

**ARTICLE 29.5 200
ACUPUNCTURISTS**

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1 **12-200-101. [Formerly 12-29.5-101] Legislative declaration.** While recognizing
 2 that the rendering of acupuncture services is not part of the traditional practice of western
 3 medicine, it is the intent of the general assembly that those citizens who wish to obtain
 4 acupuncture services be allowed to do so and, in addition, that ~~such~~ THOSE citizens have
 5 available certain information to assist them in making informed choices when seeking ~~such~~
 6 ACUPUNCTURE services. It is also the intent of the general assembly that the providers or
 7 practitioners of acupuncture should not misrepresent their qualifications, harm their clients,
 8 practice in an unhealthy manner, or otherwise deceive insurers or the recipients of
 9 acupuncture services.

1 **12-200-102. Applicability of common provisions.** ARTICLES 1, 20, AND 30 OF THIS
2 TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 200.

3
4 **12-200-103. [Formerly 12-29.5-102] Definitions.** As used in this article 200, unless
5 the context otherwise requires:

6 (1) "Acupuncture" means a system of health care based upon traditional and modern
7 oriental medical concepts that employs oriental methods of diagnosis, treatment, and
8 adjunctive therapies for the promotion, maintenance, and restoration of health and the
9 prevention of disease.

10 (2) "Acupuncturist" means any person who provides for compensation, or holds
11 himself OR HERSELF out to the public as providing, acupuncture services.

12 ~~(3) "Director" means the director of the division of professions and occupations in~~
13 ~~the department of regulatory agencies.~~ <{*Redundant with definitions common provision,*

14 *12-20-102 (6).*>

15 ~~(3.2)~~ (3) "Guest acupuncturist" means an acupuncturist who is:

16 (a) Licensed, registered, certified, or regulated as an acupuncturist in another
17 jurisdiction;

18 (b) In this state for the purpose of instruction or education for not more than seven
19 days within a three-month period; and

20 (c) Under the direct supervision of a Colorado licensed acupuncturist or licensed
21 chiropractor while performing such instruction or education.

22 ~~(3.3)~~ (4) "Injection therapy" means the injection of sterile herbs, vitamins, minerals,
23 homeopathic substances, or other similar substances specifically manufactured for
24 nonintravenous injection into acupuncture points by means of hypodermic needles used
25 primarily for the treatment of musculoskeletal pain. Permissible substances include saline,
26 glucose, lidocaine, procaine, oriental herbs, vitamin B-12, traumeel, sarapin, and
27 homeopathic substances. "Injection therapy" includes the use of epinephrine and oxygen as
28 necessary for patient care and safety, including for the purpose of addressing any risk of
29 allergic reactions when using injection substances.

30 ~~(3.4) "Licensee" means an acupuncturist licensed pursuant to section 12-29.5-104.~~
31 <{*Redundant with definitions common provision, 12-20-102 (9).*>

32 ~~(3.5)~~ (5) (a) "Practice of acupuncture" means the insertion and removal of
33 acupuncture needles, injection therapy, the application of heat therapies to specific areas of
34 the human body, and adjunctive therapies. Adjunctive therapies within the scope of
35 acupuncture may include manual, mechanical, thermal, electrical, and electromagnetic
36 treatment; the recommendation of therapeutic exercises; and, subject to federal law, the
37 recommendation of herbs and dietary guidelines. The "practice of acupuncture" is based upon
38 traditional and modern oriental medical concepts and does not include the utilization of
39 western medical diagnostic tests and procedures, such as magnetic resonance imaging,
40 radiographs (X rays), computerized tomography scans, and ultrasound.

41 (b) Nothing in this article 200 authorizes an acupuncturist to perform the practice of
42 medicine; surgery; spinal adjustment, manipulation, or mobilization; or any other form of

1 healing except as authorized by this article **200**.

2 (4) ~~(Deleted by amendment, L. 2002, p. 33, § 1, effective March 13, 2002.)~~

3
4 **12-200-104. [Formerly 12-29.5-102.5] Injection therapy - training - substances**
5 **- rules.** (1) A licensee shall obtain the necessary training as determined by the director prior
6 to practicing injection therapy.

7 (2) Notwithstanding section ~~12-42.5-305~~ **12-280-305**, a licensee who has received
8 the necessary training to practice injection therapy may obtain substances for injection
9 therapy from a registered prescription drug outlet, registered manufacturer, or registered
10 wholesaler. An entity that provides a substance to a licensee in accordance with this section,
11 and who relies in good faith upon the license information provided by the licensee, is not
12 liable for providing the substance.

13 (3) The director shall promulgate rules to implement this section that include the
14 necessary training for a licensee to practice injection therapy and a list of substances that a
15 licensee may obtain for injection therapy. In promulgating the rules, the director shall consult
16 with knowledgeable medical professionals and pharmacists.

17
18 **12-200-105. [Formerly 12-29.5-103] Mandatory disclosure of information to**
19 **patients - retention of records of disclosure.** (1) Every acupuncturist shall provide the
20 following information in writing to each patient during the initial patient contact:

21 (a) The name, business address, and business phone number of the acupuncturist;

22 (b) A fee schedule;

23 (c) A statement indicating that:

24 (I) The patient is entitled to receive information about the methods of therapy, the
25 techniques used, and the duration of therapy, if known;

26 (II) The patient may seek a second opinion from another health care professional or
27 may terminate therapy at any time;

28 (III) In a professional relationship, sexual intimacy is never appropriate and should
29 be reported to the director; ~~of the division of professions and occupations in the department~~
30 ~~of regulatory agencies;~~

31 (d) A listing of the acupuncturist's education, experience, degrees, membership in a
32 professional organization whose membership includes not less than one-third of the persons
33 licensed pursuant to this article **200**, certificates or credentials related to acupuncture
34 awarded by ~~such~~ THE organizations, the length of time required to obtain ~~said~~ THE degrees
35 or credentials, and experience;

36 (e) A statement indicating any license, certificate, or registration in acupuncture or
37 any other health care profession ~~which~~ THAT was issued to the acupuncturist by any local,
38 state, or national health care agency, and indicating whether any such license, certificate, or
39 registration was suspended or revoked;

40 (f) A statement that the acupuncturist is complying with any rules ~~and regulations~~
41 promulgated by the department of public health and environment with respect to this article
42 **200**, including those related to the proper cleaning and sterilization of needles used in the

1 practice of acupuncture and the sanitation of acupuncture offices;

2 (g) A statement indicating that the practice of acupuncture is regulated by the
3 department of regulatory agencies and the address and phone number of the director; ~~of the~~
4 ~~division of professions and occupations in the department of regulatory agencies; and~~

5 (h) A statement indicating the acupuncturist's training and experience in the
6 recommendation and application of adjunctive therapies and herbs as defined by traditional
7 oriental medical concepts.

8 (2) Any changes in the information required by ~~paragraphs (a) to (f) of subsection (1)~~
9 ~~SUBSECTIONS (1)(a) TO (1)(f) of this section shall be made in the mandatory disclosure within~~
10 ~~five days of the said THE change.~~

11 (3) The acupuncturist shall retain a copy of the written information specified in
12 subsection (1) of this section, dated and signed by the patient, from the time of the initial
13 evaluation until at least three years after the termination of treatment.

14
15 **12-200-106. [Formerly 12-29.5-104] Requirement for licensure with the division**
16 **- annual fee - required disclosures.** (1) Every acupuncturist shall apply for licensure with
17 the division of professions and occupations by providing an application to the director in the
18 form the director shall require. ~~Said THE~~ application shall include the information specified
19 in section ~~12-29.5-103(1)(a) and (1)(d) to (1)(g)~~ 12-200-105 (1)(a) AND (1)(d) TO (1)(g), and
20 shall include the disclosure of any act that would be grounds for disciplinary action against
21 a licensed acupuncturist under this article **200**.

22 (2) Any changes in the information required by subsection (1) of this section shall be
23 reported within thirty days of ~~said THE~~ change to the division of professions and occupations
24 in the manner prescribed by the director.

25 (3) In order to qualify for licensure, an acupuncturist shall have:

26 (a) Successfully completed an education program for acupuncturists that conforms
27 to standards approved by the director, which standards may be established by utilizing the
28 assistance of any professional organization whose membership includes not less than
29 one-third of the persons licensed pursuant to this article **200**; or

30 (b) Qualifications based on education, experience, or training ~~which~~ THAT are
31 substantially similar to those provided by ~~paragraph (a)~~ SUBSECTION (3)(a) of this ~~subsection~~
32 ~~(3) SECTION~~, which are documented in the form required by the director and accepted by ~~him~~
33 THE DIRECTOR in lieu of ~~such~~ THE education program.

34 (4) Every applicant for licensure shall pay license, renewal, and reinstatement fees
35 to be established by the director ~~in the same manner~~ as is authorized by section ~~24-34-105,~~
36 ~~C.R.S. 12-20-105.~~ All licenses shall be renewed or reinstated pursuant to, ~~a schedule~~
37 ~~established by the director of the division of professions and occupations within the~~
38 ~~department of regulatory agencies and shall be renewed or reinstated pursuant to section~~
39 ~~24-34-102 (8), C.R.S.~~ The director of the division of professions and occupations within the
40 department of regulatory agencies may establish renewal fees and delinquency fees for
41 reinstatement pursuant to section 24-34-105, C.R.S. If a person fails to renew his or her
42 license pursuant to the schedule established by the director of the division of professions and

1 ~~occupations, such license shall expire~~ AND ARE SUBJECT TO THE RENEWAL, EXPIRATION,
2 REINSTATEMENT, AND DELINQUENCY FEE PROVISIONS SPECIFIED IN, SECTION 12-20-202 (1)
3 AND (2). Any person whose license has expired shall be subject to the penalties provided in
4 this article 200 or section ~~24-34-102 (8), C.R.S. 12-20-202 (1).~~ <{*Redundant with*
5 *reinstatement/renewal/fees common provision, 12-20-202. Recommend amendment as*
6 *indicated.*}>

7 (5) (a) Every acupuncturist shall report to the director every judgment or
8 administrative action, as well as the terms of any settlement or other disposition of any such
9 judgment or action, against the acupuncturist involving malpractice or improper practice of
10 acupuncture, whether occurring in Colorado or in any other jurisdiction. The acupuncturist
11 shall make such THE report either within thirty days after the judgment or action or upon
12 application for licensure or reinstatement, whichever occurs earlier.

13 (b) ~~An acupuncturist who has had his or her license revoked or who has surrendered~~
14 ~~his or her license to avoid disciplinary action is not eligible to apply for a license for two~~
15 ~~years after the license is revoked or suspended.~~ <{*Redundant with waiting period common*
16 *provision, 12-20-404 (3). Recommend repeal of subsection (5)(b).*}>

17 (6) As a condition of licensure, every acupuncturist shall purchase and maintain
18 commercial professional liability insurance with an insurance company authorized to do
19 business in this state in a minimum indemnity amount of:

20 (a) Fifty thousand dollars per incident and fifty thousand dollars per year, if practicing
21 as a sole proprietor or general partnership;

22 (b) Three hundred thousand dollars per incident and three hundred thousand dollars
23 per year, if practicing as a limited liability company or a corporation.

24 (7) ~~The director shall issue a license to practice acupuncture to any acupuncturist who~~
25 ~~is registered to practice acupuncture in this state prior to March 13, 2002.~~ <{*Should*
26 *subsection (7) be repealed for being obsolete?*}>

27
28 **12-200-107. [Formerly 12-29.5-104.5] Licensure by endorsement - rules.** (1) The
29 director shall issue a license by endorsement to engage in the practice of acupuncture in this
30 state to any applicant who has a license in good standing as an acupuncturist under the laws
31 of another jurisdiction if the applicant presents satisfactory proof to the director that, at the
32 time of application for a license by endorsement, the applicant possesses substantially
33 equivalent credentials and qualifications to those required for licensure pursuant to this
34 article 200.

35 (2) The director shall specify by rule what shall constitute "substantially equivalent
36 credentials and qualifications" for the purposes of this section.

37 (3) ~~The director shall establish a fee to be paid by any applicant for licensure by~~
38 ~~endorsement.~~ <{*Should subsection (3) be repealed for being redundant with the fees*
39 *common provision, 12-20-105?*}>

40 (4) For the purposes of this section, "in good standing" means a license that has not
41 been revoked or suspended, or against which there are no disciplinary or adverse actions.
42

12-200-108. [Formerly 12-29.5-105] Unlawful acts - exceptions - definition.

(1) Nothing in this article **200** shall interfere with, or be interpreted to interfere with or prevent, any other licensed health care professional from practicing within the scope of his or her practice, as defined in this title **12**.

~~(1.5)~~ (2) (a) It is unlawful for any person to practice acupuncture without a valid and current license on file with the division, ~~of professions and occupations~~, unless the acupuncturist is practicing pursuant to section ~~12-36-106 (3)(i)~~ **12-240-107 (3)(i)** or has met the requirements of subsection ~~(2) (3)~~ of this section.

(b) It is unlawful for any person to:

(I) Engage in the practice of acupuncture without being licensed; or

(II) Use the title "licensed acupuncturist", "registered acupuncturist", or "diplomate of acupuncture", or use the designation "L.Ac.", "R.Ac.", or "Dipl. Ac.", unless ~~such~~ THE person is practicing pursuant to section ~~12-36-106 (3)~~ **12-240-107 (3)**.

~~(2)~~ (3) Notwithstanding any provision of this section to the contrary, a person in training may practice acupuncture without a valid and current license issued by the division if ~~such~~ THE practice takes place in the course of a bona fide training program and the person performs all acupuncture acts and services under the direct, on-site supervision of a licensed acupuncturist, who is responsible for all such acts and services as though the licensed acupuncturist had personally performed them.

~~(3)~~ (4) (a) Notwithstanding any provision of this article ~~29.5~~ **200** to the contrary, a mental health care professional who has provided documentation that he or she has been trained to perform auricular acudetox in compliance with subsection ~~(3)(d)~~ **(4)(d)** of this section may perform auricular acudetox if the auricular acudetox is performed under the mental health care professional's current scope of practice, and the mental health care professional is:

(I) Licensed pursuant to article ~~43~~ **245** of this title 12;

(II) Certified as a level III addiction counselor pursuant to **part 8 of article 43 245 of this title 12**; or

(III) Registered as a psychotherapist pursuant to **part 7 of article 43 245 of this title 12**.

(b) A mental health professional performing auricular acudetox pursuant to this subsection ~~(3) (4)~~ shall not use the title "acupuncturist" or otherwise claim to be a person qualified to perform acupuncture beyond the scope of this subsection ~~(3) (4)~~.

(c) As used in this subsection ~~(3) (4)~~, "auricular acudetox" means the subcutaneous insertion of sterile, disposable acupuncture needles in the following five consistent, predetermined bilateral locations:

(I) Sympathetic;

(II) Shen men;

(III) Kidney;

(IV) Liver; and

(V) Lung.

(d) In order to perform auricular acudetox pursuant to this subsection ~~(3) (4)~~, a mental

1 health care professional must successfully complete a training program in auricular acudetox
2 for the treatment of substance use disorders that meets or exceeds standards of training
3 established by the national acupuncture detoxification association or another organization
4 approved by the director.

5
6 **12-200-109. [Formerly 12-29.5-106] Grounds for disciplinary action.** (1) The
7 director may deny licensure to or **take disciplinary action against an acupuncturist pursuant**
8 **to section SECTIONS 24-4-105, 12-20-403, AND 12-20-404** if the director finds that the
9 acupuncturist has committed any of the following acts: <{Updated to include citation to
10 disciplinary procedures and action common provisions, 12-20-403 and 12-20-404.}>

11 (a) Violated the provisions of section ~~12-29.5-105~~ **12-200-108**;

12 (b) Failed to provide the mandatory disclosure required by section ~~12-29.5-103~~
13 **12-200-105** or provided false, deceptive, or misleading information to patients in the said
14 THE disclosure;

15 (c) Failed to provide the information required by section ~~12-29.5-104(1)~~ **12-200-106**
16 or provided false, deceptive, or misleading information to the division; ~~of professions and~~
17 ~~occupations~~;

18 (d) Committed, or advertised in any manner that he or she will commit, any act
19 constituting an abuse of health insurance as prohibited by section 18-13-119 ~~C.R.S.~~, or a
20 fraudulent insurance act as defined in section 10-1-128; ~~C.R.S.~~;

21 (e) Failed to refer a patient to an appropriate practitioner when the problem of the
22 patient is beyond the training, experience, or competence of the acupuncturist;

23 (f) Accepted commissions or rebates or other forms of remuneration for referring
24 clients to other professional persons;

25 (g) Offered or gave commissions, rebates, or other forms of remuneration for the
26 referral of clients; except that, notwithstanding the provisions of this ~~paragraph (g)~~
27 **SUBSECTION (1)(g)**, an acupuncturist may pay an independent advertising or marketing agent
28 compensation for advertising or marketing services rendered on his OR HER behalf by ~~such~~
29 THE agent, including compensation ~~which~~ THAT is paid for the results of performance of ~~such~~
30 THE services, on a per patient basis;

31 (h) Failed to comply with, or aided or abetted a failure to comply with, the
32 requirements of this article **200** or any lawful rules ~~or regulations~~ adopted by the executive
33 director of the department of public health and environment, including those ~~regulations~~
34 **RULES** governing the proper cleaning and sterilization of acupuncture needles or the sanitary
35 conditions of acupuncture offices, or any lawful orders of the department of public health and
36 environment or of court;

37 (i) Failed to comply with, or aided or abetted a failure to comply with, the
38 requirements of this article **200** or any lawful rules ~~or regulations~~ governing the practice of
39 acupuncture adopted by the director, or any lawful orders of the director or of court;

40 (j) Engaged in sexual contact, sexual intrusion, or sexual penetration, as defined in
41 section 18-3-401, ~~C.R.S.~~, with a patient during the period of time beginning with the initial
42 patient evaluation and ending with the termination of treatment;

1 (k) Departed from, or failed to conform to, minimal standards of care of similar
2 practitioners under the same or similar circumstances, whether or not actual injury to a
3 patient is established;

4 (l) (I) Failed to notify the director of a physical illness; a physical condition; or a
5 behavioral, mental health, or substance use disorder that impacts the licensee's ability to
6 practice acupuncture with reasonable skill and safety to patients;

7 (II) Failed to act within the limitations created by a physical illness; a physical
8 condition; or a behavioral, mental health, or substance use disorder that renders the licensee
9 unable to perform acupuncture with reasonable skill and safety to the patient; or

10 (III) Failed to comply with the limitations agreed to under a confidential agreement;

11 (m) Continued in the practice of acupuncture while abusing or habitually or
12 excessively using alcohol, a habit-forming drug, or controlled substance as defined in section
13 18-18-102 (5); C.R.S.;

14 (n) Committed and been convicted of a felony or entered a plea of guilty or nolo
15 contendere to a felony; and

16 (o) Published or circulated, directly or indirectly, any fraudulent, false, deceitful, or
17 misleading claims or statements relating to acupuncture or to the acupuncturist's practice,
18 capabilities, services, methods, or qualifications.

19 (2) The director may accept, as prima facie evidence of the commission of any act
20 enumerated in subsection (1) of this section, evidence of disciplinary action taken by another
21 jurisdiction against an acupuncturist's license or other authorization to practice if such THE
22 disciplinary action was based upon acts or practices substantially similar to those enumerated
23 in subsection (1) of this section.

24 ~~(3)(a) The director or an administrative law judge shall have the power to administer
25 oaths, take affirmations of witnesses, and issue subpoenas to compel the attendance of
26 witnesses and the production of all relevant papers, books, records, documentary evidence,
27 and materials in any hearing, investigation, accusation, or other matter coming before the
28 director pursuant to this article. The director may appoint an administrative law judge
29 pursuant to part 10 of article 30 of title 24 C.R.S., to take evidence and to make findings and
30 report them to the director.~~

31 ~~(b) Upon failure of any witness to comply with such subpoena or process, the district
32 court of the county in which the subpoenaed person or licensee resides or conducts business,
33 upon application by the board or director with notice to the subpoenaed person or licensee,
34 may issue to the person or licensee an order requiring that person or licensee to appear before
35 the director; to produce the relevant papers, books, records, documentary evidence, or
36 materials if so ordered; or to give evidence touching the matter under investigation or in
37 question. Failure to obey the order of the court may be punished by the court as a contempt
38 of court. <{Redundant with disciplinary procedures/subpoena powers common provision,
39 12-20-403 (2) and (3). Recommend repeal of subsection (3).}>~~

40
41 **12-200-110. [Formerly 12-29.5-107] Disciplinary authority and proceedings.**

42 (1) A proceeding for discipline of a licensee may be commenced by the director when the

1 director has reasonable grounds to believe that a licensee has committed any act prohibited
2 by section ~~12-29.5-106~~ (1) **12-200-109 (1)**.

3 (2) Disciplinary actions may consist of the following:

4 (a) Revocation or suspension of licensure;

5 (b) Placement of the licensee on probation and setting the terms of that probation; and

6 (c) ~~(F)~~ Issuance of letters of admonition ~~When a complaint or investigation discloses~~
7 ~~an instance of misconduct that, in the opinion of the director, does not warrant formal action~~
8 ~~by the director but that should not be dismissed as being without merit, the director may issue~~
9 ~~and send a letter of admonition by first-class mail, to the licensee PURSUANT TO SECTION~~
10 ~~12-20-404 (4).~~

11 ~~(H) When the director sends a letter of admonition to a licensee, the director shall~~
12 ~~advise the licensee that he or she has the right to request in writing, within twenty days after~~
13 ~~receipt of the letter, that formal disciplinary proceedings be initiated to adjudicate the~~
14 ~~propriety of the conduct upon which the letter of admonition is based.~~

15 ~~(H) If the request for adjudication is timely made, the letter of admonition shall be~~
16 ~~deemed vacated and the matter shall be processed by means of formal disciplinary~~
17 ~~proceedings. <{Redundant with letter of admonition common provision, 12-20-404 (4).~~
18 ~~Recommend amendment as indicated.}>~~

19 ~~(2.5) When a complaint or investigation discloses an instance of conduct that does not~~
20 ~~warrant formal action by the director and, in the opinion of the director, the complaint should~~
21 ~~be dismissed, but the director has noticed indications of possible errant conduct by the~~
22 ~~licensee that could lead to serious consequences if not corrected, a confidential letter of~~
23 ~~concern may be issued and sent to the licensee. <{Redundant with discipline/confidential~~
24 ~~letter of concern common provision, 12-20-404 (5). Recommend repeal.}>~~

25 (3) Complaints of record on file with the director and the results of investigations
26 shall be closed to public inspection during the investigatory period and until dismissed or
27 until notice of hearing and charges are served on a licensee. The director's records and papers
28 shall be subject to the provisions of sections 24-72-203 and 24-72-204. ~~C.R.S.~~

29 ~~(4) When a complaint or an investigation discloses an instance of misconduct that,~~
30 ~~in the opinion of the director, warrants formal action, the complaint shall not be resolved by~~
31 ~~a deferred settlement, action, judgment, or prosecution. <{Redundant with discipline/no~~
32 ~~deferment common provision, 12-20-404 (2). Recommend repeal.}>~~

33 (5) (a) If it appears to the director, based upon credible evidence as presented in a
34 written complaint by any person, that a licensee is acting in a manner that is an imminent
35 threat to the health and safety of the public or a person is acting or has acted without the
36 required license, the director may issue an order to cease and desist such activity. The order
37 shall set forth the statutes and rules alleged to have been violated, the facts alleged to have
38 constituted the violation, and the requirement that all unlawful acts or unlicensed practices
39 immediately cease.

40 (b) Within ten days after service of the order to cease and desist pursuant to paragraph
41 (a) of this subsection (5), the respondent may request a hearing on the question of whether
42 acts or practices in violation of this article have occurred. Such hearing shall be conducted

1 pursuant to sections 24-4-104 and 24-4-105, C.R.S.

2 (6) (a) If it appears to the director, based upon credible evidence as presented in a
3 written complaint by any person, that a person has violated any other portion of this article,
4 then, in addition to any specific powers granted pursuant to this article, the director may issue
5 to such person an order to show cause as to why the director should not issue a final order
6 directing such person to cease and desist from the unlawful act or unlicensed practice.

7 (b) A person against whom an order to show cause has been issued pursuant to
8 paragraph (a) of this subsection (6) shall be promptly notified by the director of the issuance
9 of the order, along with a copy of the order, the factual and legal basis for the order, and the
10 date set by the director for a hearing on the order. Such notice may be served by personal
11 service, by first-class United States mail, postage prepaid, or as may be practicable upon any
12 person against whom such order is issued. Personal service or mailing of an order or
13 document pursuant to this subsection (6) shall constitute notice thereof to the person.

14 (c) (I) The hearing on an order to show cause shall be commenced no sooner than ten
15 and no later than forty-five calendar days after the date of transmission or service of the
16 notification by the director as provided in paragraph (b) of this subsection (6). The hearing
17 may be continued by agreement of all parties based upon the complexity of the matter,
18 number of parties to the matter, and legal issues presented in the matter, but in no event shall
19 the hearing commence later than sixty calendar days after the date of transmission or service
20 of the notification.

21 (II) If a person against whom an order to show cause has been issued pursuant to
22 paragraph (a) of this subsection (6) does not appear at the hearing, the director may present
23 evidence that notification was properly sent or served upon such person pursuant to
24 paragraph (b) of this subsection (6) and such other evidence related to the matter as the
25 director deems appropriate. The director shall issue the order within ten days after the
26 director's determination related to reasonable attempts to notify the respondent, and the order
27 shall become final as to that person by operation of law. Such hearing shall be conducted
28 pursuant to sections 24-4-104 and 24-4-105, C.R.S.

29 (III) If the director reasonably finds that the person against whom the order to show
30 cause was issued is acting or has acted without the required license or has or is about to
31 engage in acts or practices constituting violations of this article, a final cease-and-desist order
32 may be issued directing such person to cease and desist from further unlawful acts or
33 unlicensed practices.

34 (IV) The director shall provide notice, in the manner set forth in paragraph (b) of this
35 subsection (6), of the final cease-and-desist order within ten calendar days after the hearing
36 conducted pursuant to this paragraph (c) to each person against whom the final order has
37 been issued. The final order issued pursuant to subparagraph (III) of this paragraph (c) shall
38 be effective when issued and shall be a final order for purposes of judicial review.

39 (7) If it appears to the director, based upon credible evidence presented to the
40 director, that a person has engaged in or is about to engage in any unlicensed act or practice,
41 any act or practice constituting a violation of this article, any rule promulgated pursuant to
42 this article, any order issued pursuant to this article, or any act or practice constituting

1 grounds for administrative sanction pursuant to this article, the director may enter into a
2 stipulation with such person.

3 (8) If any person fails to comply with a final cease-and-desist order or a stipulation,
4 the director may request the attorney general or the district attorney for the judicial district
5 in which the alleged violation exists to bring, and if so requested such attorney shall bring,
6 suit for a temporary restraining order and for injunctive relief to prevent any further or
7 continued violation of the final order.

8 (9) A person aggrieved by the final cease-and-desist order may seek judicial review
9 of the director's determination or of the director's final order in a court of competent
10 jurisdiction.

11 (4) THE DIRECTOR MAY ISSUE CEASE-AND-DESIST ORDERS UNDER THE CIRCUMSTANCES
12 AND IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION 12-20-405.<{Subsections
13 (5) through (9) are redundant with the *cease-and-desist common provisions, 12-20-405.*
14 Recommend repealing and adding cross-reference to common provision, as indicated.>

15
16 **12-200-111. [Formerly 12-29.5-108] Unauthorized practice - penalties.** (1) Any
17 person who practices or offers or attempts to practice acupuncture without an active license
18 issued under this article commits a class 2 misdemeanor and shall be punished as provided
19 in section 18-1.3-501, C.R.S., for the first offense, and, for the second or any subsequent
20 offense, the person commits a class 6 felony and shall be punished as provided in section
21 18-1.3-401, C.R.S. **200** IS SUBJECT TO PENALTIES PURSUANT TO SECTION 12-20-407 (1)(a).
22 <{Redundant with *unauthorized practice common provision, 12-20-407.* Recommend
23 amendment as indicated.>

24 (2) Any person who violates the provision of section ~~12-29.5-106(1)(j)~~ **12-200-109**
25 **(1)(j)** by engaging in sexual contact with a patient during the course of patient care commits
26 a class 1 misdemeanor and shall be referred for criminal prosecution.

27 (3) Any person who violates the provisions of section ~~12-29.5-106(1)(j)~~ **12-200-109**
28 **(1)(j)** by engaging in sexual intrusion or sexual penetration with a patient during the course
29 of patient care commits a class 4 felony and shall be referred for criminal prosecution.

30
31 **12-200-112. [Formerly 12-29.5-108.5] Examinations - notice - confidential**
32 **agreements.** (1) If an acupuncturist suffers from a physical illness; a physical condition; or
33 a behavioral or mental health disorder that renders the licensee unable to practice
34 acupuncture or practice as an acupuncturist with reasonable skill and patient safety, the
35 acupuncturist shall notify the director of the physical illness; the physical condition; or the
36 behavioral or mental health disorder in a manner and within a period of time determined by
37 the director. The director may require the licensee to submit to an examination or to evaluate
38 the extent of the physical illness; the physical condition; or the behavioral or mental health
39 disorder and its impact on the licensee's ability to practice with reasonable skill and safety
40 to patients.

41 (2) (a) Upon determining that an acupuncturist with a physical illness; a physical
42 condition; or a behavioral or mental health disorder is able to render limited acupuncture

1 treatment with reasonable skill and patient safety, the director may enter into a confidential
2 agreement with the acupuncturist in which the acupuncturist agrees to limit his or her
3 practice based on the restrictions imposed by the physical illness; the physical condition; or
4 the behavioral or mental health disorder, as determined by the director.

5 (b) The agreement must specify that the licensee is subject to periodic reevaluations
6 or monitoring as determined appropriate by the director.

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

9 (d) By entering into an agreement with the director under this subsection (2) to limit
10 his or her practice, the licensee is not engaging in unprofessional conduct. The agreement is
11 an administrative action and does not constitute a restriction or discipline by the director.
12 However, if the licensee fails to comply with an agreement entered into pursuant to this
13 subsection (2), the failure constitutes grounds for disciplinary action under section
14 ~~12-29.5-106 (1)(l)~~ and the licensee is subject to discipline in accordance with section
15 ~~12-29.5-107~~.

16 (1) EXCEPT AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, SECTION 12-30-107
17 CONCERNING CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE APPLIES TO THIS ARTICLE 200.

18 (3) (2) This section does ~~AND SECTION 12-30-107~~ DO not apply to a licensee subject
19 to discipline under section ~~12-29.5-106 (1)(m)~~ **12-200-109 (1)(m)**. ~~<{Redundant with~~
20 ~~confidential agreement common provision, 12-30-107. Recommend amendment as~~
21 ~~indicated.}>~~

22
23 **12-200-113. [Formerly 12-29.5-109] Civil penalties.** (1) No action may be
24 maintained against a recipient of acupuncture services for breach of a contract involving the
25 rendering of acupuncture services provided under such THE contract by an acupuncturist who
26 has committed, with respect to such THE recipient, any act prohibited by section ~~12-29.5-106~~
27 ~~(1)~~ **12-200-109 (1)**.

28 (2) When a patient, his A PATIENT'S insurer, or his A PATIENT'S legal guardian or
29 representative has paid for acupuncture services rendered by an acupuncturist who has
30 committed, with respect to such THE patient, any act prohibited by section ~~12-29.5-106 (1)~~
31 **12-200-109 (1)**, whether or not said THE patient knew that said THE act or acts were illegal,
32 he, his THE PATIENT, THE PATIENT'S insurer, or his THE PATIENT'S insurer legal guardian or
33 representative may recover, in an action at law, the amount of any fees paid for the
34 acupuncture services and reasonable attorney fees.

35 (3) The criminal and civil penalties specified under this article **200** are not exclusive
36 but cumulative and in addition to any other causes of action, rights, or remedies a patient may
37 have under law.

38
39 **12-29.5-109.5 Immunity.** The director, the director's staff, any person acting as a
40 witness or consultant to the director, any witness testifying in a proceeding authorized under
41 this article, and any person who lodges a complaint pursuant to this article shall be immune
42 from liability in any civil action brought against him or her for acts occurring while acting

1 in his or her capacity as director, staff, consultant, or witness, respectively, if such individual
2 was acting in good faith within the scope of his or her respective capacity, made a reasonable
3 effort to obtain the facts of the matter as to which he or she acted, and acted in the reasonable
4 belief that the action taken by him or her was warranted by the facts. Any person
5 participating in good faith in lodging a complaint or participating in any investigative or
6 administrative proceeding pursuant to this article shall be immune from any civil or criminal
7 liability that may result from such participation. <{Redundant with immunity common
8 provision, 12-20-402. Recommend repealing.}>

9
10 **12-200-114. [Formerly 12-29.5-110] Director - powers and duties.** (1) In addition
11 to any other powers and duties conferred by this article **200**, the director shall have the
12 following powers and duties:

13 (a) ~~To adopt such rules and regulations as may be necessary to carry out the~~
14 ~~provisions of this article;~~ <{Redundant with the rule-making common provision,
15 12-20-204. Recommend repeal.}>

16 (b) ~~To establish the fees for licensure and renewal of licenses in the same manner as~~
17 ~~is authorized by section 24-34-105, C.R.S.;~~ <{Redundant with the fee common provision,
18 12-20-105. Recommend repeal.}>

19 (e) (a) To accept or deny applications for licensure and to collect the annual license
20 fees authorized by this article **200**;

21 (f) (b) To inspect on a complaint basis any premises where acupuncture services are
22 provided to ensure compliance with this article **200** and the rules and regulations adopted
23 pursuant thereto;

24 (e) (c) To contract with the department of public health and environment or others
25 to provide appropriate services as needed to carry out the inspections authorized with respect
26 to the proper cleaning and sterilization of needles and the sanitation of acupuncture offices;

27 (f) (d) ~~To make investigations, hold hearings, and take evidence with respect to any~~
28 ~~complaint against any licensee when the director has reasonable cause to believe that the~~
29 ~~licensee is violating any of the provisions of this article and to subpoena witnesses,~~
30 ~~administer oaths, and compel the testimony of witnesses and the production of books, papers,~~
31 ~~and records relevant to those investigations or hearings. Any subpoena issued pursuant to this~~
32 ~~article shall be enforceable by the district court~~ CONDUCT DISCIPLINARY PROCEEDINGS IN
33 ACCORDANCE WITH SECTION 12-20-403. <{Redundant with disciplinary procedures
34 common provision, 12-20-403. Recommend amendment as indicated.}>

35 (g) (e) To conduct any other meetings or hearings necessary to carry out the
36 provisions of this article **200**;

37 (h) (f) Through the department of regulatory agencies, and subject to appropriations
38 made to the department of regulatory agencies, to employ administrative law judges on a
39 full-time or part-time basis to conduct any hearings required by this article **200**. ~~The~~
40 ~~administrative law judges shall be appointed pursuant to part 10 of article 30 of title 24,~~
41 ~~C.R.S.~~ <{The first sentence is not redundant with the disciplinary procedures common
42 provision, 12-20-403, due to employment of ALJs; the second sentence is redundant.}>

(g) To seek through the office of the attorney general, an injunction in any court of competent jurisdiction to enjoin any person from committing any act prohibited by this article. When seeking an injunction under this paragraph (i), the director shall not be 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 IN ACCORDANCE WITH SECTION 12-20-406. <{Redundant with injunction common provision, 12-20-406. Recommend amending as indicated.}>

(h) To order the physical or mental examination of an acupuncturist if the director has reasonable cause to believe that the acupuncturist is subject to a physical or mental disability which THAT renders the acupuncturist unable to treat patients with reasonable skill and safety or which THAT may endanger a patient's health or safety; and the director may order such an examination whether or not actual injury to a patient is established; <{This subsection is quite different from the mental and physical examination common provision, 12-30-108, so no change is recommended.}>

(i) To report to the United States department of health and human services, pursuant to applicable federal law and regulations, any adverse action taken against the license of any acupuncturist.

12-200-115. [Formerly 12-29.5-111] Powers and duties of the executive director of the department of public health and environment - rules. The executive director of the department of public health and environment shall promulgate rules and regulations relating to the proper cleaning and sterilization of needles to be used in the practice of acupuncture and the sanitation of acupuncture offices.

12-200-116. [Formerly 12-29.5-112] Insurance coverage - not affected. Nothing in this article 200 shall be construed to affect any present or future provision of law or contract or other agreement concerning insurance or insurance coverage with respect to the provision of acupuncture services.

12-200-117. [Formerly 12-29.5-113] Scope of article. The provisions of this article 200 shall not apply to those persons who are otherwise licensed by the state of Colorado under this title 12 if the provision of acupuncture services is within the scope of such THE licensure. It is not intended nor shall it be interpreted that the practice of acupuncture constitutes the practice of medicine within the scope of the "Colorado Medical Practice Act", article 36 240 of this title 12.

12-29.5-114. Division of professions and occupations cash fund. It is the intention of the general assembly that all direct and indirect costs incurred in the implementation of this article be funded by annual registration and license fees. All fees collected by the director shall be transmitted to the state treasurer, who shall credit the same to the division of professions and occupations cash fund, created by section 24-34-105, C.R.S. <{Redundant with disposition of fees common provision, 12-20-105. Recommend

1 *repeal.. }>*
2

3 **12-200-118. [Formerly 12-29.5-115] Effective date - applicability.** This article **200**
4 shall take effect July 1, 1989, and shall apply to practicing acupuncturists on or after January
5 1, 1990.
6

7 **12-200-119. [Formerly 12-29.5-116] Repeal of article - termination of functions.**
8 **(+) This article 200 is repealed, effective September 1, 2022. BEFORE ITS REPEAL, THE**
9 **LICENSING FUNCTIONS OF THE DIRECTOR ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH**
10 **SECTION 24-34-104.**

11 ~~(2) The licensing functions of the director of the division of professions and~~
12 ~~occupations as set forth in this article 200 are terminated on September 1, 2022. Prior to such~~
13 ~~termination, the licensing functions shall be reviewed as provided for in section 24-34-104.~~
14 **C.R.S. <{ *Section updated to conform with current sunset language.* }>**

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