

ARTICLE 43.7 305
Speech-language Pathologists

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1 **12-305-101. [Formerly 12-43.7-101] Short title.** THE SHORT TITLE OF this article
2 shall be known and may be cited as 305 IS the "Speech-language Pathology Practice Act".
3

4 **12-305-102. [Formerly 12-43.7-102] Legislative declaration.** (1) The general
5 assembly hereby finds, determines, and declares that:

6 (a) Speech-language pathology services are provided for the purpose of improving
7 the abilities of those who have congenital or acquired speech, language, cognitive, feeding,
8 and swallowing deficits;

9 (b) Speech-language pathologists provide specific therapy and treatments that are
10 related to the effects of medical or dental diagnoses or congenital, genetic, or developmental
11 conditions but do not provide medical or dental procedures, medications, or interventions that
12 constitute the practice of medicine or dentistry;

1 (c) The professional roles and activities in speech-language pathology include clinical
2 and educational services, which include evaluation, assessment, planning, and treatment;
3 prevention and advocacy; education; administration; and research;

4 (d) This article 305 is necessary to safeguard public health, safety, and welfare and
5 to protect the public from incompetent, unethical, or unauthorized persons.

6 (2) The general assembly further determines that it is the purpose of this article 305
7 to:

8 (a) Regulate persons who are representing or holding themselves out as
9 speech-language pathologists or who are performing services that constitute speech-language
10 pathology; and

11 (b) Exclude from regulation under this article 305 those school speech-language
12 pathologists who are paid solely by an administrative unit or state-operated program.

13
14 **12-305-103. Applicability of common provisions.** ARTICLES 1, 20, AND 30 OF THIS
15 TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 305.

16
17 **12-305-104. [Formerly 12-43.7-103] Definitions.** As used in this article 305, unless
18 the context otherwise requires:

19 (1) "Administrative unit" has the same meaning as set forth in section 22-20-103 (1).
20 C.R.S.

21 (2) "Department" means the department of regulatory agencies. <{*Redundant with*
22 *definitions common provision, 12-1-103 (1). Recommend repealing.*}>

23 (3) "Director" means the director of the division of professions and occupations or
24 the director's designee. <{*Redundant with definitions common provision, 12-20-102 (6).*
25 *Recommend repealing.*}>

26 (4) "Division" means the division of professions and occupations in the department
27 created in section 24-34-102, C.R.S. <{*Redundant with definitions common provision,*
28 *12-20-102 (7). Recommend repealing.*}>

29 (5) (2) "School speech-language pathologist" means a person licensed by the
30 department of education to provide speech-language pathology services that are paid for by
31 an administrative unit or a state-operated program. "School speech-language pathologist"
32 includes a school speech-language pathology assistant authorized by the department of
33 education pursuant to section 22-60.5-111 (10) C.R.S., to provide speech-language pathology
34 services that are paid for by an administrative unit or a state-operated program.

35 (6) (3) "Speech-language pathologist" or "certificate holder" means a person certified
36 to practice speech-language pathology under this article 305.

37 (7) (4) (a) "Speech-language pathology" means the application of principles, methods,
38 and procedures related to the development, disorders, and effectiveness of human
39 communication and related functions, which includes providing prevention, screening,
40 consultation, assessment or evaluation, treatment, intervention, management, counseling,

1 collaboration, and referral services for disorders of:

2 (I) Speech, such as speech sound production, fluency, resonance, and voice;

3 (II) Language, such as phonology, morphology, syntax, semantics, pragmatic and
4 social communication skills, and literacy skills;

5 (III) Feeding and swallowing; and

6 (IV) Cognitive aspects of communication, such as attention, memory, executive
7 functioning, and problem solving.

8 (b) "Speech-language pathology" also includes establishing augmentative and
9 alternative communication techniques and strategies, including the following:

10 (I) Developing, selecting, and prescribing augmentative or alternative communication
11 systems and devices, such as speech generating devices;

12 (II) Providing services to individuals with hearing loss and their families, such as
13 auditory training, speech reading, or speech and language intervention secondary to hearing
14 loss;

15 (III) Screening individuals for hearing loss or middle ear pathology using
16 conventional pure-tone air conduction methods, including otoscopic inspection, otoacoustic
17 emissions, or screening tympanometry;

18 (IV) Using instrumentation such as videofluoroscopy, endoscopy, or stroboscopy to
19 observe, collect data, and measure parameters of communication and swallowing;

20 (V) Selecting, fitting, and establishing effective use of prosthetic or adaptive devices
21 for communication, swallowing, or other upper aerodigestive functions, not including
22 sensory devices used by individuals with hearing loss or the orthodontic movement of teeth
23 for the purpose of correction of speech pathology conditions; and

24 (VI) Providing services to modify or enhance communication performance, such as
25 accent modification and personal or professional communication efficacy.

26 ~~(8)~~ (5) "State-operated program" has the same meaning as set forth in section
27 22-20-103 (28). ~~C.R.S.~~

28
29 **12-305-105. [Formerly 12-43.7-104] Use of titles restricted.** (1) Only a person
30 required to be and who is certified as a speech-language pathologist under this article **305** or
31 licensed by the Colorado department of education to provide speech-language pathology
32 services may advertise as or use the title "speech-language pathologist", "speech pathologist",
33 "speech therapist", "speech correctionist", "speech clinician", "language pathologist", "voice
34 therapist", "voice pathologist", "aphasiologist", or any other generally accepted terms, letters,
35 or figures that indicate that the person is a certified speech-language pathologist.

36 (2) For a certificate holder who has successfully completed a doctoral degree in
37 communication sciences and disorders as described in section ~~12-43.7-106(1)(a)~~ **12-305-107**
38 **(1)(a)**, a certification to practice speech-language pathology issued pursuant to this article
39 **305** entitles the certificate holder to use the title "Doctor" or "Dr." when accompanied by the
40 terms "speech-language pathology" or the letters "S.L.P."

1 **12-305-106. [Formerly 12-43.7-105] Certification required - exception.** (1) Except
2 as otherwise provided in this article ~~43.7-305~~, **on and after July 1, 2013**, a person shall not
3 practice speech-language pathology or represent or hold himself or herself out as being able
4 to practice speech-language pathology in this state without possessing a valid certification
5 issued by the director in accordance with this article ~~43.7-305~~ and any rules adopted under
6 this article ~~43.7-305~~ or a special services license issued by the department of education
7 pursuant to section 22-60.5-210. ~~<{Does this date have any continuing effect?}>~~

8 (2) A person described in section ~~12-43.7-108 (1)~~ **12-305-110 (1)** is not required to
9 obtain certification under this article **305**.

10
11 **12-305-107. [Formerly 12-43.7-106] Certification - application - qualifications -**
12 **provisional certification - renewal - fees - rules.** (1) **Educational and experiential**
13 **requirements.** Every applicant for a certification as a speech-language pathologist must
14 have:

15 (a) Successfully completed a master's or higher degree in communication sciences
16 and disorders granted by an accredited institution of higher education recognized by the
17 United States department of education;

18 (b) Successfully completed a speech-language pathology clinical fellowship approved
19 by the director, as documented by the supervising clinician or a national certifying body
20 approved by the director; and

21 (c) Passed the appropriate examination and clinical fellowships adopted by the
22 director.

23 (2) **Application.** When an applicant has fulfilled the requirements of subsection (1)
24 of this section, the applicant may apply for certification in the manner required by the
25 director. The applicant shall submit an application fee with ~~his or her~~ THE application in an
26 amount determined by the director. Additionally, if the applicant will provide
27 speech-language pathology services to patients, the applicant shall submit to the director
28 proof that the applicant has purchased and is maintaining or is covered by professional
29 liability insurance in an amount determined by the director by rule.

30 (3) **Certification.** ~~(a) Except as provided in paragraph (b) of this subsection (3)~~
31 ~~SUBSECTION (3)(b) OF THIS SECTION~~, when an applicant has fulfilled the requirements of
32 subsections (1) and (2) of this section, the director shall issue a certification to the applicant.

33 (b) The director may deny a certification if the applicant has committed any act that
34 would be grounds for disciplinary action under section ~~12-43.7-110~~ **12-305-112**.

35 (4) **Certification by endorsement.** (a) An applicant for certification by endorsement
36 shall file an application and pay a fee as determined by the director and shall hold a current,
37 valid license or certification in a jurisdiction that requires qualifications substantially
38 equivalent to those required for certification by subsection (1) of this section.

39 (b) An applicant for certification by endorsement shall submit with the application
40 verification that the applicant has actively practiced for a period of time determined by rules

1 of the director or otherwise maintained competency as determined by the director.
 2 Additionally, if the applicant will provide speech-language pathology services to patients,
 3 the applicant shall submit to the director proof that the applicant has purchased and is
 4 maintaining or is covered by professional liability insurance in an amount determined by the
 5 director by rule.

6 (c) Upon receipt of all documents required by paragraphs (a) and (b) of this
 7 subsection (4) SUBSECTIONS (4)(a) AND (4)(b) OF THIS SECTION, the director shall review the
 8 application and make a determination of the applicant's qualification to be certified by
 9 endorsement.

10 (d) The director may deny the certification by endorsement if the applicant has
 11 committed an act that would be grounds for disciplinary action under section ~~12-43.7-110~~
 12 **12-305-112**.

13 (5) **Certification renewal.** (a) ~~A certificate holder shall renew the certification~~
 14 ~~issued under this article according to a schedule of renewal dates established by the director.~~
 15 ~~The certificate holder shall submit an application in the manner required by the director and~~
 16 ~~shall pay a renewal fee in an amount determined by the director.~~

17 (b) ~~Certifications shall be renewed or reinstated in accordance with the schedule~~
 18 ~~established by the director, and the renewal or reinstatement shall be granted pursuant to~~
 19 ~~section 24-34-102 (8), C.R.S. The director may establish renewal fees and delinquency fees~~
 20 ~~for reinstatement pursuant to section 24-34-105, C.R.S. If a certificate holder fails to renew~~
 21 ~~his or her certification pursuant to the schedule established by the director, the certification~~
 22 ~~expires~~ ISSUED PURSUANT TO THIS ARTICLE 305 ARE SUBJECT TO THE RENEWAL, EXPIRATION,
 23 REINSTATEMENT, AND DELINQUENCY FEE PROVISIONS SPECIFIED IN SECTION 12-20-202 (1)
 24 AND (2). Any person whose certification has expired and who continues to practice
 25 speech-language pathology is subject to the penalties provided in this article 305 or section
 26 ~~24-34-102 (8), C.R.S. 12-20-202~~ for reinstatement. <{*Redundant with*
 27 *reinstatement/renewal/fees common provision, 12-20-202. Recommend amending as*
 28 *indicated.*}>

29 (6) **Fees.** (a) ~~The director shall establish and collect fees under this article 305~~
 30 ~~pursuant to section 24-34-105, C.R.S., and shall base the fees charged to speech-language~~
 31 ~~pathologists certified under this article on the cost to administer the program divided by the~~
 32 ~~total number of speech-language pathologists, as required by section 24-34-105, C.R.S. All~~
 33 ~~fees collected under this article shall be determined, collected, and appropriated in the same~~
 34 ~~manner as set forth in section 24-34-105, C.R.S., and periodically adjusted in accordance~~
 35 ~~with section 24-75-402, C.R.S.~~

36 (b) ~~Except as otherwise provided in this article, the division shall transmit all fees~~
 37 ~~collected pursuant to this article to the state treasurer, who shall credit the fees to the division~~
 38 ~~of professions and occupations cash fund created pursuant to section 24-34-105 (2)(b),~~
 39 ~~C.R.S. The general assembly shall make annual appropriations from the division of~~
 40 ~~professions and occupations cash fund for expenditures of the division incurred in the~~

1 performance of its duties under this article. <{ Redundant with cash fees common provision,
2 12-20-105. Recommend repealing. }>

3
4 **12-305-108. [Formerly 12-43.7-106.5] Provisional certification - qualifications -**
5 **application - expiration - practice.** (1) **Educational and experiential requirements.** An
6 applicant for a provisional certification as a speech-language pathologist must:

7 (a) Successfully complete a master's or higher degree in communication sciences and
8 disorders granted by an accredited institution of higher education recognized by the United
9 States department of education; and

10 (b) Pass the appropriate examination and clinical fellowships adopted by the director.

11 (2) **Application.** On or after September 1, 2015, an applicant may apply for
12 provisional certification in the manner required by the director. The applicant shall submit
13 an application fee with the application in an amount determined by the director. If the
14 applicant will provide speech-language pathology services to patients, the applicant also shall
15 submit proof that he or she THE APPLICANT as purchased and is maintaining or is covered by
16 professional liability insurance in an amount determined by the director by rule. Additionally,
17 the applicant shall submit a plan for the completion of a speech-language pathology clinical
18 fellowship, as specified in section ~~12-43.7-106 (1)(b)~~ **12-305-107 (1)(b).** <{ Does this date
19 have any continuing effect? }>

20 (3) **Provisional certification.** (a) Except as provided in ~~paragraph (b) of this~~
21 ~~subsection (3)~~ SUBSECTION (3)(b) OF THIS SECTION, when an applicant has fulfilled the
22 requirements of subsections (1) and (2) of this section, the director shall issue a provisional
23 certification to the applicant.

24 (b) The director may deny a provisional certification if the applicant has committed
25 any act that would be grounds for disciplinary action under section ~~12-43.7-110~~ **12-305-112.**

26 (4) **Expiration of provisional certification.** (a) A provisional certification expires
27 twenty-four months after issuance or upon the issuance of certification to the applicant under
28 section ~~12-43.7-106~~ **12-305-107**, whichever occurs first.

29 (b) The director shall not renew a provisional certification.

30 (c) A provisional certificate holder may apply for certification in accordance with
31 section ~~12-43.7-106~~ **12-305-107** upon completion of a speech-language pathology clinical
32 fellowship.

33 (5) **Practice.** A provisional certificate holder may practice speech-language pathology
34 only under the general supervision of a speech-language pathologist who holds a certificate
35 of clinical competence and has passed the appropriate examination and clinical fellowships
36 adopted by the director.

37
38 **12-305-109. [Formerly 12-43.7-107] Continuing professional competency - rules.**
39 (1) (a) A speech-language pathologist shall maintain continuing professional competency
40 to practice.

1 (b) The director shall establish a continuing professional competency program that
2 includes, at a minimum, the following elements:

3 (I) A self-assessment of the knowledge and skills of a speech-language pathologist
4 seeking to renew or reinstate a certification;

5 (II) Development, execution, and documentation of a learning plan based on the
6 assessment; and

7 (III) Periodic demonstration of knowledge and skills through documentation of
8 activities necessary to ensure at least minimal ability to safely practice the profession; except
9 that a speech-language pathologist certified pursuant to this article **305** need not retake any
10 examination required by section ~~12-43.7-106~~ **12-305-107** for initial certification.

11 (2) The director shall establish that a speech-language pathologist satisfies the
12 continuing competency requirements of this section if the speech-language pathologist meets
13 the continuing professional competency requirements of one of the following entities:

14 (a) An accrediting body approved by the director; or

15 (b) An entity approved by the director.

16 (3) (a) After the program is established, a speech-language pathologist shall satisfy
17 the requirements of the program in order to renew or reinstate a certification to practice
18 speech-language pathology.

19 (b) The requirements of this section apply to individual speech-language pathologists,
20 and nothing in this section requires a person who employs or contracts with a
21 speech-language pathologist to comply with this section.

22 (4) Records of assessments or other documentation developed or submitted in
23 connection with the continuing professional competency program are confidential and not
24 subject to inspection by the public or discovery in connection with a civil action against a
25 speech-language pathologist or other professional regulated under this title **12**. A person or
26 the director shall not use the records or documents unless used by the director to determine
27 whether a speech-language pathologist is maintaining continuing professional competency
28 to engage in the profession.

29 (5) As used in this section, "continuing professional competency" means the ongoing
30 ability of a speech-language pathologist to learn, integrate, and apply the knowledge, skill,
31 and judgment to practice as a speech-language pathologist according to generally accepted
32 standards and professional ethical standards.

33
34 **12-305-110. [Formerly 12-43.7-108] Scope of article - exclusions.** (1) This article
35 ~~43.7~~ **305** does not prevent or restrict the practice, services, or activities of:

36 (a) A school speech-language pathologist whose compensation for speech-language
37 pathology services is paid solely by an administrative unit or state-operated program;

38 (b) A person licensed or otherwise regulated in this state by any other law from
39 engaging in his or her profession or occupation as defined in the law under which ~~he or she~~
40 THE PERSON is regulated;

1 (c) A person pursuing a course of study leading to a degree in speech-language
2 pathology at an educational institution with an accredited speech-language pathology
3 program if that person is designated by a title that clearly indicates ~~his or her~~ THE PERSON'S
4 status as a student and if ~~he or she~~ THE PERSON acts under appropriate instruction and
5 supervision;

6 (d) A person participating in good faith in a clinical fellowship if the experience
7 constitutes a part of the experience necessary to meet the requirement of section ~~12-43.7-106~~
8 ~~(1)~~ **12-305-107 (1)** and the person acts under appropriate supervision;

9 (e) Any legally qualified speech-language pathologist from another state or country
10 when providing services on behalf of a temporarily absent speech-language pathologist
11 certified in this state, so long as the uncertified speech-language pathologist is acting in
12 accordance with rules adopted by the director. The uncertified practice must not occur more
13 than once in any twelve-month period.

14 (f) A speech-language pathologist who possesses a special services license issued by
15 the department of education pursuant to section 22-60.5-210.

16 (2) Nothing in this article **305** requires or allows the department of education, the
17 department of health care policy and financing, or any other state department to adopt or
18 apply the standards contained in this article **305**:

19 (a) As the standards for endorsing or otherwise authorizing school speech-language
20 pathologists to provide speech-language pathology services that are paid for by an
21 administrative unit or state-operated program; or

22 (b) For purposes of determining whether medicaid reimbursement may be obtained
23 for speech-language pathology services.

24 (3) Nothing in this article **305** requires a professional licensed, certified, registered,
25 or otherwise regulated under this title **12** or title 22 ~~C.R.S.~~, to obtain certification under this
26 article **305**, or subjects the professional to discipline under this article **305** for engaging in
27 activities that are within ~~his or her professional~~ THE PROFESSIONAL'S scope of practice.

28
29 **12-305-111. [Formerly 12-43.7-109] Limitations on authority.** Nothing in this
30 article **305** authorizes a speech-language pathologist to engage in the practice of medicine,
31 as defined in section ~~12-36-106~~ **12-240-107**, dentistry, as defined in sections ~~12-35-103~~ **(5)**
32 **12-220-104 (6)** and ~~12-35-113~~ **12-220-110**, or any other profession for which licensure,
33 certification, or registration is required by this **article 305**. <{Should the reference to "this
34 article" instead be "this title 12"?}>

35
36 **12-305-112. [Formerly 12-43.7-110] Grounds for discipline - definitions.** (1) The
37 director may take disciplinary action against a certificate holder pursuant to section
38 ~~12-43.7-111~~ **SECTIONS 12-305-113, 12-20-403, AND 12-20-404** if the director finds that the
39 certificate holder has represented or held himself or herself out as a certified speech-language
40 pathologist after the expiration, suspension, or revocation of his or her certification. <{Added

1 references to the disciplinary procedures and actions common provisions, 12-20-403 and
2 12-20-404. }>

3 (2) The director may ~~revoke, suspend, or deny a certification, place a certificate~~
4 ~~holder on probation, issue a letter of admonition or a confidential letter of concern, impose~~
5 ~~a fine against a certificate holder,~~ TAKE DISCIPLINARY OR OTHER ACTION SPECIFIED IN
6 SECTION 12-305-113 OR 12-20-404 or issue a cease-and-desist order to a certificate holder
7 in accordance with ~~section 12-43.7-111~~ SECTIONS 12-305-113 (8) AND 12-20-405 upon proof
8 that the certificate holder: <{Redundant with disciplinary authority common provisions,
9 12-20-404. Recommend amending as indicated.}>

10 (a) Has engaged in a sexual act with a person receiving services while a therapeutic
11 relationship existed or within six months immediately following termination of the
12 therapeutic relationship in writing. For the purposes of this paragraph (a) SUBSECTION (2)(a):

13 (I) "Sexual act" means sexual contact, sexual intrusion, or sexual penetration, as
14 defined in section 18-3-401. ~~C.R.S.~~

15 (II) "Therapeutic relationship" means the period beginning with the initial evaluation
16 and ending upon the written termination of treatment.

17 (b) Has falsified information in an application or has attempted to obtain or has
18 obtained a certification by fraud, deception, or misrepresentation;

19 (c) Has an alcohol use disorder, as defined in section 27-81-102, or a substance use
20 disorder, as defined in section 27-82-102, excessively or habitually uses or abuses alcohol
21 or habit-forming drugs, or habitually uses a controlled substance, as defined in section
22 18-18-102, or other drugs having similar effects; except that the director has the discretion
23 not to discipline the certificate holder if ~~he or she~~ THE CERTIFICATE HOLDER is participating
24 in good faith in an alcohol or substance use disorder treatment program approved by the
25 director;

26 (d) (I) Failed to notify the director, as required by section ~~12-43.7-115~~ 12-30-107 (1),
27 of a physical illness, a physical condition, or a behavioral, mental health, or substance use
28 disorder that impacts the speech-language pathologist's ability to perform speech-language
29 pathology with reasonable skill and safety to patients; <{Adding a citation to the
30 confidential agreement common provision, 12-30-107.}>

31 (II) Failed to act within the limitations created by a physical illness; a physical
32 condition; or a behavioral, mental health, or substance use disorder that renders the certificate
33 holder unable to perform speech-language pathology with reasonable skill and safety to the
34 patient; or

35 (III) Failed to comply with the limitations agreed to under a confidential agreement
36 entered pursuant to section ~~12-43.7-115~~ 12-30-107; <{Adding a citation to the confidential
37 agreement common provision, 12-30-107.}>

38 (e) Has violated this article 305 or aided or abetted or knowingly permitted any
39 person to violate this article 305, a rule adopted under this article 305, or any lawful order
40 of the director;

1 (f) Has failed to respond to a request or order of the director;

2 (g) Has been convicted of or pled guilty or nolo contendere to a felony or any crime
3 related to the certificate holder's practice of speech-language pathology or has committed an
4 act specified in section ~~12-43.7-114~~ **12-305-114**. A certified copy of the judgment of a court
5 of competent jurisdiction of the conviction or plea is conclusive evidence of the conviction
6 or plea. **In considering the disciplinary action, the director is governed by section SECTIONS**
7 **24-5-101 C.R.S. AND 12-20-202 (5).** <{**Adding a citation to the consideration of criminal**
8 **conviction common provision, 12-20-202 (5).**>

9 (h) Has fraudulently obtained, furnished, or sold any speech-language pathology
10 diploma, certificate, certification, renewal of certification, or record or aided or abetted ~~such~~
11 THE act;

12 (i) Has failed to notify the director of the suspension or revocation of the person's past
13 or currently held license, certificate, or certification required to practice speech-language
14 pathology in this or any other jurisdiction;

15 (j) Has failed to respond in an honest, materially responsive, and timely manner to
16 a complaint against the certificate holder;

17 (k) Has resorted to fraud, misrepresentation, or deception in applying for, securing,
18 renewing, or seeking reinstatement of a certification in this or any other state, in applying for
19 professional liability coverage, or in taking the examination required by this article **305**;

20 (l) Has failed to refer a patient to the appropriate licensed, certified, or registered
21 health care professional when the services required by the patient are beyond the level of
22 competence of the speech-language pathologist or beyond the scope of speech-language
23 pathology practice;

24 (m) **Has refused to submit to a physical or mental examination when ordered by the**
25 **director pursuant to section ~~12-43.7-114~~ SECTIONS **12-305-116** AND **12-30-108**;** <{**Adding**
26 **a citation to the mental and physical examination common provision, 12-30-108.**>

27 (n) Has failed to maintain or is not covered by professional liability insurance as
28 required by section ~~12-43.7-106 (2) or (4)~~ **12-305-107 (2) OR (4)** in the amount determined
29 by the director by rule;

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

32 (p) Has negligently or willfully practiced speech-language pathology in a manner that
33 fails to meet generally accepted standards for speech-language pathology practice;

34 (q) Has failed to make essential entries on patient records or falsified or made
35 incorrect entries of an essential nature on patient records; or

36 (r) Has otherwise violated any provision of this article **305** or lawful order or rule of
37 the director.

38 (3) Except as otherwise provided in subsection (2) of this section, the director need
39 not find that the actions that are grounds for discipline were willful but may consider whether
40 the actions were willful when determining the nature of disciplinary sanctions to impose.

12-305-113. [Formerly 12-43.7-111] Disciplinary actions - judicial review.

(1) (a) The director may commence a proceeding to discipline a certificate holder when the director has reasonable grounds to believe that the certificate holder has committed an act enumerated in section ~~12-43.7-110~~ **12-305-112** or has violated a lawful order or rule of the director.

(b) In any proceeding under this section, the director may accept as evidence of grounds for disciplinary action any disciplinary action taken against a certificate holder in another jurisdiction if the violation that prompted the disciplinary action in the other jurisdiction would be grounds for disciplinary action under this article **305**.

(2) **The director shall conduct disciplinary proceedings in accordance with article 4 of title 24 C.R.S., AND SECTION 12-20-403,** and the director or an administrative law judge, as determined by the director, shall conduct the hearing and opportunity for review pursuant to ~~that article~~ **THOSE LAWS**. The director may exercise all powers and duties conferred by this article **305** during the disciplinary proceedings. ~~<{Adding a citation to the disciplinary proceedings common provision, 12-20-403.}>~~

(3) (a) **The director may request the attorney general to seek an injunction in any court of competent jurisdiction, to enjoin a person from committing an act prohibited by this article. When seeking an injunction under this paragraph (a), the attorney general is not 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 PURSUANT TO SECTION 12-20-406. <{Redundant with injunctive relief common provision, 12-20-406. Recommend amending as indicated.}>**

(b) (F) **In accordance with article 4 of title 24, C.R.S., SECTION 12-20-403, and this article 305, the director may investigate, hold hearings, and gather evidence in all matters related to the exercise and performance of the powers and duties of the director. <{Adding a cross reference to the disciplinary procedures common provision, 12-20-403.}>**

(H) **In order to aid the director in any hearing or investigation instituted pursuant to this section, the director or an administrative law judge appointed pursuant to paragraph (c) of this subsection (3) may administer oaths, take affirmations of witnesses, and issue subpoenas compelling the attendance of witnesses and the production of all relevant records, papers, books, documentary evidence, and materials in any hearing, investigation, accusation, or other matter before the director or an administrative law judge. <{Redundant with disciplinary procedures common provision, 12-20-403 (2)(a). Recommend repealing.}>**

(HH) **Upon failure of any witness or certificate holder to comply with a subpoena or process and upon application by the director with notice to the subpoenaed person or certificate holder, the district court of the county in which the subpoenaed person or certificate holder resides or conducts business may issue an order requiring the person or certificate holder to appear before the director; to produce the relevant papers, books, records, documentary evidence, or materials; or to give evidence touching the matter under investigation or in question. If the person or certificate holder fails to obey the order of the**

1 court, the district court may hold the person or certificate holder in contempt of court.
2 <{Redundant with disciplinary procedures common provision, 12-20-403 (2)(b).
3 Recommend repealing.}>

4 (c) The director may appoint an administrative law judge pursuant to part 10 of article
5 30 of title 24, C.R.S., to conduct hearings, take evidence, and make and report findings to the
6 director. <{Redundant with disciplinary procedures common provision, 12-20-403 (3).
7 Recommend repealing.}>

8 (4) (a) The director, the director's staff, any person acting as a witness or consultant
9 to the director, any witness testifying in a proceeding authorized under this article 305, and
10 any person who lodges a complaint pursuant to this article 305 is immune from liability in
11 any civil action brought against him or her for acts occurring while acting in his or her
12 capacity as director, staff, consultant, witness, or complainant, respectively, if the individual
13 was acting in good faith within the scope of his or her respective capacity, made a reasonable
14 effort to obtain the facts of the matter as to which he or she acted, and acted in the reasonable
15 belief that his or her action was warranted by the facts. <{Redundant with immunity
16 common provision, 12-20-402. Recommend repealing.}>

17 (b) A person participating in good faith in making a complaint or report or in an
18 investigative or administrative proceeding pursuant to this section is immune from any civil
19 or criminal liability that otherwise might result by reason of the participation. <{Redundant
20 with immunity common provision, 12-20-402 (2). Recommend repealing.}>

21 (5) (4) A final action of the director is subject to judicial review by the court of
22 appeals pursuant to section 24-4-106 (11), C.R.S. 12-20-408. The director may institute a
23 judicial proceeding in accordance with section 24-4-106 C.R.S., to enforce an order of the
24 director. <{Redundant with judicial review common provision, 12-20-408. Recommend
25 amending as indicated.}>

26 (6) When a complaint or an investigation discloses an instance of misconduct that,
27 in the opinion of the director, warrants formal action, the director shall not resolve the
28 complaint by a deferred settlement, action, judgment, or prosecution. <{Redundant with
29 disciplinary actions common provision, 12-20-404 (2). Recommend repealing.}>

30 (7) (5) When a complaint or investigation discloses an instance of conduct that does
31 not warrant formal action by the director and, in the opinion of the director, the complaint
32 should be dismissed, but the director has noticed indications of possible errant conduct by
33 the certificate holder that could lead to serious consequences if not corrected. The director
34 may send a confidential letter of concern to the A certificate holder UNDER THE
35 CIRCUMSTANCES SPECIFIED IN SECTION 12-20-404 (5). <{Redundant with the letter of
36 concern common provision, 12-20-404 (5). Recommend amendment.}>

37 (8) (a) (6) When a complaint or investigation discloses an instance of misconduct
38 that, in the opinion of the director, does not warrant formal action but should not be
39 dismissed as being without merit, The director may send a letter of admonition to the
40 certificate holder PURSUANT TO SECTION 12-20-404 (4).

1 (b) When the director sends a letter of admonition to a certificate holder, the director
2 shall notify the certificate holder of his or her right to request in writing, within twenty days
3 after receipt of the letter, that the director initiate formal disciplinary proceedings to
4 adjudicate the propriety of the conduct described in the letter of admonition.

5 (c) If the certificate holder timely requests adjudication, the director shall vacate the
6 letter of admonition and shall process the matter by means of formal disciplinary
7 proceedings. <{ **Redundant with the letter of admonition common provision, 12-20-404 (4).**
8 **Recommend amendment.** }>

9 (9) (7) The director may include in a disciplinary order that allows the certificate
10 holder to continue to practice on probation any conditions the director deems appropriate to
11 assure that the certificate holder is physically, mentally, morally, and otherwise qualified to
12 practice speech-language pathology in accordance with generally accepted professional
13 standards of practice. If the certificate holder fails to comply with any conditions imposed
14 by the director pursuant to this subsection (9) (7), and the failure to comply is not due to
15 conditions beyond the certificate holder's control, the director may order suspension of the
16 certificate holder's certification to practice speech-language pathology in this state until the
17 certificate holder complies with the conditions.

18 (10) (a) If it appears to the director, based upon credible evidence as presented in a
19 written complaint by any person, that a certificate holder is acting in a manner that is an
20 imminent threat to the health and safety of the public, or a person is acting or has acted
21 without the required certification, the director may issue an order to cease and desist the
22 activity. The order must set forth the statutes and rules alleged to have been violated, the
23 facts alleged to constitute the violation, and the requirement that all unlawful acts or
24 uncertified practices immediately cease.

25 (b) Within ten days after service of the order to cease and desist pursuant to paragraph
26 (a) of this subsection (10), the respondent may request a hearing on the question of whether
27 acts or practices in violation of this article have occurred. The director shall conduct the
28 hearing pursuant to sections 24-4-104 and 24-4-105, C.R.S.

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

34 (b) The director shall promptly notify a person against whom he or she issues an order
35 to show cause pursuant to paragraph (a) of this subsection (11) and shall include in the notice
36 a copy of the order, a statement of the factual and legal basis for the order, and the date set
37 by the director for a hearing on the order. The director may serve the notice on the person
38 against whom the order has been issued by personal service, by first-class, postage prepaid
39 United States mail, or in another manner as may be practicable. Personal service or mailing
40 of an order or document pursuant to this paragraph (b) constitutes notice of the order to the

1 person.

2 (c) (I) The director shall conduct the hearing on an order to show cause no sooner
3 than ten and no later than forty-five calendar days after the date the director transmits or
4 serves the notification as provided in paragraph (b) of this subsection (11). The director may
5 continue the hearing by agreement of all parties based upon the complexity of the matter,
6 number of parties to the matter, and legal issues presented in the matter, but in no event shall
7 the director conduct the hearing later than sixty calendar days after the date of transmission
8 or service of the notification.

9 (H) If a person against whom an order to show cause has been issued pursuant to
10 paragraph (a) of this subsection (11) does not appear at the hearing, the director may present
11 evidence that notification was properly sent or served on the person pursuant to paragraph
12 (b) of this subsection (11) and any other evidence related to the matter that the director deems
13 appropriate. The director shall issue the order within ten days after the director's
14 determination related to reasonable attempts to notify the respondent, and the order becomes
15 final as to that person by operation of law. The director shall conduct the hearing pursuant
16 to sections 24-4-104 and 24-4-105, C.R.S.

17 (HH) If the director reasonably finds that the person against whom the order to show
18 cause was issued is acting or has acted without the required certification, or has or is about
19 to engage in acts or practices constituting a violation of this article 305, the director may
20 issue a final cease-and-desist order directing the person to cease and desist from further
21 unlawful acts or uncertified practices.

22 (IV) The director shall provide notice, in the manner set forth in paragraph (b) of this
23 subsection (11), of the final cease-and-desist order within ten calendar days after the hearing
24 conducted pursuant to this paragraph (c) to each person against whom the final order is
25 issued. The final order issued pursuant to subparagraph (HH) of this paragraph (c) is effective
26 when issued and is a final order for purposes of judicial review.

27 (12) If it appears to the director, based upon credible evidence presented to the
28 director, that a person has engaged or is about to engage in an uncertified act or practice; an
29 act or practice constituting a violation of this article, a rule promulgated pursuant to this
30 article 305, or an order issued pursuant to this article; or an act or practice constituting
31 grounds for administrative sanction pursuant to this article, the director may enter into a
32 stipulation with the person.

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

38 (14) A person aggrieved by the final cease-and-desist order may seek judicial review
39 of the director's determination or of the director's final order as provided in subsection (5)
40 of this section.

1 (8) THE DIRECTOR MAY ISSUE CEASE-AND-DESIST ORDERS UNDER THE CIRCUMSTANCES
2 AND IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION 12-20-405. <{*Subsections*
3 *(10) to (14) redundant with cease-and-desist common provision, 12-20-405. Recommend*
4 *amendment.*}>

5 (15) ~~Any person whose certification is revoked or who surrenders his or her~~
6 ~~certification to avoid discipline is ineligible to apply for certification under this article for at~~
7 ~~least two years after the date of revocation of the certification. The director shall treat a~~
8 ~~subsequent application for certification from a person whose certification was revoked as an~~
9 ~~application for a new certification under this article.~~ <{*Redundant with the waiting period*
10 *common provision, 12-20-404 (3).*}>

11
12 **12-305-114. [Formerly 12-43.7-112] Unauthorized practice - penalties.** A person
13 who practices or offers or attempts to practice speech-language pathology without an active
14 certification issued under this article commits a class 2 misdemeanor and shall be punished
15 as provided in section 18-1.3-501, C.R.S., for the first offense. For the second or any
16 subsequent offense, the person commits a class 1 misdemeanor and shall be punished as
17 provided in section 18-1.3-501, C.R.S. **305 IS SUBJECT TO PENALTIES PURSUANT TO SECTION**
18 **12-20-407 (1)(b).** <{*Redundant with unauthorized practice common provision, 12-20-407*
19 *(1)(b). Recommend amending as indicated.*}>

20
21 **12-305-115. [Formerly 12-43.7-113] Rule-making authority.** The director shall
22 promulgate rules ~~as necessary for the administration of this article~~ PURSUANT TO SECTION
23 12-20-204. <{*Redundant with rule-making authority common provision, 12-20-204.*
24 *Recommend amending as indicated.*}>

25
26 **12-305-116. [Formerly 12-43.7-114] Mental and physical examination of**
27 **certificate holders.** (1) **IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION**
28 **12-30-108,** if the director has reasonable cause to believe that a certificate holder is unable
29 to practice with reasonable skill and safety, the director may order the certificate holder to
30 take a mental or physical examination administered **by a physician or other licensed health**
31 **care professional designated by the director.** Except where due to circumstances beyond the
32 certificate holder's control, if the certificate holder fails or refuses to undergo a mental or
33 physical examination, the director may suspend the certificate holder's certification **until the**
34 **director has made a determination of the certificate holder's fitness to practice.** The director
35 shall proceed with an order for examination and shall make his or her determination in a
36 **timely manner.** <{*The highlighted language is not redundant with the mental and physical*
37 *examinations common provision, 12-30-108; recommend amendment.*}>

38 (2) ~~The director shall include in an order requiring a certificate holder to undergo a~~
39 ~~mental or physical examination the basis of the director's reasonable cause to believe that the~~
40 ~~certificate holder is unable to practice with reasonable skill and safety. For purposes of a~~

1 disciplinary proceeding authorized under this article, the certificate holder is deemed to have
2 waived all objections to the admissibility of the examining physician's or licensed health care
3 professional's testimony or examination reports on the grounds that they are privileged
4 communication. <{Redundant with mental and physical examinations common provision
5 12-30-108 (1)(c) and parts of (2). Recommend repeal. The 3rd sentence of 12-30-108 (2)
6 may need to be amended or excluded.}>

7 (3) (2) The certificate holder may submit to the director testimony or examination
8 reports from a physician chosen by the certificate holder and pertaining to any condition that
9 the director has alleged may preclude the certificate holder from practicing with reasonable
10 skill and safety. The director may consider the testimony and reports submitted by the
11 certificate holder in conjunction with, but not in lieu of, the testimony and examination
12 reports of the physician designated by the director. <{Not redundant with the mental and
13 physical examinations common provision, 12-30-108; recommend not change.}>

14 (4) The results of a mental or physical examination ordered by the director shall not
15 be used as evidence in any proceeding other than one before the director, are not a public
16 record, and are not available to the public. <{Redundant with mental and physical
17 examinations common provision, 12-30-108 (3). Recommend repeal.}>

18
19 **12-305-117. [Formerly 12-43.7-115] Confidential agreement to limit practice.**

20 (1) If a speech-language pathologist suffers from a physical illness; a physical condition; or
21 a behavioral or mental health disorder that renders him or her unable to practice
22 speech-language pathology or practice as a speech-language pathologist with reasonable skill
23 and patient safety, the speech-language pathologist shall notify the director of the physical
24 illness; the physical condition; or the behavioral or mental health disorder in a manner and
25 within a period of time determined by the director. The director may require the
26 speech-language pathologist to submit to an examination to evaluate the extent of the
27 physical illness; the physical condition; or the behavioral or mental health disorder and its
28 impact on the speech-language pathologist's ability to practice with reasonable skill and
29 safety to patients.

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

37 (b) The agreement must specify that the speech-language pathologist is subject to
38 periodic reevaluations or monitoring as determined appropriate by the director.

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

(d) By entering into an agreement with the director pursuant to this section to limit his or her practice, the speech-language pathologist is not engaging in activities that constitute grounds for discipline pursuant to section 12-43.7-110. The agreement is an administrative action and does not constitute a restriction or discipline by the director. However, if the speech-language pathologist fails to comply with the terms of an agreement entered into pursuant to this section, the failure constitutes grounds for disciplinary action under section 12-43.7-110 (2)(d), and the speech-language pathologist is subject to discipline in accordance with section 12-43.7-111.

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

(3) (2) This section does AND SECTION 12-20-107 DO not apply to a licensee subject to discipline under section ~~12-43.7-110(2)(c)~~ **12-305-112 (2)(c)**. <{Partially redundant with confidential agreement to limit practice common provision, 12-30-107. Recommend amendment.}>

12-305-118. [Formerly 12-43.7-116] Protection of medical records - certificate holder's obligations - verification of compliance - noncompliance grounds for discipline - rules. (1) Each speech-language pathologist responsible for patient records shall develop a written plan to ensure the security of patient medical records. The plan must address at least the following:

(a) The storage and proper disposal of patient medical records;

(b) The disposition of patient medical records in the event the certificate holder dies, retires, or otherwise ceases to practice or provide speech-language pathology services to patients; and

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

(2) Upon initial certification under this article **305** and upon renewal of a certification, the applicant or certificate holder shall attest to the director that he or she has developed a plan in compliance with this section.

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

(4) A speech-language pathologist who fails to comply with this section is subject to discipline in accordance with section ~~12-43.7-111~~ **12-305-113**.

(5) The director may adopt rules reasonably necessary to implement this section.

~~**12-43.7-117. Severability.** If any provision of this article **305** is held invalid, the invalidity does not affect other provisions of this article **305** that can be given effect without the invalid provision. <{Redundant with severability common provision, 2-4-204;~~

1 *recommend repeal.*>

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12-305-119. [Formerly 12-43.7-118] Repeal of article - review of functions. This article ~~43.7~~ **305** is repealed, effective September 1, 2022. Before its repeal, the director's powers, duties, and functions under this article ~~43.7~~ **305** are scheduled for review in accordance with section 24-34-104.