12-30-107. [Formerly 12-43-221.5] Confidential agreement to limit practice - violation grounds for discipline. (1) (a) If a licensee, registrant, or certificate holder has a physical illness; a physical condition; or a behavioral or mental health disorder that renders the person unable to practice his or her mental health CARE profession or OCCUPATION with reasonable skill and with safety to PATIENTS OR clients, the licensee, registrant, or certificate holder shall notify the board REGULATOR that regulates his or her THE PERSON'S profession OR OCCUPATION of the physical illness; the physical condition; or the behavioral or mental health disorder in a manner and within a period determined by his or her oversight board REGULATOR.

(b) The applicable board REGULATOR may require the licensee, registrant, or certificate holder to submit to an examination or refer the licensee, registrant, or certificate holder to a peer health assistance program, if such program ONE exists, to evaluate the extent of the physical illness; the physical condition; or the behavioral or mental health disorder and its impact on the licensee's, registrant's, or certificate holder's ability to practice with reasonable skill and with safety to PATIENTS OR clients.

(2) (a) Upon determining that a licensee, registrant, or certificate holder with a physical illness; a physical condition; or a behavioral or mental health disorder is able to render limited services with reasonable skill and with safety to PATIENTS OR clients, the applicable board REGULATOR may enter into a confidential agreement with the licensee, registrant, or certificate holder in which the licensee, registrant, or certificate holder agrees to limit his or her THE PERSON'S practice based on the restrictions imposed by the physical illness; the physical condition; or the behavioral or mental health disorder, as determined by the applicable board REGULATOR.

(b) As part of the agreement, the licensee, registrant, or certificate holder is subject to periodic reevaluations or monitoring as determined appropriate by the applicable board REGULATOR. The board REGULATOR may refer the licensee, registrant, or certificate holder to a peer assistance health program, if one exists, for reevaluation or monitoring.

(c) The parties may modify or dissolve the agreement as necessary based on the results of a reevaluation or of monitoring.

(3) By entering into an agreement with the applicable board REGULATOR pursuant to this section, to limit his or her practice, the licensee, registrant, or certificate holder is not engaging in activities prohibited pursuant to section 12-43-222 THAT CONSTITUTE GROUNDS FOR DISCIPLINE. The agreement does not constitute a restriction or discipline by the applicable board REGULATOR. However, if the licensee, registrant, or certificate holder fails to comply with the terms of an agreement entered into pursuant to this section, the failure constitutes a prohibited activity pursuant to section 12-43-222 (1)(f) GROUNDS FOR DISCIPLINE, and the licensee, registrant, or certificate holder is subject to discipline in
accordance with section 12-43-223 12-20-404.

(4) (a) This section does not apply to:

(1) THE FOLLOWING HEALTH CARE PROFESSIONALS:

(A) CHIROPRACTORS REGULATED PURSUANT TO ARTICLE 215 OF THIS TITLE 12;

(B) HEARING AID PROVIDERS REGULATED PURSUANT TO ARTICLE 230 OF THIS TITLE 12;

(C) NURSES REGULATED PURSUANT TO ARTICLE 255 OF THIS TITLE 12;

(D) NURSE AIDES REGULATED PURSUANT TO ARTICLE 260 OF THIS TITLE 12;

(E) PODIATRISTS REGULATED PURSUANT TO ARTICLE 290 OF THIS TITLE 12;

(F) PSYCHIATRIC TECHNICIANS REGULATED PURSUANT TO ARTICLE 295 OF THIS TITLE 12; OR

(G) SURGICAL ASSISTANTS AND SURGICAL TECHNOLOGISTS REGULATED PURSUANT TO ARTICLE 310 OF THIS TITLE 12; OR

(II) A licensee, registrant, or certificate holder subject to discipline for prohibited activities as described in section 12-43-222 (1)(e) (HABITUAL OR EXCESSIVE USE OR ABUSE OF ALCOHOL BEVERAGES, A HABIT-FORMING DRUG, OR A CONTROLLED SUBSTANCE AS DEFINED IN SECTION 18-18-102 (5)).

(b) SUBSECTION (1)(a) OF THIS SECTION REGARDING NOTIFICATION FOR CONFIDENTIAL AGREEMENTS DOES NOT APPLY TO:

(I) ARTICLE 275 OF THIS TITLE 12 CONCERNING OPTOMETRISTS;

(II) ARTICLE 315 OF THIS TITLE 12 CONCERNING VETERINARIANS.