

CHAPTER 263

PROFESSIONS AND OCCUPATIONS

SENATE BILL 96-089

BY SENATORS Alexander, Ament, Casey, Hopper, Lacy, Pascoe, Perlmutter, R. Powers, Wattenberg, Weddig, and Wham;
also REPRESENTATIVES Salaz, Entz, and Mace.

AN ACT

CONCERNING REGULATION OF THE PRACTICE OF PHARMACY, AND, IN CONNECTION THEREWITH, CONTINUING THE AUTHORITY OF THE STATE BOARD OF PHARMACY TO REGULATE PHARMACISTS, CLARIFYING AND UPDATING LICENSING REQUIREMENTS FOR PHARMACISTS AND REGISTRATION REQUIREMENTS FOR PHARMACIES, MODIFYING REQUIREMENTS FOR THE SUBSTITUTION OF GENERIC DRUGS FOR PRESCRIBED DRUGS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 12-22-102 (5), (22.5) (a), (23), (26)(a), and (30.2), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-22-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

12-22-102. Definitions. As used in this part 1, unless the context otherwise requires:

(5) "Casual sale" means a sale to a corporation, individual, or other entity, other than a consumer, entitled to possess prescription drugs; except that the amount of drugs sold in such manner by any registered prescription drug outlet OR HOSPITAL OTHER OUTLET shall not exceed five percent of the total amount of drugs sold annually by such outlet.

(16.5) "LOCATION" MEANS THE PHYSICAL CONFINES OF AN INDIVIDUAL BUILDING OR AT THE SAME ADDRESS.

(22.5) "Order" means:

(a) A prescription order which is any order, other than a chart order, authorizing the dispensing of ~~drugs or devices written~~ A SINGLE DRUG OR DEVICE THAT IS

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

WRITTEN, MECHANICALLY PRODUCED, COMPUTER GENERATED AND SIGNED BY THE PRACTITIONER, ~~or~~ transmitted ELECTRONICALLY OR BY FACSIMILE, OR by other means of communication by a practitioner and which includes the name or identification of the patient, the date, and sufficient information for compounding, dispensing, and labeling; or

(23) "Outlet" means any prescription drug outlet, hospital, institution, nursing home, rural health clinic, convalescent home, extended care facility, family planning clinic, wholesaler, manufacturer, OR mail order vendor, other than a pharmacist, ~~with~~ THAT HAS facilities in this state ~~who~~ REGISTERED PURSUANT TO THIS ARTICLE AND THAT engages in the dispensing, delivery, distribution, manufacturing, wholesaling, or sale of drugs or devices.

(23.5) "PATIENT COUNSELING" MEANS THE ORAL COMMUNICATION BY A PHARMACIST OR INTERN OF INFORMATION TO THE PATIENT OR CAREGIVER IN ORDER TO IMPROVE THERAPY BY ENSURING PROPER USE OF DRUGS AND DEVICES.

(23.6) "PHARMACEUTICAL CARE" MEANS THE PROVISION OF DRUG THERAPY AND OTHER PHARMACEUTICAL PATIENT CARE SERVICES BY A PHARMACIST INTENDED TO ACHIEVE OUTCOMES RELATED TO THE CURE OR PREVENTION OF A DISEASE, ELIMINATION OR REDUCTION OF A PATIENT'S SYMPTOMS, OR ARRESTING OR SLOWING OF A DISEASE PROCESS. IN ADDITION TO THE PREPARATION, DISPENSING, AND DISTRIBUTION OF MEDICATIONS, "PHARMACEUTICAL CARE" MAY INCLUDE ASSESSMENT AND EVALUATION OF THE PATIENT'S MEDICATION RELATED NEEDS AND DEVELOPMENT AND COMMUNICATION OF A THERAPEUTIC PLAN WITH DEFINED OUTCOMES IN CONSULTATION WITH THE PATIENT AND THE PATIENT'S OTHER HEALTH CARE PROFESSIONALS TO ATTAIN THE DESIRED OUTCOME. THIS FUNCTION INCLUDES EFFORTS TO PREVENT, DETECT, AND RESOLVE MEDICATION RELATED PROBLEMS FOR INDIVIDUAL PATIENTS. "PHARMACEUTICAL CARE" DOES NOT INCLUDE PRESCRIPTIVE AUTHORITY.

(24.5) "PROSPECTIVE DRUG REVIEW" MEANS A REVIEW OF THE PATIENT'S DRUG THERAPY AND PRESCRIPTION DRUG ORDER PRIOR TO DISPENSING THE DRUG AS PART OF A DRUG REGIMEN REVIEW.

(26) "Practice of pharmacy" means:

(a) An initial interpretation, selection of ingredients and final evaluation of each prescription order or chart order, the participation in drug selection and drug utilization reviews, the participation in administration of drugs, THE PROVISION OF PHARMACEUTICAL CARE INCLUDING PATIENT COUNSELING AND PROSPECTIVE DRUG REVIEW, DRUG AND DRUG-RELATED RESEARCH NOT INCLUDING PRESCRIPTIVE AUTHORITY, the advising and providing of information concerning utilization of drugs and devices in the treatment of an injury and the treatment and prevention of disease, and the offering or performing of these health services, operations, or transactions necessary in the conduct, operation, and control of a prescription drug outlet by a pharmacist.

(30.2) "Prescription drug outlet" means any outlet REGISTERED PURSUANT TO THIS ARTICLE where prescriptions are filled or compounded, and are sold, dispensed, offered, or displayed for sale.

(32.5) "SATELLITE" MEANS AN AREA OUTSIDE THE PRESCRIPTION DRUG OUTLET WHERE PHARMACEUTICAL CARE AND SERVICES ARE PROVIDED AND THAT IS IN THE SAME LOCATION.

(32.6) "SUPERVISION" MEANS THAT A LICENSED PHARMACIST IS ON THE LOCATION AND IMMEDIATELY AND READILY AVAILABLE TO CONSULT WITH AND ASSIST UNLICENSED PERSONNEL PERFORMING TASKS DESCRIBED IN SECTION 12-22-102 (26) (b).

SECTION 2. 12-22-103 (3), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-22-103. State board of pharmacy - creation - subject to termination - repeal of article. (3) (a) The provisions of section 24-34-104, C.R.S., concerning the termination schedule for regulatory bodies of the state unless extended as provided in that section are applicable to the state board of pharmacy created by this section.

(b) This article is repealed, effective ~~July 1, 1996~~ JULY 1, 2003.

SECTION 3. 12-22-104, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-22-104. Membership. (1) The board shall be composed of five licensed pharmacists, each having at least five years' experience in this state and actively engaged in the practice of pharmacy in this state, and two nonpharmacists who have no financial interest in the practice of pharmacy.

(2) All appointments shall be made by the governor IN ACCORDANCE WITH THIS SECTION.

(3) FOR PURPOSES OF ACHIEVING A BALANCE IN THE MEMBERSHIP ON THE BOARD, THE GOVERNOR SHALL CONSIDER:

(a) WHETHER THE APPOINTEE'S HOME IS IN:

(I) AN URBAN OR RURAL LOCATION; AND

(II) AN AREA ALREADY REPRESENTED GEOGRAPHICALLY BY ANOTHER APPOINTEE ON THE BOARD; AND

(b) THE TYPE OF PRACTICE OF THE APPOINTEE SO THAT VARIOUS TYPES OF PRACTICES ARE REPRESENTED ON THE BOARD.

(4) (a) The term of office of each member shall be four years. ~~Persons holding office on June 15, 1987, are subject to the provisions of section 24-1-137, C.R.S.~~

(b) In the case of any appointment to fill a vacancy, the appointee shall complete the unexpired term of the former board member.

(c) No member of the board may serve more than two consecutive full terms.

~~Appointments shall be made so that at least one member shall reside in each congressional district. A vacancy on the board occurs whenever any member moves out of the congressional district from which he was appointed. A member who moves out of such congressional district shall promptly notify the governor of the date of such move, but such notice is not a condition precedent to the occurrence of the vacancy. The governor shall fill the vacancy as provided in this section.~~

~~(5) No more than four members of the board shall be members of the same major political party. Appointments made to take effect on January 1, 1983, shall be made in accordance with section 24-1-135, C.R.S.~~

~~(6) The pharmacist members shall be appointed so that the term of one member shall expire July 1 each year. and board members serving on January 1, 1980, shall serve until the July 1 next following the date on which their terms would otherwise expire. Of the two nonpharmacist members whose terms are scheduled to expire on July 1, 1986, the governor shall select one and extend the term of that member to July 1, 1987. Persons holding office on June 15, 1987, are subject to the provisions of section 24-1-137, C.R.S.~~

SECTION 4. 12-22-110 (1) (a) and (1) (f), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-22-110. Powers and duties. (1) The board shall:

(a) Inspect, or direct inspectors who are ~~registered~~ LICENSED pharmacists to inspect, all outlets and investigate violations of this part 1;

(f) Keep a record of all licenses AND registrations, OF ALL LICENSE AND REGISTRATION renewals, suspensions, and revocations, and of its own proceedings;

SECTION 5. 12-22-113.5, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-22-113.5. Reporting - malpractice claims. (1) Each insurance company licensed to do business in this state and engaged in the writing of malpractice insurance for licensed pharmacists AND EACH PHARMACIST OR PHARMACY THAT SELF-INSURES shall send to the board, in the form prescribed by the board, information relating to each malpractice claim against a licensed pharmacist which is settled or in which judgment is rendered against the insured.

(2) The insurance company OR SELF-INSURED PHARMACIST OR PHARMACY shall provide ~~such~~ information RELATING TO EACH MALPRACTICE CLAIM as is deemed necessary by the board to conduct a further investigation and hearing.

(3) ~~Claims reports and~~ Information RELATING TO EACH MALPRACTICE CLAIM provided by insurance companies OR SELF-INSURED PHARMACISTS OR PHARMACIES shall be exempt from the provisions of any law requiring that the proceedings of the board be conducted publicly or that the minutes or records of the board be open to public inspection unless there is final disciplinary action taken. The board may use such information in any formal hearing involving a licensee.

SECTION 6. 12-22-114 (1) (c), (1) (d), and (1) (p), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-22-114. Fees. (1) Fees shall be determined and collected pursuant to section 24-34-105 for the following licenses:

(c) For the initial licensure, upon examination, as a ~~Class-IV~~ pharmacist, as provided in ~~section 12-22-117 (1) (d)~~ SECTION 12-22-116 (3.3);

(d) For the initial licensure, without examination and upon presentation of evidence of licensure in another state, as a ~~Class-V~~ pharmacist, as provided in ~~section 12-22-117 (1) (e)~~ SECTION 12-22-116 (7);

(p) For the initial certificate evidencing licensure for all ~~classes of~~ pharmacists;

SECTION 7. 12-22-116 (3) and (7), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-22-116, as amended, is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

12-22-116. Licensure or registrations - applicability - applications - licensure requirements. (3) Every applicant for a license or registration under this part 1 shall make written application in the manner and form prescribed by the board, setting forth ~~his~~ THE APPLICANT'S name and address, ~~his~~ THE APPLICANT'S qualifications for said license or registration, and other information required by the board. Every application shall be accompanied by the fee specified, and, if the applicant is required to take an examination, ~~he~~ SUCH APPLICANT shall appear for examination at the time and place fixed by the board.

(3.3) (a) (I) AN APPLICANT WHO HAS GRADUATED FROM A SCHOOL OR COLLEGE OF PHARMACY APPROVED BY THE BOARD MAY TAKE AN EXAMINATION BEFORE THE BOARD.

(II) THE EXAMINATION SHALL BE FAIRLY DESIGNED TO TEST THE APPLICANT'S KNOWLEDGE OF PHARMACY AND OTHER RELATED SUBJECTS AND SHALL BE IN A FORM APPROVED BY THE BOARD; EXCEPT THAT THE EXAMINATION SHALL NOT BE ADMINISTERED ORALLY.

(III) AN APPLICANT FOR LICENSURE BY EXAMINATION SHALL HAVE COMPLETED AN INTERNSHIP AS PRESCRIBED BY THE BOARD.

(b) A PERSON WHO PRODUCES EVIDENCE SATISFACTORY TO THE BOARD THAT SUCH PERSON HAS GRADUATED AND OBTAINED A DEGREE FROM A SCHOOL OF PHARMACY OUTSIDE THE UNITED STATES AND HAS PASSED A FOREIGN GRADUATE EQUIVALENCY TEST GIVEN OR APPROVED BY THE BOARD MAY APPLY TO TAKE THE EXAMINATION SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (3.3).

(3.5) EVERY APPLICANT FOR LICENSURE AS A PHARMACIST, WHETHER BY EXAMINATION, TRANSFER OF LICENSE, OR REINSTATEMENT, SHALL TAKE A JURISPRUDENCE EXAMINATION APPROVED BY THE BOARD THAT TESTS SUCH APPLICANT'S KNOWLEDGE OF THE LAWS OF THIS STATE.

(7) A person licensed by examination and in good standing in another state may apply ~~directly to the board for licensure by endorsement~~ LICENSE TRANSFER. The board shall ~~provide procedures for direct application and may designate a clearinghouse for those LICENSE TRANSFER applicants, who choose not to apply directly~~ AND SUCH INDIVIDUALS SHALL APPLY FOR LICENSE TRANSFER THROUGH THE CLEARINGHOUSE DESIGNATED BY THE BOARD.

SECTION 8. 12-22-117, Colorado Revised Statutes, 1991 Repl. Vol., is repealed as follows:

12-22-117. Classes of pharmacists. ~~(1) A licensed pharmacist is defined to be:~~

~~(a) Class I. A person licensed in this state as a licensed pharmacist on July 1, 1979;~~

~~(b) and (c) Repealed.~~

~~(d) Class IV. Any person who has graduated from a school or college of pharmacy approved by the board, who satisfactorily passes an examination before the board, which examination shall be in writing and shall be fairly designed to test the applicant's knowledge of pharmacy and other related subjects, and who has completed an internship as prescribed by the board;~~

~~(e) Class V. Upon the payment of a fee as established pursuant to section 24-34-105, C.R.S., any person who is licensed by the board by reason of his licensure in some other state by examination substantially equivalent to the examination given to applicants for licensure by examination in this state. The person so applying for licensure shall produce satisfactory evidence of having had the required secondary and professional education demanded of applicants for licensure as pharmacists under the provisions of this part 1. The board shall require such person to pass a jurisprudence examination which shall be administered monthly by the board or a board-approved equivalent. Such jurisprudence examination shall not be administered by the board after July 1, 1988.~~

~~(f) Repealed.~~

~~(g) Class VI. Upon the payment of a fee established pursuant to section 24-34-105, C.R.S., any person who produces evidence satisfactory to the board that he has an undergraduate degree from a school of pharmacy outside the United States, who has passed a foreign graduate equivalency test given or approved by the board, who has passed an examination as required by paragraph (d) of this subsection (1), and who has completed an internship as prescribed by the board.~~

SECTION 9. 12-22-118 (2), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-22-118. Expiration and renewal of licenses or registrations. (2) (a) Every licensee who desires to retain ~~his~~ A license shall pay a renewal fee on or before the expiration date of ~~his~~ SUCH license.

(b) In case any licensee or registrant defaults in the payment of the renewal fee, ~~his~~

THE license or registration shall expire, and notice thereof shall be given to the licensee or registrant by first-class mail to the licensee's or registrant's last-known address as shown in the records of the board. Such licensee or registrant shall not thereafter practice or carry on operations which were authorized under said license or registration.

(c) Any pharmacist failing to renew ~~his~~ SUCH PHARMACIST'S license on or before the applicable renewal time may be reinstated for the remainder of the current renewal period by filing a proper application, satisfying the board that ~~he~~ SUCH PHARMACIST is fully qualified to practice, and paying the reinstatement fee as provided in section 12-22-114 (1) (f) and all delinquent fees.

SECTION 10. 12-22-119 (1) and (5), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-22-119. Prescription drug outlet under charge of pharmacist. (1) (a) A prescription drug outlet shall be under the direct charge of a manager who is a pharmacist, who is not the manager of any other prescription drug outlet, and who has direct control of the pharmaceutical affairs of said prescription drug outlet. A proprietor who is not a pharmacist shall comply with this requirement and shall provide a manager who is a pharmacist.

(b) The registration of any prescription drug outlet shall become void if the pharmacist manager in whose name the prescription drug outlet registration was issued ceases to be engaged as the manager, and the ~~proprietor~~ OWNER shall close the prescription drug outlet unless ~~he~~ SUCH OWNER has employed a pharmacist, and, within seven days after termination of the former manager's employment, has made application to transfer the registration to the new manager and has paid the transfer fee therefor.

(c) The pharmacist manager in whose name the registration was obtained, at the time ~~he~~ SUCH PHARMACIST MANAGER ceases to be employed as such, shall immediately report to the board the fact that he OR SHE is no longer manager of the prescription drug outlet. ~~and he~~ SUCH PHARMACIST MANAGER shall be held responsible as the manager until ~~he or the proprietor does so report~~ THE CESSATION OF EMPLOYMENT IS REPORTED. The proprietor of the prescription drug outlet shall also notify the board of the termination of managership.

(5) The pharmacist responsible for the prescription order or chart order may delegate certain specific tasks, as provided in section 12-22-102 (26) (b), to a person who is not a pharmacist or pharmacist intern and who is under ~~his~~ SUCH PHARMACIST'S ~~direct and immediate~~ supervision if in his OR HER professional judgment such delegation is appropriate; except that no such delegation may be made if the delegation jeopardizes the public health, safety, or welfare, is prohibited by rule or regulation of the board, or violates the provisions of section 12-22-126 (1).

SECTION 11. 12-22-120 (1) (e), Colorado Revised Statutes, 1991 Repl. Vol., is amended, and the said 12-22-120, as amended, is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

12-22-120. Registration of facilities. (1) All outlets with facilities in this state

shall register annually with the board in one of the following classifications:

(e) ANY other OUTLET, as may be authorized by this article OR THAT MEETS THE DEFINITION OF OUTLET AS SET FORTH IN SECTION 12-22-102 (23).

(7) A SEPARATE REGISTRATION SHALL BE REQUIRED UNDER THIS SECTION FOR ANY AREA OUTSIDE THE OUTLET THAT IS NOT A SATELLITE WHERE PHARMACEUTICAL CARE AND SERVICES ARE PROVIDED AND FOR ANY SUCH AREA THAT IS UNDER DIFFERENT OWNERSHIP FROM THE OUTLET.

(8) NO HOSPITAL OUTLET FILLING INPATIENT CHART ORDERS SHALL SELL OR OTHERWISE TRANSFER ANY PORTION OF ITS PRESCRIPTION DRUG INVENTORY TO ANOTHER REGISTERED OUTLET FOR SALE OR DISPENSING AT RETAIL. THIS SUBSECTION (8) SHALL NOT BE CONSTRUED TO LIMIT ANY TRANSFER OF PRESCRIPTION DRUGS FOR THE HOSPITAL'S OWN USE OR TO LIMIT THE ABILITY OF A HOSPITAL OUTLET TO ENGAGE IN A CASUAL SALE AS DEFINED IN SECTION 12-22-102 (5).

SECTION 12. 12-22-121 (5), (10), (13), and (16), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-22-121. Compounding, dispensing, and sale of drugs and devices. (5) A registered prescription drug OR LICENSED HOSPITAL OTHER outlet may make a casual sale OR LOAN of or may give a drug to another registered ~~prescription drug~~ outlet or to a wholesaler of drugs, or it may sell or give a drug to a practitioner authorized by law to prescribe the same, or it may supply an emergency kit to ~~a nursing care facility, an intermediate health care facility, or a residential care facility~~ ANY FACILITY APPROVED BY THE BOARD FOR RECEIPT OF AN EMERGENCY KIT, ANY HOME HEALTH AGENCY CERTIFIED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND APPROVED BY THE BOARD FOR RECEIPT OF AN EMERGENCY KIT, AND ANY LICENSED HOSPICE APPROVED BY THE BOARD FOR RECEIPT OF AN EMERGENCY KIT in compliance with subsection (13) of this section.

(10) ~~Any person may apply to the board for, and the board may issue to such person, a special permit authorizing such person to dispose of any stock of drugs or devices in his possession in accordance with such permit. No disposition shall be made under any such permit to anyone other than a person to whom a wholesaler or manufacturer of drugs or devices would be authorized to sell such drug or device.~~

(13) ~~A nursing care facility, an intermediate health care facility, and a residential care facility providing twenty-four hour on-site nursing services~~ ANY FACILITY APPROVED BY THE BOARD, ANY HOME HEALTH AGENCY CERTIFIED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND APPROVED BY THE BOARD, AND ANY LICENSED HOSPICE APPROVED BY THE BOARD may maintain emergency drugs provided and owned by a prescription drug outlet, consisting of drugs and quantities as established by the board.

(16) ~~After September 1, 1976,~~ No manufacturer or wholesaler of prescription drugs shall sell or give any prescription drug, as provided in subsections (2) and (3) of this section, to a licensed hospital or registered ~~prescription drug~~ outlet or to any practitioner unless the prescription drug stock container bears a label containing the name and place of business of the manufacturer of the finished dosage form of the

drug and, if different from the manufacturer, the name and place of business of the packer or distributor.

SECTION 13. Part 1 of article 22 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

12-22-121.7. Limited authority to delegate activities constituting practice of pharmacy to unlicensed personnel. A PHARMACIST MAY SUPERVISE UP TO TWO UNLICENSED PERSONNEL FOR THOSE DUTIES DESCRIBED IN SECTION 12-22-102 (26) (b) THAT A PHARMACIST MAY CHOOSE TO DELEGATE TO UNLICENSED PERSONNEL. THIS SUPERVISION RATIO DOES NOT INCLUDE OTHER ANCILLARY PERSONNEL THAT MAY BE IN THE PRESCRIPTION DRUG OUTLET, BUT ARE NOT PERFORMING DUTIES DESCRIBED IN SECTION 12-22-102 (26) (b) THAT ARE DELEGATED TO SUCH UNLICENSED PERSONNEL.

SECTION 14. 12-22-125 (2) (a) (IV), (5) (a), and (6), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-22-125 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-22-125. Licenses or registrations may be denied, suspended, or revoked. (2) (a) The board may deny, suspend, or revoke any license to practice as a pharmacist or pharmacy intern, after a hearing held in accordance with the provisions of this section, upon proof that the licensee:

(IV) Has had his OR HER license to practice pharmacy in another state revoked or suspended for disciplinary reasons or has committed acts in any other state ~~which~~ THAT would subject him OR HER to disciplinary action in this state;

(5) (a) The board may also include in any disciplinary order ~~which~~ THAT allows the licensee or registrant to continue to practice such conditions as the board may deem appropriate to assure that the licensee is physically, mentally, morally, and otherwise qualified to practice pharmacy in accordance with the generally accepted professional standards of practice, including any or all of the following:

(I) Submission by the respondent to such examinations as the board may order to determine ~~his~~ THE RESPONDENT'S physical or mental condition or ~~his~~ professional qualifications;

(II) The taking by ~~him~~ THE RESPONDENT of such therapy courses of training or education as may be needed to correct deficiencies found either in the hearing or by such examinations;

(III) The review or supervision of ~~his~~ THE RESPONDENT'S practice as may be necessary to determine the quality of his OR HER practice and to correct deficiencies therein; and

(IV) The imposition of restrictions upon the nature of ~~his~~ THE RESPONDENT'S practice to assure that he OR SHE does not practice beyond the limits of his OR HER capabilities.

(6) (a) When a complaint or an investigation discloses an instance of misconduct which, in the opinion of the board, does not warrant formal action by the board but which should not be dismissed as being without merit, a letter of admonition may be sent by certified mail to the pharmacist against whom a complaint was made and a copy thereof to the person making the complaint. ~~but,~~

(b) When a letter of admonition is sent by certified mail by the board to a pharmacist complained against, such pharmacist shall be advised that he OR SHE has the right to request in writing, within twenty days after proven receipt of the letter, that formal disciplinary proceedings be initiated ~~against him~~ to adjudicate the propriety of the conduct upon which the letter of admonition is based.

(c) If ~~such~~ THE request is timely made, the letter of admonition shall be deemed vacated, and the matter shall be processed by means of formal disciplinary proceedings.

(7) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL ACTION BY THE BOARD BUT THE BOARD DETERMINES THAT CONTINUATION OF SUCH CONDUCT COULD WARRANT ACTION IF CONTINUED, A CONFIDENTIAL LETTER OF CONCERN MAY BE SENT BY CERTIFIED MAIL TO THE PHARMACIST AGAINST WHOM THE COMPLAINT WAS MADE OR WHO WAS THE SUBJECT OF INVESTIGATION. IF A COMPLAINT PRECIPITATED THE INVESTIGATION, A RESPONSE SHALL BE SENT TO THE PERSON MAKING THE COMPLAINT.

SECTION 15. 18-18-102 (23) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-18-102. Definitions. As used in this article:

(23) "Order" means:

(a) A prescription order which is any order, other than a chart order, authorizing the dispensing of drugs or devices THAT IS written, ~~or~~ MECHANICALLY PRODUCED, COMPUTER GENERATED, transmitted ELECTRONICALLY OR by FACSIMILE, OR other means of communication by a practitioner and ~~which~~ THAT includes the name or identification of the patient, the date, and sufficient information for compounding, dispensing, and labeling; or

SECTION 16. 18-18-206 (2) (c), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-18-206. Schedule IV. (2) Unless specifically excepted by Colorado or federal law or Colorado or federal regulation or more specifically included in another schedule, the following controlled substances are listed in schedule IV:

(c) (I) Any material, compound, mixture, or preparation containing any quantity of the following substance, including any salts, isomers of it that are theoretically possible: Fenfluramine;

(II) THIS PARAGRAPH (c) IS REPEALED UPON REMOVAL OF FENFLURAMINE AND ITS SALTS AND ISOMERS FROM SCHEDULE IV OF THE FEDERAL CONTROLLED SUBSTANCES

ACT (21 U.S.C.A. SEC. 812; 21 C.F.R. 1308.14).

SECTION 17. 18-18-308 (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-18-308. Prescriptions. (4) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a substance included in schedule III, IV, or V may not be dispensed without a written or oral prescription ORDER of a practitioner. The prescription ORDER must not be filled or refilled more than six months after the date thereof or be refilled more than five times.

SECTION 18. 18-18-414 (1) (c) and (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

18-18-414. Unlawful acts - licenses - penalties. (1) Except as otherwise provided in this article or in article 22 of title 12, C.R.S., the following acts are unlawful:

(c) The dispensing of any schedule III, IV, or V controlled substance unless such controlled substance is dispensed from a pharmacy pursuant to a written, ~~or~~ oral, MECHANICALLY PRODUCED, COMPUTER GENERATED, ELECTRONICALLY TRANSMITTED, OR FACSIMILE TRANSMITTED order or is dispensed by any practitioner in the course of his OR HER professional practice;

(2) (a) A pharmacist in an emergency situation, in lieu of a written prescription ORDER, in good faith, may dispense up to a seventy-two-hour supply of any controlled substance listed in schedule II of part 2 of this article without a written prescription ORDER. An "emergency situation", as used in this paragraph (a), means a situation in which the prescribing practitioner determines:

(I) That immediate dispensing of the controlled substance is necessary for proper treatment of the intended ultimate user;

(II) That no alternative prescription drug is available, including drugs ~~which~~ THAT are not controlled substances under schedule II of part 2 of this article;

(III) That it is not reasonably possible for the prescribing practitioner to provide a written prescription ORDER to be presented to the person dispensing the controlled substance prior to such dispensing.

(b) Upon receiving such an emergency oral prescription ORDER from the practitioner, the pharmacist shall immediately reduce the prescription ORDER to writing and shall write on its face "authorization for emergency dispensing" and the date and time of dispensing of the oral prescription. The prescribing practitioner shall reduce to writing and deliver the prescription ORDER in person, BY FACSIMILE TRANSMISSION IF THE ORDER IS DELIVERED TO A LONG-TERM CARE FACILITY, or by mail to the pharmacist within seventy-two hours. If delivered by mail, the envelope must be postmarked within seventy-two hours of prescribing. The pharmacist, upon receipt of the prescription ORDER, shall attach the prescription ORDER to the oral prescription ORDER which has been reduced to writing. The pharmacist shall notify the board if the prescribing practitioner fails to deliver the written prescription ORDER

to ~~him~~ THE PHARMACIST.

SECTION 19. 24-34-104 (25) (b), Colorado Revised Statutes, 1988 Repl. Vol., is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25) The following boards in the division of registrations shall terminate on July 1, 1996:

(b) ~~The state board of pharmacy, created by part 1 of article 22 of title 12, C.R.S.~~

SECTION 20. 24-34-104 (32), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (32) The following function of the specified agency shall terminate on July 1, 2003:

(c) THE STATE BOARD OF PHARMACY AND REGULATION OF THE PRACTICE OF PHARMACY BY THE DEPARTMENT OF REGULATORY AGENCIES THROUGH THE DIVISION OF REGISTRATION.

SECTION 21. Appropriations. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of registrations cash fund not otherwise appropriated, to the department of regulatory agencies, for the fiscal year beginning July 1, 1996, the sum of thirty-six thousand eight hundred sixty-eight dollars (\$36,868), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of law, for the fiscal year beginning July 1, 1996, the sum of four thousand four hundred eighty-seven dollars (\$4,487), or so much thereof as may be necessary, for the provision of legal services to the department of regulatory agencies for the purposes of this act. Such sum shall be from cash funds received from the department of regulatory agencies out of the appropriation made in subsection (1) of this section.

SECTION 22. Effective date - applicability. This act shall take effect July 1, 1996, and shall apply to acts committed on or after said date.

SECTION 23. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 1996