

**ARTICLE 29.9 210
AUDIOLOGISTS**

- ~~12-210-101~~ **12-210-101.** *Applicability of common provisions.*
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1 **12-210-101. Applicability of common provisions.** ARTICLES 1, 20, AND 30 OF THIS
2 TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 210.

3
4 **12-210-102. [Formerly 12-29.9-101] Definitions.** As used in this article *210*, unless
5 the context otherwise requires:

6 (1) "Applicant" means a person applying for a license to practice audiology.

7 (2) "Audiologist" means a person engaged in the practice of audiology.

8 (3) "Director" means the director of the division or the director's designee.

9 <{**Redundant with definitions common provision, 12-20-102 (6). Recommend repeal of**
10 **subsection (3).**>

1 (4) "Division" means the division of professions and occupations in the department
2 of regulatory agencies. <{*Redundant with definitions common provision, 12-20-102 (6).*
3 *Recommend repeal of subsection (4).*}>

4 (5) (3) (a) "Hearing aid" means any wearable instrument or device designed or
5 offered to aid or compensate for impaired human hearing and any parts, attachments, or
6 accessories to the instrument or device, including ear molds but excluding batteries and
7 cords.

8 (b) "Hearing aid" does not include a surgically implanted hearing device.

9 (6) "Licensee" means an audiologist who holds a current license issued by the
10 division pursuant to this article. <{*Redundant with definitions common provision,*
11 *12-20-102 (9). Recommend repeal of subsection (6).*}>

12 (7) (4) "Practice of audiology" means:

13 (a) (I) The application of principles, methods, and procedures related to the
14 development, disorders, and conditions of the human auditory-vestibular system, whether
15 those disorders or conditions are of organic or functional origin, including disorders of
16 hearing, balance, tinnitus, auditory processing, and other neural functions, as those principles,
17 methods, and procedures are taught in accredited programs in audiology.

18 (II) The principles, methods, or procedures include diagnosis, assessment,
19 measurement, testing, appraisal, evaluation, rehabilitation, treatment, prevention,
20 conservation, identification, consultation, counseling, intervention, management,
21 interpretation, instruction, and research related to hearing, vestibular function, balance and
22 fall prevention, and associated neural systems, and any abnormal condition related to tinnitus,
23 auditory sensitivity, acuity, function or processing, speech, language, or other aberrant
24 behavior resulting from hearing loss, for the purpose of diagnosing, designing, and
25 implementing audiological management and treatment or other programs for the amelioration
26 of human auditory-vestibular system disorders and conditions.

27 (b) Prescribing, selecting, specifying, evaluating, assisting in the adjustment to, and
28 dispensing of prosthetic devices for hearing loss, including hearing aids and hearing assistive
29 devices by means of specialized audiometric equipment or by any other means accepted by
30 the director;

31 (c) Determining work-related hearing loss or impairment, as defined by federal
32 regulations;

33 (d) Prevention of hearing loss; and

34 (e) Consulting with, and making referrals to, a physician when appropriate.

35 (8) (5) "Surgically implanted hearing device" means a device that is designed to
36 produce useful hearing sensations to a person with a hearing impairment and that has, as one
37 or more components, a unit that is surgically implanted into the ear, skull, or other interior
38 part of the body. The term includes any associated unit that may be worn on the body.

39
40 **12-210-103. [Formerly 12-29.9-102] Scope of article - exemption.** (1) This article
41 **210** does not apply to a person who is:

42 (a) Licensed pursuant to section 22-60.5-210 C.R.S., and not licensed under this

1 article **210** for work undertaken as part of his or her employment by, or contractual
2 agreement with, the public schools;

3 (b) Engaged in the practice of audiology in the discharge of his or her official duties
4 in the service of the United States armed forces, public health service, Coast Guard, or
5 veterans administration;

6 (c) A student enrolled in a course of study leading to a degree in audiology or the
7 hearing or speech sciences at an institution of higher education or postsecondary education
8 accredited by a national, regional, or state agency recognized by the United States department
9 of education who is practicing audiology, if the student is supervised by a licensed
10 audiologist and the student's designated title clearly indicates his or her status as a student;
11 or

12 (d) Otherwise licensed as a health professional under this title **12**.

13 (2) Nothing in this article **210** authorizes an audiologist to engage in the practice of
14 medicine as defined in section ~~12-36-106~~ **12-240-107**.

15
16 **12-210-104. [Formerly 12-29.9-103] Title protection - use of title.** (1) It is
17 unlawful for any person to use the following titles unless he or she is licensed pursuant to this
18 article **210**: "Audiologist", "hearing and balance audiologist", "vestibular audiologist", or any
19 other title or abbreviation that implies that the person is an audiologist.

20 (2) A licensee who has a doctorate degree in audiology is entitled to use the title
21 "Doctor" or "Dr." when accompanied by the words "Audiologist" or "Audiology" or the
22 letters "Au.D.", "Ed.D.", "Ph.D.", "Sc.D.", or any other appropriate degree designation, and
23 to use the title "Doctor of Audiology".
24

25 **12-210-105. [Formerly 12-29.9-104] License required - application - fee - bond**
26 **- disclosure - exemption.** (1) (a) An audiologist must obtain a license from the division
27 before engaging in the practice of audiology in this state.

28 (b) The director shall give each licensee a license bearing a unique license number.
29 The licensee shall include the license number on all written contracts and receipts.

30 (2) To qualify for licensure as an audiologist under this article **210**, a person must
31 have:

32 (a) Earned a doctoral degree in audiology from a program that is or, at the time the
33 applicant was enrolled and graduated, was offered by an institution of higher education or
34 postsecondary education accredited by a national, regional, or state agency recognized by the
35 United States department of education, or another program approved by the director; or

36 (b) (I) Earned a master's degree from a program with a concentration in audiology
37 that was conferred before July 1, 2007, from a program of higher learning that is or, at the
38 time the applicant was enrolled and graduated, was offered by an institution of higher
39 education or postsecondary education accredited by a national, regional, or state agency
40 recognized by the United States department of education, or another program approved by
41 the director; and

42 (II) Obtained a certificate of competency in audiology from a nationally recognized

1 certification agency.

2 (3) An audiologist desiring to be licensed pursuant to this article **210** must submit to
3 the director an application containing the information described in subsection (4) of this
4 section and **must pay to the director all required fees in the amounts determined and collected**
5 **by the director pursuant to section ~~24-34-105~~, C.R.S. **12-20-105**.** The director may deny an
6 application for a license if the required information and fees are not submitted. If an
7 applicant or licensee fails to notify the director of a change in the submitted information
8 within thirty days after the change, the failure is grounds for disciplinary action pursuant to
9 section ~~12-29.9-108~~ **12-210-108**. <{Updated citation to the fees common provision,
10 **12-20-105**.}>

11 (4) An applicant must include the following information in an application for a
12 license as an audiologist under this article **210**:

13 (a) The audiologist's name, business address, and business telephone number;

14 (b) A listing of the audiologist's education, experience, and degrees or credentials,
15 including all degrees or credentials awarded to the audiologist that are related to the practice
16 of audiology;

17 (c) A statement indicating whether a local, state, or federal government agency has:

18 (I) Issued a license, certificate, or registration in audiology to the applicant;

19 (II) Suspended or revoked a license, certificate, or registration issued to the applicant;

20 (III) Charges or complaints pending against the applicant; or

21 (IV) Taken disciplinary action against the applicant;

22 (d) The length of time and the locations where the applicant has engaged in the
23 practice of audiology; and

24 (e) If the audiologist intends to provide services to patients, proof of professional
25 liability insurance in the form and amount determined appropriate by the director pursuant
26 to section ~~12-29.9-112~~ **12-210-111**.

27 (5) An applicant or licensee shall report and update information as required by section
28 ~~24-34-110~~, C.R.S. **12-30-101**. When reporting and updating information regarding
29 malpractice judgments and settlements, as required by section ~~24-34-110~~ (4)(h) and (8)(a);
30 C.R.S.; **12-30-101** (4)(h) AND (8)(a) the applicant or licensee shall include the case number,
31 the name of the court, and names of all parties to the action. <{Updated citation to the
32 **Michael Skolnik common provision, 12-30-101**.}>

33
34 **12-210-106. [Formerly 12-29.9-105] Licensure - certificate - expiration - renewal**
35 **- reinstatement - fees.** (1) The director shall issue a license to an applicant who satisfies the
36 requirements of this article **210**.

37 (2) **All licenses issued under this article 210 expire pursuant to, a schedule established**
38 **by the director and must be renewed or reinstated pursuant to section ~~24-34-102~~ (8). C.R.S.**
39 **The director shall establish renewal fees and delinquency fees for reinstatement pursuant to**
40 **section ~~24-34-105~~. C.R.S. If a person fails to renew his or her license pursuant to the**
41 **schedule established by the director, the license expires AND ARE SUBJECT TO THE RENEWAL,**
42 **REINSTATEMENT, AND DELINQUENCY FEE PROVISIONS SPECIFIED IN, SECTION 12-20-202 (1)**

1 AND (2). A person whose license has expired is subject to the penalties set forth in this article
2 **210** or in section ~~24-34-102 (8)~~, C.R.S. **12-20-202 (1)**. <{*Redundant with renewal /*
3 *reinstatement / fees common provision, 12-20-202. Recommend amending as indicated.*}>
4

5 **12-210-107. [Formerly 12-29.9-106] Licensure by endorsement - rules.** (1) The
6 director shall issue a license by endorsement to engage in the practice of audiology in this
7 state to an individual who possesses an active license in good standing to practice audiology
8 in another state or territory of the United States or in a foreign country if the applicant:

9 (a) Presents satisfactory proof to the director that the individual possesses a valid
10 license from another state or jurisdiction that requires qualifications substantially equivalent
11 to the qualifications for licensure in this state and meets all other requirements for licensure
12 pursuant to this article **210**; and

13 (b) Pays the license fee established under section ~~24-34-105~~, C.R.S. **12-20-105**.

14 (2) The director may specify by rule what constitutes substantially equivalent
15 qualifications for the purposes of this section.
16

17 **~~12-29.9-107. Disposition of fees - legislative intent.~~** It is the intent of the general
18 assembly to fund all direct and indirect costs incurred in the implementation of this article
19 **210** with annual license and renewal fees. The director shall transmit all fees collected under
20 this article to the state treasurer, who shall credit the same to the division of professions and
21 occupations cash fund created by section ~~24-34-105~~, C.R.S. <{*Redundant with disposition*
22 *of fees common provision, 12-20-105. Recommend repeal.*}>
23

24 **12-210-108. [Formerly 12-29.9-108] Disciplinary actions - grounds for discipline.**
25 (1) Upon proof that an applicant or licensee has engaged in an activity that is grounds for
26 discipline under subsection (2) of this section, the director may **TAKE DISCIPLINARY OR OTHER**
27 **ACTION AS AUTHORIZED BY SECTION 12-20-404, INCLUDING**

28 (a) ~~Impose~~ **IMPOSING** an administrative fine not to exceed two thousand five hundred
29 dollars for each separate offense.

30 (b) Issue a letter of admonition;

31 (c) Place a licensee on probation, which entails close supervision on the terms and
32 for the period of time that the director deems appropriate; or

33 (d) Deny, refuse to renew, revoke, or suspend the license of an applicant or licensee.
34 <{*Redundant with disciplinary authority common provision, 12-20-404. Recommend*
35 *amending as indicated.*}>

36 (2) The following acts constitute grounds for discipline:

37 (a) Making a false or misleading statement or omission in an application for
38 licensure;

39 (b) Failing to notify the director of a change in the information filed pursuant to
40 section ~~12-29.9-104~~ **12-210-105**;

41 (c) Violating any provision of this article **210**, including failure to comply with the
42 license requirements of section ~~12-29.9-104~~ **12-210-105** or failure to report information as

1 required under section ~~12-29.9-104 (5)~~ **12-210-105 (5)** or ~~24-34-110~~, C.R.S. **12-30-101**;

2 (d) Violating any rule promulgated by the director under this article **210**;

3 (e) Aiding or abetting a violation, or conspiring to violate, any provision of this article
4 **210** or any rule promulgated or order issued under this article **210** by the director;

5 (f) Failing to maintain professional liability insurance as required by section
6 ~~12-29.9-112~~ **12-210-111**;

7 (g) Using false or misleading advertising;

8 (h) Violating the "Colorado Consumer Protection Act", article 1 of title 6; C.R.S.;

9 (i) Causing physical harm to a customer;

10 (j) Failing to practice audiology according to commonly accepted professional
11 standards;

12 (k) Providing services beyond the licensee's scope of educational preparation,
13 experience, skills, or competence;

14 (l) Failing to adequately supervise a trainee for any of the healing arts;

15 (m) Employing a sales agent or employee who violates any provision of this article
16 **210**;

17 (n) Committing abuse of health insurance as described in section 18-13-119; C.R.S.;

18 (o) Failing to comply with a final agency order or with a stipulation or agreement
19 made with or order issued by the director;

20 (p) Falsifying information in any application or attempting to obtain or obtaining a
21 license by fraud, deception, or misrepresentation;

22 (q) HAVING an alcohol use disorder, as defined in section 27-81-102, or a substance
23 use disorder, as defined in section 27-82-102, or excessively or habitually using or abusing
24 alcohol or habit-forming drugs or habitually using a controlled substance, as defined in
25 section 18-18-102, or other drugs or substances having similar effects; except that the
26 director has the discretion not to discipline the licensee if he or she is participating in good
27 faith in an alcohol or substance use disorder treatment program approved by the director;

28 (r) (I) **Failing to notify the director, as required by section ~~12-29.9-113~~ SECTIONS**
29 **12-210-112 AND 12-30-107**, of a physical illness; a physical condition; or a behavioral,
30 mental health, or substance use disorder that impacts the licensee's ability to perform
31 audiology with reasonable skill and safety to patients; <{ **Updated reference to confidential**
32 **agreement common provision, 12-30-107.** }>

33 (II) Failing to act within the limitations created by a physical illness; a physical
34 condition; or a behavioral, mental health, or substance use disorder that renders the licensee
35 unable to perform audiology with reasonable skill and safety to the patient; or

36 (III) **Failing to comply with the limitations agreed to under a confidential agreement**
37 **entered pursuant to section ~~12-29.9-113~~ SECTIONS 12-210-112 AND 12-30-107**; <{ **Updated**
38 **reference to confidential agreement common provision, 12-30-107.** }>

39 (s) **Refusing to submit to a physical or mental examination when so ordered by the**
40 **director pursuant to section ~~12-29.9-114~~ SECTIONS 12-210-113 AND 12-30-108**; <{ **Updated**
41 **reference to mental and physical examination common provision, 12-30-108.** }>

42 (t) Failing to respond in an honest, materially responsive, and timely manner to a

1 complaint lodged against the licensee; and

2 (u) In any court of competent jurisdiction, being convicted of, pleading guilty or nolo
3 contendere to, or receiving a deferred sentence for a felony or a crime involving fraud,
4 deception, false pretense, theft, misrepresentation, false advertising, or dishonest dealing.

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

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

15 ~~(5) A person whose license to practice under this article is revoked, or who surrenders
16 his or her license to avoid discipline, is ineligible to apply for a new license under this article
17 for two years after the date of revocation or surrender. <{Redundant with discipline/waiting
18 period common provision, 12-20-404 (3). Recommend repeal.}>~~

19 ~~(6) (3) Any disciplinary action taken by another state, local jurisdiction, or the federal
20 government against an applicant or licensee constitutes prima facie evidence of grounds for
21 disciplinary action, including denial of a license under this article 210; except that this
22 subsection (6) (3) applies only to discipline for acts or omissions that are substantially similar
23 to those set out as grounds for disciplinary action under this article 210.~~

24 ~~(7) (a) When a complaint or investigation discloses an instance of misconduct that,
25 in the opinion of the director, does not warrant formal action by the director but should not
26 be dismissed as being without merit, the director may issue and send to the licensee a letter
27 of admonition.~~

28 ~~(b) (I) When the director sends a letter of admonition to a licensee pursuant to
29 paragraph (a) of this subsection (7), the director shall also advise the licensee that he or she
30 has the right to request in writing, within twenty days after receipt of the letter, that the
31 director initiate formal disciplinary proceedings to adjudicate the propriety of the conduct
32 upon which the letter of admonition is based.~~

33 ~~(H) If the licensee makes the request for adjudication in a timely manner, the director
34 shall vacate the letter of admonition and shall process the matter by means of formal
35 disciplinary proceedings. <{Redundant with letters of admonition common provision,
36 12-20-404 (4). Recommend repealing subsection (7).}>~~

37 ~~(8) The director shall transmit all fines collected pursuant to this section to the state
38 treasurer, who shall credit them to the general fund. <{Redundant with disposition of fines
39 common provision, 12-20-404 (6). Recommend repealing subsection (8).}>~~

40
41 **12-210-109. [Formerly 12-29.9-109] Director - powers - duties - rules. (1) The**
42 **director may conduct investigations and inspections IN ACCORDANCE WITH SECTION**

12-20-403 as necessary to determine whether an applicant or licensee has violated this article 210 or any rule adopted by the director under this article 210. <{*Suggest adding a cross reference to disciplinary procedures common provision, 12-20-403.*}>

(2) PURSUANT TO SECTION 12-20-406, the director may apply to a court of competent jurisdiction for an order enjoining any act or practice that constitutes a violation of this article Upon a showing that a person is engaging in or intends to engage in the act or practice, the court shall grant an injunction, restraining order, or other appropriate order, regardless of the existence of another remedy 210. The Colorado rules of civil procedure govern all proceedings related to such court orders. <{*Redundant with injunctive relief common provision, 12-20-406. Recommend amending as indicated.*}>

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

(b) Upon the failure of any witness to comply with a subpoena or process, the director may apply to the district court of the county in which the subpoenaed person or licensee resides or conducts business, and after notice of the application by the director to the subpoenaed person or licensee, the district court may issue to the person or licensee an order requiring that the person or licensee appear before the director; produce the relevant papers, books, records, documentary evidence, or materials if so ordered; or give evidence relevant to the matter under investigation or in question. If the person or licensee fails to obey the order of the court, the court may hold the person or licensee in contempt of court. <{*Redundant with discipline/ALJ/subpoena powers common provision, 12-20-403. Recommend repeal.*}>

(4) (3) The director shall determine the amount of malpractice coverage that must be obtained by an audiologist who provides services to patients.

(5) (4) No later than December 31, 2013, and as necessary thereafter, The director shall adopt rules necessary for the enforcement or administration of this article PURSUANT TO SECTION 12-20-204, including rules requiring licensees to maintain records identifying customers by name, the goods or services provided to each customer other than batteries and minor accessories, and the date and price of each transaction. Licensees shall maintain the records for at least seven years after the last transaction. <{*Redundant with rule-making common provision, 12-20-204. Recommend amending as indicated. Is the date obsolete?*}>

12-210-110. [Formerly 12-29.9-110] Cease-and-desist orders - unauthorized practice - penalties. (1) (a) If it appears to the director, based upon credible evidence as presented in a written complaint by any person, that a licensee 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 license, the director may issue an order to cease and desist the activity. The director must set forth in the order the statutes and rules alleged to have been violated,

1 the facts alleged to have constituted the violation, and the requirement that all unlawful acts
2 or unlicensed practices immediately cease.

3 (b) Within ten days after service of the order to cease and desist pursuant to paragraph
4 (a) of this subsection (1), the respondent may request a hearing on the question of whether
5 acts or practices in violation of this article have occurred. The director shall conduct the
6 hearing pursuant to sections 24-4-104 and 24-4-105, C.R.S.

7 (2) (a) If it appears to the director, based upon credible evidence as presented in a
8 written complaint by any person, that a person has violated any provision of this article, then,
9 in addition to any other powers granted pursuant to this article, the director may issue to the
10 person an order to show cause as to why the director should not issue a final order directing
11 the person to cease and desist from the unlawful act or practice.

12 (b) The director shall promptly notify a person against whom he or she has issued an
13 order to show cause pursuant to paragraph (a) of this subsection (2) of the issuance of the
14 order, along with a copy of the order, the factual and legal basis for the order, and the date
15 set by the director for a hearing on the order. The director may serve the notice by personal
16 service, by first-class United States mail, postage prepaid, or as may be practicable upon any
17 person against whom the order is issued. Personal service or mailing of an order or document
18 pursuant to this subsection (2) constitutes notice to the person of the existence and contents
19 of the order or document.

20 (c) (I) The director must commence the hearing on an order to show cause no sooner
21 than ten, and no later than forty-five, calendar days after the date of transmission or service
22 of the notification by the director as provided in paragraph (b) of this subsection (2). The
23 director may continue the hearing by agreement of all parties based upon the complexity of
24 the matter, number of parties to the matter, and legal issues presented in the matter, but in no
25 event may the director commence the hearing later than sixty calendar days after the date of
26 transmission or service of the notification.

27 (II) If a person to whom an order to show cause has been issued pursuant to
28 paragraph (a) of this subsection (2) does not appear at the hearing, the director may present
29 evidence that notification was properly sent or served upon the person pursuant to paragraph
30 (b) of this subsection (2) and any other evidence related to the matter as the director deems
31 appropriate. The director shall issue the order within ten days after the director's
32 determination related to reasonable attempts to notify the respondent, and the order becomes
33 final as to that person by operation of law. The conduct of the hearing is governed by
34 sections 24-4-104 and 24-4-105, C.R.S.

35 (III) If the director reasonably finds that the person against whom the order to show
36 cause was issued is acting or has acted without the required license or has or is about to
37 engage in acts or practices constituting violations of this article, the director may issue a final
38 cease-and-desist order directing the person to cease and desist from further unlawful acts or
39 unlicensed practices.

40 (IV) The director shall provide notice, in the manner set forth in paragraph (b) of this
41 subsection (2), of the final cease-and-desist order within ten calendar days after the hearing
42 conducted pursuant to this paragraph (c) to each person against whom the director has issued

1 the final order. The final order issued pursuant to subparagraph (III) of this paragraph (c) is
2 effective when issued and constitutes a final order for purposes of judicial review.

3 (3) The director may enter into a stipulation with a person if it appears to the director,
4 based upon credible evidence presented to the director, that the person has engaged in or is
5 about to engage in:

6 (a) An unlicensed act or practice;

7 (b) An act or practice constituting a violation of this article, a rule promulgated
8 pursuant to this article, or an order issued pursuant to this article; or

9 (c) An act or practice constituting grounds for administrative sanction pursuant to this
10 article.

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

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

19 (1) THE DIRECTOR MAY ISSUE CEASE-AND-DESIST ORDERS UNDER THE CIRCUMSTANCES
20 AND IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION 12-20-405. <{ *Subsections*
21 *(1) to (5) are redundant with cease and desist common provision, 12-20-405. Recommend*
22 *repealing subsections (1) through (5) and replacing with cross-reference to the*
23 *cease-and-desist orders common provision, 12-20-405.* }>

24 (6) (2) A person who practices or offers or attempts to practice audiology services
25 without an active audiologist license issued under this article commits a class 2 misdemeanor
26 and shall be punished as provided in section 18-1.3-501, C.R.S., for the first offense, and,
27 for the second or any subsequent offense, the person commits a class 6 felony and shall be
28 punished as provided in section 18-1.3-401, C.R.S. **210** IS SUBJECT TO PENALTIES PURSUANT
29 TO SECTION 12-20-407 (1)(a). <{ *Redundant with unauthorized practice common provision,*
30 *12-20-407. Recommend amending as indicated.* }>

31
32 **12-29.9-111. Immunity.** The director, the director's staff, any person acting as a
33 witness or consultant to the director, any witness testifying in a proceeding authorized under
34 this article, and any person who lodges a complaint pursuant to this article is immune from
35 liability in any civil action brought against him or her for acts occurring while acting in his
36 or her capacity as director, staff, consultant, or witness, respectively, if the individual was
37 acting in good faith within the scope of his or her respective capacity, made a reasonable
38 effort to obtain the facts of the matter as to which he or she acted, and acted in the reasonable
39 belief that the action taken by him or her was warranted by the facts. Any person
40 participating in good faith in lodging a complaint or participating in any investigative or
41 administrative proceeding pursuant to this article is immune from any civil or criminal
42 liability that may result from that participation. <{ *Redundant with immunity common*

provision, 12-20-402. Recommend repeal of this section. }>

12-210-111. [Formerly 12-29.9-112] Professional liability insurance required - rules. (1) (a) Except as provided in ~~paragraph (b) of this subsection (1)~~ SUBSECTION (1)(b) OF THIS SECTION, an audiologist shall not practice audiology unless the audiologist purchases and maintains or is covered by professional liability insurance in the form and amount determined by the director by rule.

(b) The director, by rule, may exempt or establish lesser liability insurance requirements for a class of audiologists whose practice does not require the level of public protection the director establishes pursuant to this ~~paragraph (b)~~ SUBSECTION (1)(b) for all other audiologists.

(2) The professional liability insurance required by this section must cover all acts with the scope of practice of an audiologist as defined in this article **210**.

12-210-112. [Formerly 12-29.9-113] Confidential agreements to limit practice - violation grounds for discipline. ~~(1) If an audiologist suffers from a physical illness; a physical condition; or a behavioral or mental health disorder that renders the licensee unable to practice audiology with reasonable skill and safety to patients, the audiologist shall notify the director of the physical illness; the physical condition; or the behavioral or mental health disorder in a manner and within a period of time determined by the director. The director may require the licensee to submit to an examination 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 ability to practice audiology with reasonable skill and safety to patients.~~

~~(2) (a) Upon determining that an audiologist with a physical illness; a physical condition; or a behavioral or mental health disorder is able to render limited audiology services with reasonable skill and safety to patients, the director may enter into a confidential agreement with the audiologist in which the audiologist agrees to limit his or her practice based on the restrictions imposed by the physical illness; the physical condition; or the behavioral or mental health disorder, as determined by the director.~~

~~(b) As part of the agreement, the audiologist 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 monitoring.~~

~~(d) By entering into an agreement with the director under this subsection (2) to limit his or her practice, an audiologist is not engaging in conduct that is grounds for discipline under section 12-29.9-108 (2). The agreement does not constitute a restriction or discipline by the director. However, if the audiologist fails to comply with the terms of an agreement entered into pursuant to this subsection (2), the failure constitutes grounds for disciplinary action under section 12-29.9-108 (2)(r), and the licensee is subject to discipline in accordance with section 12-29.9-108.~~

(1) EXCEPT AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, SECTION 12-30-107 CONCERNING CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE APPLIES TO THIS ARTICLE 210.

1 (3) (2) This section does **AND SECTION 12-30-107** DO not apply to an audiologist
2 subject to discipline under section ~~12-29.9-108(2)(q)~~ **12-210-108 (2)(q)**. <{*Redundant with*
3 *confidential agreement common provision, 12-30-107. Recommend amendment as*
4 *indicated.*}>

5
6 **12-210-113. [Formerly 12-29.9-114] Mental and physical examination of**
7 **licensees.** (1) If the director has reasonable cause to believe that a licensee is unable to
8 practice with reasonable skill and safety PURSUANT TO SECTION 12-30-108, the director may
9 require the A licensee to take a mental or physical examination by a health care provider
10 designated by the director. If the licensee refuses to undergo a mental or physical
11 examination, unless due to circumstances beyond the licensee's control, the director may
12 suspend the licensee's license until the results of the examination are known and the director
13 has made a determination of the licensee's fitness to practice. The director shall proceed with
14 an order for examination and determination in a timely manner. <{*The second sentence,*
15 *which is in strike type, differs from the corresponding common provision, 12-30-108*
16 *(1)(b)(I). Is there a substantive difference in practice?*}>

17 (2) The director shall include in an order issued to a licensee under subsection (1) of
18 this section the basis of the director's reasonable cause to believe that the licensee is unable
19 to practice with reasonable skill and safety. For the purposes of a disciplinary proceeding
20 authorized by this article, the licensee is deemed to have waived all objections to the
21 admissibility of the examining health care provider's testimony or examination reports on the
22 ground that they are privileged communications. <{*The second sentence differs from the*
23 *corresponding common provision, 12-30-108 (2). Is there a substantive difference in*
24 *practice?*}>

25 (3) (2) The licensee may submit to the director testimony or examination reports from
26 a health care provider chosen by the licensee pertaining to the condition that the director
27 alleges may preclude the licensee from practicing with reasonable skill and safety. The
28 director may consider testimony and reports submitted by the licensee in conjunction with,
29 but not in lieu of, testimony and examination reports of the health care provider designated
30 by the director.

31 (4) A person shall not use the results of any mental or physical examination ordered
32 by the director as evidence in any proceeding other than one before the director. The
33 examination results are not public records and are not available to the public. <{*Redundant*
34 *with mental and physical examination common provision, 12-30-108. Recommend*
35 *amendment as indicated.*}>

36
37 **12-210-114. [Formerly 12-29.9-115] Protection of medical records - licensee's**
38 **obligations - verification of compliance - noncompliance grounds for discipline - rules.**

39 (1) Each licensee shall develop a written plan to ensure the security of patient medical
40 records. The plan must address at least the following:

- 41 (a) The storage and proper disposal of patient medical records;
- 42 (b) The disposition of patient medical records in the event the licensee dies, retires,

1 or otherwise ceases to practice or provide audiology services to patients; and

2 (c) The method by which patients may access or obtain their medical records
3 promptly if any of the events described in ~~paragraph (b) of this subsection (1)~~ SUBSECTION
4 (1)(b) OF THIS SECTION occurs.

5 (2) Upon initial licensure under this article **210**, the licensee shall attest to the director
6 that ~~he or she~~ THE LICENSEE has developed a plan in compliance with this section.

7 (3) A licensee shall inform each patient, in writing, of the method by which the
8 patient may access or obtain his or her medical records if an event described in ~~paragraph (b)~~
9 ~~of subsection (1)~~ SUBSECTION (1)(b) of this section occurs.

10 (4) A licensee who fails to comply with this section is subject to discipline in
11 accordance with section ~~12-29.9-108~~ **12-210-108**.

12 (5) The director may adopt rules as necessary to implement this section.
13

14 **12-210-115. [Formerly 12-29.9-116] Repeal of article.** This article **210** is repealed,
15 effective September 1, 2020. ~~Prior to the~~ BEFORE ITS repeal, ~~the department of regulatory~~
16 ~~agencies shall review~~ the licensing and supervisory functions of the director as provided in
17 ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH section 24-34-104. ~~C.R.S.~~

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