

ARTICLE 41.5 300
Respiratory Therapists

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1 **12-300-101. [Formerly 12-41.5-101] Short title.** THE SHORT TITLE OF this article
2 shall be known and may be cited as **300** IS the "Respiratory Therapy Practice Act".
3

4 **12-300-102. [Formerly 12-41.5-102] Legislative declaration.** The general assembly
5 hereby finds, determines, and declares that the practice of respiratory therapy in the state of
6 Colorado affects the public health, safety, and welfare of its citizens and must be subject to
7 regulation and control to protect the public from the unqualified practice of respiratory
8 therapy and from unprofessional conduct. The general assembly further recognizes the
9 practice of respiratory therapy to be a dynamic and changing art and science that is
10 continually evolving to include new ideas and ever more sophisticated techniques in patient
11 care.
12

13 **12-300-103. Applicability of common provisions.** ARTICLES 1, 20, AND 30 OF THIS
14 TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 300.
15

16 **12-300-104. [Formerly 12-41.5-103] Definitions.** As used in this article **300**, unless

1 the context otherwise requires:

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

5 (2) "Division" means the division of professions and occupations in the department
6 of regulatory agencies created in section 24-34-102, C.R.S. <{*Redundant with definitions*
7 *common provision, 12-20-102 (7).*>

8 (3) "Licensee" means a respiratory therapist licensed pursuant to this article.
9 <{*Redundant with definitions common provision, 12-20-102 (10).*>

10 (4) (1) "Medical director" means a licensed physician who holds such THE title in any
11 inpatient or outpatient facility, department, or home care agency, and who is responsible for
12 the quality, safety, and appropriateness of the respiratory therapy provided.

13 (5) (2) "Respiratory therapist" means a person who is licensed to practice respiratory
14 therapy pursuant to this article **300**.

15 (6) (3) "Respiratory therapy" means providing therapy, management, rehabilitation,
16 support services for diagnostic evaluation, and care of patients with deficiencies and
17 abnormalities which THAT affect the pulmonary system under the overall direction of a
18 medical director. Respiratory therapy includes the following:

19 (a) Direct and indirect pulmonary care services that are safe, aseptic, preventive, and
20 restorative to the patient;

21 (b) The teaching or instruction of the techniques and skill of respiratory care whether
22 or not in a formal educational setting;

23 (c) Direct and indirect respiratory care services including but not limited to the
24 administration of pharmacological, diagnostic, and therapeutic agents related to respiratory
25 care procedures necessary to implement a treatment, disease prevention, and pulmonary
26 rehabilitative or diagnostic regimen prescribed by a physician or advanced practice nurse;

27 (d) Observation and monitoring of signs, symptoms, reactions, general behavior, and
28 general physical response to respiratory care treatment and diagnostic testing for:

29 (I) The determination of whether such THE signs, symptoms, reactions, behavior, or
30 general response exhibit abnormal characteristics; or

31 (II) The implementation based on observed abnormalities of appropriate reporting,
32 referral, or respiratory care protocols or changes in treatment regimen pursuant to a
33 prescription by a physician or advanced practice nurse or the initiation of emergency
34 procedures;

35 (e) The diagnostic and therapeutic use of the following in accordance with the
36 prescription of a physician or advanced practice nurse: Administration of medical gases,
37 exclusive of general anesthesia; aerosols; humidification; environmental control systems and
38 biomedical therapy; pharmacologic agents related to respiratory care procedures; mechanical
39 or physiological ventilatory support; bronchopulmonary hygiene; respiratory protocol and
40 evaluation; cardiopulmonary resuscitation; maintenance of the natural airways; insertion and
41 maintenance of artificial airways; diagnostic and testing techniques required for
42 implementation of respiratory care protocols; collection of specimens from the respiratory

1 tract; or analysis of blood gases and respiratory secretions and participation in
2 cardiopulmonary research; and

3 (f) The transcription and implementation of the written and verbal orders of a
4 physician pertaining to the practice of respiratory care.
5

6 **12-300-105. [Formerly 12-41.5-104] Use of titles restricted.** A respiratory therapist,
7 but no other person, may use the title "licensed respiratory therapist" or the letters "L.R.T."
8

9 **12-300-106. [Formerly 12-41.5-105] Limitations on authority.** Nothing in this
10 article **300** shall be construed as authorizing a respiratory therapist to perform the practice
11 of medicine, surgery, or any other form of healing except as authorized by the provisions of
12 this article **300**.
13

14 **12-300-107. [Formerly 12-41.5-106] License - reciprocity - effectiveness - fee.**
15 (1) An applicant for a license to practice respiratory therapy shall submit to the director
16 evidence that he or she is credentialed by a national respiratory therapy credentialing body,
17 as determined by the director, as a certified or registered respiratory therapist and shall pay
18 a fee as determined by the director. The director shall maintain on file the standards of
19 practice for examination and accreditation by the national respiratory therapy credentialing
20 body determined by the director pursuant to this subsection (1) and make the standards
21 available to the public.

22 (2) The director shall issue a license to practice respiratory therapy to an applicant
23 who otherwise meets the qualifications set forth in this article **300** and who submits
24 satisfactory proof and certifies under penalty of perjury that the applicant is either:

25 (a) Currently in possession of an unrestricted license in good standing to practice
26 respiratory therapy under the laws of another state or territory of the United States or foreign
27 country, if the qualifications of the applicant are deemed by the director to be substantially
28 equivalent to those required by this state, and whether the applicant has ever had a
29 disciplinary action taken in regard to the applicant's license to practice respiratory therapy
30 in another state;

31 (b) Holding credentials conferred by a national respiratory therapy credentialing
32 body, as determined by the director, which credentials have not been suspended or revoked;
33 or

34 (c) Functioning in the capacity of a respiratory therapist as of July 1, 2000, and has
35 successfully passed, no later than July 1, 2001, the certification or registration examination
36 of a national respiratory therapy credentialing body, as determined by the director.
37

38 **12-300-108. [Formerly 12-41.5-107] Renewal of license.** (1) At least sixty calendar
39 days prior to the expiration of a license, the director shall notify the licensee of the pending
40 expiration. The director shall make an expiration notice and a renewal form available to the
41 licensee. Before the expiration date, the licensee shall complete the renewal form and return
42 it to the division with the renewal fee.

(2) Upon receipt of the completed renewal form and the renewal fee, the director shall issue a license for the current renewal period pursuant to a schedule established by the director, and such renewal or reinstatement shall be granted pursuant to section 24-34-102 (8), C.R.S. The director may establish renewal fees and delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S. If a person fails to renew his or her license pursuant to the schedule established by the director of the division of professions and occupations, such license shall expire. LICENSES ISSUED PURSUANT TO THIS ARTICLE 300 ARE SUBJECT TO THE RENEWAL, REINSTATEMENT, AND DELINQUENCY FEE PROVISIONS SPECIFIED IN SECTION 12-20-202 (1) AND (2). Any person whose license has expired shall be subject to the penalties provided in this article 300 or section 24-34-102 (8), C.R.S. *12-20-202 (1). <{Redundant with renewal / reinstatement / fees common provision, 12-20-202. Recommend amending as indicated.}>*

(3) (Deleted by amendment, L. 2004, p. 1846, § 96, effective August 4, 2004.)

12-41.5-108. Fees. All fees collected under this article shall be determined, collected, and appropriated in the same manner as set forth in section 24-34-105, C.R.S. *<{Redundant with disposition of fees common provision, 12-20-105. Recommend repeal.}>*

12-300-109. [Formerly 12-41.5-109] Grounds for action - disciplinary proceedings. (1) The director may take disciplinary action against a licensee if the director finds that such THE person has represented himself or herself to be a licensed respiratory therapist after the expiration or suspension of his or her license.

(2) The director has the power to revoke, suspend, deny, or refuse to renew a license, place on probation a licensee, or issue a letter of admonition to TAKE DISCIPLINARY OR OTHER ACTION AS AUTHORIZED IN SECTION 12-20-404 AGAINST a licensee in accordance with subsections (3), (4), (5), and (6) (4), (5), (6), AND (8) of this section upon proof that the person: *<{Redundant with disciplinary actions common provision, 12-20-404. Recommend amending this subsection as indicated.}>*

(a) Has procured or attempted to procure a license by fraud, deceit, misrepresentation, misleading omission, or material misstatement of fact;

(b) (I) Has been convicted of or has entered and had accepted by a court a plea of guilty or nolo contendere to:

(A) A felony pursuant to section 18-1.3-401; C.R.S.; or

(B) Any crime as defined in title 18 C.R.S.; that relates to such THE person's employment as a respiratory therapist.

(II) A certified copy of the judgment of a court of competent jurisdiction of such THE conviction or plea shall be prima facie evidence of such THE conviction. In conjunction with any disciplinary proceeding pertaining to this paragraph (b) SUBSECTION (2)(b), the director shall be governed by section 24-5-101, C.R.S. SECTIONS 12-20-202 (5) AND 24-5-101. *<{Adding a reference to the criminal conviction common provision, 12-20-202 (5).}>*

(c) Has willfully or negligently acted in a manner inconsistent with the health or safety of persons under his or her care;

1 (d) Has had a license to practice respiratory therapy or any other health care
2 occupation suspended, revoked, or otherwise subjected to discipline in any jurisdiction. A
3 certified copy of the order of suspension, revocation, or discipline shall be prima facie
4 evidence of ~~such~~ THE suspension, revocation, or discipline.

5 (e) Has violated this article **300** or has aided or knowingly permitted any person to
6 violate this article **300**;

7 (f) Practiced respiratory therapy in a manner ~~which~~ THAT failed to meet generally
8 accepted standards for respiratory therapists;

9 (g) Has negligently or willfully violated any order or rule of the director pertaining
10 to the practice or licensure of respiratory therapy;

11 (h) Has an alcohol use disorder, as defined in section 27-81-102, or a substance use
12 disorder, as defined in section 27-82-102, or is an excessive or habitual user or abuser of
13 alcohol or habit-forming drugs or is a habitual user of a controlled substance, as defined in
14 section 18-18-102 (5), or other drugs having similar effects; except that the director has the
15 discretion not to discipline the license holder if he or she is participating in good faith in an
16 alcohol or substance use disorder treatment program approved by the director;

17 (i) (I) ~~Has failed to notify the director, as required by section 12-41.5-109.7~~
18 ~~**12-30-107 (I)**~~, of a physical condition; a physical illness; or a behavioral, mental health, or
19 ~~substance use disorder~~ that affects the licensee's ability to practice respiratory therapy with
20 reasonable skill and safety or that may endanger the health or safety of persons under his or
21 her care; <{~~***Adding a reference to the confidential agreement common provision,***~~
22 ~~***12-30-107.***~~>

23 (II) Has failed to act within the limitations created by a physical condition; a physical
24 illness; or a behavioral, mental health, or substance use disorder that renders the person
25 unable to practice respiratory therapy with reasonable skill and safety or that might endanger
26 the health or safety of persons under his or her care; or

27 (III) ~~Has failed to comply with the limitations agreed to under a confidential~~
28 ~~agreement entered pursuant to section 12-41.5-109.7 **12-30-107**~~; <{~~***Adding reference to***~~
29 ~~***confidential agreements common provision, 12-30-107.***~~>

30 (j) Has committed:

31 (I) A fraudulent insurance act as defined in section 10-1-128; ~~C.R.S.~~;

32 (II) An abuse of health insurance, as set forth in section 18-13-119, ~~C.R.S.~~; or
33 advertised through any medium that he or she will perform an act prohibited by section
34 18-13-119 (3); ~~C.R.S.~~;

35 (k) Has engaged in any of the following activities or practices:

36 (I) Willful and repeated ordering and performance, without justification, of
37 demonstrably unnecessary laboratory tests or studies;

38 (II) Administering treatment that is demonstrably unnecessary, without clinical
39 justification;

40 (III) Failing to obtain consultations or perform referrals when failing to do so is
41 inconsistent with the standard of care for the profession; or

42 (IV) Ordering or performing, without clinical justification, a service, procedure, or

1 treatment that is contrary to recognized standards of the practice of respiratory therapy as
2 interpreted by the director;

3 (l) Has practiced respiratory therapy without possessing a valid license issued by the
4 director in accordance with this article 300 and any rules adopted under this article 300;

5 (m) Has used in connection with his or her name any designation that implies that
6 he or she is a certified, registered, or licensed respiratory therapist, unless the person is
7 licensed pursuant to this article 300;

8 (n) Has practiced respiratory therapy as a licensed respiratory therapist during the
9 time that his or her license was suspended, revoked, or expired;

10 (o) Has sold, fraudulently obtained, or furnished a license to practice as a licensed
11 respiratory therapist, or has aided or abetted such THE activity;

12 (p) Has failed to notify the director of the suspension, probation, or revocation of any
13 of the person's past or currently held licenses, certificates, or registrations required to
14 practice respiratory therapy in this or any other jurisdiction;

15 (q) Has knowingly employed any person who is not licensed in the practice of
16 respiratory therapy in the capacity of a respiratory therapist;

17 (r) Has failed to respond in a timely manner to a complaint issued under this article
18 300; or

19 (s) Has refused to submit to a physical or mental examination when ordered by the
20 director pursuant to section ~~12-41.5-109.5~~ 12-300-110.

21 ~~(2.5)~~ (3) The director shall revoke, suspend, deny, or refuse to renew a license, place
22 a licensee on probation, or issue a cease-and-desist order or letter of admonition to a licensee
23 in accordance with subsections ~~(3), (4), (5), and (6)~~ (4), (5), (6), AND (8) of this section upon
24 proof that the person:

25 (a) Has falsified or repeatedly made incorrect essential entries or repeatedly failed
26 to make essential entries on patient records;

27 (b) Has practiced outside of or beyond the person's area of training, experience, or
28 competence.

29 ~~(3)~~ (4) Except as otherwise provided in subsection (2) of this section, the director
30 need not find that the actions that are grounds for discipline were willful but may consider
31 whether such THE actions were willful when determining the nature of disciplinary sanctions
32 to be imposed.

33 ~~(4)~~ (5) A disciplinary proceeding may be commenced when the director has
34 reasonable grounds to believe that a licensee has committed acts that may violate this
35 section.

36 ~~(5)~~ (6) Disciplinary proceedings shall be conducted pursuant to SECTION 12-20-403
37 AND article 4 of title 24. C.R.S., and the hearing and opportunity for review shall be
38 conducted pursuant to such article by the director or by an administrative law judge, at the
39 director's discretion. The director has the authority to exercise all powers and duties
40 conferred by this article during such disciplinary proceedings. <{Redundant with
41 disciplinary proceedings common provision, 12-20-403. Recommend amending as
42 indicated.}>

1 ~~(5.5) (7) (a) The director may request the attorney general to seek an injunction in~~
2 ~~any court of competent jurisdiction, to enjoin any person from committing any act prohibited~~
3 ~~by this article. When seeking an injunction under this paragraph (a), the attorney general~~
4 ~~shall not be required to allege or prove the inadequacy of any remedy at law or that~~
5 ~~substantial or irreparable damage is likely to result from a continued violation of this article~~
6 ~~ACCORDANCE WITH SECTION 12-20-406. <{Redundant with injunctive relief common~~
7 ~~provision, 12-20-406. Recommend amendment as indicated.}>~~

8 (b) ~~(H)~~ In accordance with the provisions of article 4 of title 24, C.R.S., and this
9 article ~~300, AND SECTION 12-20-403~~, the director is authorized to investigate, hold hearings,
10 and gather evidence in all matters related to the exercise and performance of the powers and
11 duties of the director.

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

18 ~~(HH) Upon failure of any witness to comply with a subpoena or process, the district~~
19 ~~court of the county in which the subpoenaed person or licensee resides or conducts business,~~
20 ~~upon application by the director with notice to the subpoenaed person or licensee, may issue~~
21 ~~to the person or licensee an order requiring that person or licensee to appear before the~~
22 ~~director; to produce the relevant papers, books, records, documentary evidence, or materials~~
23 ~~if so ordered; or to give evidence touching the matter under investigation or in question. If~~
24 ~~the person or licensee fails to obey the order of the court, the court may hold the person or~~
25 ~~licensee in contempt of court. <{Redundant with disciplinary procedures common~~
26 ~~provision, 12-20-403. Recommend amendment as indicated.}>~~

27 ~~(6) (8) If the director finds the charges proved and orders that discipline be imposed,~~
28 ~~the director may require, as a condition of reinstatement, that the licensee take such therapy~~
29 ~~or courses of training or education as may be needed to correct any deficiency found.~~

30 ~~(7) (9) A final action of the director may be judicially reviewed by the court of~~
31 ~~appeals in accordance with section 24-4-106 (H), C.R.S. 12-20-408, and judicial~~
32 ~~proceedings for the enforcement of an order of the director may be instituted in accordance~~
33 ~~with section 24-4-106. C.R.S. <{Redundant with judicial review common provision,~~
34 ~~12-20-408. Recommend amending as indicated.}>~~

35 (8) (a) The director, the director's staff, any person acting as a witness or consultant
36 to the director, any witness testifying in a proceeding authorized under this article, and any
37 person who lodges a complaint pursuant to this article shall be immune from liability in any
38 civil action brought against him or her for acts occurring while acting in his or her capacity
39 as director, staff, consultant, or witness, respectively, if such individual was acting in good
40 faith within the scope of his or her respective capacity, made a reasonable effort to obtain
41 the facts of the matter as to which he or she acted, and acted in the reasonable belief that the
42 action taken by him or her was warranted by the facts.

1 (b) A person who in good faith makes a complaint or report or participates in an
2 investigative or administrative proceeding pursuant to this article shall be immune from
3 liability, civil or criminal, that otherwise might result from such participation. <{**Redundant**
4 **with immunity common provision, 12-20-402. Recommend repeal.**}>

5 (9) (10) An employer of a respiratory therapist shall report to the director any
6 disciplinary action taken against such THE therapist or the resignation of such THE therapist
7 in lieu of disciplinary action for conduct that violates this article 300.

8 (10) (11) (a) Investigations, examinations, hearings, meetings, and other proceedings
9 of the director conducted pursuant to this section shall be exempt from any law that requires:

10 (I) Such THE proceedings to be conducted publicly; or

11 (II) The minutes or records of the director, with respect to action taken pursuant to
12 this section, to be open to the public.

13 (b) Paragraph (a) of this subsection (10) SUBSECTION (11)(a) OF THIS SECTION shall
14 not apply after the director has made a decision to proceed with a disciplinary action and has
15 served by first-class mail a notice of formal complaint on the licensee.

16 (11) (12) (a) When a complaint or investigation discloses an instance of misconduct
17 that, in the opinion of the director, does not warrant formal action by the director but that
18 should not be dismissed as being without merit, The director may issue and send a letter of
19 admonition to the A licensee IN ACCORDANCE WITH SECTION 12-20-404 (4).

20 (b) When the director sends a letter of admonition to a licensee, the letter must advise
21 the licensee that he or she has the right to request in writing, within twenty days after receipt
22 of the letter, that the director initiate formal disciplinary proceedings to adjudicate the
23 propriety of the conduct upon which the letter of admonition is based.

24 (c) If the request for adjudication is timely made, the letter of admonition shall be
25 deemed vacated and the matter shall be processed by means of formal disciplinary
26 proceedings. <{**Redundant with letters of admonition common provision, 12-20-404 (4).**
27 **Recommend amending as indicated.**}>

28 (11.5) (13) When a complaint or investigation discloses an instance of conduct that
29 does not warrant formal action by the director and, in the opinion of the director, the
30 complaint should be dismissed, but the director has noticed indications of possible errant
31 conduct by the licensee that could lead to serious consequences if not corrected, THE
32 DIRECTOR MAY SEND a confidential letter of concern may be issued and sent to the A licensee
33 IN ACCORDANCE WITH SECTION 12-20-404 (5). <{**Redundant with confidential letters of**
34 **concern common provision, 12-20-404 (5). Recommend amending as indicated.**}>

35 (12) When a complaint or an investigation discloses an instance of misconduct that,
36 in the opinion of the director, warrants formal action, the complaint shall not be resolved by
37 a deferred settlement, action, judgment, or prosecution. <{**Redundant with no deferment**
38 **common provision, 12-20-404 (2). Recommend repealing.**}>

39 (13) (a) If it appears to the director, based upon credible evidence as presented in a
40 written complaint by any person, that a licensee is acting in a manner that is an imminent
41 threat to the health and safety of the public, or a person is acting or has acted without the
42 required license, the director may issue an order to cease and desist such activity. The order

1 shall set forth the statutes and rules alleged to have been violated, the facts alleged to have
2 constituted the violation, and the requirement that all unlawful acts or unlicensed practices
3 immediately cease.

4 (b) Within ten days after service of the order to cease and desist pursuant to
5 paragraph (a) of this subsection (13), the respondent may request a hearing on the question
6 of whether acts or practices in violation of this article have occurred. Such hearing shall be
7 conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S.

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

13 (b) A person against whom an order to show cause has been issued pursuant to
14 paragraph (a) of this subsection (14) shall be promptly notified by the director of the
15 issuance of the order, along with a copy of the order, the factual and legal basis for the order,
16 and the date set by the director for a hearing on the order. Such notice may be served by
17 personal service, by first-class United States mail, postage prepaid, or as may be practicable
18 upon any person against whom such order issued. Personal service or mailing of an order
19 or document pursuant to this subsection (14) shall constitute notice thereof to the person.

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

27 (II) If a person against whom an order to show cause has been issued pursuant to
28 paragraph (a) of this subsection (14) does not appear at the hearing, the director may present
29 evidence that notification was properly sent or served upon such person pursuant to
30 paragraph (b) of this subsection (14) and such other evidence related to the matter as the
31 director deems appropriate. The director shall issue the order within ten days after the
32 director's determination related to reasonable attempts to notify the respondent, and the order
33 shall become final as to that person by operation of law. Such hearing shall be conducted
34 pursuant to 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, a final cease-and-desist
38 order may be issued, directing such 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 (14), 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 final order has

1 been issued. The final order issued pursuant to subparagraph (H) of this paragraph (c) shall
2 be effective when issued and shall be a final order for purposes of judicial review.

3 (15) If it appears to the director, based upon credible evidence presented to the
4 director, that a person has engaged in or is about to engage in any unlicensed act or practice,
5 any act or practice constituting a violation of this article, any rule promulgated pursuant to
6 this article, any order issued pursuant to this article, or any act or practice constituting
7 grounds for administrative sanction pursuant to this article, the director may enter into a
8 stipulation with such person.

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

14 (17) A person aggrieved by the final cease-and-desist order may seek judicial review
15 of the director's determination or of the director's final order as provided in subsection (7)
16 of this section.

17 (14) THE DIRECTOR MAY ISSUE CEASE-AND-DESIST ORDERS UNDER THE
18 CIRCUMSTANCES IN AND IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION
19 12-20-405. <{Subsections (13) - (17) redundant with cease-and-desist orders common
20 provision, 12-20-405. Recommend repealing and replacing with cross-reference to
21 cease-and-desist orders common provision, 12-20-405.}>

22 (18) A respiratory therapist whose license is revoked or who surrenders his or her
23 license to avoid discipline under this section is not eligible to apply for a license under this
24 article for two years after the license is revoked or surrendered. <{Redundant with
25 discipline/no deferred action/settlement common provision, 12-20-404 (2). Recommend
26 amending as indicated.}>

27
28 **12-300-110. [Formerly 12-41.5-109.5] Mental and physical examination of**
29 **licensees.** (1) (a) IN ACCORDANCE WITH SECTION 12-30-108, if the director has reasonable
30 cause to believe that a licensee is unable to practice with reasonable skill and safety to
31 clients, the director may order the licensee to submit to a mental or physical examination
32 administered by a physician or other licensed health care professional designated by the
33 director.

34 (b) If a licensee refuses to submit to a mental or physical examination that has been
35 properly ordered by the director pursuant to subsection (2) of this section, and the refusal is
36 not due to circumstances beyond the licensee's control:

37 (I) The refusal constitutes grounds for discipline pursuant to section ~~12-41.5-109~~
38 ~~(2)(s)~~ **12-300-109 (2)(s)**; and

39 (II) The director may suspend the licensee's license in accordance with section
40 ~~12-41.5-109~~ **12-300-109** until:

41 (A) The licensee submits to the examination and the results of the examination are
42 known; and

1 (B) The director has made a determination of the licensee's fitness to practice.

2 (c) The director shall proceed with an order for examination and determination of
3 a licensee's fitness to practice in a timely manner.

4 ~~(2) In an order to a licensee pursuant to subsection (1) of this section to undergo a
5 mental or physical examination, the director shall include the basis of the director's
6 reasonable cause to believe that the licensee is unable to practice with reasonable skill and
7 safety. For purposes of any disciplinary proceeding authorized under this article, the licensee
8 is deemed to have waived all objections to the admissibility of the examining physician's
9 testimony or examination reports on the ground that they are privileged communications.~~

10 ~~(3)(2) The licensee may submit to the director testimony or examination reports from
11 a physician or other licensed health care professional chosen by the licensee and pertaining
12 to any condition that the director has alleged might preclude the licensee from practicing
13 with reasonable skill and safety. The director may consider the testimony or examination
14 reports in conjunction with, but not in lieu of, testimony and examination reports of the
15 physician or other licensed health care professional designated by the director.~~

16 ~~(4) The results of a mental or physical examination ordered by the director must not
17 be used as evidence in any proceeding other than one before the director, are not public
18 records, and must not be made available to the public. <{Partially redundant with mental
19 and physical examination common provision, 12-30-108. The 3rd sentence of 12-30-108
20 (2) may need to be excluded. Recommend amendment as indicated.}>~~

21
22 **12-300-111. [Formerly 12-41.5-109.7] Confidential agreement to limit practice**
23 **- violation - grounds for discipline.** ~~(1) If a respiratory therapist has a physical illness; a
24 physical condition; or a behavioral or mental health disorder that renders the person unable
25 to practice respiratory therapy with reasonable skill and safety to clients, the respiratory
26 therapist shall notify the director of the physical illness; the physical condition; or the
27 behavioral or mental health disorder in a manner and within a period determined by the
28 director. The director may require the respiratory therapist to submit to an examination to
29 evaluate the extent of the physical illness; the physical condition; or the behavioral or mental
30 health disorder and its effect on the respiratory therapist's ability to practice respiratory
31 therapy with reasonable skill and safety to clients.~~

32 ~~(2) (a) Upon determining that a respiratory therapist with a physical illness; a
33 physical condition; or a behavioral or mental health disorder is able to render limited
34 services with reasonable skill and safety to clients, the director may enter into a confidential
35 agreement with the respiratory therapist in which the respiratory therapist agrees to limit his
36 or her practice based on the restrictions imposed by the physical illness; the physical
37 condition; or the behavioral or mental health disorder, as determined by the director.~~

38 ~~(b) As part of the agreement, the respiratory therapist is subject to periodic
39 reevaluation or monitoring as determined appropriate by the director.~~

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

42 ~~(3) By entering into an agreement with the director pursuant to this section to limit~~

his or her practice, a respiratory therapist is not engaging in activities that are grounds for discipline pursuant to section 12-41.5-109. The agreement does not constitute a restriction or discipline by the director. However, if the respiratory therapist fails to comply with the terms of the agreement, the failure constitutes a prohibited activity pursuant to section 12-41.5-109 (2)(i), and the respiratory therapist is subject to discipline in accordance with section 12-41.5-109.

(1) EXCEPT AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, SECTION 12-30-107 CONCERNING CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE APPLIES TO THIS ARTICLE 300.

(4) (2) This section does not apply to a respiratory therapist subject to discipline for prohibited activities as described in section 12-41.5-109 (2)(h) **12-300-109 (2)(h)**. <{Largely redundant with confidential agreement common provision, 12-30-107. Recommend amendment as indicated.}>

12-300-112. [Formerly 12-41.5-110] Exceptions.

(1) Repealed.

(2) (1) This article 300 does not prohibit:

(a) (I) Any practice of respiratory therapy that is an integral part of a program of study by students enrolled in an accredited respiratory therapy program. Students enrolled in respiratory therapy education programs shall be identified as "student respiratory therapists" and shall only provide respiratory therapy under direct supervision of a respiratory therapist on the premises who is available for prompt consultation or treatment.

(II) The practice of respiratory therapy by pulmonary function technology students or polysomnographic technology students that is an integral part of a program of study that leads to certification or registration for their respective disciplines. Students enrolled in ~~such~~ THOSE programs shall be identified as "student pulmonary functions technologists" or "student polysomnographic technologists" and shall practice only under the direct supervision of a respiratory therapist or physician or under the supervision of an individual exempted from the provisions of this article 300 pursuant to ~~paragraph (g) of this subsection~~ (2) SUBSECTION (1)(g) OF THIS SECTION.

(III) The practice of respiratory therapy by polysomnographic technologists who are not registered by or do not hold credentials from a nationally recognized organization, but ~~such~~ THOSE polysomnographic technologists shall only practice under the supervision of a respiratory therapist, a physician, or an individual exempted from the provisions of this article 300 pursuant to ~~paragraph (g) of this subsection~~ (2) SUBSECTION (1)(g) OF THIS SECTION.

(b) Self-therapy by a patient or gratuitous therapy by a friend or family member who does not represent himself or herself to be a respiratory therapist;

(c) Any service provided during an emergency that may be included in the definition of the practice of respiratory therapy;

(d) Respiratory therapy services rendered in the course of assigned duties of persons serving in the military or persons working in federal facilities;

(e) Respiratory therapy services rendered in the course of assigned duties of persons

1 delivering oxygen supplies, including the inspection and maintenance of associated
2 apparatus by a person who does not represent himself or herself as a respiratory therapist;

3 (f) Any person registered, certified, or licensed in this state under this title **12** from
4 engaging in the practice for which ~~such~~ THE person is registered, certified, or licensed;

5 (g) The practice of procedures that fall within the definition of respiratory therapy
6 by certified pulmonary function technologists, registered pulmonary function technologists,
7 registered polysomnographic technologists, or others who hold credentials from a nationally
8 recognized organization as determined by the director; except that the scope of practice of
9 a registered polysomnographic technologist must not exceed oxygen titration with pulse
10 oximetry and noninvasive positive pressure ventilation titration;

11 (h) The instruction or training of persons to administer emergency oxygen during an
12 aquatic emergency, when ~~such~~ THE instruction or training is provided by an individual who
13 has been certified to conduct ~~such~~ THE instruction or training by a nationally recognized
14 certifying agency; or

15 (i) The practice by an unlicensed person of procedures that fall within the definition
16 of respiratory therapy but that do not require the unlicensed person to perform an
17 assessment, to perform an invasive procedure as defined by the director, or to alter care
18 beyond the scope of approved protocols, so long as the unlicensed person is under
19 supervision as determined appropriate by the respiratory therapist and after ~~such~~ THE
20 respiratory therapist has considered all of the following:

21 (I) The health status and mental and physical stability of the individual receiving
22 care;

23 (II) The complexity of the procedures;

24 (III) The training and competence of the unlicensed person;

25 (IV) The proximity and availability of the respiratory therapist when the procedures
26 are performed;

27 (V) The degree of supervision required for the unlicensed person;

28 (VI) The length and number of times that the procedure may be performed; and

29 (VII) The predictability of the outcome of the procedure.
30

31 **12-300-113. [Formerly 12-41.5-111] Practice of medicine prohibited.** Subject to
32 section ~~12-36-106(3)(m)~~ **12-240-107 (3)(m)**, nothing in this article **300** shall be construed
33 to permit the practice of medicine as defined in section ~~12-36-106~~ **12-240-107**.
34

35 **12-300-114. [Formerly 12-41.5-112] Unauthorized practice - penalties.**

36 (1) ~~Repealed.~~

37 (2) **A person who practices or offers or attempts to practice respiratory therapy**
38 **without an active license issued under this article commits a class 2 misdemeanor and shall**
39 **be punished as provided in section 18-1.3-501, C.R.S., for the first offense, and for the**
40 **second or any subsequent offense, the person commits a class 6 felony and shall be punished**
41 **as provided in section 18-1.3-401, C.R.S. 300 IS SUBJECT TO PENALTIES PURSUANT TO**
42 **SECTION 12-20-407 (1)(a).** <{**Redundant with unauthorized practice common provision,**

1 12-20-407.}>

2
3 **12-300-115. [Formerly 12-41.5-113] Rule-making authority.** The director shall
4 promulgate such rules as are necessary or convenient for the administration of this article
5 **PURSUANT TO SECTION 12-20-204.** <{*Updated with a cross references to the rule-making*
6 *common provision, 12-20-204.*}>

7
8 **12-41.5-114. Severability.** If any provision of this article is held to be invalid, such
9 invalidity shall not affect other provisions of this article that can be given effect without such
10 **invalid provision.** <{*Redundant with severability common provision, 2-4-204.*}>

11
12 **12-300-116. [Formerly 12-41.5-115] Repeal of article - termination of functions.**
13 (†) This article 300 is repealed, effective September 1, 2024. Prior to the BEFORE ITS repeal,
14 the department of regulatory agencies shall review the licensure functions of the director
15 pursuant to UNDER THIS ARTICLE 300 ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH
16 section 24-34-104. C.R.S.

17 (2) (Deleted by amendment, L. 2015.)