

**FINAL PROPOSAL**  
**Confidential Agreement**

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

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

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

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

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

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

1 accordance with section ~~12-43-223~~ **12-20-404**.

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

3 (I) THE FOLLOWING HEALTH CARE PROFESSIONALS:

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

5 (B) HEARING AID PROVIDERS REGULATED PURSUANT TO ARTICLE 230 OF THIS TITLE  
6 12;

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

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

9 (D) NURSING HOME ADMINISTRATORS REGULATED PURSUANT TO ARTICLE 265 OF THIS  
10 TITLE 12;

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

12 (F) PSYCHIATRIC TECHNICIANS REGULATED PURSUANT TO ARTICLE 295 OF THIS TITLE  
13 12; OR

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

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

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

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

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