

**Title 12 Recodification Project**  
**Meeting to Discuss General Provisions Applicable to Title 12**  
**July 18, 2018**  
**10:00 a.m.**  
**HCR 0112**

**Persons present:**

Christy Chase, Office of Legislative Legal Services (OLLS)

Thomas Morris, OLLS

Jennifer Berman, OLLS

Jessica Wigent, OLLS

Nathan Batchelder, Dept. of Regulatory Agencies (DORA), Division of Professions and Occupations

Marcia Waters, DORA, Real Estate Division

Ronne Hines, DORA, Division of Professions and Occupations

**Review of Proposed Common Provisions regarding the scope of the article, donated services, inactive licenses, and military personnel and their spouses**

Christy Chase and the attendees moved through each proposed common provision.

Details from the discussion and the redraft of these provisions based on that discussion are included in this document.

**Next Meeting**

The next meeting is scheduled for August 8, 2018, in HCR 0112 at 10am, to discuss proposals to consolidate board/director powers in Title 12.

1 ARTICLE 1  
2 General Provisions Applicable to Professions and Occupations

3 PART 1  
4 COMMON PROVISIONS

5 12-1-101. **Short title.** THE SHORT TITLE OF THIS TITLE 12 IS THE "PROFESSIONS AND  
6 OCCUPATIONS ACT".

7 **Discussion: The group approved the short title.**

8 ~~12-1-102. **Scope of article.** THIS ARTICLE 1 CONTAINS COMMON PROVISIONS  
9 GENERALLY APPLICABLE THROUGHOUT THIS TITLE 12. HOWEVER, IF THERE IS ANY CONFLICT  
10 BETWEEN A PROVISION OF THIS ARTICLE 1 AND A PROVISION OF A SPECIFIC PRACTICE ACT IN  
11 ANY OTHER ARTICLE OF THIS TITLE 12, THE PROVISION OF THE PRACTICE ACT PREVAILS.~~

12 12-1-102. **Scope of article.** THIS ARTICLE 1 APPLIES TO EVERY ARTICLE IN THIS TITLE  
13 12 EXCEPT TO THE EXTENT SPECIFIED IN EITHER THIS ARTICLE 1 OR ANOTHER ARTICLE OF THIS  
14 TITLE 12.

15 **Discussion: As discussed at the previous meeting on July 12 (see [here](#) for the  
16 summary and [here](#) for audio of the meeting), there was general consensus that  
17 language was needed to make clear that the proposed common provisions are generally  
18 applicable; however, if there is a more specific provision in any practice act, that  
19 specific provision governs. The first, now stricken, version of the Scope of Article was  
20 modeled after a Nebraska uniform credentialing act for health care professionals.  
21 Those present at the meeting discussed that both versions of the proposed section 12-1-  
22 102 accomplish the previously state goal, but that the shorter and more concise version  
23 was actually more precise -- applying "this article 1" to "every article in this title 12"  
24 as opposed to applying the article to "a specific practice act", as not every article in  
25 Title 12 is a practice act, for example.**

26 <{~~12-1-103 will contain the definitions discussed at meeting on 07-12-18~~}>

27 **Discussion: OLLS staff continues to work on the definitions of "license",  
28 "certification", and "registration", as was discussed at the July 12 meeting. Please  
29 contact Christy Chase ([christy.chase@state.co.us](mailto:christy.chase@state.co.us)) or Tom Morris  
30 ([thomas.morris@state.co.us](mailto:thomas.morris@state.co.us)) with any feedback on the definitions or on any of the  
31 proposed common provisions.**

32 12-1-104. [Formerly 12-1.5-101] **Mandatory donation of services prohibited.**  
33 (1) ~~No~~ A regulatory agency or other department, division, agency, BOARD, COMMISSION,  
34 branch, instrumentality, or political subdivision of state government shall NOT require:  
35 (a) ~~any~~ A person practicing a regulated profession or occupation to donate ~~such~~ THE  
36 person's professional services without compensation to ~~any other~~ ANOTHER person as a

1 condition of admission to or continued licensure, ~~in such~~ CERTIFICATION, REGISTRATION, OR  
2 OTHER AUTHORIZATION TO PRACTICE THE profession or occupation; ~~nor shall~~

3 (b) Payment of money in lieu of ~~such~~ uncompensated service. ~~be required.~~

4 (2) This section shall not be construed to prohibit the crediting of required hours of  
5 continuing education in exchange for hours of donated services by a person in a regulated  
6 profession or occupation.

7 **Discussion: Currently, section 12-1.5-101 applies to all of Title 12. Marcia**  
8 **Waters, Director of the Division of Real Estate, commented that while she was not**  
9 **aware whether the section applied to the Division, mandatory donation of services have**  
10 **never been required.**

11 **The question that arose during the meeting was whether this section, in practice,**  
12 **applied to all of Title 12, and whether it applied to articles that have been moved out**  
13 **of the title in the past two years as part of the Title 12 Recodification Project. OLLS**  
14 **will engage in outreach to determine current applicability of section 12-1.5-101 to**  
15 **professions and occupations regulated by other divisions within DORA and by other**  
16 **state departments. Ronne Hines will check with Division of Insurance and Division of**  
17 **Securities in DORA.**

18 **12-1-105. [Formerly 12-70-101] Inactive license - rights and responsibilities -**  
19 **exclusion.** (1) Persons licensed, (~~which for purposes of this article shall include persons~~  
20 ~~referred to as certified~~) CERTIFIED, OR REGISTERED to practice any profession or occupation  
21 under this title **12** for which postgraduate study or attendance at educational institutions is  
22 required in order to obtain renewal of ~~such licenses~~ THE LICENSE, CERTIFICATION, OR  
23 REGISTRATION may have their names transferred to an inactive licensees, CERTIFICATE  
24 HOLDERS, OR REGISTRANTS category under this section. THE DIRECTOR AND every board AND  
25 COMMISSION authorized under this title **12** to issue licenses, CERTIFICATIONS, OR  
26 REGISTRATIONS shall maintain a list of inactive licensees, CERTIFICATE HOLDERS, OR  
27 REGISTRANTS, AS APPLICABLE, and upon written notice to ~~such~~ THE DIRECTOR, board, OR  
28 COMMISSION, AS APPLICABLE, any such licensee, CERTIFICATE HOLDER, OR REGISTRANT shall  
29 not be required to comply with any postgraduate educational requirements so long as ~~such~~  
30 THE licensee, CERTIFICATE HOLDER, OR REGISTRANT, AS APPLICABLE, remains inactive in the  
31 profession or occupation. Each ~~such~~ inactive licensee, CERTIFICATE HOLDER, OR REGISTRANT  
32 shall continue to meet the normal registration requirements imposed upon his OR HER  
33 profession or occupation.

34 (2) ~~Such~~ THE inactive status shall be noted on the face of any license, CERTIFICATION,  
35 OR REGISTRATION issued while the licensee, CERTIFICATE HOLDER, OR REGISTRANT remains  
36 inactive. ~~Should such~~ IF THE person ~~wish~~ WISHES to resume the practice of his OR HER  
37 profession or occupation after being placed on an inactive list, ~~he~~ THE PERSON shall file a  
38 proper application ~~therefor~~ TO REACTIVATE THE LICENSE, CERTIFICATION, OR REGISTRATION;  
39 pay the ~~registration~~ APPLICABLE renewal fee; and meet any postgraduate study or in-service  
40 requirements ~~which~~ THAT the DIRECTOR OR governing board may determine to be applicable  
41 to ~~such resumption of~~ RESUME THE practice.

1 (3) Engaging in the practice of a profession or occupation while on inactive status  
2 pursuant to this article *1* may be grounds for revocation.

3 (4) THIS SECTION DOES NOT APPLY TO A PERSON PRACTICING A PROFESSION OR  
4 OCCUPATION THAT IS REGULATED BY THE DIVISION OF REAL ESTATE CREATED IN SECTION 12-  
5 100-10X OR THE REAL ESTATE COMMISSION CREATED IN SECTION 12-100-10X.

6 **Discussion: The group wondered if the statute was not clear whether the current**  
7 **section 12-70-101 applies only to the Division of Professions and Occupations. There**  
8 **are professions, for example, that have continuing education requirements for inactive**  
9 **licenses. On the request of Ms. Waters, the double-underlined language was added to**  
10 **make clear that this section does not apply to the Division of Real Estate. OLLS staff**  
11 **is going to continue to research whether there are other practice acts that require**  
12 **continuing education requirements for inactive licenses.**

13 **The following part 2 will be moved to new article 203, which will consist of general**  
14 **provisions applicable to professions and occupations regulated by the Division of**  
15 **Professions and Occupations. Proposed numbering may change.**

## 16 ARTICLE 203

### 17 Provisions Applicable to Professions and Occupations 18 Regulated by Division of Professions and Occupations

19 \*\*\*\*\*

#### 20 PART 2

#### 21 MILITARY PERSONNEL AND SPOUSES

22 12-203-201. [Formerly 12-71-101] **Definitions.** As used in this article PART 2,  
23 unless the context otherwise requires:

24 (1) "Agency" means an agency of the state that regulates a profession or occupation  
25 under this title *12*.

26 (2) "Authority to practice" or "authorized to practice" means the holding of a  
27 currently valid license to practice in a profession or occupation or a currently valid  
28 certification or registration necessary to practice in a profession or occupation if the person  
29 is licensed, certified, or registered under this title *12* or a substantially similar law in another  
30 state.

31 (3) "Military spouse" means the spouse of a person who is actively serving in the  
32 United States armed forces and who is stationed in Colorado in accordance with military  
33 orders.

34 **Discussion: There was a discussion concerning the scope of article 71 as it**  
35 **currently exists in Title 12. Ms Waters explained that the Division of Real Estate has**  
36 **always been practically excluded from the requirements of this article due to federal**

1 **law governing mortgage loan originators and appraisers. The proposal then was to**  
2 **modify the draft of this part (which was originally part 2 of article 1), to move it to a**  
3 **new article so that it was not applicable to all of Title 12 but only to the Division of**  
4 **Professions and Occupations. OLLS will engage in outreach to determine the current**  
5 **applicability of section 12-71-101 to articles/parts that have been relocated from Title**  
6 **12 to other titles.**

7 **12-1-202. [Formerly 12-70-102] Active military personnel - exemptions from**  
8 **licensing requirements.** Each board or division except the division of real estate, that  
9 regulates persons licensed, certified, or registered pursuant to this title *12* shall exempt  
10 licensed, certified, or registered military personnel who have been called to federally funded  
11 active duty for more than one hundred twenty days for the purpose of serving in a war,  
12 emergency, or contingency from the payment of any professional or occupational license,  
13 certification, or registration fees, including renewal fees, and from any continuing education  
14 or professional competency requirements pursuant to this title *12* for a renewal cycle that  
15 falls within the period of service or within the six months following the completion of  
16 service in the war, emergency, or contingency.

17 **Discussion: After the group agreed that this part 2 would be under a new article**  
18 **in Title 12 (not under the originally proposed article 1), the "except the division of real**  
19 **estate," language can be stricken as this part will no longer be located in an article that**  
20 **applies to the Division of Real Estate. OLLS will engage in outreach to determine**  
21 **current applicability of section 12-70-102 to articles/parts that have been relocated**  
22 **from Title 12 to other titles.**

23 **12-1-203. Military spouse - authority to practice - reciprocity - notice.**  
24 (1) [Formerly 12-71-102 (1)] Notwithstanding any other article of this title *12*, a person  
25 need not obtain authority to practice an occupation or profession under this title *12* during  
26 the person's first year of residence in Colorado if:

27 (a) The person is a military spouse who is authorized to practice that occupation or  
28 profession in another state;

29 (b) Other than the person's lack of licensure, registration, or certification in Colorado,  
30 there is no basis to disqualify the person under this title *12*; and

31 (c) The person consents, as a condition of practicing in Colorado, to be subject to the  
32 jurisdiction and disciplinary authority of the appropriate agency.

33 (2) [Formerly 12-71-102 (2)] This section does not prevent an agency from entering  
34 into a reciprocity agreement with the regulating authority of another state or jurisdiction if  
35 otherwise authorized by law.

36 (3) [Formerly 12-71-102 (3)] This section does not apply to authority to practice  
37 under **article 25, 28, 36, OR 40 or 61** of this title *12*. <{***These numbers will need to be***  
38 ***updated once we know the new article numbers assigned through the recodification.***>

39 (4) [Formerly 12-71-103 (1)] If a person who is practicing in Colorado under THIS  
40 section ~~12-71-102~~            applies for authority to continue to practice after the first year

1 under another article of this title *12*, the applicant shall notify the agency receiving the  
2 application of the following:

3 (a) The applicant is currently practicing in Colorado under this ~~article~~ SECTION;

4 (b) The date the applicant began practicing in Colorado; and

5 (c) The name and contact information of any person employing the applicant to  
6 practice in Colorado.

7 (5) [Formerly 12-71-103 (2)] If an agency denies the application for authority to  
8 practice under this title *12*, the agency shall notify the employer that the person was denied  
9 authority to continue to practice under this title *12*.

10 **Discussion: After reviewing the proposed draft of sections 12-71-102 and 12-71-  
11 103, the group agreed that the two sections could be combined, as they both apply to  
12 military spouses.**

13  
14 12-1-204. [Formerly 12-71-104] Continuing education - regulated service  
15 members - rules. (1) An agency may accept, from a person with authority to practice,  
16 continuing education, training, or service completed as a member of the armed forces or  
17 reserves of the United States, the National Guard of any state, the military reserves of any  
18 state, or the naval militia of any state toward the educational qualifications to renew the  
19 person's authority to practice.

20 (2) An agency may promulgate rules establishing educational standards and  
21 procedures necessary to implement this section.

22 **Discussion: Per Ms. Waters, current section 12-71-104 does not apply to the  
23 Division of Real Estate. Ronne Hines will follow up to determine if the section applies  
24 to engineers, surveyors, and architects under article 25; physicians, physician  
25 assistants, and anesthesiologist assistants under article 36; optometrists under article  
26 40. Also, OLLS will engage in outreach to determine current applicability of section  
27 12-71-104 to articles/parts that have been relocated from Title 12 to other titles.**

28 12-1-205. [Formerly 12-71-105] Rules. The director of the division of professions  
29 and occupations may promulgate rules reasonably necessary to implement this ~~article~~ PART  
30 2.

31 **Discussion: The group agreed that there was no need to modify this language  
32 that is currently in statute.**