12-30-201. [Formerly 12-36.5-101] Legislative declaration. (1) The general assembly hereby finds, determines, and declares that the Colorado medical board created in article 36 240 of this title 12 and the state board of nursing created in article 38 255 of this title 12 act for the state in their sovereign capacity to govern licensure, discipline, and professional review of persons licensed to practice medicine, persons licensed as physician assistants, and licensed to practice nursing and granted authority as advanced practice nurses, respectively, in this state. The general assembly further finds, determines, and declares that:

(a) The authority to provide health care in this state is a privilege granted by the legislative authority of the state; and

(b) It is necessary for the health, safety, and welfare of the people of this state that the appropriate regulatory boards exercise their authority to protect the people of this state from unauthorized practice and unprofessional conduct by persons licensed to provide health care under articles 36 240 and 38 255 of this title 12.

(2) The general assembly recognizes that:

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

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

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

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

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

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

(2) "AUTHORIZED ENTITY" MEANS A CORPORATION, ORGANIZATION, OR ENTITY THAT IS AUTHORIZED TO ESTABLISH A PROFESSIONAL REVIEW COMMITTEE UNDER SECTION 12-36.5-104 (4) OR (5).
12-30-204 (5) OR (6) or under rules of the medical board or nursing board adopted pursuant to section 12-36.5-104 (5) 12-30-204 (6).

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

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

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

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

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

(6) (7) "Professional review committee" means any committee authorized under this article PART 2 to review and evaluate the competence, professional conduct of, or the quality and appropriateness of patient care provided by, any person licensed under article 256 240 of this title 12 or licensed under article 38 of this title and granted authority as an advanced practice nurse. "Professional review committee" includes a governing board, a hearing panel appointed by a governing board to conduct a hearing under section 12-36.5-104 (7)(a) 12-30-204 (8)(a), and an independent third party designated by a governing board under section 12-36.5-104 (8)(b) 12-30-204 (9)(b).

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

(I) Letters of reference;

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

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

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

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

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

(8) (9) "State board of nursing" or "nursing board" means the state board of nursing created in section 12-38-104 12-255-1_.

12-30-203. [Formerly 12-36.5-103] Use of professional review committees.
(1) (a) The general assembly recognizes that:

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

(II) An attempt to exercise such oversight would result in extraordinary delays in the determination of the legitimacy of the allegations and would result in the inappropriate and unequal exercise of their authority to license and discipline persons licensed under article 36 240 of this title 12 or licensed under article 38 of this title and granted authority as advanced practice nurses.

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

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

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

(b) Professional review committees, the members who constitute the committees, governing boards, authorized entities, and persons who participate directly or indirectly in professional review activities are granted certain immunities from liability arising from actions that are within the scope of their activities as provided in section 12-36.5-105 12-30-207. These grants of immunity from liability are necessary to ensure that professional review committees and governing boards can exercise their professional knowledge and
12-30-204. [Formerly 12-36.5-104] Establishment of professional review committees - function - rules. (1) A professional review committee may be established pursuant to this section to review and evaluate the competence of, the quality and appropriateness of patient care provided by, or the professional conduct of, any person licensed under article 36 240 of this title or licensed under article 38 of this title and granted authority as an advanced practice nurse.

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

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

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

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

(4) (5) A professional review committee established by any of the following authorized entities is an approved professional review committee under this article PART 2.

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

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

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

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

(d) (e) A society or association of physicians licensed to practice and residing in this state and specializing in a specific discipline of medicine, whose society or association has been designated by the medical board as a specialty society or association representative of physicians practicing the specific discipline of medicine, if the physician whose services are the subject of the review is a member of the specialty society or association;

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

(e) (g) An individual practice association or a preferred provider organization consisting of persons licensed under article 36 240 of this title 12 or licensed under article 38 of this title and granted authority as LICENSED PRACTITIONERS OF ADVANCED PRACTICE NURSES, or another medical group that predominantly serves members of a health maintenance organization licensed pursuant to parts 1 and 4 of article 16 of title 10. C.R.S. A professional review committee established pursuant to this paragraph (c) SUBSECTION (5)(g) has jurisdiction to review only persons licensed under article 36 240 of this title 12 or licensed under article 38 of this title and granted authority as LICENSED PRACTITIONERS OF ADVANCED PRACTICE NURSES who IF THE PERSONS LICENSED UNDER SAID ARTICLE OR THE ADVANCED PRACTICE NURSES ARE MEMBERS OF THE ASSOCIATION OR ORGANIZATION CREATING AND AUTHORIZING THAT COMMITTEE, except that the professional review committee may review the care provided to a particular patient referred by a member of the association or organization to another person WHO IS NOT A MEMBER OF THE ASSOCIATION.
OR ORGANIZATION AND IS licensed under article 36 240 of this title 12 or licensed under article 38 of this title and granted authority as is an advanced practice nurse, who is not a member of the association or organization:

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

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

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

(i) (k) (I) A nonprofit corporation or association consisting of representatives from a statewide professional society and a statewide hospital association. The association must consist of persons licensed under article 36 240 of this title 12 or licensed under article 38 of this title and granted authority as advanced practice nurses, hospital administrators, and hospital trustees, with a majority of the representatives being persons licensed under article 36 240 of this title 12 when the subject of the investigation is a person licensed under article 36 240 of this title 12, and at least one of the representatives being a person licensed under article 38 of this title and granted authority as an advanced practice nurse when the subject of the investigation is a person licensed under article 38 of this title and granted authority as an advanced practice nurse. The association may establish, or contract for, one or more professional review committees to review the care by hospital staff personnel who are licensed under article 36 240 of this title 12 or licensed under article 38 of this title and granted authority as are advanced practice nurses, with priority given to small rural hospital staffs. These professional review services must be available statewide on a fee-for-service basis to licensed or certified hospitals at the joint request of the governing board and the medical or nursing staff of the hospital or at the sole request of the governing board of the hospital. If a member being reviewed specializes in a generally recognized specialty of medicine or nursing, at least one of the health care providers on the professional review committee must be a person who is licensed under article 36 240 of this title 12 or licensed under article 38 of this title and granted authority as is an advanced practice nurse and who practices such specialty.

(II) For purposes of the introductory portion to this subsection (4) (5) and this paragraph (i) SUBSECTION (5)(k), the bylaws, policies, or procedures must be in compliance with this article PART 2 and approved by the nonprofit corporation or association.
(j) (l) The medical or nursing staff of an ambulatory surgical center licensed pursuant to part 1 of article 3 of title 25; C.R.S.;

(k) (m) A professional services entity organized pursuant to section 12-36-134 12-240-1;

(l) (n) A provider network that is organized pursuant to part 3 of article 18 of title 6 and includes persons licensed under article 36 240 of this title or licensed under article 38 of this title and granted authority as advanced practice nurses; and is organized pursuant to part 3 of article 18 of title 6, C.R.S.;

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

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

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

(r) (r) An accountable care organization established under the federal "Patient Protection and Affordable Care Act", Pub.L. 111-148, as amended, or other organization with a similar function;

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

(t) (t) An ambulatory surgical center licensed pursuant to part 1 of article 3 of title 25. C.R.S.;

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

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

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

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

(b) The professional review committee shall conduct the investigation in conformity with written bylaws, policies, or procedures adopted by the authorized entity's governing board.
(7) (8) The written bylaws, policies, or procedures of any professional review committee for persons licensed under article 36 of this title or licensed under article 38 of this title and granted authority as advanced practice nurses must provide for at least the following:

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

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

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

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

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

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

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

(8) (9) (a) All governing boards shall adopt written bylaws, policies, or procedures
under which a person who is licensed under article 36 240 of this title 12 or licensed under
article 38 of this title and granted authority as an advanced practice nurse AND who is the
subject of an adverse recommendation by a professional review committee may appeal to
the governing board following a hearing in accordance with subsection (7) (8) of this
section. The bylaws, policies, or procedures must provide that the person be given
reasonable notice of his or her right to appeal and, unless waived by the person, has the right
to appear before the governing board, to be represented by legal counsel, and to offer the
argument on the record AS HE OR SHE DEEMS APPROPRIATE.

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

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

(10) (11) (a) Except as specified in paragraph (b) of this subsection (10) SUBSECTION
(11)(b) OF THIS SECTION, the records of an authorized entity, its professional review
committee, and its governing board are not subject to subpoena or discovery and are not
admissible in any civil suit.

(b) Subject to subsection (13) (14) of this section, the records are subject to subpoena
and available for use:
(I) Repealed.
(II) (I) By either party in an appeal or de novo proceeding brought pursuant to this
part 2;
(II) (II) By a person licensed under article 36 240 of this title 12 or licensed under
article 38 of this title and granted authority as an advanced practice nurse in a suit seeking
judicial review of an action by the governing board;
(IV) (III) By the Colorado department of public health and environment in
accordance with its authority to issue or continue a health facility license or certification for
an authorized entity;
(V) (IV) By CMS in accordance with its authority over federal health care program
participation by an authorized entity;

(VII) (VI) By an authorized entity or governing board seeking judicial review;

(VIII) (VII) By the medical board within the scope of its authority over licensed
physicians and physician assistants; and

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

Except as provided in paragraph (b) of this subsection (11) OF THIS SECTION,
the records of an authorized entity or its professional review
committee may be disclosed to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(II) A professional review committee established pursuant to this article PART 2 may meet and act in collaboration with a committee HOSPITAL QUALITY MANAGEMENT PROGRAM established pursuant to section 25-3-109. C.R.S.
(b) All matters considered in collaboration with or referred to a committee pursuant to this subsection (2) and all records and proceedings related thereto shall remain confidential, and the committee members, governing board, witnesses, and complainants shall be subject to the immunities and privileges as set forth in this article.

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

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

(2) Each governing board that establishes or uses one or more professional review committees to review the practice of persons licensed under article 36 of this title or licensed under article 38 of this title and granted authority as an advanced practice nurse shall:

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

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

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

(A) Adversely affecting the individual;

(B) In which an authorized entity accepted the individual's surrender of clinical privileges, membership, or affiliation while the individual was under investigation;

(C) In which an authorized entity accepted the individual's surrender of clinical privileges, membership, or affiliation in return for not conducting an investigation; and

(D) In which the professional review committee made recommendations regarding the individual following a hearing pursuant to section 12-36.5-104 (7)(d).

(II) Report annually to the nursing board, in a form satisfactory to the nursing board, the number of final professional review actions in each of the following categories relating to individuals licensed under article 38 of this title and granted authority as advanced practice nurses:
practice nurses:

(A) Adversely affecting the individual;
(B) In which an authorized entity accepted the individual's surrender of clinical privileges, membership, or affiliation while the individual was under investigation;
(C) In which an authorized entity accepted the individual's surrender of clinical privileges, membership, or affiliation in return for not conducting an investigation; and
(D) In which the professional review committee made recommendations regarding the individual following a hearing pursuant to section 12-36.5-104 (7)(d), 12-30-204 (8)(d);

(c) (I) Report to the division, in a de-identified manner, on its professional review activities during the immediately preceding calendar year in a form satisfactory to the division. These reports must include aggregate data, which is limited to the following:
(A) The number of investigations completed during the year;
(B) The number of investigations that resulted in no action;
(C) The number of investigations that resulted in written involuntary requirements for improvement sent to the subject of the investigation by the authorized entity; and
(D) The number of investigations that resulted in written agreements for improvement between the subject of the investigation and the authorized entity.

(II) (A) The medical board and the nursing board shall forward the reports received pursuant to sub-subparagraphs (I) and (II) sub-subsections (2)(b)(I) and (2)(b)(II) of this section, respectively, of paragraph (b) of this subsection (2) to the division in a de-identified manner.

(B) The division shall not publish any information identifying the governing board or authorized entity making a report under paragraph (b) of this subsection (2) or this subsection (2)(c), and such reports and information are not public records under the "Colorado Open Records Act", part 2 of article 72 of title 24. C.R.S.

(III) Reports submitted pursuant to this paragraph (c) subsection (2)(c) must include only investigations in which no final action adversely affecting the subject of the investigation was taken or recommended.

(3) (a) The division shall publish the data provided pursuant to paragraphs (b) and (c) of subsection (2) sub-subsections (2)(b) and (2)(c) of this section in aggregate form and without individually identifiable information concerning the governing board, the authorized entity, or any person who was subject to review and is licensed under article 36 240 of this title or licensed under article 38 of this title and granted authority as an advanced practice nurse who was subject to review.

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

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

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

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

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

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

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

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

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

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

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

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

12-30-208. Conformance with federal law and regulation - legislative declaration - rules - limitations on liability - definition. (1) [Formerly 12-36.5-201] The general assembly hereby finds, determines, and declares that the enactment of this part is necessary in order for the state to comply with the provisions of the federal "Health Care Quality Improvement Act of 1986", as amended, 42 U.S.C. secs. 11101 to 11152. It is the intent of the general assembly that the provisions of this part are to be interpreted as being complementary to the other provisions of part 1 of this article. The provisions of this part are intended to be responsive to specific requirements of the federal "Health Care Quality Improvement Act of 1986", as amended. If the provisions of this part conflict with the other provisions of part 1 of this article, other than with respect to the specific requirements of the federal "Health Care Quality Improvement Act of 1986", as amended, the other provisions of part 1 of this article shall prevail.

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

(3) [Formerly 12-36.5-203] (a) The following persons are immune from suit and not liable for damages in any civil action with respect to their participation in, assistance to, or reporting of information to a professional review committee in connection with a professional review action in this state, and such persons are not liable for damages in a civil action with respect to their participation in, assistance to, or reporting of information to a professional review committee that meets the standards of and is in conformity with the federal "Health Care Quality Improvement Act of 1986", as amended: 42 U.S.C. secs. 11101 through 11152:

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

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

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

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

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

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

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

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

(a) "professional review action" means an action or recommendation of a professional review committee that is taken or made in the conduct of professional review activity and that is based on the quality and appropriateness of patient care provided by, or the competence or professional conduct of, an individual person licensed under article 36 240 of this title 12 or licensed under article 38 of this title and granted authority as an advanced practice nurse, which action affects or may affect adversely the person's clinical privileges or membership in an authorized entity. "Professional review action" includes a formal decision by the professional review committee not to take an action or make a recommendation as provided in this paragraph (a) SUBSECTION (3)(c) and also includes professional review activities relating to a professional review action. An action is not based upon the competence or professional conduct of a person if the action is primarily based on:

(I) The person's association or lack of association with a professional society or
(II) The person's fees or his or her advertising or engaging in other competitive acts intended to solicit or retain business;

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

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

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

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

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