

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0298.01 Christy Chase x2008

SENATE BILL 13-039

SENATE SPONSORSHIP

Aguilar,

HOUSE SPONSORSHIP

McCann,

Senate Committees
Health & Human Services

House Committees
Health, Insurance & Environment
Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF AUDIOLOGISTS, AND, IN**
102 **CONNECTION 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>.)

Since 1996, Colorado has regulated audiologists practicing in the state, first requiring audiologists to register with the division of registrations (division) in the department of regulatory agencies (department), and later requiring audiologists to obtain a license from the division. The regulation of audiologists has been subject to numerous

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.*

SENATE
Amended 3rd Reading
February 22, 2013

SENATE
Amended 2nd Reading
February 20, 2013

sunset reviews by the department, all of which have recommended continuing the regulation of audiologists in the state. Notwithstanding the recommendation in the 2011 sunset report to continue regulating audiologists, in the 2012 regular session, the general assembly did not enact legislation to continue regulating audiologists. As a result, the regulatory statutes expired on July 1, 2012.

The bill reauthorizes the division, now known as the division of professions and occupations, to regulate audiologists. Audiologists will be required to obtain a license to practice audiology in this state, and the bill sets forth the requirements for obtaining a license. The bill establishes grounds and procedures for disciplining audiologists. The director of the division is authorized to implement and administer the bill and adopt rules as necessary to accomplish those purposes. The bill establishes conduct relating to the sale and delivery of hearing aids by hearing aid sellers that constitutes a deceptive trade practice.

The regulation of audiologists 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, **add** article 29.9 to
3 title 12 as follows:

4 **ARTICLE 29.9**

5 **Audiologists**

6 ==

7 **12-29.9-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
8 CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

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

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

10 (7) "PRACTICE OF AUDIOLOGY" MEANS:

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

19 (II) THE PRINCIPLES, METHODS, OR PROCEDURES INCLUDE
20 DIAGNOSIS, ASSESSMENT, MEASUREMENT, TESTING, APPRAISAL,
21 EVALUATION, REHABILITATION, TREATMENT, PREVENTION,
22 CONSERVATION, IDENTIFICATION, CONSULTATION, COUNSELING,
23 INTERVENTION, MANAGEMENT, INTERPRETATION, INSTRUCTION, AND
24 RESEARCH RELATED TO HEARING, VESTIBULAR FUNCTION, BALANCE AND
25 FALL PREVENTION, AND ASSOCIATED NEURAL SYSTEMS, AND ANY
26 ABNORMAL CONDITION RELATED TO TINNITUS, AUDITORY SENSITIVITY,
27 ACUITY, FUNCTION OR PROCESSING, SPEECH, LANGUAGE, OR OTHER

1 ABERRANT BEHAVIOR RESULTING FROM HEARING LOSS, FOR THE PURPOSE
2 OF DIAGNOSING, DESIGNING, AND IMPLEMENTING AUDIOLOGICAL
3 MANAGEMENT AND TREATMENT OR OTHER PROGRAMS FOR THE
4 AMELIORATION OF HUMAN AUDITORY-VESTIBULAR SYSTEM DISORDERS
5 AND CONDITIONS.

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

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

13 (d) PREVENTION OF HEARING LOSS; AND

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

16 (8) "SURGICALLY IMPLANTED HEARING DEVICE" MEANS A DEVICE
17 THAT IS DESIGNED TO PRODUCE USEFUL HEARING SENSATIONS TO A
18 PERSON WITH A HEARING IMPAIRMENT AND THAT HAS, AS ONE OR MORE
19 COMPONENTS, A UNIT THAT IS SURGICALLY IMPLANTED INTO THE EAR,
20 SKULL, OR OTHER INTERIOR PART OF THE BODY. THE TERM INCLUDES ANY
21 ASSOCIATED UNIT THAT MAY BE WORN ON THE BODY.

22 **12-29.9-102. Scope of article - exemption.** (1) THIS ARTICLE
23 DOES NOT APPLY TO A PERSON WHO IS:

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

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

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

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

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

17 **12-29.9-103. Title protection - use of title.** (1) IT IS UNLAWFUL
18 FOR ANY PERSON TO USE THE FOLLOWING TITLES UNLESS HE OR SHE IS
19 LICENSED PURSUANT TO THIS ARTICLE: "AUDIOLOGIST", "HEARING AND
20 BALANCE AUDIOLOGIST", "VESTIBULAR AUDIOLOGIST", OR ANY OTHER
21 TITLE OR ABBREVIATION THAT IMPLIES THAT THE PERSON IS AN
22 AUDIOLOGIST.

23 (2) A LICENSEE WHO HAS A DOCTORATE DEGREE IN AUDIOLOGY IS
24 ENTITLED TO USE THE TITLE "DOCTOR" OR "DR." WHEN ACCOMPANIED BY
25 THE WORDS "AUDIOLOGIST" OR "AUDIOLOGY" OR THE LETTERS "AU.D.",
26 "ED.D.", "PH.D.", "SC.D.", OR ANY OTHER APPROPRIATE DEGREE
27 DESIGNATION, AND TO USE THE TITLE "DOCTOR OF AUDIOLOGY".

1 **12-29.9-104. License required - application - fee - bond -**

2 **disclosure - exemption.** (1) (a) AN AUDIOLOGIST MUST OBTAIN A
3 LICENSE FROM THE DIVISION BEFORE ENGAGING IN THE PRACTICE OF
4 AUDIOLOGY IN THIS STATE.

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

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

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

16 (b) (I) EARNED A MASTER'S DEGREE FROM A PROGRAM WITH A
17 CONCENTRATION IN AUDIOLOGY THAT WAS CONFERRED BEFORE JULY 1,
18 2007, FROM A PROGRAM OF HIGHER LEARNING THAT IS OR, AT THE TIME
19 THE APPLICANT WAS ENROLLED AND GRADUATED, WAS OFFERED BY AN
20 INSTITUTION OF HIGHER EDUCATION OR POSTSECONDARY EDUCATION
21 ACCREDITED BY A NATIONAL, REGIONAL, OR STATE AGENCY RECOGNIZED
22 BY THE UNITED STATES DEPARTMENT OF EDUCATION, OR ANOTHER
23 PROGRAM APPROVED BY THE DIRECTOR; AND

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

26 (3) AN AUDIOLOGIST DESIRING TO BE LICENSED PURSUANT TO THIS
27 ARTICLE MUST SUBMIT TO THE DIRECTOR AN APPLICATION CONTAINING

1 THE INFORMATION DESCRIBED IN SUBSECTION (4) OF THIS SECTION AND
2 MUST PAY TO THE DIRECTOR ALL REQUIRED FEES IN THE AMOUNTS
3 DETERMINED AND COLLECTED BY THE DIRECTOR PURSUANT TO SECTION
4 24-34-105, C.R.S. THE DIRECTOR MAY DENY AN APPLICATION FOR A
5 LICENSE IF THE REQUIRED INFORMATION AND FEES ARE NOT SUBMITTED.
6 IF AN APPLICANT OR LICENSEE FAILS TO NOTIFY THE DIRECTOR OF A
7 CHANGE IN THE SUBMITTED INFORMATION WITHIN THIRTY DAYS AFTER THE
8 CHANGE, THE FAILURE IS GROUNDS FOR DISCIPLINARY ACTION PURSUANT
9 TO SECTION 12-29.9-108.

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

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

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

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

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

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

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

26 OR

27 (IV) TAKEN DISCIPLINARY ACTION AGAINST THE APPLICANT;

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

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

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

14 **12-29.9-105. Licensure - certificate - expiration - renewal -**
15 **reinstatement - fees.** (1) THE DIRECTOR SHALL ISSUE A LICENSE TO AN
16 APPLICANT WHO SATISFIES THE REQUIREMENTS OF THIS ARTICLE. ==

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

26 **12-29.9-106. Licensure by endorsement - rules.** (1) THE
27 DIRECTOR SHALL ISSUE A LICENSE BY ENDORSEMENT TO ENGAGE IN THE

1 PRACTICE OF AUDIOLOGY IN THIS STATE TO AN INDIVIDUAL WHO
2 POSSESSES AN ACTIVE LICENSE IN GOOD STANDING TO PRACTICE
3 AUDIOLOGY IN ANOTHER STATE OR TERRITORY OF THE UNITED STATES OR
4 IN A FOREIGN COUNTRY IF THE APPLICANT:

5 (a) PRESENTS SATISFACTORY PROOF TO THE DIRECTOR THAT THE
6 INDIVIDUAL POSSESSES A VALID LICENSE FROM ANOTHER STATE OR
7 JURISDICTION THAT REQUIRES QUALIFICATIONS SUBSTANTIALLY
8 EQUIVALENT TO THE QUALIFICATIONS FOR LICENSURE IN THIS STATE AND
9 MEETS ALL OTHER REQUIREMENTS FOR LICENSURE PURSUANT TO THIS
10 ARTICLE; AND

11 (b) PAYS THE LICENSE FEE ESTABLISHED UNDER SECTION
12 24-34-105, C.R.S.

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

16 **12-29.9-107. Disposition of fees - legislative intent.** IT IS THE
17 INTENT OF THE GENERAL ASSEMBLY TO FUND ALL DIRECT AND INDIRECT
18 COSTS INCURRED IN THE IMPLEMENTATION OF THIS ARTICLE WITH ANNUAL
19 LICENSE AND RENEWAL FEES. THE DIRECTOR SHALL TRANSMIT ALL FEES
20 COLLECTED UNDER THIS ARTICLE TO THE STATE TREASURER, WHO SHALL
21 CREDIT THE SAME TO THE DIVISION OF PROFESSIONS AND OCCUPATIONS
22 CASH FUND CREATED BY SECTION 24-34-105, C.R.S.

23 **12-29.9-108. Disciplinary actions - grounds for discipline.**

24 (1) UPON PROOF THAT AN APPLICANT OR LICENSEE HAS ENGAGED IN AN
25 ACTIVITY THAT IS GROUNDS FOR DISCIPLINE UNDER SUBSECTION (2) OF
26 THIS SECTION, THE DIRECTOR MAY:

27 (a) IMPOSE AN ADMINISTRATIVE FINE NOT TO EXCEED TWO

- 1 THOUSAND FIVE HUNDRED DOLLARS FOR EACH SEPARATE OFFENSE;
- 2 (b) ISSUE A LETTER OF ADMONITION;
- 3 (c) PLACE A LICENSEE ON PROBATION, WHICH ENTAILS CLOSE
- 4 SUPERVISION ON THE TERMS AND FOR THE PERIOD OF TIME THAT THE
- 5 DIRECTOR DEEMS APPROPRIATE; OR
- 6 (d) DENY, REFUSE TO RENEW, REVOKE, OR SUSPEND THE LICENSE
- 7 OF AN APPLICANT OR LICENSEE.

8 ==

9 (2) THE FOLLOWING ACTS CONSTITUTE GROUNDS FOR DISCIPLINE:

- 10 (a) MAKING A FALSE OR MISLEADING STATEMENT OR OMISSION IN
- 11 AN APPLICATION FOR LICENSURE;
- 12 (b) FAILING TO NOTIFY THE DIRECTOR OF A CHANGE IN THE
- 13 INFORMATION FILED PURSUANT TO SECTION 12-29.9-104;
- 14 (c) VIOLATING ANY PROVISION OF THIS ARTICLE, INCLUDING
- 15 FAILURE TO COMPLY WITH THE LICENSE REQUIREMENTS OF SECTION
- 16 12-29.9-104 OR FAILURE TO REPORT INFORMATION AS REQUIRED UNDER
- 17 SECTION 12-29.9-104 (5) OR 24-34-110, C.R.S.;
- 18 (d) VIOLATING ANY RULE PROMULGATED BY THE DIRECTOR UNDER
- 19 THIS ARTICLE;
- 20 (e) AIDING OR ABETTING A VIOLATION, OR CONSPIRING TO
- 21 VIOLATE, ANY PROVISION OF THIS ARTICLE OR ANY RULE PROMULGATED
- 22 OR ORDER ISSUED UNDER THIS ARTICLE BY THE DIRECTOR;
- 23 (f) FAILING TO MAINTAIN PROFESSIONAL LIABILITY INSURANCE AS
- 24 REQUIRED BY SECTION 12-29.9-112;
- 25 (g) USING FALSE OR MISLEADING ADVERTISING;
- 26 (h) VIOLATING THE "COLORADO CONSUMER PROTECTION ACT",
- 27 ARTICLE 1 OF TITLE 6, C.R.S.;

- 1 (i) CAUSING PHYSICAL HARM TO A CUSTOMER;
- 2 (j) FAILING TO PRACTICE AUDIOLOGY ACCORDING TO COMMONLY
3 ACCEPTED PROFESSIONAL STANDARDS;
- 4 (k) PROVIDING SERVICES BEYOND THE LICENSEE'S SCOPE OF
5 EDUCATIONAL PREPARATION, EXPERIENCE, SKILLS, OR COMPETENCE;
- 6 (l) FAILING TO ADEQUATELY SUPERVISE A TRAINEE FOR ANY OF
7 THE HEALING ARTS;
- 8 (m) EMPLOYING A SALES AGENT OR EMPLOYEE WHO VIOLATES ANY
9 PROVISION OF THIS ARTICLE;
- 10 (n) COMMITTING ABUSE OF HEALTH INSURANCE AS DESCRIBED IN
11 SECTION 18-13-119, C.R.S.;
- 12 (o) FAILING TO COMPLY WITH A FINAL AGENCY ORDER OR WITH A
13 STIPULATION OR AGREEMENT MADE WITH OR ORDER ISSUED BY THE
14 DIRECTOR;
- 15 (p) FALSIFYING INFORMATION IN ANY APPLICATION OR
16 ATTEMPTING TO OBTAIN OR OBTAINING A LICENSE BY FRAUD, DECEPTION,
17 OR MISREPRESENTATION;
- 18 (q) EXCESSIVELY OR HABITUALLY USING OR ABUSING ALCOHOL OR
19 HABIT-FORMING DRUGS OR HABITUALLY USING A CONTROLLED
20 SUBSTANCE, AS DEFINED IN SECTION 18-18-102, C.R.S., OR OTHER DRUGS
21 HAVING SIMILAR EFFECTS; EXCEPT THAT THE DIRECTOR HAS THE
22 DISCRETION NOT TO DISCIPLINE THE LICENSEE IF HE OR SHE IS
23 PARTICIPATING IN GOOD FAITH IN A PROGRAM APPROVED BY THE DIRECTOR
24 TO END THE USE OR ABUSE;
- 25 (r) (I) FAILING TO NOTIFY THE DIRECTOR, AS REQUIRED BY SECTION
26 12-29.9-113, OF A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT
27 IMPACTS THE LICENSEE'S ABILITY TO PERFORM AUDIOLOGY WITH

1 REASONABLE SKILL AND SAFETY TO PATIENTS;
2 (II) FAILING TO ACT WITHIN THE LIMITATIONS CREATED BY A
3 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE
4 LICENSEE UNABLE TO PERFORM AUDIOLOGY WITH REASONABLE SKILL AND
5 SAFETY TO THE PATIENT; OR
6 (III) FAILING TO COMPLY WITH THE LIMITATIONS AGREED TO
7 UNDER A CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION
8 12-29.9-113;
9 (s) REFUSING TO SUBMIT TO A PHYSICAL OR MENTAL EXAMINATION
10 WHEN SO ORDERED BY THE DIRECTOR PURSUANT TO SECTION 12-29.9-114;
11 (t) FAILING TO RESPOND IN AN HONEST, MATERIALLY RESPONSIVE,
12 AND TIMELY MANNER TO A COMPLAINT LODGED AGAINST THE LICENSEE;
13 AND
14 (u) IN ANY COURT OF COMPETENT JURISDICTION, BEING CONVICTED
15 OF, PLEADING GUILTY OR NOLO CONTENDERE TO, OR RECEIVING A _____
16 DEFERRED SENTENCE FOR A FELONY OR A CRIME INVOLVING FRAUD,
17 DECEPTION, FALSE PRETENSE, THEFT, MISREPRESENTATION, FALSE
18 ADVERTISING, OR DISHONEST DEALING.
19 (3) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
20 INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL ACTION BY THE
21 DIRECTOR AND, IN THE OPINION OF THE DIRECTOR, SHOULD BE DISMISSED,
22 BUT THE DIRECTOR HAS NOTICED INDICATIONS OF POSSIBLE ERRANT
23 CONDUCT BY THE LICENSEE THAT COULD LEAD TO SERIOUS CONSEQUENCES
24 IF NOT CORRECTED, THE DIRECTOR MAY SEND THE LICENSEE A
25 CONFIDENTIAL LETTER OF CONCERN.
26 (4) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
27 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR,

1 WARRANTS FORMAL ACTION, THE DIRECTOR SHALL NOT RESOLVE THE
2 COMPLAINT BY A DEFERRED SETTLEMENT, ACTION, JUDGMENT, OR
3 PROSECUTION.

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

9 (6) ANY DISCIPLINARY ACTION TAKEN BY ANOTHER STATE, LOCAL
10 JURISDICTION, OR THE FEDERAL GOVERNMENT AGAINST AN APPLICANT OR
11 LICENSEE CONSTITUTES PRIMA FACIE EVIDENCE OF GROUNDS FOR
12 DISCIPLINARY ACTION, INCLUDING DENIAL OF A LICENSE UNDER THIS
13 ARTICLE; EXCEPT THAT THIS SUBSECTION (6) APPLIES ONLY TO
14 DISCIPLINE FOR ACTS OR OMISSIONS THAT ARE SUBSTANTIALLY SIMILAR TO
15 THOSE SET OUT AS GROUNDS FOR DISCIPLINARY ACTION UNDER THIS
16 ARTICLE.

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

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

1 WHICH THE LETTER OF ADMONITION IS BASED.

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

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

9 **12-29.9-109. Director - powers - duties - rules.** (1) THE
10 DIRECTOR MAY CONDUCT INVESTIGATIONS AND INSPECTIONS AS
11 NECESSARY TO DETERMINE WHETHER AN APPLICANT OR LICENSEE HAS
12 VIOLATED THIS ARTICLE OR ANY RULE ADOPTED BY THE DIRECTOR UNDER
13 THIS ARTICLE.

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

22 (3) (a) THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE MAY
23 ADMINISTER OATHS, TAKE AFFIRMATIONS OF WITNESSES, AND ISSUE
24 SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE
25 PRODUCTION OF ALL RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY
26 EVIDENCE, AND MATERIALS IN ANY HEARING, INVESTIGATION,
27 ACCUSATION, OR OTHER MATTER COMING BEFORE THE DIRECTOR

1 PURSUANT TO THIS ARTICLE. THE DIRECTOR MAY APPOINT AN
2 ADMINISTRATIVE LAW JUDGE PURSUANT TO PART 10 OF ARTICLE 30 OF
3 TITLE 24, C.R.S., TO TAKE EVIDENCE AND TO MAKE FINDINGS AND REPORT
4 THEM TO THE DIRECTOR.

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

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

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

1 **12-29.9-110. Cease-and-desist orders - unauthorized practice**

2 **- penalties.** (1) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON
3 CREDIBLE EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT BY ANY
4 PERSON, THAT A LICENSEE IS ACTING IN A MANNER THAT IS AN IMMINENT
5 THREAT TO THE HEALTH AND SAFETY OF THE PUBLIC OR A PERSON IS
6 ACTING OR HAS ACTED WITHOUT THE REQUIRED LICENSE, THE DIRECTOR
7 MAY ISSUE AN ORDER TO CEASE AND DESIST THE ACTIVITY. THE DIRECTOR
8 MUST SET FORTH IN THE ORDER THE STATUTES AND RULES ALLEGED TO
9 HAVE BEEN VIOLATED, THE FACTS ALLEGED TO HAVE CONSTITUTED THE
10 VIOLATION, AND THE REQUIREMENT THAT ALL UNLAWFUL ACTS OR
11 UNLICENSED PRACTICES IMMEDIATELY CEASE.

12 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND
13 DESIST PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), THE
14 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER
15 ACTS OR PRACTICES IN VIOLATION OF THIS ARTICLE HAVE OCCURRED. THE
16 DIRECTOR SHALL CONDUCT THE HEARING PURSUANT TO SECTIONS
17 24-4-104 AND 24-4-105, C.R.S.

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

25 (b) THE DIRECTOR SHALL PROMPTLY NOTIFY A PERSON AGAINST
26 WHOM HE OR SHE HAS ISSUED AN ORDER TO SHOW CAUSE PURSUANT TO
27 PARAGRAPH (a) OF THIS SUBSECTION (2) OF THE ISSUANCE OF THE ORDER,

1 ALONG WITH A COPY OF THE ORDER, THE FACTUAL AND LEGAL BASIS FOR
2 THE ORDER, AND THE DATE SET BY THE DIRECTOR FOR A HEARING ON THE
3 ORDER. THE DIRECTOR MAY SERVE THE NOTICE BY PERSONAL SERVICE, BY
4 FIRST-CLASS UNITED STATES MAIL, POSTAGE PREPAID, OR AS MAY BE
5 PRACTICABLE UPON ANY PERSON AGAINST WHOM THE ORDER IS ISSUED.
6 PERSONAL SERVICE OR MAILING OF AN ORDER OR DOCUMENT PURSUANT
7 TO THIS SUBSECTION (2) CONSTITUTES NOTICE TO THE PERSON OF THE
8 EXISTENCE AND CONTENTS OF THE ORDER OR DOCUMENT.

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

19 (II) IF A PERSON TO WHOM AN ORDER TO SHOW CAUSE HAS BEEN
20 ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) DOES NOT
21 APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT EVIDENCE THAT
22 NOTIFICATION WAS PROPERLY SENT OR SERVED UPON THE PERSON
23 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2) AND ANY OTHER
24 EVIDENCE RELATED TO THE MATTER AS THE DIRECTOR DEEMS
25 APPROPRIATE. THE DIRECTOR SHALL ISSUE THE ORDER WITHIN TEN DAYS
26 AFTER THE DIRECTOR'S DETERMINATION RELATED TO REASONABLE
27 ATTEMPTS TO NOTIFY THE RESPONDENT, AND THE ORDER BECOMES FINAL

1 AS TO THAT PERSON BY OPERATION OF LAW. THE CONDUCT OF THE
2 HEARING IS GOVERNED BY SECTIONS 24-4-104 AND 24-4-105, C.R.S.

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

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

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

22 (a) AN UNLICENSED ACT OR PRACTICE;

23 (b) AN ACT OR PRACTICE CONSTITUTING A VIOLATION OF THIS
24 ARTICLE. A RULE PROMULGATED PURSUANT TO THIS ARTICLE. OR AN
25 ORDER ISSUED PURSUANT TO THIS ARTICLE. OR

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

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

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

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

18 **12-29.9-111. Immunity.** THE DIRECTOR, THE DIRECTOR'S STAFF,
19 ANY PERSON ACTING AS A WITNESS OR CONSULTANT TO THE DIRECTOR,
20 ANY WITNESS TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS
21 ARTICLE, AND ANY PERSON WHO LODGES A COMPLAINT PURSUANT TO
22 THIS ARTICLE IS IMMUNE FROM LIABILITY IN ANY CIVIL ACTION
23 BROUGHT AGAINST HIM OR HER FOR ACTS OCCURRING WHILE ACTING IN HIS
24 OR HER CAPACITY AS DIRECTOR, STAFF, CONSULTANT, OR WITNESS,
25 RESPECTIVELY, IF THE INDIVIDUAL WAS ACTING IN GOOD FAITH WITHIN THE
26 SCOPE OF HIS OR HER RESPECTIVE CAPACITY, MADE A REASONABLE EFFORT
27 TO OBTAIN THE FACTS OF THE MATTER AS TO WHICH HE OR SHE ACTED,

1 AND ACTED IN THE REASONABLE BELIEF THAT THE ACTION TAKEN BY HIM
2 OR HER WAS WARRANTED BY THE FACTS. ANY PERSON PARTICIPATING IN
3 GOOD FAITH IN LODGING A COMPLAINT OR PARTICIPATING IN ANY
4 INVESTIGATIVE OR ADMINISTRATIVE PROCEEDING PURSUANT TO THIS
5 ARTICLE IS IMMUNE FROM ANY CIVIL OR CRIMINAL LIABILITY THAT MAY
6 RESULT FROM THAT PARTICIPATION.

7 **12-29.9-112. Professional liability insurance required - rules.**

8 (1) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1),
9 AN AUDIOLOGIST SHALL NOT PRACTICE AUDIOLOGY UNLESS THE
10 AUDIOLOGIST PURCHASES AND MAINTAINS OR IS COVERED BY
11 PROFESSIONAL LIABILITY INSURANCE IN THE FORM AND AMOUNT
12 DETERMINED BY THE DIRECTOR BY RULE.

13 (b) THE DIRECTOR, BY RULE, MAY EXEMPT OR ESTABLISH LESSER
14 LIABILITY INSURANCE REQUIREMENTS FOR A CLASS OF AUDIOLOGISTS
15 WHOSE PRACTICE DOES NOT REQUIRE THE LEVEL OF PUBLIC PROTECTION
16 THE DIRECTOR ESTABLISHES PURSUANT TO THIS PARAGRAPH (b) FOR ALL
17 OTHER AUDIOLOGISTS.

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

21 **12-29.9-113. Confidential agreements to limit practice -**

22 **violation grounds for discipline.** (1) IF AN AUDIOLOGIST SUFFERS FROM
23 A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE
24 LICENSEE UNABLE TO PRACTICE AUDIOLOGY WITH REASONABLE SKILL AND
25 SAFETY TO PATIENTS, THE AUDIOLOGIST SHALL NOTIFY THE DIRECTOR OF
26 THE ILLNESS OR CONDITION IN A MANNER AND WITHIN A PERIOD OF TIME
27 DETERMINED BY THE DIRECTOR. THE DIRECTOR MAY REQUIRE THE

1 LICENSEE TO SUBMIT TO AN EXAMINATION TO EVALUATE THE EXTENT OF
2 THE ILLNESS OR CONDITION AND ITS IMPACT ON THE LICENSEE'S ABILITY TO
3 PRACTICE AUDIOLOGY WITH REASONABLE SKILL AND SAFETY TO PATIENTS.

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

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

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

16 (d) BY ENTERING INTO AN AGREEMENT WITH THE DIRECTOR UNDER
17 THIS SUBSECTION (2) TO LIMIT HIS OR HER PRACTICE, AN AUDIOLOGIST IS
18 NOT ENGAGING IN CONDUCT THAT IS GROUNDS FOR DISCIPLINE UNDER
19 SECTION 12-29.9-108 (2). THE AGREEMENT DOES NOT CONSTITUTE A
20 RESTRICTION OR DISCIPLINE BY THE DIRECTOR. HOWEVER, IF THE
21 AUDIOLOGIST FAILS TO COMPLY WITH THE TERMS OF AN AGREEMENT
22 ENTERED INTO PURSUANT TO THIS SUBSECTION (2), THE FAILURE
23 CONSTITUTES GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION
24 12-29.9-108 (2) (r), AND THE LICENSEE IS SUBJECT TO DISCIPLINE IN
25 ACCORDANCE WITH SECTION 12-29.9-108.

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

1 **12-29.9-114. Mental and physical examination of licensees.**

2 (1) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT A
3 LICENSEE IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY,
4 THE DIRECTOR MAY REQUIRE THE LICENSEE TO TAKE A MENTAL OR
5 PHYSICAL EXAMINATION BY A HEALTH CARE PROVIDER DESIGNATED BY
6 THE DIRECTOR. IF THE LICENSEE REFUSES TO UNDERGO A MENTAL OR
7 PHYSICAL EXAMINATION, UNLESS DUE TO CIRCUMSTANCES BEYOND THE
8 LICENSEE'S CONTROL, THE DIRECTOR MAY SUSPEND THE LICENSEE'S
9 LICENSE UNTIL THE RESULTS OF THE EXAMINATION ARE KNOWN AND THE
10 DIRECTOR HAS MADE A DETERMINATION OF THE LICENSEE'S FITNESS TO
11 PRACTICE. THE DIRECTOR SHALL PROCEED WITH AN ORDER FOR
12 EXAMINATION AND DETERMINATION IN A TIMELY MANNER.

13 (2) THE DIRECTOR SHALL INCLUDE IN AN ORDER ISSUED TO A
14 LICENSEE UNDER SUBSECTION (1) OF THIS SECTION THE BASIS OF THE
15 DIRECTOR'S REASONABLE CAUSE TO BELIEVE THAT THE LICENSEE IS
16 UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY. FOR THE
17 PURPOSES OF A DISCIPLINARY PROCEEDING AUTHORIZED BY THIS ARTICLE,
18 THE LICENSEE IS DEEMED TO HAVE WAIVED ALL OBJECTIONS TO THE
19 ADMISSIBILITY OF THE EXAMINING HEALTH CARE PROVIDER'S TESTIMONY
20 OR EXAMINATION REPORTS ON THE GROUND THAT THEY ARE PRIVILEGED
21 COMMUNICATIONS.

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

1 TESTIMONY AND EXAMINATION REPORTS OF THE HEALTH CARE PROVIDER
2 DESIGNATED BY THE DIRECTOR.

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

8 **12-29.9-115. Protection of medical records - licensee's**
9 **obligations - verification of compliance - noncompliance grounds for**
10 **discipline - rules. (1) EACH LICENSEE SHALL DEVELOP A WRITTEN PLAN**
11 **TO ENSURE THE SECURITY OF PATIENT MEDICAL RECORDS. THE PLAN MUST**
12 **ADDRESS AT LEAST THE FOLLOWING:**

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

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

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

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

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

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

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

5 **12-29.9-116. Repeal.** THIS ARTICLE IS REPEALED, EFFECTIVE
6 SEPTEMBER 1, 2020. PRIOR TO THE REPEAL, THE DEPARTMENT OF
7 REGULATORY AGENCIES SHALL REVIEW THE LICENSING AND SUPERVISORY
8 FUNCTIONS OF THE DIRECTOR AS PROVIDED IN SECTION 24-34-104, C.R.S.

9 == ===== ==

10 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **amend**
11 (51.5) introductory portion; and **add** (51.5) (d) as follows:

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

14 (51.5) The following agencies, functions, or both, ~~shall~~ terminate on
15 September 1, 2020:

16 (d) THE LICENSING OF AUDIOLOGISTS BY THE DIVISION OF
17 PROFESSIONS AND OCCUPATIONS PURSUANT TO == ARTICLE 29.9 OF TITLE
18 12, C.R.S.

19 ==

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

22 **6-1-501. Definitions.** As used in this part 5, unless the context
23 otherwise requires:

24 (7) "Facilitative device" means a device that has a retail price
25 equal to or greater than one hundred dollars and that is exclusively
26 designed and manufactured to assist a person with a disability with such
27 person's specific disability, through the use of facilitative technology, to

1 be self-sufficient or to maintain or improve that person's quality of life.
2 "Facilitative device" does not include wheelchairs as that term is defined
3 in section 6-1-402 (17). "Facilitative device" does include: ~~the following:~~

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

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

11 **10-16-104. Mandatory coverage provisions - definitions.**

12 (19) **Hearing aids for children - legislative declaration.** (b) Any health
13 benefit plan that provides hospital, surgical, or medical expense
14 insurance, except supplemental policies covering a specified disease or
15 other limited benefit, ~~shall~~ **MUST** provide coverage for hearing aids for
16 minor children who have a hearing loss that has been verified by a
17 physician licensed pursuant to article 36 of title 12, C.R.S., and by an
18 audiologist licensed pursuant to ~~section 12-5.5-102~~ **ARTICLE 29.9 OF**
19 **TITLE 12, C.R.S.** The hearing aids ~~shall~~ **MUST** be medically appropriate to
20 meet the needs of the child according to accepted professional standards.
21 Coverage ~~shall~~ **MUST** include the purchase of the following:

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

24 **24-34-110. Medical transparency act of 2010 - disclosure of**
25 **information about health care licensees - fines - rules - short title -**
26 **legislative declaration.** (3) (a) As used in this section, "applicant" means
27 a person applying for a new, active license, certification, or registration

1 or to renew, reinstate, or reactivate an active license, certification, or
2 registration to practice:

3 (I) Audiology pursuant to part 1 of article 5-5 29.9 of title 12,
4 C.R.S.;

5 **SECTION 6. Appropriation.** (1) In addition to any other
6 appropriation, there is hereby appropriated, out of any moneys in the
7 division of professions and occupations cash fund created in section
8 24-34-105 (2) (b) (I), Colorado Revised Statutes, not otherwise
9 appropriated, to the department of regulatory agencies, for the fiscal year
10 beginning July 1, 2013, the sum of \$58,966 and 0.6 FTE, or so much
11 thereof as may be necessary, to be allocated for the implementation of this
12 act as follows:

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

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

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

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

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

23 (2) In addition to any other appropriation, there is hereby
24 appropriated to the department of law, for the fiscal year beginning July
25 1, 2013, the sum of \$11,294, or so much thereof as may be necessary, for
26 the provision of legal services for the department of regulatory agencies
27 related to the implementation of this act. Said sum is from reappropriated

1 funds received from the department of regulatory agencies out of the
2 appropriation made in paragraph (d) of subsection (1) of this section.

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

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