LICENSEE AN ORDER
6 REQUIRING THAT PERSON OR LICENSEE TO APPEAR BEFORE THE DIRECTOR;
7 TO PRODUCE THE RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY
8 EVIDENCE, OR MATERIALS IF SO ORDERED; OR TO GIVE EVIDENCE
9 TOUCHING THE MATTER UNDER INVESTIGATION OR IN QUESTION. THE
10 COURT MAY PUNISH A FAILURE TO OBEY THE ORDER OF THE COURT AS A
11 CONTEMPT OF COURT.

12 (4) NO LATER THAN DECEMBER 31, 2013, AND THEREAFTER AS
13 NECESSARY, THE DIRECTOR SHALL ADOPT RULES NECESSARY FOR THE
14 ENFORCEMENT OR ADMINISTRATION OF THIS ARTICLE.

15 **12-5.5-302. Disciplinary actions.** (1) IF THE DIRECTOR
16 DETERMINES THAT AN APPLICANT OR LICENSEE HAS COMMITTED ANY OF
17 THE ACTS SPECIFIED IN PART 4 OF THIS ARTICLE, THE DIRECTOR MAY:

- 18 (a) ISSUE A LETTER OF ADMONITION;
19 (b) PLACE A LICENSEE ON PROBATION;
20 (c) IMPOSE AN ADMINISTRATIVE FINE NOT TO EXCEED TWO
21 THOUSAND FIVE HUNDRED DOLLARS FOR EACH SEPARATE OFFENSE; OR
22 (d) DENY, REFUSE TO RENEW, REVOKE, OR SUSPEND THE LICENSE
23 OF AN APPLICANT OR LICENSEE.

24 (2) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
25 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR,
26 WARRANTS FORMAL ACTION, THE COMPLAINT SHALL NOT BE RESOLVED BY
27 A DEFERRED SETTLEMENT, ACTION, JUDGMENT, OR PROSECUTION.

1 (3) A PERSON WHOSE LICENSE TO PRACTICE AS A HEARING AID
2 PROVIDER OR APPRENTICE UNDER THIS ARTICLE IS REVOKED, OR WHO
3 SURRENDERS HIS OR HER LICENSE TO AVOID DISCIPLINE, IS INELIGIBLE TO
4 APPLY FOR ANY NEW LICENSE UNDER THIS ARTICLE FOR TWO YEARS AFTER
5 THE DATE OF REVOCATION OR SURRENDER OF HIS OR HER LICENSE.

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

11 (b) (I) WHEN THE DIRECTOR SENDS A LETTER OF ADMONITION TO
12 A LICENSEE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4), THE
13 DIRECTOR SHALL ALSO ADVISE THE LICENSEE THAT HE OR SHE HAS THE
14 RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER SERVICE OF
15 THE LETTER, THAT THE DIRECTOR INITIATE FORMAL DISCIPLINARY
16 PROCEEDINGS TO ADJUDICATE THE PROPRIETY OF THE CONDUCT UPON
17 WHICH THE LETTER OF ADMONITION IS BASED.

18 (II) IF THE LICENSEE MAKES THE REQUEST FOR ADJUDICATION, THE
19 DIRECTOR SHALL VACATE THE LETTER OF ADMONITION AND SHALL
20 PROCESS THE MATTER BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

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

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(6) THE DIRECTOR SHALL NOT ENFORCE ANY PROVISIONS OF THIS ARTICLE OR RULES PROMULGATED PURSUANT TO THIS ARTICLE THAT ARE HELD UNCONSTITUTIONAL, INVALID, OR INCONSISTENT WITH FEDERAL LAWS OR REGULATIONS, INCLUDING RULES PROMULGATED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION.

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

12-5.5-303. 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 A 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 ORDER MUST SET FORTH THE STATUTES AND RULES ALLEGED TO HAVE BEEN VIOLATED, THE FACTS ALLEGED TO HAVE CONSTITUTED THE VIOLATION, THE SPECIFIC HARM THAT THREATENS THE HEALTH AND SAFETY OF THE PUBLIC, AND THE REQUIREMENT THAT ALL UNLAWFUL ACTS OR UNLICENSED PRACTICES IMMEDIATELY CEASE.

(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 HEARING MUST BE CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND 24-4-105, C.R.S.

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

8 (b) THE DIRECTOR SHALL PROMPTLY NOTIFY THE PERSON OF THE
9 ISSUANCE OF THE ORDER AND SHALL INCLUDE IN THE NOTICE A COPY OF
10 THE ORDER, THE FACTUAL AND LEGAL BASIS FOR THE ORDER, AND THE
11 DATE SET BY THE DIRECTOR FOR A HEARING ON THE ORDER. THE DIRECTOR
12 MAY SERVE THE NOTICE BY PERSONAL SERVICE, BY FIRST-CLASS UNITED
13 STATES MAIL, POSTAGE PREPAID, OR AS MAY BE PRACTICABLE UPON ANY
14 PERSON AGAINST WHOM THE ORDER IS ISSUED. PERSONAL SERVICE OR
15 PROOF OF RECEIPT OF MAILING OF AN ORDER OR DOCUMENT PURSUANT TO
16 THIS PARAGRAPH (b) CONSTITUTES NOTICE TO THE PERSON OF THE
17 EXISTENCE AND CONTENTS OF THE ORDER OR DOCUMENT.

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

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

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

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

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

5 (a) AN UNLICENSED ACT OR PRACTICE;

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

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

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

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

21 (6) A PERSON WHO PRACTICES OR OFFERS OR ATTEMPTS TO
22 PRACTICE AS A HEARING AID PROVIDER OR WHO ENGAGES IN THE PRACTICE
23 OF DISPENSING, FITTING, OR DEALING IN HEARING AIDS WITHOUT AN
24 ACTIVE HEARING AID PROVIDER LICENSE ISSUED UNDER THIS ARTICLE
25 COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED
26 IN SECTION 18-1.3-501, C.R.S., FOR THE FIRST OFFENSE, AND, FOR THE
27 SECOND OR ANY SUBSEQUENT OFFENSE, THE PERSON COMMITS A CLASS 6

1 FELONY AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-401,
2 C.R.S.

3 **12-5.5-304. Immunity.** THE DIRECTOR, THE DIRECTOR'S STAFF, A
4 PERSON ACTING AS A WITNESS OR CONSULTANT TO THE DIRECTOR, AND A
5 WITNESS TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS ARTICLE,
6 IS IMMUNE FROM LIABILITY IN ANY CIVIL ACTION BROUGHT AGAINST HIM
7 OR HER FOR ACTS OCCURRING WHILE ACTING IN HIS OR HER CAPACITY AS
8 DIRECTOR, STAFF, CONSULTANT, OR WITNESS, RESPECTIVELY, IF THE
9 INDIVIDUAL WAS ACTING IN GOOD FAITH WITHIN THE SCOPE OF HIS OR HER
10 RESPECTIVE CAPACITY, MADE A REASONABLE EFFORT TO OBTAIN THE
11 FACTS OF THE MATTER AS TO WHICH HE OR SHE ACTED, AND ACTED IN THE
12 REASONABLE BELIEF THAT THE ACTION TAKEN BY HIM OR HER WAS
13 WARRANTED BY THE FACTS. ANY PERSON PARTICIPATING IN GOOD FAITH
14 IN LODGING A COMPLAINT OR PARTICIPATING IN ANY INVESTIGATIVE OR
15 ADMINISTRATIVE PROCEEDING PURSUANT TO THIS ARTICLE IS IMMUNE
16 FROM ANY CIVIL OR CRIMINAL LIABILITY THAT MAY RESULT FROM THAT
17 PARTICIPATION.

18 **PART 4**

19 **GROUND FOR DISCIPLINE**

20 **12-5.5-401. Grounds for discipline.** (1) THE FOLLOWING ACTS
21 CONSTITUTE GROUNDS FOR DISCIPLINE:

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

24 (b) VIOLATING ANY PROVISION OF THIS ARTICLE, A RULE
25 PROMULGATED BY THE DIRECTOR UNDER THIS ARTICLE, OR AN ORDER
26 ISSUED BY THE DIRECTOR UNDER THIS ARTICLE;

27 (c) USING FALSE OR MISLEADING ADVERTISING;

1 (d) REPRESENTING THAT THE SERVICE OR ADVICE OF A PERSON
2 LICENSED TO PRACTICE MEDICINE WILL BE USED OR MADE AVAILABLE IN
3 THE SELECTION, FITTING, ADJUSTMENT, MAINTENANCE, OR REPAIR OF
4 HEARING AIDS WHEN THAT IS NOT TRUE OR USING THE TERMS "DOCTOR",
5 "CLINIC", "STATE-LICENSED CLINIC", "STATE-REGISTERED",
6 "STATE-CERTIFIED", "STATE-APPROVED", OR ANY OTHER TERM,
7 ABBREVIATION, OR SYMBOL WHEN IT WOULD GIVE THE FALSE IMPRESSION
8 THAT SERVICE IS BEING PROVIDED BY PERSONS TRAINED IN MEDICINE OR
9 THAT THE LICENSEE'S SERVICE HAS BEEN RECOMMENDED BY THE STATE
10 WHEN THAT IS NOT THE CASE, OR WHEN IT WOULD BE FALSE OR
11 MISLEADING;

12 (e) DIRECTLY OR INDIRECTLY GIVING OR OFFERING TO GIVE MONEY
13 OR ANYTHING OF VALUE TO ANY PERSON WHO ADVISES ANOTHER IN A
14 PROFESSIONAL CAPACITY AS AN INDUCEMENT TO INFLUENCE THE PERSON
15 OR HAVE THE PERSON INFLUENCE OTHERS TO PURCHASE OR CONTRACT TO
16 PURCHASE PRODUCTS SOLD OR OFFERED FOR SALE BY A LICENSEE OR
17 INFLUENCING PERSONS TO REFRAIN FROM DEALING IN THE PRODUCTS OF
18 COMPETITORS;

19 (f) EMPLOYING A DEVICE, A SCHEME, OR ARTIFICE WITH THE
20 INTENT TO DEFRAUD A PURCHASER OF A HEARING AID;

21 (g) SELLING A HEARING AID TO A CHILD UNDER EIGHTEEN YEARS
22 OF AGE WITHOUT RECEIVING DOCUMENTATION THAT THE CHILD HAS BEEN
23 EXAMINED BY A LICENSED PHYSICIAN AND AN AUDIOLOGIST WITHIN SIX
24 MONTHS PRIOR TO THE FITTING;

25 (h) INTENTIONALLY DISPOSING OF, CONCEALING, DIVERTING,
26 CONVERTING, OR OTHERWISE FAILING TO ACCOUNT FOR ANY FUNDS OR
27 ASSETS OF A PURCHASER OF A HEARING AID THAT IS UNDER THE

1 APPLICANT'S, LICENSEE'S, OR APPRENTICE'S CONTROL;

2 (i) MAKING A FALSE OR MISLEADING STATEMENT OF FACT
3 CONCERNING GOODS OR SERVICES OR THE BUYER'S RIGHT TO CANCEL WITH
4 THE INTENTION OR EFFECT OF DETERRING OR PREVENTING THE BUYER
5 FROM EXERCISING THE BUYER'S RIGHT TO CANCEL, OR REFUSING TO HONOR
6 A BUYER'S REQUEST TO CANCEL A CONTRACT FOR THE PURCHASE OF A
7 HEARING AID, IF THE REQUEST WAS MADE DURING THE RESCISSION PERIOD
8 SET FORTH IN SECTION 12-5.5-301 (2) (g);

9 (j) CHARGING, COLLECTING, OR RECOVERING ANY COST OR FEE FOR
10 ANY GOOD OR SERVICE THAT HAS BEEN REPRESENTED BY THE LICENSEE AS
11 FREE;

12 (k) FAILING TO ADEQUATELY SUPERVISE A LICENSED HEARING AID
13 PROVIDER APPRENTICE OR ANY EMPLOYEE PURSUANT TO SECTION
14 12-5.5-204 OR SECTION 12-5.5-102 (4) (a);

15 (l) EMPLOYING A SALES AGENT OR EMPLOYEE WHO VIOLATES ANY
16 PROVISION OF THIS ARTICLE, A RULE PROMULGATED BY THE DIRECTOR
17 UNDER THIS ARTICLE, OR AN ORDER ISSUED BY THE DIRECTOR UNDER THIS
18 ARTICLE;

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

21 (n) FAILING TO RESPOND IN AN HONEST, MATERIALLY RESPONSIVE,
22 AND TIMELY MANNER TO A COMPLAINT ISSUED PURSUANT TO SECTION
23 12-5.5-402 (4);

24 (o) BEING CONVICTED OF, ACCEPTING A PLEA OF GUILTY OR NOLO
25 CONTENDERE TO, OR RECEIPT OF A DEFERRED SENTENCE IN ANY COURT
26 FOR A FELONY OR FOR ANY CRIME INVOLVING FRAUD, DECEPTION, FALSE
27 PRETENSE, THEFT, MISREPRESENTATION, FALSE ADVERTISING, OR

1 DISHONEST DEALING;

2 (p) SELLING, DISPENSING, ADJUSTING, PROVIDING TRAINING OR
3 TEACHING IN REGARD TO, OR OTHERWISE SERVICING SURGICALLY
4 IMPLANTED HEARING DEVICES UNLESS THE HEARING AID PROVIDER IS AN
5 AUDIOLOGIST OR A PHYSICIAN; AND

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

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

10 **6-1-114. Criminal penalties.** Upon a first conviction, any person
11 who promotes a pyramid promotional scheme in this state or who violates
12 any provision of part 3 of article 5.5 of title 12, C.R.S., or section 6-1-717
13 is guilty of a class 1 misdemeanor, as defined in section 18-1.3-501,
14 C.R.S., and, upon a second or subsequent conviction ~~of part 3~~ of article
15 5.5 of title 12, C.R.S., is guilty of a class 6 felony, as defined in section
16 18-1.3-401, C.R.S.

17 **SECTION 3.** In Colorado Revised Statutes, 24-34-104 **amend**
18 (51.5) introductory portion; and **add** (51.5) (d) as follows:

19 **24-34-104. General assembly review of regulatory agencies**
20 **and functions for termination, continuation, or reestablishment.**

21 (51.5) The following agencies, functions, or both, ~~shall~~ terminate on
22 September 1, 2020:

23 (d) THE LICENSING OF HEARING AID PROVIDERS BY THE DIVISION
24 OF PROFESSIONS AND OCCUPATIONS, PURSUANT TO ARTICLE 5.5 OF TITLE
25 12, C.R.S.

26 **SECTION 4. Appropriation.** (1) In addition to any other
27 appropriation, there is hereby appropriated, out of any moneys in the

1 division of professions and occupations cash fund created in section
2 24-34-105 (2) (b) (I), Colorado Revised Statutes, not otherwise
3 appropriated, to the department of regulatory agencies, for the fiscal year
4 beginning July 1, 2013, the sum of \$5,794, or so much thereof as may be
5 necessary, to be allocated to the executive director's office and
6 administrative services for legal services related to the implementation of
7 this act.

8 (2) In addition to any other appropriation, there is hereby
9 appropriated to the department of law, for the fiscal year beginning July
10 1, 2013, the sum of \$5,794, or so much thereof as may be necessary, for
11 the provision of legal services for the department of regulatory agencies
12 related to the implementation of this act. Said sum is from reappropriated
13 funds received from the department of regulatory agencies out of the
14 appropriation made in subsection (1) of this section.

15 **SECTION 5. Effective date.** This act takes effect July 1, 2013.

16 **SECTION 6. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.