

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 12-0280.01 Kate Meyer x4348

HOUSE BILL 12-1205

HOUSE SPONSORSHIP

Fields, Labuda, Soper

SENATE SPONSORSHIP

Tochtrop,

House Committees

Local Government
Appropriations

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, AND, IN**
106 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

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
Am ended 2nd Reading
March 16, 2012

are indicated by bold, bracketed type.]

(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>.)

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**

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

2 **ARTICLE 32.5**

3 **Audiologists and Hearing Aid Providers**

4 **PART 1**

5 **GENERAL PROVISIONS**

6 **12-32.5-101. Definitions.** (1) AS USED IN THIS ARTICLE, UNLESS
7 THE CONTEXT OTHERWISE REQUIRES:

8 ~~(1)~~ (a) **[Formerly 12-5.5-101 (1)]** "Audiologist" means a person
9 ~~who meets the following requirements:~~ ENGAGED IN THE PRACTICE OF
10 AUDIOLOGY.

11 ~~(a) Has earned a doctoral degree in audiology from a program that~~
12 ~~is or, at the time the applicant was enrolled and graduated, was accredited~~
13 ~~by an accrediting agency recognized by the council for higher education~~
14 ~~accreditation or its successor or the United States department of~~
15 ~~education;~~

16 ~~(b) Has earned a master's degree with a major emphasis in~~
17 ~~audiology that was conferred before July 1, 2007, from a program of~~
18 ~~higher learning that is or, at the time the applicant was enrolled and~~
19 ~~graduated, was accredited by an accrediting agency recognized by the~~
20 ~~council for higher education or its successor or the United States~~
21 ~~department of education, and has obtained a certificate of competency in~~
22 ~~audiology from a nationally recognized certification agency; or~~

23 ~~(c) Has been licensed as a school audiologist by the Colorado~~
24 ~~department of education pursuant to section 22-60.5-210, C.R.S.~~

25 ~~(2)~~ (b) **[Formerly 12-5.5-301 (2)]** "Cochlear implant" or
26 "cochlear prosthesis" means an electrode or electrodes surgically
27 implanted in the cochlea that are attached to an induction coil buried

1 under the skin near the ear, and the associated unit ~~which~~ THAT is worn
2 on the body.

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

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

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

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

18 (3) (g) [Formerly 12-5.5-201 (3)] "Licensed "Hearing aid
19 provider" means a person engaged in the practice of dispensing, fitting,
20 or dealing in hearing aids. ~~who has passed an examination conducted~~
21 ~~under the auspices of the national board for certification in hearing~~
22 ~~instrument sciences (NBC-IHS) or an equivalent examination as~~
23 ~~determined by the director; except that a licensed hearing aid provider~~
24 ~~who is engaged in the practice of dispensing, fitting, or dealing in hearing~~
25 ~~aids on or before July 1, 1995, shall demonstrate, not later than July 1,~~
26 ~~1997, that he or she has passed such an examination.~~

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

1 means:

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

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

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

1 (4) (IV) Consulting with, and making referrals to, a physician
2 when appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

1 the penalties ~~provided~~ SET FORTH in this article or IN section 24-34-102
2 (8), C.R.S.

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

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

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

19 (b) PAYS THE LICENSURE FEE ESTABLISHED UNDER SECTION
20 24-34-105, C.R.S.

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

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

1 DIRECTOR SHALL TRANSMIT all fees collected ~~by the director shall be~~
2 ~~transmitted~~ UNDER THIS ARTICLE to the state treasurer, who shall credit the
3 same to the division of registrations cash fund created by section
4 24-34-105, C.R.S.

5 **12-32.5-106. Disciplinary actions - grounds for discipline.**

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

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

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

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

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

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

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

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

26 ~~(VII)~~ (b) **[Formerly 12-5.5-105 (1) (b) (VII) and 12-5.5-205 (1)**
27 **(b) (VI)]** Failing to notify the director of a change in the information filed

1 pursuant to ~~section 12-5.5-102~~ SECTION 12-32.5-202 OR 12-32.5-302;

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

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

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

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

14 (g) USING FALSE OR MISLEADING ADVERTISING;

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

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

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

26 ~~(V)~~ (k) [**Formerly 12-5.5-205 (1) (b) (V)**] Refusing to honor a
27 buyer's request to cancel a contract for the purchase of a hearing ~~device~~

1 for the hearing impaired AID, if such THE request was made during the
2 rescission period set forth in section ~~12-5.5-302 (1) (e)~~ 12-32.5-401 (1)
3 (d);

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

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

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

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

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

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

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

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

25 (t) FAILING TO RESPOND IN AN HONEST, MATERIALLY RESPONSIVE,
26 AND TIMELY MANNER TO A COMPLAINT ISSUED PURSUANT TO SECTION
27 12-32.5-108; AND

1 ~~(H)~~ (u) [**Formerly 12-5.5-105 (1) (b) (II) and 12-5.5-205 (1) (b)**
2 **(VII) and (1) (b) (XII)**] ~~Conviction~~ BEING CONVICTED OF, or acceptance
3 of ACCEPTING a plea of guilty or nolo contendere or receipt of a deferred
4 sentence in any court to:

- 5 (I) ANY FELONY; OR
- 6 (II) A crime involving fraud, deception, false pretense, theft,
7 misrepresentation, false advertising, or dishonest dealing.

8 ~~(e)~~ (3) [**Formerly 12-5.5-105 (1) (c) and 12-5.5-205 (1) (c)**]
9 When a complaint or an investigation discloses an instance of misconduct
10 that, in the opinion of the director, warrants formal action, the complaint
11 shall not be resolved by a deferred settlement, action, judgment, or
12 prosecution.

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

18 ~~(2)~~ (5) [**Formerly 12-5.5-105 (2) and 12-5.5-205 (2)**] Any
19 disciplinary action taken with respect to an ~~audiologist~~ APPLICANT OR
20 LICENSEE by another state or local jurisdiction or the federal government
21 ~~shall be deemed~~ CONSTITUTES prima facie evidence of grounds for
22 disciplinary action, including denial of a license under this ~~part~~
23 ARTICLE; except that this subsection ~~(2)~~ shall apply (5) APPLIES only to
24 disciplinary actions that are substantially similar to those set out as
25 grounds for disciplinary action under this ~~part~~ ARTICLE.

26 ~~(3)~~ (6) [**Formerly 12-5.5-105 (3) and 12-5.5-205 (3)**] (a) When
27 a complaint or investigation discloses an instance of misconduct that, in

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

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

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

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

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

25 (2) [Formerly 12-5.5-106 (2) and 12-5.5-206 (2)] The director
26 may apply to a court of competent jurisdiction for an order enjoining any
27 act or practice ~~which~~ THAT constitutes a violation of this ~~part 1, and,~~

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

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

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

26 (4) [Formerly 12-5.5-106 (4)] The director shall determine the
27 amount of malpractice coverage that must be obtained by an audiologist

1 who provides services to patients.

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

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

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

13 (II) RULES NECESSARY TO ENFORCE PART 4 OF THIS ARTICLE.

14 (b) ALL RULES ADOPTED UNDER THIS ARTICLE SHALL BE
15 CONSISTENT WITH ALL APPLICABLE FEDERAL LAWS AND REGULATIONS,
16 INCLUDING RULES PROMULGATED BY THE UNITED STATES FOOD AND DRUG
17 ADMINISTRATION.

18 (5) (6) [Formerly 12-5.5-206 (5)] The director may require
19 ~~licensed hearing aid providers~~ LICENSEES to make disclosures to
20 purchasers in their written contracts of sale, or in separate written
21 documents, if the director finds that ~~such~~ THE disclosures are necessary
22 for the protection of purchasers.

23 **12-32.5-108. [Formerly 12-5.5-107 and 12-5.5-205.5]**
24 **Cease-and-desist orders - unauthorized practice - penalties.** (1) (a) If
25 it appears to the director, based upon credible evidence as presented in a
26 written complaint by any person, that a licensee is acting in a manner that
27 is an imminent threat to the health and safety of the public or a person is

1 acting or has acted without the required license, the director may issue an
2 order to cease and desist ~~such~~ THE activity. The order ~~shall~~ MUST set forth
3 the statutes and rules alleged to have been violated, the facts alleged to
4 have constituted the violation, and the requirement that all unlawful acts
5 or unlicensed practices immediately cease.

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

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

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

1 AND CONTENTS OF THE ORDER OR DOCUMENT.

2 (c) (I) The hearing on an order to show cause ~~shall~~ MUST be
3 commenced no sooner than ten, and no later than forty-five, calendar days
4 after the date of transmission or service of the notification by the director
5 as provided in paragraph (b) of this subsection (2). The hearing may be
6 continued by agreement of all parties based upon the complexity of the
7 matter, number of parties to the matter, and legal issues presented in the
8 matter, but in no event ~~shall~~ MAY the hearing commence later than sixty
9 calendar days after the date of transmission or service of the notification.

10 (II) If a person against whom an order to show cause has been
11 issued pursuant to paragraph (a) of this subsection (2) does not appear at
12 the hearing, the director may present evidence that notification was
13 properly sent or served upon ~~such~~ THE person pursuant to paragraph (b)
14 of this subsection (2) and ~~such~~ ANY other evidence related to the matter
15 as the director deems appropriate. The director shall issue the order within
16 ten days after the director's determination related to reasonable attempts
17 to notify the respondent, and the order ~~shall become~~ BECOMES final as to
18 that person by operation of law. ~~Such~~ THE CONDUCT OF THE hearing ~~shall~~
19 ~~be conducted pursuant to~~ IS GOVERNED BY sections 24-4-104 and
20 24-4-105, C.R.S.

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

27 (IV) The director shall provide notice, in the manner set forth in

1 paragraph (b) of this subsection (2), of the final cease-and-desist order
2 within ten calendar days after the hearing conducted pursuant to this
3 paragraph (c) to each person against whom the final order has been
4 issued. The final order issued pursuant to subparagraph (III) of this
5 paragraph (c) ~~shall be~~ IS effective when issued and ~~shall be~~ CONSTITUTES
6 a final order for purposes of judicial review.

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

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

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

24 (6) ~~Any~~ A person who practices or offers or attempts to practice
25 audiology services WITHOUT AN ACTIVE AUDIOLOGIST LICENSE OR WHO
26 ENGAGES IN THE PRACTICE OF DISPENSING, FITTING, OR DEALING IN
27 HEARING AIDS without an active HEARING AID PROVIDER license issued

1 under this article commits a class 2 misdemeanor and shall be punished
2 as provided in section 18-1.3-501, C.R.S., for the first offense, and, for
3 the second or any subsequent offense, the person commits a class 6 felony
4 and shall be punished as provided in section 18-1.3-401, C.R.S.

5 **12-32.5-109. [Formerly 12-5.5-108 and 12-5.5-206.5]**
6 **Immunity.** The director, the director's staff, any person acting as a
7 witness or consultant to the director, any witness testifying in a
8 proceeding authorized under this ~~part 1~~ ARTICLE, and any person who
9 lodges a complaint pursuant to this ~~part 1 shall be~~ ARTICLE IS immune
10 from liability in any civil action brought against him or her for acts
11 occurring while acting in his or her capacity as director, staff, consultant,
12 or witness, respectively, if ~~such~~ THE individual was acting in good faith
13 within the scope of his or her respective capacity, made a reasonable
14 effort to obtain the facts of the matter as to which he or she acted, and
15 acted in the reasonable belief that the action taken by him or her was
16 warranted by the facts. Any person participating in good faith in lodging
17 a complaint or participating in any investigative or administrative
18 proceeding pursuant to this ~~part 1 shall be~~ ARTICLE IS immune from any
19 civil or criminal liability that may result from ~~such~~ THAT participation.

20 **12-32.5-110. [Formerly 12-5.5-207] Repeal of article.** (1) This
21 article is repealed, effective ~~July 1, 2012~~ SEPTEMBER 1, 2019.

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

25 PART 2

26 AUDIOLOGISTS - SPECIFIC PROVISIONS

27 **12-32.5-201. Definitions.** AS USED IN THIS PART 2, UNLESS THE

1 CONTEXT OTHERWISE REQUIRES:

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

4 ~~(3.3)~~ (2) **[Formerly 12-5.5-101 (3.3)]** "Licensee" means ~~an~~
5 ~~audiologist~~ A PERSON who holds a current license AS AN AUDIOLOGIST
6 from the division. ~~of registrations pursuant to this part 1.~~

7 **12-32.5-202. [Formerly 12-5.5-102] License required -**
8 **application - fee - bond - disclosure - exemption.** (1) (a) An audiologist
9 shall ~~be licensed with~~ OBTAIN A LICENSE FROM the division ~~of~~
10 ~~registrations~~ before performing ENGAGING IN THE PRACTICE OF audiology
11 services in this state.

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

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

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

25 (b) (I) EARNED A MASTER'S DEGREE FROM A PROGRAM WITH A
26 MAJOR EMPHASIS IN AUDIOLOGY THAT WAS CONFERRED BEFORE JULY 1,
27 2007, FROM A PROGRAM OF HIGHER LEARNING THAT IS OR, AT THE TIME

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

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

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

18 ~~(3)~~ (4) The following information ~~shall~~ MUST be included in every
19 application for a license AS AN AUDIOLOGIST under this ~~section~~ ARTICLE:

20 (a) The audiologist's name, business address, and business
21 telephone number;

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

25 (c) A statement indicating whether any license, certificate, or
26 registration in audiology was issued to the audiologist by a local, state, or
27 national health care agency, whether any such license, certificate, or

1 registration was suspended or revoked, whether charges or complaints are
2 pending against ~~such~~ ANY license, certificate, or registration, and whether
3 disciplinary action was taken;

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

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

9 (5) (a) AN APPLICANT OR LICENSEE SHALL REPORT TO THE
10 DIRECTOR EVERY JUDGMENT OR SETTLEMENT OR OTHER DISPOSITION OF
11 ANY JUDGMENT OR ACTION AGAINST THE LICENSEE INVOLVING
12 MALPRACTICE OR IMPROPER PRACTICE OF AUDIOLOGY, WHETHER
13 OCCURRING IN COLORADO OR IN ANY OTHER JURISDICTION.

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

18 (II) A LICENSEE WHO WAS LICENSED AS OF THE EFFECTIVE DATE OF
19 THIS PARAGRAPH (b) SHALL REPORT A MALPRACTICE SETTLEMENT
20 AGREEMENT OR JUDGMENT DATED WITHIN THIRTY DAYS AFTER THE
21 EFFECTIVE DATE OF THIS PARAGRAPH (b).

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

25 ~~(4)~~ (6) A student enrolled in a course of study at an accredited
26 institution and practicing audiology under the supervision of a licensed
27 audiologist ~~shall be~~ IS exempt from ~~the requirements of~~ this section.

1 ~~later than July 1, 1997, that he or she has passed such an examination.~~

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

5 **12-32.5-302. [Formerly 12-5.5-201.5] Title protection.** It shall
6 ~~be~~ IS unlawful for any person to use the title "hearing aid provider" or
7 "hearing aid dispenser" unless HE OR SHE IS licensed AS A HEARING AID
8 PROVIDER pursuant to this ~~part 2~~ ARTICLE.

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

24 (2) (a) A hearing aid provider desiring to be licensed pursuant to
25 this section shall submit to the director an application containing the
26 information described in this subsection (2) and shall pay a fee ~~to be~~
27 determined and collected pursuant to section 24-34-105, C.R.S. The

1 director may deny an application for licensure if the required information
2 is not submitted or if an applicant's trainee license, issued pursuant to
3 section ~~12-5.5-202.5~~ 12-32.5-304, has been revoked. If an applicant or
4 licensee does not notify the director of a change in the submitted
5 information within thirty days after such change, ~~such~~ THAT failure ~~shall~~
6 ~~be~~ IS cause for disciplinary action.

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

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

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

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

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

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

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

4 (b) HAVE AN ASSOCIATE'S DEGREE IN HEARING AID FITTING AND
5 DISPENSING THAT, AT THE TIME THE APPLICANT WAS ENROLLED AND
6 GRADUATED, WAS OFFERED BY AN INSTITUTION OF HIGHER EDUCATION OR
7 A POSTSECONDARY EDUCATION PROGRAM ACCREDITED BY A NATIONAL,
8 REGIONAL, OR STATE AGENCY RECOGNIZED BY THE UNITED STATES
9 DEPARTMENT OF EDUCATION, OR A PROGRAM APPROVED BY THE
10 DIRECTOR.

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

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

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

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

26 (3) During the training period:

27 (a) A trainee ~~or associate shall not~~ IS NOT PERMITTED TO sell

1 hearing aids independently of the supervising licensed hearing aid
2 provider or audiologist;

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

5 (c) A supervising ~~registered~~ LICENSED hearing aid provider or
6 LICENSED audiologist ~~shall retain~~ RETAINS ultimate responsibility for the
7 care provided by the trainee ~~or associate~~ and ~~shall~~ WILL be subject to
8 disciplinary action by the director for failure to provide adequate
9 supervision.

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

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

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

16 (5) Any person issued a trainee license ~~including an associate,~~
17 under this section is subject to the disciplinary provisions of section
18 ~~12-5.5-205~~ 12-32.5-106.

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

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

25 (8) AN ASSOCIATE LICENSE ISSUED UNDER FORMER SECTION
26 12-5.5-202.5, AS IT EXISTED PRIOR TO PASSAGE OF HOUSE BILL 12-1205,
27 ENACTED IN 2012, REMAINS VALID UNTIL IT EXPIRES. THE DIRECTOR SHALL

1 NOT RENEW, OR ISSUE NEW, ASSOCIATE LICENSES.

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

6 PART 4

7 DECEPTIVE TRADE PRACTICES

8 **12-32.5-401. [Formerly 12-5.5-302] Deceptive trade practices.**

9 (1) In addition to any other deceptive trade practices under section
10 6-1-105, C.R.S., ~~or this part 3;~~ a licensed hearing aid provider or ~~with~~
11 ~~respect to only paragraph (a) of this subsection (1);~~ an audiologist
12 engages in a deceptive trade practice when ~~such~~ THE HEARING AID
13 provider OR AUDIOLOGIST:

14 (a) Fails to deliver to each person supplied with a hearing aid a
15 receipt that:

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

22 (II) Bears, in no smaller type than the largest used in the body of
23 the receipt, in substance, a provision that the purchaser has been advised
24 at the outset of the purchaser's relationship with the hearing aid provider
25 or audiologist that any examination or representation made by a hearing
26 aid provider or audiologist in connection with the practice of dispensing,
27 fitting, or dealing in hearing aids is not an examination, diagnosis, or

1 prescription by a person licensed to practice medicine in this state and,
2 therefore, must not be regarded as medical opinion or advice;

3 (III) Bears, in no smaller type than the largest used in the body of
4 the receipt, a provision indicating that hearing aid providers and
5 audiologists are regulated by the division of registrations within the
6 department of regulatory agencies;

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

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

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

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

25 ~~(d) (c) Fails to recommend in writing prior to fitting or dispensing
26 a hearing aid that the best interests of the prospective user would be
27 served by consulting a licensed physician specializing in diseases of the~~

1 ear, or any licensed physician, if any of the following conditions exists:

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

3 (II) History of or active drainage of the ear within the previous
4 ninety days;

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

6 (IV) Acute or chronic dizziness;

7 (V) Unilateral hearing loss of sudden onset within the previous
8 ninety days;

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

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

13 (VIII) Pain or discomfort in the ear;

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

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

24 (II) The buyer, upon cancellation, is entitled to receive a full
25 refund of any payment made for the hearing aid within thirty days after
26 return of the hearing aid to the seller, unless the hearing aid was
27 significantly damaged beyond repair while the hearing aid was in the

1 buyer's possession and control; except that, if the hearing aid is returned
2 for any reason other than a defect in ~~such~~ THE hearing aid, the seller may
3 retain an itemized amount to cover the minimum costs of materials used
4 by the ~~licensed~~ hearing aid provider or audiologist and a manufacturer's
5 return fee, but ~~such~~ THE amount may not be greater than five percent of
6 the total charge for the hearing aid.

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

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

1 **PROVIDER OR AUDIOLOGIST, UNLESS THE**
2 **HEARING AID IS RETURNED BECAUSE IT IS**
3 **DEFECTIVE.**

4 (B) The written contract or receipt provided to the buyer shall also
5 contain a statement, in print size no smaller than ten-point type, that the
6 sale is void and unenforceable if the hearing aid being purchased is not
7 delivered to the consumer within thirty days after the date the written
8 contract is signed or the receipt is issued, whichever occurs later. The
9 written contract or receipt shall also include the ~~licensed~~ hearing aid
10 provider's **OR AUDIOLOGIST'S** license number and a statement that the
11 ~~licensed~~ hearing aid provider **OR AUDIOLOGIST** shall promptly refund all
12 moneys paid for the purchase of a hearing aid if it is not delivered to the
13 consumer within ~~such~~ **THE** thirty-day period. ~~Such~~ **THIS** statement is ~~not~~
14 ~~subject to waiver~~ **MAY NOT BE WAIVED** by the buyer.

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

27 (f) (e) Represents that the service or advice of a person licensed

1 to practice medicine will be used or made available in the selection,
2 fitting, adjustment, maintenance, or repair of hearing aids when that is not
3 true or using the terms "doctor", "clinic", "state-licensed clinic",
4 "state-registered", "state-certified", or "state-approved" or any other term,
5 abbreviation, or symbol when it would falsely give the impression that
6 service is being provided by persons trained in medicine or that the
7 ~~hearing aid~~ dealer's service has been recommended by the state when ~~such~~
8 THAT is not the case; or when that would be false or misleading;

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

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

20 ~~(i)~~ (h) Makes a false or misleading statement of fact concerning
21 goods or services or the buyer's right to cancel with the intention or effect
22 of deterring or preventing the buyer from exercising the buyer's right to
23 cancel;

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

27 (2) A HEARING AID PROVIDER ENGAGES IN A DECEPTIVE TRADE

1 PRACTICE WHEN THE PROVIDER SELLS A HEARING AID TO A CHILD UNDER
2 EIGHTEEN YEARS OF AGE WITHOUT RECEIVING DOCUMENTATION THAT THE
3 CHILD HAS BEEN EXAMINED BY A LICENSED PHYSICIAN AND AN
4 AUDIOLOGIST WITHIN SIX MONTHS PRIOR TO THE FITTING.

5 **12-32.5-402. [Formerly 12-5.5-304] Application of part.**

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

8 (2) ~~The provisions of This part 3 shall~~ PART 4 DOES not apply to
9 the dispensing of hearing aids outside of this state so long as the
10 transaction is either ~~in conformance with~~ CONFORMS TO this ~~part 3~~ PART
11 4 or ~~in conformance with~~ TO the applicable laws and rules of the
12 jurisdiction in which the transaction takes place.

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

16 **24-34-104. General assembly review of regulatory agencies**
17 **and functions for termination, continuation, or reestablishment.**

18 (43) The following agencies, functions, or both, ~~shall~~ terminate on July
19 1, 2012:

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

22 (50.5) The following agencies, functions, or both, ~~shall~~ terminate
23 on September 1, 2019:

24 (e) THE LICENSING OF AUDIOLOGISTS AND HEARING AID PROVIDERS
25 BY THE DIVISION OF REGISTRATIONS, PURSUANT TO ARTICLE 32.5 OF TITLE
26 12, C.R.S.

27 **SECTION 4.** In Colorado Revised Statutes, 6-1-105, **amend** (1)

1 (yy) as follows:

2 **6-1-105. Deceptive trade practices.** (1) A person engages in a
3 deceptive trade practice when, in the course of such person's business,
4 vocation, or occupation, such person:

5 (yy) Violates any provision of ~~part 3 of article 5.5~~ PART 4 OF
6 ARTICLE 32.5 of title 12, C.R.S.;

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

9 **6-1-114. Criminal penalties.** Upon a first conviction, any person
10 who promotes a pyramid promotional scheme in this state or who violates
11 any provision of ~~part 3~~ PART 4 of article ~~5.5~~ 32.5 of title 12, C.R.S., or
12 section 6-1-717 is guilty of a class 1 misdemeanor, as defined in section
13 18-1.3-501, C.R.S., and, upon a second or subsequent conviction of ~~part~~
14 ~~3~~ PART 4 of article ~~5.5~~ 32.5 of title 12, C.R.S., is guilty of a class 6 felony,
15 as defined in section 18-1.3-401, C.R.S.

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

18 **6-1-501. Definitions.** As used in this part 5, unless the context
19 otherwise requires:

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

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

27 (a) Telephone communication devices for the hearing impaired

1 and other facilitative listening devices, except for hearing aids as defined
2 in section ~~12-5.5-301 (4)~~ 12-32.5-101 (1) (f), C.R.S., and cochlear
3 implants as defined in section ~~12-5.5-301 (2)~~ 12-32.5-101 (1) (b), C.R.S.;

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

6 **10-16-104. Mandatory coverage provisions - definitions.**

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

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

19 **11-35-101. Alternatives to surety bonds permitted -**

20 **requirements.** (1) The requirement of a surety bond as a condition to
21 licensure or authority to conduct business or perform duties in this state
22 provided in sections ~~12-5.5-202~~ 12-32.5-303 (2) (b), 12-6-111, 12-6-112,
23 12-6-112.2, 12-6-512, 12-6-513, 12-14-124 (1), 12-59-115 (1), 12-60-509
24 (2.5) (b), 12-61-907, 33-4-101 (1), 33-12-104 (1), 35-55-104 (1),
25 37-91-107 (2) and (3), 38-29-119 (2), 39-21-105 (4), 39-27-104 (2) (a),
26 (2) (b), (2) (c), (2) (d), (2) (e), (2.1) (a), (2.1) (b), (2.1) (c), (2.5) (a), and
27 (2.5) (b), 39-28-105 (1), 42-6-115 (3), and 42-7-301 (6), C.R.S., may be

1 satisfied by a savings account or deposit in or a certificate of deposit
2 issued by a state or national bank doing business in this state or by a
3 savings account or deposit in or a certificate of deposit issued by a state
4 or federal savings and loan association doing business in this state. ~~Such~~
5 THE savings account, deposit, or certificate of deposit shall be in the
6 amount specified by statute, if any, and shall be assigned to the
7 appropriate state agency for the use of the people of the state of Colorado.
8 The aggregate liability of the bank or savings and loan association shall
9 in no event exceed the amount of the deposit. For the purposes of the
10 sections referred to in this section, "bond" includes the savings account,
11 deposit, or certificate of deposit authorized by this section.

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

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

20 (I) Audiology pursuant to ~~part 1 of article 5.5~~ ARTICLE 32.5 of title
21 12, C.R.S.;

22 (II) As a licensed hearing aid provider pursuant to ~~part 2 of article~~
23 ~~5.5~~ ARTICLE 32.5 of title 12, C.R.S.;

24 **SECTION 10. Appropriation.** (1) In addition to any other
25 appropriation, there is hereby appropriated, out of any moneys in the
26 division of registrations cash fund created in section 24-34-105 (2) (b) (I),
27 Colorado Revised Statutes, not otherwise appropriated, to the department

1 of regulatory agencies, for the fiscal year beginning July 1, 2012, the sum
2 of \$15,571, or so much thereof as may be necessary, to be allocated for
3 the implementation of this act as follows:

4 (a) \$2,000 for temporary paralegal services for the division of
5 registrations;

6 (b) \$6,000 for licensing examination evaluation and proctors for
7 the division of registrations; and

8 (c) \$7,571 for the purchase of legal services.

9 (2) In addition to any other appropriation, there is hereby
10 appropriated to the department of law, for the fiscal year beginning July
11 1, 2012, the sum of \$7,571, or so much thereof as may be necessary, for
12 the provision of legal services for the department of regulatory agencies
13 related to the implementation of this act. Said sum is from reappropriated
14 funds received from the department of regulatory agencies out of the
15 appropriation made in subsection (1) of this section.

16 **SECTION 11. Effective date.** This act takes effect July 1, 2012.

17 **SECTION 12. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, and safety.