

## CHAPTER 128

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**PROFESSIONS AND OCCUPATIONS**


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## SENATE BILL 03-119

BY SENATOR(S) Johnson S., Jones, and May R.;  
also REPRESENTATIVE(S) Clapp, Boyd, Miller, Stafford, Tochtrop, and Williams S.

## AN ACT

CONCERNING THE CONTINUATION OF THE REGULATORY FUNCTIONS OF THE STATE BOARD OF  
PHARMACY.

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

**SECTION 1.** 12-22-102 (1), (5), (6), (7), (8), (9), (10), (13), (17), (20), (22), (22.5) (a), (23), (26) (a), (26) (b), (30), (30.2), (30.3), (32.6), and (34), Colorado Revised Statutes, are amended, and the said 12-22-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

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

(1) "~~Administration~~ ADMINISTER" means the ~~giving of medication to a patient by a pharmacist qualified to administer drugs by authorization of a physician~~ DIRECT APPLICATION OF A DRUG TO THE BODY OF A PATIENT OR RESEARCH SUBJECT BY INJECTION, INHALATION, INGESTION, OR ANY OTHER METHOD.

(5) "Casual sale" means ~~a sale to~~ a TRANSFER, DELIVERY, OR DISTRIBUTION TO A corporation, individual, or other entity, other than a consumer, entitled to possess prescription drugs; except that the amount of drugs ~~sold~~ TRANSFERRED, DELIVERED, OR DISTRIBUTED 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~~ NUMBER OF DOSAGE UNITS OF DRUGS DISPENSED AND DISTRIBUTED ON AN ANNUAL BASIS by such outlet.

(6) (a) "~~Compound~~" means ~~to mix, weigh, or otherwise prepare ingredients, as specified in the prescription order of a practitioner, in accordance with the statutes and regulations of pharmacy and to insure that a label is prepared in accordance with~~

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

~~the prescription order and placed on or securely attached to the container meeting compendia standards~~ "COMPOUNDING" MEANS THE PREPARATION, MIXING, ASSEMBLING, PACKAGING, OR LABELING OF A DRUG OR DEVICE:

(I) AS THE RESULT OF A PRACTITIONER'S PRESCRIPTION DRUG ORDER, CHART ORDER, OR INITIATIVE, BASED ON THE RELATIONSHIP BETWEEN THE PRACTITIONER, PATIENT, AND PHARMACIST IN THE COURSE OF PROFESSIONAL PRACTICE; OR

(II) FOR THE PURPOSE OF, OR AS AN INCIDENT TO, RESEARCH, TEACHING, OR CHEMICAL ANALYSIS AND NOT FOR SALE OR DISPENSING.

(b) "COMPOUNDING" ALSO INCLUDES THE PREPARATION OF DRUGS OR DEVICES IN ANTICIPATION OF PRESCRIPTION DRUG ORDERS BASED ON ROUTINE, REGULARLY-OBSERVED PRESCRIBING PATTERNS.

(7) "Delivery" means the actual, constructive, or attempted transfer OF A DRUG OR DEVICE from one person to another, ~~of a drug or device~~, whether or not ~~there is an agency relationship~~ FOR CONSIDERATION.

(8) "Device" means an instrument, apparatus, IMPLEMENT, machine, contrivance, ~~or implant, or a similar or related article other than a drug, including any component part or accessory which is:~~

~~(a) Recognized in the official compendia or any supplement thereto;~~

~~(b) Intended for use in the diagnosis, treatment, or prevention of disease or other conditions in humans and animals; and~~

~~(c) Required under federal or state law to be prescribed by a practitioner and dispensed by a pharmacist~~ THAT IS REQUIRED UNDER FEDERAL LAW TO BEAR THE LABEL, "CAUTION: FEDERAL LAW REQUIRES DISPENSING BY OR ON THE ORDER OF A PHYSICIAN." "DEVICE" ALSO INCLUDES ANY COMPONENT PART OF, OR ACCESSORY OR ATTACHMENT TO, ANY SUCH ARTICLE, WHETHER OR NOT THE COMPONENT PART, ACCESSORY, OR ATTACHMENT IS SEPARATELY SO LABELED.

(9) "Dispense" means ~~to prepare a drug or device pursuant to a lawful prescription order of a practitioner, together with an appropriate label, in a suitable container for subsequent administration to or use by a patient or other individual entitled to receive the prescription order~~ TO INTERPRET, EVALUATE, AND IMPLEMENT A PRESCRIPTION DRUG ORDER OR CHART ORDER, INCLUDING THE PREPARATION OF A DRUG OR DEVICE FOR A PATIENT OR PATIENT'S AGENT IN A SUITABLE CONTAINER APPROPRIATELY LABELED FOR SUBSEQUENT ADMINISTRATION TO OR USE BY A PATIENT.

(10) "Distribution" means the ~~delivery~~ TRANSFER of a drug or device other than by administering or dispensing.

(13) "~~Habit-forming drug~~" means ~~any drug or medicine which is required under the state food and drug law or the "Federal Food, Drug, and Cosmetic Act" to be labeled as a habit-forming drug.~~

(17) "Manufacture" means to cultivate, grow, or prepare by other process drugs

for sale to wholesalers or other persons entitled to purchase drugs other than the ultimate user, but "manufacture" does not include the COMPOUNDING AND dispensing of a prescription drug pursuant to a prescription order.

(20) "Nonprescription drug" means a ~~medicine or drug which~~ THAT may be sold without a prescription ~~which~~ AND THAT is ~~prepackaged~~ LABELED for use by the consumer, ~~prepared by the manufacturer or producer for use by the consumer, properly labeled and unadulterated~~ in accordance with the requirements of the state food and drug law and the "Federal Food, Drug, and Cosmetic Act". ~~The term shall not apply to any drug that is designated under any law or regulation of this state or federal law or regulation as a habit-forming drug or a controlled substance, as defined in section 12-22-303 (7)~~ RULES OF THIS STATE AND THE FEDERAL GOVERNMENT.

(22) "Official compendia" means the official United States pharmacopeia, NATIONAL FORMULARY, HOMEOPATHIC PHARMACOPOEIA OF THE UNITED STATES, or any ~~supplement~~ SUPPLEMENTS thereto.

(22.5) "Order" means:

(a) A prescription order which is any order, other than a chart order, authorizing the dispensing of a single drug or device that is written, mechanically produced, computer generated and signed by the practitioner, transmitted electronically or by facsimile, or by other means of communication by a practitioner TO A LICENSED PHARMACY OR PHARMACIST and ~~which~~ THAT includes the name or identification of the patient, the date, and sufficient information for compounding, dispensing, and labeling; or

(23) "OTHER outlet" means any ~~prescription drug outlet~~, hospital THAT DOES NOT OPERATE A REGISTERED PHARMACY AND ANY ~~institution, nursing home~~, rural health clinic, ~~convalescent home, extended care facility~~, family planning clinic, ~~wholesaler, manufacturer, or mail order vendor, other than a pharmacist~~ SCHOOL, JAIL, COUNTY HEALTH DEPARTMENT, COMMUNITY HEALTH CLINIC, UNIVERSITY, OR COLLEGE that has facilities in this state registered pursuant to this article and that engages in the COMPOUNDING, dispensing, AND delivery ~~distribution, manufacturing, wholesaling, or sale~~ of drugs or devices.

(24.2) "PHARMACY TECHNICIAN" MEANS AN UNLICENSED PERSON WHO PERFORMS THOSE FUNCTIONS SET FORTH IN PARAGRAPH (b) OF SUBSECTION (26) OF THIS SECTION UNDER THE SUPERVISION OF A PHARMACIST.

(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~~ THE

INTERPRETATION, EVALUATION, IMPLEMENTATION, AND DISPENSING OF ORDERS; PARTICIPATION IN DRUG AND DEVICE SELECTION, DRUG ADMINISTRATION, DRUG REGIMEN REVIEWS, AND DRUG OR DRUG-RELATED RESEARCH; PROVISION OF PATIENT COUNSELING; AND THE PROVISION OF THOSE ACTS OR SERVICES NECESSARY TO PROVIDE PHARMACEUTICAL CARE IN ALL AREAS OF PATIENT CARE; AND

(b) (I) ~~The responsibility for the compounding, dispensing, labeling (except nonprescription drugs), delivery, storage, and distribution of drugs and devices and the maintenance of proper records thereof~~ THE PREPARATION, MIXING, ASSEMBLING, PACKAGING, LABELING, OR DELIVERY OF A DRUG OR DEVICE;

(II) PROPER AND SAFE STORAGE OF DRUGS OR DEVICES; AND

(III) THE MAINTENANCE OF PROPER RECORDS FOR SUCH DRUGS AND DEVICES.

(30) "Prescription drug" means a drug ~~which~~ THAT, prior to being dispensed or delivered, is REQUIRED to be labeled with the following statement: "Caution: Federal law prohibits dispensing without a prescription.", ~~or~~ "RX ONLY", OR "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian."

(30.2) "Prescription drug outlet" means any PHARMACY outlet registered pursuant to this article where prescriptions are ~~filled or~~ compounded and ~~are sold~~, dispensed. ~~offered, or displayed for sale.~~

(30.3) "Refill" means the COMPOUNDING AND dispensing of any drug ~~by a practitioner~~ pursuant to a previously executed order.

(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 PARAGRAPH (b) OF subsection (26) ~~(b)~~ of this section.

(34) "Wholesaler" means a corporation, individual, or other entity with facilities in this state ~~which~~ THAT buys drugs or devices for resale ~~and distribution~~ OR DISTRIBUTES DRUGS OR DEVICES to corporations, individuals, or entities entitled to possess such drugs or devices, other than consumers.

**SECTION 2.** 12-22-103 (3) (b), Colorado Revised Statutes, is amended to read:

**12-22-103. State board of pharmacy - creation - subject to termination - repeal of article.** (3) (b) This article is repealed, effective July 1, ~~2003~~ 2012.

**SECTION 3.** 12-22-110 (1) (e), (1) (f), and (4) (a), Colorado Revised Statutes, are amended, and the said 12-22-110 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

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

(e) Administer examinations to, AND DETERMINE THE QUALIFICATIONS AND FITNESS OF, applicants for licensure;

(f) Keep a record of:

(I) All licenses, ~~and~~ registrations, ~~of all~~ AND license and registration renewals FOR A REASONABLE PERIOD;

(II) ALL suspensions, ~~and~~ revocations, AND ANY OTHER DISCIPLINARY ACTIONS; ~~and of~~

(III) Its own proceedings;

(h) FINE REGISTRANTS WHEN CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE AND THE RULES ADOPTED PURSUANT TO THIS ARTICLE;

(i) MAKE INVESTIGATIONS, HOLD HEARINGS, AND TAKE EVIDENCE IN ALL MATTERS RELATING TO THE EXERCISE AND PERFORMANCE OF THE POWERS AND DUTIES OF THE BOARD, AND, IN CONNECTION WITH ANY INVESTIGATION, SUBPOENA WITNESSES, ADMINISTER OATHS, AND COMPEL THE TESTIMONY OF WITNESSES AND THE PRODUCTION OF ANY DOCUMENTS OR THINGS RELEVANT TO ANY SUCH INVESTIGATION OR HEARING. ANY SUBPOENA ISSUED PURSUANT TO THIS ARTICLE SHALL BE ENFORCEABLE BY THE DISTRICT COURT.

(4) (a) Whenever a duly authorized agent of the board finds or has probable cause to believe that in any ~~prescription drug~~ REGISTERED outlet any drug, nonprescription drug, or device is adulterated or misbranded within the meaning of the "Colorado Food and Drug Act", part 4 of article 5 of title 25, C.R.S., ~~he~~ THE AGENT shall affix to such article a tag or other appropriate marking giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise until provision for removal or disposal is given by the board, its agent, or the court. No person shall remove or dispose of such embargoed article by sale or otherwise without the permission of the board or its agent or, after summary proceedings have been instituted, without permission from the court.

**SECTION 4.** 12-22-116, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**12-22-116. Licensure or registrations - applicability - applications - licensure requirements.** (9) NO INDIVIDUAL WHOSE LICENSE HAS BEEN REVOKED SHALL REAPPLY FOR LICENSURE EARLIER THAN TWO YEARS AFTER THE EFFECTIVE DATE OF THE REVOCATION.

**SECTION 5.** 12-22-116.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**12-22-116.5. Exemptions from licensure - hospital residency programs - home renal dialysis - research companies.** (3) A MANUFACTURER THAT MUST OBTAIN A PRESCRIPTION DRUG OR DEVICE SOLELY FOR USE IN ITS RESEARCH, DEVELOPMENT, OR TESTING PROCEDURES AND THAT DOES NOT FURTHER DISTRIBUTE THE DRUG OR DEVICE MAY APPLY TO THE BOARD FOR A WAIVER OF REGISTRATION PURSUANT TO THIS SUBSECTION (3). THE BOARD MAY GRANT SUCH A WAIVER IF THE MANUFACTURER SUBMITS TO THE BOARD THE NAME OF THE DRUG OR DEVICE IT REQUIRES AND AN AFFIDAVIT CERTIFYING THAT THE DRUG OR DEVICE SHALL ONLY BE USED FOR NECESSARY RESEARCH, DEVELOPMENT, OR TESTING PROCEDURES AND

SHALL NOT BE FURTHER DISTRIBUTED. NO WAIVER GRANTED PURSUANT TO THIS SUBSECTION (3) SHALL APPLY TO ANY CONTROLLED SUBSTANCE AS DEFINED IN STATE OR FEDERAL LAW.

**SECTION 6.** 12-22-119 (1) (b), Colorado Revised Statutes, is amended to read:

**12-22-119. Prescription drug outlet under charge of pharmacist.** (1) (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 owner shall close the prescription drug outlet unless such owner has employed a pharmacist MANAGER and, within ~~seven~~ FOURTEEN days after termination of the former manager's employment, has made application to transfer the registration to the new PHARMACIST manager and has paid the transfer fee therefor.

**SECTION 7.** The introductory portion to 12-22-120 (1) and 12-22-120 (4), Colorado Revised Statutes, are amended 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:

(4) Registrations issued by the board pursuant to this section are ~~not~~ transferable or assignable ONLY PURSUANT TO THIS ARTICLE AND RULES ESTABLISHED BY THE BOARD.

**SECTION 8.** 12-22-121 (2), (3), and (5), Colorado Revised Statutes, are amended to read:

**12-22-121. Compounding, dispensing, and sale of drugs and devices.**

(2) Except as provided in subsection (7) of this section, a manufacturer of drugs may sell or give any drug to:

- (a) Any wholesaler of drugs; ~~or to~~
- (b) A licensed hospital; ~~or~~
- (c) AN OTHER OUTLET AS DEFINED IN SECTION 12-22-102 (23);
- (d) A registered prescription drug outlet; ~~or he may give or sell any drug to~~
- (e) Any practitioner authorized by law to prescribe the ~~same~~ DRUGS.

(3) (a) A wholesaler may sell or give any drug or device to:

- (I) Another wholesaler of drugs or devices; ~~to~~
- (II) Any licensed hospital; ~~or~~
- (III) A registered prescription drug outlet; ~~or to~~
- (IV) AN OTHER OUTLET AS DEFINED IN SECTION 12-22-102 (23); OR

(V) Any practitioner authorized by law to prescribe the ~~same~~ DRUGS OR DEVICES.

(b) A WHOLESALER MAY SELL OR DELIVER TO A PERSON RESPONSIBLE FOR THE CONTROL OF AN ANIMAL A DRUG INTENDED FOR VETERINARY USE FOR THAT ANIMAL ONLY IF A LICENSED VETERINARIAN HAS ISSUED, PRIOR TO SUCH SALE OR DELIVERY, A WRITTEN PRESCRIPTION ORDER FOR THE DRUG IN THE COURSE OF AN EXISTING, VALID VETERINARIAN-CLIENT-PATIENT RELATIONSHIP AS DEFINED IN SECTION 12-64-103 (15.5).

(5) (a) 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 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~~ DRUG, or it may supply an emergency kit to 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.

(b) IN THE CASE OF A COUNTY HEALTH DEPARTMENT THAT OPERATES REGISTERED OTHER OUTLETS, AS DEFINED IN SECTION 12-22-102 (23), ONE REGISTERED OTHER OUTLET MAY MAKE A CASUAL SALE OF A DRUG TO ANOTHER REGISTERED OTHER OUTLET IF:

(I) THE DRUG IS SOLD IN THE ORIGINAL SEALED CONTAINER IN WHICH IT WAS ORIGINALLY RECEIVED FROM THE WHOLESALER;

(II) NO SUCH CASUAL SALE IS MADE TO ANY REGISTERED OTHER OUTLET THAT IS NOT OWNED OR OPERATED BY THAT COUNTY HEALTH DEPARTMENT; AND

(III) THE AMOUNT SOLD DOES NOT EXCEED THE FIVE PERCENT LIMIT ESTABLISHED BY SECTION 12-22-102 (5).

(c) THE DEPARTMENT OF CORRECTIONS MAY, PURSUANT TO SECTION 17-1-113.1, C.R.S., TRANSFER, DELIVER, OR DISTRIBUTE TO A CORPORATION, INDIVIDUAL, OR OTHER ENTITY, OTHER THAN A CONSUMER, ENTITLED TO POSSESS PRESCRIPTION DRUGS IN AN AMOUNT THAT IS LESS THAN, EQUAL TO, OR IN EXCESS OF FIVE PERCENT OF A CASUAL SALE.

**SECTION 9.** 12-22-123 (2), Colorado Revised Statutes, is amended to read:

**12-22-123. Labeling.** (2) Except as otherwise required by law, any drug dispensed pursuant to a prescription order shall bear a label prepared and placed on or securely attached to the medicine container stating at least the name and address of the prescription drug outlet, the serial number, and the date of the prescription or of its ~~filling~~ DISPENSING, the name of the drug dispensed unless otherwise requested by the practitioner, the name of the practitioner, the name of the patient, and, if stated in the prescription, the directions for use and cautionary statements, if any, contained in such prescription.

**SECTION 10.** 12-22-125, Colorado Revised Statutes, is amended to read:

**12-22-125. Unprofessional conduct - grounds for discipline.** (1) The board may ~~deny~~, suspend, ~~or~~ revoke, REFUSE TO RENEW, OR OTHERWISE DISCIPLINE any license or registration issued by it, after a hearing held in accordance with the provisions of this section, upon proof that the licensee or registrant:

(a) Is guilty of misrepresentation, fraud, or deceit in procuring, ~~or~~ attempting to procure, OR RENEWING a license or registration;

(b) Is guilty of the commission of a felony or has had accepted by a court a plea of guilty or nolo contendere to a felony OR HAS RECEIVED A DEFERRED JUDGEMENT AND SENTENCE FOR A FELONY.

(c) Has violated:

(I) Any of the provisions of this part 1, INCLUDING BUT NOT LIMITED TO ANY ACTS IN SECTION 12-22-126;

(II) The lawful rules ~~and regulations~~ of the board; or

(III) Any state or federal law pertaining to drugs.

~~(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:~~

~~(d)~~ (d) Is unfit or incompetent by reason of negligence, habits, or physical or mental illness, or for any other cause, to practice as such;

~~(e)~~ (e) Is ~~habitually intemperate or is addicted to, or uses to excess habit-forming drugs or controlled substances, as defined in section 12-22-303 (7)~~ DEPENDENT ON, OR ENGAGES IN THE HABITUAL OR EXCESSIVE USE OR ABUSE OF INTOXICATING LIQUORS, A HABIT-FORMING DRUG, OR A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 18-18-102 (5), C.R.S.;

~~(f)~~ (f) Knowingly permits a person not licensed as a pharmacist or pharmacy intern to engage in the practice of pharmacy;

~~(g)~~ (g) Has had his or her license to practice pharmacy in another state revoked or suspended, ~~for disciplinary reasons~~ OR IS OTHERWISE DISCIPLINED or has committed acts in any other state that would subject him or her to disciplinary action in this state;

~~(h)~~ (h) Has engaged in advertising ~~which~~ THAT is misleading, deceptive, or false;

(i) HAS DISPENSED A SCHEDULE III, IV, OR V CONTROLLED SUBSTANCE ORDER AS LISTED IN SECTIONS 18-18-205 TO 18-18-207, C.R.S., MORE THAN SIX MONTHS AFTER THE DATE OF ISSUE OF THE ORDER;

(j) HAS ENGAGED IN THE PRACTICE OF PHARMACY WHILE ON INACTIVE STATUS;

(k) HAS FAILED TO MEET GENERALLY ACCEPTED STANDARDS OF PHARMACY

PRACTICE;

(l) FAILS OR HAS FAILED TO PERMIT THE BOARD OR ITS AGENTS TO CONDUCT A LAWFUL INSPECTION;

(m) HAS VIOLATED ANY LAWFUL BOARD ORDER;

(n) HAS COMMITTED ANY FRAUDULENT INSURANCE ACT AS DEFINED IN SECTION 10-1-127, C.R.S.;

(o) HAS WILLFULLY DECEIVED OR ATTEMPTED TO DECEIVE THE BOARD OR ITS AGENTS WITH REGARD TO ANY MATTER UNDER INVESTIGATION BY THE BOARD;

(p) HAS FAILED TO NOTIFY THE BOARD OF ANY CRIMINAL CONVICTION OR DEFERRED JUDGMENT WITHIN THIRTY DAYS AFTER SUCH CONVICTION OR JUDGMENT;

(q) HAS FAILED TO NOTIFY THE BOARD OF ANY DISCIPLINE AGAINST HIS OR HER LICENSE IN ANOTHER STATE WITHIN THIRTY DAYS AFTER SUCH DISCIPLINE.

~~(b)~~ (2) In considering the conviction of a crime, the board shall be governed by the provisions of section 24-5-101, C.R.S.

~~(3) Proceedings for the denial, suspension, or revocation of a license or registration and judicial review shall be in accordance with the provisions of article 4 of title 24, C.R.S., and the hearing and opportunity for review shall be conducted pursuant to said article by the board or an administrative law judge at the board's discretion.~~

~~(4) Upon the finding of the existence of grounds for discipline of any person holding or seeking a license or registration or the renewal thereof under the provisions of this part 1, the board may impose one or more of the following penalties:~~

~~(a) Suspension of the offender's license or registration for a period to be determined by the board;~~

~~(b) Revocation of the offender's license or registration;~~

~~(c) Restriction of the offender's license or registration to prohibit the offender from performing certain acts or from practicing pharmacy in a particular manner for a period to be determined by the board;~~

~~(d) Refusal to renew the offender's license or registration;~~

~~(e) Placement of the accused on probation and supervision by the board for a period to be determined by the board;~~

~~(f) Suspension of the registration of the outlet owned by the offender or in which the offender is employed for a period to be determined by the board.~~

~~(5) (a) The board may also include in any disciplinary order 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 the respondent's physical or mental condition or professional qualifications;~~

~~(II) The taking by 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 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 the respondent's practice to assure that he or she does not practice beyond the limits of his or her capabilities.~~

~~(b) Upon failure of the licensee or registrant to comply with any conditions imposed by the board pursuant to paragraph (a) of this subsection (5), unless due to conditions beyond the licensee's or registrant's control, the board may order suspension of the offender's license or registration in this state until such time as the licensee or registrant complies with such conditions.~~

~~(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.~~

~~(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 to adjudicate the propriety of the conduct upon which the letter of admonition is based.~~

~~(c) If 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 11.** Part 1 of article 22 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**12-22-125.2. Disciplinary actions.** (1) THE BOARD MAY DENY OR DISCIPLINE AN APPLICANT, LICENSEE, OR REGISTRANT WHEN THE BOARD DETERMINES THAT SUCH APPLICANT, LICENSEE, OR REGISTRANT HAS ENGAGED IN ACTIVITIES THAT ARE GROUNDS FOR DISCIPLINE.

(2) (a) PROCEEDINGS FOR THE DENIAL, SUSPENSION, OR REVOCATION OF A LICENSE OR REGISTRATION AND ANY JUDICIAL REVIEW OF SUCH SUSPENSION OR REVOCATION SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 4 OF TITLE 24, C.R.S., AND THE HEARING AND OPPORTUNITY FOR REVIEW SHALL BE CONDUCTED PURSUANT TO SAID ARTICLE BY THE BOARD OR, AT THE BOARD'S DISCRETION, BY AN ADMINISTRATIVE LAW JUDGE.

(b) UPON THE FINDING OF THE EXISTENCE OF GROUNDS FOR DISCIPLINE OF ANY PERSON HOLDING OR SEEKING A LICENSE OR REGISTRATION OR THE RENEWAL THEREOF UNDER THE PROVISIONS OF SECTION 12-22-125, THE BOARD MAY IMPOSE ONE OR MORE OF THE FOLLOWING PENALTIES:

(I) SUSPENSION OF THE OFFENDER'S LICENSE OR REGISTRATION FOR A PERIOD TO BE DETERMINED BY THE BOARD;

(II) REVOCATION OF THE OFFENDER'S LICENSE OR REGISTRATION;

(III) RESTRICTION OF THE OFFENDER'S LICENSE OR REGISTRATION TO PROHIBIT THE OFFENDER FROM PERFORMING CERTAIN ACTS OR FROM PRACTICING PHARMACY IN A PARTICULAR MANNER FOR A PERIOD TO BE DETERMINED BY THE BOARD;

(IV) REFUSAL TO RENEW THE OFFENDER'S LICENSE OR REGISTRATION;

(V) PLACEMENT OF THE OFFENDER ON PROBATION AND SUPERVISION BY THE BOARD FOR A PERIOD TO BE DETERMINED BY THE BOARD;

(VI) SUSPENSION OF THE REGISTRATION OF THE OUTLET THAT IS OWNED BY OR EMPLOYS THE OFFENDER FOR A PERIOD TO BE DETERMINED BY THE BOARD.

(3) THE BOARD MAY ALSO INCLUDE IN ANY DISCIPLINARY ORDER 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:

(a) REQUIRING THE LICENSEE TO SUBMIT TO SUCH EXAMINATIONS AS THE BOARD MAY ORDER TO DETERMINE THE LICENSEE'S PHYSICAL OR MENTAL CONDITION OR PROFESSIONAL QUALIFICATIONS;

(b) REQUIRING THE LICENSEE TO TAKE SUCH THERAPY COURSES OF TRAINING OR EDUCATION AS MAY BE NEEDED TO CORRECT DEFICIENCIES FOUND EITHER IN THE HEARING OR BY SUCH EXAMINATIONS;

(c) REQUIRING THE REVIEW OR SUPERVISION OF THE LICENSEE'S PRACTICE AS MAY BE NECESSARY TO DETERMINE THE QUALITY OF HIS OR HER PRACTICE AND TO CORRECT DEFICIENCIES THEREIN; AND

(d) IMPOSING RESTRICTIONS UPON THE NATURE OF THE LICENSEE'S PRACTICE TO ASSURE THAT HE OR SHE DOES NOT PRACTICE BEYOND THE LIMITS OF HIS OR HER CAPABILITIES.

(4) UPON FAILURE OF THE LICENSEE OR REGISTRANT TO COMPLY WITH ANY CONDITIONS IMPOSED BY THE BOARD PURSUANT TO SUBSECTION (3) OF THIS SECTION, UNLESS DUE TO CONDITIONS BEYOND THE LICENSEE'S OR REGISTRANT'S CONTROL, THE BOARD MAY ORDER SUSPENSION OF THE LICENSE OR REGISTRATION IN THIS STATE UNTIL SUCH TIME AS THE LICENSEE OR REGISTRANT COMPLIES WITH SUCH CONDITIONS.

(5) IN ADDITION TO ANY OTHER PENALTY THAT MAY BE IMPOSED PURSUANT TO THIS SECTION, ANY REGISTRANT VIOLATING ANY PROVISION OF THIS ARTICLE OR ANY RULES PROMULGATED PURSUANT TO THIS ARTICLE MAY BE FINED NOT LESS THAN FIVE HUNDRED DOLLARS AND NOT MORE THAN FIVE THOUSAND DOLLARS FOR EACH SUCH VIOLATION.

(6) (a) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN INSTANCE OF MISCONDUCT THAT, 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 LICENSEE AGAINST WHOM A COMPLAINT WAS MADE AND A COPY THEREOF TO THE PERSON MAKING THE COMPLAINT.

(b) WHEN A LETTER OF ADMONITION IS SENT BY CERTIFIED MAIL BY THE BOARD TO A LICENSEE COMPLAINED AGAINST, SUCH LICENSEE SHALL BE ADVISED THAT HE OR SHE HAS THE RIGHT TO REQUEST IN WRITING, WITHIN THIRTY DAYS AFTER THE DATE ON WHICH THE LETTER WAS MAILED, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED TO ADJUDICATE THE PROPRIETY OF THE CONDUCT UPON WHICH THE LETTER OF ADMONITION IS BASED.

(c) IF THE REQUEST FOR ADJUDICATION IS TIMELY MADE, THE LETTER OF ADMONITION SHALL BE DEEMED VACATED, AND THE MATTER SHALL BE PROCESSED BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

(7) (a) 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 LETTER OF CONCERN MAY BE SENT BY CERTIFIED MAIL TO THE LICENSEE OR REGISTRANT 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.

(b) NOTICE THAT A LETTER OF CONCERN HAS BEEN ISSUED BY THE BOARD SHALL BE SENT TO THE COMPLAINANT.

(c) A LETTER OF CONCERN SHALL NOT BE CONSTRUED AS DISCIPLINE.

**SECTION 12.** 12-22-130 (1) (b), Colorado Revised Statutes, is amended to read:

**12-22-130. Nonresident prescription drug outlet - registration.** (1) Any prescription drug outlet located outside this state that ships, mails, or delivers, in any manner, drugs or devices into this state shall be considered a nonresident prescription drug outlet, shall be registered with the board, and shall disclose to the board the following:

(b) That it complies with all lawful directions and requests for information from the regulatory or licensing agency of the state in which it is licensed as well as with all requests for information made by the board pursuant to this section. The nonresident prescription drug outlet shall maintain at all times a valid, unexpired license, permit, or registration to conduct the ~~pharmacist~~ PRESCRIPTION DRUG outlet in compliance with the laws of the state in which it is a resident. As a prerequisite to registering with the board, the nonresident prescription drug outlet shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which it is located.

**SECTION 13.** 12-22-303 (7), Colorado Revised Statutes, is amended to read:

**12-22-303. Definitions.** As used in this part 3, unless the context otherwise requires:

(7) "Controlled substance" ~~means a drug, substance, or immediate precursor included in schedules I to V of part 2 of article 18 of title 18, C.R.S.~~ SHALL HAVE THE SAME MEANING AS IN SECTION 18-18-102 (5), C.R.S.

**SECTION 14.** 12-22-601 (2), Colorado Revised Statutes, is amended to read:

**12-22-601. Legislative declaration.** (2) It is the intent of the general assembly that the pharmacy peer health assistance diversion program and its related procedures shall be utilized by the state board of pharmacy IN CONJUNCTION WITH, OR as an alternative to, the use of disciplinary proceedings by the board, which proceedings are by their nature time-consuming and costly to the people of this state. The pharmacy peer health assistance diversion program is hereby established to alleviate the need for such disciplinary proceedings, while at the same time providing safeguards that protect the public health, safety, and welfare. The general assembly further declares that it is its intent that the state board of pharmacy will act to implement the provisions of this article.

**SECTION 15.** 12-22-603 (3) (b), Colorado Revised Statutes, is amended to read:

**12-22-603. Pharmacy peer health assistance fund.** (3) (b) Effective July 1, ~~1994~~ 2003, as a condition of licensure and licensure renewal in this state, every applicant shall pay to the administering entity that has been selected by the board pursuant to the provisions of paragraphs (d) and (e) of this subsection (3) an amount set by the board not to exceed ~~twenty-eight~~ FIFTY-SIX dollars biennially, which amount shall be used to support designated providers that have been selected by the board to provide assistance to pharmacists needing help in dealing with physical, emotional, psychiatric, psychological, drug abuse, or alcohol abuse problems ~~which~~ THAT may be detrimental to their ability to practice.

**SECTION 16.** 12-22-606 (1), Colorado Revised Statutes, is amended to read:

**12-22-606. Rehabilitation evaluation committee - created.** (1) The board shall establish a rehabilitation evaluation committee, which shall consist of five members to be appointed by the board. ~~Each member of the committee shall serve for a term of four years; except that, of the three voting members, one shall serve an initial term of one year, one shall serve an initial term of two years, and one shall~~

~~serve an initial term of three years.~~ Other than the staff member for the board, no member shall serve more than ~~one~~ TWO full four-year ~~term~~ TERMS. The members shall be selected as follows: Three members who are licensed pharmacists including one who has recovered from an addiction to alcohol or drugs; one member who is the staff member for the board; and one member who is ~~the director of a program provided by a pharmacy peer health assistance organization~~ A PSYCHIATRIST OR A LICENSED MENTAL HEALTH PROVIDER. The staff member for the board and the ~~peer health assistance program director~~ PSYCHIATRIST OR LICENSED MENTAL HEALTH PROVIDER shall be nonvoting members of the committee.

**SECTION 17.** 17-1-113.1, Colorado Revised Statutes, is amended to read:

**17-1-113.1. Administration or monitoring of medications to persons in correctional facilities.** (1) The executive director has the power to direct the administration or monitoring of medications to persons in correctional facilities, as described in section 25-1-107 (1) (ee) (II.5) (A), C.R.S., under the executive director's control, in a manner consistent with section 25-1-107 (1) (ee), C.R.S.

(2) THE EXECUTIVE DIRECTOR MAY AUTHORIZE THE TRANSFER, DELIVERY, OR DISTRIBUTION TO A CORPORATION, INDIVIDUAL, OR OTHER ENTITY, OTHER THAN A CONSUMER, ENTITLED TO POSSESS PRESCRIPTION DRUGS IN AN AMOUNT THAT IS LESS THAN, EQUAL TO, OR IN EXCESS OF FIVE PERCENT OF THE TOTAL NUMBER OF DOSAGE UNITS OR DRUGS DISPENSED AND DISTRIBUTED ON AN ANNUAL BASIS.

**SECTION 18. Repeal.** 24-34-104 (32) (c), Colorado Revised Statutes, is repealed as follows:

**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 19.** 24-34-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (43) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH SHALL TERMINATE ON JULY 1, 2012: THE STATE BOARD OF PHARMACY AND REGULATION OF THE PRACTICE OF PHARMACY BY THE DEPARTMENT OF REGULATORY AGENCIES THROUGH THE DIVISION OF REGISTRATIONS.

**SECTION 20. Effective date - applicability.** This act shall take effect July 1, 2003, and shall apply to licenses and registrations related to the practice of pharmacy issued or renewed on or after said date.

**SECTION 21. 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: April 17, 2003