

**Article ~~43.2~~ 310**  
**Surgical Assistants and Surgical Technologists**

<del>12-43.2-101.</del> <b>12-310-101.</b>	<b><i>Applicability of common provisions.</i></b>
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1           **12-310-101. Applicability of common provisions.** ARTICLES 1, 20, AND 30 OF THIS  
2 TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 310. <{**Adding cross**  
3 **references to common provision articles.**}>  
4

5           **12-310-102. [Formerly 12-43.2-101] Definitions.** As used in this article 310, unless  
6 the context otherwise requires:

7           (1) "Database" means the database required by section ~~12-43.2-102~~ **12-310-103.**

8           (2) "Director" means the director of the division of professions and occupations in  
9 the department of regulatory agencies or the director's designee. {**Redundant with common**  
10 **provision definition, 12-20-102 (6).**}>

11           (3) (2) "Employer" means a health care institution as defined in section 13-64-202,  
12 C.R.S.; a health care professional as defined in section 13-64-202, C.R.S.; or an entity who  
13 either employs a registrant or who provides a registrant to a health care institution or health  
14 care professional on a contractual basis.

15           (4) (3) "Register" means to record the information required by section ~~12-43.2-102~~  
16 (3)(b) in the database in a form and manner as determined by the director. HAS THE MEANING  
17 ESTABLISHED IN SECTION 12-20-102 (11); EXCEPT THAT to be registered does not mean that  
18 the registrant: <{**Redundant with common provision definition, 12-20-102 (11).**}>

19           (a) Has any particular qualifications or professional competency; or

20           (b) Must be certified as a surgical assistant or surgical technologist.

21           (5) "Registrant" means a person required to be registered pursuant to this article.  
22 <{**Redundant with common provision definition, 12-20-102 (12).**}>

23           (6) (4) "Surgical assistant" means a person who performs certain duties, including:

24           (a) Positioning the patient;

25           (b) Providing visualization of the operative site;

26           (c) Utilizing appropriate techniques to assist with hemostasis;

27           (d) Participating in volume replacement or autotransfusion techniques as appropriate;

1 (e) Utilizing appropriate techniques to assist with closure of body planes;

2 (f) Selecting and applying appropriate wound dressings;

3 (g) Providing assistance in securing drainage systems to tissue; and

4 (h) The duties specified in subsection ~~(7)~~ (5) of this section.

5 ~~(7)~~ (5) "Surgical technologist" means a person who performs certain duties,  
6 including:

7 (a) Preparation of the operating or procedure room and the sterile field for surgical  
8 procedures by sterilizing supplies, instruments, and equipment;

9 (b) Preparation of the operating or procedure room for surgical procedures by  
10 ensuring that surgical equipment is functioning properly and safely; and

11 (c) Passing instruments, equipment, or supplies to a surgeon; sponging or suctioning  
12 an operative site; preparing and cutting suture material; holding retractors; transferring but  
13 not administering fluids or drugs; assisting in counting sponges, needles, supplies, and  
14 instruments; and performing other similar duties as directed during a surgical procedure.

15  
16 **12-310-103. [Formerly 12-43.2-102] Registration - penalty - renewal - database**  
17 **- fees - rules.** (1) On and after April 1, 2011:

18 (a) A person may not perform the duties of a surgical assistant or surgical  
19 technologist unless the person is registered by the director. Prior to registration, a person  
20 shall submit to a criminal history record check in the form and manner as described in section  
21 ~~12-43.2-105.5~~ **12-310-107.**

22 (b) A person who performs the duties of a surgical assistant or surgical technologist  
23 without being registered ~~commits a class 2 misdemeanor and shall be punished as provided~~  
24 ~~in section 18-1.3-501, C.R.S., for the first offense, and for a second or subsequent offense,~~  
25 ~~the person commits a class 1 misdemeanor and shall be punished as provided in section~~  
26 ~~18-1.3-501, C.R.S.~~ UNDER THIS ARTICLE 310 IS SUBJECT TO PENALTIES PURSUANT TO SECTION  
27 12-20-407 (1)(b). <{Redundant with unauthorized practice common provision, 12-20-407  
28 (1)(b).}>

29 (2) (a) Registrations made pursuant to this article **310** are valid for the period of time  
30 established by the director. Each registrant shall renew his or her registration according to  
31 a schedule set by the director. If a registrant does not renew his or her registration according  
32 to the schedule, the registration expires. A person whose registration has expired shall not  
33 perform the duties of a surgical assistant or surgical technologist until he or she reinstates the  
34 registration SUBJECT TO THE RENEWAL, EXPIRATION, REINSTATEMENT, AND DELINQUENCY FEE  
35 PROVISIONS OF SECTION 12-20-202 (1) AND (2). The director shall not reinstate the registration  
36 until the person submits to a criminal history record check in the form and manner as  
37 described in section ~~12-43.2-105.5~~ **12-310-107.**

38 (b) ~~The director shall establish a process for renewal of registrations and~~  
39 ~~reinstatement of expired registrations. A person renewing or reinstating a registration shall~~  
40 ~~submit an application in the form and manner established by the director.~~ <{Redundant with  
41 renewals/reinstatements common provision, 12-20-202.}>

42 (3) (a) The director shall maintain a database of all registrants. The director shall

1 charge a fee in the same manner as authorized in section ~~24-34-105, C.R.S., 12-20-105~~ for  
 2 registration in the database. ~~The director shall transmit the fees to the state treasurer, who~~  
 3 ~~shall deposit them in the division of professions and occupations cash fund created in section~~  
 4 ~~24-34-105, C.R.S. The director shall use the fees for the administration of this article.~~  
 5 <{Redundant with fees common provision, 12-20-105.}>

6 (b) Each registrant shall provide for registration in the database the registrant's name;  
 7 current address; educational and training qualifications; all current employers; employers  
 8 within the previous five years; the jurisdictions other than Colorado in which the registrant  
 9 is or has been licensed, certified, or registered, if applicable; whether the registrant is  
 10 currently certified by a nationally accredited certifying organization and, if so, which one;  
 11 and any civil, criminal, or administrative action relating to performing the duties of a surgical  
 12 assistant or surgical technologist of which the registrant was the subject in this or any other  
 13 jurisdiction. Registrants shall update ~~such~~ THEIR information in the database within thirty  
 14 days after any change and give the director written notice of any civil, criminal, or  
 15 administrative actions. When recording the information required by this section, each  
 16 registrant shall indicate whether ~~he or she~~ THE REGISTRANT has been convicted of or entered  
 17 a plea of guilty or nolo contendere to any misdemeanor relating to drugs or alcohol or to any  
 18 felony.

19 (c) Information in the database shall be open to the public.

20 (4) The director shall promulgate rules ~~necessary and convenient for the~~  
 21 ~~administration of this article~~ PURSUANT TO SECTION 12-20-204. <{Added a cross reference  
 22 to the rule-making common provision, 12-20-204.}>

23  
 24 **12-310-104. [Formerly 12-43.2-103] Scope of article - exclusion.** (1) This article  
 25 **310** does not prevent or restrict the practice, services, or activities of:

26 (a) A person licensed, otherwise regulated, or specifically exempted in this state by  
 27 any other law from engaging in ~~his or her~~ THE PERSON'S profession or occupation as defined  
 28 in the article under which ~~he or she~~ THE PERSON is licensed or otherwise regulated or require  
 29 a person who is licensed, otherwise regulated, or specifically exempted pursuant to articles  
 30 ~~29 200 to 43-9 315~~ of this title **12** to register pursuant to this article **310**; or

31 (b) A person pursuing a course of study in an accredited educational surgical assistant  
 32 or surgical technologist program if that person is designated by a title that clearly indicates  
 33 ~~his or her~~ THE PERSON'S status as a student and if ~~he or she~~ THE PERSON acts under  
 34 appropriate instruction and supervision.

35  
 36 **12-310-105. [Formerly 12-43.2-104] Employers - requirements - references -**  
 37 **definition.** (1) On and after April 1, 2011, an employer of a registrant shall:

38 (a) Check the database to verify that the person is registered in the database before  
 39 the person may perform the duties specified in section ~~12-43.2-101 (6) or (7)~~ **12-310-102 (4)**  
 40 **OR (5)**; and

41 (b) Give the director written notice within two weeks after a disciplinary action or  
 42 investigation that is based on conduct that constitutes a violation of this article **310**. For

1 purposes of this ~~paragraph (b)~~ SUBSECTION (1)(b), "disciplinary action" includes termination  
2 or resignation of the registrant while under investigation or in lieu of investigation or  
3 disciplinary action. The director shall establish a notification form on the department's  
4 website.

5 (2) (a) The general assembly hereby finds, determines, and declares that sections  
6 8-2-110 and 8-2-111, ~~C.R.S.~~, which prohibit the maintenance or use of blacklists, were  
7 enacted to protect employees from retribution and harassment in the pursuit of their lawful  
8 activities. The general assembly further finds, determines, and declares that these  
9 prohibitions against blacklisting have in some instances been abused and have been used as  
10 a shield by persons responsible for drug violations or patient endangerment.

11 (b) In response to a request by an employer, it shall not be unlawful nor a violation  
12 of the prohibitions against blacklisting specified in section 8-2-110 or 8-2-111 ~~C.R.S.~~, for an  
13 employer, when acting in good faith, to disclose information known about any involvement  
14 in drug diversion, drug tampering, patient abuse, violation of drug or alcohol policies, or  
15 crimes of violence, as listed in section 18-1.3-406 (2)(a), ~~C.R.S.~~, committed by a registrant  
16 who is an employee or former employee of the responding employer.

17 (c) The provision of employment information pursuant to ~~paragraph (b) of this~~  
18 ~~subsection (2)~~ SUBSECTION (2)(b) OF THIS SECTION does not constitute a violation of the  
19 prohibition against blacklisting as provided in sections 8-2-110 and 8-2-111, ~~C.R.S.~~, nor does  
20 it constitute an unfair labor practice in violation of any provision of article 3 of title 8. ~~C.R.S.~~

21 (d) (I) An employer who provides information pursuant to this subsection (2) to a  
22 prospective employer of the registrant upon request of the prospective employer or the  
23 registrant is immune from civil liability and is not liable in civil damages for the disclosure  
24 or any consequences of the disclosure; except that this immunity does not apply when the  
25 registrant shows by a preponderance of the evidence both of the following:

26 (A) The information disclosed by the current or former employer was false; and

27 (B) The employer providing the information knew or reasonably should have known  
28 that the information was false.

29 (II) This subsection (2) applies to any employee, agent, or other representative of the  
30 current or former employer who is authorized to provide and who provides information in  
31 accordance with this subsection (2).

32 (e) An employer or any officer, director, or employee thereof who discloses  
33 information under this subsection (2) shall be presumed to be acting in good faith unless it  
34 is shown by a preponderance of the evidence that the employer, officer, director, or employee  
35 intentionally or recklessly disclosed false information about the employee or former  
36 employee.

37 (f) Nothing in this subsection (2) shall be construed to abrogate or contradict the  
38 provisions of part 1 of article 2 of title 8. ~~C.R.S.~~

39 (3) An employer who requires a registrant applying for employment to submit to a  
40 drug test shall forward to the director any confirmed positive drug test results for a controlled  
41 substance that is not subject to a valid prescription.

1           **12-310-106. [Formerly 12-43.2-105] Grounds for discipline - disciplinary**  
2 **proceedings - judicial review.** (1) The director may take disciplinary action against a  
3 registrant if the director finds that the registrant has represented himself or herself as a  
4 registered surgical assistant or technologist after the expiration, suspension, or revocation of  
5 his or her registration.

6           (2) The director may ~~revoke, suspend, deny, or refuse to renew a registration~~ TAKE  
7 DISCIPLINARY OR OTHER ACTION AS AUTHORIZED IN SECTION 12-20-404 AGAINST, or issue a  
8 cease-and-desist order IN ACCORDANCE WITH SECTION 12-20-405 to, a registrant in  
9 accordance with this section AND SECTION 12-20-403, upon proof that the  
10 registrant:<{Redundant with disciplinary actions common provision, 12-20-404. Also  
11 adding reference to disciplinary procedures common provision, 12-20-403, and  
12 cease-and-desist orders common provision, 12-20-405.}>

13           (a) Has performed the duties of a surgical assistant or surgical technologist without  
14 being registered;

15           (b) Has falsified information in an application or the database or has attempted to  
16 obtain or has obtained a registration by fraud, deception, or misrepresentation;

17           (c) Has an alcohol use disorder, as defined in section 27-81-102, or a substance use  
18 disorder, as defined in section 27-82-102; is an excessive or habitual user or abuser of  
19 alcohol or habit-forming drugs; or is a habitual user of a controlled substance, as defined in  
20 section 18-18-102, or other drugs having similar effects;

21           (d) Has a physical condition or disability, a behavioral, mental health, or substance  
22 use disorder, or an intellectual and developmental disability that renders the registrant unable  
23 to perform his or her tasks with reasonable skill and safety or that may endanger the health  
24 or safety of individuals receiving services;

25           (e) Has violated this article **310** or aided or abetted or knowingly permitted any  
26 person to violate this article **310**, a rule adopted under this article **310**, or any lawful order  
27 of the director;

28           (f) Had a registration, license, or certification suspended, revoked, or denied by  
29 another jurisdiction for actions that are a violation of this article **310**;

30           (g) Has been convicted of or pled guilty or nolo contendere to a misdemeanor related  
31 to drugs or alcohol or a felony. A certified copy of the judgment of a court of competent  
32 jurisdiction of the conviction or plea shall be conclusive evidence of the conviction or plea.  
33 In considering the disciplinary action, the director shall be governed by ~~section 24-5-101,~~  
34 ~~€R.S. SECTIONS 12-20-202 (5) AND 24-5-101.~~ <{Updated with cross reference to criminal  
35 conviction common provision, 12-20-202 (5).}>

36           (h) Has fraudulently obtained, furnished, or sold any surgical assistant or surgical  
37 technologist diploma, certificate, registration, renewal of registration, or record or aided or  
38 abetted such act;

39           (i) Has failed to notify the director of the suspension, revocation, or denial of the  
40 person's past or currently held license, certificate, or registration required to perform the  
41 duties of a surgical assistant or surgical technologist in this or any other jurisdiction;

42           (j) Has refused to submit to a physical or mental examination when ordered by the



1 director pursuant to section ~~12-43.2-106~~ *12-310-108*; or

2 (k) Has otherwise violated any provision of this article *310* or lawful order or rule  
3 of the director.

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

8 (b) Upon the failure of a registrant to comply with any conditions imposed by the  
9 director pursuant to subsection (2) of this section, unless compliance is beyond the control  
10 of the registrant, the director may suspend the registration of the registrant until the registrant  
11 complies with the conditions of the director.

12 (4) (a) The director may commence a proceeding to discipline a registrant when the  
13 director has reasonable grounds to believe that the registrant has committed an act  
14 enumerated in this section or has violated a lawful order or rule of the director.

15 (b) In any proceeding under this section, the director may accept as evidence of  
16 grounds for disciplinary action any disciplinary action taken against a registrant in another  
17 jurisdiction if the violation that prompted the disciplinary action in the other jurisdiction  
18 would be grounds for disciplinary action under this article *310*.

19 (5) Disciplinary proceedings shall be conducted in accordance with SECTION  
20 12-20-403 AND article 4 of title 24, C.R.S., and the hearing and opportunity for review shall  
21 be conducted pursuant to that article by the director or by an administrative law judge, at the  
22 director's discretion. The director has the authority to exercise all powers and duties  
23 conferred by this article *310* during the disciplinary proceedings. <{Redundant with  
24 disciplinary proceedings common provision, 12-20-403.}>

25 (6) (a) The director may request the attorney general to seek an injunction in any court  
26 of competent jurisdiction, to enjoin a person from committing an act prohibited by this  
27 article. When seeking an injunction under this paragraph (a), the attorney general shall not  
28 be required to allege or prove the inadequacy of any remedy at law or that substantial or  
29 irreparable damage is likely to result from a continued violation of this article ACCORDANCE  
30 WITH SECTION 12-20-406. <{Redundant with injunctive relief common provision,  
31 12-20-406.}>

32 (b) (f) (7) In accordance with article 4 of title 24, C.R.S., and this article *310*, AND  
33 SECTION 12-20-403, the director is authorized to investigate, hold hearings, and gather  
34 evidence in all matters related to the exercise and performance of the powers and duties of  
35 the director. <{Adding reference to disciplinary procedures common provision,  
36 12-20-403.}>

37 (H) In order to aid the director in any hearing or investigation instituted pursuant to  
38 this section, the director or an administrative law judge appointed pursuant to paragraph (c)  
39 of this subsection (6) is authorized to administer oaths, take affirmations of witnesses, and  
40 issue subpoenas compelling the attendance of witnesses and the production of all relevant  
41 records, papers, books, documentary evidence, and materials in any hearing, investigation,  
42 accusation, or other matter before the director or an administrative law judge.

1 ~~(H) Upon failure of any witness or registrant to comply with a subpoena or process,~~  
2 ~~the district court of the county in which the subpoenaed person or registrant resides or~~  
3 ~~conducts business, upon application by the director with notice to the subpoenaed person or~~  
4 ~~registrant, may issue to the person or registrant an order requiring that person or registrant~~  
5 ~~to appear before the director; produce the relevant papers, books, records, documentary~~  
6 ~~evidence, or materials if so ordered; or give evidence touching the matter under investigation~~  
7 ~~or in question. If the person or registrant fails to obey the order of the court, the person or~~  
8 ~~registrant may be held in contempt of court.~~

9 (c) The director may appoint an administrative law judge pursuant to part 10 of article  
10 30 of title 24, C.R.S., to conduct hearings, take evidence, make findings, and report such  
11 findings to the director. <{Redundant with disciplinary procedures common provision,

12 12-20-403.}>  
13 (7) (a) (8) ~~The director, the director's staff, any person acting as a witness or~~  
14 ~~consultant to the director~~ IN ADDITION TO THE PERSONS SPECIFIED IN SECTION 12-20-402, an  
15 employer who notifies the director pursuant to section ~~12-43.2-104 (1)(b), and any person~~  
16 ~~who lodges a complaint pursuant to this article shall be immune from liability in any civil~~  
17 ~~action brought against him or her for acts occurring while acting in his or her capacity as~~  
18 ~~director, staff, consultant, employer, or witness, respectively, if such person was acting in~~  
19 ~~good faith within the scope of his, her, or its respective capacity, made a reasonable effort~~  
20 ~~to obtain the facts of the matter as to which he, she, or it acted, and acted in the reasonable~~  
21 ~~belief that the action taken by him, her, or it was warranted by the facts~~ 12-310-105 (1)(b)  
22 IS GRANTED THE SAME IMMUNITY, AND IS SUBJECT TO THE SAME CONDITIONS FOR IMMUNITY,  
23 AS SPECIFIED IN SECTION 12-20-402.

24 (b) ~~A person participating in good faith in making a complaint or report or in an~~  
25 ~~investigative or administrative proceeding pursuant to this section shall be immune from any~~  
26 ~~civil or criminal liability that otherwise might result by reason of the participation.~~  
27 <{Partially redundant with immunity common provision, section 12-20-402.}>

28 (8) (9) A final action of the director is subject to judicial review by the court of  
29 appeals pursuant to section ~~24-4-106 (11), C.R.S.~~ 12-20-408. <{Redundant with judicial

30 review common provision, 12-20-408.}>  
31 (9) ~~When a complaint or an investigation discloses an instance of misconduct that,~~  
32 ~~in the opinion of the director, warrants formal action, the complaint shall not be resolved by~~  
33 ~~a deferred settlement, action, judgment, or prosecution.~~ <{Redundant with discipline/no

34 deferral common provision, 12-20-404 (2).}>  
35 (10) (a) If it appears to the director, based upon credible evidence as presented in a  
36 written complaint by any person, that a registrant is acting in a manner that is an imminent  
37 threat to the health and safety of the public, or a person is acting or has acted without the  
38 required registration, the director may issue an order to cease and desist such activity. The  
39 order shall set forth the statutes and rules alleged to have been violated, the facts alleged to  
40 have constituted the violation, and the requirement that all unlawful acts or the performance  
41 of unregistered activities immediately cease.

42 (b) Within ten days after service of the order to cease and desist pursuant to paragraph

1 ~~(a) of this subsection (10), the respondent may request a hearing on the question of whether~~  
2 ~~acts in violation of this article have occurred. The hearing shall be conducted pursuant to~~  
3 ~~sections 24-4-104 and 24-4-105, C.R.S.~~

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

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

17 ~~(c) (I) The hearing on an order to show cause shall be held no sooner than ten and no~~  
18 ~~later than forty-five calendar days after the date of transmission or service of the notification~~  
19 ~~by the director as provided in paragraph (b) of this subsection (11). The hearing may be~~  
20 ~~continued by agreement of all parties based upon the complexity of the matter, number of~~  
21 ~~parties to the matter, and legal issues presented in the matter, but in no event shall the hearing~~  
22 ~~be held later than sixty calendar days after the date of transmission or service of the~~  
23 ~~notification.~~

24 ~~(II) If a person against whom an order to show cause has been issued pursuant to~~  
25 ~~paragraph (a) of this subsection (11) does not appear at the hearing, the director may present~~  
26 ~~evidence that notification was properly sent or served on the person pursuant to paragraph~~  
27 ~~(b) of this subsection (11) and such other evidence related to the matter as the director deems~~  
28 ~~appropriate. The director shall issue the order within ten days after the director's~~  
29 ~~determination related to reasonable attempts to notify the respondent, and the order shall~~  
30 ~~become final as to that person by operation of law. Such hearing shall be conducted pursuant~~  
31 ~~to sections 24-4-104 and 24-4-105, C.R.S.~~

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

37 ~~(IV) The director shall provide notice, in the manner set forth in paragraph (b) of this~~  
38 ~~subsection (11), of the final cease-and-desist order within ten calendar days after the hearing~~  
39 ~~conducted pursuant to this paragraph (c) to each person against whom the final order has~~  
40 ~~been issued. The final order issued pursuant to subparagraph (III) of this paragraph (c) shall~~  
41 ~~be effective when issued and shall be a final order for purposes of judicial review.~~

42 ~~(12) If it appears to the director, based upon credible evidence presented to the~~



1 ~~director, that a person has engaged or is about to engage in an unregistered act or practice,~~  
2 ~~an act or practice constituting a violation of this article, a rule promulgated pursuant to this~~  
3 ~~article, or an order issued pursuant to this article, or an act or practice constituting grounds~~  
4 ~~for administrative sanction pursuant to this article, the director may enter into a stipulation~~  
5 ~~with the person.~~

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

11 ~~(14) A person aggrieved by the final cease-and-desist order may seek judicial review~~  
12 ~~of the director's determination or of the director's final order as provided in subsection (8)~~  
13 ~~of this section. THE DIRECTOR MAY ISSUE CEASE-AND-DESIST ORDERS UNDER THE~~  
14 ~~CIRCUMSTANCES AND IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION~~  
15 ~~12-20-405. <{***Redundant with cease-and-desist orders common provision, 12-20-405.***>~~

16 ~~(15) (11) The director shall notify the chief medical officer of the department of~~  
17 ~~public health and environment within thirty days after taking action regarding conduct of a~~  
18 ~~registrant that violates either this article 310 or any applicable requirement of title 25 C.R.S.,~~  
19 ~~and post a notice of such THE action on the division's website.~~

20  
21 **12-310-107. [Formerly 12-43.2-105.5] Criminal history record check required.**  
22 Each applicant for registration must have ~~his or her~~ THE APPLICANT'S fingerprints taken by  
23 a local law enforcement agency or any third party approved by the Colorado bureau of  
24 investigation for the purpose of obtaining a fingerprint-based criminal history record check.  
25 If an approved third party takes the ~~person's~~ APPLICANT'S fingerprints, the fingerprints may  
26 be electronically captured using Colorado bureau of investigation-approved livescan  
27 equipment. Third-party vendors shall not keep the applicant information for more than thirty  
28 days unless requested to do so by the applicant. The applicant shall submit payment by  
29 certified check or money order for the fingerprints and for the actual costs of the record  
30 check at the time the fingerprints are submitted to the Colorado bureau of investigation.  
31 Upon receipt of fingerprints and receipt of the payment for costs, the Colorado bureau of  
32 investigation shall conduct a state and national fingerprint-based criminal history record  
33 check utilizing records of the Colorado bureau of investigation and the federal bureau of  
34 investigation and shall forward the results of the criminal history record check to the director.

35  
36 **12-310-108. [Formerly 12-43.2-106] Mental and physical examination.** (1) If the  
37 director has reasonable cause to believe that a registrant is unable to perform the duties of  
38 a surgical assistant or surgical technologist, as appropriate, with reasonable skill and safety,  
39 the director may order the registrant to undergo a mental or physical examination  
40 administered by a physician or other licensed health care professional designated by the  
41 director. Unless due to circumstances beyond the registrant's control, if the registrant refuses  
42 to undergo a mental or physical examination, the director may suspend the registrant's

1 registration until the results of the examination are known and the director has made a  
2 determination of the registrant's fitness to perform the duties of a surgical assistant or  
3 surgical technologist. The director shall proceed with an order for examination and shall  
4 make his or her determination in a timely manner.

5 (2) An order requiring a registrant to undergo a mental or physical examination shall  
6 contain the basis of the director's reasonable cause to believe that the registrant is unable to  
7 work with reasonable skill and safety. For purposes of a disciplinary proceeding authorized  
8 under this article **310**, the registrant shall be deemed to have waived all objections to the  
9 admissibility of the examining physician's or other licensed health care professional's  
10 testimony or examination reports on the ground that they are privileged communications.

11 (3) The registrant may submit to the director testimony or examination reports from  
12 a physician or other licensed health care professional chosen by the registrant and pertaining  
13 to any condition that the director has alleged may preclude the registrant from working with  
14 reasonable skill and safety. The testimony and reports submitted by the registrant may be  
15 considered by the director in conjunction with, but not in lieu of, testimony and examination  
16 reports from the physician or other licensed health care professional designated by the  
17 director.

18 (4) The results of a mental or physical examination ordered by the director shall not  
19 be used as evidence in any proceeding other than one before the director and shall not be  
20 deemed a public record or made available to the public.

21  
22 **12-310-109. [Formerly 12-43.2-107] Repeal of article.** This article **310** is repealed,  
23 effective September 1, 2021. ~~Prior to such~~ BEFORE ITS repeal, the registration of surgical  
24 assistants and surgical technologists ~~shall be reviewed as provided~~ IS SCHEDULED FOR REVIEW  
25 in ACCORDANCE WITH section 24-34-104. C.R.S. <{Updated with current sunset  
26 language.}>