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HOUSE BILL 12-1303

BY REPRESENTATIVE(S) Schafer S., Hamner, Kerr J., Peniston, Summers, Young, Fields, Fischer, Labuda, Pabon, Singer, Todd, Tyler, Wilson;  
also SENATOR(S) Spence, Jahn, Bacon, Newell, Nicholson, Tochtrop, Williams S.

CONCERNING THE REGULATION OF SPEECH-LANGUAGE PATHOLOGISTS BY THE DEPARTMENT OF REGULATORY AGENCIES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

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

**ARTICLE 43.5**  
**Speech-language Pathologists**

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

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

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

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

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

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

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

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

(a) REGULATE PERSONS WHO ARE REPRESENTING OR HOLDING THEMSELVES OUT AS SPEECH-LANGUAGE PATHOLOGISTS OR WHO ARE PERFORMING SERVICES THAT CONSTITUTE SPEECH-LANGUAGE PATHOLOGY; AND

(b) EXCLUDE FROM REGULATION UNDER THIS ARTICLE THOSE SCHOOL SPEECH-LANGUAGE PATHOLOGISTS WHO ARE PAID SOLELY BY AN ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM.

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

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

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF REGULATORY AGENCIES.

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

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

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

(6) "SPEECH-LANGUAGE PATHOLOGIST" OR "CERTIFICATE HOLDER" MEANS A PERSON CERTIFIED TO PRACTICE SPEECH-LANGUAGE PATHOLOGY UNDER THIS ARTICLE.

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

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

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

(III) FEEDING AND SWALLOWING; AND

(IV) COGNITIVE ASPECTS OF COMMUNICATION, SUCH AS ATTENTION, MEMORY, EXECUTIVE FUNCTIONING, AND PROBLEM SOLVING.

(b) "SPEECH-LANGUAGE PATHOLOGY" ALSO INCLUDES ESTABLISHING AUGMENTATIVE AND ALTERNATIVE COMMUNICATION TECHNIQUES AND STRATEGIES, INCLUDING THE FOLLOWING:

(I) DEVELOPING, SELECTING, AND PRESCRIBING AUGMENTATIVE OR ALTERNATIVE COMMUNICATION SYSTEMS AND DEVICES, SUCH AS SPEECH GENERATING DEVICES;

(II) PROVIDING SERVICES TO INDIVIDUALS WITH HEARING LOSS AND THEIR FAMILIES, SUCH AS AUDITORY TRAINING, SPEECH READING, OR SPEECH AND LANGUAGE INTERVENTION SECONDARY TO HEARING LOSS;

(III) SCREENING INDIVIDUALS FOR HEARING LOSS OR MIDDLE EAR PATHOLOGY USING CONVENTIONAL PURE-TONE AIR CONDUCTION METHODS, INCLUDING OTOSCOPIC INSPECTION; OTOACOUSTIC EMISSIONS; OR SCREENING TYMPANOMETRY;

(IV) USING INSTRUMENTATION SUCH AS VIDEOFLUROSCOPY, ENDOSCOPY, OR STROBOSCOPY TO OBSERVE, COLLECT DATA, AND MEASURE PARAMETERS OF COMMUNICATION AND SWALLOWING;

(V) SELECTING, FITTING, AND ESTABLISHING EFFECTIVE USE OF PROSTHETIC OR ADAPTIVE DEVICES FOR COMMUNICATION, SWALLOWING, OR OTHER UPPER AERODIGESTIVE FUNCTIONS, NOT INCLUDING SENSORY DEVICES USED BY INDIVIDUALS WITH HEARING LOSS OR THE ORTHODONTIC MOVEMENT OF TEETH FOR THE PURPOSE OF CORRECTION OF SPEECH PATHOLOGY CONDITIONS; AND

(VI) PROVIDING SERVICES TO MODIFY OR ENHANCE COMMUNICATION PERFORMANCE, SUCH AS ACCENT MODIFICATION AND PERSONAL OR PROFESSIONAL COMMUNICATION EFFICACY.

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

**12-43.5-104. Use of titles restricted.** (1) ONLY A PERSON REQUIRED TO BE AND WHO IS CERTIFIED AS A SPEECH-LANGUAGE PATHOLOGIST UNDER

THIS ARTICLE OR LICENSED BY THE COLORADO DEPARTMENT OF EDUCATION TO PROVIDE SPEECH-LANGUAGE PATHOLOGY SERVICES MAY ADVERTISE AS OR USE THE TITLE "SPEECH-LANGUAGE PATHOLOGIST", "SPEECH PATHOLOGIST", "SPEECH THERAPIST", "SPEECH CORRECTIONIST", "SPEECH CLINICIAN", "LANGUAGE PATHOLOGIST", "VOICE THERAPIST", "VOICE PATHOLOGIST", "APHASIOLOGIST", OR ANY OTHER GENERALLY ACCEPTED TERMS, LETTERS, OR FIGURES THAT INDICATE THAT THE PERSON IS A CERTIFIED SPEECH-LANGUAGE PATHOLOGIST.

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

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

(2) A PERSON DESCRIBED IN SECTION 12-43.5-108 (1) IS NOT REQUIRED TO OBTAIN CERTIFICATION UNDER THIS ARTICLE.

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

(a) SUCCESSFULLY COMPLETED A MASTER'S OR HIGHER DEGREE IN COMMUNICATION SCIENCES AND DISORDERS GRANTED BY AN ACCREDITED INSTITUTION OF HIGHER EDUCATION RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION;

(b) SUCCESSFULLY COMPLETED A SPEECH-LANGUAGE PATHOLOGY CLINICAL FELLOWSHIP APPROVED BY THE DIRECTOR, AS DOCUMENTED BY

THE SUPERVISING CLINICIAN OR A NATIONAL CERTIFYING BODY APPROVED BY THE DIRECTOR; AND

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

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

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

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

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

(b) AN APPLICANT FOR CERTIFICATION BY ENDORSEMENT SHALL SUBMIT WITH THE APPLICATION VERIFICATION THAT THE APPLICANT HAS ACTIVELY PRACTICED FOR A PERIOD OF TIME DETERMINED BY RULES OF THE DIRECTOR OR OTHERWISE MAINTAINED COMPETENCY AS DETERMINED BY THE DIRECTOR. ADDITIONALLY, IF THE APPLICANT WILL PROVIDE SPEECH-LANGUAGE PATHOLOGY SERVICES TO PATIENTS, THE APPLICANT

SHALL SUBMIT TO THE DIRECTOR PROOF THAT THE APPLICANT HAS PURCHASED AND IS MAINTAINING OR IS COVERED BY PROFESSIONAL LIABILITY INSURANCE IN AN AMOUNT DETERMINED BY THE DIRECTOR BY RULE.

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

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

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

(b) CERTIFICATIONS SHALL BE RENEWED OR REINSTATED IN ACCORDANCE WITH THE SCHEDULE ESTABLISHED BY THE DIRECTOR, AND THE RENEWAL OR REINSTATEMENT SHALL BE GRANTED PURSUANT TO SECTION 24-34-102 (8), C.R.S. THE DIRECTOR MAY ESTABLISH RENEWAL FEES AND DELINQUENCY FEES FOR REINSTATEMENT PURSUANT TO SECTION 24-34-105, C.R.S. IF A CERTIFICATE HOLDER FAILS TO RENEW HIS OR HER CERTIFICATION PURSUANT TO THE SCHEDULE ESTABLISHED BY THE DIRECTOR, THE CERTIFICATION EXPIRES. ANY PERSON WHOSE CERTIFICATION HAS EXPIRED AND WHO CONTINUES TO PRACTICE SPEECH-LANGUAGE PATHOLOGY IS SUBJECT TO THE PENALTIES PROVIDED IN THIS ARTICLE OR SECTION 24-34-102 (8), C.R.S., FOR REINSTATEMENT.

(6) **Fees.** (a) THE DIRECTOR SHALL ESTABLISH AND COLLECT FEES UNDER THIS ARTICLE PURSUANT TO SECTION 24-34-105, C.R.S., AND SHALL BASE THE FEES CHARGED TO SPEECH-LANGUAGE PATHOLOGISTS CERTIFIED UNDER THIS ARTICLE ON THE COST TO ADMINISTER THE PROGRAM DIVIDED BY THE TOTAL NUMBER OF SPEECH-LANGUAGE PATHOLOGISTS, AS REQUIRED BY SECTION 24-34-105, C.R.S. ALL FEES COLLECTED UNDER THIS ARTICLE SHALL BE DETERMINED, COLLECTED, AND APPROPRIATED IN THE SAME

MANNER AS SET FORTH IN SECTION 24-34-105, C.R.S., AND PERIODICALLY ADJUSTED IN ACCORDANCE WITH SECTION 24-75-402, C.R.S.

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

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

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

(b) THE DIRECTOR SHALL ESTABLISH A CONTINUING PROFESSIONAL COMPETENCY PROGRAM THAT INCLUDES, AT A MINIMUM, THE FOLLOWING ELEMENTS:

(I) A SELF-ASSESSMENT OF THE KNOWLEDGE AND SKILLS OF A SPEECH-LANGUAGE PATHOLOGIST SEEKING TO RENEW OR REINSTATE A CERTIFICATION;

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

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

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



- (a) AN ACCREDITING BODY APPROVED BY THE DIRECTOR; OR
- (b) AN ENTITY APPROVED BY THE DIRECTOR.

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

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

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

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

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

(a) A SCHOOL SPEECH-LANGUAGE PATHOLOGIST WHOSE COMPENSATION FOR SPEECH-LANGUAGE PATHOLOGY SERVICES IS PAID SOLELY BY AN ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM;

(b) A PERSON LICENSED OR OTHERWISE REGULATED IN THIS STATE BY

ANY OTHER LAW FROM ENGAGING IN HIS OR HER PROFESSION OR OCCUPATION AS DEFINED IN THE LAW UNDER WHICH HE OR SHE IS REGULATED;

(c) A PERSON PURSUING A COURSE OF STUDY LEADING TO A DEGREE IN SPEECH-LANGUAGE PATHOLOGY AT AN EDUCATIONAL INSTITUTION WITH AN ACCREDITED SPEECH-LANGUAGE PATHOLOGY PROGRAM IF THAT PERSON IS DESIGNATED BY A TITLE THAT CLEARLY INDICATES HIS OR HER STATUS AS A STUDENT AND IF HE OR SHE ACTS UNDER APPROPRIATE INSTRUCTION AND SUPERVISION;

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

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

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

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

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

(3) NOTHING IN THIS ARTICLE REQUIRES A PROFESSIONAL LICENSED, CERTIFIED, REGISTERED, OR OTHERWISE REGULATED UNDER THIS TITLE OR

TITLE 22, C.R.S., TO OBTAIN CERTIFICATION UNDER THIS ARTICLE, OR SUBJECTS THE PROFESSIONAL TO DISCIPLINE UNDER THIS ARTICLE, FOR ENGAGING IN ACTIVITIES THAT ARE WITHIN HIS OR HER PROFESSIONAL SCOPE OF PRACTICE.

**12-43.5-109. Limitations on authority.** NOTHING IN THIS ARTICLE AUTHORIZES A SPEECH-LANGUAGE PATHOLOGIST TO ENGAGE IN THE PRACTICE OF MEDICINE, AS DEFINED IN SECTION 12-36-106, DENTISTRY, AS DEFINED IN SECTIONS 12-35-103 (5) AND 12-35-113, OR ANY OTHER PROFESSION FOR WHICH LICENSURE, CERTIFICATION, OR REGISTRATION IS REQUIRED BY THIS ARTICLE.

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

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

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

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

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

(b) HAS FALSIFIED INFORMATION IN AN APPLICATION OR HAS ATTEMPTED TO OBTAIN OR HAS OBTAINED A CERTIFICATION BY FRAUD,

DECEPTION, OR MISREPRESENTATION;

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

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

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

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

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

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

(g) HAS BEEN CONVICTED OF OR PLED GUILTY OR NOLO CONTENDERE TO A FELONY OR ANY CRIME RELATED TO THE CERTIFICATE HOLDER'S PRACTICE OF SPEECH-LANGUAGE PATHOLOGY, OR HAS COMMITTED AN ACT SPECIFIED IN SECTION 12-43.5-112. A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF COMPETENT JURISDICTION OF THE CONVICTION OR PLEA IS CONCLUSIVE EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE DISCIPLINARY ACTION, THE DIRECTOR IS GOVERNED BY SECTION 24-5-101, C.R.S.

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

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

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

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

(l) HAS FAILED TO REFER A PATIENT TO THE APPROPRIATE LICENSED, CERTIFIED, OR REGISTERED HEALTH CARE PROFESSIONAL WHEN THE SERVICES REQUIRED BY THE PATIENT ARE BEYOND THE LEVEL OF COMPETENCE OF THE SPEECH-LANGUAGE PATHOLOGIST OR BEYOND THE SCOPE OF SPEECH-LANGUAGE PATHOLOGY PRACTICE;

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

(n) HAS FAILED TO MAINTAIN OR IS NOT COVERED BY PROFESSIONAL LIABILITY INSURANCE AS REQUIRED BY SECTION 12-43.5-106 (2) OR (4) IN THE AMOUNT DETERMINED BY THE DIRECTOR BY RULE;

(o) HAS WILLFULLY OR NEGLIGENTLY ACTED IN A MANNER INCONSISTENT WITH THE HEALTH OR SAFETY OF PERSONS UNDER HIS OR HER CARE;

(p) HAS NEGLIGENTLY OR WILLFULLY PRACTICED SPEECH-LANGUAGE PATHOLOGY IN A MANNER THAT FAILS TO MEET GENERALLY ACCEPTED STANDARDS FOR SPEECH-LANGUAGE PATHOLOGY PRACTICE;

(q) HAS FAILED TO MAKE ESSENTIAL ENTRIES ON PATIENT RECORDS OR FALSIFIED OR MADE INCORRECT ENTRIES OF AN ESSENTIAL NATURE ON PATIENT RECORDS; OR

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

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

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

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

(2) THE DIRECTOR SHALL CONDUCT DISCIPLINARY PROCEEDINGS IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE, AS DETERMINED BY THE DIRECTOR, SHALL CONDUCT THE HEARING AND OPPORTUNITY FOR REVIEW PURSUANT TO THAT ARTICLE. THE DIRECTOR MAY EXERCISE ALL POWERS AND DUTIES CONFERRED BY THIS ARTICLE DURING THE DISCIPLINARY PROCEEDINGS.

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

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

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

(III) UPON FAILURE OF ANY WITNESS OR CERTIFICATE HOLDER TO COMPLY WITH A SUBPOENA OR PROCESS AND UPON APPLICATION BY THE DIRECTOR WITH NOTICE TO THE SUBPOENAED PERSON OR CERTIFICATE HOLDER, THE DISTRICT COURT OF THE COUNTY IN WHICH THE SUBPOENAED PERSON OR CERTIFICATE HOLDER RESIDES OR CONDUCTS BUSINESS MAY ISSUE AN ORDER REQUIRING THE PERSON OR CERTIFICATE HOLDER TO APPEAR BEFORE THE DIRECTOR; TO PRODUCE THE RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY EVIDENCE, OR MATERIALS; OR TO GIVE EVIDENCE TOUCHING THE MATTER UNDER INVESTIGATION OR IN QUESTION. IF THE PERSON OR CERTIFICATE HOLDER FAILS TO OBEY THE ORDER OF THE COURT, THE DISTRICT COURT MAY HOLD THE PERSON OR CERTIFICATE HOLDER IN CONTEMPT OF COURT.

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

(4) (a) THE DIRECTOR, THE DIRECTOR'S STAFF, ANY PERSON ACTING AS A WITNESS OR CONSULTANT TO THE DIRECTOR, ANY WITNESS TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS ARTICLE, AND ANY PERSON WHO LODGES A COMPLAINT PURSUANT TO THIS ARTICLE IS IMMUNE FROM LIABILITY IN ANY CIVIL ACTION BROUGHT AGAINST HIM OR HER FOR ACTS OCCURRING WHILE ACTING IN HIS OR HER CAPACITY AS DIRECTOR, STAFF, CONSULTANT, WITNESS, OR COMPLAINANT, RESPECTIVELY, IF THE

INDIVIDUAL WAS ACTING IN GOOD FAITH WITHIN THE SCOPE OF HIS OR HER RESPECTIVE CAPACITY, MADE A REASONABLE EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO WHICH HE OR SHE ACTED, AND ACTED IN THE REASONABLE BELIEF THAT HIS OR HER ACTION WAS WARRANTED BY THE FACTS.

(b) A PERSON PARTICIPATING IN GOOD FAITH IN MAKING A COMPLAINT OR REPORT OR IN AN INVESTIGATIVE OR ADMINISTRATIVE PROCEEDING PURSUANT TO THIS SECTION IS IMMUNE FROM ANY CIVIL OR CRIMINAL LIABILITY THAT OTHERWISE MIGHT RESULT BY REASON OF THE PARTICIPATION.

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

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

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

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

(b) WHEN THE DIRECTOR SENDS A LETTER OF ADMONITION TO A CERTIFICATE HOLDER, THE DIRECTOR SHALL NOTIFY THE CERTIFICATE



HOLDER OF HIS OR HER RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER RECEIPT OF THE LETTER, THAT THE DIRECTOR INITIATE FORMAL DISCIPLINARY PROCEEDINGS TO ADJUDICATE THE PROPRIETY OF THE CONDUCT DESCRIBED IN THE LETTER OF ADMONITION.

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

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

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

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

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

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

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

(II) IF A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS BEEN ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (11) DOES NOT APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT EVIDENCE THAT NOTIFICATION WAS PROPERLY SENT OR SERVED ON THE PERSON PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (11) AND ANY OTHER EVIDENCE RELATED TO THE MATTER THAT THE DIRECTOR DEEMS APPROPRIATE. THE DIRECTOR SHALL ISSUE THE ORDER WITHIN TEN DAYS AFTER THE DIRECTOR'S DETERMINATION RELATED TO REASONABLE ATTEMPTS TO NOTIFY THE RESPONDENT, AND THE ORDER BECOMES FINAL AS TO THAT PERSON BY

OPERATION OF LAW. THE DIRECTOR SHALL CONDUCT THE HEARING PURSUANT TO SECTIONS 24-4-104 AND 24-4-105, C.R.S.

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

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

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

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

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

(15) ANY PERSON WHOSE CERTIFICATION IS REVOKED OR WHO SURRENDERS HIS OR HER CERTIFICATION TO AVOID DISCIPLINE IS INELIGIBLE TO APPLY FOR CERTIFICATION UNDER THIS ARTICLE FOR AT LEAST TWO YEARS AFTER THE DATE OF REVOCATION OF THE CERTIFICATION. THE DIRECTOR SHALL TREAT A SUBSEQUENT APPLICATION FOR CERTIFICATION FROM A PERSON WHOSE CERTIFICATION WAS REVOKED AS AN APPLICATION FOR A NEW CERTIFICATION UNDER THIS ARTICLE.

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

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

**12-43.5-114. Mental and physical examination of certificate holders.** (1) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT A CERTIFICATE HOLDER IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY, THE DIRECTOR MAY ORDER THE CERTIFICATE HOLDER TO TAKE A MENTAL OR PHYSICAL EXAMINATION ADMINISTERED BY A PHYSICIAN OR OTHER LICENSED HEALTH CARE PROFESSIONAL DESIGNATED BY THE DIRECTOR. EXCEPT WHERE DUE TO CIRCUMSTANCES BEYOND THE CERTIFICATE HOLDER'S CONTROL, IF THE CERTIFICATE HOLDER FAILS OR REFUSES TO UNDERGO A MENTAL OR PHYSICAL EXAMINATION, THE DIRECTOR MAY SUSPEND THE CERTIFICATE HOLDER'S CERTIFICATION UNTIL THE DIRECTOR HAS MADE A DETERMINATION OF THE CERTIFICATE HOLDER'S FITNESS TO PRACTICE. THE DIRECTOR SHALL PROCEED WITH AN ORDER FOR EXAMINATION AND SHALL MAKE HIS OR HER DETERMINATION IN A TIMELY MANNER.

(2) THE DIRECTOR SHALL INCLUDE IN AN ORDER REQUIRING A CERTIFICATE HOLDER TO UNDERGO A MENTAL OR PHYSICAL EXAMINATION THE BASIS OF THE DIRECTOR'S REASONABLE CAUSE TO BELIEVE THAT THE CERTIFICATE HOLDER IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND

SAFETY. FOR PURPOSES OF A DISCIPLINARY PROCEEDING AUTHORIZED UNDER THIS ARTICLE, THE CERTIFICATE HOLDER IS DEEMED TO HAVE WAIVED ALL OBJECTIONS TO THE ADMISSIBILITY OF THE EXAMINING PHYSICIAN'S OR LICENSED HEALTH CARE PROFESSIONAL'S TESTIMONY OR EXAMINATION REPORTS ON THE GROUNDS THAT THEY ARE PRIVILEGED COMMUNICATION.

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

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

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

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

DETERMINED BY THE DIRECTOR.

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

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

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

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

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

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

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

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

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

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

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

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

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

**12-43.5-118. Repeal of article - review of functions.** THIS ARTICLE IS REPEALED, EFFECTIVE SEPTEMBER 1, 2017. PRIOR TO THE REPEAL, THE DIRECTOR'S POWERS, DUTIES, AND FUNCTIONS UNDER THIS ARTICLE SHALL BE REVIEWED AS PROVIDED IN SECTION 24-34-104, C.R.S.

**SECTION 2.** In Colorado Revised Statutes, 24-34-104, **amend** (48.5) as follows:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (48.5) The following agencies, functions, or both, ~~shall~~ terminate on September 1, 2017:

(a) The domestic violence offender management board created in section 16-11.8-103, C.R.S.;

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

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

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

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

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

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

**SECTION 4. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of registrations cash fund created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for the fiscal year beginning July 1, 2012, the sum of \$111,148 and 1.1 FTE, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

(a) \$57,428 and 1.1 FTE for the division of registrations for personal services;

(b) \$27,971 for the division of registrations for temporary contract labor;

(c) \$7,909 for the division of registrations for operating expenses;

(d) \$16,656 for the purchase of legal services; and



(e) \$1,184 for the purchase of computer center services.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2012, the sum of \$16,656 and 0.1 FTE, or so much thereof as may be necessary, for the provision of legal services for the department of regulatory agencies related to the implementation of this act. Said sum is from reappropriated funds received from the department of regulatory agencies out of the appropriation made in paragraph (d) of subsection (1) of this section.

(3) In addition to any other appropriation, there is hereby appropriated to the governor - lieutenant governor - state planning and budgeting, for the fiscal year beginning July 1, 2012, the sum of \$1,184, or so much thereof as may be necessary, for allocation to the office of information technology, for the provision of computer center services for the department of regulatory agencies related to the implementation of this act. Said sum is from reappropriated funds received from the department of regulatory agencies out of the appropriation made in paragraph (e) of subsection (1) of this section.

**SECTION 5. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

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Frank McNulty  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Brandon C. Shaffer  
PRESIDENT OF  
THE SENATE

---

Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

---

Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

---

John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO