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ARTICLE 1
General Provisions

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

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

12-1-103. Definitions. AS USED IN THIS TITLE 12, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DEPARTMENT" MEANS THE DEPARTMENT OF REGULATORY AGENCIES CREATED IN SECTION 24-1-122.

(2) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

(3) "PROFESSION OR OCCUPATION", "PROFESSION", OR "OCCUPATION" MEANS AN ACTIVITY SUBJECT TO REGULATION BY A PART OR ARTICLE OF THIS TITLE 12.

<{Will insert Article 10 - real estate; and Article 15 - conservation after comment period ends on October 5}>

ARTICLE 20
Division of Professions and Occupations
PART 1
GENERAL PROVISIONS

12-20-101. Scope. THIS ARTICLE 20 APPLIES TO EVERY ARTICLE IN THIS TITLE 12 OTHER THAN ARTICLES 10 AND 15 <{real estate and conservation easements}> AND EXCEPT TO THE EXTENT OTHERWISE SPECIFIED IN THIS ARTICLE 20 OR ANOTHER ARTICLE OF THIS TITLE 12.

12-20-102. Definitions. AS USED IN THIS TITLE 12, EXCEPT ARTICLES 10 AND 15 OF THIS TITLE 12 OR UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "APPLICANT" MEANS A PERSON APPLYING, PURSUANT TO A PART OR ARTICLE OF THIS TITLE 12, FOR A NEW LICENSE, CERTIFICATION, OR REGISTRATION OR TO RENEW, REINSTATE, OR REACTIVATE A LICENSE, CERTIFICATION, OR REGISTRATION THAT IS AUTHORIZED PURSUANT TO THAT PART OR ARTICLE.

(2) "BOARD" MEANS A BOARD CREATED WITHIN THE DIVISION BY A PART OR ARTICLE OF THIS TITLE 12 THAT HAS REGULATORY AUTHORITY CONCERNING THE PRACTICE OF A

- 1 PROFESSION OR OCCUPATION REGULATED BY THAT PART OR ARTICLE.
- 2 (3) "CERTIFICATE HOLDER" MEANS A PERSON THAT HAS A VALID CERTIFICATE.
- 3 "CERTIFICANT" HAS A CORRESPONDING MEANING.
- 4 (4) "CERTIFICATE" OR "CERTIFICATION" MEANS A CREDENTIAL THAT DEMONSTRATES
- 5 THAT A PERSON HAS THE QUALIFICATIONS REQUIRED BY A PART OR ARTICLE OF THIS TITLE 12
- 6 TO PRACTICE THE A PROFESSION OR OCCUPATION REGULATED BY THAT PART OR ARTICLE.
- 7 (5) "COMMISSION" MEANS A COMMISSION CREATED WITHIN THE DIVISION BY A PART
- 8 OR ARTICLE OF THIS TITLE 12 THAT HAS REGULATORY AUTHORITY CONCERNING THE
- 9 PRACTICE OF A PROFESSION OR OCCUPATION REGULATED BY THAT PART OR ARTICLE.
- 10 (6) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION ~~OF PROFESSIONS AND~~
- 11 ~~OCCUPATIONS CREATED BY SECTION 12-20-103~~ OR THE DIRECTOR'S DESIGNEE. <{*Since*
- 12 *division is defined, can't we delete the stricken text?*}>
- 13 (7) "DIVISION" MEANS THE DIVISION OF PROFESSIONS AND OCCUPATIONS CREATED IN
- 14 THE DEPARTMENT BY SECTION 12-20-103.
- 15 (8) "LAW" MEANS THE FEDERAL AND STATE CONSTITUTIONS, STATUTES, RULES, AND
- 16 CASE LAW.
- 17 (9) "LICENSE" MEANS A GRANT OF AUTHORITY ISSUED BY THE DIRECTOR OR A BOARD
- 18 OR COMMISSION PURSUANT TO A PART OR ARTICLE OF THIS TITLE 12 THAT AUTHORIZES A
- 19 PERSON TO ENGAGE IN A PROFESSION OR OCCUPATION REGULATED BY THAT PART OR
- 20 ARTICLE.
- 21 (10) "LICENSEE" MEANS A PERSON REGULATED BY A PART OR ARTICLE OF THIS TITLE
- 22 12 THAT HOLDS A CURRENT LICENSE ISSUED PURSUANT TO THAT PART OR ARTICLE.
- 23 (11) "REGISTER" MEANS TO RECORD THE INFORMATION REQUIRED BY A PART OR
- 24 ARTICLE OF THIS TITLE 12 IN A FORM AND MANNER AS DETERMINED BY THE DIRECTOR OR A
- 25 BOARD OR COMMISSION THAT REGULATES THE PRACTICE OF A PROFESSION OR OCCUPATION
- 26 PURSUANT TO THAT PART OR ARTICLE. "REGISTERED" AND "REGISTRATION" HAVE
- 27 CORRESPONDING MEANINGS.
- 28 (12) "REGISTRANT" MEANS A PERSON THAT IS CURRENTLY REGISTERED.
- 29 (13) "REGULATE" MEANS TO SUBJECT A PERSON TO A REQUIREMENT, INCLUDING A
- 30 REQUIREMENT TO OBTAIN A LICENSE, CERTIFICATION, OR REGISTRATION, PURSUANT TO A
- 31 PART OR ARTICLE OF THIS TITLE 12 AND RULES ADOPTED PURSUANT TO THAT PART OR
- 32 ARTICLE OF THIS TITLE 12 IN ORDER TO PRACTICE A PROFESSION OR OCCUPATION.
- 33 "REGULATION" HAS A CORRESPONDING MEANING.
- 34 (14) "REGULATOR" MEANS, WITHIN A PARTICULAR PART OR ARTICLE OF THIS TITLE
- 35 12, THE DIRECTOR OR A BOARD OR COMMISSION, AS APPROPRIATE, THAT HAS REGULATORY
- 36 AUTHORITY CONCERNING THE PRACTICE OF A PROFESSION OR OCCUPATION REGULATED BY
- 37 THAT PART OR ARTICLE.

1 **12-20-103. Division of professions and occupations - creation - duties of division**
2 **and department head - office space - per diem for board or commission members -**
3 **review of functions. (1) [Formerly 24-34-102 (1)] Division created.** (a) ~~As used in this~~
4 ~~part 1, unless the context otherwise requires:~~

5 ~~(I) "Department" means the department of regulatory agencies.~~

6 ~~(II) "Director" means the director of the division of professions and occupations or~~
7 ~~the director's designee.~~

8 ~~(III) "Division" means the division of professions and occupations created in the~~
9 ~~department pursuant to this section.~~

10 ~~(IV) "Executive director" means the executive director of the department.~~

11 ~~(V) "License" has the same meaning as set forth in section 24-4-102.~~

12 ~~(VI) "Licensee" means a person who has been issued a license.~~

13 (b) There is hereby created a division of professions and occupations in the
14 department, the head of which is the director of professions and occupations. The executive
15 director shall appoint the director in accordance with section 13 of article XII of the state
16 constitution. Except as provided in ~~paragraph (c) of this subsection (1)~~ SUBSECTION (1)(b)
17 OF THIS SECTION, the director shall appoint other personnel as necessary for the efficient
18 operation of the division.

19 ~~(c)~~ (b) Subject to available appropriations, the director shall give good faith
20 consideration to the recommendations of any **type 1** board or commission relating to the
21 employment of the primary administrator to assist the board or commission, whether the
22 person is designated as an executive secretary, a program administrator, or another title or
23 position.

24 (2) **[Formerly 24-34-102 (2)] Supervision and support.** The division has
25 supervision and control of the **type 2** ~~examining and licensing boards and agencies~~
26 ~~transferred to~~ ENTITIES WITHIN the department by PURSUANT TO the "Administrative
27 Organization Act of 1968". For **type 1** ~~boards or commissions~~ ENTITIES, the division shall
28 provide necessary management support. <{*Ensure consistent with SRC bill.*}>

29 (3) **[Formerly 24-34-102 (3)] Approval of rules.** The supervision and control of,
30 and the management support for, ~~examining and licensing~~ boards, COMMISSIONS, and
31 ~~agencies~~ PROGRAMS by the department and the division also includes the approval or
32 disapproval of rules of the boards, COMMISSIONS, and ~~agencies~~ DIRECTOR relating to the
33 examination and licensure, CERTIFICATION, OR REGISTRATION of applicants to ensure that the
34 rules are fair and impartial. ~~The division shall not license a person who has applied to, and~~
35 ~~otherwise satisfied the requirements for, licensure by a board or agency until the applicant~~
36 ~~has paid and the division has received all applicable fees.~~

37 (4) **[Formerly 24-34-102 (4)] Staff.** Subject to subsection (1) of this section, each
38 ~~of the examining and licensing boards~~ BOARD, COMMISSION, or ~~agencies~~ PROGRAM may

1 employ and pay out of ~~moneys~~ MONEY appropriated to it by the general assembly only that
2 number of employees and subordinate officers as are certified by it and approved by the
3 executive director of the department of regulatory agencies to be necessary. ~~and the necessity~~
4 ~~for the employment of whom has been approved in writing by the governor.~~ All salaries to
5 be paid ~~such~~ TO THE employees and subordinate officers shall be within the appropriation
6 made therefor by the general assembly.

7 (5) **Office space.** (a) ~~[Formerly 24-34-102 (5)]~~ Each of the ~~examining and licensing~~
8 ~~boards or agencies~~ BOARD, COMMISSION, AND PROGRAM shall be provided with suitable
9 offices in the capitol buildings group if space is available in any of ~~such~~ THE buildings and,
10 if not, then in a suitable office building in the city and county of Denver selected by the
11 executive director of the department of personnel. It is lawful and proper for two or more
12 of ~~such~~ THE boards, COMMISSIONS, or ~~agencies~~ PROGRAMS to be assigned space in the same
13 office room or suite, if ~~such~~ THE grouping or joint occupancy, in the opinion of the executive
14 director, ~~of the department of regulatory agencies,~~ will not unreasonably interfere with the
15 efficient operation of any of ~~such~~ THE boards, COMMISSIONS, or ~~agencies~~ PROGRAMS so
16 grouped or joined.

17 (b) ~~[Formerly 24-34-102 (6)]~~ Each of the ~~examining and licensing boards or~~
18 ~~agencies~~ BOARD, COMMISSION, OR PROGRAM to which office space is provided shall pay into
19 the general ~~revenue~~ fund of the state, out of the ~~moneys appropriated~~ MONEY THE GENERAL
20 ASSEMBLY APPROPRIATES to it by the general assembly THE DIVISION, a monthly or annual
21 charge for rental, heat, light, telephone, collection, legal, and other state services made
22 available to ~~such~~ THE board, ~~or agency as may be fixed by~~ COMMISSION, OR PROGRAM. The
23 executive director of the department of personnel, with the approval of the executive director
24 of the department of regulatory agencies, ~~such~~ MAY FIX THE AMOUNT OF THE charges, ~~to be~~
25 WHICH MUST not BE more than twenty-five percent of the ~~moneys~~ MONEY appropriated to
26 it by the general assembly TO THE DIVISION FOR USE BY A BOARD, COMMISSION, OR PROGRAM.

27 (6) ~~[Formerly 24-34-102 (13)]~~ **Per diem.** Notwithstanding any law to the contrary,
28 each member of a board or commission ~~within the division~~ is entitled to receive a per diem
29 allowance of fifty dollars for each day spent in attendance at board OR COMMISSION
30 meetings, hearings, or examinations and to be reimbursed for actual and necessary expenses
31 incurred in the discharge of ~~such~~ THE MEMBER'S official duties. The per diem compensation
32 for board or commission members must not exceed that sum in any fiscal year that the state
33 personnel board approves for employees not under the state personnel system. The general
34 assembly shall annually appropriate ~~moneys~~ MONEY from the division of professions and
35 occupations cash fund for the payment of per diem compensation and expenses. A state
36 employee shall not receive per diem compensation for services performed during normal
37 working hours, when on paid administrative leave, or when otherwise prohibited by fiscal
38 rules adopted by the state controller.

1 (7) **[Formerly 24-34-102 (15)] Periodic evaluation of division functions.** The
2 department shall analyze and evaluate the division and its functions as set forth in this part
3 ~~1 and in title 12. C.R.S.~~ The department shall conduct the analysis and evaluation in
4 accordance with section 24-34-104 (5) and shall submit its report and recommendations for
5 legislation, if any, in accordance with that section. The department shall initially analyze and
6 evaluate the division and submit its report by October 15, 2015, and shall analyze and
7 evaluate the division every ten years thereafter. This section does not require the repeal of
8 the division or its functions as specified in this part ~~1 and in title 12. C.R.S.~~

9 **12-20-104. [Formerly 24-34-104.4] Excise tax on renewal fees - report to joint**
10 **budget committee - definition.** (1) Notwithstanding any provision of law to the contrary,
11 there is imposed, and the executive director ~~of the department of regulatory agencies~~ shall
12 collect, an excise tax OF ONE DOLLAR PER EACH YEAR OF THE RENEWAL PERIOD upon the
13 payment of the following fees:

- 14 (a) and (b) ~~(Deleted by amendment, L. 97, p. 1613, § 1, effective July 1, 1997.)~~
- 15 (c) ~~Repealed.~~
- 16 (d) ~~(Deleted by amendment, L. 97, p. 1613, § 1, effective July 1, 1997.)~~
- 17 (e) ~~Within the division of professions and occupations,~~ renewal fees that are required
18 to be paid by individuals for the renewal of a license, registration, or certificate granting the
19 individual authority or permission from the state to continue the practice of a profession or
20 occupation; except that ~~such~~ THE excise tax shall not be imposed on the renewal fee paid by
21 nurse aides pursuant to section ~~12-38.1-109, C.R.S.~~ The amount of the excise tax to be
22 collected shall be one dollar for each year of the renewal period **12-460-109.**

23 (2) For the purposes of this section, "renewal fees" includes all fees for the renewal,
24 reinstatement, and continuation of a license, registration, or certificate for the practice of a
25 profession or occupation in this state. "Renewal fees" does not include fees paid for initial
26 licensure, registration, or certification; application fees; examination fees; penalty late fees;
27 duplicate license fees; board action fees; verification fees; license change fees; fees for the
28 verification of licensure, registration, or certification status to other states; electrical
29 inspection permit fees; plumbing inspection fees; and fees for certification of grades.

- 30 ~~(2.5) Repealed.~~
- 31 (3) ~~Moneys~~ MONEY collected pursuant to subsection (1) of this section shall be
32 credited to the legal defense account created within the division of professions and
33 occupations cash fund pursuant to section ~~24-34-105 (2)(b)~~ **12-20-105 (5).**

- 34 (4) (a) ~~(Deleted by amendment, L. 97, p. 1613, § 1, effective July 1, 1997.)~~
- 35 (b) On October 1 of each year, the executive director ~~of the department of regulatory~~
36 ~~agencies~~ shall report to the joint budget committee the amount of money credited to the legal
37 defense account created within the division of professions and occupations cash fund

1 pursuant to subsection ~~(F)~~ (3) of this section for the preceding fiscal year.

2 **12-20-105. [Formerly 24-34-105] Fee adjustments - division of professions and**
3 **occupations cash fund created - legal defense account - definition.** (1) This section
4 applies to all activities of the ~~boards and commissions in the division in the department~~ AND
5 ALL REGULATORS.

6 (2) (a) ~~Each board and commission in the division~~ THE DIRECTOR shall propose, as
7 part of ~~its~~ THE DIVISION'S annual budget request, an adjustment in the amount of each fee that
8 ~~the board or commission~~ EACH REGULATOR is authorized by law to collect. The budget
9 request and the adjusted fees for each ~~board or commission~~ REGULATOR must reflect direct
10 and indirect costs that are appropriated in the annual general appropriation act.

11 (b) (I) EXCEPT AS PROVIDED IN SUBSECTION (2)(b)(II) OF THIS SECTION, based upon
12 the appropriation made and subject to the approval of the executive director, each ~~board or~~
13 ~~commission~~ REGULATOR shall adjust ~~its~~ THE fees THE REGULATOR IS AUTHORIZED BY LAW
14 TO COLLECT so that the revenue generated from the fees approximates its direct and indirect
15 costs. ~~except that~~

16 (II) The costs of the state board of psychologist examiners, the state board of
17 marriage and family therapist examiners, the state board of licensed professional counselor
18 examiners, the state board of social work examiners, the state board of registered
19 psychotherapists, and the state board of addiction counselor examiners shall be considered
20 collectively in the renewal fee-setting process. Subsequent revenue generated by the fees set
21 by the boards plus revenues generated pursuant to section ~~12-43-702.5, C.R.S.~~ **12-245-7**
22 shall be compared to those collective costs to determine recovery of direct and indirect costs.

23 (III) The fees set PURSUANT TO THIS SUBSECTION (2)(b) remain in effect for the fiscal
24 year for which the budget request applies.

25 (3) All fees collected by ~~each board and commission~~ A REGULATOR, not including
26 any fees retained by contractors as established pursuant to section 24-34-101 (10), shall be
27 transmitted to the state treasurer, who shall credit ~~the same~~ THEM to the division of
28 professions and occupations cash fund, which fund is hereby created. All ~~moneys~~ MONEY
29 credited to the division of professions and occupations cash fund shall be used as provided
30 in this section and shall not be deposited in or transferred to the general fund of this state or
31 any other fund.

32 ~~(F.5)~~ (4) Any fees established pursuant to section 24-34-101 (10) or (11) may be
33 received by a contractor and retained as payment for the costs of examination or other
34 services rendered pursuant to the contract with the executive director. Fees retained by a
35 contractor and not collected by the state or deposited with the state treasurer ~~shall~~ ARE not
36 ~~be~~ subject to article 36 of this title 24.

37 ~~(H)~~ (5) (a) The excise tax collected pursuant to section ~~24-34-104.4~~ **12-20-104** shall

1 be credited to the legal defense account, which account is hereby created within the division
2 of professions and occupations cash fund. The excise tax is the sole source of funding for
3 the account, and no other fee or ~~any portion thereof~~, OF A FEE collected by a ~~board or~~
4 ~~commission~~ REGULATOR and credited to the division of professions and occupations cash
5 fund shall be deposited in or transferred to the account. The account shall be used to
6 supplement revenues received by a ~~board or commission~~ THE DIVISION but shall only be used
7 for the purpose of paying legal expenses incurred by ~~said board, or commission~~ A
8 REGULATOR. Upon a determination of the need of a ~~board or commission~~ REGULATOR for
9 additional revenues for the payment of legal expenses, the director may authorize the ~~transfer~~
10 ALLOCATION of revenues from the legal defense account to ~~the account of such board or~~
11 ~~commission in the division of professions and occupations cash fund~~ A REGULATOR FOR
12 LEGAL EXPENSES.

13 (b) For purposes of this ~~subparagraph (H)~~ SUBSECTION (5), "legal expenses" includes
14 costs relating to ~~the holding of~~ administrative hearings and charges for legal services
15 provided by the department of law, administrative law judge services, investigative services,
16 expert witnesses, and consultants.

17 ~~(H) and (HH) Repealed:~~

18 (e) ~~(6) Beginning July 1, 1979, and~~ Each July 1, ~~thereafter~~, whenever ~~moneys~~ MONEY
19 appropriated to a ~~board or commission~~ THE DIVISION for ~~its~~ THE activities OF REGULATORS
20 for the prior fiscal year ~~are~~ IS unexpended, ~~said moneys~~ THE MONEY shall be made a part of
21 the appropriation to ~~such board or commission~~ THE DIVISION for the next fiscal year, and
22 ~~such~~ THE amount shall not be raised from fees collected by ~~such board or commission~~ A
23 REGULATOR. If a supplemental appropriation is made to a ~~board or commission~~ THE DIVISION
24 for ~~its~~ THE activities OF REGULATORS, the fees of ~~such board or commission~~ THE
25 REGULATOR, when adjusted for the fiscal year ~~next~~ following ~~that~~ THE FISCAL YEAR in which
26 the supplemental appropriation was made, shall be adjusted by an additional amount ~~which~~
27 THAT is sufficient to compensate for ~~such~~ THE supplemental appropriation. ~~Funds~~ MONEY
28 appropriated to a ~~board or commission~~ THE DIVISION in the annual long appropriation bill
29 shall be designated as cash funds and shall not exceed the amount anticipated to be raised
30 from fees collected by ~~such board or commission~~ THE REGULATORS.

31 ~~(3) Repealed:~~

32 PART 2
33 GENERAL POWERS AND DUTIES OF
34 DIVISION, BOARDS, AND COMMISSIONS

35 **12-20-201. Payment of fees - condition of licensure, certification, or registration.**
36 THE DIVISION SHALL NOT LICENSE, CERTIFY, OR REGISTER A PERSON WHO HAS APPLIED AND

1 OTHERWISE SATISFIED THE REQUIREMENTS FOR LICENSURE, CERTIFICATION, OR REGISTRATION
2 BY THE DIRECTOR OR A BOARD OR COMMISSION UNTIL THE APPLICANT HAS PAID AND THE
3 DIVISION HAS RECEIVED ALL APPLICABLE FEES.

4 **12-20-202. Licenses, certifications, and registrations - renewal - reinstatement**
5 **- fees - endorsement - exceptions for military personnel - rules - consideration of**
6 **criminal convictions - executive director authority. (1) [Formerly 12-5.5-202 (2)]**

7 **Renewal.** (a) Licenses, CERTIFICATIONS, AND REGISTRATIONS issued pursuant to ~~this~~ A PART
8 OR article OF THIS TITLE 12 expire pursuant to a schedule established by the director and must
9 be renewed or reinstated ~~pursuant to~~ IN ACCORDANCE WITH THIS section. ~~24-34-102 (8),~~
10 ~~C.R.S.~~ The director shall establish renewal fees and delinquency fees for reinstatement
11 pursuant to section ~~24-34-105, C.R.S.~~ **12-20-105**. If a person fails to renew ~~his or her~~ THE
12 PERSON'S license, CERTIFICATION, OR REGISTRATION pursuant to the schedule established by
13 the director, the license, CERTIFICATION, OR REGISTRATION expires. A person whose license,
14 CERTIFICATION, OR REGISTRATION has expired is subject to the penalties set forth in this
15 ~~article or in~~ section ~~24-34-102 (8), C.R.S.~~ AND ANY OTHER PENALTIES AUTHORIZED IN THE
16 APPLICABLE PART OR ARTICLE OF THIS TITLE 12 REGULATING THE PERSON'S PROFESSION OR
17 OCCUPATION.

18 (b) **[Formerly 24-34-102 (8)(a)]** Notwithstanding any provision of the law to the
19 contrary, the director may change the renewal date of any license, CERTIFICATION, OR
20 REGISTRATION issued by a ~~licensing board or commission~~ REGULATOR so that approximately
21 the same number of licenses, CERTIFICATIONS, OR REGISTRATIONS are scheduled for renewal
22 in each month of the year. Where any renewal date is so changed, the fee for the license,
23 CERTIFICATION, OR REGISTRATION is proportionately increased or decreased, as the case may
24 be. A license, CERTIFICATION, OR REGISTRATION is valid for a period of no less than one year
25 and no longer than three years, as determined by the director in consultation with the
26 ~~licensing board or commission within the division~~ APPLICABLE REGULATOR. A licensee,
27 CERTIFICATE HOLDER, OR REGISTRANT shall submit an application for renewal to the
28 ~~licensing board or commission~~ APPLICABLE REGULATOR on forms and in the manner
29 prescribed by the director.

30 (c) **[Formerly 24-34-102 (7)]** Notwithstanding any provision of the law to the
31 contrary, upon the approval and recommendation of ~~any examining or licensing board or~~
32 ~~commission in the division~~ A REGULATOR, the executive director may change the period of
33 the validity of any license, CERTIFICATION, OR REGISTRATION issued by the ~~board or~~
34 ~~commission~~ REGULATOR for a period not to exceed three years. If the executive director
35 changes the period of validity of a license, CERTIFICATION, OR REGISTRATION pursuant to this
36 subsection ~~(7)~~ **(1)(c)**, the director shall proportionately increase or decrease the fee for the
37 license, CERTIFICATION, OR REGISTRATION, as the case may be, but the director shall not

1 impose a fee increase that would result in hardship to the licensee, CERTIFICATE HOLDER, OR
2 REGISTRANT.

3 (d) ~~[Formerly 24-34-102 (8)(b)] The director and any licensing board or~~
4 ~~commission~~ A REGULATOR may prescribe renewal requirements, which ~~shall~~ MUST include
5 compliance with any continuing education OR CONTINUING COMPETENCY requirements
6 adopted pursuant to the ~~director's, licensing board's, or commission's~~ REGULATOR'S authority.

7 (e) ~~[Formerly 24-34-102 (8)(c)]~~ The director shall allow for a grace period for
8 licenses, CERTIFICATIONS, OR REGISTRATIONS from ~~licensing boards or commissions within~~
9 ~~the division~~ A REGULATOR. A licensee, CERTIFICATE HOLDER, OR REGISTRANT has a sixty-day
10 grace period after the expiration of his or her license, CERTIFICATION, OR REGISTRATION to
11 renew the license, CERTIFICATION, OR REGISTRATION without the imposition of a disciplinary
12 sanction by the ~~director, licensing board, or commission~~ REGULATOR for ~~such~~ THE profession
13 for practicing on an expired license, CERTIFICATION, OR REGISTRATION. The licensee,
14 CERTIFICATE HOLDER, OR REGISTRANT shall satisfy all renewal requirements pursuant to the
15 applicable practice act and shall pay a delinquency fee in an amount determined pursuant to
16 sections ~~24-34-105~~ 12-20-105 and 24-79.5-102.

17 (2) ~~[Formerly 24-34-102 (8)(d)]~~ **Reinstatement.** (a) If a licensee, registrant, or
18 certificate holder ~~who~~ does not renew his or her license, registration, or certificate within the
19 sixty-day grace period pursuant to ~~paragraph (c) of this subsection (8) shall be~~ SUBSECTION
20 (1)(e) OF THIS SECTION, THE LICENSE, REGISTRATION, OR CERTIFICATE IS treated as ~~having~~ an
21 expired license, registration, or certificate, and ~~shall be~~ THE LICENSEE, REGISTRANT, OR
22 CERTIFICATE HOLDER IS ineligible to practice until ~~such~~ THE license, registration, or
23 certificate is reinstated.

24 (b) The ~~director, licensing board, or commission~~ REGULATOR shall reinstate the
25 expired license, certificate, or registration of any active military personnel, including any
26 National Guard member or reservist who is currently on active duty for a minimum of thirty
27 days and any veteran who has not been dishonorably discharged, if the military personnel
28 or veteran meets the requirements of this ~~paragraph (d)~~ SUBSECTION (2).

29 (c) THE REGULATOR, IN ITS DISCRETION AND PURSUANT TO ITS AUTHORITY, MAY
30 REINSTATE an expired license, registration, or certificate of any ~~other person may be~~
31 ~~reinstated at the discretion and pursuant to the authority of the director, licensing board, or~~
32 ~~commission~~ OTHER THAN THE ACTIVE MILITARY PERSONNEL SPECIFIED IN SUBSECTION (2)(b)
33 OF THIS SECTION pursuant to the following requirements:

34 (I) (A) THE LICENSEE, REGISTRANT, OR CERTIFICATE HOLDER SUBMITS an application
35 for reinstatement of the license, registration, or certificate ~~is submitted~~ to the ~~director,~~
36 ~~licensing board, or commission~~ REGULATOR sixty days OR MORE after the date of expiration,
37 and the licensee, registrant, or certificate holder complies with all requirements of the
38 applicable practice act.

1 (B) If the licensee, registrant, or certificate holder practiced with an expired license,
2 registration, or certificate, ~~pursuant to the authority of the director, the licensing board or~~
3 ~~commission~~ THE REGULATOR may impose disciplinary actions against the licensee, registrant,
4 or certificate holder.

5 (II) If the license, registration, or certificate has BEEN expired for more than two
6 years, the person with the expired license, registration, or certificate shall pay all applicable
7 renewal and reinstatement fees and shall satisfactorily demonstrate to the ~~director, licensing~~
8 ~~board, or commission~~ REGULATOR that the person is competent to practice within his or her
9 profession. ~~Pursuant to the authority of the director,~~ The ~~licensing board or commission~~
10 REGULATOR, as it deems appropriate, shall accept one or more of the following as a
11 demonstration of competency to practice:

12 (A) A license, registration, or certificate from another state that is in good standing
13 for the applicant where the applicant demonstrates active practice;

14 (B) Practice for a specified time under a restricted license, registration, or certificate;

15 (C) Successful completion of prescribed remedial courses ordered by the ~~director,~~
16 ~~licensing board, or commission~~ REGULATOR that are within the authority of the ~~director,~~
17 ~~licensing board, or commission~~ REGULATOR to require;

18 (D) Successful completion of any continuing education OR CONTINUING
19 COMPETENCY requirements prescribed by the ~~director, licensing board, or commission~~
20 REGULATOR that are within the authority of the ~~director, licensing board, or commission~~
21 REGULATOR to require;

22 (E) Passage of an examination for licensure, registration, or certification as approved
23 by the ~~director, licensing board, or commission~~ REGULATOR that the ~~director, licensing~~
24 ~~board, or commission~~ REGULATOR has the authority to ~~acquire~~ REQUIRE; or

25 (F) Other professional standards or measures of continued competency as determined
26 by the ~~director, licensing board, or commission~~ REGULATOR.

27 (III) The ~~director, licensing board, or commission~~ REGULATOR may waive the
28 requirements for reinstatement of an expired license, registration, or certificate by an
29 applicant who demonstrates hardship, so long as the ~~director, or such board, or commission~~
30 REGULATOR considers the protection of the public in ~~such~~ THE hardship petition.

31 (3) **[Formerly 24-34-102 (8)(e)] Endorsement.** Unless otherwise prohibited by
32 THIS title 12, C.R.S., an applicant for certification, registration, or licensure by endorsement
33 may demonstrate competency in a specific occupation or profession as determined by ~~the~~
34 ~~director~~ THE REGULATOR in lieu of a requirement that the applicant has worked or practiced
35 in that occupation or profession for a period of time prior to the application for endorsement.

36 (4) **[Formerly 24-34-102 (8.5)] Military personnel.** ~~The director and each of the~~
37 ~~examining and licensing boards~~ A REGULATOR shall, upon presentation of satisfactory
38 evidence by an applicant for LICENSURE, certification, or ~~licensure~~ REGISTRATION, accept

1 education, training, or service completed by an individual as a member of the armed forces
2 or reserves of the United States, the National Guard of any state, the military reserves of any
3 state, or the naval militia of any state toward the qualifications to receive the license, or
4 certification, OR REGISTRATION. ~~The director and each appropriate examining and licensing~~
5 ~~board~~ EACH REGULATOR shall promulgate rules to implement this ~~section~~ SUBSECTION (4).

6 (5) **[Formerly 24-34-102 (8.7)] Criminal convictions.** Unless there is a specific
7 statutory disqualification that prohibits an applicant from obtaining licensure,
8 CERTIFICATION, OR REGISTRATION based on a criminal conviction, if a ~~licensing entity in title~~
9 ~~10 or 12, C.R.S.~~, REGULATOR determines that an applicant for licensure, CERTIFICATION, OR
10 REGISTRATION has a criminal record, the ~~licensing entity~~ REGULATOR is governed by section
11 24-5-101 for purposes of granting or denying, OR PLACING ANY CONDITIONS ON, licensure,
12 ~~or placing any conditions on licensure~~ CERTIFICATION, OR REGISTRATION.

13 (6) **Executive director authority.** (a) **[Formerly 24-34-102 (10)] Form of license,**
14 **certification, or registration.** The executive director, after consultation with the ~~examining~~
15 ~~or licensing board or commission~~ REGULATOR concerned, shall determine the form and
16 content of any license, CERTIFICATION, OR REGISTRATION issued by ~~any examining or~~
17 ~~licensing board or commission in the division~~ THE REGULATOR, including any document
18 evidencing renewal of a license, CERTIFICATION, OR REGISTRATION.

19 (b) **[Formerly 24-34-102 (11)] Review of examinations and procedures.**
20 Notwithstanding any **type 1** transfer as such A transfer is defined by the "Administrative
21 Organization Act of 1968", article 1 of ~~this~~ title 24, the executive director may review any
22 examination or procedure for granting a license, CERTIFICATION, OR REGISTRATION by any
23 ~~board or agency in the division~~ REGULATOR prior to the execution of ~~such~~ THE examination
24 or procedure. After ~~such~~ THE review, if the executive director has reason to believe ~~such~~ THE
25 examination or procedure ~~to be~~ IS unfair to the applicants or unreasonable in content, the
26 executive director shall call on five people licensed, CERTIFIED, OR REGISTERED in ~~such~~ THE
27 occupation or profession to review the examination or procedure jointly with ~~him~~ THE
28 EXECUTIVE DIRECTOR. The executive director and ~~such~~ THE licensees, CERTIFICATE
29 HOLDERS, OR REGISTRANTS, acting jointly, may make findings of fact and recommendations
30 to the ~~board or agency~~ REGULATOR concerning any examination or procedure. The findings
31 of fact and recommendations ~~shall be~~ ARE public documents. <{*Coordinate re: SRC bill*}>

32 (c) **[Formerly 24-34-102 (12)] Employment of administrative law judges.**
33 Notwithstanding any **type 1** transfer as such A transfer is defined by the "Administrative
34 Organization Act of 1968", article 1 of ~~this~~ title 24, the executive director may employ an
35 administrative law judge, and may require any ~~board in the division~~ REGULATOR to use an
36 administrative law judge in lieu of a hearing by the ~~board~~ REGULATOR, to conduct hearings
37 on any matter within the jurisdiction of the ~~examining and licensing boards and agencies in~~
38 ~~the division~~ REGULATOR, subject to appropriations made to the department of personnel.

1 Administrative law judges are appointed pursuant to part 10 of article 30 of this title 24. An
2 administrative law judge employed pursuant to this subsection ~~(12)~~ (6)(c) shall conduct
3 hearings in accordance with section 24-4-105, and the administrative law judge has the
4 authority specified in section 24-4-105. <{Coordinate re: SRC bill}>

5 **12-20-203. [Formerly 12-70-101] Inactive license - rights and responsibilities.**

6 (1) Persons licensed, ~~(which for purposes of this article shall include persons referred to as~~
7 ~~certified)~~ CERTIFIED, OR REGISTERED to practice any profession or occupation under this title
8 **12** for which postgraduate study or attendance at educational institutions is required in order
9 to obtain renewal of ~~such licenses~~ THE LICENSE, CERTIFICATION, OR REGISTRATION may have
10 their names transferred to an inactive licensees, CERTIFICATE HOLDERS, OR REGISTRANTS
11 category under this section. THE DIRECTOR AND every board AND COMMISSION authorized
12 under this title **12** to issue licenses, CERTIFICATIONS, OR REGISTRATIONS shall maintain a list
13 of inactive licensees, CERTIFICATE HOLDERS, OR REGISTRANTS, AS APPLICABLE, and upon
14 written notice to ~~such~~ THE DIRECTOR, board, OR COMMISSION, AS APPLICABLE, any such
15 licensee, CERTIFICATE HOLDER, OR REGISTRANT shall not be required to comply with any
16 postgraduate educational requirements so long as ~~such~~ THE licensee, CERTIFICATE HOLDER,
17 OR REGISTRANT, AS APPLICABLE, remains inactive in the profession or occupation. Each ~~such~~
18 inactive licensee, CERTIFICATE HOLDER, OR REGISTRANT shall continue to meet the normal
19 registration requirements imposed upon his OR HER profession or occupation.

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

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

30 ~~(4) THIS SECTION DOES NOT APPLY TO A PERSON PRACTICING A PROFESSION OR~~
31 ~~OCCUPATION THAT IS REGULATED BY THE DIVISION OF REAL ESTATE CREATED IN SECTION 12-~~
32 ~~100-10X OR THE REAL ESTATE COMMISSION CREATED IN SECTION 12-100-10X. <{Since I'm~~
33 ~~recommending moving this section to DPO statutes, there is no need to add the language~~
34 ~~excepting DRE professions and occupations~~>

35 **12-20-204. Regulator's rule-making authority.** (1) EXCEPT AS SPECIFIED IN
36 SUBSECTION (2) OF THIS SECTION, IN ADDITION TO ANY SPECIFIC RULE-MAKING AUTHORITY

1 THAT A REGULATOR HAS PURSUANT TO A PART OR ARTICLE OF THIS TITLE 12, A REGULATOR
2 MAY ADOPT RULES NECESSARY TO ADMINISTER THE PART OR ARTICLE OF THIS TITLE 12
3 PURSUANT TO WHICH THE REGULATOR HAS REGULATORY AUTHORITY.

4 (2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO THE FOLLOWING ARTICLES
5 OF THIS TITLE 12:

- 6 (a) ARTICLE 110 CONCERNING COMBATIVE SPORTS;
- 7 (b) ARTICLE 125 CONCERNING FANTASY CONTESTS;
- 8 (c) ARTICLE 135 CONCERNING MORTUARIES AND CREMATORIES;
- 9 (d) ARTICLE 140 CONCERNING NONTRANSPLANT TISSUE BANKS; AND
- 10 (e) ARTICLE 265 CONCERNING NURSING HOME ADMINISTRATORS.

11 PART 3
12 MILITARY PERSONNEL AND SPOUSES

13 **12-20-301. [Formerly 12-71-101] Definitions.** As used in this ~~article~~ PART 2, unless
14 the context otherwise requires:

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

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

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

25 **OLLS will engage in outreach to determine current applicability of section 12-71-101 to**
26 **articles/parts that have been relocated from title 12 to other titles.**

27 **12-20-302. [Formerly 12-70-102] Active military personnel - exemptions from**
28 **licensing requirements.** Each board or division ~~except the division of real estate,~~ that
29 regulates persons licensed, certified, or registered pursuant to this title **12** shall exempt
30 licensed, certified, or registered military personnel who have been called to federally funded
31 active duty for more than one hundred twenty days for the purpose of serving in a war,
32 emergency, or contingency from the payment of any professional or occupational license,
33 certification, or registration fees, including renewal fees, and from any continuing education
34 or professional competency requirements pursuant to this title **12** for a renewal cycle that

1 falls within the period of service or within the six months following the completion of
2 service in the war, emergency, or contingency.

3 **OLLS will engage in outreach to determine current applicability of section 12-70-102 to**
4 **articles/parts that have been relocated from title 12 to other titles.**

5 **12-20-303. Military spouse - authority to practice - reciprocity - notice.**

6 (1) [Formerly 12-71-102 (1)] Notwithstanding any other article of this title *12*, a person
7 need not obtain authority to practice an occupation or profession under this title *12* during
8 the person's first year of residence in Colorado if:

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

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

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

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

18 (3) [Formerly 12-71-102 (3)] This section does not apply to authority to practice
19 under **article 25, 28, 36, 40, or 61 120, 240, or 275** of this title *12*. <{*Article 25 re:*
20 *engineers, et al, is renumbered as article 120; article 28 has been repealed; article 36 re:*
21 *medical practice, is renumbered as article 240; article 40 re: optometrists, is renumbered*
22 *as article 275; and article 61 pertains to real estate and is not subject to this article 20 so*
23 *no longer needs to be specifically excluded here.* }>

24 (4) [Formerly 12-71-103 (1)] If a person who is practicing in Colorado under THIS
25 section ~~12-71-102~~ _____ applies for authority to continue to practice after the first year
26 under another article of this title *12*, the applicant shall notify the agency receiving the
27 application of the following:

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

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

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

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

35 **12-20-304. [Formerly 12-71-104] Continuing education - regulated service**

1 **members - rules.** (1) An agency may accept, from a person with authority to practice,
2 continuing education, training, or service completed as a member of the armed forces or
3 reserves of the United States, the National Guard of any state, the military reserves of any
4 state, or the naval militia of any state toward the educational qualifications to renew the
5 person's authority to practice.

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

8 Per Marcia Waters, current section 12-71-104 does not apply to the Division of Real Estate.
9 Ronne Hines will follow up to determine if the section applies to engineers, surveyors, and
10 architects under article 25; physicians, physician assistants, and anesthesiologist assistants
11 under article 36; optometrists under article 40. Also, OLLS will engage in outreach to
12 determine current applicability of section 12-71-104 to articles/parts that have been relocated
13 from title 12 to other titles

14 **12-20-305. [Formerly 12-71-105] Rules.** The director of the division of professions
15 and occupations may promulgate rules reasonably necessary to implement this article PART
16 3.

17 PART 4
18 DISCIPLINE, ENFORCEMENT, AND REVIEW

19 **12-20-401. Procedures for complaints concerning licensees, certificate holders,
20 and registrants - executive director authority - rules.** (1) [Formerly 24-34-102 (9)] The
21 executive director is responsible for receiving and monitoring the disposition of complaints.
22 The executive director may require an investigation of a complaint concerning a person
23 regulated by a board or agency in the division REGULATOR in accordance with THIS section.
24 ~~24-34-103.~~

25 (2) [Formerly 24-34-103 (1)] A REGULATOR SHALL REFER all complaints relating
26 to persons licensed, CERTIFIED, OR REGISTERED by any board or agency in the division of
27 professions and occupations shall be referred THE REGULATOR to the executive director. of
28 the department of regulatory agencies.

29 (3) [Formerly 24-34-103 (2)] For the purpose of facilitating the handling of
30 complaints, the executive director shall devise simple, standard complaint forms designed
31 to supply the information necessary to properly conduct an investigation of complaints. THE
32 COMPLAINANT SHALL REDUCE each complaint shall be reduced to writing by the complainant
33 before any formal action is commenced thereon BEGUN ON THE COMPLAINT. The receipt of
34 such THE forms shall be acknowledged on behalf of the executive director. The complainant

1 shall be advised in writing of the final disposition ~~thereof~~ OF THE COMPLAINT.

2 (4) [Formerly 24-34-103 (3)] (a) The executive director may:

3 (I) Assign a complaint to ~~the director of professions and occupations or to the~~
4 appropriate board of registration in the department, or may REGULATOR;

5 (II) Assign it A COMPLAINT specially for investigation; or may

6 (III) Take such other action ~~thereon~~ ON THE COMPLAINT as appears to ~~him~~ THE
7 EXECUTIVE DIRECTOR to be warranted in the circumstances.

8 (b) Assignments of investigations ~~thereof~~ OF COMPLAINTS to others ~~shall be~~ IS
9 subject to specified time limits set by the executive director for completion of investigations.

10 (5) [Formerly 24-34-103 (4)] Nothing in this section ~~shall supersede the provisions~~
11 ~~of~~ SUPERSEDES sections 24-4-104 to 24-4-106, or the statutory power to issue, suspend,
12 revoke, or renew licenses, CERTIFICATIONS, AND REGISTRATIONS.

13 (6) [Formerly 24-34-103 (5)] The executive director may promulgate ~~such~~ rules,
14 pursuant to section 24-4-103 and not inconsistent with the requirements of this ~~part 1~~
15 ARTICLE 20, to assist in the efficient performance of the duties imposed by this section. The
16 executive director may also render advice to the general assembly, as well as to the general
17 public, upon the question of the proper role of the state in regulating professions and
18 occupations.

19 **12-20-402. [Formerly 12-36-118 (3)(b)] Immunity.** (1) THE DIRECTOR, any
20 member of ~~the~~ A board OR COMMISSION, any member of the ~~board's~~ REGULATOR'S staff, any
21 person acting as a witness or consultant to the ~~board~~ REGULATOR, AND any witness testifying
22 in a proceeding authorized ~~under this part 1, and any person who lodges a complaint~~
23 ~~pursuant to this part 1 shall be~~ BY THE PART OR ARTICLE OF THIS TITLE 12 GOVERNING A
24 PARTICULAR PROFESSION OR OCCUPATION IS immune from liability in any civil action
25 brought against him or her for acts occurring while acting in his or her capacity as DIRECTOR,
26 board OR COMMISSION member, staff, consultant, or witness, respectively, if ~~such~~ THE
27 individual:

28 (a) Was acting in good faith within the scope of his or her respective capacity;

29 (b) Made a reasonable effort to obtain the facts of the matter as to which he or she
30 acted; and

31 (c) Acted in the reasonable belief that the action taken by him or her was warranted
32 by the facts.

33 (2) Any person participating in good faith in ~~the making of~~ OR LODGING a complaint
34 or report or participating in any investigative or administrative proceeding pursuant to ~~this~~
35 ~~section shall be~~ THE PART OR ARTICLE OF THIS TITLE 12 GOVERNING A PARTICULAR
36 PROFESSION OR OCCUPATION IS immune from any CIVIL OR CRIMINAL liability ~~civil or~~
37 ~~criminal~~; that ~~otherwise might~~ MAY result by reason of ~~such~~ FROM THAT participation.

1 (3) THIS SECTION DOES NOT APPLY TO ARTICLES 125, 140, 150, AND 250 OF THIS TITLE
2 12 CONCERNING FANTASY CONTESTS, NONTRANSPLANT TISSUE BANKS, PASSENGER
3 TRAMWAYS, AND NATUROPATHIC DOCTORS, RESPECTIVELY.

4 **12-20-403. [Formerly 12-40.5-110 (7)(b) and (7)(c)] Disciplinary procedures -**
5 **investigations - hearings - oaths - witness statements - subpoenas - appointment of**
6 **administrative law judge.** (1) In accordance with article 4 of title 24 ~~C.R.S.~~, and ~~this~~
7 ~~article, the director is authorized to~~ THE PART OR ARTICLE OF THIS TITLE 12 GOVERNING THE
8 PARTICULAR PROFESSION OR OCCUPATION OVER WHICH A REGULATOR HAS REGULATORY
9 AUTHORITY, A REGULATOR MAY investigate, hold hearings, and gather evidence in all matters
10 related to the exercise and performance of the REGULATOR'S powers and duties. ~~of the~~
11 ~~director.~~

12 (2) (a) In order to aid the ~~director~~ REGULATOR in any hearing or investigation
13 instituted pursuant to this section, the ~~director~~ REGULATOR or an administrative law judge
14 appointed pursuant to ~~paragraph (c) of this subsection (7) is authorized to~~ SUBSECTION (3)
15 OF THIS SECTION MAY administer oaths, take affirmations of witnesses, and issue subpoenas
16 compelling the attendance of witnesses and the production of all relevant records, papers,
17 books, documentary evidence, and materials in any hearing, investigation, accusation, or
18 other matter before the ~~director~~ REGULATOR or an administrative law judge.

19 (b) (I) Upon failure of any witness or licensee to comply with a subpoena or process,
20 the district court of the county in which the subpoenaed person, ~~or~~ licensee, CERTIFICATE
21 HOLDER, OR REGISTRANT resides or conducts business, upon application by the ~~director~~
22 REGULATOR with notice to the subpoenaed person, ~~or~~ licensee, CERTIFICATE HOLDER, OR
23 REGISTRANT, may issue to the person, ~~or~~ licensee, CERTIFICATE HOLDER, OR REGISTRANT an
24 order requiring that person, ~~or~~ licensee, CERTIFICATE HOLDER, OR REGISTRANT to:

25 (A) Appear before the ~~director~~ REGULATOR; ~~to~~

26 (B) Produce the relevant papers, books, records, documentary evidence, or materials
27 if so ordered; or ~~to~~

28 (C) Give evidence touching the matter under investigation or in question.

29 (II) If the person, ~~or~~ licensee, CERTIFICATE HOLDER, OR REGISTRANT fails to obey the
30 order of the court, the court may hold the person, ~~or~~ licensee, CERTIFICATE HOLDER, OR
31 REGISTRANT in contempt of court.

32 (c) FOR PURPOSES OF THE REGULATION OF NONTRANSPLANT TISSUE BANKS UNDER
33 ARTICLE 140 OF THIS TITLE 12, THE AUTHORITY GRANTED UNDER SUBSECTION (2)(a) OF THIS
34 SECTION DOES NOT APPLY WITH RESPECT TO INVESTIGATIONS.

35 (3) The ~~director~~ REGULATOR may appoint an administrative law judge pursuant to
36 part 10 of article 30 of title 24 ~~C.R.S.~~ OR, IF OTHERWISE SPECIFIED IN A PART OR ARTICLE OF
37 THIS TITLE 12, MAY EMPLOY AN ADMINISTRATIVE LAW JUDGE OR HEARING OFFICER TO

1 conduct hearings, take evidence, make findings, and report ~~such~~ THE findings to the director
2 REGULATOR.

3 **12-20-404. [Formerly 12-5.5-302] Disciplinary actions - regulator powers -**
4 **disposition of fines.** (1) **General disciplinary authority.** If ~~the director~~ A REGULATOR
5 determines that an applicant, ~~or~~ licensee, CERTIFICATE HOLDER, OR REGISTRANT has
6 committed ~~any of the acts specified in part 4 of this article, the director~~ AN ACT OR ENGAGED
7 IN CONDUCT THAT CONSTITUTES GROUNDS FOR DISCIPLINE OR UNPROFESSIONAL CONDUCT
8 UNDER A PART OR ARTICLE OF THIS TITLE 12 GOVERNING THE PARTICULAR PROFESSION OR
9 OCCUPATION, THE REGULATOR may:

10 (a) Issue a letter of admonition IN ACCORDANCE WITH SUBSECTION (4) OF THIS
11 SECTION;

12 (b) (I) Place a licensee, CERTIFICATE HOLDER, OR REGISTRANT on probation, EXCEPT
13 AS PROVIDED IN SUBSECTION (1)(b)(II) OF THIS SECTION.

14 (II) A REGULATOR IS NOT AUTHORIZED UNDER THIS SUBSECTION (1)(b) TO IMPOSE
15 PROBATION ON A LICENSEE, CERTIFICATE HOLDER, OR REGISTRANT REGULATED UNDER THE
16 FOLLOWING:

- 17 (A) ARTICLE 205 OF THIS TITLE 12 CONCERNING ATHLETIC TRAINERS;
- 18 (B) ARTICLE 215 OF THIS TITLE 12 CONCERNING CHIROPRACTORS;
- 19 (C) ARTICLE 260 OF THIS TITLE 12 CONCERNING NURSE AIDES; OR
- 20 (D) ARTICLE 310 OF THIS TITLE 12 CONCERNING SURGICAL ASSISTANTS AND
21 SURGICAL TECHNOLOGISTS.

22 (c) (I) Impose an administrative fine, ~~not to exceed two thousand five hundred~~
23 ~~dollars for each separate offense;~~ or SUBJECT TO ANY LIMITATIONS OR REQUIREMENTS
24 SPECIFIED IN THE LAWS GOVERNING A PARTICULAR PROFESSION OR OCCUPATION AND EXCEPT
25 AS PROVIDED IN SUBSECTION (1)(c)(II) OF THIS SECTION.

26 (II) A REGULATOR IS NOT AUTHORIZED UNDER THIS SUBSECTION (1)(c) TO IMPOSE A
27 FINE ON A LICENSEE, CERTIFICATE HOLDER, OR REGISTRANT REGULATED UNDER THE
28 FOLLOWING:

- 29 (A) ARTICLE 125 OF THIS TITLE 12 CONCERNING FANTASY CONTESTS;
- 30 (B) ARTICLE 140 OF THIS TITLE 12 CONCERNING NONTRANSPLANT TISSUE BANKS;
- 31 (C) ARTICLE 200 OF THIS TITLE 12 CONCERNING ACUPUNCTURISTS;
- 32 (D) ARTICLE 205 OF THIS TITLE 12 CONCERNING ATHLETIC TRAINERS;
- 33 (E) ARTICLE 260 OF THIS TITLE 12 CONCERNING NURSE AIDES;
- 34 (F) ARTICLE 265 OF THIS TITLE 12 CONCERNING NURSING HOME ADMINISTRATORS;
- 35 (G) ARTICLE 270 OF THIS TITLE 12 CONCERNING OCCUPATIONAL THERAPISTS AND
36 OCCUPATIONAL THERAPY ASSISTANTS;
- 37 (H) ARTICLE 300 OF THIS TITLE 12 CONCERNING RESPIRATORY THERAPISTS; OR

1 (I) ARTICLE 310 OF THIS TITLE 12 CONCERNING SURGICAL ASSISTANTS AND SURGICAL
2 TECHNOLOGISTS.

3 (d) (I) Deny, refuse to renew, revoke, or suspend the license, CERTIFICATION, OR
4 REGISTRATION of an applicant, ~~or~~ licensee, CERTIFICATE HOLDER, OR REGISTRANT, EXCEPT
5 AS PROVIDED IN SUBSECTION (1)(d)(II) OF THIS SECTION.

6 (II) A REGULATOR IS NOT AUTHORIZED UNDER THIS SUBSECTION (1)(d) TO REFUSE TO
7 RENEW THE LICENSE, CERTIFICATION, OR REGISTRATION OF A LICENSEE, CERTIFICATE HOLDER,
8 OR REGISTRANT REGULATED UNDER THE FOLLOWING:

- 9 (A) ARTICLE 105 OF THIS TITLE 12 CONCERNING BARBERS AND COSMETOLOGISTS;
- 10 (B) ARTICLE 110 OF THIS TITLE 12 CONCERNING COMBATIVE SPORTS;
- 11 (C) ARTICLE 125 OF THIS TITLE 12 CONCERNING FANTASY CONTESTS;
- 12 (D) ARTICLE 140 OF THIS TITLE 12 NONTRANSPLANT TISSUE BANKS;
- 13 (E) ARTICLE 145 OF THIS TITLE 12 CONCERNING OUTFITTERS AND GUIDES;
- 14 (F) ARTICLE 160 OF THIS TITLE 12 CONCERNING PRIVATE INVESTIGATORS;
- 15 (G) ARTICLE 200 OF THIS TITLE 12 CONCERNING ACUPUNCTURISTS;
- 16 (H) ARTICLE 225 OF THIS TITLE 12 CONCERNING DIRECT-ENTRY MIDWIVES;
- 17 (I) ARTICLE 240 OF THIS TITLE 12 CONCERNING MEDICAL PRACTICE;
- 18 (J) ARTICLE 250 OF THIS TITLE 12 CONCERNING NATUROPATHIC DOCTORS;
- 19 (K) ARTICLE 260 OF THIS TITLE 12 CONCERNING NURSE AIDES;
- 20 (L) ARTICLE 305 OF THIS TITLE 12 CONCERNING SPEECH-LANGUAGE PATHOLOGISTS;

21 OR

22 (M) ARTICLE 315 OF THIS TITLE 12 CONCERNING VETERINARIANS.

23 (2) **Deferral precluded.** (a) When a complaint or investigation discloses an instance
24 of misconduct that, in the opinion of ~~the director~~ A REGULATOR, warrants formal action, the
25 ~~complaint~~ REGULATOR shall not ~~be resolved~~ RESOLVE THE COMPLAINT by a deferred
26 settlement, action, judgment, or prosecution.

27 (b) THIS SUBSECTION (2) DOES NOT APPLY TO THE FOLLOWING:

- 28 (I) ARTICLE 125 OF THIS TITLE 12 CONCERNING FANTASY CONTESTS;
- 29 (II) ARTICLE 140 OF THIS TITLE 12 CONCERNING NONTRANSPLANT TISSUE BANKS;
- 30 (III) ARTICLE 150 OF THIS TITLE 12 CONCERNING PASSENGER TRAMWAYS; AND
- 31 (IV) ARTICLE 260 OF THIS TITLE 12 CONCERNING NURSE AIDES.

32 (3) **Waiting period after revocation or surrender.** (a) (I) EXCEPT AS PROVIDED IN
33 SUBSECTIONS (3)(a)(III) AND (3)(b) OF THIS SECTION, a person whose license,
34 CERTIFICATION, OR REGISTRATION to practice ~~as a hearing aid provider or apprentice~~ A
35 PROFESSION OR OCCUPATION under this ~~article~~ TITLE 12 is revoked ~~or who surrenders his or~~
36 ~~her license to avoid discipline~~, is ineligible to apply for ~~any~~ A new license, CERTIFICATION,
37 OR REGISTRATION under ~~this article~~ THE PART OR ARTICLE OF THIS TITLE 12 THAT GOVERNS
38 THE PARTICULAR PROFESSION OR OCCUPATION for two years after the date of revocation or

1 surrender of his or her license, CERTIFICATION, OR REGISTRATION.
2 (II) THE WAITING PERIOD SPECIFIED IN SUBSECTION (3)(a)(I) OF THIS SECTION APPLIES
3 WHEN A PERSON REGULATED UNDER ANY OF THE FOLLOWING ARTICLES SURRENDERS A
4 LICENSE, CERTIFICATION, OR REGISTRATION TO AVOID DISCIPLINE:
5 (A) ARTICLE 105 OF THIS TITLE 12 CONCERNING BARBERS AND COSMETOLOGISTS;
6 (B) ARTICLE 145 OF THIS TITLE 12 CONCERNING OUTFITTERS AND GUIDES;
7 (C) ARTICLE 160 OF THIS TITLE 12 CONCERNING PRIVATE INVESTIGATORS;
8 (D) ARTICLE 200 OF THIS TITLE 12 CONCERNING ACUPUNCTURISTS;
9 (E) ARTICLE 210 OF THIS TITLE 12 CONCERNING AUDIOLOGISTS;
10 (F) ARTICLE 230 OF THIS TITLE 12 CONCERNING HEARING AID PROVIDERS;
11 (G) ARTICLE 235 OF THIS TITLE 12 CONCERNING MASSAGE THERAPISTS;
12 (H) ARTICLE 240 OF THIS TITLE 12 CONCERNING MEDICAL PRACTICE;
13 (I) ARTICLE 250 OF THIS TITLE 12 CONCERNING NATUROPATHIC DOCTORS;
14 (J) ARTICLE 255 OF THIS TITLE 12 CONCERNING NURSES;
15 (K) ARTICLE 270 OF THIS TITLE 12 CONCERNING OCCUPATIONAL THERAPISTS AND
16 OCCUPATIONAL THERAPY ASSISTANTS;
17 (L) ARTICLE 285 OF THIS TITLE 12 CONCERNING PHYSICAL THERAPISTS AND PHYSICAL
18 THERAPIST ASSISTANTS;
19 (M) ARTICLE 300 OF THIS TITLE 12 CONCERNING RESPIRATORY THERAPISTS; AND
20 (N) ARTICLE 305 OF THIS TITLE 12 CONCERNING SPEECH-LANGUAGE PATHOLOGISTS.
21 (III) (A) FOR A PERSON WHOSE LICENSE AS A NURSING HOME ADMINISTRATOR ISSUED
22 UNDER ARTICLE 265 OF THIS TITLE 12 IS REVOKED, OR WHO SURRENDERS THE LICENSE TO
23 AVOID DISCIPLINE, THE PERSON IS INELIGIBLE TO APPLY FOR A NEW NURSING HOME
24 ADMINISTRATOR LICENSE UNDER THAT ARTICLE FOR ONE YEAR AFTER THE DATE OF
25 REVOCATION OR SURRENDER.
26 (B) FOR A PERSON WHOSE LICENSE, CERTIFICATION, OR REGISTRATION AS A MENTAL
27 HEALTH PROFESSIONAL ISSUED UNDER ARTICLE 245 OF THIS TITLE 12 IS REVOKED, OR WHO
28 SURRENDERS THE LICENSE, CERTIFICATION, OR REGISTRATION TO AVOID DISCIPLINE, THE
29 PERSON IS INELIGIBLE TO APPLY FOR A NEW LICENSE, CERTIFICATION, OR REGISTRATION
30 UNDER THAT ARTICLE FOR THREE YEARS AFTER THE DATE OF REVOCATION OR SURRENDER.
31 (b) THIS SUBSECTION (3) DOES NOT APPLY TO THE FOLLOWING:
32 (I) ARTICLE 110 OF THIS TITLE 12 CONCERNING COMBATIVE SPORTS;
33 (II) ARTICLE 125 OF THIS TITLE 12 CONCERNING FANTASY CONTESTS;
34 (III) ARTICLE 140 OF THIS TITLE 12 CONCERNING NONTRANSPLANT TISSUE BANKS;
35 (IV) ARTICLE 150 OF THIS TITLE 12 CONCERNING PASSENGER TRAMWAYS;
36 (V) ARTICLE 205 OF THIS TITLE 12 CONCERNING ATHLETIC TRAINERS;
37 (VI) ARTICLE 215 OF THIS TITLE 12 CONCERNING CHIROPRACTORS;
38 (VII) ARTICLE 260 OF THIS TITLE 12 CONCERNING NURSE AIDES;

1 (VIII) ARTICLE 295 OF THIS TITLE 12 CONCERNING PSYCHIATRIC TECHNICIANS; AND
2 (IX) ARTICLE 310 OF THIS TITLE 12 CONCERNING SURGICAL ASSISTANTS AND
3 SURGICAL TECHNOLOGISTS.

4 (4) **Letter of admonition.** (a) When a complaint or investigation discloses an
5 instance of misconduct that, in the opinion of ~~the director~~ A REGULATOR, does not warrant
6 formal action by the ~~director~~ REGULATOR but that should not be dismissed as being without
7 merit, the ~~director~~ REGULATOR may issue and send a letter of admonition to the licensee,
8 CERTIFICATE HOLDER, OR REGISTRANT.

9 (b) (I) When ~~the director~~ A REGULATOR sends a letter of admonition to a licensee,
10 CERTIFICATE HOLDER, OR REGISTRANT pursuant to ~~paragraph (a) of this subsection (4)~~
11 SUBSECTION (4)(a) OF THIS SECTION, the ~~director~~ REGULATOR shall also advise the licensee,
12 CERTIFICATE HOLDER, OR REGISTRANT that he or she has the right to request in writing,
13 within twenty days after ~~service~~ RECEIPT of the letter, that the ~~director~~ REGULATOR initiate
14 formal disciplinary proceedings to adjudicate the propriety of the conduct upon which the
15 letter of admonition is based.

16 (II) If the licensee, ~~makes the request for~~ CERTIFICATE HOLDER, OR REGISTRANT
17 TIMELY REQUESTS adjudication, the ~~director~~ REGULATOR shall vacate the letter of admonition
18 and shall process the matter by means of formal disciplinary proceedings.

19 (c) THIS SUBSECTION (4) DOES NOT APPLY TO THE FOLLOWING:

20 (I) ARTICLE 205 OF THIS TITLE 12 CONCERNING ATHLETIC TRAINERS; AND

21 (II) ARTICLE 310 OF THIS TITLE 12 CONCERNING SURGICAL ASSISTANTS AND
22 SURGICAL TECHNOLOGISTS.

23 (5) **Confidential letter of concern.** (a) When a complaint or investigation discloses
24 an instance of conduct that does not warrant formal action by ~~the director~~ A REGULATOR and,
25 in the opinion of the ~~director~~ REGULATOR, should be dismissed, but the ~~director~~ REGULATOR
26 has noticed indications of possible errant conduct by the licensee, CERTIFICATE HOLDER, OR
27 REGISTRANT that could lead to serious consequences if not corrected, the ~~director~~
28 REGULATOR may send the licensee, CERTIFICATE HOLDER, OR REGISTRANT a confidential
29 letter of concern.

30 (b) THIS SUBSECTION (5) DOES NOT APPLY TO THE FOLLOWING:

31 (I) ARTICLE 125 OF THIS TITLE 12 CONCERNING FANTASY CONTESTS;

32 (II) ARTICLE 140 OF THIS TITLE 12 CONCERNING NONTRANSPLANT TISSUE BANKS;

33 (III) ARTICLE 150 OF THIS TITLE 12 CONCERNING PASSENGER TRAMWAYS;

34 (IV) ARTICLE 205 OF THIS TITLE 12 CONCERNING ATHLETIC TRAINERS; AND

35 (V) ARTICLE 310 OF THIS TITLE 12 CONCERNING SURGICAL ASSISTANTS AND
36 SURGICAL TECHNOLOGISTS.

37 (6) ~~The director shall not enforce any provisions of this article or rules promulgated~~
38 ~~pursuant to this article that are held unconstitutional, invalid, or inconsistent with federal~~

1 ~~laws or regulations, including rules promulgated by the United States food and drug~~
2 ~~administration.~~

3 ~~(7)~~ (6) **Disposition of fines.** (a) EXCEPT AS SPECIFIED IN SUBSECTION (6)(b) OF THIS
4 SECTION, A REGULATOR SHALL TRANSMIT all fines collected pursuant to ~~this section shall be~~
5 ~~transmitted~~ A PART OR ARTICLE OF THIS TITLE 12 to the state treasurer, who shall credit them
6 to the general fund.

7 (b) THE DISPOSITION OF FINES COLLECTED BY:

8 (I) THE STATE ELECTRICAL BOARD IS GOVERNED BY SECTION 12-115-122 (5)(a);

9 (II) THE DIRECTOR FOR VIOLATIONS OF LAWS GOVERNING THE ACTIVITIES OF
10 OUTFITTERS AND GUIDES IS GOVERNED BY SECTION 12-145-109 (3); AND

11 (III) THE STATE PLUMBING BOARD IS GOVERNED BY SECTION 12-155-123 (4)(a).

12 **12-20-405. [Formerly 12-5.5-303] Cease-and-desist orders.** (1) (a) If it appears
13 to ~~the director~~ A REGULATOR, based upon credible evidence as presented in a written
14 complaint by any person, that a licensee, CERTIFICATE HOLDER, OR REGISTRANT is acting in
15 a manner that is a threat to the health and safety of the public, or a person is acting or has
16 acted without the ~~required~~ license, CERTIFICATION, OR REGISTRATION REQUIRED TO PRACTICE
17 A PROFESSION OR OCCUPATION, the ~~director~~ REGULATOR THAT REGULATES THE PARTICULAR
18 PROFESSION OR OCCUPATION may issue an order to cease and desist the activity. The order
19 must set forth the ~~statutes and rules~~ LAWS alleged to have been violated, the facts alleged to
20 have constituted the violation, the specific harm that threatens the health and safety of the
21 public, and the requirement that all unlawful acts or unlicensed, UNCERTIFIED, OR
22 UNREGISTERED practices immediately cease.

23 (b) Within ten days after service of the order to cease and desist pursuant to
24 ~~paragraph (a) of this subsection~~ (1) SUBSECTION (1)(a) OF THIS SECTION, the respondent may
25 request a hearing on the question of whether acts or practices in violation of ~~this article~~ THE
26 PART OR ARTICLE OF THIS TITLE 12 GOVERNING THE PARTICULAR PROFESSION OR
27 OCCUPATION have occurred. The hearing must be conducted pursuant to sections 24-4-104
28 and 24-4-105. ~~C.R.S.~~

29 (2) (a) If it appears to the ~~director~~ REGULATOR, based upon credible evidence as
30 presented in a written complaint by any person, that a person has violated any other ~~portion~~
31 ~~of this article~~ PART OR ARTICLE OF THIS TITLE 12 GOVERNING THE PARTICULAR PROFESSION
32 OR OCCUPATION, then, in addition to any specific powers granted pursuant to ~~this article~~ THE
33 PART OR ARTICLE OF THIS TITLE 12 GOVERNING THE PARTICULAR PROFESSION OR
34 OCCUPATION, the ~~director~~ REGULATOR may issue to the person an order to show cause as to
35 why the ~~director~~ REGULATOR should not issue a final order directing the person to cease and
36 desist from the unlawful act or UNLICENSED, UNCERTIFIED, OR UNREGISTERED practice.

37 (b) The ~~director~~ REGULATOR shall promptly notify the person of the issuance of the

1 order and shall include in the notice a copy of the order, the factual and legal basis for the
2 order, and the date set by the ~~director~~ REGULATOR for a hearing on the order. The ~~director~~
3 REGULATOR may serve the notice by personal service, by first-class United States mail,
4 postage prepaid, or as may be practicable upon any person against whom the order is issued.
5 Personal service or proof of receipt of mailing of an order or document pursuant to this
6 ~~paragraph (b)~~ SUBSECTION (2)(b) constitutes notice to the person of the existence and
7 contents of the order or document.

8 (c) (I) The ~~director must~~ REGULATOR SHALL commence the hearing on an order to
9 show cause no sooner than ten, and no later than forty-five, calendar days after the date of
10 ~~transmission or service of the notification by the director~~ THE REGULATOR TRANSMITTED OR
11 SERVED NOTICE as provided in ~~paragraph (b) of this subsection (2)~~ SUBSECTION (2)(b) OF
12 THIS SECTION. The ~~director~~ REGULATOR may continue the hearing by agreement of all parties
13 based upon the complexity of the matter, number of parties to the matter, and legal issues
14 presented in the matter, but in no event may the ~~director~~ REGULATOR commence the hearing
15 later than sixty calendar days after the date of transmission or service of the notification.
16 SECTIONS 24-4-104 AND 24-4-105 GOVERN THE CONDUCT OF THE HEARING HELD UNDER THIS
17 SUBSECTION (2)(c).

18 (II) If a person against whom THE REGULATOR HAS ISSUED an order to show cause
19 ~~has been issued~~ pursuant to ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS
20 SECTION does not appear at the hearing, the ~~director~~ REGULATOR may present evidence that
21 THE REGULATOR PROPERLY SENT OR SERVED THE notification ~~was properly sent or served~~
22 upon the person pursuant to ~~paragraph (b) of this subsection (2)~~ SUBSECTION (2)(b) OF THIS
23 SECTION and any other evidence related to the matter as the ~~director~~ REGULATOR deems
24 appropriate. The ~~director~~ REGULATOR shall issue the order within ten days after the ~~director's~~
25 REGULATOR'S determination related to reasonable attempts to notify the respondent, and the
26 order becomes final as to that person by operation of law. ~~The conduct of the hearing is~~
27 ~~governed by sections 24-4-104 and 24-4-105, C.R.S.~~

28 (III) If the ~~director~~ REGULATOR reasonably finds that the person against whom THE
29 REGULATOR ISSUED the order to show cause ~~was issued~~ is acting or has acted without the
30 required license, CERTIFICATION, OR REGISTRATION or has or is about to engage in acts or
31 practices constituting violations of ~~this article or rules adopted under this article~~ THE LAWS
32 GOVERNING THE PARTICULAR PROFESSION OR OCCUPATION, the ~~director~~ REGULATOR may
33 issue a final cease-and-desist order directing the person to cease and desist from further
34 unlawful acts or unlicensed, UNCERTIFIED, OR UNREGISTERED practices.

35 (IV) The ~~director~~ REGULATOR shall provide notice, in the manner set forth in
36 ~~paragraph (b) of this subsection (2)~~ SUBSECTION (2)(b) OF THIS SECTION, of the final
37 cease-and-desist order within ten calendar days after the hearing conducted pursuant to this
38 ~~paragraph (c)~~ SUBSECTION (2)(c) to each person against whom THE REGULATOR HAS ISSUED

1 the final order. ~~has been issued.~~ The final order issued pursuant to ~~subparagraph (III) of this~~
2 ~~paragraph (c)~~ SUBSECTION (2)(c)(III) OF THIS SECTION is effective when issued and
3 constitutes a final order for purposes of judicial review.

4 (3) The ~~director~~ REGULATOR may enter into a stipulation with a person if it appears
5 to the ~~director~~ REGULATOR, based upon credible evidence presented to the ~~director~~
6 REGULATOR, that the person has engaged in or is about to engage in:

7 (a) An unlicensed, UNCERTIFIED, OR UNREGISTERED act or practice;

8 (b) An act or practice constituting a violation of ~~this article, a rule promulgated~~
9 ~~pursuant to this article,~~ THE LAWS GOVERNING THE PARTICULAR PROFESSION OR OCCUPATION
10 or an order issued pursuant to ~~this article~~ THOSE LAWS; or

11 (c) An act or practice constituting grounds for administrative sanction pursuant to
12 ~~this article~~ THE PART OR ARTICLE OF THIS TITLE 12 GOVERNING THE PARTICULAR PROFESSION
13 OR OCCUPATION.

14 (4) If any person fails to comply with a final cease-and-desist order or a stipulation,
15 the ~~director~~ REGULATOR may request the attorney general or the district attorney for the
16 judicial district in which the alleged violation exists to bring, and if so requested the attorney
17 shall bring, suit for a temporary restraining order and for injunctive relief to prevent any
18 further or continued violation of the final order.

19 (5) A person aggrieved by the REGULATOR'S final DETERMINATION WITH REGARD TO
20 A cease-and-desist order may seek judicial review ~~of the director's determination or of the~~
21 ~~director's final order in a court of competent jurisdiction~~ IN ACCORDANCE WITH SECTION
22 12-20-409.

23 (6) ~~A person who practices or offers or attempts to practice as a hearing aid provider~~
24 ~~or who engages in the practice of dispensing, fitting, or dealing in hearing aids without an~~
25 ~~active hearing aid provider license issued under this article commits a class 2 misdemeanor~~
26 ~~and shall be punished as provided in section 18-1.3-501, C.R.S., for the first offense, and,~~
27 ~~for the second or any subsequent offense, the person commits a class 6 felony and shall be~~
28 ~~punished as provided in section 18-1.3-401, C.R.S.~~ THIS SECTION DOES NOT APPLY TO
29 ARTICLES 125, 140, AND 150 OF THIS TITLE 12 CONCERNING FANTASY CONTESTS,
30 NONTRANSPLANT TISSUE BANKS, AND PASSENGER TRAMWAYS, RESPECTIVELY.

31 **12-20-406.** [Formerly 12-36-129 (6)] **Injunctive relief.** (1) (a) EXCEPT AS
32 SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION:

33 (I) ~~The board may~~ A REGULATOR, in the name of the people of the state of Colorado
34 and through the attorney general of the state of Colorado, MAY apply for an injunction in any
35 court of competent jurisdiction to enjoin any person from committing any act prohibited by
36 ~~this article~~ A PART OR ARTICLE OF THIS TITLE 12.

37 (b) (II) If the ~~board~~ REGULATOR establishes that the defendant has been or is

1 committing an act prohibited by ~~this~~ THE PART OR article, the court shall enter a decree
2 perpetually enjoining the defendant from further committing the act.

3 (e) (III) An injunctive proceeding may be brought pursuant to this section in addition
4 to, and not in lieu of, all penalties and other remedies provided in ~~this~~ THE PART OR article.

5 (b) SUBSECTION (1)(a) OF THIS SECTION DOES NOT APPLY TO THE FOLLOWING:

6 (I) ARTICLE 100 OF THIS TITLE 12 CONCERNING ACCOUNTANTS;

7 (II) ARTICLE 125 OF THIS TITLE 12 CONCERNING FANTASY CONTESTS;

8 (III) ARTICLE 130 OF THIS TITLE 12 CONCERNING LANDSCAPE ARCHITECTS;

9 (IV) ARTICLE 140 OF THIS TITLE 12 CONCERNING NONTRANSPLANT TISSUE BANKS;

10 (V) ARTICLE 220 OF THIS TITLE 12 CONCERNING DENTISTS AND DENTAL HYGIENISTS;

11 (VI) ARTICLE 245 OF THIS TITLE 12 CONCERNING MENTAL HEALTH;

12 (VII) ARTICLE 250 OF THIS TITLE 12 CONCERNING NATUROPATHIC DOCTORS;

13 (VIII) ARTICLE 255 OF THIS TITLE 12 CONCERNING NURSES;

14 (IX) ARTICLE 260 OF THIS TITLE 12 CONCERNING NURSE AIDES;

15 (X) ARTICLE 265 OF THIS TITLE 12 CONCERNING NURSING HOME ADMINISTRATORS;

16 (XI) ARTICLE 285 OF THIS TITLE 12 CONCERNING PHYSICAL THERAPISTS AND
17 PHYSICAL THERAPIST ASSISTANTS;

18 (XII) ARTICLE 290 OF THIS TITLE 12 CONCERNING PODIATRISTS; AND

19 (XIII) ARTICLE 295 OF THIS TITLE 12 CONCERNING PSYCHIATRIC TECHNICIANS.

20 (2) (a) EXCEPT AS SPECIFIED IN SUBSECTION (2)(b) OF THIS SECTION, WHEN SEEKING
21 AN INJUNCTION UNDER SUBSECTION (1)(a) OF THIS SECTION, A REGULATOR IS NOT REQUIRED
22 TO ALLEGE OR PROVE THE INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR
23 IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED VIOLATION.

24 (b) SUBSECTION (2)(a) OF THIS SECTION DOES NOT APPLY TO THE FOLLOWING:

25 (I) ARTICLE 105 OF THIS TITLE 12 CONCERNING BARBERS AND COSMETOLOGISTS;

26 (II) ARTICLE 110 OF THIS TITLE 12 CONCERNING COMBATIVE SPORTS;

27 (III) PART 4 OF ARTICLE 120 OF THIS TITLE 12 CONCERNING ARCHITECTS;

28 (IV) ARTICLE 135 OF THIS TITLE 12 CONCERNING MORTUARIES AND CREMATORIES;

29 (V) ARTICLE 150 OF THIS TITLE 12 CONCERNING PASSENGER TRAMWAYS;

30 (VI) ARTICLE 210 OF THIS TITLE 12 CONCERNING AUDIOLOGISTS;

31 (VII) ARTICLE 230 OF THIS TITLE 12 CONCERNING HEARING AID PROVIDERS;

32 (VIII) ARTICLE 240 OF THIS TITLE 12 CONCERNING MEDICAL PRACTICE;

33 (IX) ARTICLE 275 OF THIS TITLE 12 CONCERNING OPTOMETRISTS;

34 (X) ARTICLE 280 OF THIS TITLE 12 CONCERNING PHARMACISTS, PHARMACY
35 BUSINESSES, AND PHARMACEUTICALS; AND

36 (XI) ARTICLE 315 OF THIS TITLE 12 CONCERNING VETERINARIANS.

1 **12-20-407. Unauthorized practice of profession or occupation - penalties -**
2 **exclusions.** (1) (a) [**Formerly 12-23-119 (2)**] ~~Any~~ A person ~~who practices or offers or~~
3 ~~attempts to practice the profession of an electrician without an active license issued under~~
4 ~~this article~~ commits a class 2 misdemeanor and shall be punished as provided in section
5 18-1.3-501 ~~C.R.S.~~, for the first offense, and, for the second or any subsequent offense, ~~the~~
6 ~~person~~ commits a class 6 felony and shall be punished as provided in section 18-1.3-401,
7 ~~C.R.S.~~ IF THE PERSON:
8 (I) VIOLATES SECTION 12-100-112 OR 12-100-116 (6)(a); <{**Accountancy**}>
9 (II) ENGAGES IN OR OFFERS OR ATTEMPTS TO ENGAGE IN THE CONDUCT, PROMOTION,
10 OR PERFORMANCE OF LIVE BOXING MATCHES WITHOUT AN ACTIVE LICENSE OR PERMIT ISSUED
11 UNDER ARTICLE 110 OF THIS TITLE 12;
12 (III) ENGAGES OR OFFERS OR ATTEMPTS TO ENGAGE IN ACTIVITIES AS AN OUTFITTER
13 WITHOUT AN ACTIVE REGISTRATION ISSUED UNDER ARTICLE 145 OF THIS TITLE 12;
14 (IV) ENGAGES IN OR WORKS AT OR OFFERS OR ATTEMPTS TO ENGAGE IN OR WORK AT
15 THE BUSINESS, TRADE, OR CALLING OF A RESIDENTIAL, JOURNEYMAN, MASTER, OR
16 APPRENTICE PLUMBER; A WATER CONDITIONING CONTRACTOR; A WATER CONDITIONING
17 INSTALLER; OR A WATER CONDITIONING PRINCIPAL WITHOUT AN ACTIVE LICENSE, PERMIT, OR
18 REGISTRATION ISSUED UNDER ARTICLE 160 OF THIS TITLE 12; OR
19 (V) PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE ANY OF THE FOLLOWING
20 PROFESSIONS OR OCCUPATIONS WITHOUT AN ACTIVE LICENSE, CERTIFICATION, OR
21 REGISTRATION ISSUED UNDER THE PART OR ARTICLE OF THIS TITLE 12 GOVERNING THE
22 REGULATION OF THE PARTICULAR PROFESSION OR OCCUPATION:
23 (A) BARBERING, HAIRSTYLING, ESTHETICS, MANICURING, OR COSMETOLOGY, AS
24 REGULATED UNDER ARTICLE 105 OF THIS TITLE 12;
25 (B) THE PROFESSION OF AN ELECTRICIAN, AS REGULATED UNDER ARTICLE 115 OF THIS
26 TITLE 12;
27 (C) PROFESSIONAL ENGINEERING, AS REGULATED UNDER PARTS 1 AND 2 OF ARTICLE
28 120 OF THIS TITLE 12;
29 (D) PROFESSIONAL LAND SURVEYING, AS REGULATED UNDER PARTS 1 AND 3 OF
30 ARTICLE 120 OF THIS TITLE 12;
31 (E) ARCHITECTURE, AS REGULATED UNDER PARTS 1 AND 4 OF ARTICLE 120 OF THIS
32 TITLE 12;
33 (F) LANDSCAPE ARCHITECTURE, AS REGULATED UNDER ARTICLE 130 OF THIS TITLE
34 12;
35 (G) ACUPUNCTURE, AS REGULATED UNDER ARTICLE 200 OF THIS TITLE 12;
36 (H) AUDIOLOGY, AS REGULATED UNDER ARTICLE 210 OF THIS TITLE 12;
37 (I) CHIROPRACTIC, AS REGULATED UNDER ARTICLE 215 OF THIS TITLE 12;
38 (J) DENTISTRY OR DENTAL HYGIENE, AS REGULATED UNDER ARTICLE 220 OF THIS

- 1 TITLE 12;
- 2 (K) DIRECT-ENTRY MIDWIFERY, AS REGULATED UNDER ARTICLE 225 OF THIS TITLE
- 3 12;
- 4 (L) PRACTICE AS A HEARING AID PROVIDER OR ENGAGES IN THE PRACTICE OF
- 5 DISPENSING, FITTING, OR DEALING IN HEARING AIDS, AS REGULATED UNDER ARTICLE 230 OF
- 6 THIS TITLE 12;
- 7 (M) MEDICINE, PRACTICE AS A PHYSICIAN ASSISTANT, OR PRACTICE AS AN
- 8 ANESTHESIOLOGIST ASSISTANT, AS REGULATED UNDER ARTICLE 240 OF THIS TITLE 12;
- 9 (N) PRACTICE AS A PSYCHOLOGIST, AS REGULATED UNDER PART 3 OF ARTICLE 245
- 10 OF THIS TITLE 12;
- 11 (O) PRACTICE AS A SOCIAL WORKER, AS REGULATED UNDER PART 4 OF ARTICLE 245
- 12 OF THIS TITLE 12;
- 13 (P) PRACTICE AS A MARRIAGE AND FAMILY THERAPIST, AS REGULATED UNDER PART
- 14 5 OF ARTICLE 245 OF THIS TITLE 12;
- 15 (Q) PRACTICE AS A LICENSED PROFESSIONAL COUNSELOR, AS REGULATED UNDER
- 16 PART 6 OF ARTICLE 245 OF THIS TITLE 12;
- 17 (R) PRACTICE AS A PSYCHOTHERAPIST, AS REGULATED UNDER PART 7 OF ARTICLE 245
- 18 OF THIS TITLE 12;
- 19 (S) PRACTICE AS AN ADDICTION COUNSELOR, AS REGULATED UNDER PART 8 OF
- 20 ARTICLE 245 OF THIS TITLE 12;
- 21 (T) PRACTICAL OR PROFESSIONAL NURSING, AS REGULATED UNDER ARTICLE 255 OF
- 22 THIS TITLE 12;
- 23 (U) NURSING HOME ADMINISTRATION, AS REGULATED UNDER ARTICLE 265 OF THIS
- 24 TITLE 12;
- 25 (V) OPTOMETRY, AS REGULATED UNDER ARTICLE 275 OF THIS TITLE 12;
- 26 (W) PHARMACY, AS REGULATED UNDER ARTICLE 280 OF THIS TITLE 12;
- 27 (X) PHYSICAL THERAPY, AS REGULATED UNDER ARTICLE 285 OF THIS TITLE 12;
- 28 (Y) PODIATRY, AS REGULATED UNDER ARTICLE 290 OF THIS TITLE 12;
- 29 (Z) PRACTICE AS A PSYCHIATRIC TECHNICIAN, AS REGULATED UNDER ARTICLE 295
- 30 OF THIS TITLE 12;
- 31 (AA) RESPIRATORY THERAPY, AS REGULATED UNDER ARTICLE 300 OF THIS TITLE 12;
- 32 OR
- 33 (BB) VETERINARY MEDICINE, AS REGULATED UNDER ARTICLE 315 OF THIS TITLE 12.
- 34 (b) **[Formerly 12-58.5-104 (2)]** ~~Any A person who conducts private investigations~~
- 35 ~~or presents himself or herself as or uses the title "private investigator", "private detective",~~
- 36 ~~"licensed private detective", or "licensed private investigator" without an active license~~
- 37 ~~issued under this article~~ commits a class 2 misdemeanor and shall be punished as provided
- 38 in section 18-1.3-501 ~~C.R.S.~~, for the first offense and, for the second or any subsequent

1 offense, commits a class 1 misdemeanor and shall be punished as provided in section
2 18-1.3-501, ~~C.R.S.~~ IF THE PERSON ENGAGES IN ANY OF THE FOLLOWING ACTIVITIES:

3 (I) CONDUCTS PRIVATE INVESTIGATIONS OR PRESENTS HIMSELF OR HERSELF AS A OR
4 USES THE TITLE "PRIVATE INVESTIGATOR", "PRIVATE DETECTIVE", "LICENSED PRIVATE
5 DETECTIVE", OR "LICENSED PRIVATE INVESTIGATOR" WITHOUT AN ACTIVE LICENSE ISSUED
6 UNDER ARTICLE 165 OF THIS TITLE 12;

7 (II) PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE ATHLETIC TRAINING WITHOUT
8 AN ACTIVE REGISTRATION ISSUED UNDER ARTICLE 205 OF THIS TITLE 12;

9 (III) PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE MASSAGE THERAPY WITHOUT
10 AN ACTIVE LICENSE ISSUED UNDER ARTICLE 235 OF THIS TITLE 12 OR KNOWINGLY AIDS OR
11 ABETS THE UNLICENSED PRACTICE OF MASSAGE THERAPY;

12 (IV) PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE OCCUPATIONAL THERAPY
13 WITHOUT AN ACTIVE LICENSE AS REQUIRED BY AND ISSUED UNDER ARTICLE 270 OF THIS TITLE
14 12 FOR OCCUPATIONAL THERAPISTS OR OCCUPATIONAL THERAPY ASSISTANTS;

15 (V) PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE SPEECH-LANGUAGE
16 PATHOLOGY WITHOUT AN ACTIVE CERTIFICATION ISSUED UNDER ARTICLE 305 OF THIS TITLE
17 12; OR

18 (VI) PERFORMS THE DUTIES OF A SURGICAL ASSISTANT OR SURGICAL TECHNOLOGIST
19 WITHOUT BEING REGISTERED UNDER ARTICLE 310 OF THIS TITLE 12.

20 (c) [Formerly 12-37.3-113] A person who practices or offers or attempts to practice
21 as a naturopathic doctor without an active registration issued under ~~this~~ article 250 OF THIS
22 TITLE 12 commits a class 2 misdemeanor and shall be punished as provided in section
23 18-1.3-501. ~~C.R.S.~~

24 (d) [Formerly 12-41-216] ~~Any~~ A person who violates section ~~12-41-202~~ 12-285-
25 202 or ~~12-41-203~~ 12-285-203 without an active certification issued under ~~this~~ part 2 OF
26 ARTICLE 285 OF THIS TITLE 12 TO PRACTICE AS A PHYSICAL THERAPY ASSISTANT commits a
27 class 2 misdemeanor and shall be punished as provided in section 18-1.3-501. ~~C.R.S.~~

28 (2) THE PENALTIES FOR:

29 (a) ENGAGING IN UNAUTHORIZED ACTIVITIES REGARDING MORTUARIES AND
30 CREMATORIES ARE GOVERNED BY SECTION 12-135-108;

31 (b) VIOLATING ARTICLE 140 CONCERNING NONTRANSPLANT TISSUE BANKS ARE
32 GOVERNED BY SECTION 12-140-108.

33 (c) ENGAGING IN UNAUTHORIZED ACTIVITIES REGARDING PASSENGER TRAMWAYS ARE
34 GOVERNED BY SECTION 12-150-108 (4).

35 (d) ENGAGING IN UNAUTHORIZED ACTIVITIES REGARDING NURSE AIDE PRACTICE ARE
36 GOVERNED BY SECTION 12-260-118 (2).

37 12-20-408. [Formerly 12-42.5-125] **Judicial review.** (1) EXCEPT AS SPECIFIED IN

1 SUBSECTION (2) OF THIS SECTION, the court of appeals has initial jurisdiction to review all
2 final actions and orders OF A REGULATOR that are subject to judicial review ~~of the board~~ and
3 shall conduct the judicial review proceedings in accordance with section 24-4-106 (11).
4 ~~C.R.S.~~

5 (2) (a) A DISTRICT COURT OF COMPETENT JURISDICTION HAS INITIAL JURISDICTION TO
6 REVIEW ALL FINAL ACTIONS AND ORDERS OF A REGULATOR THAT ARE SUBJECT TO JUDICIAL
7 REVIEW AND SHALL CONDUCT THE JUDICIAL REVIEW PROCEEDINGS IN ACCORDANCE WITH
8 SECTION 24-4-106 (3) FOR THE FOLLOWING:

- 9 (I) ARTICLE 125 OF THIS TITLE 12 CONCERNING FANTASY CONTESTS;
- 10 (II) ARTICLE 130 OF THIS TITLE 12 CONCERNING LANDSCAPE ARCHITECTS;
- 11 (III) ARTICLE 135 OF THIS TITLE 12 CONCERNING MORTUARIES AND CREMATORIES;
- 12 (IV) ARTICLE 140 OF THIS TITLE 12 CONCERNING NONTRANSPLANT TISSUE BANKS;
- 13 (V) ARTICLE 200 OF THIS TITLE 12 CONCERNING ACUPUNCTURISTS;
- 14 (VI) ARTICLE 210 OF THIS TITLE 12 CONCERNING AUDIOLOGISTS; AND
- 15 (VII) ARTICLE 230 OF THIS TITLE 12 CONCERNING HEARING AID PROVIDERS.

16 (b) WITH REGARD ONLY TO CEASE-AND-DESIST ORDERS, A DISTRICT COURT OF
17 COMPETENT JURISDICTION HAS INITIAL JURISDICTION TO REVIEW A FINAL ACTION OF A
18 REGULATOR THAT IS SUBJECT TO JUDICIAL REVIEW AND SHALL CONDUCT THE JUDICIAL
19 REVIEW PROCEEDINGS IN ACCORDANCE WITH SECTION 24-4-106 (3) FOR THE FOLLOWING:

- 20 (I) ARTICLE 115 OF THIS TITLE 12 CONCERNING ELECTRICIANS;
- 21 (II) PART 4 OF ARTICLE 120 OF THIS TITLE 12 CONCERNING ARCHITECTS;
- 22 (III) ARTICLE 225 OF THIS TITLE 12 CONCERNING DIRECT-ENTRY MIDWIVES;
- 23 (IV) ARTICLE 250 OF THIS TITLE 12 CONCERNING NATUROPATHIC DOCTORS;
- 24 (V) ARTICLE 275 OF THIS TITLE 12 CONCERNING OPTOMETRISTS; AND
- 25 (VI) ARTICLE 315 OF THIS TITLE 12 CONCERNING VETERINARIANS.

26 **ARTICLE 30**

27 **Provisions Applicable to Health Care Professions and Occupations**

28 PART 1

29 **MISCELLANEOUS PROVISIONS APPLICABLE TO**
30 **HEALTH CARE PROFESSIONS AND OCCUPATIONS**

31 <{*Name for Part 1 is still under consideration and is subject to change.*}>

32 **12-30-101. [Formerly 24-34-110] Medical transparency act of 2010 - disclosure**
33 **of information about health care licensees - fines - rules - short title - legislative**

1 **declaration - repeal.** (1) THE SHORT TITLE OF this section shall be known and may be cited
2 as IS the "Michael Skolnik Medical Transparency Act of 2010".

3 (2) (a) The general assembly hereby finds and determines that:

4 (I) The people of Colorado need to be fully informed about the past practices of
5 persons practicing a health care profession in this state in order to make informed decisions
6 when choosing a health care provider and determining whether to proceed with a particular
7 regimen of care recommended by a health care provider;

8 (II) The purpose of this section is to provide transparency to the public regarding the
9 competency of persons engaged in the practice of certain health care professions in this state
10 to assist citizens in making informed health care decisions.

11 (b) The general assembly further finds and declares that it is important to make
12 information about persons engaged in the practice of a health care profession available to
13 the public in a manner that is efficient, cost-effective, and maintains the integrity of the
14 information, and to that end, the general assembly encourages persons to file the required
15 information with the division of professions and occupations electronically, to the extent
16 possible.

17 (3) (a) As used in this section, "applicant" means a person applying for a new, active
18 license, certification, or registration or to renew, reinstate, or reactivate an active license,
19 certification, or registration to practice:

20 (I) Audiology pursuant to article ~~29.9~~ **210** of THIS title 12; ~~C.R.S.;~~

21 (II) As a licensed hearing aid provider pursuant to part 2 of article ~~5.5~~ **230** of THIS
22 title 12; ~~C.R.S.;~~

23 (III) Acupuncture pursuant to article ~~29.5~~ **200** of THIS title 12; ~~C.R.S.;~~

24 (IV) Podiatry pursuant to article ~~32~~ **290** of THIS title 12; ~~C.R.S.;~~

25 (V) Chiropractic pursuant to article ~~33~~ **215** of THIS title 12; ~~C.R.S.;~~

26 (VI) Dentistry pursuant to article ~~35~~ **220** of THIS title 12; ~~C.R.S.;~~

27 (VII) Dental hygiene pursuant to article ~~35~~ **220** of THIS title 12; ~~C.R.S.;~~

28 (VIII) Medicine pursuant to article ~~36~~ **240** of THIS title 12 ~~C.R.S.;~~ or part 36 of article
29 60 of ~~this~~ title **24**;

30 (IX) As a physician assistant or an anesthesiologist assistant pursuant to article ~~36~~
31 **240** of THIS title 12; ~~C.R.S.;~~

32 (X) Direct-entry midwifery pursuant to article ~~37~~ **225** of THIS title 12; ~~C.R.S.;~~

33 (XI) Practical nursing, professional nursing, or advanced practice nursing pursuant
34 to article ~~38~~ **255** of THIS title 12; ~~C.R.S.;~~

35 (XII) Optometry pursuant to article ~~40~~ **275** of THIS title 12; ~~C.R.S.;~~

36 (XIII) Physical therapy pursuant to article ~~41~~ **285** of THIS title 12;

37 (XIV) Psychology pursuant to part 3 of article ~~43~~ **245** of THIS title 12; ~~C.R.S.;~~

38 (XV) Social work pursuant to part 4 of article ~~43~~ **245** of THIS title 12; ~~C.R.S.;~~

- 1 (XVI) Marriage and family therapy pursuant to part 5 of article ~~43~~ **245** of THIS title
- 2 12; ~~C.R.S.~~;
- 3 (XVII) Professional counseling pursuant to part 6 of article ~~43~~ **245** of THIS title 12;
- 4 ~~C.R.S.~~;
- 5 (XVIII) Psychotherapy pursuant to part 7 of article ~~43~~ **245** of THIS title 12; ~~C.R.S.~~;
- 6 (XIX) Addiction counseling pursuant to part 8 of article ~~43~~ **245** of THIS title 12;
- 7 ~~C.R.S.~~;
- 8 (XX) Speech-language pathology pursuant to article ~~43.7~~ **305** of THIS title 12;
- 9 (XXI) Athletic training pursuant to article ~~29.7~~ **205** of THIS title 12; ~~C.R.S.~~;
- 10 (XXII) Massage therapy pursuant to article ~~35.5~~ **235** of THIS title 12; ~~C.R.S.~~;
- 11 (XXIII) As a certified nurse aide pursuant to ~~part 1 of~~ article ~~38.1~~ **260** of THIS title
- 12 12; ~~C.R.S.~~;
- 13 (XXIV) Occupational therapy pursuant to article ~~40.5~~ **270** of THIS title 12; ~~C.R.S.~~;
- 14 (XXV) Respiratory therapy pursuant to article ~~41.5~~ **300** of THIS title 12; ~~C.R.S.~~;
- 15 (XXVI) Pharmacy pursuant to article ~~42.5~~ **280** of THIS title 12; ~~C.R.S.~~;
- 16 (XXVII) As a psychiatric technician pursuant to article ~~42~~ **295** of THIS title 12;
- 17 ~~C.R.S.~~;
- 18 (XXVIII) As a surgical assistant or surgical technologist pursuant to article ~~43.2~~ **310**
- 19 of THIS title 12; ~~C.R.S.~~; and
- 20 (XXIX) Naturopathic medicine pursuant to article ~~37.3~~ **250** of THIS title 12. ~~C.R.S.~~
- 21 (b) A person who is an applicant under this subsection (3) is not, by virtue of
- 22 inclusion in this section, a health care provider for purposes of any other provision of
- 23 Colorado law.
- 24 (4) When applying for a new license, certification, or registration or to renew,
- 25 reinstate, or reactivate a license, certification, or registration in this state, each applicant shall
- 26 provide the following information to the director, ~~of the division of professions and~~
- 27 ~~occupations~~; in a form and manner determined by the director, as applicable to each
- 28 profession:
- 29 (a) (I) The applicant's full name, including any known aliases;
- 30 (II) The applicant's current address of record and telephone number;
- 31 (III) The applicant's location of practice, if different than the address of record;
- 32 (IV) The applicant's education and training related to ~~his or her~~ THE APPLICANT'S
- 33 profession;
- 34 (V) Information pertaining to any license, certification, or registration to practice in
- 35 the profession for which the applicant seeks licensure, certification, or registration, issued
- 36 or held during the immediately preceding ten years, including the license, certification, or
- 37 registration status and year of issuance;
- 38 (VI) Any board certifications and specialties, if applicable;

1 (VII) Any affiliations with or clinical privileges held in hospitals or health care
2 facilities;

3 (VIII) Any health-care-related business ownership interests;

4 (IX) Information pertaining to the applicant's employer, if any, including name,
5 current address, and telephone number; and

6 (X) Information pertaining to any health-care-related employment contracts or
7 contracts establishing an independent contractor relationship with any entities if the annual
8 aggregate value of the contracts exceeds five thousand dollars, as adjusted by the director
9 during each license, certification, or registration renewal cycle to reflect changes in the
10 United States department of labor, bureau of labor statistics, consumer price index for
11 Denver-Aurora-Lakewood for all items and all urban consumers, or its applicable
12 predecessor or successor index. Nothing in this subsection (4)(a)(X) requires an applicant
13 to report such information regarding contracts with insurance carriers for reimbursement of
14 health care services provided to patients.

15 (b) Any public disciplinary action taken against the applicant by the director, the
16 applicable state board that regulates the applicant's profession, or the board or licensing
17 agency of any other state or country. The applicant shall provide a copy of the action to the
18 director at the time the application is made.

19 (c) Any agreement or stipulation entered into between the applicant and the director,
20 the applicable state board that regulates the applicant's profession, or the board or licensing
21 agency of any other state or country whereby the applicant agrees to temporarily cease or
22 restrict ~~his or her~~ THE APPLICANT'S practice, or any director or board order restricting or
23 suspending the applicant's license, certification, or registration. The applicant shall provide
24 a copy of the agreement, stipulation, or order to the director at the time the application is
25 made.

26 (d) (I) Any final action that results in an involuntary limitation or probationary status
27 on, or a reduction, nonrenewal, denial, revocation, or suspension of, the applicant's medical
28 staff membership or clinical privileges at any hospital or health care facility occurring on or
29 after September 1, 1990. The applicant shall not be required to report a precautionary or
30 administrative suspension of medical staff membership or clinical privileges, as defined by
31 the director by rule, unless the applicant resigns ~~his or her~~ THE APPLICANT'S medical staff
32 membership or clinical privileges while the precautionary or administrative suspension is
33 pending. To report the information required by this ~~paragraph (d)~~ SUBSECTION (4)(d), the
34 applicant shall complete a form developed by the director that requires the applicant to
35 report only the following information regarding the action:

36 (A) The name of the facility or entity that took the action;

37 (B) The date the action was taken;

38 (C) The type of action taken, including any terms and conditions of the action;

1 (D) The duration of the action; and

2 (E) Whether the applicant has fulfilled the terms or conditions of the action, if
3 applicable.

4 (II) Notwithstanding PART 2 OF THIS article ~~36.5 of title 12~~ **30**, article 3 of title 25,
5 ~~C.R.S.~~, and any provision of law to the contrary, the form completed by the applicant
6 pursuant to this ~~paragraph (d)~~ SUBSECTION (4)(d) is a public record and is not confidential.
7 Compliance with this ~~paragraph (d)~~ SUBSECTION (4)(d) does not constitute a waiver of any
8 privilege or confidentiality conferred by any applicable state or federal law.

9 (e) Any final action of an employer that results in the applicant's loss of employment
10 where the grounds for termination constitute a violation of the laws governing the applicant's
11 practice. To report the information required by this ~~paragraph (e)~~ SUBSECTION (4)(e), the
12 applicant shall complete a form developed by the director that requires the applicant to
13 report only the following information regarding the action:

14 (I) The name of the employer that terminated the employment; and

15 (II) The date the termination occurred or became effective.

16 (f) Any involuntary surrender of the applicant's United States drug enforcement
17 administration registration. The applicant shall provide a copy of the order requiring the
18 surrender of ~~such~~ THE registration to the director at the time the application is made.

19 (g) Any final criminal conviction or plea arrangement resulting from the commission
20 or alleged commission of a felony or crime of moral turpitude in any jurisdiction at any time
21 after the ~~person~~ APPLICANT has been issued a license, certification, or registration to practice
22 ~~his or her~~ THE APPLICANT'S health care profession in any state or country. The applicant shall
23 provide a copy of the final conviction or plea arrangement to the director at the time the
24 application is made.

25 (h) Any final judgment against, settlement entered into by, or arbitration award paid
26 on behalf of the applicant on or after September 1, 1990, for malpractice. To report the
27 information required by this ~~paragraph (h)~~ SUBSECTION (4)(h), the applicant shall complete
28 a form developed by the director that requires the applicant to report only the following
29 information regarding the malpractice action:

30 (I) Whether the action was resolved by a final judgment against, settlement entered
31 into by, or arbitration award paid on behalf of the applicant;

32 (II) The date of the judgment, settlement, or arbitration award;

33 (III) The location or jurisdiction in which the action occurred or was resolved; and

34 (IV) The court in which the final judgment was ordered, the mediator that aided in
35 the settlement, if applicable, or the arbitrator that granted the arbitration award.

36 (i) Any refusal by an issuer of professional liability insurance to issue a policy to the
37 applicant due to past claims experience. The applicant shall provide a copy of the refusal to
38 the director at the time the application is made.

1 (5) In addition to the information required by subsection (4) of this section, an
2 applicant may submit information regarding awards and recognitions ~~he or she~~ THE
3 APPLICANT has received or charity care ~~he or she~~ THE APPLICANT has provided. The director
4 may remove information regarding awards and recognitions that the director finds to be
5 unrelated to the applicant's profession or offensive or inappropriate.

6 (6) The director shall make the information specified in subsections (4) and (5) of
7 this section that is submitted by an applicant readily available to the public in a manner that
8 allows the public to search the information by name, license number, board certification or
9 specialty area, if applicable, or city of the applicant's address of record. The director may
10 satisfy this requirement by posting and allowing the ability to search the information on the
11 director's website or on the website for the state regulatory board that oversees the
12 applicant's practice. If the information is made available on either website, the director shall
13 ensure that the website is updated at least monthly and that the date on which the update
14 occurs is indicated on the website. If the information made available pursuant to this
15 subsection (6) is the same or substantially similar to information the director must make
16 available pursuant to section ~~12-43.2-102(3), C.R.S.~~ **12-310-____**, the director may elect
17 to use this database as the exclusive means for making the information required by section
18 ~~12-43.2-102(3), C.R.S.~~ **12-310-____** publicly available.

19 (7) When disclosing information regarding an applicant to the public, the director
20 or applicable state board that regulates the applicant's profession shall include the following
21 statement or a similar statement that communicates the same meaning:

22 Some studies have shown that there is no significant correlation between
23 malpractice history and a [insert applicable type of health care provider]'s
24 competence. At the same time, the [director or board of _____, as
25 applicable] believes that consumers should have access to malpractice
26 information. To make the best health care decisions, you should view this
27 information in perspective. You could miss an opportunity for high quality
28 care by selecting a health care provider based solely on malpractice history.
29 When considering malpractice data, please keep in mind:

30 Malpractice histories tend to vary by profession and, as applicable, by
31 specialty. Some professions or specialties are more likely than others to be the
32 subject of litigation.

33 You should take into account how long the health care provider has been in
34 practice when considering malpractice averages.

35 The incident causing the malpractice claim may have happened years before
36 a malpractice action is finally resolved. Sometimes, it takes a long time for a
37 malpractice lawsuit to move through the legal system.

38 Some health care providers work primarily with high-risk patients. These

1 health care providers may have malpractice histories that are higher than
2 average because they specialize in cases or patients who are at very high risk
3 for problems.

4 Settlement of a claim may occur for a variety of reasons that do not necessarily
5 reflect negatively on the professional competence or conduct of the health care
6 provider. A payment in settlement of a malpractice action or claim should not
7 be construed as creating a presumption that malpractice has occurred.

8 You may wish to discuss information provided by the [director or board of
9 _____, as applicable], and malpractice generally, with your health care
10 provider.

11 The information posted on the [director's or board of _____]'s, as
12 applicable] website was provided by applicants for a license and applicants for
13 renewal, reinstatement, or reactivation of a license.

14 (8) (a) Except as specified in ~~paragraph (b) of this subsection~~ (8) SUBSECTION (8)(b)
15 OF THIS SECTION, an applicant, licensee, certificate holder, or registrant shall ensure that the
16 information required by subsection (4) of this section is current and shall report any updated
17 information and provide copies of the required documentation to the director within thirty
18 days after the date of the action described in said subsection (4) or as otherwise provided in
19 the article of THIS title 12 C.R.S., that regulates the applicant's, licensee's, certificate holder's,
20 or registrant's profession to ensure that the information provided to the public is as accurate
21 as possible.

22 (b) An applicant shall report updated information regarding the applicant's employer,
23 any health-care-related business ownership interests, and any health-care-related
24 employment contracts or contracts establishing an independent contractor relationship, as
25 required by ~~paragraph (a) of subsection (4)~~ SUBSECTION (4)(a) of this section, within one
26 year after a change in that information.

27 (9) (a) The director may impose an administrative fine not to exceed five thousand
28 dollars against an applicant, licensee, certificate holder, or registrant who fails to comply
29 with this section. The director shall notify the applicable state board that regulates the
30 profession when the director imposes a fine pursuant to this subsection (9). Any fine
31 imposed pursuant to this subsection (9) shall be deposited in the general fund.

32 (b) The imposition of an administrative fine pursuant to this subsection (9) shall not
33 constitute a disciplinary action pursuant to the laws governing the applicant's, licensee's,
34 certificate holder's, or registrant's practice area and shall not preclude the state regulatory
35 board that oversees the applicant's, licensee's, certificate holder's, or registrant's practice area
36 from taking disciplinary action against an applicant, licensee, certificate holder, or registrant
37 for failure to comply with this section. A license, certification, or registration shall not be
38 issued, renewed, reinstated, or reactivated if the applicant has failed to pay a fine imposed

1 pursuant to this subsection (9).

2 (c) Failure of an applicant, licensee, certificate holder, or registrant to comply with
3 this section constitutes unprofessional conduct or grounds for discipline under the specific
4 article of THIS title 12 ~~C.R.S.~~, that regulates the applicant's, licensee's, certificate holder's,
5 or registrant's profession.

6 (10) Nothing in this section relieves an applicant, licensee, certificate holder, or
7 registrant from ~~his or her~~ THE obligation to report adverse actions to the director or
8 applicable state board that regulates the applicant's, LICENSEE'S, CERTIFICATE HOLDER'S OR
9 REGISTRANT'S profession, as required by the applicable laws in THIS title 12 ~~C.R.S.~~,
10 regulating that profession.

11 (11) The director may adopt rules, as necessary, to implement this section.

12 (12) This section is repealed, effective September 1, 2021. ~~Prior to the~~ BEFORE ITS
13 repeal, ~~the department of regulatory agencies shall review~~ the functions of the program
14 under this section as ~~provided in~~ ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH section
15 24-34-104.

16 **12-30-102. [Formerly 12-29.1-102] Solicitation of accident victims - waiting**
17 **period - definitions.** (1) Except as permitted by subsection (2) of this section, ~~no~~ NEITHER
18 A health care practitioner licensed under articles 29.5 to 43 of this title ~~or his or her~~ NOR AN
19 agent OF A HEALTH CARE PRACTITIONER shall engage in solicitation for professional
20 employment concerning a personal injury unless the incident for which employment is
21 sought occurred more than thirty days ~~prior to~~ BEFORE the solicitation.

22 (2) This section ~~shall~~ DOES not apply to any person providing emergency health care
23 at the time of the incident or follow-up referrals to physicians from the emergency health
24 care providers.

25 (3) ~~As used in this section, "solicitation" means an initial contact initiated in person,~~
26 ~~through any form of electronic or written communication, or by telephone, telegraph, or~~
27 ~~facsimile, any of which is directed to a specific individual, unless said contact is requested~~
28 ~~by the individual, a member of the individual's family, or the individual's authorized~~
29 ~~representative. "Solicitation" does not include radio, television, newspaper, or yellow pages~~
30 ~~advertisements.~~

31 (4) (3) Any agreement made in violation of this section is voidable at the option of
32 the individual suffering the personal injury or the individual's authorized representative.

33 (4) AS USED IN THIS SECTION:

34 (a) "HEALTH CARE PRACTITIONER" MEANS:

35 (I) AN ACUPUNCTURIST LICENSED UNDER ARTICLE 200 OF THIS TITLE 12;

36 (II) AN AUDIOLOGIST LICENSED UNDER ARTICLE 210 OF THIS TITLE 12;

37 (III) A CHIROPRACTOR LICENSED UNDER ARTICLE 215 OF THIS TITLE 12;

- 1 (IV) A DENTIST OR DENTAL HYGIENIST LICENSED UNDER ARTICLE 220 OF THIS TITLE
- 2 12;
- 3 (V) A MASSAGE THERAPIST LICENSED UNDER ARTICLE 235 OF THIS TITLE 12;
- 4 (VI) A PHYSICIAN, PHYSICIAN ASSISTANT, OR ANESTHESIOLOGIST ASSISTANT
- 5 LICENSED UNDER ARTICLE 240 OF THIS TITLE 12;
- 6 (VII) A PSYCHOLOGIST, SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST,
- 7 PROFESSIONAL COUNSELOR, OR ADDICTION COUNSELOR LICENSED UNDER PART 3, 4, 5, 6, OR
- 8 8 OF ARTICLE 245 OF THIS TITLE 12;
- 9 (VIII) A PRACTICAL OR PROFESSIONAL NURSE LICENSED UNDER ARTICLE 255 OF THIS
- 10 TITLE 12;
- 11 (IX) A NURSING HOME ADMINISTRATOR LICENSED UNDER ARTICLE 265 OF THIS TITLE
- 12 12;
- 13 (X) AN OCCUPATIONAL THERAPIST OR OCCUPATIONAL THERAPY ASSISTANT LICENSED
- 14 UNDER ARTICLE 270 OF THIS TITLE 12;
- 15 (XI) AN OPTOMETRIST LICENSED UNDER ARTICLE 275 OF THIS TITLE 12;
- 16 (XII) A PHARMACIST LICENSED UNDER ARTICLE 280 OF THIS TITLE 12;
- 17 (XIII) A PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT LICENSED UNDER
- 18 ARTICLE 285 OF THIS TITLE 12;
- 19 (XIV) A PODIATRIST LICENSED UNDER ARTICLE 290 OF THIS TITLE 12;
- 20 (XV) A PSYCHIATRIC TECHNICIAN LICENSED UNDER ARTICLE 295 OF THIS TITLE 12;
- 21 OR
- 22 (XVI) A RESPIRATORY THERAPIST LICENSED UNDER ARTICLE 300 OF THIS TITLE 12;
- 23 (b) "SOLICITATION" MEANS AN INITIAL CONTACT INITIATED IN PERSON, THROUGH ANY
- 24 FORM OF ELECTRONIC OR WRITTEN COMMUNICATION, OR BY TELEPHONE, TELEGRAPH, OR
- 25 FACSIMILE, ANY OF WHICH IS DIRECTED TO A SPECIFIC INDIVIDUAL, UNLESS THE CONTACT IS
- 26 REQUESTED BY THE INDIVIDUAL, A MEMBER OF THE INDIVIDUAL'S FAMILY, OR THE
- 27 INDIVIDUAL'S AUTHORIZED REPRESENTATIVE. "SOLICITATION" DOES NOT INCLUDE RADIO,
- 28 TELEVISION, NEWSPAPER, OR YELLOW PAGES ADVERTISEMENTS.

29 **12-30-103. [Formerly 24-34-112] Health care prescriber boards - disciplinary**
30 **procedures - definitions.** (1) As used in this section, unless the context otherwise requires:
31 (a) "Health care prescriber board" or "board" means:
32 (I) The Colorado podiatry board created in section ~~12-32-103~~ **12-290-**____;
33 (II) The Colorado dental board created in section ~~12-35-104~~ **12-220-**____;
34 (III) The Colorado medical board created in section ~~12-36-103~~ **12-240-**____;
35 (IV) The state board of nursing created in section ~~12-38-104~~ **12-255-**____;
36 (V) The state board of optometry established in section ~~12-40-106~~ **12-275-**____; and
37 (VI) The state board of veterinary medicine created in section ~~12-64-105~~

1 ~~12-315-___.~~

2 (b) "Licensee" means an individual who is licensed or otherwise regulated by a
3 board.

4 (2) Except as specified in subsection (4) of this section, notwithstanding any other
5 provision of law in ~~this~~ title 24 or THIS title 12, each health care prescriber board shall:

6 (a) Within fifteen days after receipt of a complaint, provide the complainant with a
7 written notice providing contact information for the board and a summary of the regulatory
8 and statutory procedures, timelines, and complainant and respondent rights that apply to the
9 processing and resolution of complaints, including, if the complainant is the patient of the
10 licensee who is the subject of the complaint, a notice of the patient's right to receive from
11 the licensee a copy of ~~his or her~~ THE COMPLAINANT'S patient records pursuant to sections
12 25-1-801 and 25-1-802;

13 (b) If an investigation was initiated by a complaint and the board took public formal
14 action regarding the alleged misconduct, provide the complainant, within thirty days after
15 the action, with written notice of the action taken by the board;

16 (c) If a complaint is still pending after six months, notify the complainant that the
17 complaint remains pending, subject to applicable restrictions in the board's governing law;
18 and

19 (d) Update its website within thirty days after suspending or revoking a license to
20 separately list each licensee subject to the suspension or revocation.

21 (3) If patient records are potentially relevant to resolution of a complaint against a
22 licensee and the licensee is the custodian of the records, the licensee shall provide the board
23 with the patient records within thirty days after the board requests the records.

24 (4) If any provision of article 4 of ~~this~~ title 24 or article ~~32, 35, 36, 38, 40, or 64~~ **220,**
25 **240, 255, 275, 290, OR 315** of THIS title 12 is more protective of complainants' rights or
26 results in a more expeditious resolution of disciplinary proceedings than a corresponding
27 provision of this section, that provision applies rather than the corresponding provision of
28 this section.

29 ~~(5) Repealed.~~

30 **12-30-104. [Formerly 24-34-109] Nurse-physician advisory task force for**
31 **Colorado health care - creation - duties - definition - repeal.** (1) There is hereby created,
32 within the division, ~~of professions and occupations in the department of regulatory agencies,~~
33 the nurse-physician advisory task force for Colorado health care, referred to in this section
34 as "NPATCH". The purpose of the NPATCH is to promote public safety and improve health
35 care in Colorado by supporting collaboration and communication between the practices of
36 nursing and medicine. The NPATCH shall:

37 (a) Promote patient safety and quality care;

- 1 (b) Address issues of mutual concern at the interface of the practices of nursing and
2 medicine;
- 3 (c) Inform public policy-making; and
- 4 (d) Make consensus recommendations to policy-making and rule-making entities,
5 including:
 - 6 (I) Recommendations to the state board of nursing created in section ~~12-38-104,~~
7 ~~C.R.S., 12-255-1~~ and the Colorado medical board created in section ~~12-36-103, C.R.S.,~~
8 ~~12-240-1~~ regarding the transition to the articulated plan model and harmonizing
9 language for articulated plans; and
 - 10 (II) Recommendations to the executive director. ~~of the department of regulatory~~
11 ~~agencies.~~
- 12 (2) (a) The NPATCH ~~shall consist~~ CONSISTS of twelve members appointed as
13 follows:
 - 14 (I) One member of the state board of nursing, appointed by the president of the
15 board;
 - 16 (II) One member of the Colorado medical board, appointed by the president of the
17 board;
 - 18 (III) Ten members appointed by the governor as follows:
 - 19 (A) Three members recommended by and representing a statewide professional
20 nursing organization;
 - 21 (B) Three members recommended by and representing a statewide physicians'
22 organization;
 - 23 (C) One member representing the nursing community who may or may not be a
24 member of a statewide professional nursing organization;
 - 25 (D) One member representing the physician community who may or may not be a
26 member of a statewide physicians' organization; and
 - 27 (E) Two members representing consumers.
- 28 (b) The members of the NPATCH shall serve on a voluntary basis without
29 compensation and shall serve three-year terms; except that, in order to ensure staggered
30 terms of office, four of the initial appointees shall serve initial one-year terms and four of
31 the initial appointees shall serve initial two-year terms.
- 32 (3) (a) ~~Except as provided in paragraph (b) of this subsection (3)~~ SUBSECTION (3)(b)
33 OF THIS SECTION, the NPATCH may develop its own bylaws and procedures to govern its
34 operations.
- 35 (b) A recommendation of the NPATCH requires the consensus of the members of
36 the task force. For purposes of this section, "consensus" means an agreement, decision, or
37 recommendation that all members of the task force can actively support and that no member
38 actively opposes.

1 (4) The division of ~~professions and occupations~~ shall staff the NPATCH. The
2 division's costs for administering and staffing the NPATCH shall be funded by an increase
3 in fees for professional and advanced practice nursing and medical license renewal fees, as
4 authorized in sections ~~12-38-108 (1)(b)(I) and 12-36-123~~, ~~C.R.S. 12-240-1~~ AND
5 ~~12-255-1~~, with fifty percent of the funding derived from the physician license renewal
6 fees and fifty percent derived from the professional and advanced practice nursing fees.

7 (5) The NPATCH shall prioritize consideration of and make recommendations on
8 the following topics:

9 (a) Facilitating a smooth transition to the articulated plan model, as described in
10 sections ~~12-38-111.6 (4.5) and 12-36-106.4~~, ~~C.R.S. 12-240-1~~ AND ~~12-255-1~~;

11 (b) The framework for articulated plans, including creation of sample plans;

12 (c) Quality assurance mechanisms for all medication prescribers;

13 (d) Evidence-based guidelines;

14 (e) Decision support tools;

15 (f) Safe prescribing metrics for all medication prescribers;

16 (g) Methods to foster effective communication between health professions;

17 (h) Health care delivery system integration and related improvements;

18 (i) Physician standards, process, and metrics to ensure appropriate consultation,
19 collaboration, and referral regarding advanced practice nurse prescriptive authority; and

20 (j) Prescribing issues regarding providers other than physicians and advanced
21 practice nurses.

22 (6) The NPATCH shall make recommendations pursuant to this section to the
23 executive director. ~~of the department of regulatory agencies.~~

24 (7) This section is repealed, effective September 1, 2020. ~~Prior to the~~ BEFORE ITS
25 repeal, ~~the department of regulatory agencies shall review~~ the functions of the NPATCH as
26 ~~provided in~~ ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH section 2-3-1203. ~~C.R.S.~~

27 **12-30-105. [Formerly 24-34-110.5] Health care work force data collection -**
28 **repeal.** (1) On or before July 1, 2013, the director of the division of professions and
29 occupations IN THE DEPARTMENT OF REGULATORY AGENCIES shall implement a system to
30 collect health care work force data from health care professionals who are eligible for the
31 Colorado health service corps pursuant to part 5 of article 1.5 of title 25, ~~C.R.S.~~, from
32 practical and professional nurses licensed pursuant to article ~~38 255~~ of THIS title 12, ~~C.R.S.~~,
33 and from pharmacists ~~who are~~ licensed pursuant to article ~~22 280~~ of THIS title 12, ~~C.R.S.~~,
34 collectively referred to in this section as "health care professionals". Each health care
35 professional shall submit the data as part of the initial licensure process and upon the
36 renewal of ~~his or her~~ THE HEALTH CARE PROFESSIONAL'S license. ~~No~~ NEITHER AN executive

1 department ~~or~~ NOR A board IN AN EXECUTIVE DEPARTMENT is responsible for verifying the
2 data or disciplining a health care professional for noncompliance with this section.

3 (2) The director of the division of professions and occupations shall request each
4 health care professional to provide data recommended by the director of the primary care
5 office IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, in consultation with the
6 advisory group formed pursuant to subsection (3) of this section. The director of the division
7 of professions and occupations has final approval authority regarding the form and manner
8 of the data collected. The data collected concerns:

- 9 (a) Each practice address of the health care professional;
- 10 (b) The number of hours the health care professional provides direct patient care at
11 each practice location;
- 12 (c) Any specialties of the health care professional, if applicable;
- 13 (d) Information about each practice setting type;
- 14 (e) The health care professional's education and training related to ~~his or her~~ THE
15 HEALTH CARE PROFESSIONAL'S profession; and
- 16 (f) The year of birth of the health care professional.

17 (3) (a) (I) The director of the primary care office created in section 25-1.5-403 ~~C.R.S.~~
18 shall designate an advisory group ~~composed~~ COMPRISED of:

- 19 (A) A representative of the department of regulatory agencies as determined by the
20 executive director;
- 21 (B) The director of the division of professions and occupations ~~in the department of~~
22 ~~regulatory agencies~~, or ~~his or her~~ THE DIRECTOR'S designee;
- 23 (C) Representatives of the affected health care professions; and
- 24 (D) Individuals with expertise in health care work force research, analysis, and
25 planning.

26 (II) THE ADVISORY GROUPS IS to be convened by a nonprofit statewide membership
27 organization that provides programs and services to enhance rural health care in Colorado.

28 (III) The members of the advisory group shall serve without compensation or
29 reimbursement for actual or necessary expenses incurred in the performance of their duties.

30 (IV) The advisory group shall recommend the structure of the data elements in
31 subsection (2) of this section. The advisory group shall consider, but is not limited to using,
32 the division of professions and occupations' existing data fields as a possible structure for
33 the data elements recommended in this section. The director of the division of professions
34 and occupations has final approval authority regarding the structure of the data elements.

35 (b) The director of the division of professions and occupations shall ensure that the
36 data provided by health care professionals is available to the primary care office in electronic
37 format for analysis. A member of the public may request, in writing, unanalyzed data from
38 the primary care office. Data available to the public must be limited to unique records that

1 do not include names or other identifying information.

2 (c) The advisory group is repealed, effective September 1, 2022. Before the repeal,
3 the ~~department of regulatory agencies shall review the advisory group pursuant to IS~~
4 SCHEDULED FOR REVIEW IN ACCORDANCE WITH section 2-3-1203. ~~C.R.S.~~

5 (4) (a) The director of the division of professions and occupations ~~is authorized to~~
6 MAY seek and accept gifts, grants, or donations from private or public sources for the
7 purposes of this section; except that the director may not accept a gift, grant, or donation that
8 is subject to conditions that are inconsistent with this section or any other law of the state.
9 The director shall transmit all private and public ~~moneys~~ MONEY received through gifts,
10 grants, or donations to the state treasurer, who shall credit the ~~same~~ MONEY to the division
11 of professions and occupations cash fund created in section ~~24-34-105~~ **12-20-105**. The
12 ~~moneys~~ MONEY in the fund ~~are~~ IS subject to annual appropriation by the general assembly
13 to the director for the direct and indirect costs associated with implementing this section.

14 (b) ~~Repeated.~~

15 **12-30-106. [Formerly 12-1.5-201] Mammography report - dense breast tissue**
16 **- required notice.** (1) Each person who is required by 42 U.S.C. sec. 263b to provide a
17 patient, the patient's physician, or A medical institution with a mammography report and who
18 has determined that the patient has dense breast tissue, as determined by the interpreting
19 physician based on breast imaging reporting and data system standards promulgated by the
20 American College of Radiology, shall include the following notice with the mammography
21 report:

22 Your mammogram shows that your breast tissue is dense. Dense breast tissue
23 is common and is not abnormal. However, dense breast tissue can make it
24 harder to evaluate the results of your mammogram and may also be associated
25 with an increased risk of breast cancer. This information about the results of
26 your mammogram is given to you to raise your awareness and to inform your
27 conversations with your doctor. Together, you can decide which screening
28 options are right for you. A report of your results was sent to your physician.

29 (2) Notwithstanding any other law, this section does not create a cause of action or
30 create a standard of care, obligation, or duty that provides a basis for a cause of action.

31 **12-30-107. [Formerly 12-43-221.5] Confidential agreement to limit practice -**
32 **violation grounds for discipline.** (1) (a) If a licensee, registrant, or certificate holder has
33 a physical illness; a physical condition; or a behavioral or mental health disorder that renders
34 the person unable to practice ~~his or her mental~~ THE APPLICABLE health CARE profession OR
35 OCCUPATION with reasonable skill and with safety to PATIENTS OR clients, the licensee,

1 registrant, or certificate holder shall notify the ~~board~~ REGULATOR that regulates ~~his or her~~
2 THE PERSON'S profession OR OCCUPATION of the physical illness; the physical condition; or
3 the behavioral or mental health disorder in a manner and within a period determined by ~~his~~
4 ~~or her oversight board~~ THE REGULATOR.

5 (b) The ~~applicable board~~ REGULATOR may require the licensee, registrant, or
6 certificate holder to submit to an examination or refer the licensee, registrant, or certificate
7 holder to a peer health assistance program, if ~~such program~~ ONE exists, to evaluate the extent
8 of the physical illness; the physical condition; or the behavioral or mental health disorder
9 and its impact on the licensee's, registrant's, or certificate holder's ability to practice with
10 reasonable skill and with safety to PATIENTS OR clients.

11 (2) (a) Upon determining that a licensee, registrant, or certificate holder with a
12 physical illness; a physical condition; or a behavioral or mental health disorder is able to
13 render limited services with reasonable skill and with safety to PATIENTS OR clients, the
14 ~~applicable board~~ REGULATOR may enter into a confidential agreement with the licensee,
15 registrant, or certificate holder in which the licensee, registrant, or certificate holder agrees
16 to limit ~~his or her~~ THE PERSON'S practice based on the restrictions imposed by the physical
17 illness; the physical condition; or the behavioral or mental health disorder, as determined by
18 the ~~applicable board~~ REGULATOR.

19 (b) As part of the agreement, the licensee, registrant, or certificate holder is subject
20 to periodic reevaluations or monitoring as determined appropriate by the ~~applicable board~~
21 REGULATOR. The ~~board~~ REGULATOR may refer the licensee, registrant, or certificate holder
22 to a peer assistance health program, if one exists, for reevaluation or monitoring.

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

25 (3) By entering into an agreement with the ~~applicable board~~ REGULATOR pursuant
26 to this section, ~~to limit his or her practice~~, the licensee, registrant, or certificate holder is not
27 engaging in activities ~~prohibited pursuant to section 12-43-222~~ THAT CONSTITUTE GROUNDS
28 FOR DISCIPLINE. The agreement does not constitute a restriction or discipline by the
29 ~~applicable board~~ REGULATOR. However, if the licensee, registrant, or certificate holder fails
30 to comply with the terms of an agreement entered into pursuant to this section, the failure
31 constitutes ~~a prohibited activity pursuant to section 12-43-222 (1)(f)~~ GROUNDS FOR
32 DISCIPLINE, and the licensee, registrant, or certificate holder is subject to discipline in
33 accordance with section ~~12-43-223~~ **12-20-405**.

34 (4) (a) This section does not apply to:
35 (I) THE FOLLOWING HEALTH CARE PROFESSIONALS:
36 (A) CHIROPRACTORS REGULATED PURSUANT TO ARTICLE 215 OF THIS TITLE 12;
37 (B) HEARING AID PROVIDERS REGULATED PURSUANT TO ARTICLE 230 OF THIS TITLE
38 12;

- 1 (B) NURSES REGULATED PURSUANT TO ARTICLE 255 OF THIS TITLE 12;
- 2 (C) NURSE AIDES REGULATED PURSUANT TO ARTICLE 260 OF THIS TITLE 12;
- 3 (D) NURSING HOME ADMINISTRATORS REGULATED PURSUANT TO ARTICLE 265 OF
- 4 THIS TITLE 12;
- 5 (E) PODIATRISTS REGULATED PURSUANT TO ARTICLE 290 OF THIS TITLE 12;
- 6 (F) PSYCHIATRIC TECHNICIANS REGULATED PURSUANT TO ARTICLE 295 OF THIS TITLE
- 7 12; OR
- 8 (G) SURGICAL ASSISTANTS AND SURGICAL TECHNOLOGISTS REGULATED PURSUANT
- 9 TO ARTICLE 310 OF THIS TITLE 12; OR
- 10 (II) A licensee, registrant, or certificate holder subject to discipline for ~~prohibited~~
- 11 ~~activities as described in section 12-43-222 (1)(c)~~ HABITUAL OR EXCESSIVE USE OR ABUSE
- 12 OF ALCOHOL BEVERAGES, A HABIT-FORMING DRUG, OR A CONTROLLED SUBSTANCE AS
- 13 DEFINED IN SECTION 18-18-102 (5).
- 14 (b) SUBSECTION (1)(a) OF THIS SECTION REGARDING NOTIFICATION FOR
- 15 CONFIDENTIAL AGREEMENTS DOES NOT APPLY TO:
- 16 (I) ARTICLE 275 OF THIS TITLE 12 CONCERNING OPTOMETRISTS;
- 17 (II) ARTICLE 315 OF THIS TITLE 12 CONCERNING VETERINARIANS.

18 **12-30-108. [Formerly 12-38-116.5 (8)] Mental and physical examinations.**

19 <{*The mental and physical examinations section is still under consideration and will be*

20 *inserted once finalized.*}>

21 PART 2

22 PROFESSIONAL REVIEW OF HEALTH CARE PROVIDERS

23 **12-30-201. [Formerly 12-36.5-101] Legislative declaration.** (1) The general

24 assembly hereby finds, determines, and declares that the Colorado medical board created in

25 article ~~36~~ **240** of this title **12** and the state board of nursing created in article ~~38~~ **255** of this

26 title **12** act for the state in their sovereign capacity to govern licensure, discipline, and

27 professional review of persons licensed to practice medicine, PERSONS licensed as physician

28 assistants, and ~~licensed to practice nursing and granted authority as~~ advanced practice

29 nurses, respectively, in this state. The general assembly further finds, determines, and

30 declares that:

- 31 (a) The authority to provide health care in this state is a privilege granted by the
- 32 legislative authority of the state; and
- 33 (b) It is necessary for the health, safety, and welfare of the people of this state that
- 34 the appropriate regulatory boards exercise their authority to protect the people of this state
- 35 from unauthorized practice and unprofessional conduct by persons licensed to provide health

1 care under articles ~~36~~ **240** and ~~38~~ **255** of this title **12**.

2 (2) The general assembly recognizes that:

3 (a) Many patients of persons licensed to provide health care in this state have
4 restricted choices of health care providers under a variety of circumstances and conditions;

5 (b) Many patients lack the knowledge, experience, or education to properly evaluate
6 the quality of medical or nursing practice or the professional conduct of ~~those~~ PERSONS
7 licensed to practice medicine, PERSONS licensed to act as physician assistants, and ~~licensed~~
8 ~~to practice nursing and granted authority as~~ advanced practice nurses; and

9 (c) It is necessary and proper that the respective regulatory boards exercise their
10 regulatory authority to protect the health, safety, and welfare of the people of this state.

11 (3) The general assembly recognizes that, in the proper exercise of their authority and
12 responsibilities under this ~~article~~ PART 2, the Colorado medical board and the state board of
13 nursing must, to some extent, replace competition with regulation, and that the replacement
14 of competition by regulation, particularly with regard to persons licensed under article ~~36~~
15 **240** of this title **12** or ~~licensed under article 38 of this title and granted authority as~~ TO
16 advanced practice nurses, is related to a legitimate state interest in the protection of the
17 health, safety, and welfare of the people of this state.

18 **12-30-202. [Formerly 12-36.5-102] Definitions.** As used in this ~~article~~ PART 2,
19 unless the context otherwise requires:

20 (1) "ADVANCED PRACTICE NURSE" HAS THE SAME MEANING AS SET FORTH IN SECTION
21 **{12-38-103 (1.5)} 12-255-104 (1).**

22 (1) (2) "Authorized entity" means a corporation, organization, or entity that is
23 authorized to establish a professional review committee under section ~~12-36.5-104(4) or (5)~~
24 **12-30-204 (5) OR (6)** or under rules of the medical board or nursing board adopted pursuant
25 to section ~~12-36.5-104(5)~~ **12-30-204 (6).**

26 (2) (3) "CMS" means the federal centers for medicare and medicaid services.

27 (2.5) ~~"Division" means the division of professions and occupations in the department~~
28 ~~of regulatory agencies.~~

29 (3) (4) "Governing board" means a board, board of trustees, governing board, or
30 other body, or duly authorized subcommittee thereof, of an authorized entity, which board
31 or body has final authority pursuant to the entity's written bylaws, policies, or procedures to
32 take final action regarding the recommendations of a professional review committee.

33 (4) (5) "Joint commission" means the joint commission or its successor entity.

34 (5) (6) "Medical board" means the Colorado medical board created in section
35 ~~12-36-103(1)~~ **12-240-1 __ (1).**

36 (6) (7) "Professional review committee" means any committee authorized under this
37 ~~article~~ PART 2 to review and evaluate the competence, professional conduct of, or the quality

1 and appropriateness of patient care provided by, any person licensed under article 36 **240**
2 of this title **12** or ~~licensed under article 38 of this title and granted authority as an advanced~~
3 practice nurse. "Professional review committee" includes a governing board, a hearing panel
4 appointed by a governing board to conduct a hearing under section ~~12-36.5-104 (7)(a)~~
5 **12-30-204 (8)(a)**, and an independent third party designated by a governing board under
6 section ~~12-36.5-104 (8)(b)~~ **12-30-204 (9)(b)**.

7 ~~(7)~~ (8) (a) "Records" means any and all written, electronic, or oral communications
8 by any person arising from any activities of a professional review committee, including a
9 governing board, established by an authorized entity under this ~~article~~ PART 2 or by the agent
10 or staff thereof, including any:

11 (I) Letters of reference;

12 (II) Complaint, response, or correspondence related to the complaint or response;

13 (III) Interviews or statements, reports, memoranda, assessments, and progress reports
14 developed to assist in professional review activities;

15 (IV) Assessments and progress reports to assist in professional review activities,
16 including reports and assessments developed by independent consultants in connection with
17 professional review activities; and

18 (V) Recordings or transcripts of proceedings, minutes, formal recommendations,
19 decisions, exhibits, and other similar items or documents related to professional review
20 activities or the committee on anticompetitive conduct and typically constituting the records
21 of administrative proceedings.

22 (b) "Records" does not include any written, electronic, or oral communications by
23 any person that are otherwise available from a source outside the scope of professional
24 review activities, including medical records and other health information.

25 ~~(8)~~ (9) "State board of nursing" or "nursing board" means the state board of nursing
26 created in section ~~12-38-104~~ **12-255-1**__.

27 **12-30-203. [Formerly 12-36.5-103] Use of professional review committees.**

28 (1) (a) The general assembly recognizes that:

29 (I) The medical board and the nursing board, while assuming and retaining ultimate
30 authority for licensure and discipline in accordance with articles 36 **240** and 38 **255** of this
31 title **12**, respectively, and in accordance with this ~~article~~ PART 2, cannot practically and
32 economically assume responsibility over every single allegation or instance of purported
33 deviation from the standards of quality for the practice of medicine or nursing, from the
34 standards of professional conduct, or from the standards of appropriate care; and

35 (II) An attempt to exercise such oversight would result in extraordinary delays in the
36 determination of the legitimacy of the allegations and would result in the inappropriate and
37 unequal exercise of their authority to license and discipline persons licensed under article

1 ~~36 240~~ of this title *12* or licensed under article ~~38~~ of this title and granted authority as
2 advanced practice nurses.

3 (b) It is therefore the intent of the general assembly that the medical board and the
4 nursing board utilize and allow professional review committees and governing boards to
5 assist them in meeting their responsibilities under articles ~~36 240~~ and ~~38 255~~ of this title *12*,
6 respectively, and under this ~~article~~ PART 2.

7 (2) ~~All~~ Persons licensed under article ~~36 240~~ of this title or licensed under article ~~38~~
8 ~~of this title and granted authority as~~ *12* AND advanced practice nurses are encouraged to
9 serve upon professional review committees when called to do so and to study and review in
10 an objectively reasonable manner the professional conduct of persons licensed under article
11 ~~36 240~~ of this title *12* or licensed under article ~~38~~ of this title and granted authority as
12 advanced practice nurses, including the competence, professional conduct of, or the quality
13 and appropriateness of patient care provided by, those persons.

14 (3) (a) The use of professional review committees is an extension of the authority of
15 the medical board and nursing board. However, except as otherwise provided in this ~~article~~
16 PART 2, nothing in this ~~article~~ PART 2 limits the authority of professional review committees
17 properly constituted under this ~~article~~ PART 2.

18 (b) Professional review committees, the members who constitute the committees,
19 governing boards, authorized entities, and persons who participate directly or indirectly in
20 professional review activities are granted certain immunities from liability arising from
21 actions that are within the scope of their activities as provided in section ~~12-36.5-105~~
22 *12-30-207*. These grants of immunity from liability are necessary to ensure that professional
23 review committees and governing boards can exercise their professional knowledge and
24 judgment.

25 **12-30-204. [Formerly 12-36.5-104] Establishment of professional review**
26 **committees - function - rules.** (1) A professional review committee may be established
27 pursuant to this section to review and evaluate the competence of, the quality and
28 appropriateness of patient care provided by, or the professional conduct of, any person
29 licensed under article ~~36 240~~ of this title *12* or licensed under article ~~38~~ of this title and
30 ~~granted authority as an~~ ANY advanced practice nurse.

31 (2) Licensed physicians who are actively engaged in the practice of medicine in this
32 state must constitute a majority of the voting members of any professional review committee
33 established pursuant to this section for physicians and physician assistants; except that
34 physicians need not constitute the majority of the voting members of a governing board
35 authorized by ~~paragraph (g) of subsection (4)~~ SUBSECTION (5)(i) of this section or an
36 independent third party designated by a governing board under ~~paragraph (b) of subsection~~
37 ~~(8)~~ SUBSECTION (9)(b) of this section.

1 ~~(2.5)~~ (3) A professional review committee that is reviewing the competence of, the
2 quality and appropriateness of patient care provided by, or the professional conduct of, a
3 ~~person licensed under article 38 of this title and granted authority as an advanced practice~~
4 ~~nurse must either:~~

5 (a) Have, as a voting member, at least one ~~person licensed under article 38 of this~~
6 ~~title and granted authority as an advanced practice nurse with a scope of practice similar to~~
7 ~~that of the person who is the subject of the review; or~~

8 (b) Engage, to perform an independent review as appropriate, an independent person
9 ~~licensed under article 38 of this title and granted authority as WHO IS an advanced practice~~
10 ~~nurse with a scope of practice similar to that of the person who is the subject of the review.~~
11 The person conducting the independent review must be a person who was not previously
12 involved in the review.

13 ~~(3)~~ (4) A ~~utilization and quality control peer review~~ QUALITY IMPROVEMENT
14 organization, as defined pursuant to 42 U.S.C. sec. 1320c-1, or any other organization
15 performing similar review services under federal or state law is an approved professional
16 review committee under this ~~article~~ PART 2.

17 ~~(4)~~ (5) A professional review committee established by any of the following
18 authorized entities is an approved professional review committee under this ~~article~~ PART 2
19 if it operates in compliance with written bylaws, policies, or procedures that are in
20 compliance with this ~~article~~ PART 2 and that have been approved by the authorized entity's
21 governing board and if it is registered with the division in accordance with section
22 ~~12-36.5-104.6~~ **12-30-206**:

23 (a) The medical staff of a hospital licensed pursuant to part 1 of article 3 of title 25
24 ~~C.R.S.~~; or certified pursuant to section 25-1.5-103 (1)(a)(II); ~~C.R.S.~~;

25 (b) The medical staff of a hospital-related corporation. For the purposes of this
26 ~~paragraph (b)~~ SUBSECTION (5)(b), an entity is a "hospital-related corporation" if the licensed
27 or certified hospital or holding company of the licensed or certified hospital has ownership
28 or control of the entity.

29 (c) A society or association of physicians whose membership includes not less than
30 one-third of the doctors of medicine or doctors of osteopathy licensed to practice and
31 residing in this state, if the physician whose services are the subject of the review is a
32 member of the society or association;

33 ~~(c.5)~~ (d) A society or association of advanced practice nurses ~~licensed and registered~~
34 ~~pursuant to article 38 of this title and residing~~ WHO RESIDE in this state, if the advanced
35 practice nurse whose services are the subject of the review is a member of the society or
36 association;

37 ~~(d)~~ (e) A society or association of physicians licensed to practice and residing in this
38 state and specializing in a specific discipline of medicine, whose society or association has

1 been designated by the medical board as a specialty society or association representative of
2 physicians practicing the specific discipline of medicine, if the physician whose services are
3 the subject of the review is a member of the specialty society or association;

4 ~~(d.5)~~ (f) A society or association of advanced practice nurses ~~licensed and registered~~
5 ~~pursuant to article 38 of this title and practicing~~ WHO PRACTICE in a specified nursing role
6 and population focus, as defined by the nursing board, which society or association has been
7 designated by the nursing board as the specific nursing society or association representative
8 of those advanced practice nurses practicing in that nursing role and population focus, if the
9 advanced practice nurse whose services are the subject of the review is a member of the
10 designated nursing society or association;

11 ~~(e)~~ (g) An individual practice association or a preferred provider organization
12 consisting of persons licensed under article ~~36 240~~ of this title **12** or ~~licensed under article~~
13 ~~38 of this title and granted authority as~~ OF advanced practice nurses, or a medical group that
14 predominantly serves members of a health maintenance organization licensed pursuant to
15 parts 1 and 4 of article 16 of title 10. ~~C.R.S.~~ A professional review committee established
16 pursuant to this ~~paragraph (e)~~ SUBSECTION (5)(g) has jurisdiction to review only persons
17 licensed under article ~~36 240~~ of this title **12** or ~~licensed under article 38 of this title and~~
18 ~~granted authority as~~ advanced practice nurses ~~who~~ IF THE PERSONS LICENSED UNDER SAID
19 ARTICLE OR THE ADVANCED PRACTICE NURSES are members of the association or
20 organization creating and authorizing that committee; except that the professional review
21 committee may review the care provided to a particular patient referred by a member of the
22 association or organization to another person WHO IS NOT A MEMBER OF THE ASSOCIATION
23 OR ORGANIZATION AND IS licensed under article ~~36 240~~ of this title **12** or ~~licensed under~~
24 ~~article 38 of this title and granted authority as~~ IS an advanced practice nurse. ~~who is not a~~
25 ~~member of the association or organization.~~

26 (f) (h) A corporation authorized PURSUANT TO ARTICLE 3 OF TITLE 10 to insure
27 persons licensed under article ~~36 240~~ of this title **12** or ~~licensed under article 38 of this title~~
28 ~~and granted authority as~~ advanced practice nurses ~~pursuant to article 3 of title 10, C.R.S.,~~
29 or any other organization authorized to insure such persons in this state when designated by
30 the medical board or nursing board under subsection ~~(5)~~ **(6)** of this section;

31 ~~(g)~~ (i) The governing board of any authorized entity that has a professional review
32 committee established pursuant to article ~~36 240~~ or article ~~38 255~~ of this title **12**;

33 ~~(h)~~ (j) Any professional review committee established or created by a combination
34 or pooling of any authorized entities;

35 ~~(i)~~ (k) (I) A nonprofit corporation or association consisting of representatives from
36 a statewide professional society and a statewide hospital association. The association must
37 consist of persons licensed under article ~~36 240~~ of this title **12** or ~~licensed under article 38~~
38 ~~of this title and granted authority as~~ advanced practice nurses, hospital administrators, and

1 hospital trustees, with a majority of the representatives being persons licensed under article
2 ~~36 240~~ of this title **12** when the subject of the investigation is a person licensed under article
3 ~~36 240~~ of this title **12**, and at least one of the representatives being ~~a person licensed under~~
4 ~~article 38 of this title and granted authority~~ as an advanced practice nurse when the subject
5 of the investigation is ~~a person licensed under article 38 of this title and granted authority~~
6 as an advanced practice nurse. The association may establish, or contract for, one or more
7 professional review committees to review the care by hospital staff personnel who are
8 licensed under article ~~36 240~~ of this title **12** or ~~licensed under article 38 of this title and~~
9 ~~granted authority~~ as ARE advanced practice nurses, with priority given to small rural hospital
10 staffs. These professional review services must be available statewide on a fee-for-service
11 basis to licensed or certified hospitals at the joint request of the governing board and the
12 medical or nursing staff of the hospital or at the sole request of the governing board of the
13 hospital. If a member being reviewed specializes in a generally recognized specialty of
14 medicine or nursing, at least one of the health care providers on the professional review
15 committee must be a person WHO IS licensed under article ~~36 240~~ of this title **12** or ~~licensed~~
16 ~~under article 38 of this title and granted authority~~ as IS an advanced practice nurse AND who
17 practices such specialty.

18 (II) For purposes of the introductory portion to this subsection ~~(4)~~ **(5)** and this
19 ~~paragraph (i)~~ SUBSECTION (5)(k), the bylaws, policies, or procedures must be in compliance
20 with this ~~article~~ PART 2 and approved by the nonprofit corporation or association.

21 ~~(j)~~ (l) The medical or nursing staff of an ambulatory surgical center licensed pursuant
22 to part 1 of article 3 of title 25; ~~C.R.S.;~~

23 ~~(k)~~ (m) A professional services entity organized pursuant to section ~~12-36-134~~
24 **12-240-1** ___;

25 ~~(l)~~ (n) A provider network that IS ORGANIZED PURSUANT TO PART 3 OF ARTICLE 18
26 OF TITLE 6 AND includes persons licensed under article ~~36 240~~ of this title **12** or ~~licensed~~
27 ~~under article 38 of this title and granted authority~~ as advanced practice nurses; and is
28 organized pursuant to part 3 of article 18 of title 6, ~~C.R.S.;~~

29 ~~(m)~~ (o) A health system that includes two or more authorized entities with a common
30 governing board;

31 ~~(n)~~ (p) A trust organization established under article 70 of title 11; ~~C.R.S.;~~

32 ~~(o)~~ (q) An entity licensed pursuant to parts 1 and 4 of article 16 of title 10; ~~C.R.S.;~~

33 ~~(p)~~ (r) An accountable care organization established under the federal "Patient
34 Protection and Affordable Care Act", Pub.L. 111-148, AS AMENDED, or other organization
35 with a similar function;

36 ~~(q)~~ (s) A hospital licensed pursuant to part 1 of article 3 of title 25 ~~C.R.S.;~~ or certified
37 pursuant to section 25-1.5-103 (1)(a)(II); ~~C.R.S.;~~ and

38 ~~(r)~~ (t) An ambulatory surgical center licensed pursuant to part 1 of article 3 of title

1 25. C.R.S.

2 ~~(5)~~ (6) The medical board and the nursing board, with respect to the licensees subject
3 to their jurisdiction, may establish by rule procedures necessary to authorize other health care
4 or physician organizations or professional societies as authorized entities that may establish
5 professional review committees.

6 ~~(6)~~ (7) (a) A professional review committee acting pursuant to this part ~~1~~ **2** may
7 investigate or cause to be investigated:

8 (I) The qualifications and competence of any person licensed under article ~~36~~ **240**
9 of this title **12** or ~~licensed under article 38 of this title and granted authority as an~~ ANY
10 advanced practice nurse who seeks to subject himself or herself to the authority of any
11 authorized entity; or

12 (II) The quality or appropriateness of patient care rendered by, or the professional
13 conduct of, any person licensed under article ~~36~~ **240** of this title **12** or ~~licensed under article~~
14 ~~38 of this title and granted authority as an~~ ANY advanced practice nurse who is subject to the
15 authority of the authorized entity.

16 (b) The professional review committee shall conduct the investigation in conformity
17 with written bylaws, policies, or procedures adopted by the authorized entity's governing
18 board.

19 ~~(7)~~ (8) The written bylaws, policies, or procedures of any professional review
20 committee for persons licensed under article ~~36~~ **240** of this title **12** or ~~licensed under article~~
21 ~~38 of this title and granted authority as~~ advanced practice nurses must provide for at least
22 the following:

23 (a) (I) Except as provided in ~~subparagraph (II) of this paragraph~~ (a) SUBSECTION
24 (8)(a)(II) OF THIS SECTION, if the findings of any investigation indicate that a person licensed
25 under article ~~36~~ **240** of this title **12** or ~~licensed under article 38 of this title and granted~~
26 ~~authority as an advanced practice nurse and~~ who is the subject of the investigation is lacking
27 in qualifications or competency, has provided substandard or inappropriate patient care, or
28 has exhibited inappropriate professional conduct and the professional review committee
29 takes or recommends an action to adversely affect the person's membership, affiliation, or
30 privileges with the authorized entity, the professional review committee shall hold a hearing
31 to consider the findings and recommendations unless the person waives, in writing, the right
32 to a hearing or is given notice of a hearing and fails to appear.

33 (II) If the professional review committee is submitting its findings and
34 recommendations to another professional review committee for review, only one hearing is
35 necessary prior to any appeal before the governing board.

36 (b) A person who has participated in the course of an investigation is disqualified as
37 a member of the professional review committee that conducts a hearing pursuant to
38 ~~paragraph (a) of this subsection~~ (7) SUBSECTION (8)(a) OF THIS SECTION, but the person may

1 participate as a witness in the hearing.

2 (c) The authorized entity shall give to the subject of any investigation under this
3 subsection ~~(7)~~ (8) reasonable notice of the hearing and of any finding or recommendation
4 that would adversely affect the person's membership, affiliation, or privileges with the
5 authorized entity, and the subject of the investigation has a right to be present, to be
6 represented by legal counsel at the hearing, and to offer evidence in ~~his or her~~ THE PERSON'S
7 own behalf.

8 (d) After the hearing, the professional review committee that conducted the hearing
9 shall make any recommendations it deems necessary to the governing board, unless
10 otherwise provided by federal law or regulation.

11 (e) The professional review committee shall give a copy of the recommendations to
12 the subject of the investigation, who then has the right to appeal to the governing board to
13 which the recommendations are made with regard to any finding or recommendation that
14 would adversely affect his or her membership, affiliation, or privileges with the authorized
15 entity.

16 (f) The professional review committee shall forward a copy of any recommendations
17 made pursuant to ~~paragraph (d) of this subsection (7)~~ SUBSECTION (8)(d) OF THIS SECTION
18 promptly to the medical board if the subject of the investigation is licensed under article 36
19 **240** of this title **12**, or to the nursing board if the subject of the investigation is ~~licensed~~
20 ~~under article 38 of this title and granted authority as~~ an advanced practice nurse.

21 ~~(8)~~ (9) (a) All governing boards shall adopt written bylaws, policies, or procedures
22 under which a person WHO IS licensed under article 36 **240** of this title **12** or ~~licensed under~~
23 ~~article 38 of this title and granted authority as~~ IS an advanced practice nurse AND who is the
24 subject of an adverse recommendation by a professional review committee may appeal to
25 the governing board following a hearing in accordance with subsection ~~(7)~~ (8) of this
26 section. The bylaws, policies, or procedures must provide that the person be given
27 reasonable notice of his or her right to appeal and, unless waived by the person, has the right
28 to appear before the governing board, to be represented by legal counsel, and to offer the
29 argument on the record ~~as he or she~~ THAT THE PERSON deems appropriate.

30 (b) The bylaws may provide that a committee of not fewer than three members of the
31 governing board may hear the appeal. Also, the bylaws may allow for an appeal to be heard
32 by an independent third party designated by a governing board under this ~~paragraph (b)~~
33 SUBSECTION (9)(b).

34 ~~(9)~~ (10) All governing boards that are required to report their final actions to the
35 medical board or the nursing board, as appropriate, are not otherwise relieved of their
36 obligations by virtue of this ~~article~~ PART 2.

37 ~~(10)~~ (11) (a) Except as specified in ~~paragraph (b) of this subsection (10)~~ SUBSECTION
38 (11)(b) OF THIS SECTION, the records of an authorized entity, its professional review

1 committee, and its governing board are not subject to subpoena or discovery and are not
2 admissible in any civil suit.

3 (b) Subject to subsection ~~(13)~~ **(14)** of this section, the records are subject to subpoena
4 and available for use:

5 ~~(I) Repeated.~~

6 ~~(II)~~ (I) By either party in an appeal or de novo proceeding brought pursuant to this
7 part ~~1~~ **2**;

8 ~~(III)~~ (II) By a person licensed under article ~~36~~ **240** of this title **12** or licensed under
9 article ~~38~~ of this title and granted authority as an advanced practice nurse in a suit seeking
10 judicial review of an action by the governing board;

11 ~~(IV)~~ (III) By the ~~Colorado~~ department of public health and environment in
12 accordance with its authority to issue or continue a health facility license or certification for
13 an authorized entity;

14 ~~(V)~~ (IV) By CMS in accordance with its authority over federal health care program
15 participation by an authorized entity;

16 ~~(VI)~~ (V) By an authorized entity or governing board seeking judicial review;

17 ~~(VII)~~ (VI) By the medical board within the scope of its authority over licensed
18 physicians and physician assistants; and

19 ~~(VIII)~~ (VII) By the nursing board within the scope of its authority over advanced
20 practice nurses.

21 ~~(H)~~ (12) (a) Except as provided in paragraph ~~(b)~~ of this subsection ~~(H)~~ SUBSECTION
22 (12)(b) OF THIS SECTION, the records of an authorized entity or its professional review
23 committee may be disclosed to:

24 (I) The medical board, as requested by the medical board acting within the scope of
25 its authority or as required or appropriate under this ~~article~~ PART 2 or article ~~36~~ **240** of this
26 title **12**;

27 (II) The nursing board, as requested by the nursing board acting within the scope of
28 its authority or as required or appropriate under this ~~article~~ PART 2 or article ~~38~~ **255** of this
29 title **12**;

30 (III) The Colorado department of public health and environment acting within the
31 scope of its health facility licensing authority or as the agent of CMS;

32 (IV) CMS, in connection with the survey and certification processes for federal
33 health care program participation by an authorized entity; and

34 (V) The joint commission or other entity granted deeming authority by CMS, in
35 connection with a survey or review for accreditation.

36 (b) The medical board, nursing board, and ~~Colorado~~ department of public health and
37 environment shall not make further disclosures of any records disclosed by an authorized
38 entity or its professional review committee under this section.

1 ~~(12)~~ (13) The records of an authorized entity or its professional review committee
2 or governing board may be shared by and among authorized entities and their professional
3 review committees and governing boards concerning the competence, professional conduct
4 of, or the quality and appropriateness of patient care provided by, a health care provider who
5 seeks to subject himself or herself to, or is currently subject to, the authority of the
6 authorized entity.

7 ~~(13)~~ (14) Responding to a subpoena or disclosing or sharing of otherwise privileged
8 records and information pursuant to subsection ~~(10)~~, ~~(11)~~, or ~~(12)~~ **(11)**, **(12)**, OR **(13)** of this
9 section does not constitute a waiver of the privilege specified in ~~paragraph (a) of subsection~~
10 ~~(10)~~ SUBSECTION (11)(a) of this section or a violation of the confidentiality requirements of
11 subsection ~~(15)~~ **(16)** of this section. Records provided to any governmental agency,
12 including the department of public health and environment, ~~the committee on~~
13 ~~anticompetitive conduct~~, the medical board, and the nursing board pursuant to subsection
14 ~~(10)~~ **(11)** or ~~(11)~~ **(12)** of this section are not public records subject to the "Colorado Open
15 Records Act", part 2 of article 72 of title 24. ~~C.R.S.~~ A person providing the records to an
16 authorized entity or its professional review committee or governing board, the department
17 of public health and environment, the committee on anticompetitive conduct, the medical
18 board, the nursing board, CMS, the joint commission, or other governmental agency is
19 entitled to the same immunity from liability as provided under section ~~12-36.5-105~~
20 **12-30-207** for the disclosure of the records.

21 ~~(14)~~ (15) Investigations, examinations, hearings, meetings, and other proceedings
22 of a professional review committee or governing board conducted pursuant to this part ~~1~~ **2**
23 are exempt from any law requiring that proceedings be conducted publicly or that the
24 records, including any minutes, be open to public inspection.

25 ~~(15)~~ (16) Except as otherwise provided in subsection ~~(10)~~, ~~(11)~~, or ~~(12)~~ **(11)**, **(12)**
26 OR **(13)** of this section, all proceedings, recommendations, records, and reports involving
27 professional review committees or governing boards are confidential.

28 ~~(16)~~ (17) A professional review committee or governing board that is constituted and
29 conducts its reviews and activities in accordance with this part ~~1~~ **2** is not an unlawful
30 conspiracy in violation of section 6-4-104 or 6-4-105. ~~C.R.S.~~

31 **12-30-205. [Formerly 12-36.5-104.4] Hospital professional review committees.**

32 (1) The quality and appropriateness of patient care rendered by persons licensed under
33 article ~~36~~ **240** of this title ~~12~~, ~~licensed under article 38 of this title and granted authority as~~
34 advanced practice nurses, and other licensed health care professionals so influence the total
35 quality of patient care that a review of care provided in a hospital is ineffective without
36 concomitantly reviewing the overall competence, professional conduct of, or the quality and
37 appropriateness of care rendered by, such persons.

1 (2) (a) (I) Whenever a professional review committee created pursuant to section
2 ~~12-36.5-104~~ **12-30-204** reasonably believes that the quality or appropriateness of care
3 provided by other licensed health care professionals may have adversely affected the
4 outcome of patient care, the professional review committee shall:

5 (A) Refer the matter to a hospital ~~committee~~ QUALITY MANAGEMENT PROGRAM
6 created pursuant to section 25-3-109; ~~C.R.S.~~; or

7 (B) Consult with a representative of the other licensed health care professional's
8 profession.

9 (II) A professional review committee established pursuant to this ~~article~~ PART 2 may
10 meet and act in collaboration with a ~~committee~~ HOSPITAL QUALITY MANAGEMENT PROGRAM
11 established pursuant to section 25-3-109. ~~C.R.S.~~

12 (b) All matters considered in collaboration with or referred to a committee pursuant
13 to this subsection (2) and all records and proceedings related thereto shall remain
14 confidential, and the committee members, governing board, witnesses, and complainants
15 ~~shall be~~ ARE subject to the immunities and privileges as set forth in this ~~article~~ PART 2.

16 (3) Nothing in this section ~~shall be~~ IS deemed to extend the authority or jurisdiction
17 of the medical board to any individual not otherwise subject to the jurisdiction of the board.

18 **12-30-206. [Formerly 12-36.5-104.6] Governing boards to register with division**
19 **- annual reports - aggregation and publication of data - definition - rules.** (1) As used
20 in this section, "adversely affecting" has the same meaning as set forth in 45 CFR 60.3;
21 except that it does not include a precautionary suspension or any professional review action
22 affecting, FOR A PERIOD OF THIRTY OR FEWER DAYS, a person licensed under article ~~36 240~~
23 of this title **12** or ~~licensed under article 38 of this title and granted authority as an advanced~~
24 ~~practice nurse. for a period of thirty days or less.~~

25 (2) Each governing board that establishes or uses one or more professional review
26 committees to review the practice of persons licensed under article ~~36 240~~ of this title **12** or
27 ~~licensed under article 38 of this title and granted authority as~~ OF advanced practice nurses
28 shall:

29 (a) Register with the division in a form satisfactory to the division on or before July
30 1, 2013, if the governing board has one or more existing professional review committees,
31 or, if the governing board first establishes a professional review committee on or after July
32 1, 2013, within thirty days after approving the written bylaws, policies, or procedures for the
33 professional review committee;

34 (b) In addition to any other state or federal reporting requirements:

35 (I) Report annually to the medical board, in a form satisfactory to the medical board,
36 the number of final professional review actions in each of the following categories relating
37 to individuals licensed under article ~~36 240~~ of this title **12**:

- 1 (A) Adversely affecting the individual;
- 2 (B) In which an authorized entity accepted the individual's surrender of clinical
3 privileges, membership, or affiliation while the individual was under investigation;
- 4 (C) In which an authorized entity accepted the individual's surrender of clinical
5 privileges, membership, or affiliation in return for not conducting an investigation; and
- 6 (D) In which the professional review committee made recommendations regarding
7 the individual following a hearing pursuant to section ~~12-36.5-104(7)(d)~~. **12-30-204(8)(d)**;
- 8 (II) Report annually to the nursing board, in a form satisfactory to the nursing board,
9 the number of final professional review actions in each of the following categories relating
10 to ~~individuals licensed under article 38 of this title and granted authority as advanced~~
11 ~~practice nurses~~:
- 12 (A) Adversely affecting the individual;
- 13 (B) In which an authorized entity accepted the individual's surrender of clinical
14 privileges, membership, or affiliation while the individual was under investigation;
- 15 (C) In which an authorized entity accepted the individual's surrender of clinical
16 privileges, membership, or affiliation in return for not conducting an investigation; and
- 17 (D) In which the professional review committee made recommendations regarding
18 the individual following a hearing pursuant to section ~~12-36.5-104(7)(d)~~. **12-30-204(8)(d)**;
- 19 (c) (I) Report to the division, in a de-identified manner, on its professional review
20 activities during the immediately preceding calendar year in a form satisfactory to the
21 division. These reports must include aggregate data, which is limited to the following:
- 22 (A) The number of investigations completed during the year;
- 23 (B) The number of investigations that resulted in no action;
- 24 (C) The number of investigations that resulted in written involuntary requirements
25 for improvement sent to the subject of the investigation by the authorized entity; and
- 26 (D) The number of investigations that resulted in written agreements for
27 improvement between the subject of the investigation and the authorized entity.
- 28 (II) (A) The medical board and the nursing board shall forward the reports received
29 pursuant to ~~sub-subparagraphs (I) and (II)~~ SUBSECTIONS (2)(b)(I) AND (2)(b)(II) OF THIS
30 SECTION, respectively, of ~~paragraph (b) of this subsection (2)~~ to the division in a
31 de-identified manner.
- 32 (B) The division shall not publish any information identifying the governing board
33 or authorized entity making a report under ~~paragraph (b) of this subsection (2) or this~~
34 ~~paragraph (c)~~ SUBSECTION (2)(b) OF THIS SECTION OR THIS SUBSECTION (2)(c), and ~~such~~ THE
35 reports and information are not public records under the "Colorado Open Records Act", part
36 2 of article 72 of title 24. ~~C.R.S.~~
- 37 (III) Reports submitted pursuant to this ~~paragraph (c)~~ SUBSECTION (2)(c) must
38 include only investigations in which no final action adversely affecting the subject of the

1 investigation was taken or recommended.

2 (3) (a) The division shall publish the data provided pursuant to ~~paragraphs (b) and~~
3 ~~(c) of subsection (2)~~ SUBSECTIONS (2)(b) AND (2)(c) of this section in aggregate form and
4 without individually identifiable information concerning the governing board, the authorized
5 entity, or any person WHO WAS SUBJECT TO REVIEW AND IS licensed under article ~~36 240~~ of
6 this title **12** or ~~licensed under article 38 of this title and granted authority as~~ IS an advanced
7 practice nurse. ~~who was subject to review.~~

8 (b) The division shall maintain and shall publish online, through its website, a
9 current list of all governing boards that are registered in accordance with this section and
10 that otherwise are in compliance with this ~~article~~ PART 2.

11 (4) The division shall adopt rules to implement this section and may collect a
12 reasonable registration fee to recover its direct and indirect costs of administering the
13 registration and publication systems required by this section.

14 (5) For purposes of this section, an investigation occurs when the authorized entity
15 or its professional review committee notifies the subject of the investigation in writing that
16 an investigation has commenced.

17 (6) The medical board and the nursing board shall not initiate an investigation or
18 issue a subpoena based solely on the data reported pursuant to ~~paragraph (c) of subsection~~
19 ~~(2) (2)(c)~~ of this section.

20 (7) (a) A governing board that fails to register with the division pursuant to
21 ~~paragraph (a) of subsection (2) (2)(a)~~ of this section is not entitled to any immunity afforded
22 under this ~~article~~ PART 2 until the date that the governing board so registers. A governing
23 board's failure to register does not affect any immunity, confidentiality, or privilege afforded
24 to an individual participating in professional review activities.

25 (b) A governing board's failure to report as required by this section does not affect
26 any immunity, confidentiality, or privilege afforded to the governing board under this ~~article~~
27 PART 2.

28 **12-30-207. [Formerly 12-36.5-105] Immunity from liability.** (1) A member of a
29 professional review committee, a governing board or any committee or third party
30 designated by the governing board under section ~~12-36.5-104 (8)(b)~~ **12-30-204 (9)(b)** and
31 any person serving on the staff of that committee, board, panel, or third party, a witness or
32 consultant before a professional review committee, and any person who files a complaint or
33 otherwise participates in the professional review process, is immune from suit and liability
34 for damages in any civil or criminal action, including antitrust actions, brought by a person
35 licensed under article ~~36 240~~ of this title **12** or ~~licensed under article 38 of this title~~ AN
36 ADVANCED PRACTICE NURSE who is the subject of the review by ~~such~~ THE professional
37 review committee unless, in connection with the professional review process, the person

1 provided false information and knew that the information was false.

2 (2) The governing board and the authorized entity that has established a professional
3 review committee pursuant to section ~~12-36.5-104~~ **12-30-204** is immune from suit and
4 liability for damages in any civil or criminal action, including antitrust actions, brought by
5 a person licensed under article ~~36 240~~ of this title **12** or ~~licensed under article 38 of this title~~
6 AN ADVANCED PRACTICE NURSE who is the subject of the review by such professional review
7 committee if the professional review action was taken within the scope of the professional
8 review process and was taken:

9 (a) In the objectively reasonable belief that the action was in the furtherance of
10 quality health care;

11 (b) After an objectively reasonable effort to obtain the facts of the matter;

12 (c) In the objectively reasonable belief that the action taken was warranted by the
13 facts; and

14 (d) In accordance with procedures that, under the circumstances, were fair to the
15 person licensed under article ~~36 240~~ of this title **12** or ~~licensed under article 38 of this title~~
16 ~~and granted authority as an~~ THE advanced practice nurse.

17 **12-30-208. Conformance with federal law and regulation - legislative**
18 **declaration - rules - limitations on liability - definition.** (1) [Formerly 12-36.5-201] The
19 general assembly hereby finds, determines, and declares that the enactment of this ~~part 2~~
20 SECTION is necessary in order for the state to comply with the provisions of the federal
21 "Health Care Quality Improvement Act of 1986", as amended, 42 U.S.C. SECS. 11101 TO
22 11152. It is the intent of the general assembly that the provisions of this ~~part 2~~ SECTION are
23 to be interpreted as being complementary to the OTHER provisions of ~~part 1 of~~ IN this article
24 PART 2. The provisions of this ~~part 2~~ SECTION are intended to be responsive to specific
25 requirements of the federal "Health Care Quality Improvement Act of 1986", as amended.
26 If the provisions of this ~~part 2~~ SECTION conflict with the OTHER provisions of ~~part 1 of~~ this
27 ~~article~~ PART 2, other than with respect to the specific requirements of the federal "Health
28 Care Quality Improvement Act of 1986", as amended, the OTHER provisions of ~~part 1 of~~ this
29 ~~article shall~~ PART 2 prevail.

30 (2) [Formerly 12-36.5-202] The medical board and nursing board may promulgate
31 rules to comply with the reporting requirements of the federal "Health Care Quality
32 Improvement Act of 1986", as amended, ~~42 U.S.C. secs. 11101 through 11152~~, and may
33 participate in the federal data bank.

34 (3) [Formerly 12-36.5-203] ~~(+)~~ (a) The following persons are immune from suit and
35 not liable for damages in any civil action with respect to their participation in, assistance to,
36 or reporting of information to a professional review committee in connection with a
37 professional review action in this state, and such persons are not liable for damages in a civil

1 action with respect to their participation in, assistance to, or reporting of information to a
2 professional review committee that meets the standards of and is in conformity with the
3 federal "Health Care Quality Improvement Act of 1986", as amended: ~~42 U.S.C. secs. 11101~~
4 ~~through 11152:~~

5 (a) (I) An authorized entity, professional review committee, or governing board;

6 (b) (II) Any person acting as a member of or staff to the authorized entity,
7 professional review committee, or governing board;

8 (c) (III) A witness, consultant, or other person who provided information to the
9 authorized entity, professional review committee, or governing board; and

10 (d) (IV) Any person who participates with or assists the professional review
11 committee or governing board with respect to the professional review activities.

12 (2)(a) (b) (I) Notwithstanding subsection (1) (3)(a) of this section, nothing in this
13 article SECTION relieves an authorized entity that is a health care facility licensed or certified
14 pursuant to part 1 of article 3 of title 25 C.R.S.; or certified pursuant to section 25-1.5-103
15 C.R.S.; (1)(a)(II) of liability to an injured person or wrongful death claimant for the facility's
16 independent negligence in the credentialing or privileging process for a person licensed
17 under article 36 240 of this title 12 or licensed under article 38 of this title and granted
18 authority as an advanced practice nurse who provided health care services for the injured or
19 deceased person at the facility. For purposes of this section SUBSECTION (3), the facility's
20 participation in the credentialing process or the privileging process does not constitute the
21 corporate practice of medicine.

22 (b) (II) Nothing in this section SUBSECTION (3) affects the confidentiality or privilege
23 of any records subject to section ~~12-36.5-104 (10) 12-30-204 (11)~~ or of information obtained
24 and maintained in accordance with a quality management program as described in section
25 25-3-109. C.R.S. The exceptions to confidentiality or privilege as set forth in sections
26 25-3-109 (4), C.R.S., and ~~12-36.5-104 (10) 12-30-204 (11)~~ apply.

27 (c) (III) This subsection (2) (3)(b), as amended, applies to actions filed on or after
28 July 1, 2012.

29 (3) (c) For the purposes of this section SUBSECTION (3), unless the context otherwise
30 requires,

31 (a) "professional review action" means an action or recommendation of a
32 professional review committee that is taken or made in the conduct of professional review
33 activity and that is based on the quality and appropriateness of patient care provided by, or
34 the competence or professional conduct of, an individual person licensed under article 36
35 240 of this title 12 or licensed under article 38 of this title and granted authority as an
36 advanced practice nurse, which action affects or may affect adversely the person's clinical
37 privileges of or membership in an authorized entity. "Professional review action" includes
38 a formal decision by the professional review committee not to take an action or make a

1 recommendation as provided in this ~~paragraph (a)~~ SUBSECTION (3)(c) and also includes
2 professional review activities relating to a professional review action. An action is not based
3 upon the competence or professional conduct of a person if the action is primarily based on:

4 (I) The person's association or lack of association with a professional society or
5 association;

6 (II) The person's fees or ~~his or her~~ advertising or engaging in other competitive acts
7 intended to solicit or retain business;

8 (III) The person's association with, supervision of, delegation of authority to, support
9 for, training of, or participation in a private group practice with a member or members of a
10 particular class of health care practitioners or professionals;

11 (IV) The person's participation in prepaid group health plans, salaried employment,
12 or any other manner of delivering health services whether on a fee-for-service basis or other
13 basis;

14 (V) Any other matter that does not relate to the quality and appropriateness of patient
15 care provided by, or the competence or professional conduct of, a person licensed under
16 article 36 **240** of this title **12** or ~~licensed under article 38 of this title and granted authority~~
17 as an advanced practice nurse.

18 ~~(b) (Deleted by amendment, L. 2012.)~~

19 **12-30-209. [Formerly 12-36.5-107] Repeal of part.** This ~~article~~ PART 2 is repealed,
20 effective September 1, 2019. Prior to such ITS repeal, the ~~department of regulatory agencies~~
21 ~~shall review~~ the functions of professional review committees ~~and the committee on~~
22 ~~anticompetitive conduct~~ ARE SCHEDULED FOR REVIEW in accordance with section 24-34-104.
23 ~~C.R.S.~~

24 BUSINESS PROFESSIONS AND OCCUPATIONS

25 **ARTICLE 100**

26 **Accountants**

27 **12-100-101. [Formerly 12-2-101] Legislative declaration.** (1) It is declared to be
28 in the interest of the citizens of the state of Colorado and a proper exercise of the police
29 power of the state of Colorado to provide for the licensing and registration of certified
30 public accountants, to ensure that persons who hold themselves out as possessing
31 professional qualifications as certified public accountants are, in fact, qualified to render
32 accounting services of a professional nature, and to provide for regulation of certified public
33 accountants employed, serving clients, or doing business in Colorado and the maintenance
34 of high standards of professional conduct by those ~~so~~ licensed and registered as certified

1 public accountants. Because of the customary reliance by the public upon audited financial
2 statements and upon financial information presented with the opinion or certificate of
3 persons purporting to possess expert knowledge in accounting or auditing, it is further
4 declared to be in the interest of ~~such~~ THE citizens to limit and restrict, under the
5 circumstances set forth in this article *100*, the issuance of opinions or certificates relating to
6 accounting or financial statements ~~which~~ THAT utilize or contain wording indicating that the
7 author has expert knowledge in accounting or auditing or ~~which~~ THAT purport to express an
8 independent auditor's opinion as to financial position, financial results of operations,
9 changes in financial position, reliability of financial information, or compliance with
10 conditions established by law or contract to persons ~~so~~ licensed or registered UNDER THIS
11 ARTICLE 100.

12 (2) It is declared that the state board of accountancy may invoke discipline
13 proactively with regard to certified public accountants employed, serving clients, or doing
14 business in Colorado when required for the protection of the public health, safety, and
15 welfare of the citizens of this state.

16 **12-100-102. Applicability of common provisions.** ARTICLES 1 AND 20 OF THIS
17 TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 100.

18 **12-100-103. [Formerly 12-2-102] Definitions.** As used in this article *100*, unless the
19 context otherwise requires:

- 20 (1) "Accredited college or university" means either:
21 (a) A college or university ~~which~~ THAT is accredited by one of the following regional
22 accrediting agencies:
23 (I) The Middle States Association of Colleges and Schools;
24 (II) The North Central Association of Colleges and Schools;
25 (III) The New England Association of Schools and Colleges;
26 (IV) The Northwest Association of Schools and Colleges;
27 (V) The Southern Association of Colleges and Schools;
28 (VI) The Western Association of Schools and Colleges; or
29 (b) A college or university ~~which~~ THAT meets academic standards substantially
30 equivalent to the standards of the agencies specified in ~~paragraph (a) of this subsection (1)~~
31 SUBSECTION (1)(a) OF THIS SECTION. The board shall establish by rule what constitutes
32 substantially equivalent academic standards.

- 33 ~~(1.5)~~ (2) "Board" means the state board of accountancy.
34 ~~(2)~~ (3) "Foreign corporation" means a corporation organized under the laws of
35 another state, which meets the requirements of section ~~12-2-117 (7)~~ **12-100-114 (11)**.
36 ~~(2.5)~~ (4) "Foreign limited liability company" means a limited liability company

1 organized under the laws of another state, which meets the requirements of section ~~12-2-117~~
2 ~~(7)~~ **12-100-114 (11)**.

3 ~~(2.7)~~ (5) "Limited liability company" means a limited liability company organized
4 for the sole purpose of providing professional services to the public customarily performed
5 by certified public accountants and includes foreign limited liability companies.

6 ~~(2.9)~~ (6) "Peer review" means a study, appraisal, or review by an independent
7 certified public accountant of one or more aspects of the professional work of another
8 certified public accountant or of a registered partnership, corporation, or limited liability
9 company that issues attest or compilation reports.

10 ~~(3)~~ (7) "Person" includes individuals, partnerships, professional corporations, and
11 limited liability companies.

12 ~~(4)~~ (8) "Professional corporation" means a corporation organized for the sole purpose
13 of providing professional services to the public customarily performed by certified public
14 accountants and includes foreign corporations.

15 ~~(5)~~ (9) "State" means any state, territory, or insular possession of the United States
16 and the District of Columbia.

17 **12-100-104. [Formerly 12-2-103] State board of accountancy - subject to**
18 **termination.** (1) The state board of accountancy shall consist of seven members appointed
19 by the governor. Each member of the board shall be a citizen of the United States and a
20 resident of this state. Five members of the board shall be holders of valid certified public
21 accountant certificates issued under the laws of this state, a majority of whom are engaged
22 in active practice as certified public accountants. Two members of the board shall be
23 members of the public who do not hold a certified public accountant certificate. Members
24 shall be appointed for terms of four years each. Any vacancy occurring during a term shall
25 be filled by appointment by the governor for the unexpired term. Upon the expiration of a
26 member's term of office, ~~such~~ THE member shall continue to serve until a successor is
27 appointed. In no event shall a member of the board serve more than two consecutive terms.
28 The governor shall remove from the board any member whose certificate has become void
29 or has been revoked or suspended and may remove any member of the board for neglect of
30 duty, misconduct, or incompetence.

31 (2) A majority of the board shall constitute a quorum for the transaction of business.

32 (3) In any proceeding in court, civil or criminal, arising out of or founded upon any
33 provision of this article **100**, a copy of the records of the board certified as correct by the
34 board shall be admissible in evidence as being the records of the board.

35 ~~(4) Repealed.~~

36 ~~(5)~~ (4) The provisions of section 24-34-104 ~~C.R.S.~~, concerning the termination
37 schedule for regulatory bodies of the state unless extended as provided in that section, are

1 applicable to the state board of accountancy created by this section.

2 ~~(6)(a) Any member of the board, any member of the board's staff, any person acting~~
3 ~~as a witness or consultant to the board, any witness testifying in a proceeding authorized~~
4 ~~under this article, and any person who lodges a complaint pursuant to this article shall be~~
5 ~~immune from liability in any civil action brought against him or her for acts occurring while~~
6 ~~acting in his or her capacity as board member, staff, consultant, or witness, respectively, if~~
7 ~~such individual was acting in good faith within the scope of his or her respective capacity,~~
8 ~~made a reasonable effort to obtain the facts of the matter as to which he or she acted, and~~
9 ~~acted in the reasonable belief that the action taken by him or her was warranted by the facts.~~
10 ~~Any person participating in good faith in lodging a complaint or participating in any~~
11 ~~investigative or administrative proceeding pursuant to this article shall be immune from any~~
12 ~~civil or criminal liability that may result from such participation.~~

13 ~~(b) (5) The disclosure of reports or working papers subpoenaed by the board or any~~
14 ~~person or group authorized by the board to conduct an investigation into audit or review~~
15 ~~attest activities of a certified public accountant or certified public accounting firm pursuant~~
16 ~~to section 13-90-107 (1)(f)(III) or (1)(f)(IV) C.R.S., which THAT is not in good faith shall~~
17 ~~subject the member of the board, person, or group to civil liability for damages to be~~
18 ~~determined by a court of competent jurisdiction.~~

19 **12-100-105. [Formerly 12-2-104] Powers and duties of board.** (1) The board has
20 the power and duty to:

21 (a) Elect annually from among its members a chair and prescribe the duties of such
22 office;

23 ~~(b) Make such rules and regulations, not inconsistent with the laws of this state, as~~
24 ~~may be necessary for the orderly conduct of its affairs and for the administration of this~~
25 ~~article, pursuant to the provisions of article 4 of title 24, C.R.S.;~~

26 ~~(c) (b) Make appropriate rules of professional conduct in order to establish and~~
27 ~~maintain a high standard of integrity in the profession of public accounting. Any rule of~~
28 ~~professional conduct applies with equal force to all persons holding certificates under this~~
29 ~~article **100**. No rule of professional conduct shall be promulgated which THAT will work to~~
30 ~~the disadvantage of one group and in favor of another. Every person practicing as a certified~~
31 ~~public accountant in the state shall be governed and controlled by such THE rules. All rules~~
32 ~~of professional conduct shall be promulgated pursuant to the provisions of article 4 of title~~
33 ~~24. C.R.S.~~

34 ~~(d) to (f) Repealed.~~

35 ~~(g) (c) Prescribe forms for and receive applications for certificates and grant~~
36 ~~certificates, including contracting with people to receive and review the applications as the~~
37 ~~agent of the board;~~

- 1 ~~(h)~~ (d) Give examinations to applicants and, as necessary, contract for assistance in
- 2 administering the examination;
- 3 ~~(i)~~ (e) ~~Deny the issuance or renewal of, suspend for a specified period, or revoke a~~
- 4 ~~certificate; issue a letter of admonition to or place on probation or fine any person who,~~
- 5 ~~while holding a certificate, violates this article; issue confidential letters of concern; issue~~
- 6 ~~cease-and-desist orders~~ TAKE DISCIPLINARY OR OTHER ACTIONS AS AUTHORIZED IN SECTION
- 7 12-20-404 OR 12-20-405 or impose other conditions and limitations;
- 8 ~~(j)~~ (f) Keep a record of all certificates, suspensions, and revocations and of its own
- 9 proceedings;
- 10 ~~(k)~~ (g) Administer this article **100** and exercise and perform any other powers and
- 11 duties granted or directed by the general assembly;
- 12 ~~(l)~~ (h) Collect all fees prescribed by this article **100**.
- 13 ~~(m) Repealed:~~
- 14 (2) Publications of the board circulated in quantity outside the executive branch shall
- 15 be issued in accordance with the provisions of section 24-1-136. ~~C.R.S.~~

16 **12-100-106. [Formerly 12-2-106] Fees.** (1) A fee authorized to be established

17 pursuant to section ~~24-34-105 C.R.S.~~, **12-20-105** shall be paid for each application made to

18 the board, whether it is an application for examination or reexamination or for issuance,

19 renewal, reactivation, or reinstatement of a certificate of certified public accountant, an

20 application for registration with the board as a public accounting firm, or any other

21 application requiring formal action or consideration by the board. The fee required shall not

22 be returnable irrespective of the action taken by the board.

23 (2) A fee authorized to be established pursuant to section ~~24-34-105 C.R.S.~~,

24 **12-20-105** shall be paid for each examination in which the candidate is examined in the

25 subjects prescribed by the board.

26 (3) Any person making application for a certificate of certified public accountant

27 under section ~~12-2-113 12-100-111~~ shall pay a fee authorized to be established pursuant to

28 section ~~24-34-105 C.R.S.~~, **12-20-105** in addition to the fee required in subsection (1) of this

29 section.

30 ~~(4) (Deleted by amendment, L. 2010, (HB 10-1236), ch. 146, p. 502, § 17, effective~~

31 ~~July 1, 2010.)~~

32 ~~(5)~~ (4) Nothing in this section shall be construed to authorize the board to impose any

33 notice, fee, or other submission requirement on a certified public accountant or registered

34 public accountant from another state or a foreign partnership, corporation, limited

35 partnership, limited liability limited partnership, or limited liability company, that is

36 practicing accountancy in this state pursuant to section ~~12-2-121 (2) 12-100-117 (2)~~.

1 **12-100-107. [Formerly 12-2-108] Certificate of certified public accountant -**
2 **issuance - renewal - reinstatement - rules.** (1) The board shall grant a certificate of
3 certified public accountant to any applicant who:

- 4 (a) Meets the requirements of section ~~12-2-113~~ **12-100-111**;
- 5 (b) Satisfies the board of the applicant's continued competence; or
- 6 (c) (I) Passes a written examination pursuant to section ~~12-2-111~~ **12-100-109**; and
- 7 (II) Meets the requirements of section ~~12-2-109~~ **12-100-108**.
- 8 ~~(2) Repealed.~~

9 ~~(3) (2) All certificates shall expire pursuant to, a schedule established by the director~~
10 ~~of the division of professions and occupations within the department of regulatory agencies~~
11 ~~and shall be renewed or reinstated pursuant to section 24-34-102 (8). C.R.S. The director~~
12 ~~of the division of professions and occupations within the department of regulatory agencies~~
13 ~~may establish renewal fees and delinquency fees for reinstatement pursuant to section~~
14 ~~24-34-105. C.R.S. If a person fails to renew his or her certification pursuant to the schedule~~
15 ~~established by the director of the division of professions and occupations, such certificate~~
16 ~~shall expire~~ AND ARE SUBJECT TO THE RENEWAL, REINSTATEMENT, AND DELINQUENCY FEE
17 PROVISIONS SPECIFIED IN, SECTION 12-20-202 (1) AND (2). Any person whose certificate has
18 expired shall be subject to the penalties provided in this article **100** or section ~~24-34-102 (8)~~
19 ~~C.R.S. 12-20-202 (1).~~

20 ~~(4) and (5) (Deleted by amendment, L. 2004, p. 1793, § 2, effective August 4, 2004.)~~

21 ~~(6) (3) Any person who practices certified public accounting after the expiration of~~
22 ~~his or her certificate shall be practicing in violation of this article 100. The board may refuse~~
23 ~~to reactivate or reinstate any expired certificate for conduct that constitutes a violation of this~~
24 ~~article 100.~~

25 ~~(7) (4) Effective on the first renewal period established by the board after May 31,~~
26 ~~2011, the board shall not renew the certificate of a holder who issues attest or compilation~~
27 ~~reports unless the certificate holder performs public accounting within a partnership,~~
28 ~~professional corporation, or limited liability company or the certificate holder has undergone~~
29 ~~a peer review conducted according to rules promulgated by the board that meet the standards~~
30 ~~for performing and reporting on a peer review of the American institute of certified public~~
31 ~~accountants or an equivalent standard.~~

32 **12-100-108. [Formerly 12-2-109] Educational and experience requirements -**
33 **rules.**

34 ~~(1) Repealed.~~

35 ~~(2) (1) On and after July 1, 2015, a person meets the educational and experience~~
36 ~~requirements necessary to be issued a certificate of certified public accountant if the~~
37 ~~applicant:~~

1 (a) (I) Has a baccalaureate or higher degree conferred by an accredited college or
2 university with an accounting program approved by the board or has a baccalaureate with
3 a nonaccounting concentration supplemented by what the board determines to be the
4 equivalent of an accounting concentration, including related courses in other areas of
5 business administration; and

6 (II) Has completed at least one hundred fifty semester hours of college education
7 approved by the board;

8 (b) Has successfully completed a course of study concerning the subject of
9 professional ethics approved by the board and passed a written examination concerning ~~such~~
10 THE subject prepared and given by educational institutions or professional organizations
11 deemed qualified by the board to administer the examination; and

12 (c) Has one year's experience that:

13 (I) Meets the requirements set by the board by rule;

14 (II) Is in any type of service or advice involving the use of accounting, attest,
15 compilation, management advisory, financial advisory, tax, or consulting skills, which may
16 be gained through employment in government, industry, academia, or public practice; and

17 (III) Is verified by an actively licensed certified public accountant who meets the
18 requirements set by the board by rule.

19 ~~(3) Repealed.~~

20 **12-100-109. [Formerly 12-2-111] Examinations - reexaminations - rules.** (1) The
21 board shall provide licensure examinations as often as necessary to provide candidates a
22 reasonable opportunity to take the examination. Examinations shall adequately test a
23 candidate's knowledge of accounting, auditing, and any other related subject the board
24 deems relevant and necessary. Any additional examination subject shall be designated by the
25 board by rule. The board shall set the passing score for an examination at a level to
26 adequately reflect the minimum level of competency necessary for the practice of
27 accountancy.

28 (2) The board shall establish by rule the standards for granting conditional
29 examination credit for candidates who pass one or more but not all of the sections of the
30 examination.

31 (3) The board may use the standard examinations and advisory grading service
32 promulgated by the American institute of certified public accountants, which examination
33 shall be deemed prima facie to meet the requirements of this section.

34 (4) A candidate for a certificate of certified public accountant who meets the
35 educational requirements set by the board by rule is entitled to take an examination.

36 (5) Any candidate who has passed any or all sections of an examination in another
37 state shall be credited for passing ~~such~~ THE sections if the sections passed are determined by

1 the board to be equivalent to sections of the examination offered in this state and if the
2 testing requirements in the other state are substantially the same as in this state.

3 (6) If a candidate fails an examination or fails to pass in all subjects as provided in
4 subsection (5) of this section, the board may require the candidate to take additional study
5 before taking another examination.

6 ~~(7) Repealed.~~

7 ~~(8) (Deleted by amendment, L. 93, p. 349, § 1, effective April 12, 1993.)~~

8 **12-100-110. [Formerly 12-2-112] Approval of schools.** (1) The board shall approve
9 the accounting program of the schools that meet the following requirements:

10 (a) The school has a curriculum designed to give the candidate proficiency in those
11 subjects in which the candidate must pass an examination to be licensed.

12 (b) ~~Such~~ THE school shall have adequate equipment and resources, including suitable
13 facilities for practical instruction and shall maintain an adequate professional library. It shall
14 provide a sufficient number of full-time salaried instructors with satisfactory professional
15 training. It shall provide a satisfactory major in accountancy and allied subjects. It shall
16 require for admission the satisfactory completion of an approved four-year secondary school
17 course of study or the equivalent.

18 (2) If any applicant is a graduate from a school ~~which~~ THAT has not at the time of the
19 filing of the application been approved by the board, the board may make an investigation
20 to determine whether or not the school did, at the time of ~~said~~ THE applicant's attendance,
21 meet the requirements set forth in subsection (1) of this section. If the board finds that ~~such~~
22 THE school did, at that time, meet the requirements set forth in ~~said~~ THAT subsection, ~~(1)~~, the
23 board may approve ~~said~~ THE school as of the time of the applicant's graduation ~~therefrom~~
24 FROM THE SCHOOL.

25 (3) The board may, after a hearing, withdraw its approval of any school ~~which~~ THAT
26 fails to meet the requirements of the law and the standards of the board. The board shall give
27 notice to the school complained against and shall hold a hearing on the complaint within a
28 reasonable time after notice is given.

29 (4) Before disapproving any school for which approval is sought, the board shall
30 give notice to the school of its contemplated action and shall hold a hearing within a
31 reasonable time after notice is given, affording ~~such~~ THE school an opportunity to be heard.

32 **12-100-111. [Formerly 12-2-113] Issuance of certificate by reciprocity or by**
33 **passing examination of another state.** (1) The board, in its discretion, may waive the
34 examination of persons qualified under this subsection (1) and may issue a certificate of
35 certified public accountant to:

36 (a) Any person who is the holder of a certificate of certified public accountant issued

1 after examination under the laws of another state and who possesses the qualifications
2 prescribed in section ~~12-2-108~~ **12-100-107** for an applicant applying for a certificate as of
3 the time of the issuance of the certificate by ~~such~~ THE other state or possesses substantially
4 equivalent qualifications;

5 (b) A person who has passed an examination under the laws of another state and who
6 possesses the qualifications prescribed in section ~~12-2-108~~ **12-100-107** at the time the person
7 applies for a certificate in this state or possesses substantially equivalent qualifications; or

8 (c) Any person who is the holder of a certificate, license, or degree in a foreign
9 country ~~which~~ THAT constitutes a recognized qualification for the practice of public
10 accounting in ~~such~~ THE country, ~~which~~ is comparable to that of a certified public accountant
11 in this state, and ~~which~~ is in full force and effect.

12 **12-100-112. [Formerly 12-2-115] Use of the title "certified public accountant".**

13 (1) (a) A person who has received from the board and holds an active certificate of certified
14 public accountant shall be styled and known as a certified public accountant and may also
15 use the abbreviation "C.P.A."

16 (b) A partnership, professional corporation, or limited liability company of certified
17 public accountants that is registered under this article **100** may use the words "certified
18 public accountants" or the abbreviation "C.P.A.s" in connection with its partnership,
19 professional corporation, or limited liability company name.

20 (2) A person authorized to use the title "certified public accountant" or the
21 abbreviation "C.P.A." shall provide to any client residing in or headquartered in Colorado,
22 during the course of an engagement, an address and telephone number for the certified
23 public accountant's firm or, in the case of a sole practitioner, the address and telephone
24 number of the sole practitioner.

25 (3) (a) Except as authorized in subsection (4) of this section, a person shall not
26 assume or use the title or designation "certified public accountant", the abbreviation
27 "C.P.A.", or any other title, designation, words, letters, abbreviation, sign, card, or device
28 tending to indicate that ~~such~~ THE person is a certified public accountant unless the person
29 holds a certificate as a certified public accountant issued under this article **100** or under the
30 laws of any other state. A person who is inactive pursuant to section ~~12-2-122.5~~ **12-100-119**
31 may use the title "inactive certified public accountant" or "inactive C.P.A."

32 (b) Except as authorized by subsection (1) or (4) of this section, an individual,
33 partnership, professional corporation, or limited liability company shall not assume or use
34 any title or designation using the word "certified", "registered", "chartered", "enrolled",
35 "licensed", "independent", or "approved" in conjunction with the word accountant or auditor
36 or any abbreviation thereof or any title, designation, or abbreviation likely to be confused
37 with "certified public accountant" or the abbreviation "C.P.A.", including the terms

1 "chartered accountant" and "certified accountant" and the abbreviation "C.A."

2 (c) Except as authorized in subsection (4) of this section, a partnership, professional
3 corporation, or limited liability company shall not assume or use the title or designation
4 "certified public accountants", the abbreviation "C.P.A.s", or any other title, designation,
5 words, letters, abbreviation, sign, card, or device tending to indicate that ~~such~~ THE
6 partnership, professional corporation, or limited liability company is composed of certified
7 public accountants unless ~~such~~ THE partnership, professional corporation, or limited liability
8 company is registered as a partnership, professional corporation, or limited liability company
9 of certified public accountants under this article **100** or the laws of any other state.

10 (4) (a) A certified public accountant from another state or jurisdiction of the United
11 States who is practicing in this state pursuant to section ~~12-2-121~~ **12-100-117** may use the
12 title "certified public accountant", the abbreviation "C.P.A.", or any other title, designation,
13 words, letters, abbreviation, sign, card, or device tending to indicate that the person is a
14 certified public accountant.

15 (b) A foreign partnership, corporation, limited partnership, limited liability limited
16 partnership, or limited liability company that is practicing in this state pursuant to section
17 ~~12-2-121~~ **12-100-117** may use the title or designation "certified public accountants", the
18 abbreviation "C.P.A.s", or any other title, designation, words, letters, abbreviation, sign,
19 card, or device tending to indicate that the partnership, corporation, or limited liability
20 company is composed of certified public accountants.

21 **12-100-113. [Formerly 12-2-115.5] Retired certified public accountant.** (1) Any
22 person who has received from the board and holds a certificate of certified public
23 accountant, including an expired certificate of certified public accountant that remains
24 subject to renewal, reactivation, or reinstatement, may apply to the board for retired status.
25 The board may grant ~~such~~ RETIRED status by issuing a retired status certificate of certified
26 public accountant to any person who meets established conditions prescribed by the board.

27 (2) Any person issued a retired status certificate of certified public accountant may
28 be styled and known as a "retired certified public accountant" or "retired C.P.A."

29 (3) During ~~such~~ THE time as a certified public accountant remains in a retired status,
30 ~~such~~ THE person shall not perform those acts set forth in section ~~12-2-120(6)(a)~~ **12-100-116**
31 **(1)(a)** and ~~(6)(b)~~ **(1)(b)**. The board shall retain jurisdiction over retired status certified public
32 accountants.

33 **12-100-114. [Formerly 12-2-117] Partnerships, professional corporations, and**
34 **limited liability companies composed of certified public accountants - registration -**
35 **rules - definitions.** (1) Except as provided in section ~~12-2-121~~ **(2)** **12-100-117** (2), a
36 partnership, professional corporation, or limited liability company engaged in this state in

1 the practice of public accounting as certified public accountants shall register with the board
2 as a partnership, professional corporation, or limited liability company of certified public
3 accountants and must meet the following requirements; and, as used in this article *100*,
4 "partnership" includes a registered limited partnership, limited liability partnership, limited
5 liability limited partnership, foreign limited partnership, foreign limited liability partnership,
6 and foreign limited liability limited partnership:

7 (a) At least one partner, shareholder, or member who shall also be a director or
8 manager thereof must be a certified public accountant or registered firm of this state in good
9 standing.

10 (b) ~~(f)~~ A simple majority of the ownership of a certified public accounting firm doing
11 business as a public accounting firm in Colorado, in terms of financial interests and voting
12 rights of all partners, officers, shareholders, members, or managers, shall be licensed
13 certified public accountants in good standing in this state or another state.

14 ~~(H) (Deleted by amendment, L. 2005, p. 240, § 1, effective July 1, 2005.)~~

15 (c) Any other partner, shareholder, or member thereof may, but need not, be a
16 certified public accountant of some state, in good standing, or registered firm in this state
17 who at all times owns ~~such~~ THE person's partnership interest, corporate share, or membership
18 interest in ~~such~~ THE person's own right.

19 ~~(d) Repealed.~~

20 ~~(e)~~ (d) Each resident manager in charge of an office of the partnership, professional
21 corporation, or limited liability company in this state must be a certified public accountant
22 of this state in good standing.

23 ~~(f) (Deleted by amendment, L. 94, p. 1082, § 1, effective May 4, 1994.)~~

24 (2) (a) (I) Application for ~~such~~ registration shall be made upon the affidavit of a
25 partner of ~~such~~ THE partnership, of a shareholder of ~~such~~ THE professional corporation, or
26 of a member of ~~such~~ THE limited liability company who is a certified public accountant of
27 this state in good standing and shall provide:

28 (A) The names and addresses of the persons who are practicing public accounting
29 for the partnership, professional corporation, or limited liability company;

30 (B) The names and addresses of the persons who are not certified public accountants,
31 but who are partners of a partnership, shareholders of a professional corporation, or
32 members of a limited liability company;

33 (C) Disclosure of all of the states in which the partnership, professional corporation,
34 or limited liability company is licensed, registered, or permitted to practice. The application
35 shall also disclose all of the states in which licensure, registration, or permission to practice
36 has been denied, suspended, or revoked.

37 (D) Any other information the board may reasonably request; and

38 (E) A registration fee, the amount of which shall be set by the board, to cover the

1 board's administrative costs.
2 (II) Each member of the partnership, professional corporation, or limited liability
3 company may receive a copy of the application.
4 (III) The partner, shareholder, or member designated by the firm shall notify the
5 board in writing within thirty days after any change in the partnership, professional
6 corporation, or limited liability company, including:
7 (A) Identities and numbers of partners, shareholders, members, managers, or officers;
8 and
9 (B) Location of places of business of the partnership, professional corporation, or
10 limited liability company.
11 (IV) The board may suspend or revoke registration of or impose any other discipline
12 the board sees fit to administer to a partnership, professional corporation, or limited liability
13 company that fails to notify the board of any changes outlined in ~~subparagraph (III) of this~~
14 ~~paragraph (a)~~ SUBSECTION (2)(a)(III) OF THIS SECTION.
15 (b) The board shall in each case determine whether the applicant is eligible for
16 registration.
17 ~~(2.2)~~ (3) Each firm registration expires pursuant to, ~~a schedule established by the~~
18 ~~director of the division of professions and occupations within the department of regulatory~~
19 ~~agencies. The registrant shall renew or reinstate the registration. The director of the division~~
20 ~~of professions and occupations within the department of regulatory agencies may establish~~
21 ~~renewal fees and delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S.~~
22 ~~If a firm fails to renew its registration pursuant to the schedule established by the director~~
23 ~~of the division of professions and occupations, the registration shall expire~~ AND IS SUBJECT
24 TO THE RENEWAL, REINSTATEMENT, AND DELINQUENCY FEE PROVISIONS SPECIFIED IN,
25 SECTION 12-20-202 (1) AND (2). A firm whose registration has expired shall be subject to the
26 penalties provided in this article **100** or section ~~24-34-102 (8), C.R.S. 12-20-202 (1)~~.
27 ~~(2.5)~~ (4) As used in ~~subsections (3) and (3.5)~~ SUBSECTION (5) of this section,
28 "employee" includes a member of a limited liability company and a partner in a limited
29 partnership, limited liability partnership, or limited liability limited partnership or foreign
30 limited partnership, limited liability partnership, or limited liability limited partnership.
31 ~~(3)~~ (5) The corporation must be in compliance with the "Colorado Business
32 Corporation Act", articles 101 to 117 of title 7, ~~C.R.S.~~, and, to the extent applicable under
33 section 7-117-103, ~~C.R.S.~~, with the "Colorado Corporation Code", articles 1 to 10 of title
34 7, C.R.S., as ~~said~~ THOSE articles existed prior to their repeal on July 1, 1994. The limited
35 liability company must be in compliance with the "Colorado Limited Liability Company
36 Act", article 80 of title 7. ~~C.R.S.~~ The organizing documents of any partnership, the articles
37 of incorporation of any ~~such~~ corporation, or the articles of organization of any ~~such~~ limited
38 liability company shall contain provisions complying with the following requirements:

1 (a) The partnership, corporation, or limited liability company shall be organized
2 solely for the purpose of practicing accountancy and ~~such~~ other activities as may from time
3 to time be specifically found by the board to be activities suitable and proper to be
4 performed by certified public accountants only through or under the supervision of at least
5 one person who holds a certificate to practice public accounting as a certified public
6 accountant.

7 (b) Each partner who is personally engaged within this state in the practice of public
8 accounting shall be a certified public accountant of this state in good standing, and each
9 partner not personally engaged within this state in the practice of public accounting may, but
10 need not, be a certified public accountant of some state in good standing. The president of
11 any such corporation shall be a shareholder and a director, and one or more of ~~such~~ THE
12 directors shall be certified public accountants of this state in good standing. The manager
13 or managers of any such limited liability company shall be a member or members and one
14 or more of ~~such~~ THE managers shall be certified public accountants of this state in good
15 standing. Lay directors and officers and managers shall not exercise any authority
16 whatsoever over professional matters.

17 (c) All partners, shareholders of the corporation, or members of the limited liability
18 company shall be jointly and severally liable for all acts, errors, and omissions of the
19 employees of the partnership, corporation, or limited liability company except during periods
20 of time when the partnership, corporation, or limited liability company maintains in good
21 standing professional liability insurance, or designated or segregated moneys in lieu of ~~such~~
22 THE professional liability insurance, ~~which~~ THAT meets the standards set forth in
23 ~~subparagraphs (I) to (V) of this paragraph (c)~~ SUBSECTIONS (5)(c)(I) TO (5)(c)(V) OF THIS
24 SECTION:

25 (I) The insurance shall insure the partnership, corporation, or limited liability
26 company against liability imposed upon the partnership, corporation, or limited liability
27 company by law for damages resulting from any claim made against the partnership,
28 corporation, or limited liability company arising out of acts, errors, and omissions committed
29 in the performance of professional services for others by those employees of the partnership,
30 corporation, or limited liability company who hold certificates to practice public accounting
31 as certified public accountants.

32 (II) ~~Such~~ THE policies shall insure the partnership, corporation, or limited liability
33 company against liability imposed upon it by law for damages arising out of the acts, errors,
34 and omissions of all other employees.

35 (III) The insurance shall be in an amount for each claim of at least fifty thousand
36 dollars multiplied by the number of certified public accountants employed by or members
37 of the partnership, corporation, or limited liability company within this state, and the policy
38 may provide for an aggregate top limit of liability per year for all claims of one hundred fifty

1 thousand dollars also multiplied by the number of certified public accountants employed by
2 or members of the partnership, corporation, or limited liability company within this state;
3 except that no firm shall be required to carry insurance in excess of three hundred thousand
4 dollars for each claim with an aggregate top limit of liability for all claims during the year
5 of one million dollars and except that the board, in the public interest, may adopt ~~regulations~~
6 RULES increasing the minimum amounts of insurance coverage required by this subsection
7 ~~(3)~~ (5). A policy of insurance obtained in accordance with this ~~subparagraph (H)~~
8 SUBSECTION (5)(c)(III) may be issued on a claims-made or occurrence basis.

9 (IV) (A) The policy may provide that it does not apply to: Any dishonest, fraudulent,
10 criminal, or malicious act or omission of the insured partnership, corporation, or limited
11 liability company or any partner, stockholder, member, or employee thereof; the conduct of
12 any business enterprise in which the insured partnership, corporation, or limited liability
13 company under this article **100** is not permitted to engage but which nevertheless may be
14 owned by the insured partnership, corporation, or limited liability company or in which the
15 insured partnership, corporation, or limited liability company may be a partner or which may
16 be controlled, operated, or managed by the insured partnership, corporation, or limited
17 liability company in its own or in a fiduciary capacity including the ownership, maintenance,
18 or use of any property in connection therewith; and bodily injury to, or sickness, disease, or
19 death of, any person, or to injury to or destruction of any tangible property, including the
20 loss of use thereof.

21 (B) The policy may be of a type reasonably available in the commercial insurance
22 market and may contain reasonable provisions with respect to policy periods, territory,
23 claims, conditions, exclusions, and other usual matters.

24 (C) The policy may provide for a deductible, or self-insured retained amount, and
25 may provide for the payment of defense or other costs out of the stated limits of the policy,
26 in either or both cases, all partners, shareholders of the corporation, or members of the
27 limited liability company shall be jointly and severally liable for all acts, errors, and
28 omissions of the employees of the partnership, corporation, or limited liability company to
29 the extent of the amount of ~~such~~ THE deductible or retained self-insurance, and the amount,
30 if any, by which the payment of defense costs reduces the insurance remaining available for
31 the payment of claims below the minimum limit of insurance required by ~~this paragraph (c)~~
32 SUBSECTION (5)(c).

33 (V) A partnership, corporation, or limited liability company may maintain, in lieu of
34 the insurance specified in ~~subparagraph (H) of this paragraph (c)~~, ~~money~~ SUBSECTION
35 (5)(c)(III) OF THIS SECTION, MONEY specifically designated and segregated as security for the
36 payment of liabilities imposed by law against the partnership, corporation, or limited liability
37 company, or its partners, shareholders, or members, arising out of claims of the type
38 specified in ~~subparagraphs (I) and (H) of this paragraph (c)~~ SUBSECTIONS (5)(c)(I) AND

1 (5)(c)(II) OF THIS SECTION, in the amount of at least fifty thousand dollars multiplied by the
2 number of certified public accountants employed by or members of the partnership,
3 corporation, or limited liability company within this state; except that ~~such~~ THE amount is
4 not required to exceed one million dollars and except that the board, in the public interest,
5 may adopt rules increasing the minimum amount of designated and segregated ~~moneys~~
6 MONEY required by this ~~subparagraph (V)~~ SUBSECTION (5)(c)(V). The partnership,
7 corporation, or limited liability company remains in compliance with this section
8 notwithstanding amounts paid from the designated or segregated ~~moneys~~ MONEY in any one
9 calendar year in settling or discharging ~~such~~ THE claims, so long as the amount of the
10 designated and segregated ~~moneys~~ MONEY is increased to at least the minimum required
11 amount as of the first business day of the next calendar year. A partnership, corporation, or
12 limited liability company is in compliance with this ~~subparagraph (V)~~ SUBSECTION (5)(c)(V)
13 if it maintains ~~moneys~~ MONEY in the required amount in trust or in bank escrow in the form
14 of cash, bank certificates of deposit, or United States treasury obligations, or maintains in
15 effect bank unconditional, irrevocable letters of credit in the required amount or insurance
16 or surety company bonds in the required amount. ~~Such moneys~~ THE MONEY or equivalency
17 shall be maintained in or issued by a qualified United States financial institution as defined
18 by section 10-1-102 (17). ~~C.R.S.~~

19 (d) A partnership name shall be ended by words or abbreviations permitted pursuant
20 to the law under which the partnership is organized. The corporate name shall be ended by
21 the word "Corporation" or "Incorporated" or by the words "Professional Corporation" or by
22 the abbreviations "Corp.", "Inc.", or "P.C.". The name of any limited liability company shall
23 be ended by the words "Limited Liability Company" or the abbreviation "LLC" or the word
24 limited may be abbreviated as "Ltd.", and the word company may be abbreviated as "Co.". An
25 assumed or trade name may be used if it is not misleading and clearly indicates that the
26 firm is engaged in providing accounting services.

27 ~~(3.5)~~ (6) No limited liability company, limited liability partnership, limited
28 partnership, or limited liability limited partnership, or foreign limited partnership, limited
29 liability partnership, or limited liability limited partnership engaged in the practice of public
30 accounting in this state and in one or more other jurisdictions shall be required to include
31 a provision in its articles of organization or organizing documents as otherwise required by
32 subsection ~~(3)~~ (5) of this section, but shall be subject, with respect to the practice of public
33 accounting within this state, to the requirements of ~~paragraphs (a), (b), (c), and (d) of~~
34 ~~subsection (3)~~ SUBSECTIONS (5)(a) TO (5)(d) of this section.

35 ~~(3.7)~~ (7) ~~Effective on the first renewal period established by the board after May 31,~~
36 ~~2011,~~ The board shall not renew the registration of a firm that issues attest or compilation
37 reports unless the registered partnership, professional corporation, or limited liability
38 company has undergone a peer review conducted according to rules promulgated by the

1 board that meet the standards for performing and reporting on a peer review of the American
2 institute of certified public accountants or an equivalent standard.

3 ~~(4)~~ (8) The partnership, corporation, or limited liability company may exercise the
4 powers and privileges conferred upon partnerships, corporations, and limited liability
5 companies by the laws of Colorado in furtherance of and subject to its partnership,
6 corporate, or limited liability company purposes and may invest its funds in a manner not
7 incompatible with the practice of public accounting as certified public accountants. Any
8 stock purchased by the corporation, or membership interest purchased by the limited liability
9 company or partnership interest purchased by the partnership, may be made out of capital
10 as well as surplus without regard to the impairment of the partnership capital, corporation
11 capital, or limited liability company capital.

12 ~~(5)~~ (9) The partnership, corporation, or limited liability company shall do nothing in
13 this state ~~which~~ THAT, if done by a person who holds a certificate as a certified public
14 accountant within this state and employed by it, would violate the provisions of this article
15 **100**. Any violation by the partnership, corporation, or limited liability company of this article
16 **100** shall be grounds for the board to deny, revoke, suspend, or refuse to renew its
17 registration, or the board may fine, issue a confidential letter of concern to, issue a letter of
18 admonition to, or place on probation the registrant.

19 ~~(6)~~ (10) Nothing in this section shall diminish or change the obligation of each
20 person who holds a certificate of certified public accountant employed by the partnership,
21 corporation, or limited liability company within this state to conduct ~~such~~ THE person's
22 practice in accordance with the provisions of this article **100**. Any person who holds a
23 certificate to practice public accounting as a certified public accountant who, by act or
24 omission, causes the partnership, corporation, or limited liability company to act or fail to
25 act in a way ~~which~~ THAT violates this article **100** is personally responsible for ~~such~~ THE act
26 or omission and subject to discipline therefor.

27 ~~(7)~~ (11) Foreign partnerships, corporations, limited partnerships, limited liability
28 limited partnerships, or limited liability companies may engage in the practice of public
29 accounting in this state as certified public accountants so long as their organizing
30 documents, articles of incorporation, or articles of organization provide that ~~such~~ THE
31 partnership, corporation, limited partnership, limited liability limited partnership, or limited
32 liability company is organized solely for the purpose of practicing accountancy and such
33 other activities as may from time to time be specifically found by the board to be activities
34 suitable and proper to be performed by certified public accountants and comply with and
35 meet the requirements of subsection ~~(3)~~ (5) of this section.

36 ~~(8)~~ (12) Except as provided in this section, partnerships, professional corporations,
37 and limited liability companies shall not practice public accounting as certified public
38 accountants.

1 ~~(9)~~ (13) Nothing in this section shall modify the accountant-client privilege specified
2 in section 13-90-107 (1)(f). ~~C.R.S.~~

3 ~~(10)~~ (14) When any law of this state or any rule ~~or regulation~~ of any agency or other
4 authority established under the constitution or laws of this state requires or authorizes any
5 audit, financial report, or statement to be made, approved, or certified by a certified public
6 accountant, ~~such~~ THE audit, report, or statement may be made, approved, or certified by a
7 partnership, professional corporation, or limited liability company registered in this state.

8 **12-100-115. [12-2-119] Continuing education - rules.**

9 ~~(1) to (4) Repealed.~~

10 ~~(5)~~ (1) As a condition of renewing, reactivating, or reinstating a certificate of
11 certified public accountant, every applicant shall comply with continuing education
12 requirements adopted by the board.

13 ~~(6)~~ (2) The board shall promulgate rules ~~and regulations~~ governing the following:

- 14 (a) The basic requirements for continuing education; except that the board shall not
- 15 require continuing education of more than eighty hours every two years;
- 16 (b) A delineation of qualifying programs;
- 17 (c) A system of control and reporting.

18 ~~(7)~~ (3) In exercising its power under subsection ~~(6)~~ (2) of this section, the board
19 shall, as a basis for a high standard of practice by certified public accountants, establish
20 requirements ~~which~~ THAT will assure reasonable currency of knowledge. The requirements
21 shall assure that a variety of alternative means of compliance with continuing education
22 requirements are available to certificate holders and shall take cognizance of specialized
23 areas of practice.

24 ~~(8)~~ (4) The board shall make exceptions from continuing education requirements for
25 holders of certificates who are not engaged in public practice or who cannot continue their
26 education for reasons of health, military service, or other good cause. If ~~such~~ THE holders
27 of certificates return to the practice of public accounting, the holders of certificates shall
28 meet ~~such~~ THE continuing education requirements as the board may determine.

29 ~~(9)~~ (5) The board shall determine in each case whether a holder of certificate of
30 certified public accountant has complied with continuing education requirements adopted
31 by the board.

32 **12-100-116. [Formerly 12-2-120] Unlawful acts - definition.**

33 ~~(1) and (2) (Deleted by amendment, L. 2010, (HB 10-1236), ch. 146, p. 500, § 12,~~
34 ~~effective July 1, 2010.)~~

35 ~~(3) and (4) Repealed.~~

36 ~~(5) (Deleted by amendment, L. 2010, (HB 10-1236), ch. 146, p. 500, § 12, effective~~

1 July 1, 2010.)

2 ~~(6)~~ (1) (a) (I) No person, partnership, professional corporation, or limited liability
3 company shall issue, author, or publish any opinion or certificate relating to any accounting
4 or financial statement if ~~such~~ THE opinion or certificate utilizes any title or designation, the
5 use of which is prohibited by law.

6 (II) No person, partnership, professional corporation, or limited liability company
7 shall, without an active certificate of certified public accountant or a valid registration:

8 (A) As an independent auditor, make or conduct an investigation, examination, or
9 audit of the financial statements or supporting records of any person, organization, or
10 corporation, to determine the accuracy or fairness with which they present the financial
11 position, changes in financial position, or financial results of operations of ~~such~~ THE person,
12 organization, or corporation;

13 (B) Attest or express an opinion, as an independent auditor, as to the financial
14 position, changes in financial position, or financial results of the operation of any person,
15 organization, or corporation, or as to the accuracy or reliability of any financial information
16 contained in any such accounting or financial statement.

17 (III) The requirement in ~~subparagraph (II) of this paragraph (a)~~ SUBSECTION (1)(a)(II)
18 OF THIS SECTION that a person, partnership, professional corporation, or limited liability
19 company have an active certificate of certified public accountant or a valid registration
20 issued by the board shall not apply to a certified public accountant from another state or a
21 foreign partnership, professional corporation, or limited liability company practicing
22 accountancy in this state pursuant to section ~~12-2-121 (2)~~ **12-100-117 (2)**.

23 (b) The provisions of ~~paragraph (a) of this subsection (6)~~ SUBSECTION (1)(a) OF THIS
24 SECTION shall not prohibit any officer or employee of a corporation, partner or employee of
25 a partnership, member or employee of a limited liability company, or individual or employee
26 of an individual from:

27 (I) Making or conducting ~~such~~ THE investigation, examination, or audit; or

28 (II) Issuing or authoring an assessment or certificate utilizing any wording
29 designating the position, title, or office that the person holds concerning the financial affairs
30 of ~~such~~ THE corporation, partnership, limited liability company, or individual.

31 (c) The provisions of ~~paragraph (a) of this subsection (6)~~ SUBSECTION (1)(a) OF THIS
32 SECTION shall not prohibit any act of a public official or public employee in the performance
33 of his OR HER duties as such or affect the qualifications of any person to testify as a witness
34 before any court or administrative agency of the state of Colorado who is determined to be
35 qualified by ~~such~~ THE court or agency.

36 (d) The term "independent auditor" as used in this section shall mean any person or
37 corporation engaged or employed to make or conduct an audit of the financial statements or
38 supporting records of any person, organization, or corporation, to determine, on the basis

1 of ~~such~~ THE audit, the accuracy or fairness with which they present the financial position,
2 changes in financial position, or financial results of operations of ~~such~~ THE person,
3 organization, or corporation, other than an officer, employee, or partner of the person,
4 organization, or corporation under audit.

5 (e) The provisions of ~~paragraph (a) of this subsection (6)~~ SUBSECTION (1)(a) OF THIS
6 SECTION shall not prohibit the performance, by persons other than certified public
7 accountants, of other services involving the use of accounting skills, including the
8 preparation of tax returns and the preparation of financial statements without the expression
9 of opinions or assurances thereon.

10 ~~(7) and (8) Repealed.~~

11 ~~(9)~~ (2) Nothing in this section shall be construed to prohibit any person from
12 preparing or assisting in the preparation of any report or tax return to any agency of the
13 federal, state, or local government or other political subdivision if ~~such~~ THE preparation or
14 assistance is otherwise permissible under law or under the regulations of ~~such~~ THE agency
15 or from affixing the signature of the person or firm so preparing or assisting in the
16 preparation of ~~any such~~ THE report or return to ~~said~~ THE report or return.

17 ~~(10) and (11) Repealed.~~

18 **12-100-117. [Formerly 12-2-121] Exceptions - acts not prohibited - rules.**

19 (1) Nothing in this article **100** shall prohibit any person WHO IS not a certified public
20 accountant from serving as an employee of or an assistant to a certified public accountant
21 holding an active certificate or serving as an employee or assistant of a validly registered
22 partnership, professional corporation, or limited liability company composed of certified
23 public accountants. ~~Such~~ THE employee or assistant shall not issue any accounting or
24 financial statement over his OR HER name.

25 (2) (a) Nothing in this article **100** shall prohibit a certified public accountant whose
26 principal place of business is located in another state or jurisdiction of the United States
27 from practicing in this state on professional business, as defined by rules promulgated by the
28 board. ~~Such~~ THE practice shall be conducted in conformity with rules promulgated by the
29 board. Notwithstanding the requirements of section ~~12-2-117~~ **12-100-114**, a foreign
30 partnership, corporation, limited partnership, limited liability limited partnership, or limited
31 liability company may engage in the practice of accountancy in this state without registering
32 with the board.

33 (b) Nothing in this article **100** shall prohibit

34 ~~(f)~~ an accountant who holds a certificate, degree, or license in a foreign country,
35 constituting a recognized qualification for the practice of public accounting in ~~such~~ THE
36 country, from practicing in this state on professional business incident to his or her regular
37 practice outside this state, as defined by the board. ~~Such~~ THE practice shall be conducted in

1 conformity with rules promulgated by the board.

2 ~~(H) and (HH) Repealed.~~

3 (c) A certified public accountant from another state or jurisdiction of the United
4 States who is practicing in this state pursuant to this subsection (2) and the firm that employs
5 the certified public accountant simultaneously consent, as a condition of practicing in this
6 state:

7 (I) To be subject to the jurisdiction of and disciplinary authority of the board;

8 (II) To comply with the requirements of this subsection (2) and rules promulgated
9 by the board pursuant to this subsection (2);

10 (III) That, if the certified public accountant's certificate, license, or registration issued
11 by the state in which the certified public accountant's principal place of business is located
12 is no longer valid, the certified public accountant will cease to offer or render professional
13 services in this state, either individually or on behalf of a firm; and

14 (IV) To appoint the state board or entity that issued a certificate, license, or
15 registration to the certified public accountant as the agent for service of process in any action
16 or proceeding brought by the board against the certified public accountant.

17 (d) The board may recover its reasonable costs incurred as part of its investigative,
18 administrative, and disciplinary proceedings against a certified public accountant from
19 another state or jurisdiction of the United States or from a foreign country if the board:

20 (I) Enters a final order against the certified public accountant, finding that the
21 certified public accountant violated a provision of this article **100**, a rule adopted by the
22 board, or an order of the board with which the certified public accountant is obligated to
23 comply and the board has the authority to enforce; or

24 (II) Enters into a consent or settlement agreement in which the board finds, or the
25 certified public accountant admits or does not contest, that he or she violated a provision of
26 this article **100**, a rule adopted by the board, or an order of the board with which the certified
27 public accountant is obligated to comply and the board has the authority to enforce.

28 **12-100-118. [Formerly 12-2-122] Single act evidence of practice.** Any person who
29 displays, utters, or causes to be displayed or uttered a card, sign, advertisement, or other
30 printed, engraved, or written instrument or device bearing such THE person's name in
31 conjunction with the words "certified public accountant", the abbreviation "C.P.A.", or any
32 title, designation, or abbreviation prohibited by section ~~12-2-115~~ **12-100-112** may be
33 presumed in any action brought under section ~~12-2-126~~ **12-100-124** to have held himself or
34 herself out to be a certified public accountant holding an active certificate of certified public
35 accountant pursuant to section ~~12-2-108~~ **12-100-107**. In any legal action brought under this
36 article **100**, evidence of the commission of a single act prohibited by this article **100** is
37 sufficient to justify an injunction.

1 **12-100-119. [Formerly] 12-2-122.5] Inactive certificant.** (1) The holder of a
2 certificate of certified public accountant, upon written notice by first-class mail to the board,
3 shall have his or her name transferred to an inactive list and shall not be required to comply
4 with the continuing education requirements for certificate renewal pursuant to section
5 ~~12-2-119~~ **12-100-115** so long as he or she remains inactive. Each inactive certificant shall
6 register in the same manner as active certificate holders and pay a fee pursuant to section
7 ~~12-2-108 (3)~~ **12-20-202 (1)**. At such time as an inactive certificant wishes to resume the
8 practice of public accounting as a certified public accountant, he or she shall file an
9 application therefor, meet any education requirements imposed by the board, and pay a fee
10 as established by the director. ~~of the division of professions and occupations within the~~
11 ~~department of regulatory agencies.~~

12 (2) During such time as a certified public accountant remains in an inactive status,
13 the certified public accountant shall not perform those acts restricted to active certified
14 public accountants pursuant to section ~~12-2-120 (6)(a)~~ **12-100-116 (1)(a)**. The board shall
15 retain jurisdiction over inactive certified public accountants for the purposes of disciplinary
16 action pursuant to section ~~12-2-123~~ **12-100-120**.

17 <{***Is this section redundant with inactive status common provision?***}>

18 **12-100-120. [Formerly 12-2-123] Grounds for disciplinary action -**
19 **administrative penalties.** (1) After notice and hearing as provided in section ~~12-2-125~~
20 **12-100-123**, the board may ~~deny the issuance of, refuse to renew, revoke, or suspend any~~
21 ~~certificate of a certified public accountant issued under this article 2 or any prior law of this~~
22 ~~state or may fine, issue a letter of admonition to, or place on probation the holder of any~~
23 ~~certificate~~ TAKE DISCIPLINARY OR OTHER ACTION AS AUTHORIZED IN SECTION 12-20-404 and
24 impose other conditions or limitations for any of the following causes:

25 (a) Fraud or deceit in obtaining or in attempting to obtain a certificate as a certified
26 public accountant or in obtaining registration under this article **100**;

27 (b) Fraud or negligence in the practice of public accounting in Colorado or any other
28 state or in the filing of or failure to file the certified public accountant's own income tax
29 returns;

30 (c) Violation of any provision of this article **100**, of any final rule ~~or regulation~~
31 promulgated by the board, or of any valid agency order;

32 (d) Violation of a rule of professional conduct promulgated by the board under the
33 authority granted by this article **100**;

34 (e) Conviction of a felony ~~OR OF A CRIME, AN ELEMENT OF WHICH IS DISHONESTY OR~~
35 ~~FRAUD, under the laws of any state or of the United States. and;~~ For the purposes of this
36 ~~paragraph (e)~~ SUBSECTION (1)(e), a plea of guilty or a plea of nolo contendere accepted by
37 the court shall be considered as a conviction.

1 ~~(f) Conviction of any crime, an element of which is dishonesty or fraud, under the~~
2 ~~laws of any state or of the United States, and, for the purposes of this paragraph (f), a plea~~
3 ~~of guilty or a plea of nolo contendere accepted by the court shall be considered as a~~
4 ~~conviction.~~

5 ~~(g)~~ (f) Discipline taken against the person's authority to practice as a certified public
6 accountant or a public accountant in any jurisdiction;

7 ~~(h)~~ (g) Discipline taken against the person's right to practice before any state or
8 federal agency or agency outside the United States or the public company accounting
9 oversight board, created by the federal "Sarbanes-Oxley Act of 2002", 15 U.S.C. sec. 7201
10 et seq., for improper conduct or willful violation of the rules or regulations of ~~such~~ THE state
11 or federal agency or the public company accounting oversight board;

12 ~~(i) Repealed.~~

13 ~~(j)~~ (h) Providing public accounting services to the public for a fee without an active
14 certificate of certified public accountant or a valid registration or acting as a member,
15 partner, or shareholder of a partnership or professional corporation registered pursuant to
16 section ~~12-2-117~~ **12-100-114**;

17 ~~(k) and (l) Repealed.~~

18 ~~(m)~~ (i) Failure to comply with the requirements for continuing education as
19 prescribed by the board;

20 ~~(n)~~ (j) An act or omission ~~which~~ THAT fails to meet generally accepted accounting
21 principles or generally accepted auditing standards in the profession;

22 ~~(o)~~ (k) Use of false, misleading, or deceptive advertising;

23 ~~(p)~~ (l) An alcohol use disorder, as defined in section 27-81-102, or a substance use
24 disorder, as defined in section 27-82-102, or an excessive use of a habit-forming drug,
25 controlled substance, as defined in section 18-18-102 (5), or ~~alcoholic~~ ALCOHOL beverage
26 that renders the certified public accountant unfit to practice public accounting;

27 ~~(q)~~ (m) Failure to retain records of the work performed for each client for a period
28 of five years;

29 ~~(r)~~ (n) Failure of a partnership, professional corporation, or limited liability company
30 to register with the board pursuant to section ~~12-2-117~~ **12-100-114** and to renew the
31 registration as prescribed by the board.

32 (2) In considering the conviction of crimes, as provided in paragraphs (e) and (f) of
33 ~~subsection (1)~~ SUBSECTIONS (1)(e) of this section, the board shall be governed by the
34 provisions of ~~section~~ SECTIONS 12-20-202 (5) AND 24-5-101. ~~C.R.S.~~

35 (3) ~~(Deleted by amendment, L. 2010, (HB 10-1236), ch. 146, p. 497, § 9, effective~~
36 ~~July 1, 2010.)~~

37 (4) ~~No certificant whose certificate is revoked shall be allowed to apply for~~
38 ~~reinstatement of such certificate earlier than two years after the effective date of the~~

1 revocation:

2 ~~(5)~~ ~~(a)~~ (3) In addition to any other penalty that may be imposed pursuant to this
3 section, any person violating this article **100** or any rules promulgated pursuant to this article
4 **100** may be fined upon a finding of misconduct by the board as follows, either:

5 ~~(F)~~ (a) In a proceeding against a certificant, a fine not in excess of five thousand
6 dollars per violation; or

7 ~~(H)~~ (b) In a proceeding against a registrant, a fine not in excess of ten thousand
8 dollars per violation.

9 ~~(b) All fines collected pursuant to this subsection (5) (4) shall be transferred to the~~
10 ~~state treasurer, who shall credit such moneys to the general fund.~~

11 **12-100-121. [Formerly 12-2-123.5] Response to board communication.** A
12 certificant shall, at the request of the board, respond to communications from the board
13 within thirty days after the mailing of any communication.

14 **12-100-122. [Formerly 12-2-124] Revocation or suspension of partnership,**
15 **professional corporation, or limited liability company registration.** (1) After notice and
16 hearing as provided in section ~~12-2-125~~ **12-100-123**, the board shall revoke the registration
17 of a partnership, professional corporation, or limited liability company if, at the time of ~~such~~
18 THE hearing, the partnership, professional corporation, or limited liability company does not
19 have all the qualifications prescribed by the section of this article **100** under which it
20 qualified for registration.

21 (2) After notice and hearing as provided in section ~~12-2-125~~ **12-100-123**, the board
22 may ~~deny, revoke, suspend, or refuse to renew the registration of a partnership, professional~~
23 ~~corporation, or limited liability company or the board may fine, issue a letter of admonition~~
24 ~~to, or place on probation~~ TAKE DISCIPLINARY OR OTHER ACTION AGAINST a registrant AS
25 AUTHORIZED BY SECTION 12-20-404 for any of the causes enumerated in section ~~12-2-123~~
26 **12-100-120** or for the following additional causes:

27 (a) The revocation, suspension, or refusal to renew the certificate of any partner,
28 shareholder, or member;

29 (b) The cancellation, revocation, suspension, or refusal to renew the authority of the
30 partnership or any partner thereof to practice public accounting in any other jurisdiction;

31 (c) The cancellation, revocation, suspension, or refusal to renew the authority of the
32 professional corporation, limited liability company, or foreign corporation or limited liability
33 company or any shareholder or member thereof to practice public accounting by any other
34 state or federal jurisdiction, or jurisdiction outside the United States or the public company
35 accounting oversight board, created by the federal "Sarbanes-Oxley Act of 2002", 15 U.S.C.
36 sec. 7201 et seq.

1 **12-100-123. [Formerly 12-2-125] Hearings before board - notice - procedure -**
2 **review.** (1) (a) The board may initiate proceedings under this article *100*, either on its own
3 motion or on the complaint of any person.

4 (b) The board, through the department, ~~of regulatory agencies,~~ may employ
5 administrative law judges on a full-time or part-time basis to conduct hearings as provided
6 by this article *100* or on any matter within the board's jurisdiction upon such conditions and
7 terms as the board may determine.

8 (2) Except as otherwise provided in this article *100*, all proceedings before the board
9 with respect to the denial, suspension, or revocation of certificates or registrations issued
10 under this article *100* shall be conducted pursuant to the provisions of sections *12-20-403*,
11 *24-4-104*, and *24-4-105*. ~~C.R.S.~~

12 (3) If, after having been served with the notice of hearing as provided for in this
13 section, the accused fails to appear at the hearing and defend, the board may proceed to hear
14 evidence against the accused and may enter such order as is justified by the evidence, which
15 order shall be final unless the accused petitions for a review thereof as provided in this
16 section. Within thirty days after the date of any order, upon a showing of good cause for
17 failing to appear and defend, the board may reopen the proceedings and may permit the
18 accused to submit evidence in his or her behalf.

19 ~~(4) The board or an administrative law judge shall have the power to administer~~
20 ~~oaths, take affirmations of witnesses, and issue subpoenas to compel the attendance of~~
21 ~~witnesses and the production of all relevant papers, books, records, documentary evidence,~~
22 ~~and materials in any hearing, investigation, accusation, or other matter coming before the~~
23 ~~board. The board may appoint an administrative law judge pursuant to part 10 of article 30~~
24 ~~of title 24, C.R.S., to take evidence and to make findings and report them to the board.~~

25 ~~(4.5) Upon failure of any witness to comply with such subpoena or process, the~~
26 ~~district court of the county in which the subpoenaed person or licensee resides or conducts~~
27 ~~business, upon application by the board or director with notice to the subpoenaed person or~~
28 ~~licensee, may issue to the person or licensee an order requiring that person or licensee to~~
29 ~~appear before the board or director; to produce the relevant papers, books, records,~~
30 ~~documentary evidence, or materials if so ordered; or to give evidence touching the matter~~
31 ~~under investigation or in question. Failure to obey the order of the court may be punished~~
32 ~~by the court as a contempt of court.~~

33 (5) (4) At all hearings, the attorney general of this state or one of the attorney
34 general's designated assistants shall appear and represent the board.

35 (6) (5) The decision of the board shall be by majority vote thereof.

36 **12-100-124. [Formerly 12-2-126] Investigations - findings - board actions -**
37 **confidentiality of complaints.** (1) (a) (f) The board, on its own motion based on reasonable

1 grounds or on the signed, written complaint of any person, may investigate any person who
2 has engaged, is engaging, or threatens to engage in any act or practice that constitutes a
3 violation of any provision of this article *100*. ~~The board or any member thereof may~~
4 ~~administer oaths, take affirmations of witnesses, and issue subpoenas to compel the~~
5 ~~attendance of witnesses and the production of all relevant papers, books, records,~~
6 ~~documentary evidence, and materials in any hearing, investigation, accusation, or other~~
7 ~~matter coming before the board. The board may appoint an administrative law judge~~
8 ~~pursuant to part 10 of article 30 of title 24, C.R.S., to take evidence and to make findings~~
9 ~~and report them to the board~~ ACTIONS UNDER THIS SECTION ARE GOVERNED BY SECTION
10 12-20-403.

11 ~~(H) Upon failure of any witness to comply with such subpoena or process, the district~~
12 ~~court of the county in which the subpoenaed person or licensee resides or conducts business,~~
13 ~~upon application by the board or director with notice to the subpoenaed person or licensee,~~
14 ~~may issue to the person or licensee an order requiring that person or licensee to appear~~
15 ~~before the board or director; to produce the relevant papers, books, records, documentary~~
16 ~~evidence, or materials if so ordered; or to give evidence touching the matter under~~
17 ~~investigation or in question. Failure to obey the order of the court may be punished by the~~
18 ~~court as a contempt of court.~~

19 (b) (I) Complaints of record that are dismissed by the board and the results of
20 investigation of ~~such~~ THE complaints shall be closed to public inspection.

21 (II) Upon completing an investigation, the board shall make one of the following
22 findings:

23 (A) The complaint is without merit and no further action need be taken.

24 (B) There is no reasonable cause to warrant further action.

25 (C) The investigation discloses an instance of conduct that does not warrant formal
26 action and should be dismissed, but the investigation discloses indications of possible errant
27 conduct that could lead to serious consequences if not corrected. If this finding is made, the
28 board shall send a confidential letter of concern IN ACCORDANCE WITH SECTION 12-20-404
29 (5) to the licensee or registrant.

30 (D) The investigation discloses an instance of conduct that does not warrant formal
31 action but should not be dismissed as being without merit. If this finding is made, the board
32 may send a letter of admonition IN ACCORDANCE WITH SECTION 12-20-404 (4) to the licensee
33 or registrant by certified mail.

34 (E) The investigation discloses facts that warrant further proceedings by formal
35 complaint. If this finding is made, the board shall refer the complaint to the attorney general
36 for preparation and filing of a formal complaint.

37 ~~(H)(A) When a letter of admonition is sent to a licensee or registrant, the board shall~~
38 ~~include in the letter a notice that the licensee or registrant has the right to request in writing,~~

1 within twenty days after receipt of the letter, that formal disciplinary proceedings be initiated
2 to adjudicate the propriety of the conduct upon which the letter of admonition is based.

3 ~~(B) If the request for adjudication is timely made, the letter of admonition is vacated
4 and the board shall proceed by means of formal disciplinary proceedings.~~

5 ~~(IV) (III) The board shall conduct all proceedings pursuant to this subsection (1)
6 expeditiously and informally so that no licensee or registrant is subjected to unfair and unjust
7 charges and that no complainant is deprived of the right to a timely, fair, and proper
8 investigation of a complaint.~~

9 (c) Complaints of record that are not dismissed by the board and are the results of
10 investigations of ~~such~~ THE complaints shall be closed to public inspection and any meeting
11 concerning ~~such~~ THE complaints shall be closed to the public during the investigatory period
12 and until a stipulated agreement is reached between the applicant or certificate holder and
13 the board or until notice of hearing and charges are filed and served on an applicant or
14 certificate holder. Except for confidential books of account, financial records, advice,
15 reports, or working papers provided by the client, the certified public accountant, or the
16 certified public accounting firm, the board's records and papers shall be subject to the
17 provisions of sections 24-72-203 and 24-72-204 C.R.S., regarding public records and
18 confidentiality.

19 ~~(2) (a) If it appears to the board, based upon credible evidence as presented in a
20 written complaint by any person, that a certificate holder or registered firm is acting in a
21 manner that is an imminent threat to the health, safety, and welfare of the public or a person
22 is acting or has acted without the required certificate or registration, the board may issue an
23 order to cease and desist such activity. The order shall set forth the statutes and rules alleged
24 to have been violated, the facts alleged to have constituted the violation, and the requirement
25 that all unlawful acts or uncertified or unregistered practices immediately cease.~~

26 ~~(b) Within ten days after service of the order to cease and desist pursuant to
27 paragraph (a) of this subsection (2), the respondent may request a hearing on the question
28 of whether acts or practices in violation of this article have occurred. Such hearing shall be
29 conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S.~~

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

35 ~~(b) A person against whom an order to show cause has been issued pursuant to
36 paragraph (a) of this subsection (3) shall be promptly notified by the board of the issuance
37 of the order, along with a copy of the order, the factual and legal basis for the order, and the
38 date set by the board for a hearing on the order. Such notice may be served by personal~~

1 service, by first-class United States mail, postage prepaid, or as may be practicable upon any
2 person against whom such order is issued. Personal service or mailing of an order or
3 document pursuant to this subsection (3) shall constitute notice thereof to the person.

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

11 (H) ~~If a person against whom an order to show cause has been issued pursuant to~~
12 ~~paragraph (a) of this subsection (3) does not appear at the hearing, the board may present~~
13 ~~evidence that notification was properly sent or served upon such person pursuant to~~
14 ~~paragraph (b) of this subsection (3) and such other evidence related to the matter as the~~
15 ~~board deems appropriate. The board shall issue the order within ten days after the board's~~
16 ~~determination related to reasonable attempts to notify the respondent, and the order shall~~
17 ~~become final as to that person by operation of law. Such hearing shall be conducted pursuant~~
18 ~~to sections 24-4-104 and 24-4-105, C.R.S.~~

19 (HH) ~~If the board reasonably finds that the person against whom the order to show~~
20 ~~cause was issued is acting or has acted without the required certificate or has or is about to~~
21 ~~engage in acts or practices constituting violations of this article, a final cease-and-desist~~
22 ~~order may be issued directing such person to cease and desist from further unlawful acts or~~
23 ~~uncertified practices.~~

24 (IV) ~~The board shall provide notice, in the manner set forth in paragraph (b) of this~~
25 ~~subsection (3), of the final cease-and-desist order within ten calendar days after the hearing~~
26 ~~conducted pursuant to this paragraph (c) to each person against whom the final order has~~
27 ~~been issued. The final order issued pursuant to subparagraph (HH) of this paragraph (c) shall~~
28 ~~be effective when issued and shall be a final order for purposes of judicial review.~~

29 (4) ~~If it appears to the board, based upon credible evidence presented to the board,~~
30 ~~that a person has engaged in or is about to engage in any uncertified act or practice, any act~~
31 ~~or practice constituting a violation of this article, any rule promulgated pursuant to this~~
32 ~~article, any order issued pursuant to this article, or any act or practice constituting grounds~~
33 ~~for administrative sanction pursuant to this article, the board may enter into a stipulation~~
34 ~~with such person.~~

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

1 violation of the final order.

2 ~~(6) A person aggrieved by the final cease-and-desist order may seek judicial review~~
3 ~~of the board's determination or of the board's final order as provided in section 12-2-127.~~

4 (2) THE BOARD MAY ISSUE CEASE-AND-DESIST ORDERS UNDER THE CIRCUMSTANCES
5 DESCRIBED IN AND IN ACCORDANCE WITH SECTION 12-20-405.

6 ~~(7) (3) When a complaint or an investigation discloses an instance of misconduct~~
7 ~~that, in the opinion of the board, warrants formal action, the complaint shall not be resolved~~
8 ~~by a deferred settlement, action, judgment, or prosecution SECTION 12-20-404 (2) APPLIES.~~

9 **12-100-125. [Formerly 12-2-127] Judicial review.** (1) Any person aggrieved by
10 any SECTION 12-20-408 GOVERNS JUDICIAL REVIEW OF A final action or order of the board.
11 and affected thereby is entitled to a review thereof by the court of appeals by appropriate
12 proceedings under section 24-4-106 (11), C.R.S.

13 (2) For the purposes of review, the residence of the board shall be the city and county
14 of Denver. <{*Consider repealing?*}>

15 **12-100-126. [Formerly 12-2-128] Reconsideration and review of action of board.**
16 The board, on its own motion or upon application, at any time after the imposition of any
17 discipline as provided in section ~~12-2-123 (1)~~ **12-100-120 (1)**, may reconsider its prior
18 action and reinstate or restore such THE license or terminate probation or reduce the severity
19 of its prior disciplinary action. The taking of any such further action, or the holding of a
20 hearing with respect thereto, shall rest in the sole discretion of the board.

21 **12-100-127. [Formerly 12-2-129] Unauthorized practice - penalties.** Any person
22 who violates section ~~12-2-115~~ **12-100-112** or ~~12-2-120 (6)(a)~~ **12-100-116 (6)(a)** commits
23 a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., for
24 the first offense, and, for the second or any subsequent offense, the person commits a class
25 6 felony and shall be punished as provided in section 18-1.3-401., C.R.S. IS SUBJECT TO
26 PENALTIES PURSUANT TO SECTION 12-20-407 (1)(a).

27 **12-100-128. [Formerly 12-2-130] Ownership of accountant's working papers.** All
28 statements, records, schedules, working papers, and memoranda made by a certified public
29 accountant incident to or in the course of professional service to a client by the certified
30 public accountant, except financial statements submitted by a certified public accountant to
31 a client and books and records prepared for the use of the client, shall be and remain the
32 property of the certified public accountant in the absence of an express agreement to the
33 contrary between the certified public accountant and the client.

1 beard; cutting the hair; giving facial or scalp massage or treatment with oils, creams, or
2 lotions, or other chemical preparations, either by hand or with mechanical appliances; dyeing
3 the hair or applying hair tonic; applying cosmetic preparations, antiseptics, powders, oils,
4 clays, or lotions to the scalp, face, neck, or shoulders.

5 (3) "Barber school" means an establishment operated by a person for the purpose of
6 teaching barbering that is certified by the private occupational school division or the
7 Colorado community college system, or is an accredited technical school that teaches
8 barbering.

9 (4) "Barbershop" or "beauty salon" means a fixed establishment, temporary location,
10 or place in which one or more persons engage in the practice of barbering or cosmetology.
11 The term "temporary location" includes a motor home as defined in section 42-1-102 (57).
12 ~~C.R.S.~~

13 (5) "Beauty school" means an establishment operated by a person for the purpose of
14 teaching cosmetologists, estheticians, hairstylists, and nail technicians that is certified by the
15 private occupational school division or the Colorado community college system, or is an
16 accredited technical school that teaches cosmetology.

17 ~~(6) Repealed.~~

18 ~~(7) (Deleted by amendment, L. 2005, p. 560, § 2, effective July 1, 2005.)~~

19 ~~(8)~~ (6) "Cosmetologist" means a person who engages in any of the practices of
20 cosmetology.

21 ~~(9)~~ (7) "Cosmetology" means any one act or practice, or any combination of acts or
22 practices, not for the treatment of disease, physical illness, or a behavioral, mental health,
23 or substance use disorder, when done for payment either directly or indirectly or when done
24 without payment for the public generally, usually performed by and included in or known
25 as the profession of beauty culturists, beauty operators, beauticians, estheticians,
26 cosmetologists, or hairdressers or of any other person, partnership, corporation, or other
27 legal entity holding itself out as practicing cosmetology by whatever designation and within
28 the meaning of this article **§ 105**. In particular, "cosmetology" includes, but is not limited to,
29 any one or a combination of the following acts or practices: Arranging, dressing, curling,
30 waving, cleansing, cutting, singeing, bleaching, coloring, or similar work upon the hair of
31 a person by any means and, with hands or a mechanical or electrical apparatus or appliance
32 or by the use of cosmetic or chemical preparations; manicuring or pedicuring the nails of a
33 person; giving facials, applying makeup, giving skin care, or applying eyelashes involving
34 physical contact with a person; beautifying the face, neck, arms, bust, or torso of the human
35 body by use of cosmetic preparations, antiseptics, tonics, lotions, or creams; massaging,
36 cleaning, or stimulating the face, neck, arms, bust, or torso of the human body with the use
37 of antiseptics, tonics, lotions, or creams; removing superfluous hair from the body of a
38 person by the use of depilatories or waxing or by the use of tweezers; and the trimming of

1 the beard.

2 ~~(9.3)~~ "Director" means the director of the division of professions and occupations in
3 the department of regulatory agencies.

4 ~~(9.4)~~ (8) "Esthetician" means any person who engages in any one or more of the
5 following practices not for the treatment of disease or physical ailments:

6 (a) Giving facials, applying makeup, giving skin care, or applying eyelashes,
7 involving physical contact, to any person;

8 (b) Beautifying the face, neck, arms, bust, or torso of the human body by the use of
9 cosmetic preparations, antiseptics, tonics, lotions, or creams;

10 (c) Massaging, cleaning, or stimulating the face, neck, arms, bust, or torso of the
11 human body by means of the hands, devices, apparatus, or appliances with the use of
12 cosmetic preparations, antiseptics, tonics, lotions, or creams;

13 (d) Removing superfluous hair from the body of any person by the use of depilatories
14 or waxing or by the use of tweezers.

15 ~~(9.5)~~ Repealed.

16 ~~(9.7)~~ (9) "Hairstyling" means providing one or more of the following hair care
17 services not for the treatment of disease or physical or mental ailments upon the upper part
18 of the human body for cosmetic purposes for payment either directly or indirectly, or when
19 done without payment for the public generally:

20 (a) Cleansing, massaging, or stimulating the scalp with oils, creams, lotions, or other
21 cosmetic or chemical preparations, using the hands or with manual, mechanical, or electrical
22 implements or appliances;

23 (b) Applying cosmetic or chemical preparations, antiseptics, powders, oils, clays, or
24 lotions to the scalp;

25 (c) Cutting, arranging, applying hair extensions to, or styling the hair by any means
26 using the hands or with manual, mechanical, or electrical implements or appliances;

27 (d) Cleansing, coloring, lightening, waving, or straightening the hair with cosmetic
28 or chemical preparations, using manual, mechanical, or electrical implements or appliances;

29 (e) Trimming the beard.

30 ~~(9.8)~~ (10) "Hairstylist" means a person who engages in any of the practices of
31 hairstyling.

32 ~~(10)~~ Repealed.

33 ~~(10.5)~~ (11) "Manicuring" means any one act or practice, or combination of acts or
34 practices, not for the treatment of disease or physical or mental ailments, when done for
35 direct or indirect payment or when done without payment for the public generally.
36 "Manicuring" includes, but is not limited to, the filing, buffing, polishing, cleansing,
37 extending, protecting, wrapping, covering, building, pushing, or trimming of nails or any
38 other similar work upon the nails of a person by any means, including the softening of the

1 hands, arms, ankles, or feet of a person by use of hands, a mechanical or electrical apparatus
2 or appliance, cosmetic or chemical preparations, antiseptics, lotions, or creams or by
3 massaging, cleansing, stimulating, manipulating, or exercising the arms, hands, feet, or
4 ankles of a person. Manicuring also includes waxing or the use of depilatories on the leg up
5 to the knee and the waxing or the use of depilatories on the arm up to the elbow.

6 ~~(11)~~ (12) "Nail technician" means a person who engages in the limited practices of
7 cosmetology known as manicuring. Unless otherwise licensed under this article **105**, a nail
8 technician shall not engage in the practice of cosmetology, except manicuring.

9 ~~(11.5)~~ (13) "Natural hair braiding" means a service that results in tension on hair
10 strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or
11 with a mechanical device, as long as the service does not include hair cutting or the
12 application of dyes, reactive chemicals, or other preparations to alter the color of the hair or
13 to straighten, curl, or alter the structure of the hair.

14 ~~(12)~~ (14) "Owner" includes any person who has a financial interest in a barbershop
15 or beauty salon or any other place of business entitling ~~such~~ THE person to participate in the
16 promotion, management, or proceeds thereof. It does not include a person whose connection
17 with the barbershop, beauty salon, or other place of business entitles ~~such~~ THE person only
18 to reasonable salary or wages for services actually rendered. The owner of a place of
19 business is the person responsible for registering ~~such~~ THE place of business with the
20 director.

21 ~~(13)~~ (15) "Place of business" means a fixed establishment, temporary location, or
22 place, including any mobile barber shop or beauty salon, in which one or more persons
23 engage in the practice of barbering, hairstyling, or cosmetology or practice as a nail
24 technician or an esthetician. The term "temporary location" includes a motor home as
25 defined in section 42-1-102 (57). ~~C.R.S.~~

26 **12-105-105. [Formerly 12-8-107] Books and records - report - publications.**

27 (1) The director shall keep a record of proceedings. The director shall keep a register of
28 applicants for licenses showing the name and address of each applicant and whether such
29 applicant was granted or refused a license. The director shall keep a register of places of
30 business showing each owner's name and the address of each such place of business. The
31 books and records of the director shall be prima facie evidence of matters contained therein
32 and shall constitute public records.

33 ~~(2) Repealed.~~

34 ~~(3)~~ (2) Publications of the director circulated in quantity outside the executive branch
35 shall be issued in accordance with the provisions of section 24-1-136. ~~C.R.S.~~

36 **12-105-106. [Formerly 12-8-108] Powers and duties of the director - advisory**

1 **committee.** (1) The director has the following powers and duties:
2 ~~(a) To promulgate, in accordance with article 4 of title 24, C.R.S., such rules and~~
3 ~~regulations as are necessary for the administration of this article **105**;~~
4 ~~(b) (a) To revoke or suspend a license or registration pursuant to section 12-8-114.5,~~
5 ~~or to deny, fine, place on probation, TAKE DISCIPLINARY OR OTHER ACTION AS AUTHORIZED~~
6 ~~IN SECTION 12-20-404 or limit the scope of practice of an applicant, licensee, or registrant,~~
7 ~~upon proof of a violation of this article **105** or the rules promulgated pursuant to this article~~
8 ~~**105**;~~
9 ~~(c) (b) To prescribe, with the approval of the department of public health and~~
10 ~~environment, such safety and sanitary rules as the director may deem necessary to protect~~
11 ~~the health and safety of the public;~~
12 ~~(d) (c) To supervise and regulate the industries of barbering, hairstyling, and~~
13 ~~cosmetology and the practices of estheticians and nail technicians of this state in accordance~~
14 ~~with this article **105**, but nothing contained in this article **105** shall be construed to abrogate~~
15 ~~the status, force, or operation of any provisions of any public health law of this state or any~~
16 ~~local health ordinance or regulation;~~
17 ~~(e) (d) To establish criteria for applicant eligibility for examination and to establish~~
18 ~~procedures for the registration of places of business;~~
19 ~~(f) (e) To investigate upon his or her own initiative or upon receiving a complaint~~
20 ~~all suspected or alleged violations of this article **105**, unless the director or his or her~~
21 ~~designee determines that a complaint or alleged violation is without merit, and to enter~~
22 ~~premises in which violations are alleged to have occurred during business hours. SECTION~~
23 ~~12-20-403 APPLIES FOR PURPOSES OF INVESTIGATIONS UNDER THIS SUBSECTION (1)(e).~~
24 ~~(H) The director or an administrative law judge shall have the power to administer~~
25 ~~oaths, take affirmations of witnesses, and issue subpoenas to compel the attendance of~~
26 ~~witnesses and the production of all relevant papers, books, records, documentary evidence,~~
27 ~~and materials in any hearing, investigation, accusation, or other matter coming before the~~
28 ~~director pursuant to this article. The director may appoint an administrative law judge~~
29 ~~pursuant to part 10 of article 30 of title 24, C.R.S., to take evidence and to make findings~~
30 ~~and report them to the director.~~
31 ~~(HH) Upon failure of any witness to comply with such subpoena or process, the~~
32 ~~district court of the county in which the subpoenaed person or licensee resides or conducts~~
33 ~~business, upon application by the board or director with notice to the subpoenaed person or~~
34 ~~licensee, may issue to the person or licensee an order requiring that person or licensee to~~
35 ~~appear before the director; to produce the relevant papers, books, records, documentary~~
36 ~~evidence, or materials if so ordered; or to give evidence touching the matter under~~
37 ~~investigation or in question. Failure to obey the order of the court may be punished by the~~
38 ~~court as a contempt of court.~~

1 ~~(g)~~ (f) By and through the attorney general of this state, to apply, PURSUANT TO
2 SECTION 12-20-406, to a court of competent jurisdiction for an order enjoining any act or
3 practice ~~which~~ THAT constitutes a violation of this article **105**. ~~Upon a showing to the~~
4 ~~satisfaction of the court that a person is engaging or intends to engage in any such act or~~
5 ~~practice, an injunction, temporary restraining order, or other appropriate order shall be~~
6 ~~granted by such court, regardless of the existence of another remedy therefor. The~~
7 requirements for notice, hearing, duration of any injunction or temporary restraining order
8 issued pursuant to this ~~paragraph~~ ~~(g)~~ SUBSECTION (1)(f), or other similar matter shall be in
9 accordance with the Colorado rules of civil procedure.

10 ~~(h)~~ (I) ~~To send letters of admonition. When a complaint or investigation discloses~~
11 ~~an instance of misconduct that, in the opinion of the director, does not warrant formal action~~
12 ~~by the director but that should not be dismissed as being without merit, a letter of~~
13 ~~admonition may be issued and sent to the licensee or registrant.~~

14 ~~(H)~~ When a letter of admonition is sent by the director to a licensee or registrant, the
15 licensee or registrant shall be advised that he or she has the right to request in writing, within
16 twenty days after receipt of the letter, that formal disciplinary proceedings be initiated to
17 adjudicate the propriety of the conduct upon which the letter of admonition is based.

18 ~~(HH)~~ If the request for adjudication is timely made, the letter of admonition shall be
19 deemed vacated and the matter shall be processed by means of formal disciplinary
20 proceedings.

21 ~~(i)~~ (g) To issue cease-and-desist orders pursuant to section ~~12-8-127.5~~ **12-20-405**.

22 ~~(j)~~ To issue confidential letters of concern. When a complaint or investigation
23 discloses an instance of conduct that does not warrant formal action by the director and, in
24 the opinion of the director, the complaint should be dismissed, but the director has noticed
25 indications of possible errant conduct by the licensee or registrant that could lead to serious
26 consequences if not corrected, a confidential letter of concern may be issued and sent to the
27 licensee or registrant.

28 (2) (a) The director shall appoint a six-member advisory committee to assist in the
29 performance of the director's duties. The advisory committee consists of at least three
30 licensees who have expertise in the area under review; one owner or operator of a school
31 that provides training for licensees in the industry and is licensed by the private occupational
32 school division; a representative from a Colorado licensed school that provides training for
33 licensees in the industry; and a member of the public. Members of the advisory committee
34 shall not be compensated for their services but shall be reimbursed for actual and necessary
35 expenses incurred in the performance of their duties under this article **105**. The advisory
36 committee shall meet at least once per year and prior to the adoption of rules, and at the
37 request of the director.

38 (b) ~~(Deleted by amendment, L. 2015.)~~

1 **12-105-107. [Formerly 12-8-110] Examinations.** (1) For the benefit of applicants,
2 the director shall hold examinations as often as necessary, subject to appropriation
3 constraints.

4 (2) The respective examinations of applicants for licenses to practice barbering,
5 hairstyling, or cosmetology under this article **105** shall be conducted under rules prescribed
6 by the director and shall include practical demonstrations, written tests in reference to the
7 practices to which a license is applied, and such related studies or subjects as the director
8 may determine necessary for the proper and efficient performance of ~~such~~ THE practices, and
9 ~~such~~ THE examinations shall not be confined to any specific system or method. The practical
10 demonstrations shall be conducted under conditions that are as similar to actual operating
11 conditions as possible. The director is authorized to rent adequate facilities in which to hold
12 ~~such~~ THE examinations.

13 (3) The examinations must be consistent with the practical and theoretical
14 requirements of the practices of barbering, hairstyling, or cosmetology or providing nail
15 technician or esthetician services as provided by this article **105**, and the director shall
16 review, revise, and update the examinations periodically on a reasonable basis in
17 consultation with the advisory committee created pursuant to section ~~12-8-108~~ **12-105-106**.
18 Examinations must be graded promptly, and the results of the examinations must be made
19 available to the applicants promptly. The examination must emphasize health and safety
20 issues.

21 (4) The director shall offer a separate and complete testing station and facility for
22 each applicant, and no oral examination shall be given in connection with practical
23 demonstrations.

24 (5) No person is permitted to examine applicants in any of the practical portions for
25 barbers, hairstylists, cosmetologists, estheticians, or nail technicians in which the person has
26 not had practical experience and received a license as provided in this article **105**.

27 ~~(6) Repealed.~~

28 **12-105-108. [Formerly 12-8-111] Application - form.** (1) Each applicant for
29 examination shall file with the director ~~or the director's designee~~, a written application in
30 ~~such~~ THE form as the director may require to set forth the qualifications of the applicant and
31 shall submit satisfactory proof of the required age and education.

32 (2) Each applicant for registration shall file with the director ~~or the director's~~
33 ~~designee~~, a written application in ~~such~~ THE form as the director may require pursuant to
34 section ~~12-8-114.5~~ **12-105-112**.

35 ~~(3) Repealed.~~

36 ~~(4) A person who has had a license revoked or has surrendered a license in lieu of~~
37 ~~discipline may not submit an application for licensure until two years after the date that the~~

1 ~~license was revoked or surrendered.~~

2 **12-105-109. [Formerly 12-8-112] Results of examinations.** The results of
3 examinations and the qualifications of applicants for admission to ~~such~~ THE examinations
4 or for licenses shall be determined by the director or by such person as the director shall
5 designate.

6 **12-105-110. [Formerly 12-8-113] When the director admits applicant.** If the
7 director finds that the applicant meets the qualifications of sections ~~12-8-111~~ **12-105-108**
8 and ~~12-8-114~~ **12-105-111** and has submitted any other credentials required by the director
9 for admission to the examination and has paid the required fee, the director shall admit ~~such~~
10 THE applicant to examination.

11 **12-105-111. [Formerly 12-8-114] Qualifications of applicants - requirements -**
12 **rules.** (1) An applicant for any license provided in this article **105** or for examination shall
13 be at least sixteen years of age.

14 (2) An applicant for examination shall furnish proof of graduation from a barber
15 school or beauty school approved by the private occupational school division pursuant to
16 article 64 of title 23; approved by the state board for community colleges and occupational
17 education pursuant to article 60 of title 23; or, if the school is located in another state or
18 country, approved by the governmental agency responsible for approving ~~such~~ THE schools
19 in that state or country. The applicant shall also furnish proof that the applicant has
20 successfully completed educational requirements equal to those set by the director. If the
21 applicant has graduated from a school located outside Colorado, the applicant shall furnish
22 proof that the applicant has successfully completed educational requirements substantially
23 equal to those set by the director.

24 (3) The director shall promulgate rules to implement this section, but shall not
25 require an applicant for examination to furnish proof of training of more than the number
26 of hours of course completion in the subject area in which the applicant seeks licensure as
27 follows:

- 28 (a) FOR A COSMETOLOGIST:
 - 29 (I) Fifty credits, as defined by:
 - 30 (A) Institutional accreditation requirements;
 - 31 (B) The Colorado commission on higher education full-time equivalent
32 clock-to-credit hour requirements; or
 - 33 (C) The department of education accreditation requirements; or
 - 34 (II) One thousand five hundred contact hours; ~~for a cosmetologist;~~
- 35 (b) FOR A BARBER:

- 1 (I) Fifty credits, as defined by:
- 2 (A) Institutional accreditation requirements;
- 3 (B) The Colorado commission on higher education full-time equivalent
- 4 clock-to-credit hour requirements; or
- 5 (C) The department of education accreditation requirements; or
- 6 (II) One thousand five hundred contact hours; ~~for a barber;~~
- 7 (c) Six hundred contact hours for an esthetician;
- 8 (d) Six hundred contact hours for a nail technician;
- 9 (e) One thousand two hundred contact hours for a hairstylist.
- 10 (4) Every person desiring to obtain a license to practice the occupation of a barber,
- 11 cosmetologist, esthetician, hairstylist, or nail technician in this state shall apply and pay to
- 12 the director an examination fee. The director shall issue a license to applicants who
- 13 successfully pass the examination and who qualify upon the payment of the required fee.
- 14 (5) ~~Notwithstanding any law to the contrary, no examinations for a hairstylist license~~
- 15 ~~and no hairstylist licenses shall be issued until on or after January 15, 2001.~~

16 **12-105-112. [Formerly 12-8-114.5] Registration for places of business.** (1) Each
17 owner of a place of business shall register with the director. The director shall maintain a
18 registry of the places of business. The director is authorized to establish and collect a fee that
19 is based on the director's actual costs associated with the maintenance of the registry.
20 (2) If an applicant for registration has paid the required fee and complied with the
21 requirements of this article *105*, the director shall issue the registration. The registration must
22 be conspicuously displayed in the place of business.
23 (3) It is unlawful for a place of business to offer barbering, cosmetology, hairstyling,
24 or esthetician or nail technician services in this state unless the place of business is registered
25 with the director.

26 **12-105-113. [Formerly 12-8-115] Renewal and reinstatement of license.** All
27 licenses shall expire pursuant to, a schedule established by the director and shall be renewed
28 or reinstated pursuant to section 24-34-102 (8), C.R.S. ~~The director may establish renewal~~
29 ~~fees and delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S. If a~~
30 ~~person fails to renew his or her license pursuant to the schedule established by the director~~
31 ~~of the division of professions and occupations, such license shall expire~~ AND ARE SUBJECT
32 TO THE RENEWAL, REINSTATEMENT, AND DELINQUENCY FEE PROVISIONS OF, SECTION
33 12-20-202 (1) AND (2). Any person whose license has expired shall be subject to the
34 penalties provided in this article *105* or section ~~24-34-102 (8), C.R.S.~~ *12-20-202*.

35 **12-105-114. [Formerly 12-8-116] Fees.** (†) Fees shall be as established pursuant to

1 section ~~24-34-105, C.R.S.~~ **12-20-105** AND SHALL NOT BE REFUNDED.

2 ~~(2) No fees shall be refunded.~~

3 ~~(3) The executive director of the department of regulatory agencies shall determine~~
4 ~~the length of time for licensing periods and for license renewal periods, not to exceed three~~
5 ~~years.~~

6 ~~(4) All fees for examinations, registrations, and licenses must be paid in advance,~~
7 ~~except as otherwise provided in this article.~~

8 ~~(5) The director shall collect all fees and transmit the fees to the state treasurer, who~~
9 ~~shall credit the moneys pursuant to section 24-34-105, C.R.S. The general assembly shall~~
10 ~~make annual appropriations pursuant to section 24-34-105, C.R.S., for expenditures of the~~
11 ~~director incurred in the performance of his or her duties pursuant to this article, which~~
12 ~~expenditures must be made by vouchers and warrants drawn pursuant to law.~~

13 **12-105-115. [Formerly 12-8-118] Licensure by endorsement - rules.** (1) The
14 director shall issue a license by endorsement to engage in the practice of barbering,
15 cosmetology, hairstyling, manicuring, or esthetician services in this state to an individual
16 who possesses an active license in good standing to practice in that profession in another
17 state or territory of the United States or in a foreign country if the applicant presents proof
18 that is satisfactory to the director, that the applicant:

19 (a) Possesses a valid license from another state or jurisdiction that is substantially
20 equivalent to the requirements in Colorado for licensure and meets all other requirements
21 for licensure pursuant to this article **105**. The director may specify by rule what shall
22 constitute substantially equivalent licensure and qualifications; and

23 (b) Has paid the prescribed licensure fees.

24 **12-105-116. [Formerly 12-8-119] Issuance of license - display.** If an applicant for
25 examination to practice barbering, hairstyling, or cosmetology or to provide esthetician or
26 nail technician services passes the examination and has paid the required fee and complies
27 with the requirements of this article **105**, the director shall issue a license to that effect. The
28 license is evidence that the person to whom it is issued is entitled to engage in the practices,
29 occupation, or occupations stipulated in the license. The license must be conspicuously
30 displayed in the licensee's principal office or place of business or employment.

31 **12-105-117. [Formerly 12-8-120] License required.** It is unlawful for any person
32 to engage in, or attempt to engage in, the occupation of barbering, hairstyling, or
33 cosmetology or to provide esthetician or nail technician services in this state unless the
34 person first obtains a license as provided in this article **105**.

1 **12-105-118. [Formerly 12-8-121] Exemptions.** (1) Nothing in this article *105*
2 prohibits services by:

3 (a) A person who is acting within the scope of practice for which he or she is
4 licensed, registered, or certified;

5 (b) Licensed or unlicensed volunteers in the performance of charitable services for
6 washing and setting the hair of:

7 (I) Patients confined to hospitals or nursing, convalescent, or boarding homes;

8 (II) Persons confined to their homes by reason of age, physical or mental infirmity,
9 or physical disability;

10 (c) A student of a barbering, hairstyling, or cosmetology school or of esthetician or
11 nail technician services who has received more than twenty percent of the hours of
12 instruction required in section ~~12-8-114 (3)~~ *12-105-111 (3)* and who is rendering services
13 at the school under supervision of a licensee within the school setting;

14 (d) A person who provides the service of natural hair braiding.

15 ~~(2) and (3) Repealed.~~

16 ~~(4)~~ (2) Lectures and demonstrations on beauty culture, hairdressing, and the use of
17 beauty preparations performed without compensation do not constitute the practice of
18 cosmetology, and nothing in this article *105* prevents the giving of lectures to and
19 demonstrations on any person. The application of beauty products for the exclusive purpose
20 of recommending, demonstrating, or selling the products does not constitute the practice of
21 cosmetology.

22 **12-105-119. [Formerly 12-8-122] Director may employ aid - compensation.** The
23 director may employ any person licensed pursuant to this article *105* for the purpose of
24 conducting examinations. The person must not be connected with any school teaching
25 barbering, hairstyling, or cosmetology or esthetician or nail technician students. Any person
26 employed by the director may receive compensation for services for each day employed in
27 the actual discharge of the person's official duties and actual and necessary expenses
28 incurred, to be set by the director upon the approval of the executive director. ~~of the~~
29 ~~department of regulatory agencies.~~

30 **12-105-120. [Formerly 12-8-123] Inspections.** Upon written complaint, inspections
31 under section ~~12-8-108 (1)(f)~~ *12-105-106 (1)(e)* of barbershops, beauty salons, places of
32 business, and booths rented therein operated by independent licensees may be conducted by
33 the director, or the director may contract for ~~such~~ THE inspections. The director shall
34 maintain detailed records of all complaints and responses to ~~such~~ THE complaints.

35 **12-105-121. [Formerly 12-8-127] Unauthorized practice - penalties - fines.**

1 (1) Any person who practices or offers or attempts to practice barbering, hairstyling,
2 esthetics, manicuring, or cosmetology without an active license issued under this article
3 ~~commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501,~~
4 ~~C.R.S., for the first offense, and, for the second or any subsequent offense, the person~~
5 ~~commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.~~
6 **105** IS SUBJECT TO PENALTIES PURSUANT TO SECTION 12-20-407 (1)(a).

7 (2) In addition to any other penalty, any person who violates the provisions of this
8 article **105** or the rules ~~and regulations~~ of the director promulgated under this article **105**
9 may be ~~penalized~~ FINED by the director upon a finding of a violation, pursuant to article 4
10 of title 24, ~~C.R.S.~~, as follows:

11 (a) In the first administrative proceeding against any person, a fine of not less than
12 one hundred dollars but not more than five hundred dollars per day per violation;

13 (b) In any subsequent administrative proceeding against any person for transactions
14 occurring after a final agency action determining that a violation of this article **105** has
15 occurred, a fine of not less than one thousand dollars but not more than two thousand dollars
16 per day per violation.

17 ~~(3) Repealed.~~

18 ~~(4) All fines collected pursuant to this article shall be transferred to the state~~
19 ~~treasurer, who shall credit such moneys to the general fund.~~

20 **12-105-122. [Formerly 12-8-128] Enforcement.** It is the duty of the district
21 attorneys of each judicial district of this state and the attorney general of this state to
22 prosecute all persons charged with the violation of any of the provisions of this article **105**.
23 It is the duty of the director to aid ~~said~~ THE attorneys in the enforcement of this article **105**.

24 **12-105-123. [Formerly 12-8-129] Investigations.** The practice and procedure of the
25 director with respect to any investigation by the director authorized by this article **105** shall
26 be in accordance with rules ~~and regulations~~ promulgated by the director, which rules ~~and~~
27 ~~regulations~~ shall provide for, but need not be limited to, investigation powers, including the
28 right to enter the premises of any place of business registered or subject to registration under
29 this article **105** at any time ~~said~~ THE business is open or has members of the public present
30 on the premises.

31 ~~**12-8-129.1 Immunity.** The director, the director's staff, any person acting as a~~
32 ~~witness or consultant to the director, any witness testifying in a proceeding authorized under~~
33 ~~this article, and any person who lodges a complaint pursuant to this article shall be immune~~
34 ~~from liability in any civil action brought against him or her for acts occurring while acting~~
35 ~~in his or her capacity as director, staff, consultant, or witness, respectively, if such individual~~

1 ~~was acting in good faith within the scope of his or her respective capacity, made a~~
2 ~~reasonable effort to obtain the facts of the matter as to which he or she acted, and acted in~~
3 ~~the reasonable belief that the action taken by him or her was warranted by the facts. Any~~
4 ~~person participating in good faith in lodging a complaint or participating in any investigative~~
5 ~~or administrative proceeding pursuant to this article shall be immune from any civil or~~
6 ~~criminal liability that may result from such participation.~~

7 **12-105-124. [Formerly 12-8-131] Disciplinary proceedings - administrative law**
8 **judges - judicial review.** (1) The director may, through the department, ~~of regulatory~~
9 ~~agencies,~~ employ administrative law judges to conduct hearings as provided by this section
10 or on any matter within the director's jurisdiction upon such conditions and terms as the
11 director may determine.

12 (2) A proceeding for discipline of a licensee or registrant shall be commenced when
13 the director has reasonable grounds to believe that a licensee or registrant has committed acts
14 that may violate the provisions of this article **105**. The grounds may be established by an
15 investigation begun by the director on the director's own motion or by an investigation
16 pursuant to a written complaint. SECTION 12-20-403 AND ARTICLE 4 OF TITLE 24 GOVERN
17 PROCEEDINGS UNDER THIS SECTION.

18 (3) ~~Notice of the commencement of disciplinary proceedings pursuant to this section~~
19 ~~shall be given to the licensee, registrant, or applicant in the manner prescribed by section~~
20 ~~24-4-105, C.R.S.~~

21 (4) ~~Any hearing on the revocation or suspension of a license, or on the denial of an~~
22 ~~application for a new license, or for renewal of a previously issued license shall be~~
23 ~~conducted by an administrative law judge, and such administrative law judge shall be vested~~
24 ~~with all powers and authority prescribed by article 4 of title 24, C.R.S.~~

25 (5) ~~The administrative law judge shall make an initial decision, which shall include~~
26 ~~a statement of findings and conclusions upon all the material issues of fact and law presented~~
27 ~~by the record and the appropriate order, sanction, or relief. In the absence of an appeal to the~~
28 ~~director or a review upon motion of the director within thirty days after service of the initial~~
29 ~~decision of the administrative law judge, the initial decision shall become the decision of the~~
30 ~~director.~~

31 (6) ~~Review by the director of the initial decision of the administrative law judge upon~~
32 ~~appeal or upon the director's own motion shall be conducted in accordance with section~~
33 ~~24-4-105, C.R.S. The findings of fact made by the administrative law judge shall not be set~~
34 ~~aside by the director on review unless such findings are contrary to the weight of the~~
35 ~~evidence. The director may remand the matter to the administrative law judge for such~~
36 ~~further proceedings as the director may direct, or the director may affirm, set aside, or~~
37 ~~modify the order, sanction, or relief entered, in conformity with the facts and the law. Each~~

1 ~~decision shall be served as prescribed by section 24-4-105, C.R.S.~~

2 ~~(7) (3) Final action by the director may be judicially reviewed. The court of appeals~~
3 ~~shall have initial jurisdiction to review all final actions and orders that are subject to judicial~~
4 ~~review. Such proceedings shall be conducted in accordance with section 24-4-106 (11),~~
5 ~~C.R.S. IN ACCORDANCE WITH SECTION 12-20-408.~~

6 ~~(8) (4) When a complaint or an investigation discloses an instance of misconduct~~
7 ~~that, in the opinion of the director, warrants formal action, the complaint shall not be~~
8 ~~resolved by a deferred settlement, action, judgment, or prosecution SECTION 12-20-404 (2)~~
9 ~~APPLIES.~~

10 **12-105-125. [Formerly 12-8-132] Grounds for discipline.** (1) The director may
11 ~~deny, revoke, suspend, or make probationary any license or registration issued under the~~
12 ~~director's authority pursuant to this article TAKE DISCIPLINARY OR OTHER ACTION AS~~
13 ~~AUTHORIZED IN SECTION 12-20-404 upon proof that the licensee:~~

14 (a) Has been convicted of or has entered a plea of nolo contendere to a felony. In
15 considering the conviction of or ~~such~~ THE plea to any such crime, the director shall be
16 governed by the provisions of section 24-5-101. ~~C.R.S.~~

17 (b) Made any misstatement on his or her application for licensure to practice as a
18 barber, hairstylist, cosmetologist, esthetician, or nail technician or attempted to obtain a
19 license to practice by fraud, deception, or misrepresentation;

20 (c) Committed an act or failed to perform an act necessary to meet the generally
21 accepted standards to practice a profession licensed under this article **105**, which shall
22 include performing services outside of the person's area of training, experience, or
23 competence;

24 (d) Excessively or habitually uses or abuses alcohol or controlled substances;

25 (e) Has violated any of the provisions of this article **105** or any valid order of the
26 director;

27 (f) Is guilty of unprofessional or dishonest conduct;

28 (g) Advertises by means of false or deceptive statement;

29 (h) Fails to display the license as provided in section ~~12-8-119~~ **12-105-116**;

30 (i) Fails to comply with the rules promulgated by the director as ~~provided in~~
31 ~~PURSUANT TO THIS ARTICLE 105 AND section 12-8-108 (1)(a)~~ **12-20-204**;

32 (j) Is guilty of willful misrepresentation;

33 (k) Fails to disclose to the director within forty-five days a conviction for a felony
34 or any crime that is related to the practice as a barber, cosmetologist, esthetician, hairstylist,
35 or nail technician;

36 (l) Aids or abets the unlicensed practice of barbering, hairstyling, or cosmetology or
37 the unlicensed provision of esthetician or nail technician services; or

1 (m) Fails to timely respond to a complaint sent by the director pursuant to section
2 ~~12-8-131~~ **12-105-124**.

3 **12-105-126. [Formerly 12-8-133] Repeal of article.** This article *105* is repealed,
4 effective September 1, 2026. ~~Prior to such~~ BEFORE THE repeal, the functions of the director
5 ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104, and the advisory
6 committee created in section ~~12-8-108~~ shall be reviewed as provided for **12-105-106** IS
7 SCHEDULED FOR REVIEW in ACCORDANCE WITH section ~~24-34-104~~ C.R.S. **2-3-1203**.

8 **ARTICLE 110**
9 **Combative Sports**

10 **12-110-101. [Formerly 12-10-101] Short title.** THE SHORT TITLE OF this article shall
11 ~~be known and may be cited as~~ **110** IS the "Colorado Professional Boxing Safety Act".

12 **12-110-102. [Formerly 12-10-102] Legislative declaration.** (1) The general
13 assembly hereby finds, determines, and declares that the federal "Professional Boxing Safety
14 Act of 1996" requires the state of Colorado to establish a state boxing commission. Because
15 there is no state boxing commission, any professional boxing match held in Colorado has
16 to be supervised by another state's boxing commission, using safety guidelines and
17 procedures implemented by that state.

18 (2) The general assembly further finds and declares that it is in the best interests of
19 the residents of Colorado, professional boxing participants, and the future of the sport of
20 boxing in Colorado that the conduct of the sport be subject to an effective and efficient
21 system of strict control designed by the general assembly. ~~Such~~ THE system shall, at a
22 minimum:

- 23 (a) Protect the safety of the participants; and
- 24 (b) Promote the public trust and confidence in the conduct of professional boxing.
- 25 (3) To further public confidence and trust, this article **110** and rules promulgated
26 pursuant to this article **110** shall regulate all persons, practices, and associations that relate
27 to the operation of live professional boxing events, performances, or contests held in
28 Colorado.

29 **12-110-103. Applicability of common provisions.** ARTICLES 1 AND 20 OF THIS

1 TITLE APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 110.

2 **12-110-104. [Formerly 12-10-103] Definitions.** As used in this article ~~to 110~~, unless
3 the context otherwise requires:

4 (1) "Boxer" means an individual who participates in a boxing match.

5 (2) "Boxing" means fighting, striking, forcing an opponent to submit, or disabling
6 an opponent, including the disciplines of kickboxing, mixed martial arts, and martial arts.

7 (3) "Commission" means the Colorado combative sports commission created in
8 section ~~12-10-105~~ **12-110-106**.

9 (4) "Contest" means a match in which the participants strive earnestly to win.

10 ~~(5) "Department" means the department of regulatory agencies.~~

11 ~~(6) "Director", "director of the division", or "director of the division of professions
12 and occupations" means the director of the division of professions and occupations within
13 the department or his or her designee.~~

14 ~~(6.5) "Division" means the division of professions and occupations within the
15 department.~~

16 ~~(7)~~ (5) "Exhibition" means a match in which participants display their boxing skills
17 and techniques without striving earnestly to win.

18 ~~(8) (Deleted by amendment, L. 2010, (HB 10-1245), ch. 131, p. 432, § 5, effective
19 July 1, 2010.)~~

20 ~~(9)~~ (6) "Kickboxing" means engaging in martial arts fighting techniques using the
21 hands and feet, the object of which is to win by a decision, knockout, or technical knockout.

22 ~~(9.5)~~ (7) "Martial arts" means any of several arts of combat or self-defense that are
23 widely practiced as sport.

24 ~~(10)~~ (8) "Match" means a professional boxing contest or exhibition, the object of
25 which is to win by a decision, knockout, or technical knockout, and includes an event,
26 engagement, sparring or practice session, show, or program where the public is admitted and
27 there is intended to be physical contact. "Match" does not include a training or practice
28 session when no admission is charged.

29 ~~(10.5)~~ (9) "Mixed martial arts" means the combined techniques of boxing and martial
30 arts disciplines such as grappling, kicking, and striking, including the use of full,
31 unrestrained physical force.

32 ~~(11)~~ (10) "Office" means the office of combative sports created in section ~~12-10-104~~
33 **12-110-105**.

34 ~~(11.5)~~ (11) "Office director" means the director of the office. ~~of combative sports~~

1 created in section ~~12-10-104~~.

2 (12) "Participant" means a person who engages in a match as a boxing contestant.

3 (13) "Physician" means an individual licensed to practice medicine pursuant to article
4 ~~36~~ **240** of this title **12**.

5 ~~(13.5)~~ (14) "Place of training" means a facility where alcohol beverages are not
6 permitted, an admission fee is not charged for nonstudents, instructors of particular
7 disciplines train students in the art of boxing, and students pay a fee to be enrolled in classes
8 and receive instruction.

9 ~~(14)~~ (15) "Professional" means a participant who has received or competed for a
10 purse or any other thing of value for participating in a match.

11 ~~(15)~~ (16) (a) "Toughperson fighting" means:

12 (I) A physical contest, match, tournament, exhibition, or bout, or any activity that
13 involves physical contact between two or more individuals engaging in combative skills
14 using the hands, feet, or body, whether or not prizes or purses are awarded at the event or
15 promised in future events or spectator admission fees are charged or received; and

16 (II) A contest, match, tournament, exhibition, bout, or activity, as described in
17 subsection ~~(15)(a)(I)~~ **(16)(a)(I)** of this section, that is not recognized by and not sanctioned
18 by any state, regional, or national boxing sanctioning authority that is recognized by the
19 director.

20 (b) "Toughperson fighting" does not mean:

21 (I) Activities occurring under a martial arts instructor at a place of training or other
22 types of instructor-student or student-student contact occurring under the supervision of an
23 instructor at a place of training; or

24 (II) A sanctioned boxing event approved by the commission.

25 **12-110-105. [Formerly 12-10-104] Office of combative sports - creation.** There
26 is hereby created, within the division, ~~of professions and occupations in the department of~~
27 ~~regulatory agencies~~, the office of combative sports. The office of combative sports and the
28 Colorado combative sports commission, created in section ~~12-10-105~~ **12-110-106**, shall
29 exercise their respective powers and perform their respective duties and functions as
30 specified in this article ~~10~~ **110** under the department of regulatory agencies as if the powers,
31 ~~duties, and functions were transferred to the department by a type 2 transfer~~ ENTITY, as such
32 ~~transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24~~
33 SECTION 24-1-105. <{*This provision may be further amended based on the SRC*
34 *Administrative Organization Act bill.*>

1 **12-110-106. [Formerly 12-10-105] Colorado combative sports commission -**
2 **creation.** (1) There is hereby created, within the office of combative sports, the Colorado
3 combative sports commission. The commission shall regulate matches in Colorado.
4 (2) (a) The commission consists of five voting members and two nonvoting advisory
5 members. All members must be residents of Colorado, be of good character, and not have
6 been convicted of any felony or match-related offense, notwithstanding section 24-5-101,
7 and be appointed as follows:
8 (I) The governor shall appoint three voting members.
9 (II) The president of the senate shall appoint one voting member.
10 (III) The speaker of the house of representatives shall appoint one voting member.
11 (IV) (A) Two nonvoting advisory members who are licensed physicians shall be
12 appointed, one by the speaker of the house of representatives and one by the president of the
13 senate.
14 (B) The two nonvoting advisory members shall advise the commission on matters
15 concerning the health and physical condition of boxers and health issues relating to the
16 conduct of matches. The nonvoting members may prepare and submit to the commission for
17 its consideration and approval any rules that in their judgment will safeguard the physical
18 welfare of the participants engaged in boxing.
19 (b) Members' terms are four years.
20 (c) The commission shall designate by majority vote which member is to serve as
21 chair. Any member may be removed from office by the person making the appointment for
22 misfeasance, malfeasance, willful neglect of duty, or other cause.
23 (d) Members shall serve until their successors are appointed and have been qualified.
24 Any vacancy in the membership of the commission shall be filled in the same manner as the
25 original appointment. A vacancy in the membership of the commission other than by
26 expiration of term shall be filled for the remainder of the unexpired term only.
27 (3) Meetings of the commission shall be held at least annually and shall be called by
28 the chair or by any two members of the commission and shall be open to the public. Any
29 three voting members shall constitute a quorum at any meeting. Action may be taken and
30 motions and resolutions may be adopted at any meeting at which a quorum exists by the
31 affirmative vote of a majority of the voting members present. Members may participate in
32 a regular or special meeting by, or conduct the meeting through the use of, any means of
33 communication by which all members participating may simultaneously hear one another
34 at all times during the meeting. A member participating in a meeting by this means is
35 deemed to be present in person at the meeting.

1 **12-110-107. [Formerly 12-10-106] General powers and duties of the commission**
2 **- rules.** (1) In addition to any other powers specifically granted to the commission in this
3 article ~~10~~ **110**, the commission shall issue rules as necessary for the regulation of the
4 conduct, promotion, and performance of live boxing matches in this state. The rules must
5 be consistent with this article ~~10~~ **110**, the federal "Professional Boxing Safety Act of 1996",
6 15 U.S.C. sec. 6301 et seq., and any other applicable federal law. The commission's rules
7 must include:

8 (a) Requirements for issuance of licenses and permits for boxers, seconds, inspectors,
9 promoters, judges, and referees;

10 (b) Regulation of ticket sales;

11 (c) Physical requirements for participants, including classification by weight and
12 skill;

13 (d) Provisions for supervision of contests and exhibitions by referees and licensed
14 physicians;

15 (e) Requirements for insurance covering participants and bonding of promoters;

16 (f) Guidelines for compensation of licensees;

17 (g) Guidelines for contracts and financial arrangements between promoters and
18 participants;

19 (h) Prohibition of dishonest, unethical, and injurious practices;

20 (i) Guidelines for reports of fraud;

21 (j) Responsibilities of participants;

22 (k) Regulation of facilities; and

23 (l) Procedures to:

24 (I) Allow the director to deny or suspend a participant license for a nondisciplinary
25 reason, such as a medical or administrative reason, including the following reasons listed in
26 the federal "Professional Boxing Safety Act of 1996", 15 U.S.C. sec. 6301 et seq.:

27 (A) A recent knockout or series of consecutive losses;

28 (B) An injury;

29 (C) A required medical procedure; or

30 (D) A physician's denial of certification;

31 (II) Authorize the director to lift a license denial or suspension imposed for a
32 nondisciplinary reason if the participant or a representative of the participant sufficiently
33 demonstrates:

34 (A) That the participant's medical or physical condition has improved to a degree that
35 the nondisciplinary license denial or suspension is no longer warranted; or

1 (B) That the nondisciplinary license denial or suspension was never warranted; and
2 (III) Allow the director to report a nondisciplinary participant license suspension to
3 a national record keeper approved by the director.

4 (2) No member shall receive compensation for serving on the commission; however,
5 a member may be reimbursed for expenses incurred in the performance of such services.

6 (3) to (5) ~~(Deleted by amendment, L. 2010, (HB 10-1245), ch. 131, p. 434, § 7,~~
7 ~~effective July 1, 2010.)~~

8 **12-110-108. [Formerly 12-10-106.3] License required.** No person shall participate,
9 officiate, judge, referee, promote, or second a professional boxing arts contest unless the
10 person is licensed pursuant to this article *110*.

11 **12-110-109. [Formerly 12-10-106.5] Renewal and reinstatement of licenses.** All
12 licenses shall expire pursuant to, a schedule established by the director of the division of
13 professions and occupations within the department of regulatory agencies and shall be
14 renewed or reinstated pursuant to section 24-34-102 (8), C.R.S. The director of the division
15 of professions and occupations within the department of regulatory agencies may establish
16 renewal fees and delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S.
17 If a person fails to renew his or her license pursuant to the schedule established by the
18 director, of the division of professions and occupations, such license shall expire AND ARE
19 SUBJECT TO THE RENEWAL, REINSTATEMENT, AND DELINQUENCY FEE PROVISIONS OF, SECTION
20 12-20-202 (1) AND (2). Any person whose license has expired shall be subject to the
21 penalties provided in this article *110* or section 24-34-102 (8), C.R.S. *12-20-202 (1)*.

22 **12-110-110. [Formerly 12-10-107] Office director - appointment - qualification**
23 **- powers and duties - director of division's powers and duties.** (1) The office director
24 is appointed by, and serves under the supervision of, the director. ~~of the division.~~

25 (2) The office director must:

26 (a) Be of good character and not have been convicted of any felony or match-related
27 offense, notwithstanding section 24-5-101; and

28 (b) Not be engaged in any other profession or occupation that could present a conflict
29 of interest with the duties of office director.

30 (3) (a) In addition to the duties imposed upon the office director elsewhere in this
31 article ~~to~~ *110*, the office director shall, in accordance with this article ~~to~~ *110* and the rules
32 of the commission:

- 1 (I) Direct and supervise the administrative and technical activities of the commission;
- 2 (II) Supervise and administer the operation of matches; and
- 3 (III) As deemed necessary by the director, ~~of the division~~, advise and make
- 4 recommendations to the director ~~of the division~~ with regard to the ~~director of the division's~~
- 5 DIRECTOR'S functions.
- 6 (b) In addition to the duties imposed upon the director ~~of the division~~ elsewhere in
- 7 this article ~~to~~ **110**, the director ~~of the division~~ shall:
- 8 (I) Attend meetings of the commission or appoint a designee to attend in the
- 9 director's place;
- 10 (II) Advise and recommend to the commission rules and other procedures as the
- 11 director deems necessary and advisable to improve the conduct of boxing;
- 12 (III) Furnish any documents of the commission that may be required by the state
- 13 auditor in the performance of audits performed in conformance with part 1 of article 3 of
- 14 title 2; and
- 15 (IV) Enforce this article ~~to~~ **110** and investigate allegations of activity that might
- 16 violate this article ~~to~~ **110**.

17 **12-110-111. [Formerly 12-10-107.1] Grounds for discipline.** (1) The director may

18 ~~deny, suspend, revoke, place on probation, or issue a letter of admonition~~ TAKE

19 DISCIPLINARY OR OTHER ACTION AS AUTHORIZED IN SECTION 12-20-404 against a license or

20 an application for a license if the applicant or licensee:

- 21 (a) Violates any order of the commission or the director or any provision of this
- 22 article **110** or the rules established under this article **110**;
- 23 (b) Fails to meet the requirements of this article **110** or the rules of the commission;
- 24 (c) Is convicted of or has entered a plea of nolo contendere or guilty to a felony;
- 25 except that the director shall be governed by the provisions of section 24-5-101 ~~C.R.S.~~; in
- 26 considering ~~such~~ THE conviction or plea;
- 27 (d) Has an alcohol use disorder, as defined in section 27-81-102, or a substance use
- 28 disorder, as defined in section 27-82-102, or is an excessive or a habitual user or abuser of
- 29 alcohol or habit-forming drugs or is a habitual user of a controlled substance, as defined in
- 30 section 18-18-102 (5), if the use, disorder, or dependency is a danger to other licensees;
- 31 (e) Has incurred disciplinary action related to professional boxing in another
- 32 jurisdiction. Evidence of disciplinary action is prima facie evidence for denial of a license
- 33 or other disciplinary action if the violation would be grounds for disciplinary action in this
- 34 state.

- 1 (f) Provides false information in any application or attempts to obtain a license by
- 2 fraud, deception, misrepresentation, or concealment;
- 3 (g) Is guilty of conduct, or is incompetent or negligent in a manner, that:
- 4 (I) Is detrimental to a contest or exhibition of boxing, including unsportsmanlike
- 5 conduct engaged in before, during, or after a contest or exhibition of boxing; or
- 6 (II) Results in injury, or creates an unreasonable risk of harm, to a person; or
- 7 (h) Fails to comply with a limitation, restriction, or condition that the director or any
- 8 other state or national regulatory authority responsible for regulating boxing places on the
- 9 licensee or applicant.
- 10 (2) ~~(a) Any proceeding to deny, suspend, revoke, or place on probation a license shall~~
- 11 ~~be conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S.~~
- 12 ~~(b)~~ (a) Upon completing an investigation IN ACCORDANCE WITH SECTION 12-20-403,
- 13 the director shall make one of the following findings:
- 14 (I) The complaint is without merit and no further action need be taken.
- 15 (II) There is no reasonable cause to warrant further action.
- 16 (III) The investigation discloses an instance of conduct that does not warrant formal
- 17 action and should be dismissed, but the director notices indications of possible errant
- 18 conduct that could lead to serious consequences if not corrected. If this finding is made, the
- 19 director shall send a confidential letter of concern IN ACCORDANCE WITH SECTION 12-20-404
- 20 (5) to the licensee.
- 21 (IV) The investigation discloses an instance of conduct that does not warrant formal
- 22 action but should not be dismissed as being without merit. If this finding is made, the
- 23 director may send a letter of admonition to the licensee IN ACCORDANCE WITH SECTION
- 24 12-20-404 (4) by certified mail.
- 25 (V) The investigation discloses facts that warrant further proceedings by formal
- 26 complaint. If this finding is made, the director shall refer the complaint to the attorney
- 27 general for preparation and filing of a formal complaint.
- 28 ~~(c) (I) The director shall send a letter of admonition by first-class mail to a licensee~~
- 29 ~~and shall include in the letter a notice that the licensee has the right to request in writing,~~
- 30 ~~within twenty days after receipt of the letter, that formal disciplinary proceedings be initiated~~
- 31 ~~to adjudicate the propriety of the conduct upon which the letter of admonition is based.~~
- 32 ~~(II) If the request for adjudication is timely made, the letter of admonition is vacated~~
- 33 ~~and the director shall proceed by means of formal disciplinary proceedings.~~
- 34 ~~(d) (Deleted by amendment, L. 2010, (HB 10-1245), ch. 131, p. 435, § 10, effective~~
- 35 ~~July 1, 2010.)~~

1 (e) (b) The director shall conduct all proceedings pursuant to this subsection (2)
2 expeditiously and informally so that no licensee is subjected to unfair and unjust charges and
3 that no complainant is deprived of the right to a timely, fair, and proper investigation of a
4 complaint.

5 ~~(3)(a) The director or an administrative law judge shall have the power to administer~~
6 ~~oaths, take affirmations of witnesses, and issue subpoenas to compel the attendance of~~
7 ~~witnesses and the production of all relevant papers, books, records, documentary evidence,~~
8 ~~and materials in any hearing, investigation, accusation, or other matter coming before the~~
9 ~~director pursuant to this article. The director may appoint an administrative law judge~~
10 ~~pursuant to part 10 of article 30 of title 24 C.R.S., to take evidence and to make findings and~~
11 ~~report them to the commission or the director.~~

12 ~~(b) Upon failure of any witness to comply with such subpoena or process, the district~~
13 ~~court of the county in which the subpoenaed person or licensee resides or conducts business,~~
14 ~~upon application by the director with notice to the subpoenaed person or licensee, may issue~~
15 ~~to the person or licensee an order requiring that person or licensee to appear before the~~
16 ~~director; to produce the relevant papers, books, records, documentary evidence, or materials~~
17 ~~if so ordered; or to give evidence touching the matter under investigation or in question.~~
18 ~~Failure to obey the order of the court may be punished by the court as a contempt of court.~~

19 (3) SECTION 12-20-403 GOVERNS PROCEEDINGS UNDER THIS SECTION.

20 (4) When a complaint or an investigation discloses an instance of misconduct that,
21 in the opinion of the director, warrants formal action, ~~the complaint shall not be resolved by~~
22 ~~a deferred settlement, action, judgment, or prosecution SECTION 12-20-404 (2) APPLIES.~~

23 (5) (a) ~~If it appears to the director, based upon credible evidence as presented in a~~
24 ~~written complaint by any person, that a licensee is acting in a manner that is an imminent~~
25 ~~threat to the health and safety of the public or a person is acting or has acted without the~~
26 ~~required license, the director may issue an order to cease and desist such activity. The order~~
27 ~~shall set forth the statutes and rules alleged to have been violated, the facts alleged to have~~
28 ~~constituted the violation, and the requirement that all unlawful acts or unlicensed practices~~
29 ~~immediately cease.~~

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

34 (6) (a) ~~If it appears to the director, based upon credible evidence as presented in a~~
35 ~~written complaint by any person, that a person has violated any other portion of this article,~~

1 then, in addition to any specific powers granted pursuant to this article, the director may
2 issue to such person an order to show cause as to why the director should not issue a final
3 order directing such person to cease and desist from the unlawful act or unlicensed practice:

4 ~~(b) A person against whom an order to show cause has been issued pursuant to~~
5 ~~paragraph (a) of this subsection (6) shall be promptly notified by the director of the issuance~~
6 ~~of the order, along with a copy of the order, the factual and legal basis for the order, and the~~
7 ~~date set by the director for a hearing on the order. Such notice may be served by personal~~
8 ~~service, by first-class United States mail, postage prepaid, or as may be practicable upon any~~
9 ~~person against whom such order is issued. Personal service or mailing of an order or~~
10 ~~document pursuant to this subsection (6) shall constitute notice thereof to the person.~~

11 ~~(c) (I) The hearing on an order to show cause shall be commenced no sooner than~~
12 ~~ten and no later than forty-five calendar days after the date of transmission or service of the~~
13 ~~notification by the director as provided in paragraph (b) of this subsection (6). The hearing~~
14 ~~may be continued by agreement of all parties based upon the complexity of the matter,~~
15 ~~number of parties to the matter, and legal issues presented in the matter, but in no event shall~~
16 ~~the hearing commence later than sixty calendar days after the date of transmission or service~~
17 ~~of the notification.~~

18 ~~(H) If a person against whom an order to show cause has been issued pursuant to~~
19 ~~paragraph (a) of this subsection (6) does not appear at the hearing, the director may present~~
20 ~~evidence that notification was properly sent or served upon such person pursuant to~~
21 ~~paragraph (b) of this subsection (6) and such other evidence related to the matter as the~~
22 ~~director deems appropriate. The director shall issue the order within ten days after the~~
23 ~~director's determination related to reasonable attempts to notify the respondent, and the order~~
24 ~~shall become final as to that person by operation of law. Such hearing shall be conducted~~
25 ~~pursuant to sections 24-4-104 and 24-4-105, C.R.S.~~

26 ~~(HH) If the director reasonably finds that the person against whom the order to show~~
27 ~~cause was issued is acting or has acted without the required license or has or is about to~~
28 ~~engage in acts or practices constituting violations of this article, a final cease-and-desist~~
29 ~~order may be issued directing such person to cease and desist from further unlawful acts or~~
30 ~~unlicensed practices.~~

31 ~~(IV) The director shall provide notice, in the manner set forth in paragraph (b) of this~~
32 ~~subsection (6), of the final cease-and-desist order within ten calendar days after the hearing~~
33 ~~conducted pursuant to this paragraph (c) to each person against whom the final order has~~
34 ~~been issued. The final order issued pursuant to subparagraph (HH) of this paragraph (c) shall~~
35 ~~be effective when issued and shall be a final order for purposes of judicial review.~~

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

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

12 (5) THE DIRECTOR MAY ISSUE CEASE-AND-DESIST ORDERS UNDER THE
13 CIRCUMSTANCES DESCRIBED IN AND IN ACCORDANCE WITH SECTION 12-20-405.

14 **12-110-112. [Formerly 12-10-107.5] Toughperson fighting prohibited.**

15 (1) Toughperson fighting is prohibited in the state of Colorado. No person or entity shall
16 promote, advertise, conduct, or compete or participate in toughperson fighting. No license
17 or permit shall be issued for toughperson fighting or for any contests or exhibitions of a
18 similar nature.

19 (2) Any violation of this section is a class 1 misdemeanor and shall be punished as
20 provided in section 18-1.3-501. ~~C.R.S.~~

21 **12-110-113. [Formerly 12-10-108] Immunity.** ~~Any member of the commission; the~~
22 ~~director; IN ADDITION TO THE PERSONS SPECIFIED IN SECTION 12-20-402, the office director;~~
23 ~~the commission's staff; the director's staff; the office director's staff; AND any person acting~~
24 ~~as a witness or consultant to the commission, director, or office director; any witness~~
25 ~~testifying in a proceeding authorized under this article 10; and any person who lodges a~~
26 ~~complaint pursuant to this article 10 is immune from liability in any civil action brought~~
27 ~~against him or her for acts occurring while acting in his or her capacity as commission~~
28 ~~member, director, office director, staff, consultant, or witness, respectively, if the individual~~
29 ~~was acting in good faith within the scope of his or her respective capacity, made a~~
30 ~~reasonable effort to obtain the facts of the matter as to which he or she acted, and acted in~~
31 ~~the reasonable belief that the action taken by him or her was warranted by the facts. Any~~
32 ~~person participating in good faith in lodging a complaint or participating in any investigative~~
33 ~~or administrative proceeding pursuant to this article 10 is immune from any civil or criminal~~

1 liability that may result from such participation OFFICE DIRECTOR ARE GRANTED THE SAME
2 IMMUNITY, AND SUBJECT TO THE SAME CONDITIONS, AS SPECIFIED IN SECTION 12-20-402.
3 **Question for editor - I changed "is" to "are" but am not sure that is correct. Thoughts?**

4 **12-110-114. [Formerly 12-10-109] Fees.** (†) The director of the division shall
5 establish and collect nonrefundable license fees and may establish and collect surcharges and
6 other moneys MONEY as the director of the division deems necessary; except that such fees
7 and surcharges shall not exceed the amount necessary to implement this article *110*.

8 (2) ~~Moneys collected under this article other than civil penalties shall be transmitted~~
9 ~~to the state treasurer, who shall credit the same to the division of professions and~~
10 ~~occupations cash fund created in section 24-34-105, C.R.S., and the general assembly shall~~
11 ~~make annual appropriations pursuant to said section for expenditures of the office incurred~~
12 ~~in the performance of its duties under this article. Such expenditures shall be made from~~
13 ~~such appropriations upon vouchers and warrants drawn pursuant to law. Civil penalties~~
14 ~~collected under this article shall be transferred to the state treasurer and credited to the~~
15 ~~general fund.~~

16 **12-110-115. [Formerly 12-10-110] Violations.** (1) ~~Civil penalties~~ **Fines.** The
17 director may issue an order against any person who willfully violates this article *110*, after
18 providing prior notice and an opportunity for a hearing pursuant to section 24-4-105. ~~C.R.S.~~
19 The director may impose a ~~civil penalty~~ **FINE** in an amount up to five thousand dollars for
20 a single violation or twenty-five thousand dollars for multiple violations in a proceeding or
21 a series of related proceedings.

22 (2) **Criminal penalties.** Any person who engages in or offers or attempts to engage
23 in the conduct, promotion, or performance of live boxing matches without an active license
24 or permit issued under this article ~~commits a class 2 misdemeanor and shall be punished as~~
25 ~~provided in section 18-1.3-501 C.R.S., for the first offense, and, for the second or any~~
26 ~~subsequent offense, the person commits a class 6 felony and shall be punished as provided~~
27 ~~in section 18-1.3-401. C.R.S. *110* IS SUBJECT TO PENALTIES PURSUANT TO SECTION~~
28 ~~12-20-407 (1)(a).~~

29 (3) **Injunction.** Whenever it appears to the director that a person has engaged or is
30 about to engage in an act or practice that violates this article *110* or a rule or order issued
31 under this article *110*, the director may bring an action to enjoin the acts or practices and to
32 enforce compliance with this article *110* or any rule or order.

33 (4) **Enforcement.** The commission and director may assist local law enforcement

1 agencies in their investigations of violations of this article **110** and may initiate and carry out
2 such investigations in coordination with local law enforcement agencies.

3 (5) **Judicial review.** SECTION 12-20-408 GOVERNS final director actions and orders
4 appropriate for judicial review. ~~may be judicially reviewed in the court of appeals in~~
5 ~~accordance with section 24-4-106 (11), C.R.S.~~

6 **12-110-116. [Formerly 12-10-111] Repeal of article.** This article ~~to~~ **110** is repealed,
7 effective September 1, 2026. Before its repeal, ~~the department of regulatory agencies shall~~
8 ~~review~~ the office and the commission ARE SCHEDULE FOR REVIEW in accordance with section
9 24-34-104.

10 **ARTICLE 115**
11 **Electricians**

12 <{*Insert electricians practice act.*}>

13 **ARTICLE 120**
14 **Engineers, Surveyors, and Architects**

15 <{*Insert engineers, et al, practice act.*}>

16 **ARTICLE 125**
17 **Fantasy Contests**

18 **12-125-101. [Formerly 12-15.5-101] Short title.** The short title of this article **125** is
19 the "Fantasy Contests Act".

20 **12-125-102. Applicability of common provisions.** ARTICLES 1 AND 20 OF THIS TITLE
21 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 125.

22 **12-125-103. [Formerly 12-15.5-102] Definitions.** As used in this article **125**, unless
23 the context otherwise requires:

24 (1) "Confidential information" means information related to the play of a fantasy
25 contest by fantasy contest players obtained as a result of or by virtue of a person's
26 employment.

1 ~~(2) "Director" means the director of the division of professions and occupations~~
2 ~~within the department of regulatory agencies or his or her designee.~~

3 ~~(3) (2) "Entry fee" means cash or cash equivalents that are required to be paid by a~~
4 ~~fantasy contest player to a fantasy contest operator in order to participate in a fantasy contest.~~

5 ~~(4) (3) "Fantasy contest" means a fantasy or simulated game or contest in which:~~

6 ~~(a) The value of all prizes and awards offered to winning participants is established~~
7 ~~and made known to the participants in advance of the contest;~~

8 ~~(b) All winning outcomes reflect the relative knowledge and skill of the participants~~
9 ~~and are determined predominantly by accumulated statistical results of the performance of~~
10 ~~athletes in fully completed sporting events; except that a sporting event that has been called~~
11 ~~or suspended due to weather or any other natural or unforeseen event is considered fully~~
12 ~~completed; and~~

13 ~~(c) Winning outcomes are not based on randomized or historical events or on the~~
14 ~~score, point spread, or any performance of any single actual sports team or combination of~~
15 ~~such THE teams or solely on any single performance of an individual athlete in any single~~
16 ~~actual sporting event.~~

17 ~~(5) (4) "Fantasy contest operator" means a person or entity that offers fantasy contests~~
18 ~~with an entry fee for a cash prize to members of the public.~~

19 ~~(6) (5) "Fantasy contest player" means a person who participates in a fantasy contest~~
20 ~~with an entry fee offered by a fantasy contest operator.~~

21 ~~(7) (6) "Small fantasy contest operator" means a fantasy contest operator that has no~~
22 ~~more than seven thousand five hundred fantasy contest players in Colorado with active~~
23 ~~accounts who participate in fantasy contests with an entry fee.~~

24 **12-125-104. [Formerly 12-15.5-103] Rules.** ~~(1)~~ The director shall promulgate
25 reasonable rules for the identification, licensing, and fingerprinting of applicants for
26 licensure.

27 ~~(2) The director may administer oaths, take affirmations of witnesses, and issue~~
28 ~~subpoenas to compel the attendance of witnesses and the production of all relevant papers,~~
29 ~~books, records, documentary evidence, and materials in any hearing, investigation,~~
30 ~~accusation, or other matter coming before the director pursuant to this article 125. The~~
31 ~~director may appoint an administrative law judge pursuant to part 10 of article 30 of title 24~~
32 ~~C.R.S., to take evidence and to make findings.~~

33 **12-125-105. [Formerly 12-15.5-104] Registration.** (1) On and after July 1, 2017,

1 an entity shall not operate as a small fantasy contest operator unless the entity is registered
2 with the director. On and after July 1, 2017, an individual who is not operating through an
3 entity shall not operate as a small fantasy contest operator unless the individual is registered
4 with the director.

5 (2) A small fantasy contest operator is subject to all of the provisions of this article
6 **125**; except that:

7 (a) A small fantasy contest operator need only be registered, not licensed, in order to
8 offer fantasy contests for a fee; a small fantasy contest operator is not subject to the
9 requirements of section ~~12-15.5-106 (2)~~ **12-125-107 (2)** regarding an annual audit; and a
10 small fantasy operator is subject to section ~~12-15.5-105 (3)~~ **12-125-106 (3)**; and

11 (b) The director shall:

12 (I) Establish a registration process for small fantasy contest operators; and

13 (II) Not initiate an investigation of a potential violation of this article **125** by a small
14 fantasy contest operator except upon the filing of a complaint with the director that the
15 director reasonably believes warrants investigation.

16 **12-125-106. [Formerly 12-15.5-105] Licensing.** (1) (a) On and after July 1, 2017,
17 an entity shall not operate as a fantasy contest operator unless the entity is licensed by the
18 director. On and after July 1, 2017, an individual who is not operating through an entity shall
19 not operate as a fantasy contest operator unless the individual is licensed as a fantasy contest
20 operator by the director.

21 (b) An applicant for licensure must pay license, renewal, and reinstatement fees
22 established by the director consistent with section ~~24-34-105, C.R.S., 12-20-105~~ and other
23 authorities. ~~The fees must be sufficient to cover the division's direct and indirect costs in~~
24 ~~administering this article. A licensee must renew the license in accordance with a schedule~~
25 ~~established by the director pursuant to section 24-34-102 (8), C.R.S.. If a licensee fails to~~
26 ~~renew the license pursuant to the schedule established by the director, the license expires and~~
27 ~~the entity shall not practice under this article until the reinstatement fees are paid and the~~
28 ~~director reinstates the license~~ SECTION 12-20-202 (1) AND (2) GOVERN RENEWAL AND
29 REINSTATEMENT OF LICENSES UNDER THIS ARTICLE 125. A person that continues to practice
30 once a license has expired is subject to the penalties provided in this article **125** and section
31 ~~24-34-102 (8), C.R.S. 12-20-202 (1).~~

32 (2) Applications for licensure as a fantasy contest operator must:

33 (a) Be verified by the oath or affirmation of ~~such~~ THE person or persons as the
34 director may prescribe;

1 (b) Be made to the director on forms prepared and furnished by the director; and
2 (c) Set forth such information as the director may require to enable the director to
3 determine whether an applicant meets the requirements for licensure under this article **125**.

4 The information must include:

5 (I) The name and address of the applicant;

6 (II) If a partnership, the names and addresses of all of the partners, and if a
7 corporation, association, or other organization, the names and addresses of the president, vice
8 president, secretary, and managing officer, together with all other information deemed
9 necessary by the director; and

10 (III) A designation of the responsible party who is the agent for the licensee for all
11 communications with the director.

12 (3) (a) An applicant may not be eligible for licensure or registration as a fantasy
13 contest operator or licensure renewal if the applicant or any of its officers, directors, or
14 general partners has been convicted of or has entered a plea of nolo contendere or guilty to
15 a felony.

16 (b) The director is governed by section 24-5-101 ~~C.R.S.~~, in considering the conviction
17 or plea of nolo contendere to a felony for any individual subject to a criminal history record
18 check pursuant to subsection (4) of this section.

19 (4) With the submission of an application for a license granted pursuant to this
20 section, each applicant and its officers, directors, and general partners shall submit a
21 complete set of his or her fingerprints to the Colorado bureau of investigation for the purpose
22 of conducting fingerprint-based criminal history record checks. The Colorado bureau of
23 investigation shall forward the fingerprints to the federal bureau of investigation for the
24 purpose of conducting fingerprint-based criminal history record checks. The director may
25 acquire a name-based criminal history record check for a person who has twice submitted to
26 a fingerprint-based criminal history record check and whose fingerprints are unclassifiable.
27 A person who has previously submitted fingerprints for state or local licensing purposes may
28 request the use of the fingerprints on file. The director shall use the information resulting
29 from the fingerprint-based criminal history record check to investigate and determine
30 whether an applicant is qualified to hold a license pursuant to this section. The director may
31 verify the information an applicant is required to submit. The applicant shall pay the costs
32 associated with the fingerprint-based criminal history record check to the Colorado bureau
33 of investigation.

34 (5) A fantasy contest operator shall not conduct, operate, or offer a fantasy contest
35 that:

- 1 (a) Utilizes:
- 2 (I) Video or mechanical reels or symbols or any other depictions of slot machines,
- 3 poker, blackjack, craps, or roulette; or
- 4 (II) Any device that qualifies as or replicates games that constitute limited gaming
- 5 under section 9 of article XVIII of the Colorado constitution; or
- 6 (b) Includes a university, college, high school, or youth sporting event.

7 **12-125-107. [Formerly 12-15.5-106] Consumer protections.** (1) A fantasy contest
8 operator, including a small fantasy contest operator, shall implement commercially
9 reasonable procedures for fantasy contests with an entry fee, which procedures are designed
10 to:

- 11 (a) Prevent employees of the fantasy contest operator, including a small fantasy
- 12 contest operator, and relatives living in the same household as ~~such~~ THE employees, from
- 13 competing in any fantasy contests offered by any fantasy contest operator in which the
- 14 operator offers a cash prize;
- 15 (b) Prevent sharing of confidential information that could affect ~~such~~ THE fantasy
- 16 contest play with third parties until the information is made publicly available;
- 17 (c) Verify that a fantasy contest player in such a fantasy contest is eighteen years of
- 18 age or older;
- 19 (d) Ensure that individuals who participate or officiate in a game or contest that is the
- 20 subject of such a fantasy contest will be restricted from entering such a fantasy contest that
- 21 is determined, in whole or in part, on the accumulated statistical results of a team of
- 22 individuals in the game or contest in which they are a player or official;
- 23 (e) Allow individuals to restrict themselves from entering such a fantasy contest upon
- 24 request and provide reasonable steps to prevent the person from entering ~~such~~ THE fantasy
- 25 contests offered by the fantasy contest operator, including a small fantasy contest operator;
- 26 (f) Disclose the number of entries that a fantasy contest player may submit to each
- 27 such fantasy contest, provide reasonable steps to prevent players from submitting more than
- 28 the allowable number, and, in any contest involving at least one hundred one entries, not
- 29 allow a player to submit more than the lesser of three percent of all entries or one hundred
- 30 fifty entries;
- 31 (g) Segregate fantasy contest player funds from operational funds and maintain a
- 32 reserve in the form of cash, cash equivalents, an irrevocable letter of credit, a bond, or a
- 33 combination thereof, in the amount of the deposits made to the accounts of fantasy contest
- 34 players for the benefit and protection of the funds held in ~~such~~ THE accounts;

- 1 (h) Distinguish highly experienced players and beginner players and ensure that
- 2 highly experienced players are conspicuously identified as such to all players;
- 3 (i) Prohibit the use of scripts in fantasy contests that give a player an unfair advantage
- 4 over other players and make all authorized scripts readily available to all fantasy contest
- 5 players;
- 6 (j) Clearly and conspicuously disclose all rules that govern its contests, including the
- 7 material terms of each promotional offer at the time the offer is advertised; and
- 8 (k) Use technologically reasonable measures to limit each fantasy contest player to
- 9 one active account with that operator.
- 10 (2) A fantasy contest operator offering fantasy contests in this state shall:
- 11 (a) Contract with a third party to annually perform an independent audit, consistent
- 12 with the standards established by the public company accounting oversight board, to ensure
- 13 compliance with this article *125*; and
- 14 (b) Submit the results of the audit to the director.

15 **12-125-108. [Formerly 12-15.5-107] Duty to maintain records.** Each fantasy
16 contest operator shall keep daily records of its operations and shall maintain the records for
17 at least three years. The records must sufficiently detail all financial transactions to determine
18 compliance with the requirements of this article *125* and must be available for audit and
19 inspection by the director during the fantasy contest operator's regular business hours.

20 **12-125-109. [Formerly 12-15.5-108] Authorization to conduct fantasy contests.**
21 (1) Fantasy contests are authorized and may be conducted by a fantasy contest operator at
22 a licensed gaming establishment, as that term is defined in section 44-30-103 (18). A gaming
23 retailer, as that term is defined in section 44-30-103 (27), may conduct fantasy contests if the
24 gaming retailer is licensed as a fantasy contest operator.
25 (2) Fantasy contests are authorized and may be conducted by a fantasy contest
26 operator at a licensed facility at which pari-mutuel wagering, as that term is defined in
27 section 44-32-102 (18), may occur. An operator of a class B track, as that term is defined in
28 section 44-32-102 (3), may conduct fantasy contests if the operator is licensed as a fantasy
29 contest operator.
30 (3) A fantasy contest conducted in compliance with this article *125* does not violate
31 article 10 or 10.5 of title 18. ~~C.R.S.~~

32 **12-125-110. [Formerly 12-15.5-109] Grounds for discipline.** (1) The director may

1 deny, suspend, or revoke a license or registration or place on probation or issue a letter of
2 admonition to TAKE DISCIPLINARY ACTION AS AUTHORIZED IN SECTION 12-20-404 AGAINST
3 a licensee or registrant if the fantasy contest operator, including a small fantasy contest
4 operator:

5 (a) Violates any order of the director or any provision of this article *125* or the rules
6 established under this article *125*;

7 (b) Fails to meet the requirements for licensure under this article *125*; or

8 (c) Uses fraud, misrepresentation, or deceit in applying for or attempting to apply for
9 licensure or registration or otherwise in operating or offering to operate a fantasy contest.

10 (2) If it appears to the director, based upon credible evidence as presented in a written
11 complaint, that a person is operating or offering to operate a fantasy contest without having
12 obtained a registration or license, the director may issue an order to cease and desist the
13 activity. The director shall set forth in the order the statutes and rules alleged to have been
14 violated, the facts alleged to have constituted the violation, and the requirement that all
15 unauthorized practices immediately cease. Within ten days after service of the order to cease
16 and desist pursuant to this subsection (2), the person may request a hearing on the question
17 of whether acts or practices in violation of this article *125* have occurred. The hearing shall
18 be conducted pursuant to section 24-4-105. ~~C.R.S.~~

19 **12-125-111. [Formerly 12-15.5-110] Civil fines.** In addition to any other remedy
20 provided by law, a fantasy contest operator, or an employee or agent thereof, who violates
21 this article *125* is subject to a civil fine of not more than one thousand dollars for each such
22 violation, which the state treasurer shall credit to the general fund. The director may file a
23 civil action to collect the fine.

24 **12-125-112. [Formerly 12-15.5-111] Applicability.** This article *125* applies to
25 conduct occurring on or after July 1, 2017.

26 **12-125-113. [Formerly 12-15.5-112] Repeal of article.** This article *125* is repealed,
27 effective September 1, 2020. Before its repeal, this article *125* is scheduled for review in
28 accordance with section 24-34-104. ~~C.R.S.~~

29 **ARTICLE 130**
30 **Landscape Architects**

S:\LLS\Title 12\Title 12 Bills\2019 session\Consolidated common provision
proposals\Bill Draft_Common provisions_article 1&DPO articles.wpd

1 <{*Insert landscape architects practice act.*}>

2 **ARTICLE 135**
3 **Mortuaries and Crematories**
4 **PART 1**
5 **MORTUARY SCIENCE CODE**

6 **12-135-101. [Formerly 12-54-101] Short title.** THE SHORT TITLE OF this article shall
7 ~~be known and may be cited as 135~~ IS the "Mortuary Science Code".
8

9 **12-135-102. Applicability of common provisions.** ARTICLES 1 AND 20 OF THIS
10 TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 135.
11

12 **12-135-103. [Formerly 12-54-102] Definitions.** As used in this article *135*, unless
13 the context otherwise requires:

14 (1) "Alternative container" means a nonmetal receptacle or enclosure, without
15 ornamentation or a fixed interior lining, that is designed for the encasement of human
16 remains and is made of fiberboard, pressed wood, composition materials, or other similar
17 materials.

18 (2) "Casket" means a rigid container that is designed for the encasement of human
19 remains and is ornamented and lined with fabric.

20 (3) "Cremated remains" or "cremains" means all human remains recovered after
21 cremation, including pulverization, that leaves only bone fragments that have been reduced
22 to unidentifiable dimensions.

23 (4) "Cremation" or "cremate" means the reduction of human remains to essential
24 elements, the processing of the remains, and the placement of the processed remains in a
25 cremated remains container.

26 ~~(4.3)~~ (5) "Cremation chamber" means the enclosed space inside of which human
27 remains are cremated.

28 ~~(4.5)~~ (6) "Cremation container" means a container in which the human remains are
29 transported to the crematory and intended to be placed in the cremation chamber.

30 ~~(4.7)~~ (7) "Cremationist" means a person who cremates or prepares for cremation
31 human remains.

- 1 ~~(5)~~ (8) "Crematory" means a building, facility, establishment, or structure where
2 human remains are cremated.
- 3 ~~(5.3)~~ (9) "Custodian" means the person with possession and control of human
4 remains.
- 5 ~~(5.5)~~ (10) "Designee" means an individual designated by a funeral establishment
6 registered in accordance with section ~~12-54-110~~ **12-135-110** or ~~12-54-303~~ **12-135-303**.
- 7 ~~(5.7)~~ "Director" means the director of the division of professions and occupations
8 or the director's designee.
- 9 ~~(6)~~ "Division" means the division of professions and occupations created in section
10 ~~24-34-102~~, C.R.S.
- 11 ~~(7)~~ (11) "Embalm" or "embalming" means the disinfection and temporary
12 preservation of human remains by chemically treating the body to reduce the presence and
13 growth of organisms, to retard organic decomposition, or to attempt restoration of the
14 physical appearance.
- 15 ~~(8)~~ (12) "Embalmer" means any person who embalms, or prepares for embalming,
16 human remains for compensation.
- 17 ~~(9)~~ (13) "Final disposition" means the disposition of human remains by entombment,
18 burial, cremation, or removal from the state.
- 19 ~~(10)~~ (14) "Funeral", "funeral service", or "funeral ceremony" means a service or rite
20 commemorating the deceased and at which service or rite the body of the deceased is
21 present.
- 22 ~~(11)~~ (15) "Funeral director" means a person who, for compensation:
23 (a) Arranges, directs, or supervises funerals, memorial services, or graveside
24 services; or
25 (b) Prepares human remains for final disposition by means other than embalming.
- 26 ~~(12)~~ (16) "Funeral establishment", "funeral home", or "mortuary" means:
27 (a) An establishment that holds, cares for, or prepares human remains prior to final
28 disposition, including a crematory or embalming room; except that this ~~paragraph (a)~~
29 SUBSECTION (16)(a) does not apply to establishments in which individuals regularly die;
30 (b) An establishment that holds itself out to the general public as providing funeral
31 goods and services;
32 (c) Facilities used to hold, care for, or prepare human remains prior to final
33 disposition; except that this ~~paragraph (c)~~ SUBSECTION (16)(c) does not apply to facilities in
34 which individuals regularly die; or
35 (d) An establishment that provides funeral or memorial services to the public for

1 compensation.

2 ~~(13)~~ (17) "Funeral goods" means goods that are sold or offered for sale directly to

3 the public for use in connection with funeral or cremation services.

4 ~~(14)~~ (18) "Funeral services" means:

5 (a) Preparation of human remains for final disposition; except that this ~~paragraph (a)~~

6 SUBSECTION (18)(a) does not apply to cremation;

7 (b) Arrangement, supervision, or conduct of the funeral ceremony or the final

8 disposition of human remains; or

9 (c) Transportation of human remains to or from a funeral establishment.

10 ~~(14.2)~~ (19) "Human remains" means the physical remains of a dead human.

11 ~~(14.5)~~ (20) "Implanted device" means a mechanical device that may explode or cause

12 damage to crematory equipment.

13 ~~(15)~~ (21) "Memorial service" means a service or rite commemorating the deceased

14 and at which service or rite the body of the deceased is not present.

15 ~~(16)~~ (22) "Mortuary science practitioner" means a person who, for compensation,

16 does the following or offers to do the following:

17 (a) Embalms or cremates human remains;

18 (b) Arranges, directs, or supervises funerals, memorial services, or graveside

19 services; or

20 (c) Prepares human remains for final disposition.

21 ~~(17)~~ (23) "Next of kin" means a family member or members of the deceased who,

22 under Colorado law, have legal authority over the disposition of human remains.

23 ~~(17.5)~~ (24) "Ossuary" means a receptacle used for the communal placement of

24 cremated remains, without using an urn or other container, in which cremated remains are

25 commingled with other cremated remains.

26 ~~(18)~~ (25) "Preneed contract" means a preneed contract as defined in section

27 10-15-102 (13). ~~C.R.S.~~

28 ~~(19)~~ (26) "Preparation of the body" means embalming, washing, disinfecting,

29 shaving, dressing, restoring, casketing, positioning, caring for the hair of or applying

30 cosmetics to human remains.

31 ~~(20)~~ (27) "Processing" means the removal of foreign objects from cremated remains

32 and the reduction of ~~such~~ THE remains by mechanical means to granules appropriate for final

33 disposition.

34

35

12-135-104. [Formerly 12-54-103] Funeral establishment. (1) A funeral

1 establishment shall have the appropriate equipment and personnel to adequately provide the
2 funeral services it contracts to provide and shall provide written notice to the consumer
3 specifying any subcontractors or agents routinely handling or caring for human remains. To
4 comply, the notice must be given when the consumer inquires about the goods or services
5 the funeral establishment provides and must include the names and addresses of the
6 subcontractors, agents, or other providers; except that, if the inquiry is over the telephone,
7 the written notice must be provided when the customer finalizes the arrangements for goods
8 or services with the funeral establishment.

9 (2) A funeral establishment shall retain all documents and records concerning the
10 final disposition of human remains for at least seven years after the disposition.

11
12 **12-135-105. [Formerly 12-54-104] Unlawful acts.** (1) It is unlawful:

13 (a) To disinfect or preserve or to make final disposition of human remains with
14 knowledge sufficient to arouse a reasonable suspicion of a crime in connection with the
15 cause of death of the deceased until the permission of the coroner, deputy coroner, or district
16 attorney, if there is no coroner, has been first obtained;

17 (b) To discriminate because of race, creed, color, religion, disability, sex, sexual
18 orientation, marital status, national origin, or ancestry in the provision of funeral services;

19 (c) For any public officer or employee or any other person having a professional
20 relationship with the decedent to approve or cause the final disposition of human remains
21 in violation of this article **135**;

22 (d) For a person in the business of paying for or providing death benefits, funerals,
23 funeral ceremonies, final dispositions, or preneed contracts to pay or provide benefits in a
24 manner that deprives the next of kin or legal representative of the right to use those
25 payments or benefits at a funeral establishment of his or her choice;

26 (e) For a funeral director, mortuary science practitioner, embalmer, funeral
27 establishment, or facility in which people regularly die or ~~such~~ THE person's or facility's
28 agent to engage in a business practice that interferes with the freedom of choice of the
29 general public to choose a funeral director, mortuary science practitioner, embalmer, or
30 funeral establishment;

31 (f) For a county coroner to violate section 30-10-619; ~~C.R.S.~~;

32 (g) To transport or otherwise transfer by common carrier human remains unless:

33 (I) A funeral director, mortuary science practitioner, or embalmer has embalmed or
34 hermetically sealed the body for transportation and complies with applicable common carrier
35 law; or

- 1 (II) The transport or transfer is to a funeral establishment, funeral director, or
2 embalmer within the state of Colorado;
- 3 (h) To advertise as holding a degree, a certificate of registration, a professional
4 license, or a professional certification issued by a state, political subdivision, or agency
5 unless the person holds ~~such~~ THE degree, registration, license, or certification and it is
6 current and valid at the time of advertisement;
- 7 (i) For a funeral director, mortuary science practitioner, or embalmer to admit or
8 permit any person to visit the embalming, cremation, or preparation room during the time
9 a body is being embalmed, cremated, or prepared for final disposition, unless the person:
10 (I) Is a funeral director, mortuary science practitioner, cremationist, or embalmer;
11 (II) Is an authorized employee of a funeral establishment;
12 (III) Has the written consent of the next of kin of ~~such~~ THE deceased person or of a
13 person having legal authority to give ~~such~~ permission in the absence of any next of kin;
14 (IV) Enters by order of a court of competent jurisdiction or IS a peace officer ~~level~~
15 ~~I, Ia, H, Hh, or HhA~~ AS DESCRIBED IN ARTICLE 2.5 OF TITLE 16;
16 (V) Is a student enrolled in a mortuary science program;
17 (VI) Is a registered or licensed nurse with a medical reason to be present;
18 (VII) Is a licensed physician or surgeon with a medical reason to be present;
19 (VIII) Is a technician representing a procurement organization as defined in section
20 15-19-202 for purposes of an anatomical gift; or
21 (IX) Is the director or the director's designee;
- 22 (j) To refuse to properly and promptly release human remains or cremated remains
23 to the custody of the person who has the legal right to effect ~~such~~ THE release whether or not
24 any costs have been paid;
- 25 (k) To tell a person that a casket is required when the expressed wish is for
26 immediate cremation;
- 27 (l) To embalm or cremate human remains without obtaining permission from the
28 person with the right of final disposition unless otherwise required by section ~~12-54-105~~
29 **12-135-106**;
- 30 (m) To prohibit, hinder, or restrict or to attempt to prohibit, hinder, or restrict the
31 following:
32 (I) The offering or advertising of immediate cremation, advance funeral
33 arrangements, or low-cost funerals;
34 (II) Arrangements between memorial societies and funeral industry members; or
35 (III) A funeral service industry member from disclosing accurate information

1 concerning funeral merchandise and services;

2 (n) To engage in willfully dishonest conduct or commit negligence in the practice
3 of embalming, funeral directing, or providing for final disposition that defrauds or causes
4 injury or is likely to defraud or cause injury;

5 (o) To fail to include in a contract for funeral services the following statement:
6 "INQUIRIES REGARDING YOUR FUNERAL AGREEMENT MAY BE DIRECTED TO
7 THE DEPARTMENT OF REGULATORY AGENCIES", along with the current address
8 or telephone number of the department; ~~of regulatory agencies;~~

9 (p) For a person owning an indirect interest with more than ten-percent ownership
10 in a funeral establishment or for a person owning a direct interest in a funeral establishment
11 to own an indirect interest with more than ten-percent ownership in a nontransplant tissue
12 bank, as defined in section ~~12-54.5-101 (5)~~ **12-140-102 (3)**, or to own a direct interest in a
13 nontransplant tissue bank.

14 (2) For purposes of this section only, "next of kin" shall not include any person who
15 is arrested on suspicion of having committed, is charged with, or has been convicted of, any
16 felony offense specified in part 1 of article 3 of title 18 ~~C.R.S.~~, involving the death of the
17 deceased person. If charges are not brought, charges are brought but dismissed, or the person
18 charged is acquitted of the alleged crime before final disposition of the deceased person's
19 body, this subsection (2) shall not apply.

20
21 **12-135-106. [Formerly 12-54-105] Care of bodies required - public health.** A
22 funeral establishment shall embalm, refrigerate, cremate, bury, or entomb human remains
23 within twenty-four hours after taking custody of the remains.

24
25 **12-135-107. [Formerly 12-54-106] Consumer protection.** (1) A funeral
26 establishment whose services are purchased shall make every reasonable attempt to fulfill
27 the expressed needs and desires of the person with the right of final disposition, and shall
28 make a full disclosure of all its available services and merchandise to the arrangers prior to
29 selection of the casket.

30 (2) Before a person selects the funeral, the funeral establishment shall provide a
31 written itemized list of the prices of all available merchandise and individual services at that
32 funeral establishment. Full disclosure shall also be made in the case of a memorial service
33 and as to use of funeral merchandise and facilities. In no event shall ~~such~~ THE person be
34 required to purchase services or products contained on the itemized list that are not desired
35 for the funeral unless ~~such~~ THE services or goods are required by law.

1 (3) Any statements of legal or practical requirements shall be complete and accurate,
2 including the conditions under which embalming is required or advisable. Representations
3 as to the use or necessity of a casket or alternative container in connection with a funeral or
4 alternatives for final disposition shall be truthful and shall disclose all pertinent information.

5 (4) When quoting funeral prices, either orally, by use of a disclosure statement, or
6 by a final bill, the funeral establishment shall only list those items as cash advances or
7 accommodation items that are paid for or could be paid for by the next of kin in the same
8 amount that is paid by the funeral home.

9
10 **12-135-108. [Formerly 12-54-107] Violations and penalties.** Any person who
11 violates this part 1 or part 3 of this article *135* is guilty of a misdemeanor and, upon
12 conviction, shall be punished by a fine of not more than five thousand dollars or by
13 imprisonment in the county jail for not more than twenty-four months or by both such fine
14 and imprisonment.

15
16 **12-135-109. [Formerly 12-54-108] Exceptions - safe harbor.** (1) This part 1 shall
17 not apply to, or in any way interfere with, the duties of the following persons:

18 (a) An officer of a public institution;

19 (b) An officer of a medical college, county medical society, anatomical association,
20 or college of embalming; or

21 (c) A person acting under the authority of ~~part 2 of article 34 of this title~~ PART 3 OF
22 ARTICLE 19 OF TITLE 15.

23 (2) (a) This part 1 shall not apply to, nor in any way interfere with, any custom or rite
24 of any religious sect in the burial of its dead, and the members and followers of the religious
25 sect may continue to provide memorial services for, care for, prepare, and bury the bodies
26 of deceased members of the religious sect, free from any term or condition, or any provision
27 of this part 1, and are not subject to this part 1, so long as the human remains are
28 refrigerated, frozen, embalmed, interred, or cremated within seven days after death.

29 (b) If human remains are refrigerated or embalmed pursuant to ~~paragraph (a) of this~~
30 ~~subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION, the body must be interred, frozen, or
31 cremated within thirty days after death unless the coroner authorizes otherwise in writing.
32 The coroner shall not permit an exception to this ~~paragraph (b)~~ SUBSECTION (2)(b) unless
33 the applicant can demonstrate a legitimate delay caused by unforeseen uncontrollable
34 circumstances or by a criminal investigation.

35 (c) Notwithstanding this subsection (2), upon the receipt of evidence that the human

1 remains likely contained a serious contagious disease, the state department of public health
2 and environment, the state board of health, or a local department of health may issue an
3 order overruling this subsection (2).

4 (3) A person who sells or offers to sell caskets, urns, or other funeral goods, but does
5 not provide funeral services, shall not be subject to this article **135**.

6 (4) If a funeral director, mortuary science practitioner, or embalmer has acted in good
7 faith, the funeral director, mortuary science practitioner, or embalmer may rely on a signed
8 statement from a person with the right of final disposition under section 15-19-106 ~~C.R.S.~~;
9 that:

10 (a) The person knows of no document expressing the deceased's wishes for final
11 disposition that qualifies to direct the final disposition under section 15-19-104; ~~C.R.S.~~;

12 (b) The person has made a reasonable effort under section 15-19-106 ~~C.R.S.~~ to
13 contact each person with the right of final disposition and to learn his or her wishes; and

14 (c) The person knows of no objections to the final disposition.

15 (5) (a) (I) A funeral establishment, funeral director, or mortuary science practitioner
16 may dispose of cremated remains at the expense of the person with the right of final
17 disposition one hundred eighty days after cremation if the person was given clear prior
18 notice of this ~~paragraph (a)~~ SUBSECTION (5)(a) and a reasonable opportunity to collect the
19 cremated remains, the exact location of the final disposition and the costs associated with
20 the final disposition are recorded, and the recovery of the cremated remains is possible.
21 Recovery of costs is limited to a reasonable amount of the costs actually expended by the
22 funeral establishment, funeral director, or mortuary science practitioner.

23 (II) A funeral establishment, funeral director, or mortuary science practitioner may
24 comply with this ~~paragraph (a)~~ SUBSECTION (5)(a) by transferring the cremated remains and
25 the records showing the funeral establishment and the deceased's name, date of birth, and
26 next of kin for final disposition to a facility or place normally used for final disposition if
27 the new custodian can comply with this ~~paragraph (a)~~ SUBSECTION (5)(a).

28 (III) If cremated remains are not claimed by the person with the right of final
29 disposition within three years after cremation, a funeral establishment, funeral director, or
30 mortuary science practitioner may dispose of the remains in an unrecoverable manner by
31 placing the remains in an ossuary or by scattering the remains in a dedicated cemetery,
32 scattering garden, or consecrated ground used exclusively for these purposes.

33 (IV) The custodian is not liable for the loss or destruction of records required to be
34 kept by this ~~paragraph (a)~~ SUBSECTION (5)(a) if the loss or destruction was not caused by the
35 custodian's negligence.

1 (b) If the person was cremated prior to July 1, 2003, and the funeral director or
2 mortuary science practitioner reasonably attempts to notify the person with the right of final
3 disposition of the provisions of this subsection (5), the cremated remains may be disposed
4 of in accordance with this subsection (5) notwithstanding a failure to provide the notice of
5 the provisions of this subsection (5) to the person with the right of final disposition prior to
6 disposing of the remains.

7
8 **12-135-110. [Formerly 12-54-110] Registration required.** (1) Unless practicing
9 at a registered funeral establishment pursuant to this section, a person shall not practice as,
10 or offer the services of, a mortuary science practitioner, funeral director, or embalmer, nor
11 shall the funeral establishment sell or offer to sell funeral goods and services to the public.

12 (2) (a) Each funeral establishment shall register with the director using forms as
13 determined by the director. The registration shall include the following:

- 14 (I) The specific location of the funeral establishment;
- 15 (II) The full name and address of the designee appointed pursuant to subsection (3)
16 of this section;
- 17 (III) The date the funeral establishment began doing business; and
- 18 (IV) A list of each of the following services provided at each funeral establishment
19 location:
 - 20 (A) Refrigerating or holding human remains;
 - 21 (B) Embalming human remains;
 - 22 (C) Transporting human remains to or from the funeral establishment or the place
23 of final disposition;
 - 24 (D) Providing funeral goods or services to the public; and
 - 25 (E) Selling preneed contracts.

26 (b) Each funeral establishment registration shall be renewed, according to a schedule
27 established by the director IN ACCORDANCE WITH SECTION 12-20-202 (1), in a form as
28 determined by the director.

29 (c) If, after initial registration, the funeral establishment provides a service listed in
30 ~~subparagraph (IV) of paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a)(IV) OF THIS
31 SECTION that was not included in the initial registration, the funeral establishment shall
32 submit an amended registration within thirty days after beginning to provide the new service.

33 (d) If, after initial registration, the funeral establishment appoints a new designee, the
34 funeral establishment shall submit an amended registration within thirty days after
35 appointing the designee.

1 (e) ~~The director may establish registration fees, renewal fees, and delinquency fees~~
2 ~~for reinstatement pursuant to section 24-34-105, C.R.S. If a funeral establishment fails to~~
3 ~~renew the registration in accordance with the schedule established by the director, the~~
4 ~~registration shall expire~~ SECTIONS 12-20-105 AND 12-20-202 (1) AND (2) GOVERN FEES FOR,
5 AND RENEWAL, EXPIRATION, AND REINSTATEMENT OF, REGISTRATIONS UNDER THIS PART 1.

6 (3) Each funeral establishment shall appoint an individual as the designee of the
7 funeral establishment. A designee shall:

8 (a) Be at least eighteen years of age;

9 (b) Have at least two years' experience working for a funeral establishment;

10 (c) Be employed by the registered funeral establishment that the designee represents;

11 (d) Have the authority within the funeral establishment's organization to require that
12 personnel comply with this article **135**; and

13 (e) Not be designated for more than one funeral establishment unless the additional
14 establishment is operated under common ownership and management and no funeral
15 establishment is more than sixty miles from another establishment held under the same
16 ownership conditions.

17 (4) The designee shall require each person employed at the funeral establishment to
18 demonstrate evidence of compliance with section ~~12-54-111~~ **12-135-111**. The designee shall
19 retain the records of ~~such~~ THE EVIDENCE OF COMPLIANCE so long as the person is employed
20 at the funeral establishment.

21 (5) This section shall not require the registration of a nonprofit organization that only
22 provides education or support to an individual who intends to provide for final disposition
23 of human remains.

24
25 **12-135-111. [Formerly 12-54-111] Title protection.** (1) A person shall not
26 advertise, represent, or hold oneself out as or use the title of a mortuary science practitioner
27 unless the person:

28 (a) Has at least two thousand hours practicing or interning as a mortuary science
29 practitioner, including, without limitation, experience in cremation and embalming;

30 (b) Has graduated with a certificate, diploma, or degree in mortuary science from:

31 (I) A program accredited by the American Board of Funeral Service Education or its
32 successor, if the successor is approved by the director, and the program is part of a school
33 of higher education; or

34 (II) A school of higher education accredited by the American Board of Funeral
35 Service Education or its successor, if the successor is approved by the director; and

1 (c) Has taken the mortuary science test, known as the national board examination,
2 administered by the international conference of funeral service examining boards or its
3 successor, if the successor is approved by the director, and received a passing score.

4 (2) A person shall not advertise, represent, or hold oneself out as or use the title of
5 a funeral director unless the applicant:

6 (a) Has at least two thousand hours practicing or interning as a funeral director; and

7 (b) Has directed at least fifty funerals or graveside services.

8 (3) A person shall not advertise, represent, or hold oneself out as or use the title of
9 an embalmer unless the applicant:

10 (a) Has at least four thousand hours practicing or interning as an embalmer; and

11 (b) Has embalmed at least fifty human remains.

12 (4) For purposes of this section, intern or practice hours from Colorado or any other
13 state shall meet the standards set by this section.

14
15 **12-135-112. [Formerly 12-54-112] Standards of practice - embalming -**
16 **transporting.** (1) A funeral establishment that performs embalming shall:

17 (a) Maintain a sanitary preparation room with sanitary flooring, drainage, and
18 ventilation;

19 (b) Employ universal biological hazard precautions;

20 (c) Employ reasonable care to minimize the risk of transmitting communicable
21 diseases from human remains;

22 (d) Be equipped with instruments and supplies necessary to protect the health and
23 safety of the public and employees of the funeral establishment; and

24 (e) Transport human remains in a safe and sanitary manner.

25 (2) A funeral establishment that transports human remains shall:

26 (a) Use a motor vehicle that is appropriate for the transportation of human remains;
27 and

28 (b) Transport human remains in a safe and sanitary manner.

29 (3) A funeral establishment shall remove any implanted device in human remains
30 before transporting the body to a crematory.

31
32 **12-135-113. [Formerly 12-54-113] Custody and responsibility - rules.** (1) A
33 funeral establishment shall not, through its managers, employees, contractors, or agents, take
34 custody of human remains without an attestation of positive identification on a form
35 promulgated by the director by rule by:

- 1 (a) The next of kin;
- 2 (b) The county coroner or the county coroner's designee; or
- 3 (c) An authorized person at the care facility where the deceased died.
- 4 (2) A funeral establishment is responsible for identifying and tracking human
- 5 remains from the time it takes custody of human remains until the:
- 6 (a) Final disposition has occurred or the remains are returned to the person who has
- 7 the right of final disposition;
- 8 (b) Human remains are released in accordance with the instructions given by the
- 9 person who has the right of final disposition; or
- 10 (c) Remains are released to another funeral establishment, crematory, repository, or
- 11 entity as authorized by the person who has the right of final disposition.
- 12 (3) The director shall adopt rules implementing this section that:
- 13 (a) Establish what constitutes custody;
- 14 (b) Define "care facility", "repository", and "entity";
- 15 (c) Establish who is authorized to identify human remains at a care facility for a
- 16 funeral establishment; and
- 17 (d) Prescribe the minimum standards for the positive identification and chain of
- 18 custody of human remains. A funeral establishment may use the establishment's own
- 19 procedures if the procedures meet or exceed the minimum standards of the rule promulgated
- 20 by the director.

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PART 2
ASSESSMENT OF MORTUARIES

12-135-201. [Formerly 12-54-201] Mortuaries in cemeteries not exempt. No person, firm, association, partnership, or corporation engaged in the ownership, operation, or management of a cemetery or mausoleum in this state ~~which~~ THAT is exempt from payment of general property taxes, shall, either directly or indirectly, own, manage, conduct, or operate a funeral home or mortuary in ~~such~~ THE cemetery or mausoleum, or adjacent thereto and in connection therewith, unless ~~said~~ THE cemetery or mausoleum and funeral home or mortuary is listed for assessment purposes. The attorney general, county attorney, or any interested party may maintain injunction proceedings to prevent any violation of this section.

PART 3

1 CREMATION

2
3 **12-135-301. [Formerly 12-54-301] Unlawful acts.** (1) It is unlawful for a
4 crematory:

5 (a) To discriminate because of race, creed, color, religion, sex, marital status, sexual
6 orientation, or national origin in the provision of funeral services;

7 (b) To approve or cause the final disposition of human remains in violation of this
8 article **135**;

9 (c) To engage in a business practice that interferes with the freedom of choice of the
10 general public to choose a funeral director, mortuary science practitioner, cremationist,
11 embalmer, or funeral establishment;

12 (d) To advertise as holding a degree, a certificate of registration, a professional
13 license, or a professional certification issued by a state, political subdivision, or agency
14 unless the person holds such THE degree, registration, license, or certification and it is
15 current and valid at the time of advertisement;

16 (e) To admit or permit any person to visit the crematory or preparation room during
17 the time a body is being cremated or prepared for final disposition unless the person:

18 (I) Is a funeral director, mortuary science practitioner, or cremationist;

19 (II) Is an authorized employee of a crematory;

20 (III) Has the written consent of the next of kin of the deceased person or of a person
21 having legal authority to give consent in the absence of any next of kin;

22 (IV) Enters by order of a court of competent jurisdiction or IS a peace officer ~~level~~
23 ~~I, Ia, II, III, or IIIa~~ AS DESCRIBED IN ARTICLE 2.5 OF TITLE 16;

24 (V) Is a student or intern enrolled in a mortuary science program;

25 (VI) Is a registered or licensed nurse with a medical reason to be present;

26 (VII) Is a licensed physician or surgeon with a medical reason to be present;

27 (VIII) Is a technician representing a procurement organization as defined in section
28 15-19-202 for purposes of an anatomical gift; or

29 (IX) Is the director or the director's designee;

30 (f) To refuse to properly and promptly release human remains to the custody of the
31 person who has the legal right to effect the release, whether or not any costs have been paid,
32 unless there is a good-faith dispute over who controls the right of final disposition;

33 (g) To cremate human remains without obtaining permission from the person with
34 the right of final disposition;

35 (h) To prohibit, hinder, or restrict, or attempt to prohibit, hinder, or restrict, the

- 1 following:
- 2 (I) The offering or advertising of immediate cremation, advance funeral
- 3 arrangements, low-cost funerals, or low-cost cremations;
- 4 (II) Arrangements between memorial societies and funeral industry members; or
- 5 (III) A funeral service industry member from disclosing accurate information
- 6 concerning funeral merchandise and services;
- 7 (i) To cremate human remains in a facility unless the facility is registered pursuant
- 8 to section ~~12-54-303~~ **12-135-303**;
- 9 (j) To refuse to accept human remains that are not in a casket or to require human
- 10 remains to be placed in a casket at any time;
- 11 (k) To allow a crematory operator to perform services beyond an operator's
- 12 competency, training, or education;
- 13 (l) To engage in willfully dishonest conduct or commit negligence in the practice of
- 14 cremation or providing for final disposition that defrauds or causes injury or is likely to
- 15 defraud or cause injury.
- 16 (2) For purposes of this section only, "next of kin" shall not include any person who
- 17 is arrested on suspicion of having committed, is charged with, or has been convicted of, any
- 18 felony offense specified in part 1 of article 3 of title 18 ~~C.R.S.~~, involving the death of the
- 19 deceased person. This subsection (2) shall not apply if charges are not brought, charges are
- 20 brought but dismissed, or the person charged is acquitted of the alleged crime before final
- 21 disposition of the deceased person's body.
- 22 (3) It is unlawful for a person owning an indirect interest with more than ten-percent
- 23 ownership in a crematory or for a person owning a direct interest in a crematory to own an
- 24 indirect interest with more than ten-percent ownership in a nontransplant tissue bank, as
- 25 defined in section ~~12-54.5-101~~ ~~(5)~~ **12-140-102** (3), or to own a direct interest in a
- 26 nontransplant tissue bank.
- 27
- 28 **12-135-302. [Formerly 12-54-302] Exceptions - safe harbor.** (1) If a crematory has
- 29 acted in good faith, the crematory may rely on a signed statement from a person with the
- 30 right of final disposition under section 15-19-106 ~~C.R.S.~~; that:
- 31 (a) The person knows of no document expressing the deceased person's wishes for
- 32 final disposition that qualifies to direct the final disposition under section 15-19-104; ~~C.R.S.~~;
- 33 (b) The person has made a reasonable effort under section 15-19-106 ~~C.R.S.~~; to
- 34 contact each person with the right of final disposition and to learn his or her wishes; and
- 35 (c) The person knows of no objections to the final disposition.

1 (2) (a) (I) A crematory may dispose of cremains at the expense of the person with the
2 right of final disposition one hundred eighty days after cremation if the person was given
3 clear prior notice of this ~~paragraph (a)~~ SUBSECTION (2)(a) and a reasonable opportunity to
4 collect the cremains; the exact location of the final disposition and the costs associated with
5 the final disposition are recorded; and the recovery of the cremains is possible. Recovery of
6 costs is limited to a reasonable amount of the costs actually expended by the crematory.

7 (II) A crematory may comply with this ~~paragraph (a)~~ SUBSECTION (2)(a) by
8 transferring the cremated remains and the records showing the funeral establishment and the
9 deceased's name, date of birth, and next of kin for final disposition to a facility or place
10 normally used for final disposition if the new custodian can comply with this ~~paragraph (a)~~
11 SUBSECTION (2)(a).

12 (III) If cremated remains are not claimed by the person with the right of final
13 disposition within three years after cremation, a crematory may dispose of the remains in an
14 unrecoverable manner by placing the remains in an ossuary or by scattering the remains in
15 a dedicated cemetery, scattering garden, or consecrated ground used exclusively for these
16 purposes.

17 (IV) The custodian is not liable for the loss or destruction of records required to be
18 kept by this ~~paragraph (a)~~ SUBSECTION (2)(a) if the loss or destruction was not caused by the
19 custodian's negligence.

20 (b) If the deceased was cremated prior to July 1, 2003, and the crematory reasonably
21 attempts to notify the person with the right of final disposition of the provisions of this
22 subsection (2), the remains may be disposed of in accordance with this subsection (2),
23 notwithstanding a failure to provide the notice of the provisions of this subsection (2) to the
24 person with the right of final disposition prior to disposing of the remains.

25 (3) (a) This part 3 shall not apply to, nor interfere with, any custom or rite of a
26 religious sect in the final disposition of its dead, and the members and followers of the
27 religious sect may continue to provide memorial services for, care for, prepare, and cremate
28 the bodies of deceased members of the religious sect if the human remains are refrigerated,
29 frozen, or cremated within seven days after death.

30 (b) If human remains are refrigerated pursuant to ~~paragraph (a) of this subsection (3)~~
31 SUBSECTION (3)(a) OF THIS SECTION, the body must be cremated within thirty days after death
32 unless the coroner authorizes otherwise in writing. The coroner shall not permit an exception
33 to this ~~paragraph (b)~~ SUBSECTION (3)(b) unless the applicant can demonstrate a legitimate
34 delay caused by unforeseen, uncontrollable circumstances or by a criminal investigation.

35

1 **12-135-303. [Formerly 12-54-303] Registration required.** (1) Unless practicing
2 at a registered crematory under this section and except as provided in section ~~12-54.5-104~~
3 ~~(3) 12-140-105 (3)~~, a person shall not practice as, or offer the services of, a cremationist, nor
4 shall the crematory sell or offer to sell funeral goods and services to the public.

5 (2) (a) Each crematory shall register with the director using forms as determined by
6 the director. The registration shall include the following:

7 (I) The specific location of the crematory;

8 (II) The full name and address of the designee appointed pursuant to subsection (3)
9 of this section;

10 (III) The date the crematory began doing business; and

11 (IV) A list of each of the following services provided at each crematory location:

12 (A) Refrigerating or holding human remains;

13 (B) Transporting human remains to or from the crematory or the place of final
14 disposition;

15 (C) Providing funeral goods or services to the public;

16 (D) Cremating human remains; and

17 (E) Selling preneed contracts.

18 (b) Each crematory registration shall be renewed, according to a schedule established
19 by the director, in a form as determined by the director.

20 (c) If, after initial registration, the crematory provides a service listed in ~~subparagraph~~
21 ~~(IV) of paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a)(IV) OF THIS SECTION that was
22 not included in the initial registration, the crematory shall submit an amended registration
23 within thirty days after beginning to provide the new service.

24 (d) If, after initial registration, the crematory appoints a new designee, the crematory
25 shall submit an amended registration within thirty days after appointing the designee.

26 ~~(e) The director may establish registration fees, renewal fees, and delinquency fees~~
27 ~~for reinstatement pursuant to section 24-34-105, C.R.S. If a crematory fails to renew the~~
28 ~~registration in accordance with the schedule established by the director, the registration shall~~
29 ~~expire~~ SECTIONS 12-20-105 AND 12-20-202 (1) AND (2) GOVERN FEES FOR, AND RENEWAL,
30 EXPIRATION, AND REINSTATEMENT OF, REGISTRATIONS UNDER THIS PART 1.

31 (3) Each crematory shall appoint an individual as the designee of the crematory. A
32 designee shall:

33 (a) Be at least eighteen years of age;

34 (b) Have at least two years' experience working for a crematory;

35 (c) Be employed by the registered crematory that the designee represents;

1 (d) Have the authority within the crematory's organization to require that personnel
2 comply with this article *135*; and

3 (e) Not be designated for more than one crematory unless the additional
4 establishment is operated under common ownership and management and no crematory is
5 more than sixty miles from another establishment held under the same ownership conditions.

6 (4) The designee shall require each person employed at the crematory to demonstrate
7 evidence of compliance with section ~~12-54-304~~ **12-135-304**. The designee shall retain the
8 records of ~~such~~ THE EVIDENCE OF COMPLIANCE so long as the person is employed at the
9 crematory.

10 (5) This section shall not require the registration of a nonprofit organization that only
11 provides education or support to an individual who intends to provide for final disposition
12 of human remains.

13
14 **12-135-304. [Formerly 12-54-304] Title protection.** A person shall not advertise,
15 represent, or hold oneself out as or use the title of a cremationist unless the applicant has at
16 least five hundred hours practicing or interning as a cremationist and has cremated at least
17 fifty human remains.

18
19 **12-135-305. [Formerly 12-54-305] Records and receipts.** (1) The crematory shall
20 furnish to a person who delivers human remains to the crematory a receipt, which shall be
21 signed by both the crematory's representative and the person who delivers the human
22 remains. The crematory shall retain a copy of the receipt in its records pursuant to subsection
23 (3) of this section. The receipt shall include the following:

- 24 (a) The date and time of the delivery;
25 (b) The type of casket or alternative container that was delivered;
26 (c) The name of the person who delivered the human remains;
27 (d) The name of any business with which the person delivering the human remains
28 is affiliated;
29 (e) The name of the person who received the human remains on behalf of the
30 crematory; and
31 (f) The name of the decedent.

32 (2) Upon release of cremains, the crematory shall furnish to the person who receives
33 the cremains a receipt, signed by both the crematory's representative and the person who
34 receives the cremains. The crematory shall retain a copy of the receipt in its records pursuant
35 to subsection (1) of this section. The receipt shall include the following:

- 1 (a) The date and time of the release;
- 2 (b) The name of the person to whom the cremains were released;
- 3 (c) The name of the person who released the cremains on behalf of the crematory;
- 4 and
- 5 (d) The name of the decedent.

6 (3) A crematory shall maintain, for at least five years and available at the registered
7 location, a permanent record of each cremation occurring at the facility and copies of the
8 receipts required by this section.

9
10 **12-135-306. [Formerly 12-54-306] Limited liability.** A crematory shall not be liable
11 for any valuables delivered to the crematory if the crematory exercised reasonable care in
12 handling and protecting the valuables.

13
14 **12-135-307. [Formerly 12-54-307] Standards of practice - cremating.** (1) A
15 crematory shall:

- 16 (a) Maintain a retort or crematory chamber that is operated at all times in a safe and
17 sanitary manner;
- 18 (b) Employ reasonable care to minimize the risk of transmitting communicable
19 diseases from human remains;
- 20 (c) Be equipped with instruments and supplies necessary to protect the health and
21 safety of the public and employees of the crematory; and
- 22 (d) Transport human remains in a safe and sanitary manner.

23 (2) (a) A crematory shall not cremate human remains unless the crematory has
24 obtained a statement containing the following from a funeral establishment, funeral director,
25 mortuary science practitioner, or the person with the right of final disposition:

- 26 (I) The identity of the decedent;
- 27 (II) The date of death;
- 28 (III) Authorization to cremate the human remains;
- 29 (IV) The name of the person authorizing cremation and an affidavit or other
30 document in compliance with article 19 of title 15 ~~C.R.S.~~, that the authorization complies
31 with article 19 of title 15; ~~C.R.S.~~;
- 32 (V) A statement that the human remains do not contain an implanted device;
- 33 (VI) The name of the person authorized to receive the cremains;
- 34 (VII) A list of items delivered to the crematory along with the human remains;
- 35 (VIII) A statement as to whether the next of kin has made arrangements for a

1 viewing or service before cremation and the date and time of any viewing or service;
2 (IX) A copy of the disposition permit; and
3 (X) A signature of a representative of any funeral establishment or the next of kin
4 making arrangements for cremation that the representative has no actual knowledge that
5 contradicts any information required by this ~~paragraph (a)~~ SUBSECTION (2)(a).
6 (b) A person who signs the statement required by ~~paragraph (a) of this subsection (2)~~
7 SUBSECTION (2)(a) OF THIS SECTION shall warrant the truthfulness of the facts contained
8 therein. A person who signs the statement with actual knowledge to the contrary shall be
9 civilly liable.
10 (3) (a) The crematory shall hold human remains in a cremation container and shall
11 not remove the remains.
12 (b) The crematory shall cremate the human remains in a cremation container.
13 (c) A cremation container must:
14 (I) Be composed of materials suitable for cremation;
15 (II) Be able to be closed in order to provide a complete covering for the human
16 remains;
17 (III) Be resistant to leaking or spilling;
18 (IV) Be rigid enough to handle with ease;
19 (V) Provide reasonable protection for the health and safety of crematory employees;
20 and
21 (VI) Be used exclusively for the cremation of human remains.
22 (4) A crematory shall not cremate the human remains of more than one person within
23 the same cremation chamber or otherwise commingle the cremains of multiple human
24 remains unless the next of kin has signed a written authorization. No crematory is civilly
25 liable for commingling the cremains of human remains if the next of kin has signed the
26 written authorization.
27 (5) (a) A crematory shall use a tag to identify human remains and cremains. The tag
28 must be verified, removed, and placed near the cremation chamber control panel prior to
29 cremation. The tag must remain next to the cremation chamber until the cremation is
30 complete.
31 (b) After cremation is complete, all of the cremains and reasonable recoverable
32 residue shall be removed from the cremation chamber and processed as necessary. Anything
33 other than the cremains shall be disposed of unless the next of kin authorizes otherwise.
34 (c) The processed cremains shall be placed in a temporary container or urn. Any
35 cremains that do not fit within ~~such~~ THE enclosure shall be placed in a separate temporary

1 container or urn. Each container shall be marked with the decedent's identity and the name
2 of the crematory. If a temporary container is used, the crematory shall disclose that the
3 temporary container should not be used for permanent storage.

4 (d) If cremated remains are shipped, the crematory shall use a method that employs
5 an internal tracking system and obtains a signed receipt from the person accepting delivery.

6 (6) Cremains shall not be commingled with other cremains in final disposition or
7 scattering without written authorization from the next of kin unless the disposition or
8 scattering occurs within a dedicated cemetery or consecrated grounds used exclusively for
9 ~~such~~ THOSE purposes.

10 (7)(a) A crematory shall not cremate human remains containing an implanted device.
11 If the funeral establishment that had control of the human remains failed to ensure that a
12 device was removed, the funeral establishment is responsible for removing the device.

13 (b) If the person authorizing cremation fails to inform the crematory of the presence
14 of an implanted device, the person shall be solely liable for any resulting damage to the
15 crematory.

16
17 **12-135-308. [Formerly 12-54-308] Custody and responsibility - rules.** (1) A
18 crematory shall not, through its managers, employees, contractors, or agents, take custody
19 of human remains without an attestation of positive identification on a form promulgated
20 by the director by rule by:

- 21 (a) The next of kin;
- 22 (b) The county coroner or the county coroner's designee; or
- 23 (c) An authorized person at the care facility where the deceased died.

24 (2) A crematory is responsible for identifying and tracking human remains from the
25 time it takes custody of human remains until the:

26 (a) Final disposition has occurred or the remains are returned to the person who has
27 the right of final disposition;

28 (b) Human remains are released in accordance with the instructions given by the
29 person who has the right of final disposition; or

30 (c) Remains are released to a funeral establishment, another crematory, repository,
31 or entity as authorized by the person who has the right of final disposition.

32 (3) The director shall adopt rules implementing this section that:

- 33 (a) Establish what constitutes custody;
- 34 (b) Define "care facility", "repository", and "entity";
- 35 (c) Establish who is authorized to identify human remains at a care facility for a

1 funeral establishment; and

2 (d) Prescribe the minimum standards for the positive identification and chain of
3 custody of human remains. A crematory may use the crematory's own procedures if the
4 procedures meet or exceed the minimum standards of the rule promulgated by the director.

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PART 4
ADMINISTRATION

9 **12-135-401. [Formerly 12-54-401] Powers and duties of the director - rules.**

10 (1) The director may ~~deny, suspend, refuse to renew, issue a letter of admonition or~~
11 ~~confidential letter of concern to, revoke, place on probation,~~ TAKE DISCIPLINARY OR OTHER
12 ACTION AS AUTHORIZED IN SECTION 12-20-404 or limit the scope of practice of the
13 registration of a funeral establishment or crematory under this article **135** that has:

14 (a) Filed an application with the director containing material misstatements of fact
15 or has omitted any disclosure required by this article **135**;

16 (b) Had a registration issued by Colorado, or an equivalent license, registration, or
17 certification issued by another state, to practice mortuary science or to embalm or cremate
18 human remains revoked; or

19 (c) Violated this article **135** or any rule of the director adopted under this article **135**.

20 (2) (a) The director may deny or revoke a registration if the funeral establishment,
21 crematory, or the designee thereof has been convicted of a felony related to another activity
22 regulated under this article **135** or a felony of moral turpitude. The director shall promptly
23 notify the funeral establishment or crematory of ~~such~~ THE revocation.

24 (b) A crematory or funeral establishment whose registration has been revoked ~~shall~~
25 ~~not be eligible for a registration for two years after the effective date of the revocation~~ IS
26 SUBJECT TO THE WAITING PERIOD SPECIFIED IN SECTION 12-20-404 (3).

27 (3) The director may investigate the activities of a funeral establishment or crematory
28 upon his or her own initiative or upon receipt of a complaint or a suspected or alleged
29 violation of this article **135**. SECTION 12-20-403 APPLIES TO INVESTIGATIONS, HEARINGS,
30 AND OTHER PROCEEDINGS UNDER THIS SECTION.

31 ~~(4) The director or an administrative law judge appointed pursuant to part 10 of~~
32 ~~article 30 of title 24 C.R.S., shall conduct disciplinary hearings concerning a registration~~
33 ~~issued under this article. Such hearings shall conform to article 4 of title 24, C.R.S.~~

34 ~~(5) (a) The director or an administrative law judge may administer oaths, take~~
35 ~~affirmations of witnesses, and issue subpoenas to compel the attendance of witnesses and~~

1 the production of all relevant papers, books, records, documentary evidence, and materials
2 in any hearing or investigation conducted by the director or an administrative law judge.

3 (b) ~~Upon failure of a witness to comply with a subpoena or service of process, the~~
4 ~~district court of the county in which the subpoenaed witness resides or conducts business~~
5 ~~may issue an order requiring the witness to appear before the director or administrative law~~
6 ~~judge and produce the relevant papers, books, records, documentary evidence, testimony,~~
7 ~~or materials in question. Failure to obey the order of the court may be punished as a~~
8 ~~contempt of court. The director or an administrative law judge may apply for such order.~~

9 (6) (4) The director shall keep records of registrations and disciplinary proceedings.
10 The records kept by the director shall be open to public inspection in a reasonable time and
11 manner determined by the director.

12 (7) (5) When the director or administrative law judge deems it appropriate and
13 useful, the director or administrative law judge may consult with or obtain a written opinion
14 from an appropriate professional organization or association of businesses who offer
15 services requiring registration under this article **135** for the purpose of investigating possible
16 violations or weighing the appropriate standard of care to be applied to specific events or
17 the facts in a hearing being held under this article **135**.

18 (8) (6) (a) The director may promulgate reasonable rules necessary to implement this
19 section, sections 12-54-110, 12-54-111, 12-54-303, and 12-54-304, and this part 4.

20 (b) Before promulgating rules, the director shall seek input and advice from a person,
21 or any state professional organization of persons, offering services that require registration
22 pursuant to this article **135**.

23 (c) Before promulgating rules, the director may seek input and advice from a
24 consumer representative who advocates for consumers affected by this article **135**.

25
26 **12-135-402. [Formerly 12-54-402] Fees.** (†) The director shall establish and collect
27 the fees for a registration issued under this article **135** pursuant to section ~~24-34-105, C.R.S.~~
28 **12-20-105**.

29 (2) ~~All fees collected by the director shall be transmitted to the state treasurer, who~~
30 ~~shall credit the same pursuant to section 24-34-105, C.R.S., and the general assembly shall~~
31 ~~make annual appropriations for expenditures of the director required to perform his or her~~
32 ~~duties under this article, which expenditures shall be made from such appropriations upon~~
33 ~~vouchers and warrants drawn pursuant to law. The division shall employ, subject to section~~
34 ~~13 of article XII of the state constitution, such clerical or other assistants as are necessary~~
35 ~~for the proper performance of its work.~~

1 **12-135-403. [Formerly 12-54-406] Cease-and-desist orders - procedure.** ~~(1)(a) If~~
2 ~~it appears to the director, based upon credible evidence as presented in a written complaint,~~
3 ~~that a person is acting in a manner that creates an imminent threat to the health and safety~~
4 ~~of the public, or a person is acting or has acted without the required registration, the director~~
5 ~~may issue an order to cease and desist such activity. The order shall set forth the statutes and~~
6 ~~rules alleged to have been violated, the facts alleged to have constituted the violation, and~~
7 ~~the requirement that all unlawful acts or unauthorized practices immediately cease.~~

8 ~~(b) Within ten days after service of the order to cease and desist pursuant to~~
9 ~~paragraph (a) of this subsection (1), the respondent may request a hearing on the question~~
10 ~~of whether the alleged acts or practices have occurred. Such hearing shall be conducted~~
11 ~~pursuant to sections 24-4-104 and 24-4-105, C.R.S.~~

12 ~~(2) (a) If it appears to the director, based upon credible evidence as presented in a~~
13 ~~written complaint, that a person has violated this article or rules promulgated under this~~
14 ~~article, then, in addition to any specific powers granted pursuant to this article, the director~~
15 ~~may issue to such person an order to show cause as to why the director should not issue a~~
16 ~~final order directing such person to cease and desist from such violations.~~

17 ~~(b) A person against whom an order to show cause has been issued pursuant to~~
18 ~~paragraph (a) of this subsection (2) shall be promptly notified by the director of the issuance~~
19 ~~of the order, along with a copy of the order, the factual and legal basis for the order, and the~~
20 ~~date set by the director for a hearing on the order. Such notice may be served by personal~~
21 ~~service, by first-class United States mail, postage prepaid, or as may be practicable upon any~~
22 ~~person against whom such order is issued. Personal service or mailing of an order or~~
23 ~~document pursuant to this subsection (2) shall constitute notice thereof to the person.~~

24 ~~(c) (I) The hearing on an order to show cause shall be commenced no sooner than~~
25 ~~ten and no later than forty-five calendar days after the date of transmission or service of the~~
26 ~~notification by the director as provided in paragraph (b) of this subsection (2). The hearing~~
27 ~~may be continued by agreement of all parties based upon the complexity of the matter,~~
28 ~~number of parties to the matter, and legal issues presented in the matter, but in no event shall~~
29 ~~the hearing commence later than sixty calendar days after the date of transmission or service~~
30 ~~of the notification.~~

31 ~~(H) If a person against whom an order to show cause has been issued pursuant to~~
32 ~~paragraph (a) of this subsection (2) does not appear at the hearing, the director may present~~
33 ~~evidence that notification was properly sent or served upon such person pursuant to~~
34 ~~paragraph (b) of this subsection (2) and such other evidence related to the matter as the~~
35 ~~director deems appropriate. The director shall issue the order within ten days after the~~

1 director's determination related to reasonable attempts to notify the respondent, and the order
2 shall become final as to that person by operation of law. Such hearing shall be conducted
3 pursuant to sections 24-4-104 and 24-4-105, C.R.S.

4 (III) ~~If the director reasonably finds that the person against whom the order to show~~
5 ~~cause was issued is acting or has acted without the required registration or has engaged in~~
6 ~~acts or practices constituting violations of this article or rules promulgated under this article,~~
7 ~~a final cease-and-desist order may be issued, directing such person to cease and desist from~~
8 ~~further violations.~~

9 (IV) ~~The director shall provide notice, in the manner set forth in paragraph (b) of this~~
10 ~~subsection (2), of the final cease-and-desist order within ten calendar days after the hearing~~
11 ~~conducted pursuant to this paragraph (c) to each person against whom the final order has~~
12 ~~been issued. The final order shall be effective when issued and shall be a final order for~~
13 ~~purposes of judicial review.~~

14 (3) ~~If it appears to the director, based upon credible evidence presented to the~~
15 ~~director, that a person has engaged in an act or practice constituting a violation of this~~
16 ~~article, a rule promulgated pursuant to this article, an order issued pursuant to this article,~~
17 ~~or an act or practice constituting grounds for administrative sanction pursuant to this article,~~
18 ~~the director may enter into a stipulation with the person.~~

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

24 (5) ~~A person aggrieved by the final cease-and-desist order may seek judicial review~~
25 ~~of the director's determination or of the director's final order.~~

26 THE DIRECTOR MAY ISSUE CEASE-AND-DESIST ORDERS UNDER THE CIRCUMSTANCES AND IN
27 ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION 12-20-405.

28
29 **12-135-404. [Formerly 12-54-407] Civil penalty - fines.** (1) On motion of the
30 director, the court may impose a civil penalty of not more than one thousand dollars for a
31 violation of this article *135* or a rule promulgated under this article *135*. The penalty shall
32 be transmitted to the state treasurer and credited to the general fund.

33 (2) In addition to any other penalty that may be imposed pursuant to this section, a
34 funeral establishment or crematory violating this article *135* or a rule promulgated pursuant
35 to this article *135* may be fined no less than one hundred dollars and no more than five

1 thousand dollars for each violation proven by the director. ~~All fines collected pursuant to~~
2 ~~this subsection (2) shall be transferred to the state treasurer, who shall credit such moneys~~
3 ~~to the general fund.~~

4
5 **12-135-405. [Formerly 12-54-408] Enforcement - injunctions.** (1) The director
6 may forward to a district attorney or a state or federal law enforcement agency any
7 information concerning possible violations of statute or rule under this article **135** committed
8 by any person or complaints filed against a funeral director, mortuary science practitioner,
9 cremationist, or embalmer.

10 (2) The director may ~~request that an action be brought in the name of the people of~~
11 ~~the state of Colorado by the attorney general or the district attorney of the district in which~~
12 ~~the violation is alleged to have occurred to enjoin a person from engaging in or continuing~~
13 ~~the violation or from doing any act that furthers the violation. In such an action, an order or~~
14 ~~judgment may be entered awarding such preliminary or final injunction as is deemed proper~~
15 ~~by the court~~ SEEK INJUNCTIVE RELIEF IN ACCORDANCE WITH SECTION 12-20-406. The notice,
16 hearing, or duration of an injunction or restraining order shall be made in accordance with
17 the Colorado rules of civil procedure.

18
19 **12-135-406. [Formerly 12-54-410] Repeal.** Sections ~~12-54-110, 12-54-111,~~
20 ~~12-54-303, and 12-54-304~~ 12-135-110, 12-135-111, 12-135-303, AND 12-135-304 and this
21 part 4 are repealed, effective July 1, 2024. ~~Prior to such~~ BEFORE ITS repeal, the regulation
22 of persons registered to practice cremation and mortuary science ~~shall be reviewed pursuant~~
23 ~~to~~ IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH section 24-34-104. ~~C.R.S.~~

24
25 **ARTICLE 140**

26 **Nontransplant Tissue Banks**

27 <{*Insert nontissue transplant banks practice act.*}>

28
29 **ARTICLE 145**

30 **Outfitters and Guides**

31
32 **12-145-101. [Formerly 12-55.5-101] Legislative declaration.** It is the intent of the
33 general assembly to promote and encourage residents and nonresidents alike to participate
34 in the enjoyment and use of the mountains, rivers, and streams of Colorado and the state's
35 fish and game and, to that end, in the exercise of the police power of this state for the

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1 purpose of safeguarding the health, safety, welfare, and freedom from injury or danger of
2 ~~such~~ THE residents and nonresidents, to register and regulate those persons who, for
3 compensation, provide equipment or personal services to ~~such~~ THE residents and
4 nonresidents for the purpose of hunting and fishing. It is neither the intent of the general
5 assembly to interfere in any way with the business of livestock operations or to prevent
6 livestock owners from loaning or leasing buildings or animals to persons, nor is it intended
7 to prevent ~~said~~ THE owner from accompanying a person or persons on land that ~~such~~ THE
8 person owns, nor is it the intent of the general assembly to interfere in any way with the
9 general public's ability to enjoy the recreational value of Colorado's mountains, rivers, and
10 streams when the services of commercial outfitters are not utilized nor to interfere with the
11 right of the United States to manage the public lands under its control.
12

13 **12-100-102. Applicability of common provisions.** ARTICLES 1 AND 20 OF THIS
14 TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 145.
15

16 **12-145-103. [Formerly 12-55.5-102] Definitions.** As used in this article *145*, unless
17 the context otherwise requires:

18 (1) "Compensation" means making, or attempting to make, a profit, salary, or
19 increase in business or financial standing, or supporting any part of other programs or
20 activities, to include receiving fees, charges, dues, service swaps, or something ~~which~~ THAT
21 is not strictly a sharing of actual expenses incurred from amounts received from or for
22 outfitting services rendered or to be rendered.

23 ~~(1.5)~~ (2) "Consultant" means a person who is hired by the director to assist in any
24 investigation initiated under this article *145* or any member of an advisory committee
25 appointed pursuant to section ~~12-55.5-111~~ *12-145-113*.

26 (2) "~~Director~~" means ~~the director of the division of professions and occupations in~~
27 ~~the department of regulatory agencies.~~

28 (3) "~~Division~~" means ~~the division of professions and occupations in the department~~
29 ~~of regulatory agencies.~~

30 ~~(3.5)~~ (3) "Entity" means an entity authorized by Colorado law to conduct business,
31 including, but not limited to, a corporation, partnership, limited liability partnership, or
32 limited liability company.

33 (4) "Guide" means any individual who:

34 (a) Accompanies an outfitter's client to assist the client in the taking or attempted
35 taking of wildlife; and

1 (b) Either:

2 (I) Is employed for compensation by an outfitter; or

3 (II) Has independently contracted with an outfitter.

4 (5) "Outfitter" means a person soliciting to provide or providing, for compensation,
5 outfitting services for the purpose of hunting or fishing on land that the person does not
6 own.

7 ~~(5.5)~~ (6) "Outfitting services" means providing transportation of individuals,
8 equipment, supplies, or wildlife by means of vehicle, vessel, or pack animal, facilities
9 including but not limited to tents, cabins, camp gear, food, or similar supplies, equipment,
10 or accommodations, and guiding, leading, packing, protecting, supervising, instructing, or
11 training persons or groups of persons in the take or attempted take of wildlife.

12 ~~(6)~~ (7) "Peace officer" means a peace officer as described in section 16-2.5-10.
13 ~~C.R.S.~~

14 ~~(7) (Deleted by amendment, L. 2004, p. 340, § 14, effective July 1, 2004.)~~

15 (8) "Person" means an individual or entity.

16
17 **12-145-104. [Formerly 12-55.5-102.5] Applicability.** (1) This article *145* does not
18 apply to a person who only authorizes a person to hunt, fish, or take wildlife on property the
19 person owns, rents, or leases, including providing the authorization for compensation.

20 (2) This article *145* does not require a person to register as an outfitter if the person
21 only rents motor vehicles, livestock, or equipment.

22
23 **12-145-105. [Formerly 12-55.5-103] Registration required - fees.** (1) A person
24 shall not engage in activities as an outfitter, advertise in any publication as an outfitter, or
25 represent himself, herself, or itself as an outfitter unless the person first obtains a registration
26 from the division and unless the registration is in full force and effect and in the person's
27 immediate possession. A person shall not continue to act as an outfitter if the person's
28 registration has been suspended or revoked or has expired.

29 (2) An applicant for registration as an outfitter shall follow the procedures provided
30 in section ~~12-55.5-105~~ **12-145-107** and any other procedures required by the director. All
31 applicants shall pay a nonrefundable registration fee to be determined by the director ~~which~~
32 ~~fee shall be adequate to cover the direct and indirect expenses incurred for implementation~~
33 ~~of the provisions of this article. Such registration shall be renewable pursuant to the~~
34 ~~provisions of this article and upon payment of said fee~~ IN ACCORDANCE WITH SECTION
35 12-20-105 (2).

1 **12-145-106. [Formerly 12-55.5-103.5] Guide qualifications.** (1) An individual who
2 works as a guide must be eighteen years of age or older and hold either a valid first aid or
3 first aid instructor's card issued by the American red cross or evidence of equivalent training
4 as approved by the director. An individual who violates this subsection (1) is guilty of a
5 misdemeanor and shall be punished by a fine of one hundred dollars.

6 (2) It is a violation of this article **145** for an individual whose outfitter registration
7 has been revoked or suspended to work as a guide.

8
9 **12-145-107. [Formerly 12-55.5-105] Issuance of registration - violations.**

10 (1) Except as otherwise provided in this article **145**, the director shall issue an initial or
11 renewed registration as an outfitter to an individual who pays the required fee and furnishes
12 evidence satisfactory to the director that the individual:

13 (a) Is eighteen years of age or older;

14 (b) Holds a valid first aid card or first aid instructor's card issued by the American
15 Red Cross or evidence of equivalent training;

16 (c) Possesses minimum liability insurance coverage in the amount of fifty thousand
17 dollars for bodily injury to one individual in a single accident and one hundred thousand
18 dollars for bodily injury to all individuals in a single accident;

19 (d) Has submitted to the director a surety bond in the minimum sum of ten thousand
20 dollars, executed by the applicant as principal and by a surety company qualified and
21 authorized to do business in this state as surety. The bond must be conditioned upon
22 compliance with this article **145** and with the rules promulgated under this article **145**.

23 ~~(e) Repealed.~~

24 ~~(f) (e) Has, or will have before providing outfitting services, all the required permits~~
25 ~~or written permission on the land where the outfitter provides outfitting services.~~

26 ~~(2) and (3) (Deleted by amendment, L. 93, p. 1490, § 3, effective July 1, 1993.)~~

27 ~~(4)~~ (2) An individual or entity may register as an outfitter. An application for
28 registration of an entity shall include the names of all officers, directors, members, partners,
29 owners of at least ten percent of the entity, and other persons who have managing or
30 controlling authority in the entity. The entity shall designate on the application for outfitter
31 registration one of its officers, directors, members, partners, or other controlling or managing
32 individuals to be the responsible party and agent for the entity for all communications with
33 the division. If the entity changes its responsible party and agent, it shall notify the division
34 within ten working days after the name change and provide contact information for the new
35 responsible party and agent. If ~~such~~ THE responsible party and agent does not provide guide

1 services, he or she shall not be required to comply with ~~paragraph (b) of subsection (1)~~
2 SUBSECTION (1)(b) of this section.

3 ~~(5) (3) (a) SECTION 12-20-202 (1) AND (2) GOVERN RENEWAL AND DELINQUENCY~~
4 ~~FEES AND renewals, EXPIRATION, and reinstatement of a registration are made under a~~
5 ~~schedule established by the director, and registrations must be renewed or reinstated in~~
6 ~~accordance with section 24-34-102 (8), C.R.S. REGISTRATIONS UNDER THIS ARTICLE 145.~~

7 ~~(b) The director may establish renewal fees and delinquency fees for reinstatement~~
8 ~~in accordance with section 24-34-105, C.R.S.~~

9 ~~(c) If a person fails to renew a registration in accordance with the schedule~~
10 ~~established by the director, the registration expires.~~

11 ~~(d) (b) A person whose registration has expired and who offers or provides outfitter~~
12 ~~services is subject to the penalties provided in this article 145 or section 24-34-102 (8);~~
13 ~~C.R.S. 12-20-202.~~

14
15 **12-145-108. [Formerly 12-55.5-106] Disciplinary actions - grounds for discipline.**

16 (1) The director may ~~deny, suspend, revoke, or place on probation an outfitter's registration~~
17 ~~or issue a letter of admonition to an applicant for or holder of an outfitter's registration TAKE~~
18 ~~DISCIPLINARY OR OTHER ACTION AS AUTHORIZED IN SECTION 12-20-404 if the applicant or~~
19 ~~holder:~~

20 (a) Violates any order of the division or the director or any provision of this article
21 **145** or the rules established under this article **145**;

22 (b) Fails to meet the requirements of section ~~12-55.5-105~~ **12-145-107** or uses fraud,
23 misrepresentation, or deceit in applying for or attempting to apply for registration;

24 (c) Violates any local, state, or federal law or regulation concerning public land
25 management, wildlife, health, or cruelty to animals, including, but not limited to, section
26 33-6-113; ~~C.R.S.~~;

27 (d) Is convicted of or has entered a plea of nolo contendere or guilty to a felony;
28 except that the director shall be governed by the provisions of section 24-5-101 ~~C.R.S.~~; in
29 considering ~~such~~ THE conviction or plea;

30 (e) Uses false, deceptive, or misleading advertising;

31 (f) Misrepresents his OR HER services, facilities, or equipment to a client or
32 prospective client;

33 (g) Uses alcohol or any controlled substance as defined in section 18-18-102 (5)
34 ~~C.R.S.~~; to the extent that the use places the user or other persons at risk while providing
35 outfitting services or is a habitual user of alcohol or a controlled substance as defined in

1 section 18-18-102 (5), ~~C.R.S.~~; to the extent that the use places the user or other persons at
2 risk while providing outfitting services;

3 (h) Has incurred disciplinary action related to the practice of outfitting in another
4 jurisdiction. Evidence of such disciplinary action shall be prima facie evidence for denial
5 of registration or other disciplinary action if the violation would be grounds for ~~such~~
6 disciplinary action in this state.

7 (i) Has been convicted of second or third degree criminal trespass pursuant to section
8 18-4-503 or 18-4-504; ~~C.R.S.~~; except that the director shall be governed by the provisions
9 of section 24-5-101 ~~C.R.S.~~, in considering ~~such~~ THE conviction;

10 (j) Hires an individual as a guide who fails to meet the requirements of section
11 ~~12-55.5-103.5~~ **12-145-106**, unless ~~such~~ THE hiring is a result of an emergency situation, as
12 defined by rules promulgated by the director, in which case the outfitter may hire a guide
13 who does not possess a valid first-aid card or first aid instructor's card;

14 (k) Serves or consumes alcohol while engaged in the activities of an outfitter, if the
15 applicant or holder is under twenty-one years of age;

16 (l) Violates section 18-4-503 or 18-4-504, ~~C.R.S.~~, resulting in two or more second
17 or third degree criminal trespass convictions within any three- to five-year period while
18 acting as an outfitter or guide; or

19 (m) Fails to respond to a complaint against the registered outfitter.

20 ~~(2) To be valid, a proceeding to deny, suspend, revoke, or place on probation a~~
21 ~~registration must be conducted in accordance with sections 24-4-104 and 24-4-105, C.R.S.~~
22 ~~The director may use an administrative law judge employed by the office of administrative~~
23 ~~courts in the department of personnel to conduct hearings.~~

24 ~~(3)(a) When a complaint or investigation discloses an instance of misconduct that,~~
25 ~~in the opinion of the director, does not warrant formal action by the director but that should~~
26 ~~not be dismissed as being without merit, the director may issue and send a letter of~~
27 ~~admonition to the registrant.~~

28 ~~(b) When a letter of admonition is sent by the director to a registrant, the letter must~~
29 ~~advise the registrant that the registrant has the right to request in writing, within twenty days~~
30 ~~after receipt of the letter, that formal disciplinary proceedings be initiated to adjudicate the~~
31 ~~propriety of the conduct upon which the letter of admonition is based.~~

32 ~~(c) If the request for adjudication is timely made, the letter of admonition shall be~~
33 ~~deemed vacated and the matter shall be processed by means of formal disciplinary~~
34 ~~proceedings.~~

35 ~~(3.5) When a complaint or investigation discloses an instance of conduct that does~~

1 ~~not warrant formal action by the director and, in the opinion of the director, should be~~
2 ~~dismissed, but the director has noticed possible errant conduct by the registrant that could~~
3 ~~lead to serious consequences if not corrected, the director may send the registrant a~~
4 ~~confidential letter of concern.~~

5 (4) (2) Notwithstanding any other provision of this article **145**, the director may deny
6 an initial application for registration if:

7 (a) The applicant is an individual who was previously listed as participating in an
8 entity pursuant to section ~~12-55.5-105 (4)~~ **12-145-107 (2)**, and such THE entity was subjected
9 to discipline under this article **145**;

10 (b) The applicant is an entity, the entity lists an individual as participating in the
11 entity pursuant to section ~~12-55.5-105 (4)~~ **12-145-107 (2)**, and that individual was
12 previously listed as a participating person in an entity that was subjected to discipline under
13 this article **145**; or

14 (c) The applicant is an entity, the entity lists an individual as a participating person
15 pursuant to section ~~12-55.5-105 (4)~~ **12-145-107 (2)**, and that individual was previously
16 subjected to discipline under this article **145**.

17 (4.5) (3) The director may discipline an applicant or registrant under this section for
18 the acts of a person who:

19 (a) Is acting on behalf of the applicant or registrant; and

20 (b) (I) Is an officer, director, member, or partner of, or owner of at least a ten-percent
21 interest in, the applicant or registrant;

22 (II) Has managing or controlling authority of the applicant or registrant; or

23 (III) Is an employee, contractor, or authorized booking agent of the applicant or
24 registrant.

25 (5) ~~When a complaint or an investigation discloses an instance of misconduct that,~~
26 ~~in the opinion of the director, warrants formal action, the complaint shall not be resolved by~~
27 ~~a deferred settlement, action, judgment, or prosecution.~~

28 (6) ~~If a person's registration is revoked under this section or surrendered in lieu of~~
29 ~~discipline, the person is ineligible to submit a new application for registration or register for~~
30 ~~two years after the date the registration is revoked.~~

31 (4) SECTION 12-20-403 GOVERNS PROCEEDINGS UNDER THIS SECTION.

32
33 **12-145-109. [Formerly 12-55.5-107] Penalties - distribution of fines.** (1) IN
34 ADDITION TO THE DISCIPLINARY OR OTHER ACTIONS AUTHORIZED UNDER SECTIONS
35 12-145-108 AND 12-20-404, THE DIRECTOR MAY IMPOSE AN ADMINISTRATIVE FINE ON any

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proposals\Bill Draft_Common provisions_article 1&DPO articles.wpd

1 person who violates the provisions of this article *145* or the rules of the director promulgated
2 under this article *145*, ~~may be penalized by the director~~ upon a finding of a violation subject
3 to article 4 of title 24, ~~C.R.S.~~, as follows:

4 (a) In the first administrative proceeding against any person, a fine of not less than
5 one hundred dollars but not more than five hundred dollars per violation;

6 (b) In any subsequent administrative proceeding against any person for transactions
7 occurring after a final agency action determining that a violation of this article *145* has
8 occurred, a fine of not less than one thousand dollars but not more than two thousand dollars
9 per violation;

10 (c) In an administrative proceeding against a person for a violation of section
11 ~~12-55.5-103(1)~~ *12-145-105 (1)*, a fine of not less than one thousand dollars but not more
12 than five thousand dollars per violation.

13 ~~(1.5) Repealed.~~

14 ~~(2) In addition to the penalties provided in subsection (1) of this section, the director,~~
15 ~~upon a finding of a violation, may deny, suspend, revoke, or place on probation an outfitter's~~
16 ~~registration or take other disciplinary action as provided in section 12-55.5-106 (3).~~

17 ~~(3)~~ (2) A person who engages in activities as an outfitter shall maintain all applicable
18 documents, records, and other items, for the current year and the preceding four years at the
19 address listed on the registration, required to be maintained by this article *145* or by the rules
20 of the director when requested to do so by the director or a peace officer. A registrant who
21 refuses to permit the inspection of documents, records, or items is guilty of a misdemeanor
22 and shall be punished by a fine of one hundred dollars.

23 ~~(4) (Deleted by amendment, L. 93, p. 1491, § 5, effective July 1, 1993.)~~

24 ~~(5)~~ (3) All fines collected pursuant to this article *145* shall be distributed as follows:

25 (a) Fifty percent divided by the court between any federal, state, or local law
26 enforcement agency assisting with an investigation;

27 (b) Fifty percent to the division for the cost of administering this article *145*.

28
29 **12-145-110. [Formerly 12-55.5-108] Cease-and-desist orders - unauthorized**
30 **practice - penalties.** ~~(1)(a) If it appears to the director, based upon credible evidence as~~
31 ~~presented in a written complaint by any person, that a registrant is acting in a manner that~~
32 ~~is an imminent threat to the health and safety of the public, or a person is acting or has acted~~
33 ~~without the required registration, the director may issue an order to cease and desist such~~
34 ~~activity. The order shall set forth the statutes and rules alleged to have been violated, the~~
35 ~~facts alleged to have constituted the violation, and the requirement that all unlawful acts or~~

1 unregistered practices immediately cease.

2 ~~(b) Within ten days after service of the order to cease and desist pursuant to~~
3 ~~paragraph (a) of this subsection (1), the respondent may request a hearing on the question~~
4 ~~of whether acts or practices in violation of this article have occurred. Such hearing shall be~~
5 ~~conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S.~~

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

12 ~~(b) A person against whom an order to show cause has been issued pursuant to~~
13 ~~paragraph (a) of this subsection (2) shall be promptly notified by the director of the issuance~~
14 ~~of the order, along with a copy of the order, the factual and legal basis for the order, and the~~
15 ~~date set by the director for a hearing on the order. Such notice may be served by personal~~
16 ~~service, by first-class United States mail, postage prepaid, or as may be practicable upon any~~
17 ~~person against whom such order is issued. Personal service or mailing of an order or~~
18 ~~document pursuant to this subsection (2) shall constitute notice thereof to the person.~~

19 ~~(c) (I) The hearing on an order to show cause shall be commenced no sooner than~~
20 ~~ten and no later than forty-five calendar days after the date of transmission or service of the~~
21 ~~notification by the director as provided in paragraph (b) of this subsection (2). The hearing~~
22 ~~may be continued by agreement of all parties based upon the complexity of the matter,~~
23 ~~number of parties to the matter, and legal issues presented in the matter, but in no event shall~~
24 ~~the hearing commence later than sixty calendar days after the date of transmission or service~~
25 ~~of the notification.~~

26 ~~(H) If a person against whom an order to show cause has been issued pursuant to~~
27 ~~paragraph (a) of this subsection (2) does not appear at the hearing, the director may present~~
28 ~~evidence that notification was properly sent or served upon such person pursuant to~~
29 ~~paragraph (b) of this subsection (2) and such other evidence related to the matter as the~~
30 ~~director deems appropriate. The director shall issue the order within ten days after the~~
31 ~~director's determination related to reasonable attempts to notify the respondent, and the order~~
32 ~~shall become final as to that person by operation of law. Such hearing shall be conducted~~
33 ~~pursuant to sections 24-4-104 and 24-4-105, C.R.S.~~

34 ~~(HH) If the director reasonably finds that the person against whom the order to show~~
35 ~~cause was issued is acting or has acted without the required registration, or has or is about~~

1 to engage in acts or practices constituting violations of this article, a final cease-and-desist
2 order may be issued, directing such person to cease and desist from further unlawful acts or
3 unregistered practices:

4 (IV) ~~The director shall provide notice, in the manner set forth in paragraph (b) of this~~
5 ~~subsection (2), of the final cease-and-desist order within ten calendar days after the hearing~~
6 ~~conducted pursuant to this paragraph (c) to each person against whom such order has been~~
7 ~~issued. The final order issued pursuant to subparagraph (III) of this paragraph (c) shall be~~
8 ~~effective when issued and shall be a final order for purposes of judicial review.~~

9 (3) ~~If it appears to the director, based upon credible evidence presented to the~~
10 ~~director, that a person has engaged in or is about to engage in any unregistered act or~~
11 ~~practice, any act or practice constituting a violation of this article, any rule promulgated~~
12 ~~pursuant to this article, any order issued pursuant to this article, or any act or practice~~
13 ~~constituting grounds for administrative sanction pursuant to this article, the director may~~
14 ~~enter into a stipulation with such person.~~

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

20 (5) ~~A person aggrieved by the final cease-and-desist order may seek judicial review~~
21 ~~of the director's determination or of the director's final order as provided in section~~
22 ~~12-55.5-115.~~

23 (1) THE DIRECTOR MAY ISSUE CEASE-AND-DESIST ORDERS UNDER THE
24 CIRCUMSTANCES AND IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION
25 12-20-405.

26 (6) (2) Any person who engages or offers or attempts to engage in activities as an
27 outfitter without an active registration issued under this article ~~commits a class 2~~
28 ~~misdemeanor and shall be punished as provided in section 18-1.3-501 C.R.S., for the first~~
29 ~~offense, and for the second or any subsequent offense, the person commits a class 6 felony~~
30 ~~and shall be punished as provided in section 18-1.3-401. C.R.S. 145 IS SUBJECT TO~~
31 ~~PENALTIES PURSUANT TO SUBSECTION 12-20-407 (1)(a).~~

32
33 **12-145-111. [Formerly 12-55.5-109] Contracts for outfitting services - writing**
34 **required.** (1) Prior to engaging in any activity as an outfitter, an outfitter shall provide a
35 written contract to the client signed by both the outfitter and the client, stating at least the

1 following terms:

- 2 (a) Type of services to be provided;
- 3 (b) Dates of service;
- 4 (c) Transportation arrangements;
- 5 (d) Costs of the services;
- 6 (e) Ratio of clients to guides; and
- 7 (f) The outfitter's policy regarding cancellation of the contract and refund of any

8 deposit.

9 (2) No action may be maintained by an outfitter for breach of a contract or agreement
10 to provide outfitting services or for the recovery of compensation for services rendered
11 under ~~such~~ THE contract or agreement if the outfitter has failed to comply with the provisions
12 of this article **145**.

13 (3) Any written contract provided in accordance with this section must also contain
14 a written statement that pursuant to section ~~12-55.5-105(1)(c) and (1)(d)~~ **12-145-107 (1)(c)**
15 **AND (1)(d)**, outfitters are bonded and required to possess the minimum level of liability
16 insurance and that the activities of outfitters are regulated by the director.

17
18 **12-145-112. [Formerly 12-55.5-110] Other remedies - contracts void - public**
19 **nuisance - seizure of equipment.** (1) Every agreement or contract for the services of an
20 outfitter shall be void and unenforceable by the outfitter unless ~~such~~ THE outfitter is duly
21 registered with the division under the provisions of this article **145** when ~~such~~ THE services
22 are contracted for and performed.

23 (2) Every motor vehicle, trailer, vessel, firearm, weapon, trap, equipment, livestock,
24 or other personal property used in outfitting services in violation of the provisions of this
25 article **145** is declared to be a class 2 public nuisance. Unless in conflict with the specific
26 provisions of this section, the provisions of article 13 of title 16 ~~C.R.S.~~, shall apply to any
27 action taken pursuant to this section.

28 (3) (a) Any personal property subject to seizure under this section ~~which~~ THAT is
29 seized as a part of or incident to a criminal proceeding for violation of this article **145** and
30 for which disposition is not provided by another statute of this state shall be disposed of as
31 provided in this section.

32 (b) The court may order the property sold in the manner provided for sales on
33 execution.

34 (c) The proceeds of ~~such~~ THE sale shall be applied as follows:

- 35 (I) To the fees and costs of removal and sale;

- 1 (II) To the payment of any costs the state has incurred from ~~such~~ THE action; and
2 (III) The balance, if any, to the office of the district attorney who has brought ~~such~~
3 THE action.

4
5 **12-145-113. [Formerly 12-55.5-111] Advisory committee.** The director shall
6 appoint an advisory committee to make recommendations concerning outfitters, which
7 committee shall serve at the request and pleasure of the director. The members of the
8 advisory committee shall receive no compensation but shall be reimbursed for actual and
9 necessary expenses incurred in the performance of their duties under this article **145**.

10
11 **12-145-114. [Formerly 12-55.5-113] Enforcement.** Every peace officer ~~as defined~~
12 ~~in section 12-55.5-102(6)~~; is hereby authorized to assist the director in the enforcement of
13 the provisions of this article **145** and the rules ~~and regulations~~ prescribed by the director.

14
15 **12-145-115. [Formerly 12-55.5-115] Judicial review.** ~~The court of appeals shall~~
16 ~~have initial jurisdiction to review~~ SECTION 12-20-408 GOVERNS JUDICIAL REVIEW OF all final
17 actions and orders. ~~that are subject to judicial review. Such proceedings shall be conducted~~
18 ~~in accordance with section 24-4-106(11), C.R.S.~~

19
20 **12-145-116. [Formerly 12-55.5-116] Notice - hunting and fishing license.** The
21 division and the division of parks and wildlife shall develop a system to provide a written
22 notice with each hunting or fishing license, at the time of issuance, stating that it is illegal
23 to provide outfitting services in Colorado without registering with the division.

24
25 **12-145-117. [Formerly 12-55.5-117] Repeal of article - review of functions.**
26 ~~Unless continued by the general assembly, This article 145 is repealed, effective September~~
27 ~~1, 2025. and those powers, duties, and functions of the division specified in~~ BEFORE ITS
28 ~~REPEAL, this article are abolished. The provisions of 145 IS SCHEDULED FOR REVIEW IN~~
29 ~~ACCORDANCE WITH section 24-34-104. (2) to (8), C.R.S., concerning a wind-up period, an~~
30 ~~analysis and evaluation, public hearings, and claims by or against an agency apply to the~~
31 ~~powers, duties, and functions of the division specified in this article. <{~~ ***Section updated to***
32 ***conform with current sunset language.*** ~~>~~

1 **ARTICLE 150**

2 **Passenger Tramways**

3 <{*Insert passenger tramways practice act.*}>

4 **ARTICLE 155**

5 **Plumbers**

6 <{*Insert plumbers practice act.*}>

7

8 **ARTICLE 160**

9 **Private Investigators**

10 <{*Insert PIs practice act.*}>

11

12 **HEALTH CARE PROFESSIONS AND OCCUPATIONS**

13

14 **ARTICLE 200**

15 **Acupuncturists**

16 <{*Insert acupuncturists practice act.*}>

17

18 **ARTICLE 205**

19 **Athletic Trainers**

20 <{*Insert athletic trainers practice act.*}>

21

22 **ARTICLE 210**

23 **Audiologists**

24 <{*Insert audiologists practice act.*}>

25

26 **ARTICLE 215**

27 **Chiropractors**

28 <{*Insert chiros practice act.*}>

29

30 **ARTICLE 220**

31 **Dentists and Dental Hygienists**

32 <{*Insert dentists & hygienists practice act.*}>

33

34 **ARTICLE 225**

35 **Direct-entry Midwives**

1 <{*Insert DEM practice act.*}>

2

3 **ARTICLE 230**
4 **Hearing Aid Providers**

5 <{*Insert hearing aid providers practice act.*}>

6

7 **ARTICLE 235**
8 **Massage Therapists**

9 <{*Insert massage therapists practice act.*}>

10

11 **ARTICLE 240**
12 **Medical Practice**

13 <{*Insert medical practice act.*}>

14

15 **ARTICLE 245**
16 **Mental Health**

17 <{*Insert mental health practice acts.*}>

18

19 **ARTICLE 250**
20 **Naturopathic Doctors**

21 <{*Insert NDs practice act.*}>

22

23 **ARTICLE 255**
24 **Nurses**

25 <{*Insert nurse practice act.*}>

26

27 **ARTICLE 260**
28 **Nurse Aides**

29 <{*Insert nurse aides practice act.*}>

30

31 **ARTICLE 265**
32 **Nursing Home Administrators**

33 <{*Insert NHAs practice act.*}>

34

35 **ARTICLE 270**

1 **Occupational Therapists and Occupational Therapy Assistants**
2 <{Insert OTs & OTAs practice act.}>
3
4 **ARTICLE 275**
5 **Optometrists**
6 <{Insert optometrists practice act.}>
7
8 **ARTICLE 280**
9 **Pharmacists, Pharmacy Businesses, and Pharmaceuticals**
10 <{Insert pharmacy practice act.}>
11
12 **ARTICLE 285**
13 **Physical Therapists and Physical Therapist Assistants**
14 <{Insert PTs & PTAs practice act.}>
15
16 **ARTICLE 290**
17 **Podiatrists**
18 <{Insert podiatrists practice act.}>
19
20 **ARTICLE 295**
21 **Psychiatric Technicians**
22 <{Insert psych techs practice act.}>
23
24 **ARTICLE 300**
25 **Respiratory Therapists**
26 <{Insert respiratory therapists practice act.}>
27
28 **ARTICLE 305**
29 **Speech-language Pathologists**
30 <{Insert SLP practice act.}>
31
32 **ARTICLE 310**
33 **Surgical Assistants and Surgical Technologists**
34 <{Insert surgical assts/technologists practice act.}>
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ARTICLE 315
Veterinarians

<{*Insert vets practice act.*}>

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Add to Title 24, article 1:

24-1-138. [Formerly 12-1.5-101] Mandatory donation of services prohibited.

(1) ~~No~~ A regulatory agency or other department, division, agency, branch, instrumentality, or political subdivision of state government shall NOT require:

(a) ~~any~~ A person practicing a regulated profession or occupation to donate ~~such~~ THE person's professional services without compensation to ~~any other~~ ANOTHER person as a condition of admission to or continued licensure, ~~in such~~ OR OTHER AUTHORIZATION TO PRACTICE THE profession or occupation; ~~nor shall~~ OR

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

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

OLLS will engage in outreach to determine current applicability of section 12-1.5-101 to professions and occupations regulated by other divisions within DORA and by other state departments. Ronne Hines will check with Division of Insurance and Division of Securities in DORA.

