

CHAPTER 262

**PROFESSIONS AND OCCUPATIONS**

SENATE BILL 93-15

BY SENATOR Martinez;  
also REPRESENTATIVE Owen.

**AN ACT**

**CONCERNING THE REGULATION OF NURSING HOME ADMINISTRATORS, AND, IN CONNECTION THEREWITH, CONTINUING THE REGULATORY AUTHORITY OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS AND MAKING AN APPROPRIATION THEREFOR.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Article 39 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

**ARTICLE 39  
Nursing Home Administrators**

**12-39-101. Legislative declaration.** THE GENERAL ASSEMBLY DECLARES THAT THE INTENT OF THIS ARTICLE IS TO PROVIDE A MEASURE OF PROTECTION TO THE AGED AND HANDICAPPED RESIDENTS OF NURSING HOMES IN THIS STATE BY ESTABLISHING A MEANS TO REGULATE NURSING HOME ADMINISTRATORS TO ENSURE QUALITY ADMINISTRATION AND SOUND MANAGEMENT OF NURSING HOMES. IT IS ALSO THE INTENT OF THE GENERAL ASSEMBLY THAT THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS BE ADEQUATELY FUNDED TO CARRY OUT THE DUTIES AND FUNCTIONS SPECIFIED BY THIS ARTICLE AS WELL AS THE LEGISLATIVE INTENT EXPRESSED IN THIS SECTION.

**12-39-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BOARD" MEANS THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(2) "NURSING HOME ADMINISTRATOR" MEANS ANY INDIVIDUAL LICENSED AND RESPONSIBLE FOR PLANNING, ORGANIZING, DIRECTING, AND CONTROLLING THE OPERATION OF A NURSING HOME OR WHO IN FACT PERFORMS SUCH FUNCTIONS, WHETHER OR NOT SUCH FUNCTIONS ARE SHARED BY ONE OR MORE OTHER PERSONS.

(3) "NURSING HOME ADMINISTRATOR-IN-TRAINING" MEANS AN INDIVIDUAL REGISTERED WITH THE BOARD PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

(4) "NURSING HOME FACILITY" SHALL HAVE THE SAME MEANING AS THAT SET FORTH IN SECTION 25-1-1002, C.R.S., AND SHALL INCLUDE NURSING CARE FACILITIES, WHETHER PROPRIETARY OR NONPROFIT, WHICH ARE LICENSED UNDER SECTION 25-1-107 (1) (I) (I), C.R.S., OR PURSUANT TO THE RULES FOR NURSING HOMES PROMULGATED BY THE DEPARTMENT OF HEALTH. THE TERM "NURSING HOME" INCLUDES BUT IS NOT LIMITED TO NURSING HOMES OWNED OR ADMINISTERED BY THE STATE GOVERNMENT OR ANY AGENCY OR POLITICAL SUBDIVISION THEREOF.

(5) "PRACTICE OF NURSING HOME ADMINISTRATION" MEANS THE PLANNING, ORGANIZING, DIRECTING, AND CONTROL OF THE OPERATION OF A NURSING HOME.

(6) "REASONABLE GROUNDS" MEANS FACTS AND CIRCUMSTANCES SUFFICIENTLY STRONG TO WARRANT A PRUDENT PERSON TO BELIEVE THAT THE FACTS AND CIRCUMSTANCES ARE TRUE.

**12-39-103. Administrator license required.** NO PERSON SHALL PRACTICE OR OFFER TO PRACTICE NURSING HOME ADMINISTRATION IN THIS STATE OR USE ANY TITLE, SIGN, CARD, OR DEVICE TO INDICATE THAT SUCH PERSON IS A NURSING HOME ADMINISTRATOR, UNLESS SUCH PERSON HAS BEEN DULY LICENSED AS A NURSING HOME ADMINISTRATOR AS REQUIRED BY THIS ARTICLE.

**12-39-103.5. State training school.** THE NURSING HOME ADMINISTRATOR IN EACH OF THE THREE STATE HOME AND TRAINING SCHOOLS AT GRAND JUNCTION, PUEBLO, AND WHEAT RIDGE IS NOT REQUIRED TO BE THE SUPERINTENDENT OF SUCH FACILITY.

**12-39-104. Board of examiners of nursing home administrators - creation - subject to termination.** (1) THERE IS HEREBY CREATED A BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS IN THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES, WHICH BOARD SHALL BE COMPOSED OF SEVEN MEMBERS AS FOLLOWS: THREE MEMBERS SHALL BE PRACTICING NURSING HOME ADMINISTRATORS DULY LICENSED UNDER THIS ARTICLE (WHICH MEMBERS SHALL BE FROM THE FOLLOWING AREAS OF DISCIPLINE, WITH NO TWO MEMBERS FROM THE SAME AREA; HOSPITAL ADMINISTRATION, NONPROFIT FACILITY ADMINISTRATION, PROPRIETARY FACILITY ADMINISTRATION, OR CONTINUUM OF CARE ADMINISTRATION), ONE MEMBER SHALL BE A PROFESSIONAL IN THE LONG-TERM CARE INDUSTRY, AND THREE MEMBERS SHALL BE REPRESENTATIVE OF THE PUBLIC AT LARGE. NO MORE THAN THREE OF THE MEMBERS OF THE BOARD SHALL BE OFFICIALS OR FULL-TIME EMPLOYEES OF STATE GOVERNMENT OR LOCAL GOVERNMENTS. THE TERM OF OFFICE FOR EACH MEMBER OF THE BOARD SHALL BE THREE YEARS. NO MEMBER OF THE BOARD SHALL SERVE MORE THAN TWO CONSECUTIVE TERMS. ALL THE MEMBERS OF THE BOARD SHALL BE RESIDENTS OF THIS STATE.

(2) APPOINTMENTS TO THE BOARD SHALL BE MADE BY THE GOVERNOR. THE GOVERNOR MAY REMOVE ANY BOARD MEMBER FOR NEGLIGENCE, INCOMPETENCY, UNPROFESSIONAL CONDUCT, OR WILLFUL MISCONDUCT. ACTIONS CONSTITUTING NEGLIGENCE SHALL INCLUDE BUT NOT BE LIMITED TO THE FAILURE TO ATTEND THREE CONSECUTIVE MEETINGS IN ANY ONE CALENDAR YEAR. APPOINTMENTS TO FILL VACANCIES SHALL BE MADE FOR THE REMAINDER OF THE UNEXPIRED TERM. A MEMBER WHO IS A PRACTICING NURSING HOME ADMINISTRATOR SHALL SERVE FOR A FULL TERM EVEN IF, DURING SUCH TERM, SUCH MEMBER CEASES TO BE A PRACTICING NURSING HOME ADMINISTRATOR.

(3) THE BOARD SHALL ELECT ANNUALLY FROM ITS MEMBERSHIP A CHAIR AND VICE-CHAIR. THE BOARD SHALL HOLD TWO OR MORE MEETINGS EACH YEAR. AT ANY MEETING A MAJORITY SHALL CONSTITUTE A QUORUM.

(4) THE BOARD SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS SPECIFIED BY THIS ARTICLE UNDER THE DEPARTMENT OF REGULATORY AGENCIES AND THE EXECUTIVE DIRECTOR THEREOF AND THE DIVISION OF REGISTRATIONS AS IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 1** TRANSFER, AS SUCH TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S.

(5) THE DIRECTOR OF THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES MAY APPOINT, SUBJECT TO SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION, A PROGRAM ADMINISTRATOR TO THE BOARD. SUCH PROGRAM ADMINISTRATOR SHALL NOT BE A MEMBER OF THE BOARD, BUT SHALL HAVE SUCH POWERS AND SHALL PERFORM SUCH DUTIES AS ARE PRESCRIBED BY LAW AND THE RULES AND REGULATIONS OF THE BOARD. ADDITIONAL STAFF MAY BE APPOINTED BY THE DIRECTOR OF THE DIVISION OF REGISTRATIONS TO ADEQUATELY ASSIST THE BOARD AND THE PROGRAM ADMINISTRATOR IN KEEPING RECORDS AND IN THE PERFORMANCE OF THEIR DUTIES. THESE EMPLOYEES, IF ANY, SHALL BE APPOINTED AND SERVE IN ACCORDANCE WITH SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION.

(6) THE PROVISIONS OF SECTION 24-34-104, C.R.S., CONCERNING THE TERMINATION SCHEDULE FOR REGULATORY BODIES OF THE STATE UNLESS EXTENDED AS PROVIDED IN THAT SECTION, ARE APPLICABLE TO THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS CREATED BY THIS SECTION.

(7) MEMBERS SERVING ON THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS AS IT EXISTED PRIOR TO JULY 1, 1993, SHALL CONTINUE TO SERVE UNTIL THEIR SUCCESSORS ARE APPOINTED.

**12-39-105. Powers and duties of the board.** (1) (a) THE BOARD HAS THE FOLLOWING POWERS AND DUTIES:

(I) (A) BY NO LATER THAN JULY 1, 1994, THE BOARD SHALL ADOPT RULES DEFINING STANDARDS OF NURSING HOME ADMINISTRATION, INCLUDING THE RESPONSIBILITIES AND DUTIES OF NURSING HOME ADMINISTRATORS, CONSISTENT WITH THIS ARTICLE. SUCH RULES MUST BE MET BY INDIVIDUALS IN ORDER TO RECEIVE AND RETAIN A LICENSE AND SHALL BE DESIGNED TO ENSURE THAT NURSING HOME ADMINISTRATORS ARE QUALIFIED BY EDUCATION AND TRAINING IN THE APPROPRIATE

FIELD TO SERVE AS NURSING HOME ADMINISTRATORS.

(B) TO DEVELOP AND APPLY APPROPRIATE TECHNIQUES, INCLUDING EXAMINATIONS AND INVESTIGATIONS, FOR DETERMINING WHETHER AN INDIVIDUAL MEETS SUCH STANDARDS;

(II) TO ISSUE LICENSES TO INDIVIDUALS DETERMINED, AFTER APPLICATION OF SUCH TECHNIQUES, TO MEET SUCH STANDARDS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a);

(III) TO REVOKE, SUSPEND, WITHHOLD, OR REFUSE TO RENEW ANY LICENSE PREVIOUSLY ISSUED BY THE BOARD, TO PLACE ON PROBATION A LICENSEE OR TEMPORARY LICENSE HOLDER, OR TO ISSUE A LETTER OF ADMONITION TO A LICENSEE IN ACCORDANCE WITH SECTION 12-39-112 (3) IN ANY CASE WHERE THE INDIVIDUAL HOLDING ANY SUCH LICENSE IS DETERMINED TO HAVE FAILED TO CONFORM TO THE REQUIREMENTS OF THE STANDARDS PROVIDED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) OR THE GROUNDS FOR DISCIPLINE SET FORTH IN SECTION 12-39-111;

(IV) TO ESTABLISH AND CARRY OUT PROCEDURES DESIGNED TO ENSURE THAT INDIVIDUALS LICENSED AS NURSING HOME ADMINISTRATORS WILL, DURING ANY PERIOD THAT THEY SERVE AS SUCH, COMPLY WITH THE REQUIREMENTS OF SUCH STANDARDS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a);

(V) TO CONDUCT INVESTIGATIONS, HOLD HEARINGS, AND TAKE EVIDENCE IN ALL MATTERS RELATING TO THE EXERCISE AND PERFORMANCE OF THE POWERS AND DUTIES VESTED IN THE BOARD AND, IN CONNECTION WITH ANY INVESTIGATION FOLLOWING THE FILING OF A SIGNED COMPLAINT OR ANY HEARING, TO ADMINISTER OATHS AND ISSUE SUBPOENAS COMPELLING THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, OR RECORDS RELEVANT TO AN INVESTIGATION OR HEARING;

(VI) TO PREPARE AND TRANSMIT ANNUALLY, IN THE FORM AND MANNER PRESCRIBED BY THE HEADS OF THE PRINCIPAL DEPARTMENTS PURSUANT TO THE PROVISIONS OF SECTION 24-1-136, C.R.S., A REPORT ACCOUNTING TO THE GOVERNOR FOR THE EFFICIENT DISCHARGE OF ALL RESPONSIBILITIES ASSIGNED BY LAW TO THE BOARD, AND TO MAKE SUCH REPORT AVAILABLE TO THE GENERAL ASSEMBLY.

(b) ANY SUBPOENA ISSUED UNDER THE AUTHORITY OF SUBPARAGRAPH (V) OF PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE ENFORCEABLE BY A DISTRICT COURT. IN ORDER TO AID THE BOARD IN ANY SUCH HEARING OR INVESTIGATION THE BOARD, THROUGH ANY MEMBER OR THE PROGRAM ADMINISTRATOR THEREOF, SHALL HAVE THE POWER TO ISSUE SUBPOENAS COMMANDING THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF COPIES OF ANY RECORDS CONTAINING INFORMATION RELEVANT TO THE PRACTICE OF NURSING HOME ADMINISTRATION RENDERED BY ANY LICENSEE, INCLUDING PATIENT RECORDS OF THE INSTITUTION AND PERSONAL RECORDS OF THE LICENSEE. THE PERSON PROVIDING SUCH COPIES SHALL PREPARE THEM FROM THE ORIGINAL RECORD AND SHALL DELETE FROM THE COPY PROVIDED PURSUANT TO THE SUBPOENA THE NAME OF THE PATIENT, BUT SHALL IDENTIFY THE PATIENT BY A NUMBERED CODE, TO BE RETAINED BY THE CUSTODIAN OF THE RECORDS FROM WHICH THE COPIES WERE MADE. UPON CERTIFICATION OF THE CUSTODIAN THAT THE COPIES ARE TRUE AND COMPLETE EXCEPT FOR THE PATIENT'S

NAME, THEY SHALL BE DEEMED AUTHENTIC, SUBJECT TO THE RIGHT TO INSPECT THE ORIGINALS FOR THE LIMITED PURPOSE OF ASCERTAINING THE ACCURACY OF THE COPIES. NO PRIVILEGE OF CONFIDENTIALITY SHALL EXIST WITH RESPECT TO SUCH COPIES, AND NO LIABILITY SHALL LIE AGAINST THE BOARD, THE CUSTODIAN, OR THE CUSTODIAN'S AUTHORIZED EMPLOYEE FOR FURNISHING OR USING SUCH COPIES IN ACCORDANCE WITH THIS SUBSECTION (1).

(2) (a) THE BOARD SHALL CONSIDER WITHOUT LIMITATION ALL OF THE FOLLOWING IN MAKING ANY DETERMINATION TO INITIATE DISCIPLINARY ACTION WHETHER BASED ON A SPECIFIC COMPLAINT OR AS AN OUTCOME OF SURVEY RESULTS BY THE DEPARTMENT OF HEALTH:

(I) ANY INFORMATION PROVIDED TO THE BOARD BY THE NURSING HOME ADMINISTRATOR;

(II) THE FACTS AS STATED IN REPORTS RECEIVED THAT OCCURRED DURING THE TIME A NURSING HOME ADMINISTRATOR WAS SERVING IN THE CAPACITY OF NURSING HOME ADMINISTRATOR IN THE FACILITY;

(III) WHETHER THE NURSING HOME ADMINISTRATOR COULD HAVE OR SHOULD HAVE PREVENTED THE CIRCUMSTANCES WHICH RESULTED IN THE INVESTIGATION.

(b) PRIOR TO MAKING A FINAL DETERMINATION TO INITIATE ACTION AGAINST A NURSING HOME ADMINISTRATOR, THE BOARD SHALL NOTIFY SUCH ADMINISTRATOR THAT THE BOARD IS CONSIDERING ACTION AND PROVIDE THE ADMINISTRATOR WITH AN OPPORTUNITY TO SHOW JUST CAUSE WHY REMEDIAL OR DISCIPLINARY ACTION SHOULD NOT BE INITIATED.

(3) (a) ON OR BEFORE JULY 1, 1994, THE BOARD SHALL DEVELOP RULES AND REGULATIONS, WITH INPUT FROM LONG-TERM CARE FACILITY PROVIDER ASSOCIATIONS, THE DEPARTMENT OF HEALTH, THE OFFICE OF THE STATE ATTORNEY GENERAL, AND CONSUMER REPRESENTATIVES CONCERNING FACTORS TO BE CONSIDERED IN DETERMINING PERFORMANCE WHICH FAILS TO MEET GENERALLY ACCEPTED STANDARDS FOR NURSING HOME ADMINISTRATORS, AND WHETHER OR NOT REMEDIAL OR DISCIPLINARY ACTIONS ARE WARRANTED. THE BOARD MAY CREATE AN ADVISORY COMMITTEE TO ASSIST THE BOARD IN DEVELOPING STANDARDS THAT DESCRIBE THE RESPONSIBILITIES AND DUTIES OF NURSING HOME ADMINISTRATORS.

(b) IF AFTER AN INVESTIGATION THE BOARD DETERMINES THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE PERFORMANCE OF A LICENSED ADMINISTRATOR IS INCONSISTENT WITH THE HEALTH OR SAFETY OF RESIDENTS IN THE CARE OF THE FACILITY IN WHICH THE ADMINISTRATOR WORKS AND IS CONTRARY TO STANDARDS ADOPTED BY THE BOARD, THE BOARD MAY INITIATEDISCIPLINARY ACTION AS MAY BE WARRANTED.

(4) THE BOARD SHALL HAVE THE AUTHORITY TO MAKE RULES CONSISTENT WITH LAW AS MAY BE NECESSARY FOR THE PROPER PERFORMANCE OF ITS DUTIES AND TO TAKE SUCH OTHER ACTIONS AS MAY BE NECESSARY TO ENABLE THE STATE TO MEET THE REQUIREMENTS SET FORTH IN SECTION 1908 OF THE FEDERAL "SOCIAL SECURITY ACT", THE FEDERAL RULES PROMULGATED THEREUNDER, AND OTHER PERTINENT FEDERAL REQUIREMENTS.

**12-39-106. Qualifications for admission to examination.** (1) THE BOARD SHALL ADMIT TO EXAMINATION FOR LICENSURE AS A NURSING HOME ADMINISTRATOR ANY APPLICANT WHO PAYS A FEE AS DETERMINED BY THE BOARD, WHO SUBMITS EVIDENCE OF SUITABILITY PRESCRIBED BY THE BOARD, AND WHO IS AT LEAST TWENTY-ONE YEARS OLD; EXCEPT THAT NO APPLICANT FOR A LICENSE AS A NURSING HOME ADMINISTRATOR SHALL BE ADMITTED TO SUCH LICENSING EXAMINATION, NOR SHALL SUCH APPLICANT BE ENTITLED TO OR BE GRANTED A LICENSE AS A NURSING HOME ADMINISTRATOR, UNLESS SUCH APPLICANT SUBMITS WRITTEN EVIDENCE, ON FORMS PROVIDED BY THE BOARD, OF SUCCESSFUL COMPLETION OF TWO YEARS OF COLLEGE LEVEL STUDY IN AN ACCREDITED INSTITUTION OF HIGHER EDUCATION IN AREAS RELATING TO HEALTH CARE OR HOSPITAL ADMINISTRATION.

(2) ANY PERSON WHO APPLIES FOR EXAMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL ALSO BE SUBJECT TO THE REQUIREMENTS OF SECTION 12-39-107.

(3) ANY PERSON WHO APPLIES FOR EXAMINATION PURSUANT TO SUBSECTION (1) OF THIS SECTION, IN LIEU OF THE EDUCATIONAL REQUIREMENTS PROVIDED FOR THEREIN, MAY SUBMIT EVIDENCE SATISFACTORY TO THE BOARD THAT SUCH APPLICANT HAS OBTAINED TWO YEARS OF SATISFACTORY PRACTICAL EXPERIENCE IN NURSING HOME ADMINISTRATION OR IN A COMPARABLE HEALTH MANAGEMENT AND ADMINISTRATIVE AREA FOR EACH YEAR OF REQUIRED COLLEGE LEVEL STUDY IF IN COMPLIANCE WITH FEDERAL REQUIREMENTS.

**12-39-107. Administrator-in-training.** (1) EVERY APPLICANT FOR A NURSING HOME ADMINISTRATOR LICENSE WHO HAS OTHERWISE QUALIFIED UNDER THE PROVISIONS OF SECTION 12-39-106 SHALL BE GRANTED ADMISSION TO THE ADMINISTRATOR-IN-TRAINING PROGRAM IN ACCORDANCE WITH THE RULES OF THE BOARD. UPON SUCCESSFUL COMPLETION OF THE TWO-THOUSAND-HOUR TRAINING PERIOD, SAID APPLICANT SHALL BE ELIGIBLE TO TAKE THE EXAMINATION.

(2) THE ADMINISTRATOR-IN-TRAINING SHALL SUBMIT BI-MONTHLY PROGRESS REPORTS ON FORMS PROVIDED BY THE BOARD.

(3) EVERY NURSING HOME ADMINISTRATOR-IN-TRAINING SHALL REGISTER THE FACT OF SUCH TRAINING WITH THE BOARD IN ACCORDANCE WITH THE RULES AND ON FORMS PROVIDED BY THE BOARD.

(4) THE BOARD SHALL, THROUGH RULES AND REGULATIONS, ESTABLISH A MONITORING MECHANISM THAT WILL PROVIDE OVERSIGHT OF THE ADMINISTRATOR-IN-TRAINING PROGRAM.

(5) THIS SECTION SHALL NOT APPLY TO THE FOLLOWING:

(a) INDIVIDUALS WHO HAVE OBTAINED A BACHELOR'S DEGREE IN BUSINESS ADMINISTRATION, PUBLIC HEALTH ADMINISTRATION, HEALTH ADMINISTRATION, OR ANY OTHER RELATED DEGREE OR DEGREES DEEMED APPROPRIATE BY THE BOARD;

(b) INDIVIDUALS WHO HAVE OBTAINED AN ASSOCIATE DEGREE IN A HEALTH CARE-RELATED FIELD AND WHO HAVE ALSO OBTAINED A MINIMUM OF TWO YEARS EXPERIENCE IN SUPERVISION OR ADMINISTRATION IN A NURSING HOME OR HOSPITAL.

FOR PURPOSES OF THIS SECTION, A REGISTERED NURSE WHO IS A GRADUATE OF A THREE-YEAR DIPLOMA PROGRAM SHALL BE CONSIDERED TO HAVE MET THE ASSOCIATE DEGREE REQUIREMENT.

(6) THE BOARD MAY WAIVE ANY PORTION REQUIRED BY SUBSECTION (1) OF THIS SECTION IF IT FINDS THAT THE APPLICANT HAS PRIOR EXPERIENCE OR TRAINING SUFFICIENT TO SATISFY REQUIREMENTS ESTABLISHED BY RULE OR REGULATION OF THE BOARD.

**12-39-108. Licenses.** (1) ANY LICENSE ISSUED BY THE BOARD SHALL BE VALID FOR A PERIOD OF ONE YEAR FROM THE DATE OF ISSUANCE. ANY SUCH LICENSE SHALL BE SUBJECT TO RENEWAL BY THE BOARD PURSUANT TO THE STANDARDS SET FORTH IN SECTION 24-4-104, C.R.S. IF ANY LICENSEE FAILS TO RENEW SUCH LICENSE PRIOR TO ITS EXPIRATION THE LICENSE SHALL AUTOMATICALLY EXPIRE. A NURSING HOME ADMINISTRATOR FORMERLY LICENSED IN THIS STATE MAY HAVE AN EXPIRED LICENSE REINSTATED, PURSUANT TO RULES AND REGULATIONS ESTABLISHED BY THE BOARD.

(2) ANY PERSON HOLDING A VALID LICENSE AS A NURSING HOME ADMINISTRATOR PRIOR TO JULY 1, 1993, SHALL BE LICENSED UNDER THE PROVISIONS OF THIS ARTICLE WITHOUT FURTHER APPLICATION BY SAID PERSON.

(3) ONLY AN INDIVIDUAL WHO HAS QUALIFIED AS A LICENSED NURSING HOME ADMINISTRATOR UNDER THE PROVISIONS OF THIS ARTICLE AND WHO HOLDS A VALID CURRENT LICENSE PURSUANT TO THE PROVISIONS OF THIS SECTION HAS THE PRIVILEGE OF USING THE TITLE "NURSING HOME ADMINISTRATOR" AND THE RIGHT AND THE PRIVILEGE OF USING THE ABBREVIATION "N.H.A." AFTER SUCH PERSON'S NAME.

(4) THE BOARD SHALL MAINTAIN A LIST OF ALL LICENSED NURSING HOME ADMINISTRATORS, WHICH LIST SHALL SHOW: THE PLACE OF RESIDENCE, THE NAME AND AGE OF EACH LICENSEE, ANY ACTION TAKEN BY THE BOARD, THE NUMBER OF THE LICENSE ISSUED TO THE LICENSEE, AND SUCH OTHER PERTINENT INFORMATION AS THE BOARD MAY DEEM NECESSARY. THE DEPARTMENT SHALL KEEP A LIST OF APPLICANTS WHO ARE DENIED.

(5) THE BOARD MAY ISSUE A TEMPORARY LICENSE TO AN APPLICANT FOR A PERIOD NOT TO EXCEED SIX MONTHS. THE BOARD SHALL PROMULGATE RULES AND REGULATIONS FOR THE ISSUANCE OF SUCH A TEMPORARY LICENSE.

(6) A TEMPORARY LICENSE SHALL BE GRANTED TO AN APPLICANT WHO IS EMPLOYED AS A HOSPITAL ADMINISTRATOR BY A GENERAL HOSPITAL LICENSED OR CERTIFIED BY THE DEPARTMENT OF HEALTH. SUCH TEMPORARY PERMIT SHALL BE GRANTED FOR A PERIOD NOT TO EXCEED TWELVE MONTHS AND SHALL BE VOID AT SUCH TIME THE LICENSE HOLDER IS NO LONGER EMPLOYED BY THE GENERAL HOSPITAL.

(7) THE BOARD SHALL ESTABLISH, PURSUANT TO SECTION 24-34-105, C.R.S., AND PUBLISH ANNUALLY A SCHEDULE OF FEES FOR THE LICENSING OF NURSING HOME ADMINISTRATORS.

(8) ALL MONEYS COLLECTED OR RECEIVED BY THE BOARD SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME AS PROVIDED IN SECTION

24-34-105, C.R.S., AND THE GENERAL ASSEMBLY SHALL MAKE ANNUAL APPROPRIATIONS PURSUANT TO SAID SECTION FOR THE EXPENDITURES OF THE BOARD INCURRED IN THE PERFORMANCE OF ITS DUTIES UNDER THIS ARTICLE, WHICH EXPENDITURES SHALL BE MADE FROM SUCH APPROPRIATIONS UPON VOUCHERS AND WARRANTS DRAWN PURSUANT TO LAW.

(9) NO NURSING HOME ADMINISTRATOR WHO HAS HAD A LICENSE REVOKED MAY APPLY FOR LICENSURE BEFORE A ONE-YEAR WAITING PERIOD FOLLOWING THE DATE OF SUCH REVOCATION AND MUST COMPLY WITH ALL REQUIREMENTS ESTABLISHED BY RULES AND REGULATIONS OF THE BOARD.

(10) EACH LICENSEE SHALL, WITHIN THIRTY DAYS, NOTIFY THE BOARD OF ANY CONVICTION OF A FELONY OR THE ACCEPTANCE OF A GUILTY PLEA OR A PLEA OF NOLO CONTENDERE TO A FELONY.

**12-39-109. Examinations.** (1) THE BOARD SHALL DETERMINE THE SUBJECTS OF THE STATE EXAMINATION FOR ALL APPLICANTS FOR LICENSURE AS NURSING HOME ADMINISTRATORS.

(2) EXAMINATIONS SHALL BE HELD AT LEAST SEMIANNUALLY AT SUCH TIMES AND PLACES AS THE BOARD SHALL DESIGNATE. ANY EXAMINATION SHALL BE PREPARED OR APPROVED BY THE BOARD.

(3) THE BOARD SHALL HAVE THE AUTHORITY TO SELECT AND ADMINISTER A NATIONAL EXAMINATION.

**12-39-110. Reciprocity.** (1) THE BOARD SHALL ISSUE A LICENSE TO ANY PERSON DULY LICENSED TO PRACTICE NURSING HOME ADMINISTRATION IN ANOTHER STATE OR TERRITORY OF THE UNITED STATES WHO POSSESSES CREDENTIALS AND QUALIFICATIONS WHICH ARE SUBSTANTIALLY EQUIVALENT TO THE REQUIREMENTS OF SECTION 12-39-106 AND WHO SUCCESSFULLY COMPLETES THE COLORADO STATE EXAMINATION PROVIDED IN SECTION 12-39-109. FOR PURPOSES OF THIS SECTION, "STATE OR TERRITORY" INCLUDES THE DISTRICT OF COLUMBIA AND THE COMMONWEALTH OF PUERTO RICO.

(2) AN APPLICANT FOR LICENSURE UNDER THIS SECTION SHALL SUBMIT TO THE BOARD, IN A FORM PRESCRIBED BY THE BOARD, ALL OF THE FOLLOWING:

(a) EVIDENCE THAT THE APPLICANT HOLDS A CURRENT, ACTIVE LICENSE TO PRACTICE NURSING HOME ADMINISTRATION ISSUED BY A STATE OR TERRITORY OF THE UNITED STATES OTHER THAN COLORADO. SUCH EVIDENCE SHALL INCLUDE A LICENSE HISTORY FROM THE STATE OR TERRITORY THAT ISSUED THE LICENSE, INDICATING WHETHER ANY DISCIPLINARY OR OTHER ADVERSE ACTIONS ARE CURRENTLY PENDING OR HAVE EVER BEEN TAKEN IN CONNECTION WITH THAT LICENSE AND THE FINAL DISPOSITION OF SUCH ACTIONS, IF ANY. IF AN APPLICANT IS OR HAS BEEN LICENSED IN MORE THAN ONE STATE OR TERRITORY OTHER THAN COLORADO, THE APPLICANT SHALL SUBMIT A LICENSE HISTORY OR SIMILAR RECORD AS DESCRIBED IN THIS PARAGRAPH (a) FROM EACH SUCH STATE OR TERRITORY.

(b) A LICENSE HISTORY OR SIMILAR RECORD, AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2), RELATING TO ANY LICENSE OR REGISTRATION WHICH THE



APPLICANT HOLDS OR HAS HELD IN ANY OTHER HEALTH CARE OCCUPATION IN ANY STATE OR TERRITORY OTHER THAN COLORADO. FOR PURPOSES OF THIS SECTION, "HEALTH CARE OCCUPATION" INCLUDES WITHOUT LIMITATION THE PRACTICES OF MEDICINE, DENTISTRY, PSYCHIATRY, PSYCHOLOGY, NURSING, PHYSICAL THERAPY, GERONTOLOGY, CHIROPRACTIC, PODIATRY, MIDWIFERY, OPTOMETRY, PHARMACY, AND ANY OTHER PRACTICE IN WHICH INDIVIDUALS ARE TREATED FOR MEDICAL OR PSYCHOLOGICAL PROBLEMS OR CONDITIONS, AS WELL AS THE RENDITION OF ANY SERVICE SUPPORTIVE TO OR ANCILLARY TO THOSE PRACTICES.

(c) VERIFICATION THAT THE APPLICANT HAS BEEN ENGAGED IN THE PRACTICE OF NURSING HOME ADMINISTRATION, HAS TAUGHT IN A HEALTH CARE ADMINISTRATION PROGRAM, OR HAS SERVED AS A MEMBER OF A NURSING HOME SURVEY OR ACCREDITATION TEAM FOR ONE YEAR IMMEDIATELY PRECEDING THE DATE OF APPLICATION, OR HAS BEEN ENGAGED IN ONE OF THE SERVICES DESCRIBED IN THIS PARAGRAPH (c) FOR THREE OF THE FIVE YEARS IMMEDIATELY PRECEDING THE DATE OF APPLICATION.

**12-39-111. Grounds for discipline.** (1) THE BOARD HAS THE POWER TO REVOKE, SUSPEND, WITHHOLD, OR REFUSE TO RENEW ANY LICENSE, TO PLACE ON PROBATION A LICENSEE OR TEMPORARY LICENSE HOLDER, OR TO ISSUE A LETTER OF ADMONITION TO A LICENSEE IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN SUBSECTION (3) OF THIS SECTION, UPON PROOF THAT SUCH PERSON:

(a) HAS PROCURED OR ATTEMPTED TO PROCURE A LICENSE BY FRAUD, DECEIT, MISREPRESENTATION, MISLEADING OMISSION, OR MATERIAL MISSTATEMENT OF FACT;

(b) HAS BEEN CONVICTED OF A FELONY OR PLED GUILTY OR NOLO CONTENDERE TO A FELONY. A CERTIFIED COPY OF THE JUDGMENT OF CONVICTION BY A COURT OF COMPETENT JURISDICTION SHALL BE PRIMA FACIE EVIDENCE OF SUCH CONVICTION. IN CONSIDERING A POSSIBLE REVOCATION, SUSPENSION, OR NONRENEWAL OF A LICENSE OR TEMPORARY LICENSE THE BOARD SHALL BE GOVERNED BY THE PROVISIONS OF SECTION 24-5-101, C.R.S.

(c) HAS HAD A LICENSE TO PRACTICE NURSING HOME ADMINISTRATION OR ANY OTHER HEALTH CARE OCCUPATION SUSPENDED OR REVOKED IN ANY JURISDICTION. A CERTIFIED COPY OF THE ORDER OF SUSPENSION OR REVOCATION SHALL BE PRIMA FACIE EVIDENCE OF SUCH SUSPENSION OR REVOCATION.

(d) HAS VIOLATED OR AIDED OR ABETTED A VIOLATION OF ANY PROVISION OF THIS ARTICLE, ANY RULE OR REGULATION ADOPTED UNDER THIS ARTICLE, OR ANY LAWFUL ORDER OF THE BOARD;

(e) HAS COMMITTED OR ENGAGED IN ANY ACT OR OMISSION WHICH FAILS TO MEET GENERALLY ACCEPTED STANDARDS FOR SUCH NURSING HOME ADMINISTRATION PRACTICE OR LICENSURE;

(f) HAS FALSIFIED OR MADE INCORRECT ENTRIES OR FAILED TO MAKE ESSENTIAL ENTRIES ON PATIENT RECORDS;

(g) IS ADDICTED TO OR DEPENDENT ON ALCOHOL OR HABIT FORMING DRUGS AS DEFINED IN SECTION 12-22-102 (13), ABUSES OR ENGAGES IN THE HABITUAL OR

EXCESSIVE USE OF ANY SUCH HABIT FORMING DRUG OR ANY CONTROLLED SUBSTANCE AS DEFINED IN SECTION 12-22-303 (7) OR 18-18-102 (5), C.R.S., OR PARTICIPATES IN THE UNLAWFUL USE OF CONTROLLED SUBSTANCES AS SPECIFIED IN SECTION 18-18-404, C.R.S.; EXCEPT THAT THE BOARD HAS THE DISCRETION NOT TO DISCIPLINE THE LICENSEE IF SUCH PERSON IS PARTICIPATING, IN GOOD FAITH, IN A PROGRAM APPROVED BY THE BOARD DESIGNED TO END SUCH ADDICTION OR DEPENDENCY;

(h) HAS A PHYSICAL OR MENTAL DISABILITY WHICH RENDERS THE LICENSEE UNABLE TO PRACTICE NURSING HOME ADMINISTRATION WITH REASONABLE SKILL AND SAFETY TO THE PATIENTS AND WHICH MAY ENDANGER THE HEALTH OR SAFETY OF PERSONS UNDER SUCH LICENSEE'S CARE;

(i) HAS VIOLATED THE CONFIDENTIALITY OF INFORMATION OR KNOWLEDGE AS PRESCRIBED BY LAW CONCERNING ANY PATIENT;

(j) HAS VIOLATED SECTION 18-13-119, C.R.S., CONCERNING THE ABUSE OF HEALTH INSURANCE; OR

(k) HAS FAILED TO POST IN THE NURSING HOME FACILITY IN A CONSPICUOUS PLACE AND IN CLEARLY LEGIBLE TYPE A NOTICE GIVING THE ADDRESS AND TELEPHONE NUMBER OF THE BOARD AND STATING THAT COMPLAINTS MAY BE MADE TO THE BOARD.

(2) THE BOARD NEED NOT FIND THAT THE ACTIONS WHICH ARE GROUNDS FOR DISCIPLINE WERE WILLFUL OR NEGLIGENT, BUT IT MAY CONSIDER THE SAME IN DETERMINING THE NATURE OF DISCIPLINARY SANCTIONS TO BE IMPOSED.

(3) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN INSTANCE OF MISCONDUCT WHICH, IN THE OPINION OF THE BOARD, DOES NOT WARRANT FORMAL ACTION BY THE BOARD BUT WHICH SHOULD NOT BE DISMISSED WITHOUT MERIT, A LETTER OF ADMONITION MAY BE SENT BY CERTIFIED MAIL TO THE NURSING HOME ADMINISTRATOR AGAINST WHOM THE COMPLAINT WAS MADE AND A COPY TO THE PERSON MAKING THE COMPLAINT. WHEN A LETTER OF ADMONITION IS SENT BY CERTIFIED MAIL BY THE BOARD TO A NURSING HOME ADMINISTRATOR AGAINST WHOM A COMPLAINT HAS BEEN MADE, SUCH NURSING HOME ADMINISTRATOR SHALL BE ADVISED OF THE RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER PROVEN RECEIPT OF THE LETTER, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED TO ADJUDICATE THE PROPRIETY OF THE CONDUCT UPON WHICH THE LETTER OF ADMONITION IS BASED. IF SUCH REQUEST IS TIMELY MADE, THE LETTER OF ADMONITION SHALL BE DEEMED VACATED, AND THE MATTER SHALL BE PROCESSED BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS, PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S.

(4) IF THE BOARD FINDS THE CHARGES PROVEN AND ORDERS THAT DISCIPLINE BE IMPOSED, IT MAY ALSO REQUIRE THE LICENSEE TO PARTICIPATE IN A TREATMENT PROGRAM OR COURSE OF TRAINING OR EDUCATION AS A REQUIREMENT FOR REINSTATEMENT AS MAY BE NEEDED TO CORRECT ANY DEFICIENCY FOUND IN THE HEARING.

**12-39-112. Withholding or denial of license - hearing.** THE BOARD HAS THE AUTHORITY, PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., TO DETERMINE WHETHER

AN APPLICANT FOR A LICENSE OR A TEMPORARY LICENSE TO PRACTICE AS A NURSING HOME ADMINISTRATOR POSSESSES THE QUALIFICATIONS REQUIRED BY THIS ARTICLE, OR WHETHER THERE ARE REASONABLE GROUNDS TO BELIEVE THAT SUCH APPLICANT HAS DONE ANY OF THE ACTS SET FORTH IN SECTION 12-39-111 AS GROUNDS FOR DISCIPLINE. AS USED IN THIS SECTION, "APPLICANT" DOES NOT INCLUDE A PERSON SEEKING THE RENEWAL OF A LICENSE.

**12-39-113. Mental and physical examination of licensees.** (1) (a) IF THE BOARD HAS REASONABLE GROUNDS TO BELIEVE THAT A LICENSEE OR TEMPORARY LICENSE HOLDER IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY TO PATIENTS BECAUSE OF A CONDITION DESCRIBED IN SECTION 12-39-111 (1) (g) OR (1) (h), IT MAY REQUIRE SUCH PERSON TO SUBMIT TO A MENTAL OR PHYSICAL EXAMINATION BY A PHYSICIAN IT DESIGNATES. UPON THE FAILURE OF SUCH PERSON TO SUBMIT TO SUCH MENTAL OR PHYSICAL EXAMINATION, UNLESS DUE TO CIRCUMSTANCES BEYOND SUCH PERSON'S CONTROL, THE BOARD MAY SUSPEND SUCH PERSON'S LICENSE UNTIL SUCH TIME AS SUCH PERSON SUBMITS TO THE REQUIRED EXAMINATIONS.

(b) EVERY LICENSEE OR TEMPORARY LICENSE HOLDER BY ENGAGING IN THE PRACTICE OF NURSING HOME ADMINISTRATION IN THIS STATE OR BY APPLYING FOR THE RENEWAL OF A LICENSE OR TEMPORARY LICENSE SHALL BE DEEMED TO HAVE GIVEN CONSENT TO SUBMIT TO A MENTAL OR PHYSICAL EXAMINATION WHEN SO DIRECTED IN WRITING BY THE BOARD. THE DIRECTION TO SUBMIT TO SUCH AN EXAMINATION SHALL CONTAIN THE BASIS OF THE BOARD'S REASONABLE GROUNDS TO BELIEVE THAT THE LICENSEE IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY TO PATIENTS BECAUSE OF A CONDITION DESCRIBED IN SECTION 12-39-111 (1) (g) OR (1) (h). THE LICENSEE SHALL BE DEEMED TO HAVE WAIVED ALL OBJECTIONS TO THE ADMISSIBILITY OF THE EXAMINING PHYSICIAN'S TESTIMONY OR EXAMINATION REPORTS ON THE GROUND OF PRIVILEGED COMMUNICATION.

(2) NOTHING IN THIS SECTION SHALL PREVENT THE LICENSEE FROM SUBMITTING TESTIMONY OR EXAMINATION REPORTS OF A PHYSICIAN DESIGNATED BY THE LICENSEE THAT PERTAINS TO A CONDITION DESCRIBED IN SECTION 12-39-111 (1) (g) OR (1) (h) WHICH MAY BE CONSIDERED BY THE BOARD IN CONJUNCTION WITH, BUT NOT IN LIEU OF, TESTIMONY AND EXAMINATION REPORTS OF THE PHYSICIAN DESIGNATED BY THE BOARD.

(3) THE RESULTS OF ANY MENTAL OR PHYSICAL EXAMINATION ORDERED BY THE BOARD SHALL NOT BE USED AS EVIDENCE IN ANY PROCEEDING OTHER THAN ONE BEFORE THE BOARD AND SHALL NOT BE DEEMED PUBLIC RECORDS NOR MADE AVAILABLE TO THE PUBLIC.

**12-39-114. Disciplinary proceedings - administrative law judge - judicial review.** (1) THE BOARD, THROUGH THE DEPARTMENT OF REGULATORY AGENCIES, HAS THE AUTHORITY TO DESIGNATE AN ADMINISTRATIVE LAW JUDGE TO CONDUCT HEARINGS ON ANY MATTER WITHIN THE BOARD'S JURISDICTION. ANY DESIGNATED ADMINISTRATIVE LAW JUDGE SHALL HAVE THE POWERS AND DUTIES SET FORTH IN ARTICLE 4 OF TITLE 24, C.R.S., AND SHALL BE APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S.

(2) DISCIPLINARY PROCEEDINGS MAY BE COMMENCED WHEN THE BOARD HAS REASONABLE GROUNDS TO BELIEVE THAT A LICENSEE UNDER THE BOARD'S

JURISDICTION HAS COMMITTED ACTS IN VIOLATION OF SECTION 12-39-111.

(3) DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED IN THE MANNER PRESCRIBED BY ARTICLE 4 OF TITLE 24, C.R.S., AND THE HEARING AND OPPORTUNITY FOR REVIEW SHALL BE CONDUCTED PURSUANT TO SAID ARTICLE BY THE BOARD OR AN ADMINISTRATIVE LAW JUDGE, AT THE BOARD'S DISCRETION.

(4) NO PREVIOUSLY ISSUED LICENSE TO ENGAGE IN THE PRACTICE OF NURSING HOME ADMINISTRATION SHALL BE REVOKED OR SUSPENDED UNTIL A HEARING HAS BEEN CONDUCTED PURSUANT TO SECTION 24-4-105, C.R.S., OR, FOR EMERGENCY SITUATIONS, PURSUANT TO SECTION 24-4-104 (4), C.R.S. THE DENIAL OF AN APPLICATION TO RENEW AN EXISTING LICENSE SHALL BE TREATED IN ALL RESPECTS AS A REVOCATION.

(5) ANY PERSON PARTICIPATING IN GOOD FAITH IN THE MAKING OF A COMPLAINT OR REPORT OR PARTICIPATING IN ANY INVESTIGATIVE OR ADMINISTRATIVE PROCEEDING PURSUANT TO THIS ARTICLE SHALL BE IMMUNE FROM ANY LIABILITY, CIVIL OR CRIMINAL, THAT OTHERWISE MIGHT RESULT BY REASON OF SUCH ACTION.

(6) COMPLAINTS, INVESTIGATIONS, HEARINGS, MEETINGS, OR ANY OTHER PROCEEDINGS OF THE BOARD CONDUCTED PURSUANT TO THE PROVISIONS OF THIS ARTICLE AND RELATING TO DISCIPLINARY PROCEEDINGS SHALL BE EXEMPT FROM THE PROVISION OF ANY LAW REQUIRING THAT PROCEEDINGS OF THE BOARD BE CONDUCTED PUBLICLY OR THAT THE MINUTES OR RECORDS OF THE BOARD WITH RESPECT TO ACTION OF THE BOARD TAKEN PURSUANT TO THE PROVISIONS OF THIS ARTICLE BE OPEN TO PUBLIC INSPECTION; EXCEPT THAT THIS EXEMPTION SHALL APPLY ONLY WHEN THE BOARD, OR AN ADMINISTRATIVE LAW JUDGE ACTING ON BEHALF OF THE BOARD SPECIFICALLY DETERMINES THAT IT IS IN THE BEST INTEREST OF A COMPLAINANT OR OTHER RECIPIENT OF SERVICES TO KEEP SUCH PROCEEDINGS OR DOCUMENTS RELATING THERETO CLOSED TO THE PUBLIC, OR IF THE LICENSEE IS VIOLATING SECTION 12-39-111 (1) (g), PARTICIPATING IN GOOD FAITH IN A PROGRAM APPROVED BY THE BOARD OR DESIGNED BY THE BOARD TO END ANY ADDICTION OR DEPENDENCY SPECIFIED IN SAID SECTION, AND THE LICENSEE HAS NOT VIOLATED ANY PROVISIONS OF THE BOARD ORDER REGARDING PARTICIPATION IN SUCH A TREATMENT PROGRAM. IF THE BOARD DETERMINES THAT IT IS IN THE BEST INTEREST OF A COMPLAINANT OR OTHER RECIPIENT OF SERVICES TO KEEP SUCH PROCEEDINGS OR DOCUMENTS RELATING THERETO CLOSED TO THE PUBLIC, THEN THE FINAL ACTION OF THE BOARD SHALL BE OPEN TO THE PUBLIC WITHOUT DISCLOSING THE NAME OF THE CLIENT OR OTHER RECIPIENT. FINAL BOARD ACTIONS AND ORDERS APPROPRIATE FOR JUDICIAL REVIEW MAY BE JUDICIALLY REVIEWED IN THE COURT OF APPEALS IN ACCORDANCE WITH SECTION 24-4-106 (11), C.R.S.

**12-39-115. Temporary advisory committees - immunity.** (1) THE BOARD MAY APPOINT TEMPORARY ADVISORY COMMITTEES, INCLUDING TEMPORARY PROFESSIONAL REVIEW COMMITTEES, TO ASSIST IN THE PERFORMANCE OF ITS DUTIES WITH RESPECT TO INDIVIDUAL INVESTIGATIONS. EACH TEMPORARY ADVISORY COMMITTEE SHALL CONSIST OF AT LEAST THREE LICENSEES WHO HAVE EXPERTISE IN THE AREA UNDER REVIEW. MEMBERS OF TEMPORARY ADVISORY COMMITTEES SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES BUT SHALL BE REIMBURSED FOR THE ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

(2) IF A PROFESSIONAL REVIEW COMMITTEE IS ESTABLISHED PURSUANT TO SUBSECTION (1) OF THIS SECTION TO INVESTIGATE THE QUALITY OF CARE BEING GIVEN BY A PERSON LICENSED PURSUANT TO THIS ARTICLE, SUCH COMMITTEE SHALL INCLUDE IN ITS MEMBERSHIP AT LEAST THREE PERSONS LICENSED IN THE SAME CATEGORY AS THE LICENSEE UNDER REVIEW, BUT SUCH COMMITTEE MAY BE AUTHORIZED TO ACT ONLY BY THE BOARD.

(3) ANY MEMBER OF THE BOARD OR PROFESSIONAL REVIEW COMMITTEE AUTHORIZED BY THE BOARD, AND ANY WITNESS APPEARING BEFORE THE BOARD OR SUCH PROFESSIONAL REVIEW COMMITTEE, SHALL BE IMMUNE FROM SUIT IN ANY CIVIL ACTION BROUGHT BY A LICENSEE WHO IS THE SUBJECT OF A PROFESSIONAL REVIEW PROCEEDING, IF SUCH MEMBER OR WITNESS ACTS IN GOOD FAITH WITHIN THE SCOPE OF THE FUNCTION OF THE BOARD OR COMMITTEE, HAS MADE A REASONABLE EFFORT TO OBTAIN THE FACTS OF THE MATTER BEFORE THE COMMITTEE OR BOARD, AND ACTS IN THE REASONABLE BELIEF THAT THE ACTION TAKEN IS WARRANTED BY THE FACTS.

**12-39-116. Unlawful practices.** (1) IT IS UNLAWFUL FOR ANY PERSON:

(a) TO PRACTICE AS A NURSING HOME ADMINISTRATOR UNLESS LICENSED THEREFOR;

(b) TO USE IN CONNECTION WITH SUCH PERSON'S NAME ANY DESIGNATIONS TENDING TO IMPLY THAT SUCH PERSON IS A LICENSED NURSING HOME ADMINISTRATOR, UNLESS SUCH PERSON IN FACT HOLDS A VALID LICENSE THEREFOR;

(c) TO PRACTICE AS A NURSING HOME ADMINISTRATOR DURING A PERIOD WHEN SUCH PERSON'S LICENSE HAS BEEN SUSPENDED OR REVOKED;

(d) TO SELL, FRAUDULENTLY OBTAIN, OR FURNISH A LICENSE TO PRACTICE AS A NURSING HOME ADMINISTRATOR, OR TO AID OR ABET THEREIN.

(2) ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION COMMITS A CLASS 3 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S. ANY PERSON WHO SUBSEQUENTLY VIOLATES ANY PROVISION OF THIS SECTION WITHIN THREE YEARS AFTER THE DATE OF THE FIRST CONVICTION COMMITS A CLASS 6 FELONY AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-105, C.R.S.

**12-39-117. Cease and desist orders.** IF AS THE RESULT OF AN INVESTIGATION OF A COMPLAINT BY ANY PERSON OR ON THE BOARD'S OWN MOTION THE BOARD DETERMINES THAT ANY PERSON IS ACTING OR HAS ACTED WITHOUT THE REQUIRED LICENSE, THE BOARD MAY ENTER AN ORDER REQUIRING SUCH PERSON TO CEASE AND DESIST FROM SUCH VIOLATION. THE ORDER SHALL SET FORTH THE STATUTES AND RULES AND REGULATIONS ALLEGED TO HAVE BEEN VIOLATED, THE FACTS ALLEGED TO HAVE CONSTITUTED THE VIOLATION, AND THE REQUIREMENT THAT ALL UNLAWFUL ACTS IMMEDIATELY CEASE. NO STAY OF A CEASE AND DESIST ORDER SHALL BE ISSUED BEFORE A HEARING HAS BEEN HELD AT WHICH BOTH PARTIES HAVE HAD AN OPPORTUNITY TO APPEAR. MATTERS BROUGHT BEFORE A COURT PURSUANT TO THIS SECTION SHALL HAVE PREFERENCE OVER OTHER MATTERS ON THE CALENDAR OF THE COURT.

**12-39-118. Injunctive proceedings.** THE BOARD, IN THE NAME OF THE PEOPLE OF

THE STATE OF COLORADO, MAY APPLY FOR INJUNCTIVE RELIEF THROUGH THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY IN ANY COURT OF COMPETENT JURISDICTION TO ENJOIN ANY PERSON WHO DOES NOT POSSESS A CURRENTLY VALID OR ACTIVE NURSING HOME ADMINISTRATOR'S LICENSE FROM COMMITTING ANY ACT DECLARED TO BE UNLAWFUL OR PROHIBITED BY THIS ARTICLE. IN ANY ACTION TAKEN PURSUANT TO THIS SECTION THE COURT SHALL NOT REQUIRE THE BOARD TO PLEAD OR PROVE IRREPARABLE INJURY OR INADEQUACY OF A REMEDY AT LAW OR TO POST A BOND. IF IT IS ESTABLISHED THAT THE DEFENDANT HAS BEEN OR IS COMMITTING AN ACT DECLARED TO BE UNLAWFUL OR PROHIBITED BY THIS ARTICLE, THE COURT OR ANY JUDGE THEREOF SHALL ENTER A DECREE PERPETUALLY ENJOINING SAID DEFENDANT FROM FURTHER COMMITTING SUCH ACT. IN THE CASE OF A VIOLATION OF ANY INJUNCTION ISSUED UNDER THE PROVISIONS OF THIS SECTION, THE COURT OR ANY JUDGE THEREOF MAY SUMMARILY TRY AND PUNISH THE OFFENDER FOR CONTEMPT OF COURT. SUCH INJUNCTIVE PROCEEDINGS SHALL BE IN ADDITION TO, AND NOT IN LIEU OF, ALL PENALTIES AND OTHER REMEDIES PROVIDED IN THIS ARTICLE.

**12-39-119. Nursing home administrators of church or religious denominations - exempt.** A PERSON WHO SERVES AS AN ADMINISTRATOR OF A NURSING HOME CONDUCTED EXCLUSIVELY FOR PERSONS WHO RELY UPON TREATMENT BY SPIRITUAL MEANS ALONE, THROUGH PRAYER IN ACCORDANCE WITH THE CREED OR TENETS OF A CHURCH OR RELIGIOUS DENOMINATION, SHALL BE EXEMPT FROM THE PROVISIONS OF THIS ARTICLE.

**12-39-120. Records.** THE BOARD SHALL KEEP FORMAL RECORDS OF ALL COMPLAINTS IT RECEIVES AND OF THE FINAL DISPOSITION OF SUCH COMPLAINTS. THE BOARD SHALL BE RESPONSIBLE FOR IMPLEMENTING A TRACKING SYSTEM TO FACILITATE THE RETRIEVAL OF SUCH RECORDS.

**12-39-121. Repeal of article.** (1) THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 1999.

(2) PRIOR TO SUCH REPEAL, THE LICENSING FUNCTIONS OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS SHALL BE REVIEWED AS PROVIDED IN SECTION 24-34-104, C.R.S.

**SECTION 2.** 24-34-104 (22) (b) (II), Colorado Revised Statutes, 1988 Repl. Vol., is repealed as follows:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (22) (b) The following boards and agencies in the division of registrations shall terminate July 1, 1993:

(II) ~~Board of examiners of nursing home administrators, created by article 39 of title 12, C.R.S.~~

**SECTION 3.** 24-34-104 (28), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (28) (c) THE FOLLOWING BOARD AND ITS LICENSING FUNCTIONS SHALL TERMINATE JULY 1, 1999: THE BOARD OF

EXAMINERS OF NURSING HOME ADMINISTRATORS, CREATED PURSUANT TO SECTION 12-39-104, C.R.S.

**SECTION 4. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of registrations cash fund not otherwise appropriated, to the department of regulatory agencies for allocation to the board of examiners of nursing home administrators, for the fiscal year beginning July 1, 1993, the sum of thirty-five thousand three hundred thirty-five dollars (\$35,335) and 0.1 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of administration, for allocation to the division of administrative hearings, for the fiscal year beginning July 1, 1993, the sum of fourteen thousand seven hundred fifty-four dollars (\$14,754), or so much thereof as may be necessary, for the implementation of this act. Such appropriation shall be from cash funds received by the department of regulatory agencies from the division of registrations cash fund.

(3) In addition to any other appropriation, there is hereby appropriated, to the department of law, for the fiscal year beginning July 1, 1993, the sum of seven thousand four hundred fifty-nine dollars (\$7,459), or so much thereof as may be necessary, for the implementation of this act. Such appropriation shall be from cash funds received by the department of regulatory agencies from the division of registrations cash fund.

**SECTION 5. Effective date.** This act shall take effect July 1, 1993.

**SECTION 6. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 6, 1993