

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0023.01 Christy Chase x2008

HOUSE BILL 12-1303

HOUSE SPONSORSHIP

Schafer S., Hamner, Kerr J., Peniston, Summers, Young

SENATE SPONSORSHIP

Spence, Jahn

House Committees

Health and Environment

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF SPEECH-LANGUAGE PATHOLOGISTS
102 BY THE DEPARTMENT OF REGULATORY AGENCIES.

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>.)

On and after July 1, 2013, the bill requires speech-language pathologists to obtain a certification from the division of registrations (division) in the department of regulatory agencies in order to practice speech-language pathology in Colorado. The director of the division is tasked with oversight, regulation, and discipline of speech-language

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.

pathologists. An exemption from the certification requirement is provided for speech-language pathologists who are licensed and speech-language pathology assistants who are authorized by the Colorado department of education and who provide speech-language pathology services that are paid for by an administrative unit or state-operated program, as those terms are defined in the "Exceptional Children's Educational Act".

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 43.5 to
3 title 12 as follows:

4 **ARTICLE 43.5**

5 **Speech-language Pathologists**

6 **12-43.5-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND
7 MAY BE CITED AS THE "SPEECH-LANGUAGE PATHOLOGY PRACTICE ACT".

8 **12-43.5-102. Legislative declaration.** (1) THE GENERAL
9 ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

10 (a) SPEECH-LANGUAGE PATHOLOGY SERVICES ARE PROVIDED FOR
11 THE PURPOSE OF IMPROVING THE ABILITIES OF THOSE WHO HAVE
12 CONGENITAL OR ACQUIRED SPEECH, LANGUAGE, COGNITIVE, FEEDING, AND
13 SWALLOWING DEFICITS;

14 (b) SPEECH-LANGUAGE PATHOLOGISTS PROVIDE SPECIFIC THERAPY
15 AND TREATMENTS THAT ARE RELATED TO THE EFFECTS OF MEDICAL
16 DIAGNOSES OR CONGENITAL, GENETIC, OR DEVELOPMENTAL CONDITIONS
17 BUT DO NOT PROVIDE MEDICAL PROCEDURES, MEDICATIONS, OR
18 INTERVENTIONS THAT CONSTITUTE THE PRACTICE OF MEDICINE;

19 (c) THE PROFESSIONAL ROLES AND ACTIVITIES IN
20 SPEECH-LANGUAGE PATHOLOGY INCLUDE CLINICAL AND EDUCATIONAL
21 SERVICES, WHICH INCLUDE EVALUATION, ASSESSMENT, PLANNING, AND
22 TREATMENT; PREVENTION AND ADVOCACY; EDUCATION; ADMINISTRATION;

1 AND RESEARCH;

2 (d) THIS ARTICLE IS NECESSARY TO SAFEGUARD PUBLIC HEALTH,
3 SAFETY, AND WELFARE AND TO PROTECT THE PUBLIC FROM INCOMPETENT,
4 UNETHICAL, OR UNAUTHORIZED PERSONS.

5 (2) THE GENERAL ASSEMBLY FURTHER DETERMINES THAT IT IS THE
6 PURPOSE OF THIS ARTICLE TO:

7 (a) REGULATE PERSONS WHO ARE REPRESENTING OR HOLDING
8 THEMSELVES OUT AS SPEECH-LANGUAGE PATHOLOGISTS OR WHO ARE
9 PERFORMING SERVICES THAT CONSTITUTE SPEECH-LANGUAGE
10 PATHOLOGY, EXCLUDING SCHOOL SPEECH-LANGUAGE PATHOLOGISTS WHO
11 PRACTICE IN A PUBLIC SCHOOL SETTING; AND

12 (b) EXCLUDE FROM REGULATION UNDER THIS ARTICLE THOSE
13 SPEECH-LANGUAGE PATHOLOGISTS WHO ARE LICENSED AND
14 SPEECH-LANGUAGE PATHOLOGY ASSISTANTS WHO ARE AUTHORIZED BY
15 THE COLORADO DEPARTMENT OF EDUCATION AND PROVIDE
16 SPEECH-LANGUAGE PATHOLOGY SERVICES THAT ARE PAID FOR BY AN
17 ADMINISTRATIVE UNIT.

18 **12-43.5-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
19 CONTEXT OTHERWISE REQUIRES:

20 (1) "ADMINISTRATIVE UNIT" HAS THE SAME MEANING AS SET
21 FORTH IN SECTION 22-20-103 (1), C.R.S.

22 (2) "CERTIFICATE HOLDER" MEANS A PERSON CERTIFIED UNDER
23 THIS ARTICLE AS A SPEECH-LANGUAGE PATHOLOGIST.

24 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF REGULATORY
25 AGENCIES.

26 (4) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF
27 REGISTRATIONS OR THE DIRECTOR'S DESIGNEE.

1 (5) "DIVISION" MEANS THE DIVISION OF REGISTRATIONS IN THE
2 DEPARTMENT CREATED IN SECTION 24-34-102, C.R.S.

3 (6) "SCHOOL SPEECH-LANGUAGE PATHOLOGIST" MEANS A PERSON
4 LICENSED BY THE DEPARTMENT OF EDUCATION TO PROVIDE
5 SPEECH-LANGUAGE PATHOLOGY SERVICES THAT ARE PAID FOR BY AN
6 ADMINISTRATIVE UNIT OR A STATE-OPERATED PROGRAM. "SCHOOL
7 SPEECH-LANGUAGE PATHOLOGIST" INCLUDES A SCHOOL
8 SPEECH-LANGUAGE PATHOLOGY ASSISTANT AUTHORIZED BY THE
9 DEPARTMENT OF EDUCATION PURSUANT TO SECTION 22-60.5-111 (10),
10 C.R.S., TO PROVIDE SPEECH-LANGUAGE PATHOLOGY SERVICES THAT ARE
11 PAID FOR BY AN ADMINISTRATIVE UNIT OR A STATE-OPERATED PROGRAM.

12 (7) (a) "SPEECH-LANGUAGE PATHOLOGIST" MEANS A PERSON
13 CERTIFIED TO PRACTICE SPEECH-LANGUAGE PATHOLOGY UNDER THIS
14 ARTICLE.

15 (b) "SPEECH-LANGUAGE PATHOLOGIST" DOES NOT INCLUDE A
16 SCHOOL SPEECH-LANGUAGE PATHOLOGIST.

17 (8) (a) "SPEECH-LANGUAGE PATHOLOGY" MEANS THE APPLICATION
18 OF PRINCIPLES, METHODS, AND PROCEDURES RELATED TO THE
19 DEVELOPMENT, DISORDERS, AND EFFECTIVENESS OF HUMAN
20 COMMUNICATION AND RELATED FUNCTIONS, WHICH INCLUDES PROVIDING
21 PREVENTION, SCREENING, CONSULTATION, ASSESSMENT OR EVALUATION,
22 TREATMENT, INTERVENTION, MANAGEMENT, COUNSELING,
23 COLLABORATION, AND REFERRAL SERVICES FOR DISORDERS OF:

24 (I) SPEECH, SUCH AS SPEECH SOUND PRODUCTION, FLUENCY,
25 RESONANCE, AND VOICE;

26 (II) LANGUAGE, SUCH AS PHONOLOGY, MORPHOLOGY, SYNTAX,
27 SEMANTICS, PRAGMATIC AND SOCIAL COMMUNICATION SKILLS, AND

1 LITERACY SKILLS;

2 (III) FEEDING AND SWALLOWING; AND

3 (IV) COGNITIVE ASPECTS OF COMMUNICATION, SUCH AS

4 ATTENTION, MEMORY, EXECUTIVE FUNCTIONING, AND PROBLEM SOLVING.

5 (b) "SPEECH-LANGUAGE PATHOLOGY" ALSO INCLUDES

6 ESTABLISHING AUGMENTATIVE AND ALTERNATIVE COMMUNICATION

7 TECHNIQUES AND STRATEGIES, INCLUDING THE FOLLOWING:

8 (I) DEVELOPING, SELECTING, AND PRESCRIBING AUGMENTATIVE OR

9 ALTERNATIVE COMMUNICATION SYSTEMS AND DEVICES, SUCH AS SPEECH

10 GENERATING DEVICES;

11 (II) PROVIDING SERVICES TO INDIVIDUALS WITH HEARING LOSS

12 AND THEIR FAMILIES, SUCH AS AUDITORY TRAINING, SPEECH READING, OR

13 SPEECH AND LANGUAGE INTERVENTION SECONDARY TO HEARING LOSS;

14 (III) SCREENING INDIVIDUALS FOR HEARING LOSS OR MIDDLE EAR

15 PATHOLOGY USING CONVENTIONAL PURE-TONE AIR CONDUCTION

16 METHODS, INCLUDING OTOSCOPIC INSPECTION; OTOACOUSTIC EMISSIONS;

17 OR SCREENING TYMPANOMETRY;

18 (IV) USING INSTRUMENTATION SUCH AS VIDEOFLUROSCOPY,

19 ENDOSCOPY, OR STROBOSCOPY TO OBSERVE, COLLECT DATA, AND

20 MEASURE PARAMETERS OF COMMUNICATION AND SWALLOWING;

21 (V) SELECTING, FITTING, AND ESTABLISHING EFFECTIVE USE OF

22 PROSTHETIC OR ADAPTIVE DEVICES FOR COMMUNICATION, SWALLOWING,

23 OR OTHER UPPER AERODIGESTIVE FUNCTIONS, NOT INCLUDING SENSORY

24 DEVICES USED BY INDIVIDUALS WITH HEARING LOSS; AND

25 (VI) PROVIDING SERVICES TO MODIFY OR ENHANCE

26 COMMUNICATION PERFORMANCE, SUCH AS ACCENT MODIFICATION AND

27 PERSONAL OR PROFESSIONAL COMMUNICATION EFFICACY.

1 (9) "STATE-OPERATED PROGRAM" HAS THE SAME MEANING AS SET
2 FORTH IN SECTION 22-20-103 (28), C.R.S.

3 **12-43.5-104. Use of titles restricted.** (1) ONLY A PERSON
4 REQUIRED TO BE AND WHO IS CERTIFIED AS A SPEECH-LANGUAGE
5 PATHOLOGIST UNDER THIS ARTICLE OR LICENSED BY THE COLORADO
6 DEPARTMENT OF EDUCATION TO PROVIDE SPEECH-LANGUAGE PATHOLOGY
7 SERVICES MAY ADVERTISE AS OR USE THE TITLE "SPEECH-LANGUAGE
8 PATHOLOGIST", "SPEECH PATHOLOGIST", "SPEECH THERAPIST", "SPEECH
9 CORRECTIONIST", "SPEECH CLINICIAN", "LANGUAGE PATHOLOGIST",
10 "VOICE THERAPIST", "VOICE PATHOLOGIST", "APHASIOLOGIST", OR ANY
11 OTHER GENERALLY ACCEPTED TERMS, LETTERS, OR FIGURES THAT
12 INDICATE THAT THE PERSON IS A CERTIFIED SPEECH-LANGUAGE
13 PATHOLOGIST.

14 (2) FOR A CERTIFICATE HOLDER WHO HAS SUCCESSFULLY
15 COMPLETED A DOCTORAL DEGREE IN COMMUNICATION SCIENCES AND
16 DISORDERS AS DESCRIBED IN SECTION 12-43.5-106 (1) (a), A
17 CERTIFICATION TO PRACTICE SPEECH-LANGUAGE PATHOLOGY ISSUED
18 PURSUANT TO THIS ARTICLE ENTITLES THE CERTIFICATE HOLDER TO USE
19 THE TITLE "DOCTOR" OR "DR." WHEN ACCOMPANIED BY THE TERMS
20 "SPEECH-LANGUAGE PATHOLOGY" OR THE LETTERS "S.L.P.".

21 **12-43.5-105. Certification required - exception.** (1) EXCEPT AS
22 OTHERWISE PROVIDED IN THIS ARTICLE, ON AND AFTER JULY 1, 2013, A
23 PERSON SHALL NOT PRACTICE SPEECH-LANGUAGE PATHOLOGY OR
24 REPRESENT OR HOLD HIMSELF OR HERSELF OUT AS BEING ABLE TO
25 PRACTICE SPEECH-LANGUAGE PATHOLOGY IN THIS STATE WITHOUT
26 POSSESSING A VALID CERTIFICATION ISSUED BY THE DIRECTOR IN
27 ACCORDANCE WITH THIS ARTICLE AND ANY RULES ADOPTED UNDER THIS

1 ARTICLE.

2 (2) (a) A SCHOOL SPEECH-LANGUAGE PATHOLOGIST IS NOT
3 REQUIRED TO OBTAIN CERTIFICATION FROM THE DIRECTOR AS LONG AS THE
4 SCHOOL SPEECH-LANGUAGE PATHOLOGIST PROVIDES SPEECH-LANGUAGE
5 PATHOLOGY SERVICES THAT ARE PAID FOR BY AN ADMINISTRATIVE UNIT
6 OR STATE-OPERATED PROGRAM.

7 (b) IF A SCHOOL SPEECH-LANGUAGE PATHOLOGIST PROVIDES
8 SPEECH-LANGUAGE PATHOLOGY SERVICES THAT ARE NOT PAID FOR BY AN
9 ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM, THE
10 SPEECH-LANGUAGE PATHOLOGIST SHALL OBTAIN A CERTIFICATION
11 PURSUANT TO THIS ARTICLE PRIOR TO PROVIDING THOSE SERVICES.

12 **12-43.5-106. Certification - application - qualifications -**
13 **provisional certification - renewal - fees - rules. (1) Educational and**
14 **experiential requirements.** EVERY APPLICANT FOR A CERTIFICATION AS
15 A SPEECH-LANGUAGE PATHOLOGIST MUST HAVE:

16 (a) SUCCESSFULLY COMPLETED A MASTER'S OR HIGHER DEGREE IN
17 COMMUNICATION SCIENCES AND DISORDERS GRANTED BY AN ACCREDITED
18 INSTITUTION OF HIGHER EDUCATION RECOGNIZED BY THE UNITED STATES
19 DEPARTMENT OF EDUCATION, WITH A MINIMUM OF SEVENTY-FIVE
20 SEMESTER CREDIT HOURS COMPLETED IN A COURSE OF STUDY ADDRESSING
21 THE KNOWLEDGE AND SKILLS PERTINENT TO THE FIELD OF
22 SPEECH-LANGUAGE PATHOLOGY AND SUPERVISED CLINICAL EXPERIENCE
23 IN THE PRACTICE OF SPEECH-LANGUAGE PATHOLOGY;

24 (b) SUCCESSFULLY COMPLETED A SPEECH-LANGUAGE PATHOLOGY
25 CLINICAL FELLOWSHIP APPROVED BY THE DIRECTOR, AS DOCUMENTED BY
26 THE SUPERVISING CLINICIAN OR A NATIONAL CERTIFYING BODY
27 RECOGNIZED BY THE DIRECTOR; AND

1 (c) PASSED THE NATIONAL EXAMINATION ADOPTED BY THE
2 AMERICAN SPEECH-LANGUAGE-HEARING ASSOCIATION OR ITS SUCCESSOR
3 ASSOCIATION OR ANY OTHER EXAMINATION APPROVED BY THE DIRECTOR.

4 (2) **Application.** WHEN AN APPLICANT HAS FULFILLED THE
5 REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, THE APPLICANT MAY
6 APPLY FOR CERTIFICATION IN THE MANNER REQUIRED BY THE DIRECTOR.
7 THE APPLICANT SHALL SUBMIT AN APPLICATION FEE WITH HIS OR HER
8 APPLICATION IN AN AMOUNT DETERMINED BY THE DIRECTOR.
9 ADDITIONALLY, IF THE APPLICANT WILL PROVIDE SPEECH-LANGUAGE
10 PATHOLOGY SERVICES TO PATIENTS, THE APPLICANT SHALL SUBMIT TO THE
11 DIRECTOR PROOF THAT THE APPLICANT HAS PURCHASED AND IS
12 MAINTAINING OR IS COVERED BY PROFESSIONAL LIABILITY INSURANCE IN
13 AN AMOUNT DETERMINED BY THE DIRECTOR BY RULE.

14 (3) **Certification.** (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF
15 THIS SUBSECTION (3), WHEN AN APPLICANT HAS FULFILLED THE
16 REQUIREMENTS OF SUBSECTIONS (1) AND (2) OF THIS SECTION, THE
17 DIRECTOR SHALL ISSUE A CERTIFICATION TO THE APPLICANT.

18 (b) THE DIRECTOR MAY DENY A CERTIFICATION IF THE APPLICANT
19 HAS COMMITTED ANY ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY
20 ACTION UNDER SECTION 12-43.5-110.

21 (4) **Certification by endorsement.** (a) AN APPLICANT FOR
22 CERTIFICATION BY ENDORSEMENT SHALL FILE AN APPLICATION AND PAY
23 A FEE AS PRESCRIBED BY THE DIRECTOR AND SHALL HOLD A CURRENT,
24 VALID LICENSE OR CERTIFICATION IN A JURISDICTION THAT REQUIRES
25 QUALIFICATIONS SUBSTANTIALLY EQUIVALENT TO THOSE REQUIRED FOR
26 CERTIFICATION BY SUBSECTION (1) OF THIS SECTION.

27 (b) AN APPLICANT FOR CERTIFICATION BY ENDORSEMENT SHALL

1 SUBMIT WITH THE APPLICATION VERIFICATION THAT THE APPLICANT HAS
2 ACTIVELY PRACTICED FOR A PERIOD OF TIME DETERMINED BY RULES OF
3 THE DIRECTOR OR OTHERWISE MAINTAINED CONTINUED COMPETENCY AS
4 DETERMINED BY THE DIRECTOR. ADDITIONALLY, IF THE APPLICANT WILL
5 PROVIDE SPEECH-LANGUAGE PATHOLOGY SERVICES TO PATIENTS, THE
6 APPLICANT SHALL SUBMIT TO THE DIRECTOR PROOF THAT THE APPLICANT
7 HAS PURCHASED AND IS MAINTAINING OR IS COVERED BY PROFESSIONAL
8 LIABILITY INSURANCE IN AN AMOUNT DETERMINED BY THE DIRECTOR BY
9 RULE.

10 (c) UPON RECEIPT OF ALL DOCUMENTS REQUIRED BY PARAGRAPHS
11 (a) AND (b) OF THIS SUBSECTION (4), THE DIRECTOR SHALL REVIEW THE
12 APPLICATION AND MAKE A DETERMINATION OF THE APPLICANT'S
13 QUALIFICATION TO BE CERTIFIED BY ENDORSEMENT.

14 (d) THE DIRECTOR MAY DENY THE CERTIFICATION BY
15 ENDORSEMENT IF THE APPLICANT HAS COMMITTED AN ACT THAT WOULD
16 BE GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-43.5-110.

17 (5) **Certification renewal.** (a) A CERTIFICATE HOLDER SHALL
18 RENEW THE CERTIFICATION ISSUED UNDER THIS ARTICLE ACCORDING TO
19 A SCHEDULE OF RENEWAL DATES ESTABLISHED BY THE DIRECTOR. THE
20 CERTIFICATE HOLDER SHALL SUBMIT AN APPLICATION IN THE MANNER
21 REQUIRED BY THE DIRECTOR AND SHALL PAY A RENEWAL FEE IN AN
22 AMOUNT DETERMINED BY THE DIRECTOR.

23 (b) CERTIFICATIONS SHALL BE RENEWED OR REINSTATED IN
24 ACCORDANCE WITH THE SCHEDULE ESTABLISHED BY THE DIRECTOR, AND
25 THE RENEWAL OR REINSTATEMENT SHALL BE GRANTED PURSUANT TO
26 SECTION 24-34-102 (8), C.R.S. THE DIRECTOR MAY ESTABLISH RENEWAL
27 FEES AND DELINQUENCY FEES FOR REINSTATEMENT PURSUANT TO SECTION

1 24-34-105, C.R.S. IF A CERTIFICATE HOLDER FAILS TO RENEW HIS OR HER
2 CERTIFICATION PURSUANT TO THE SCHEDULE ESTABLISHED BY THE
3 DIRECTOR, THE CERTIFICATION EXPIRES. ANY PERSON WHOSE
4 CERTIFICATION HAS EXPIRED AND WHO CONTINUES TO PRACTICE
5 SPEECH-LANGUAGE PATHOLOGY IS SUBJECT TO THE PENALTIES PROVIDED
6 IN THIS ARTICLE OR SECTION 24-34-102 (8), C.R.S., FOR REINSTATEMENT.

7 (6) **Fees.** (a) THE DIRECTOR SHALL ESTABLISH AND COLLECT FEES
8 UNDER THIS ARTICLE PURSUANT TO SECTION 24-34-105, C.R.S. ALL FEES
9 COLLECTED UNDER THIS ARTICLE SHALL BE DETERMINED, COLLECTED, AND
10 APPROPRIATED IN THE SAME MANNER AS SET FORTH IN SECTION 24-34-105,
11 C.R.S., AND PERIODICALLY ADJUSTED IN ACCORDANCE WITH SECTION
12 24-75-402, C.R.S.

13 (b) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, THE
14 DIVISION SHALL TRANSMIT ALL FEES COLLECTED PURSUANT TO THIS
15 ARTICLE TO THE STATE TREASURER, WHO SHALL CREDIT THE FEES TO THE
16 DIVISION OF REGISTRATIONS CASH FUND CREATED PURSUANT TO SECTION
17 24-34-105 (2) (b), C.R.S. THE GENERAL ASSEMBLY SHALL MAKE ANNUAL
18 APPROPRIATIONS FROM THE DIVISION OF REGISTRATIONS CASH FUND FOR
19 EXPENDITURES OF THE DIVISION INCURRED IN THE PERFORMANCE OF ITS
20 DUTIES UNDER THIS ARTICLE.

21 **12-43.5-107. Continuing professional competency - rules.**

22 (1)(a) A SPEECH-LANGUAGE PATHOLOGIST SHALL MAINTAIN CONTINUING
23 PROFESSIONAL COMPETENCY TO PRACTICE.

24 (b) THE DIRECTOR SHALL ADOPT RULES ESTABLISHING A
25 CONTINUING PROFESSIONAL COMPETENCY PROGRAM THAT INCLUDES, AT
26 A MINIMUM, THE FOLLOWING ELEMENTS:

27 (I) A SELF-ASSESSMENT OF THE KNOWLEDGE AND SKILLS OF A

1 SPEECH-LANGUAGE PATHOLOGIST SEEKING TO RENEW OR REINSTATE A
2 CERTIFICATION;

3 (II) DEVELOPMENT, EXECUTION, AND DOCUMENTATION OF A
4 LEARNING PLAN BASED ON THE ASSESSMENT; AND

5 (III) PERIODIC DEMONSTRATION OF KNOWLEDGE AND SKILLS
6 THROUGH DOCUMENTATION OF ACTIVITIES NECESSARY TO ENSURE AT
7 LEAST MINIMAL ABILITY TO SAFELY PRACTICE THE PROFESSION; EXCEPT
8 THAT A SPEECH-LANGUAGE PATHOLOGIST CERTIFIED PURSUANT TO THIS
9 ARTICLE NEED NOT RETAKE ANY EXAMINATION REQUIRED BY SECTION
10 12-43.5-106 FOR INITIAL CERTIFICATION.

11 (2) THE DIRECTOR SHALL ESTABLISH THAT A SPEECH-LANGUAGE
12 PATHOLOGIST SATISFIES THE CONTINUING COMPETENCY REQUIREMENTS
13 OF THIS SECTION IF THE SPEECH-LANGUAGE PATHOLOGIST MEETS THE
14 CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS OF ONE OF THE
15 FOLLOWING ENTITIES:

16 (a) A STATE DEPARTMENT, INCLUDING CONTINUING PROFESSIONAL
17 COMPETENCY REQUIREMENTS IMPOSED THROUGH A CONTRACTUAL
18 ARRANGEMENT WITH A PROVIDER;

19 (b) AN ACCREDITING BODY RECOGNIZED BY THE DIRECTOR; OR

20 (c) AN ENTITY APPROVED BY THE DIRECTOR.

21 (3) (a) AFTER THE PROGRAM IS ESTABLISHED, A
22 SPEECH-LANGUAGE PATHOLOGIST SHALL SATISFY THE REQUIREMENTS OF
23 THE PROGRAM IN ORDER TO RENEW OR REINSTATE A CERTIFICATION TO
24 PRACTICE SPEECH-LANGUAGE PATHOLOGY.

25 (b) THE REQUIREMENTS OF THIS SECTION APPLY TO INDIVIDUAL
26 SPEECH-LANGUAGE PATHOLOGISTS, AND NOTHING IN THIS SECTION
27 REQUIRES A PERSON WHO EMPLOYS OR CONTRACTS WITH A

1 SPEECH-LANGUAGE PATHOLOGIST TO COMPLY WITH THIS SECTION.

2 (4) RECORDS OF ASSESSMENTS OR OTHER DOCUMENTATION
3 DEVELOPED OR SUBMITTED IN CONNECTION WITH THE CONTINUING
4 PROFESSIONAL COMPETENCY PROGRAM ARE CONFIDENTIAL AND NOT
5 SUBJECT TO INSPECTION BY THE PUBLIC OR DISCOVERY IN CONNECTION
6 WITH A CIVIL ACTION AGAINST A SPEECH-LANGUAGE PATHOLOGIST. A
7 PERSON OR THE DIRECTOR SHALL NOT USE THE RECORDS OR DOCUMENTS
8 UNLESS USED BY THE DIRECTOR TO DETERMINE WHETHER A
9 SPEECH-LANGUAGE PATHOLOGIST IS MAINTAINING CONTINUING
10 PROFESSIONAL COMPETENCY TO ENGAGE IN THE PROFESSION.

11 (5) AS USED IN THIS SECTION, "CONTINUING PROFESSIONAL
12 COMPETENCY" MEANS THE ONGOING ABILITY OF A SPEECH-LANGUAGE
13 PATHOLOGIST TO LEARN, INTEGRATE, AND APPLY THE KNOWLEDGE, SKILL,
14 AND JUDGMENT TO PRACTICE AS A SPEECH-LANGUAGE PATHOLOGIST
15 ACCORDING TO GENERALLY ACCEPTED STANDARDS AND PROFESSIONAL
16 ETHICAL STANDARDS.

17 **12-43.5-108. Scope of article - exclusions.** (1) THIS ARTICLE
18 DOES NOT PREVENT OR RESTRICT THE PRACTICE, SERVICES, OR ACTIVITIES
19 OF:

20 (a) A SCHOOL SPEECH-LANGUAGE PATHOLOGIST;

21 (b) A PERSON LICENSED OR OTHERWISE REGULATED IN THIS STATE
22 BY ANY OTHER LAW FROM ENGAGING IN HIS OR HER PROFESSION OR
23 OCCUPATION AS DEFINED IN THE LAW UNDER WHICH HE OR SHE IS
24 LICENSED;

25 (c) A PERSON PURSUING A COURSE OF STUDY LEADING TO A
26 DEGREE IN SPEECH-LANGUAGE PATHOLOGY AT AN EDUCATIONAL
27 INSTITUTION WITH AN ACCREDITED SPEECH-LANGUAGE PATHOLOGY

1 PROGRAM IF THAT PERSON IS DESIGNATED BY A TITLE THAT CLEARLY
2 INDICATES HIS OR HER STATUS AS A STUDENT AND IF HE OR SHE ACTS
3 UNDER APPROPRIATE INSTRUCTION AND SUPERVISION;

4 (d) A PERSON PARTICIPATING IN GOOD FAITH IN A CLINICAL
5 FELLOWSHIP IF THE EXPERIENCE CONSTITUTES A PART OF THE EXPERIENCE
6 NECESSARY TO MEET THE REQUIREMENT OF SECTION 12-43.5-106 (1) AND
7 THE PERSON ACTS UNDER APPROPRIATE SUPERVISION; OR

8 (e) ANY LEGALLY QUALIFIED SPEECH-LANGUAGE PATHOLOGIST
9 FROM ANOTHER STATE OR COUNTRY WHEN PROVIDING SERVICES ON
10 BEHALF OF A TEMPORARILY ABSENT SPEECH-LANGUAGE PATHOLOGIST
11 CERTIFIED IN THIS STATE, SO LONG AS THE UNCERTIFIED
12 SPEECH-LANGUAGE PATHOLOGIST IS ACTING IN ACCORDANCE WITH RULES
13 ESTABLISHED BY THE DIRECTOR. THE UNCERTIFIED PRACTICE MUST NOT
14 OCCUR MORE THAN ONCE IN ANY TWELVE-MONTH PERIOD.

15 (2) NOTHING IN THIS ARTICLE REQUIRES OR ALLOWS THE
16 DEPARTMENT OF EDUCATION, THE DEPARTMENT OF HEALTH CARE POLICY
17 AND FINANCING, OR ANY OTHER STATE DEPARTMENT TO ADOPT OR APPLY
18 THE STANDARDS CONTAINED IN THIS ARTICLE:

19 (a) AS THE STANDARDS FOR ENDORSING OR OTHERWISE
20 AUTHORIZING SCHOOL SPEECH-LANGUAGE PATHOLOGISTS TO PROVIDE
21 SPEECH-LANGUAGE PATHOLOGY SERVICES THAT ARE PAID FOR BY AN
22 ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM; OR

23 (b) FOR PURPOSES OF DETERMINING WHETHER MEDICAID
24 REIMBURSEMENT MAY BE OBTAINED FOR SPEECH-LANGUAGE PATHOLOGY
25 SERVICES.

26 **12-43.5-109. Limitations on authority.** NOTHING IN THIS
27 ARTICLE AUTHORIZES A SPEECH-LANGUAGE PATHOLOGIST TO ENGAGE IN

1 THE PRACTICE OF MEDICINE, AS DEFINED IN SECTION 12-36-106, OR ANY
2 OTHER FORM OF HEALING EXCEPT AS AUTHORIZED BY THIS ARTICLE.

3 **12-43.5-110. Grounds for discipline.** (1) THE DIRECTOR MAY
4 TAKE DISCIPLINARY ACTION AGAINST A CERTIFICATE HOLDER PURSUANT
5 TO SECTION 12-43.5-111 IF THE DIRECTOR FINDS THAT THE CERTIFICATE
6 HOLDER HAS REPRESENTED OR HELD HIMSELF OR HERSELF OUT AS A
7 CERTIFIED SPEECH-LANGUAGE PATHOLOGIST AFTER THE EXPIRATION,
8 SUSPENSION, OR REVOCATION OF HIS OR HER CERTIFICATION.

9 (2) THE DIRECTOR MAY REVOKE, SUSPEND, OR DENY A
10 CERTIFICATION, PLACE A CERTIFICATE HOLDER ON PROBATION, ISSUE A
11 LETTER OF ADMONITION OR A CONFIDENTIAL LETTER OF CONCERN, IMPOSE
12 A FINE AGAINST A CERTIFICATE HOLDER, OR ISSUE A CEASE-AND-DESIST
13 ORDER TO A CERTIFICATE HOLDER IN ACCORDANCE WITH SECTION
14 12-43.5-111 UPON REASONABLE GROUNDS THAT THE CERTIFICATE
15 HOLDER:

16 (a) HAS ENGAGED IN A SEXUAL ACT WITH A PERSON RECEIVING
17 SERVICES WHILE A THERAPEUTIC RELATIONSHIP EXISTED OR WITHIN SIX
18 MONTHS IMMEDIATELY FOLLOWING TERMINATION OF THE THERAPEUTIC
19 RELATIONSHIP IN WRITING. FOR THE PURPOSES OF THIS PARAGRAPH (a):

20 (I) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION,
21 OR SEXUAL PENETRATION, AS DEFINED IN SECTION 18-3-401, C.R.S.

22 (II) "THERAPEUTIC RELATIONSHIP" MEANS THE PERIOD BEGINNING
23 WITH THE INITIAL EVALUATION AND ENDING UPON THE WRITTEN
24 TERMINATION OF TREATMENT.

25 (b) HAS FALSIFIED INFORMATION IN AN APPLICATION OR HAS
26 ATTEMPTED TO OBTAIN OR HAS OBTAINED A CERTIFICATION BY FRAUD,
27 DECEPTION, OR MISREPRESENTATION;

1 (c) EXCESSIVELY OR HABITUALLY USES OR ABUSES ALCOHOL OR
2 HABIT-FORMING DRUGS OR HABITUALLY USES A CONTROLLED SUBSTANCE,
3 AS DEFINED IN SECTION 18-18-102, C.R.S., OR OTHER DRUGS HAVING
4 SIMILAR EFFECTS; EXCEPT THAT THE DIRECTOR HAS THE DISCRETION NOT
5 TO DISCIPLINE THE CERTIFICATE HOLDER IF HE OR SHE IS PARTICIPATING IN
6 GOOD FAITH IN A PROGRAM APPROVED BY THE DIRECTOR DESIGNED TO END
7 THE USE OR ABUSE;

8 (d) (I) FAILED TO NOTIFY THE DIRECTOR, AS REQUIRED BY SECTION
9 12-43.5-115, OF A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT
10 IMPACTS THE SPEECH-LANGUAGE PATHOLOGIST'S ABILITY TO PERFORM
11 SPEECH-LANGUAGE PATHOLOGY WITH REASONABLE SKILL AND SAFETY TO
12 PATIENTS;

13 (II) FAILED TO ACT WITHIN THE LIMITATIONS CREATED BY A
14 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE
15 CERTIFICATE HOLDER UNABLE TO PERFORM SPEECH-LANGUAGE
16 PATHOLOGY WITH REASONABLE SKILL AND SAFETY TO THE PATIENT; OR

17 (III) FAILED TO COMPLY WITH THE LIMITATIONS AGREED TO UNDER
18 A CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION
19 12-43.5-115;

20 (e) HAS VIOLATED THIS ARTICLE OR AIDED OR ABETTED OR
21 KNOWINGLY PERMITTED ANY PERSON TO VIOLATE THIS ARTICLE, A RULE
22 ADOPTED UNDER THIS ARTICLE, OR ANY LAWFUL ORDER OF THE DIRECTOR;

23 (f) HAS FAILED TO RESPOND TO A REQUEST OR ORDER OF THE
24 DIRECTOR;

25 (g) HAS BEEN CONVICTED OF OR PLED GUILTY OR NOLO
26 CONTENDERE TO A FELONY OR ANY CRIME RELATED TO THE CERTIFICATE
27 HOLDER'S PRACTICE OF SPEECH-LANGUAGE PATHOLOGY, OR HAS

1 COMMITTED AN ACT SPECIFIED IN SECTION 12-43.5-112. A CERTIFIED COPY
2 OF THE JUDGMENT OF A COURT OF COMPETENT JURISDICTION OF THE
3 CONVICTION OR PLEA IS CONCLUSIVE EVIDENCE OF THE CONVICTION OR
4 PLEA. IN CONSIDERING THE DISCIPLINARY ACTION, THE DIRECTOR IS
5 GOVERNED BY SECTION 24-5-101, C.R.S.

6 (h) HAS FRAUDULENTLY OBTAINED, FURNISHED, OR SOLD ANY
7 SPEECH-LANGUAGE PATHOLOGY DIPLOMA, CERTIFICATE, CERTIFICATION,
8 RENEWAL OF CERTIFICATION, OR RECORD OR AIDED OR ABETTED SUCH
9 ACT;

10 (i) HAS FAILED TO NOTIFY THE DIRECTOR OF THE SUSPENSION OR
11 REVOCATION OF THE PERSON'S PAST OR CURRENTLY HELD LICENSE,
12 CERTIFICATE, OR CERTIFICATION REQUIRED TO PRACTICE
13 SPEECH-LANGUAGE PATHOLOGY IN THIS OR ANY OTHER JURISDICTION;

14 (j) HAS FAILED TO RESPOND IN AN HONEST, MATERIALLY
15 RESPONSIVE, AND TIMELY MANNER TO A COMPLAINT AGAINST THE
16 CERTIFICATE HOLDER;

17 (k) HAS RESORTED TO FRAUD, MISREPRESENTATION, OR DECEPTION
18 IN APPLYING FOR, SECURING, RENEWING, OR SEEKING REINSTATEMENT OF
19 A CERTIFICATION IN THIS OR ANY OTHER STATE, IN APPLYING FOR
20 PROFESSIONAL LIABILITY COVERAGE, OR IN TAKING THE EXAMINATION
21 REQUIRED BY THIS ARTICLE;

22 (l) HAS REFUSED TO SUBMIT TO A PHYSICAL OR MENTAL
23 EXAMINATION WHEN ORDERED BY THE DIRECTOR PURSUANT TO SECTION
24 12-43.5-114;

25 (m) HAS FAILED TO MAINTAIN OR IS NOT COVERED BY
26 PROFESSIONAL LIABILITY INSURANCE AS REQUIRED BY SECTION
27 12-43.5-106 (2) OR (4) IN THE AMOUNT SPECIFIED BY THE DIRECTOR BY

1 RULE;

2 (n) HAS FAILED TO MAKE ESSENTIAL ENTRIES ON PATIENT RECORDS
3 OR FALSIFIED OR MADE INCORRECT ENTRIES OF AN ESSENTIAL NATURE ON
4 PATIENT RECORDS; OR

5 (o) HAS OTHERWISE VIOLATED ANY PROVISION OF THIS ARTICLE OR
6 LAWFUL ORDER OR RULE OF THE DIRECTOR.

7 (3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS
8 SECTION, THE DIRECTOR NEED NOT FIND THAT THE ACTIONS THAT ARE
9 GROUNDS FOR DISCIPLINE WERE WILLFUL BUT MAY CONSIDER WHETHER
10 THE ACTIONS WERE WILLFUL WHEN DETERMINING THE NATURE OF
11 DISCIPLINARY SANCTIONS TO IMPOSE.

12 **12-43.5-111. Disciplinary actions - judicial review.** (1) (a) THE
13 DIRECTOR MAY COMMENCE A PROCEEDING TO DISCIPLINE A CERTIFICATE
14 HOLDER WHEN THE DIRECTOR HAS REASONABLE GROUNDS TO BELIEVE
15 THAT THE CERTIFICATE HOLDER HAS COMMITTED AN ACT ENUMERATED IN
16 SECTION 12-43.5-110 OR HAS VIOLATED A LAWFUL ORDER OR RULE OF THE
17 DIRECTOR.

18 (b) IN ANY PROCEEDING UNDER THIS SECTION, THE DIRECTOR MAY
19 ACCEPT AS EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION ANY
20 DISCIPLINARY ACTION TAKEN AGAINST A CERTIFICATE HOLDER IN
21 ANOTHER JURISDICTION IF THE VIOLATION THAT PROMPTED THE
22 DISCIPLINARY ACTION IN THE OTHER JURISDICTION WOULD BE GROUNDS
23 FOR DISCIPLINARY ACTION UNDER THIS ARTICLE.

24 (2) THE DIRECTOR SHALL CONDUCT DISCIPLINARY PROCEEDINGS
25 IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND THE DIRECTOR
26 OR AN ADMINISTRATIVE LAW JUDGE, AS DETERMINED BY THE DIRECTOR,
27 SHALL CONDUCT THE HEARING AND OPPORTUNITY FOR REVIEW PURSUANT

1 TO THAT ARTICLE. THE DIRECTOR MAY EXERCISE ALL POWERS AND DUTIES
2 CONFERRED BY THIS ARTICLE DURING THE DISCIPLINARY PROCEEDINGS.

3 (3) (a) THE DIRECTOR MAY REQUEST THE ATTORNEY GENERAL TO
4 SEEK AN INJUNCTION, IN ANY COURT OF COMPETENT JURISDICTION, TO
5 ENJOIN A PERSON FROM COMMITTING AN ACT PROHIBITED BY THIS
6 ARTICLE. WHEN SEEKING AN INJUNCTION UNDER THIS PARAGRAPH (a), THE
7 ATTORNEY GENERAL IS NOT REQUIRED TO ALLEGE OR PROVE THE
8 INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR
9 IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED
10 VIOLATION OF THIS ARTICLE.

11 (b) (I) IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND
12 THIS ARTICLE, THE DIRECTOR MAY INVESTIGATE, HOLD HEARINGS, AND
13 GATHER EVIDENCE IN ALL MATTERS RELATED TO THE EXERCISE AND
14 PERFORMANCE OF THE POWERS AND DUTIES OF THE DIRECTOR.

15 (II) IN ORDER TO AID THE DIRECTOR IN ANY HEARING OR
16 INVESTIGATION INSTITUTED PURSUANT TO THIS SECTION, THE DIRECTOR OR
17 AN ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO PARAGRAPH (c)
18 OF THIS SUBSECTION (3) MAY ADMINISTER OATHS, TAKE AFFIRMATIONS OF
19 WITNESSES, AND ISSUE SUBPOENAS COMPELLING THE ATTENDANCE OF
20 WITNESSES AND THE PRODUCTION OF ALL RELEVANT RECORDS, PAPERS,
21 BOOKS, DOCUMENTARY EVIDENCE, AND MATERIALS IN ANY HEARING,
22 INVESTIGATION, ACCUSATION, OR OTHER MATTER BEFORE THE DIRECTOR
23 OR AN ADMINISTRATIVE LAW JUDGE.

24 (III) UPON FAILURE OF ANY WITNESS OR CERTIFICATE HOLDER TO
25 COMPLY WITH A SUBPOENA OR PROCESS AND UPON APPLICATION BY THE
26 DIRECTOR WITH NOTICE TO THE SUBPOENAED PERSON OR CERTIFICATE
27 HOLDER, THE DISTRICT COURT OF THE COUNTY IN WHICH THE SUBPOENAED

1 PERSON OR CERTIFICATE HOLDER RESIDES OR CONDUCTS BUSINESS MAY
2 ISSUE AN ORDER REQUIRING THE PERSON OR CERTIFICATE HOLDER TO
3 APPEAR BEFORE THE DIRECTOR; TO PRODUCE THE RELEVANT PAPERS,
4 BOOKS, RECORDS, DOCUMENTARY EVIDENCE, OR MATERIALS; OR TO GIVE
5 EVIDENCE TOUCHING THE MATTER UNDER INVESTIGATION OR IN QUESTION.
6 IF THE PERSON OR CERTIFICATE HOLDER FAILS TO OBEY THE ORDER OF THE
7 COURT, THE DISTRICT COURT MAY HOLD THE PERSON OR CERTIFICATE
8 HOLDER IN CONTEMPT OF COURT.

9 (c) THE DIRECTOR MAY APPOINT AN ADMINISTRATIVE LAW JUDGE
10 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO CONDUCT
11 HEARINGS, TAKE EVIDENCE, AND MAKE AND REPORT FINDINGS TO THE
12 DIRECTOR.

13 (4) (a) THE DIRECTOR, THE DIRECTOR'S STAFF, ANY PERSON ACTING
14 AS A WITNESS OR CONSULTANT TO THE DIRECTOR, ANY WITNESS
15 TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS ARTICLE, AND ANY
16 PERSON WHO LODGES A COMPLAINT PURSUANT TO THIS ARTICLE IS IMMUNE
17 FROM LIABILITY IN ANY CIVIL ACTION BROUGHT AGAINST HIM OR HER FOR
18 ACTS OCCURRING WHILE ACTING IN HIS OR HER CAPACITY AS DIRECTOR,
19 STAFF, CONSULTANT, WITNESS, OR COMPLAINANT, RESPECTIVELY, IF THE
20 INDIVIDUAL WAS ACTING IN GOOD FAITH WITHIN THE SCOPE OF HIS OR HER
21 RESPECTIVE CAPACITY, MADE A REASONABLE EFFORT TO OBTAIN THE
22 FACTS OF THE MATTER AS TO WHICH HE OR SHE ACTED, AND ACTED IN THE
23 REASONABLE BELIEF THAT HIS OR HER ACTION WAS WARRANTED BY THE
24 FACTS.

25 (b) A PERSON PARTICIPATING IN GOOD FAITH IN MAKING A
26 COMPLAINT OR REPORT OR IN AN INVESTIGATIVE OR ADMINISTRATIVE
27 PROCEEDING PURSUANT TO THIS SECTION IS IMMUNE FROM ANY CIVIL OR

1 CRIMINAL LIABILITY THAT OTHERWISE MIGHT RESULT BY REASON OF THE
2 PARTICIPATION.

3 (5) A FINAL ACTION OF THE DIRECTOR IS SUBJECT TO JUDICIAL
4 REVIEW BY THE COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11),
5 C.R.S. THE DIRECTOR MAY INSTITUTE A JUDICIAL PROCEEDING IN
6 ACCORDANCE WITH SECTION 24-4-106, C.R.S., TO ENFORCE AN ORDER OF
7 THE DIRECTOR.

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

13 (7) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
14 INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL ACTION BY THE
15 DIRECTOR AND, IN THE OPINION OF THE DIRECTOR, THE COMPLAINT
16 SHOULD BE DISMISSED, BUT THE DIRECTOR HAS NOTICED INDICATIONS OF
17 POSSIBLE ERRANT CONDUCT BY THE CERTIFICATE HOLDER THAT COULD
18 LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED, THE DIRECTOR MAY
19 SEND A CONFIDENTIAL LETTER OF CONCERN TO THE CERTIFICATE HOLDER.

20 (8) (a) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
21 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES
22 NOT WARRANT FORMAL ACTION BUT SHOULD NOT BE DISMISSED AS BEING
23 WITHOUT MERIT, THE DIRECTOR MAY SEND A LETTER OF ADMONITION TO
24 THE CERTIFICATE HOLDER.

25 (b) WHEN THE DIRECTOR SENDS A LETTER OF ADMONITION TO A
26 CERTIFICATE HOLDER, THE DIRECTOR SHALL NOTIFY THE CERTIFICATE
27 HOLDER OF HIS OR HER RIGHT TO REQUEST IN WRITING, WITHIN TWENTY

1 DAYS AFTER RECEIPT OF THE LETTER, THAT THE DIRECTOR INITIATE
2 FORMAL DISCIPLINARY PROCEEDINGS TO ADJUDICATE THE PROPRIETY OF
3 THE CONDUCT DESCRIBED IN THE LETTER OF ADMONITION.

4 (c) IF THE CERTIFICATE HOLDER TIMELY REQUESTS ADJUDICATION,
5 THE DIRECTOR SHALL VACATE THE LETTER OF ADMONITION AND SHALL
6 PROCESS THE MATTER BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

7 (9) THE DIRECTOR MAY INCLUDE IN A DISCIPLINARY ORDER THAT
8 ALLOWS THE CERTIFICATE HOLDER TO CONTINUE TO PRACTICE ON
9 PROBATION ANY CONDITIONS THE DIRECTOR DEEMS APPROPRIATE TO
10 ASSURE THAT THE CERTIFICATE HOLDER IS PHYSICALLY, MENTALLY,
11 MORALLY, AND OTHERWISE QUALIFIED TO PRACTICE SPEECH-LANGUAGE
12 PATHOLOGY IN ACCORDANCE WITH GENERALLY ACCEPTED PROFESSIONAL
13 STANDARDS OF PRACTICE. IF THE CERTIFICATE HOLDER FAILS TO COMPLY
14 WITH ANY CONDITIONS IMPOSED BY THE DIRECTOR PURSUANT TO THIS
15 SUBSECTION (9), AND THE FAILURE TO COMPLY IS NOT DUE TO CONDITIONS
16 BEYOND THE CERTIFICATE HOLDER'S CONTROL, THE DIRECTOR MAY ORDER
17 SUSPENSION OF THE CERTIFICATE HOLDER'S CERTIFICATION TO PRACTICE
18 SPEECH-LANGUAGE PATHOLOGY IN THIS STATE UNTIL THE CERTIFICATE
19 HOLDER COMPLIES WITH THE CONDITIONS.

20 (10) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
21 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT BY ANY PERSON, THAT
22 A CERTIFICATE HOLDER IS ACTING IN A MANNER THAT IS AN IMMINENT
23 THREAT TO THE HEALTH AND SAFETY OF THE PUBLIC, OR A PERSON IS
24 ACTING OR HAS ACTED WITHOUT THE REQUIRED CERTIFICATION, THE
25 DIRECTOR MAY ISSUE AN ORDER TO CEASE AND DESIST THE ACTIVITY. THE
26 ORDER MUST SET FORTH THE STATUTES AND RULES ALLEGED TO HAVE
27 BEEN VIOLATED, THE FACTS ALLEGED TO CONSTITUTE THE VIOLATION, AND

1 THE REQUIREMENT THAT ALL UNLAWFUL ACTS OR UNCERTIFIED PRACTICES
2 IMMEDIATELY CEASE.

3 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND
4 DESIST PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (10), THE
5 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER
6 ACTS OR PRACTICES IN VIOLATION OF THIS ARTICLE HAVE OCCURRED. THE
7 DIRECTOR SHALL CONDUCT THE HEARING PURSUANT TO SECTIONS
8 24-4-104 AND 24-4-105, C.R.S.

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

17 (b) THE DIRECTOR SHALL PROMPTLY NOTIFY A PERSON AGAINST
18 WHOM HE OR SHE ISSUES AN ORDER TO SHOW CAUSE PURSUANT TO
19 PARAGRAPH (a) OF THIS SUBSECTION (11) AND SHALL INCLUDE IN THE
20 NOTICE A COPY OF THE ORDER, A STATEMENT OF THE FACTUAL AND LEGAL
21 BASIS FOR THE ORDER, AND THE DATE SET BY THE DIRECTOR FOR A
22 HEARING ON THE ORDER. THE DIRECTOR MAY SERVE THE NOTICE ON THE
23 PERSON AGAINST WHOM THE ORDER HAS BEEN ISSUED BY PERSONAL
24 SERVICE, BY FIRST-CLASS, POSTAGE PREPAID UNITED STATES MAIL, OR IN
25 ANOTHER MANNER AS MAY BE PRACTICABLE. PERSONAL SERVICE OR
26 MAILING OF AN ORDER OR DOCUMENT PURSUANT TO THIS PARAGRAPH (b)
27 CONSTITUTES NOTICE OF THE ORDER TO THE PERSON.

1 (c) (I) THE DIRECTOR SHALL CONDUCT THE HEARING ON AN ORDER
2 TO SHOW CAUSE NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE
3 CALENDAR DAYS AFTER THE DATE THE DIRECTOR TRANSMITS OR SERVES
4 THE NOTIFICATION AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION
5 (11). THE DIRECTOR MAY CONTINUE THE HEARING BY AGREEMENT OF ALL
6 PARTIES BASED UPON THE COMPLEXITY OF THE MATTER, NUMBER OF
7 PARTIES TO THE MATTER, AND LEGAL ISSUES PRESENTED IN THE MATTER,
8 BUT IN NO EVENT SHALL THE DIRECTOR CONDUCT THE HEARING LATER
9 THAN SIXTY CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR
10 SERVICE OF THE NOTIFICATION.

11 (II) IF A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
12 BEEN ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (11) DOES
13 NOT APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT EVIDENCE
14 THAT NOTIFICATION WAS PROPERLY SENT OR SERVED ON THE PERSON
15 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (11) AND ANY OTHER
16 EVIDENCE RELATED TO THE MATTER THAT THE DIRECTOR DEEMS
17 APPROPRIATE. THE DIRECTOR SHALL ISSUE THE ORDER WITHIN TEN DAYS
18 AFTER THE DIRECTOR'S DETERMINATION RELATED TO REASONABLE
19 ATTEMPTS TO NOTIFY THE RESPONDENT, AND THE ORDER BECOMES FINAL
20 AS TO THAT PERSON BY OPERATION OF LAW. THE DIRECTOR SHALL
21 CONDUCT THE HEARING PURSUANT TO SECTIONS 24-4-104 AND 24-4-105,
22 C.R.S.

23 (III) IF THE DIRECTOR REASONABLY FINDS THAT THE PERSON
24 AGAINST WHOM THE ORDER TO SHOW CAUSE WAS ISSUED IS ACTING OR
25 HAS ACTED WITHOUT THE REQUIRED CERTIFICATION, OR HAS OR IS ABOUT
26 TO ENGAGE IN ACTS OR PRACTICES CONSTITUTING A VIOLATION OF THIS
27 ARTICLE, THE DIRECTOR MAY ISSUE A FINAL CEASE-AND-DESIST ORDER

1 DIRECTING THE PERSON TO CEASE AND DESIST FROM FURTHER UNLAWFUL
2 ACTS OR UNCERTIFIED PRACTICES.

3 (IV) THE DIRECTOR SHALL PROVIDE NOTICE, IN THE MANNER SET
4 FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (11), OF THE FINAL
5 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE
6 HEARING CONDUCTED PURSUANT TO THIS PARAGRAPH (c) TO EACH PERSON
7 AGAINST WHOM THE FINAL ORDER IS ISSUED. THE FINAL ORDER ISSUED
8 PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) IS EFFECTIVE
9 WHEN ISSUED AND IS A FINAL ORDER FOR PURPOSES OF JUDICIAL REVIEW.

10 (12) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
11 EVIDENCE PRESENTED TO THE DIRECTOR, THAT A PERSON HAS ENGAGED OR
12 IS ABOUT TO ENGAGE IN AN UNCERTIFIED ACT OR PRACTICE; AN ACT OR
13 PRACTICE CONSTITUTING A VIOLATION OF THIS ARTICLE, A RULE
14 PROMULGATED PURSUANT TO THIS ARTICLE, OR AN ORDER ISSUED
15 PURSUANT TO THIS ARTICLE; OR AN ACT OR PRACTICE CONSTITUTING
16 GROUNDS FOR ADMINISTRATIVE SANCTION PURSUANT TO THIS ARTICLE,
17 THE DIRECTOR MAY ENTER INTO A STIPULATION WITH THE PERSON.

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

25 (14) A PERSON AGGRIEVED BY THE FINAL CEASE-AND-DESIST
26 ORDER MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION
27 OR OF THE DIRECTOR'S FINAL ORDER AS PROVIDED IN SUBSECTION (5) OF

1 THIS SECTION.

2 (15) ANY PERSON WHOSE CERTIFICATION IS REVOKED IS INELIGIBLE
3 TO APPLY FOR CERTIFICATION UNDER THIS ARTICLE FOR AT LEAST TWO
4 YEARS AFTER THE DATE OF REVOCATION OF THE CERTIFICATION. THE
5 DIRECTOR SHALL TREAT A SUBSEQUENT APPLICATION FOR CERTIFICATION
6 FROM A PERSON WHOSE CERTIFICATION WAS REVOKED AS AN APPLICATION
7 FOR A NEW CERTIFICATION UNDER THIS ARTICLE.

8 **12-43.5-112. Unauthorized practice - penalties.** A PERSON WHO
9 PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE SPEECH-LANGUAGE
10 PATHOLOGY WITHOUT AN ACTIVE CERTIFICATION ISSUED UNDER THIS
11 ARTICLE COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS
12 PROVIDED IN SECTION 18-1.3-501, C.R.S., FOR THE FIRST OFFENSE. FOR
13 THE SECOND OR ANY SUBSEQUENT OFFENSE, THE PERSON COMMITS A
14 CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION
15 18-1.3-501, C.R.S.

16 **12-43.5-113. Rule-making authority.** THE DIRECTOR SHALL
17 PROMULGATE RULES AS NECESSARY FOR THE ADMINISTRATION OF THIS
18 ARTICLE.

19 **12-43.5-114. Mental and physical examination of certificate**
20 **holders.** (1) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT
21 A CERTIFICATE HOLDER IS UNABLE TO PRACTICE WITH REASONABLE SKILL
22 AND SAFETY, THE DIRECTOR MAY ORDER THE CERTIFICATE HOLDER TO
23 TAKE A MENTAL OR PHYSICAL EXAMINATION ADMINISTERED BY A
24 PHYSICIAN OR OTHER LICENSED HEALTH CARE PROFESSIONAL DESIGNATED
25 BY THE DIRECTOR. EXCEPT WHERE DUE TO CIRCUMSTANCES BEYOND THE
26 CERTIFICATE HOLDER'S CONTROL, IF THE CERTIFICATE HOLDER FAILS OR
27 REFUSES TO UNDERGO A MENTAL OR PHYSICAL EXAMINATION, THE

1 DIRECTOR MAY SUSPEND THE CERTIFICATE HOLDER'S CERTIFICATION UNTIL
2 THE DIRECTOR HAS MADE A DETERMINATION OF THE CERTIFICATE
3 HOLDER'S FITNESS TO PRACTICE. THE DIRECTOR SHALL PROCEED WITH AN
4 ORDER FOR EXAMINATION AND SHALL MAKE HIS OR HER DETERMINATION
5 IN A TIMELY MANNER.

6 (2) THE DIRECTOR SHALL INCLUDE IN AN ORDER REQUIRING A
7 CERTIFICATE HOLDER TO UNDERGO A MENTAL OR PHYSICAL EXAMINATION
8 THE BASIS OF THE DIRECTOR'S REASONABLE CAUSE TO BELIEVE THAT THE
9 CERTIFICATE HOLDER IS UNABLE TO PRACTICE WITH REASONABLE SKILL
10 AND SAFETY. FOR PURPOSES OF A DISCIPLINARY PROCEEDING AUTHORIZED
11 UNDER THIS ARTICLE, THE CERTIFICATE HOLDER IS DEEMED TO HAVE
12 WAIVED ALL OBJECTIONS TO THE ADMISSIBILITY OF THE EXAMINING
13 PHYSICIAN'S OR LICENSED HEALTH CARE PROFESSIONAL'S TESTIMONY OR
14 EXAMINATION REPORTS ON THE GROUNDS THAT THEY ARE PRIVILEGED
15 COMMUNICATION.

16 (3) THE CERTIFICATE HOLDER MAY SUBMIT TO THE DIRECTOR
17 TESTIMONY OR EXAMINATION REPORTS FROM A PHYSICIAN CHOSEN BY THE
18 CERTIFICATE HOLDER AND PERTAINING TO ANY CONDITION THAT THE
19 DIRECTOR HAS ALLEGED MAY PRECLUDE THE CERTIFICATE HOLDER FROM
20 PRACTICING WITH REASONABLE SKILL AND SAFETY. THE DIRECTOR MAY
21 CONSIDER THE TESTIMONY AND REPORTS SUBMITTED BY THE CERTIFICATE
22 HOLDER IN CONJUNCTION WITH, BUT NOT IN LIEU OF, THE TESTIMONY AND
23 EXAMINATION REPORTS OF THE PHYSICIAN DESIGNATED BY THE DIRECTOR.

24 (4) THE RESULTS OF A MENTAL OR PHYSICAL EXAMINATION
25 ORDERED BY THE DIRECTOR SHALL NOT BE USED AS EVIDENCE IN ANY
26 PROCEEDING OTHER THAN ONE BEFORE THE DIRECTOR, ARE NOT A PUBLIC
27 RECORD, AND ARE NOT AVAILABLE TO THE PUBLIC.

1 **12-43.5-115. Confidential agreement to limit practice -**
2 **violation grounds for discipline.** (1) IF A SPEECH-LANGUAGE
3 PATHOLOGIST SUFFERS FROM A PHYSICAL OR MENTAL ILLNESS OR
4 CONDITION THAT RENDERS THE PERSON UNABLE TO PRACTICE
5 SPEECH-LANGUAGE PATHOLOGY OR PRACTICE AS A SPEECH-LANGUAGE
6 PATHOLOGIST WITH REASONABLE SKILL AND PATIENT SAFETY, THE
7 SPEECH-LANGUAGE PATHOLOGIST SHALL NOTIFY THE DIRECTOR OF THE
8 ILLNESS OR CONDITION IN A MANNER AND WITHIN A PERIOD OF TIME
9 DETERMINED BY THE DIRECTOR. THE DIRECTOR MAY REQUIRE THE
10 SPEECH-LANGUAGE PATHOLOGIST TO SUBMIT TO AN EXAMINATION TO
11 EVALUATE THE EXTENT OF THE ILLNESS OR CONDITION AND ITS IMPACT ON
12 THE SPEECH-LANGUAGE PATHOLOGIST'S ABILITY TO PRACTICE WITH
13 REASONABLE SKILL AND SAFETY TO PATIENTS.

14 (2) (a) UPON DETERMINING THAT A SPEECH-LANGUAGE
15 PATHOLOGIST WITH A PHYSICAL OR MENTAL ILLNESS OR CONDITION IS
16 ABLE TO RENDER LIMITED SPEECH-LANGUAGE PATHOLOGY SERVICES WITH
17 REASONABLE SKILL AND PATIENT SAFETY, THE DIRECTOR MAY ENTER INTO
18 A CONFIDENTIAL AGREEMENT WITH THE SPEECH-LANGUAGE PATHOLOGIST
19 IN WHICH THE SPEECH-LANGUAGE PATHOLOGIST AGREES TO LIMIT HIS OR
20 HER PRACTICE BASED ON THE RESTRICTIONS IMPOSED BY THE ILLNESS OR
21 CONDITION, AS DETERMINED BY THE DIRECTOR.

22 (b) THE AGREEMENT MUST SPECIFY THAT THE SPEECH-LANGUAGE
23 PATHOLOGIST IS SUBJECT TO PERIODIC REEVALUATIONS OR MONITORING
24 AS DETERMINED APPROPRIATE BY THE DIRECTOR.

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

1 (d) BY ENTERING INTO AN AGREEMENT WITH THE DIRECTOR
2 PURSUANT TO THIS SECTION TO LIMIT HIS OR HER PRACTICE, THE
3 SPEECH-LANGUAGE PATHOLOGIST IS NOT ENGAGING IN ACTIVITIES THAT
4 CONSTITUTE GROUNDS FOR DISCIPLINE PURSUANT TO SECTION
5 12-43.5-110. THE AGREEMENT IS AN ADMINISTRATIVE ACTION AND DOES
6 NOT CONSTITUTE A RESTRICTION OR DISCIPLINE BY THE DIRECTOR.
7 HOWEVER, IF THE SPEECH-LANGUAGE PATHOLOGIST FAILS TO COMPLY
8 WITH THE TERMS OF AN AGREEMENT ENTERED INTO PURSUANT TO THIS
9 SECTION, THE FAILURE CONSTITUTES GROUNDS FOR DISCIPLINARY ACTION
10 UNDER SECTION 12-43.5-110 (2) (d), AND THE SPEECH-LANGUAGE
11 PATHOLOGIST IS SUBJECT TO DISCIPLINE IN ACCORDANCE WITH SECTION
12 12-43.5-111.

13 (3) THIS SECTION DOES NOT APPLY TO A LICENSEE SUBJECT TO
14 DISCIPLINE UNDER SECTION 12-43.5-110 (2) (c).

15 **12-43.5-116. Protection of medical records - certificate**
16 **holder's obligations - verification of compliance - noncompliance**
17 **grounds for discipline - rules.** (1) EACH SPEECH-LANGUAGE
18 PATHOLOGIST RESPONSIBLE FOR PATIENT RECORDS SHALL DEVELOP A
19 WRITTEN PLAN TO ENSURE THE SECURITY OF PATIENT MEDICAL RECORDS.
20 THE PLAN MUST ADDRESS AT LEAST THE FOLLOWING:

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

23 (b) THE DISPOSITION OF PATIENT MEDICAL RECORDS IN THE EVENT
24 THE CERTIFICATE HOLDER DIES, RETIRES, OR OTHERWISE CEASES TO
25 PRACTICE OR PROVIDE SPEECH-LANGUAGE PATHOLOGY SERVICES TO
26 PATIENTS; AND

27 (c) THE METHOD BY WHICH PATIENTS MAY ACCESS OR OBTAIN

1 THEIR MEDICAL RECORDS PROMPTLY IF ANY OF THE EVENTS DESCRIBED IN
2 PARAGRAPH (b) OF THIS SUBSECTION (1) OCCURS.

3 (2) UPON INITIAL CERTIFICATION UNDER THIS ARTICLE AND UPON
4 RENEWAL OF A CERTIFICATION, THE APPLICANT OR CERTIFICATE HOLDER
5 SHALL ATTEST TO THE DIRECTOR THAT HE OR SHE HAS DEVELOPED A PLAN
6 IN COMPLIANCE WITH THIS SECTION.

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

11 (4) A SPEECH-LANGUAGE PATHOLOGIST WHO FAILS TO COMPLY
12 WITH THIS SECTION IS SUBJECT TO DISCIPLINE IN ACCORDANCE WITH
13 SECTION 12-43.5-111.

14 (5) THE DIRECTOR MAY ADOPT RULES REASONABLY NECESSARY TO
15 IMPLEMENT THIS SECTION.

16 **12-43.5-117. Severability.** IF ANY PROVISION OF THIS ARTICLE IS
17 HELD INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OF
18 THIS ARTICLE THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID
19 PROVISION.

20 **12-43.5-118. Repeal of article - review of functions.** THIS
21 ARTICLE IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022. PRIOR TO THE
22 REPEAL, THE DIRECTOR'S POWERS, DUTIES, AND FUNCTIONS UNDER THIS
23 ARTICLE SHALL BE REVIEWED AS PROVIDED IN SECTION 24-34-104, C.R.S.

24 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **amend**
25 (53.5) introductory portion; and **add** (53.5) (c) as follows:

26 **24-34-104. General assembly review of regulatory agencies**
27 **and functions for termination, continuation, or reestablishment.**

1 (53.5) The following agencies, functions, or both, shall terminate on
2 September 1, 2022:

3 (c) THE REGULATION OF SPEECH-LANGUAGE PATHOLOGISTS BY THE
4 DIRECTOR OF THE DIVISION OF REGISTRATIONS PURSUANT TO ARTICLE 43.5
5 OF TITLE 12, C.R.S.

6 **SECTION 3.** In Colorado Revised Statutes, 24-34-110, **amend**
7 (3) (a) (XVIII) and (3) (a) (XIX); and **add** (3) (a) (XX) as follows:

8 **24-34-110. Medical transparency act of 2010 - disclosure of**
9 **information about health care licensees - fines - rules - short title -**
10 **legislative declaration.** (3) (a) As used in this section, "applicant" means
11 a person applying for a new, active license, certification, or registration
12 or to renew, reinstate, or reactivate an active license, certification, or
13 registration to practice:

14 (XVIII) Psychotherapy pursuant to part 7 of article 43 of title 12,
15 C.R.S.; and

16 (XIX) Addiction counseling pursuant to part 8 of article 43 of title
17 12, C.R.S.; AND

18 (XX) SPEECH-LANGUAGE PATHOLOGY PURSUANT TO ARTICLE 43.5
19 OF TITLE 12, C.R.S.

20 **SECTION 4. Act subject to petition - effective date.** This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly (August
23 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a
24 referendum petition is filed pursuant to section 1 (3) of article V of the
25 state constitution against this act or an item, section, or part of this act
26 within such period, then the act, item, section, or part will not take effect
27 unless approved by the people at the general election to be held in

- 1 November 2012 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.