

## CHAPTER 401

---

**PROFESSIONS AND OCCUPATIONS**

---

**SENATE BILL 09-239**

BY SENATOR(S) Tochtrop, Boyd, Heath, Newell, Romer, Williams;  
also REPRESENTATIVE(S) Riesberg, Gardner B., Gerou, Kefalas, Kerr J., Labuda, Massey, Roberts, Soper, Summers, Todd.

**AN ACT**

**CONCERNING THE CONTINUATION OF THE STATE BOARD OF NURSING, AND MAKING AN APPROPRIATION THEREFOR.**

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

**SECTION 1.** 12-38-133 (1), Colorado Revised Statutes, is amended to read:

**12-38-133. Repeal of article - review of functions.** (1) This article is repealed, effective July 1, ~~2009~~ 2020.

**SECTION 2.** 24-34-104 (40) (o) and (51), Colorado Revised Statutes, are amended to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (40) The following agencies, functions, or both, shall terminate on July 1, 2009:

(o) ~~The state board of nursing, created by article 38 of title 12, C.R.S.;~~

(51) The following agencies, functions, or both, shall terminate on July 1, 2020:

(a) The regulation of persons working in coal mines by the department of natural resources through the coal mine board of examiners in accordance with article 22 of title 34, C.R.S.;

(e) THE STATE BOARD OF NURSING, CREATED BY ARTICLE 38 OF TITLE 12, C.R.S.

**SECTION 3.** 12-38-104 (1) and (2) (b), Colorado Revised Statutes, are amended to read:

---

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

**12-38-104. State board of nursing created.** (1) (a) There is hereby created the state board of nursing in the division of registrations in the department of regulatory agencies, which board shall consist of eleven members WHO ARE RESIDENTS OF THIS STATE, appointed by the governor ~~with senate confirmation~~, as follows:

(I) Two members of the board shall be licensed practical nurses engaged in the practice of practical nursing ~~one of whom shall be employed by a licensed hospital in a rural area~~ AND LICENSED IN THIS STATE;

(II) Seven members of the board shall be licensed professional nurses WHO ARE ACTIVELY EMPLOYED IN THEIR RESPECTIVE NURSING PROFESSIONS AND LICENSED IN THIS STATE. THE PROFESSIONAL NURSE MEMBERS SHALL HAVE BEEN EMPLOYED FOR AT LEAST THREE YEARS IN THEIR RESPECTIVE CATEGORIES. MEMBERS SHALL BE as follows:

(A) One member shall be engaged in professional nursing education;

(B) One member shall be engaged in practical nursing education in a program that prepares an individual for licensure;

(C) One member shall be engaged in home health care;

(D) One member shall be registered as an advanced practice nurse pursuant to section 12-38-111.5;

(E) One member shall be engaged in nursing service administration; and

(F) Two members shall be engaged as staff nurses, including one staff nurse who is employed in a hospital and one employed in a nursing care facility;

(III) Two members of the board shall be persons who are not CURRENTLY LICENSED AND HAVE NOT BEEN PREVIOUSLY licensed AS HEALTH CARE PROVIDERS, AND WHO ARE NOT employed BY or in any way connected with, or ~~with~~ HAVE any financial interest in, ~~any~~ A health care facility, agency, or insurer.

(IV) ~~Any statutory change in board composition shall be implemented when the terms of current members expire and no member shall be asked to resign before the end of a term due to such statutory changes.~~

(b) ~~The nurse members of the board shall be actively employed in their respective nursing professions, and the professional nurse members shall have been employed for at least three years in their respective categories. All members shall be residents of this state and the nurse members shall be licensed in this state.~~ ANY STATUTORY CHANGE IN BOARD COMPOSITION SHALL BE IMPLEMENTED WHEN THE TERMS OF CURRENT MEMBERS EXPIRE, AND NO MEMBER SHALL BE ASKED TO RESIGN BEFORE THE END OF A TERM DUE TO SUCH STATUTORY CHANGES.

(b.5) WHEN MAKING APPOINTMENTS TO THE BOARD, THE GOVERNOR SHALL STRIVE TO ACHIEVE GEOGRAPHICAL, POLITICAL, URBAN, AND RURAL BALANCE AMONG THE BOARD MEMBERSHIP.

(c) (I) Each member of the board shall be appointed for a term of three years; ~~except as otherwise provided in subsection (2) of this section~~ THAT MEMBERS APPOINTED TO THE BOARD FOR A FIRST OR SECOND TERM ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, SHALL BE APPOINTED FOR A TERM OF FOUR YEARS.

(II) Any interim appointment necessary to fill a vacancy which has occurred by any reason other than the expiration of a term shall be for the remainder of the term of the individual member whose office has become vacant.

(III) A member may be reappointed for a subsequent term at the pleasure of the governor, ~~with the consent of the senate~~; but no member shall serve for more than two consecutive terms.

(d) Notwithstanding the provisions of this subsection (1) to the contrary, if, as determined by the governor, an appropriate applicant for membership on the board pursuant to paragraph (a) of this subsection (1) is not available to serve on the board for a particular term, the governor may appoint a nurse whose license is in good standing to fill the vacancy for the length of that term. At the end of such term, if the governor, after a good faith attempt, cannot find an appropriate applicant pursuant to paragraph (a) of this subsection (1), the governor may appoint a nurse whose license is in good standing to fill the vacancy for one term.

~~(2) (b) From the five board members whose terms are to expire on July 1, 1985, the governor shall select one member and extend that member's term to July 1, 1987. The terms of the four other members shall expire as scheduled on July 1, 1985. From the five board members whose terms are to expire on July 1, 1986, the governor shall select one member and extend that member's term to July 1, 1987. The terms of the four other members shall expire as scheduled on July 1, 1986. The term of the eleventh member shall expire on July 1, 1987, as scheduled.~~

**SECTION 4.** 12-38-108 (1) (b.5), Colorado Revised Statutes, is amended to read:

**12-38-108. Powers and duties of the board - rules.** (1) The board has the following powers and duties:

(b.5) To revoke, suspend, withhold, limit the scope of, or refuse to renew any license, to place ~~on probation~~ a licensee or temporary licensee ON PROBATION, TO IMPOSE AN ADMINISTRATIVE FINE ON A LICENSEE, or to issue a letter of admonition to a licensee in accordance with the procedures set forth in section 12-38-116.5 upon proof that such licensee has ~~violated~~ COMMITTED AN ACT THAT CONSTITUTES grounds for discipline ~~in~~ UNDER section 12-38-117 or 12-42-113;

**SECTION 5.** The introductory portion to 12-38-116.5 (4) (c) (III), Colorado Revised Statutes, is amended to read:

**12-38-116.5. Disciplinary procedures of the board - inquiry and hearings panels.** (4) (c) (III) If the hearings panel finds the charges proven and orders that discipline be imposed, it shall also determine the extent of such discipline, which may be in the form of a letter of admonition regarding a license or suspension for

a definite or indefinite period, revocation, or nonrenewal of a license to practice. IN ADDITION TO ANY OTHER DISCIPLINE THAT MAY BE IMPOSED PURSUANT TO THIS SECTION, THE HEARINGS PANEL MAY IMPOSE A FINE OF NO LESS THAN TWO HUNDRED FIFTY DOLLARS BUT NO MORE THAN ONE THOUSAND DOLLARS PER VIOLATION ON ANY NURSE WHO VIOLATES THIS ARTICLE OR ANY RULE ADOPTED PURSUANT TO THIS ARTICLE. THE BOARD SHALL ADOPT RULES ESTABLISHING A FINE STRUCTURE AND THE CIRCUMSTANCES UNDER WHICH FINES MAY BE IMPOSED. ALL FINES COLLECTED PURSUANT TO THIS SUBPARAGRAPH (III) SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE GENERAL FUND. In determining appropriate disciplinary action, the hearings panel shall first consider sanctions that are necessary to protect the public. Only after the panel has considered such sanctions shall it consider and order requirements designed to rehabilitate the nurse. If discipline other than revocation of a license to practice is imposed, the hearings panel may also order that the nurse be granted probation and allowed to continue to practice during the period of such probation. The hearings panel may also include in any disciplinary order that allows the nurse to continue to practice such conditions as the panel may deem appropriate to assure that the nurse is physically, mentally, and otherwise qualified to practice nursing in accordance with generally accepted standards of practice, including any of the following:

**SECTION 6. Repeal.** 12-38-111 (1) (c), Colorado Revised Statutes, is repealed as follows:

**12-38-111. Requirements for professional nurse licensure.** (1) The board shall issue a license to engage in the practice of professional nursing to any applicant who:

~~(c) Submits proof satisfactory to the board upon such forms as the board may require to show that the applicant presently is not and, for the twelve-month period immediately preceding the date of the application, was not addicted to any controlled substance, as defined in section 12-22-303 (7), or is not a regular user of the same without a prescription therefor and that the applicant is not habitually intemperate in the use of intoxicating liquor;~~

**SECTION 7. Repeal.** 12-38-112 (1) (c), Colorado Revised Statutes, is repealed as follows:

**12-38-112. Requirements for practical nurse licensure.** (1) The board shall issue a license to engage in the practice of practical nursing to any applicant who:

~~(c) Submits proof satisfactory to the board upon such forms as the board may require to show that the applicant presently is not and, for the twelve-month period immediately preceding the date of the application, was not addicted to any controlled substance, as defined in section 12-22-303 (7), or is not a regular user of the same without a prescription therefor and that the applicant is not habitually intemperate in the use of intoxicating liquor;~~

**SECTION 8.** 12-38-117 (1) (i) and (1) (v), Colorado Revised Statutes, are amended, and the said 12-38-117 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**12-38-117. Grounds for discipline.** (1) "Grounds for discipline", as used in this article, means any action by any person who:

(i) ~~Is addicted to or dependent on alcohol or~~ EXCESSIVELY USES OR ABUSES ALCOHOL, habit-forming drugs, ~~is a habitual user of~~ controlled substances, as defined in section 12-22-303, ~~(7)~~; or other drugs having similar effects, or is diverting controlled substances, as defined in section 12-22-303, ~~(7)~~; or other drugs having similar effects from the licensee's place of employment; except that the board has the discretion not to discipline the licensee if such licensee is participating in good faith in a program approved by the board designed to end such ~~addiction or dependency~~ EXCESSIVE USE OR ABUSE;

(v) Has ~~negligently or willfully~~ failed to accurately complete and submit to the board the designated questionnaire upon renewal of a license pursuant to section 12-38-111 (3), 12-38-112 (3), or 12-38-112.5 (8);

(z) HAS FAILED TO REPORT TO THE BOARD, WITHIN FORTY-FIVE DAYS AFTER A FINAL CONVICTION, THAT THE PERSON HAS BEEN CONVICTED OF A CRIME, AS DEFINED IN TITLE 18, C.R.S.

**SECTION 9. Repeal.** 12-38-113, Colorado Revised Statutes, is repealed as follows:

**12-38-113. Denial of license.** ~~(1) The board may refuse to issue a license or temporary license to practice as a nurse to any applicant who has had a license to engage in the practice of nursing or any health care occupation revoked by any legally authorized board. The board may require any such applicant to pass a written examination as provided in section 12-38-110 subsequent to a one-year waiting period after such revocation as a prerequisite to licensure. This subsection (1) in no way interferes with the authority of the board to revoke a license.~~

~~(2) The board may refuse to issue a license or temporary license to practice as a nurse to any applicant during the time the applicant's license is under suspension in another state.~~

**SECTION 10.** 12-38-118 (1), (2), and (6), Colorado Revised Statutes, are amended to read:

**12-38-118. Withholding or denial of license - hearing.** (1) (a) The board is empowered to determine summarily whether an applicant for a license or a temporary license to practice as a nurse possesses the qualifications required by this article, ~~or whether there is probable cause to believe that an applicant has done any of the acts set forth in section 12-38-117 as grounds for discipline, OR WHETHER THE APPLICANT HAS HAD A LICENSE TO PRACTICE NURSING OR ANY OTHER HEALTH CARE OCCUPATION REVOKED BY ANY LEGALLY AUTHORIZED BOARD.~~

(b) As used in this section:

(I) "Applicant" includes a nurse seeking reinstatement or reactivation of a license pursuant to section 12-38-118.5, but does not include a renewal applicant.

(II) "LEGALLY AUTHORIZED BOARD" MEANS A BOARD CREATED PURSUANT TO THE LAWS OF THIS STATE OR OF ANOTHER STATE FOR THE PURPOSE OF LICENSING OR OTHERWISE AUTHORIZING A PERSON TO ENGAGE IN A HEALTH CARE OCCUPATION. THE TERM INCLUDES ANY GOVERNMENTAL ENTITY CHARGED WITH LICENSING OR OTHER OVERSIGHT OF PERSONS ENGAGED IN A HEALTH CARE OCCUPATION.

(2) (a) (I) If the board determines that an applicant does not possess the qualifications required by this article, ~~or~~ that probable cause exists to believe that an applicant has done any of the acts set forth in section 12-38-117, OR THAT THE APPLICANT HAS HAD A NURSING OR OTHER HEALTH CARE OCCUPATION LICENSE REVOKED BY ANOTHER LEGALLY AUTHORIZED BOARD, the board may withhold or deny the applicant a license. ~~In such instance;~~

(II) THE BOARD MAY REFUSE TO ISSUE A LICENSE OR TEMPORARY LICENSE TO PRACTICE AS A NURSE TO ANY APPLICANT DURING THE TIME THE APPLICANT'S LICENSE IS UNDER SUSPENSION IN ANOTHER STATE.

(III) THE BOARD MAY REFUSE TO ISSUE A LICENSE OR MAY GRANT A LICENSE SUBJECT TO TERMS OF PROBATION IF THE BOARD DETERMINES THAT AN APPLICANT FOR A LICENSE HAS NOT ACTIVELY PRACTICED PRACTICAL OR PROFESSIONAL NURSING, OR HAS NOT OTHERWISE MAINTAINED CONTINUED COMPETENCY, AS DETERMINED BY THE BOARD, DURING THE TWO YEARS IMMEDIATELY PRECEDING THE APPLICATION FOR LICENSURE UNDER THIS ARTICLE.

(b) IF THE BOARD REFUSES TO ISSUE A LICENSE TO AN APPLICANT PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), the provisions of section 24-4-104 (9), C.R.S., shall apply. ~~and~~ UPON SUCH REFUSAL, the board shall provide ~~such~~ THE applicant with a statement in writing setting forth THE FOLLOWING:

(I) The basis of the board's determination that the applicant:

(A) Does not possess the qualifications required by this article;

(B) HAS HAD A NURSING OR OTHER HEALTH CARE OCCUPATION LICENSE REVOKED OR SUSPENDED BY ANOTHER LEGALLY AUTHORIZED BOARD; ~~or~~

(C) HAS NOT ACTIVELY PRACTICED PRACTICAL OR PROFESSIONAL NURSING, OR HAS NOT MAINTAINED CONTINUED COMPETENCY, DURING THE PREVIOUS TWO YEARS; OR

(II) The factual basis for probable cause that the applicant has done any of the acts set forth in section 12-38-117.

(c) IF THE BOARD REFUSES TO ISSUE A LICENSE TO AN APPLICANT ON THE GROUNDS THAT THE APPLICANT'S NURSING OR OTHER HEALTH CARE OCCUPATION LICENSE WAS REVOKED BY ANOTHER LEGALLY AUTHORIZED BOARD, THE BOARD MAY REQUIRE THE APPLICANT TO PASS A WRITTEN EXAMINATION AS PROVIDED IN SECTION 12-38-110, AS A PREREQUISITE TO LICENSURE. THE APPLICANT SHALL NOT BE ALLOWED TO TAKE THE WRITTEN EXAMINATION UNTIL AT LEAST TWO YEARS AFTER THE REVOCATION OF THE NURSING OR OTHER HEALTH CARE OCCUPATION LICENSE.

(6) (a) At ~~such~~ THE hearing, the applicant shall have the burden of proof to show that: ~~he~~

(I) THE APPLICANT possesses the qualifications required for licensure under this article;

(II) THE APPLICANT'S NURSING OR OTHER HEALTH CARE OCCUPATION LICENSE WAS NOT REVOKED BY ANOTHER LEGALLY AUTHORIZED BOARD; OR

(III) THE APPLICANT HAS ACTIVELY PRACTICED PRACTICAL OR PROFESSIONAL NURSING, OR HAS MAINTAINED CONTINUED COMPETENCY, DURING THE TWO YEARS PRIOR TO APPLICATION FOR A LICENSE UNDER THIS ARTICLE.

(b) The board shall have the burden of proof to show commission of acts set forth in section 12-38-117.

**SECTION 11.** 12-38-116.5 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**12-38-116.5. Disciplinary procedures of the board - inquiry and hearings panels.** (4) (e) ANY PERSON WHOSE LICENSE TO PRACTICE NURSING IS REVOKED OR WHO SURRENDERS HIS OR HER LICENSE TO AVOID DISCIPLINE SHALL NOT BE ELIGIBLE TO APPLY FOR ANY LICENSE FOR TWO YEARS AFTER THE DATE THE LICENSE IS REVOKED OR SURRENDERED. THE TWO-YEAR WAITING PERIOD APPLIES TO ANY PERSON WHOSE LICENSE TO PRACTICE NURSING OR ANY OTHER HEALTH CARE OCCUPATION IS REVOKED BY ANY OTHER LEGALLY QUALIFIED BOARD.

**SECTION 12. Repeal.** 12-38-103 (6) and (7), Colorado Revised Statutes, are repealed as follows:

**12-38-103. Definitions.** As used in this article, unless the context otherwise requires:

(6) ~~"Graduate nurse" means a person who has graduated from an approved program of professional nursing, and only such graduates may use the term "graduate nurse" and its abbreviation, "G.N.", pending the results of the first licensure examination for which they are eligible.~~

(7) ~~"Graduate practical nurse" means a person who has graduated from an approved program of practical nursing, and only such graduates may use the term "graduate practical nurse" and its abbreviation, "G.P.N.", pending the results of the first licensure examination for which they are eligible.~~

**SECTION 13. Repeal.** 12-38-115 (2), Colorado Revised Statutes, is repealed as follows:

**12-38-115. Temporary licenses and permits.** (2) ~~The board may issue a permit to graduates of approved educational programs pending the results of the licensing examination. Upon receipt of the results of the examination by the board, the permit shall expire. Such permit shall not be issued to any applicant who has previously failed an examination administered by the board or by another state or a territory of~~

~~the United States or another country.~~

**SECTION 14.** 12-38-129, Colorado Revised Statutes, is amended to read:

**12-38-129. Disposition of fees - appropriation.** All fees collected pursuant to the authority of the state board of nursing shall be transmitted to the state treasurer who shall credit the same pursuant to section 24-34-105, C.R.S., and the general assembly shall make annual appropriations pursuant to said section for the expenditures of the board incurred in the performance of its duties. ~~All vouchers drawn against any such appropriation shall be signed and certified to by the executive officer of the board.~~

**SECTION 15.** 12-38-116.5 (9), Colorado Revised Statutes, is amended to read:

**12-38-116.5. Disciplinary procedures of the board - inquiry and hearings panels.** (9) (a) ~~Except when a decision to proceed with a disciplinary action has been agreed upon by a majority of an inquiry panel and a notice of formal complaint is drafted and served on the licensee by first-class mail,~~ Investigations, examinations, hearings, meetings, or any other proceedings of the board conducted pursuant to the provisions of this section shall be exempt from the OPEN MEETINGS provisions of the ~~open records law, article 72~~ "COLORADO SUNSHINE ACT OF 1972" CONTAINED IN PART 4 OF ARTICLE 6 of title 24, C.R.S., requiring that proceedings of the board be conducted publicly, ~~or~~ AND THE OPEN RECORDS PROVISIONS OF ARTICLE 72 OF TITLE 24, C.R.S., REQUIRING that the minutes or records of the board with respect to action of the board taken pursuant to the provisions of this section be open to public inspection.

(b) NOTWITHSTANDING THE EXEMPTIONS IN PARAGRAPH (a) OF THIS SUBSECTION (9), RECORDS OF DISCIPLINARY ACTION TAKEN BY THE BOARD PURSUANT TO THIS SECTION SHALL BE OPEN TO PUBLIC INSPECTION PURSUANT TO THE OPEN RECORDS PROVISIONS OF ARTICLE 72 OF TITLE 24, C.R.S.

**SECTION 16.** 12-38-108 (1) (I) (B), Colorado Revised Statutes, is amended to read:

**12-38-108. Powers and duties of the board - rules.** (1) The board has the following powers and duties:

(I) (B) To conduct criminal history record checks on any ~~nurse aide~~ INDIVIDUAL UNDER THE JURISDICTION OF THE BOARD, against whom a complaint has been filed;

**SECTION 17.** 12-38-103 (4) and (9), Colorado Revised Statutes, are amended, and the said 12-38-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**12-38-103. Definitions.** As used in this article, unless the context otherwise requires:

(4) "Delegated medical function" means an aspect of care ~~which~~ THAT implements and is consistent with the medical plan as prescribed by a licensed or

otherwise legally authorized physician, podiatrist, or dentist ~~Subject to the provisions of section 12-36-106 (5), a physician may delegate authority to a physician assistant who has passed a national certifying examination to implement any act under the medical plan, including the initiation of medical directives to any nurse licensed under section 12-38-111 or 12-38-112. Any such delegation to a physician assistant shall be made pursuant to the written or oral directions of a physician or written protocol~~ AND IS DELEGATED TO A REGISTERED PROFESSIONAL NURSE OR A PRACTICAL NURSE BY A PHYSICIAN, PODIATRIST, DENTIST, OR PHYSICIAN ASSISTANT. For purposes of this subsection (4), "medical plan" means a written plan, verbal order, standing order, or protocol, whether patient specific or not, that authorizes specific or discretionary medical action, which may include but is not limited to the selection of medication. Nothing in this subsection (4) shall limit the practice of nursing as defined in this article.

(8.5) (a) "PRACTICE OF ADVANCED PRACTICE NURSING" MEANS AN EXPANDED SCOPE OF PROFESSIONAL NURSING IN A SCOPE, ROLE, AND POPULATION FOCUS APPROVED BY THE BOARD, WITH OR WITHOUT COMPENSATION OR PERSONAL PROFIT, AND INCLUDES THE PRACTICE OF PROFESSIONAL NURSING, AS DEFINED IN SUBSECTION (10) OF THIS SECTION.

(b) "PRACTICE OF ADVANCED PRACTICE NURSING" INCLUDES PRESCRIBING MEDICATIONS AS MAY BE AUTHORIZED PURSUANT TO SECTION 12-38-111.6.

(c) NOTHING IN THIS SUBSECTION (8.5) SHALL ALTER THE DEFINITION OF THE PRACTICE OF PROFESSIONAL NURSING, AS DEFINED IN SUBSECTION (10) OF THIS SECTION.

(9) (a) "Practice of practical nursing" means the performance, under the supervision of a dentist, physician, podiatrist, or professional nurse authorized to practice in this state, of those services requiring the education, training, and experience, as evidenced by knowledge, abilities, and skills required in this article for licensing as a practical nurse pursuant to section 12-38-112, in:

(I) Caring for the ill, injured, or infirm; ~~in~~

(II) Teaching and promoting preventive health measures; ~~in~~

(III) Acting to safeguard life and health; or ~~in~~

(IV) Administering treatments and medications prescribed by:

(A) A legally authorized dentist, podiatrist, or physician; or

(B) Physician assistant implementing a medical plan pursuant to subsection (4) of this section.

(b) "PRACTICE OF PRACTICAL NURSING" INCLUDES THE PERFORMANCE OF DELEGATED MEDICAL FUNCTIONS.

(c) Nothing in this article shall limit or deny a practical nurse from supervising other practical nurses or other health care personnel.

**SECTION 18.** 12-38-131 (1), Colorado Revised Statutes, is amended to read:

**12-38-131. Nursing peer health assistance or nurse alternative to discipline program - fund - rules.** (1) As a condition of licensure and for the purpose of supporting a nursing peer health assistance program or a nurse alternative to discipline program, every ~~renewal~~ applicant FOR AN INITIAL LICENSE OR TO REINSTATE A LICENSE AND ANY PERSON RENEWING A LICENSE ISSUED PURSUANT TO THIS ARTICLE shall pay to the administering entity designated pursuant to paragraph (c) of subsection (3) of this section a fee in an amount set by the board, not to exceed twenty-five dollars per year; except that the board may adjust such amount each January 1 to reflect changes in the United States department of labor's bureau of labor statistics consumer price index, or its successor index, for the Denver-Boulder consolidated metropolitan statistical area for the price of goods paid by urban consumers.

**SECTION 19.** 12-38-111.5 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**12-38-111.5. Requirements for advanced practice nurse registration - legislative declaration - definition - advanced practice registry.** (4)(d) ON AND AFTER JULY 1, 2010, IN ADDITION TO THE REQUIREMENTS OF PARAGRAPH (c) OF THIS SUBSECTION (4), A PROFESSIONAL NURSE SHALL OBTAIN NATIONAL CERTIFICATION FROM A NATIONALLY RECOGNIZED ACCREDITING AGENCY, AS DEFINED BY THE BOARD BY RULE, IN THE APPROPRIATE SPECIALTY IN ORDER TO BE INCLUDED IN THE ADVANCED PRACTICE REGISTRY; EXCEPT THAT PROFESSIONAL NURSES WHO ARE INCLUDED IN THE REGISTRY AS OF JUNE 30, 2010, BUT HAVE NOT OBTAINED SUCH NATIONAL CERTIFICATION, MAY THEREAFTER CONTINUE TO BE INCLUDED IN THE REGISTRY AND TO USE THE APPROPRIATE TITLE AND ABBREVIATION.

**SECTION 20.** 12-38-111.6 (3) (a), (3) (b), and (3) (c), the introductory portion to 12-38-111.6 (4), and 12-38-111.6 (6), Colorado Revised Statutes, are amended, and the said 12-38-111.6 (4) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**12-38-111.6. Prescriptive authority - advanced practice nurses - rules - repeal.** (3) (a) An advanced practice nurse may be granted authority to prescribe prescription drugs AND CONTROLLED SUBSTANCES to provide treatment ~~for persons requiring routine health maintenance or routine preventive care~~ TO CLIENTS.

~~(b) An advanced practice nurse may be granted authority to prescribe prescription drugs and controlled substances to provide treatment for persons requiring:~~

~~(f) Care for an acute self-limiting condition;~~

~~(ff) Care for a chronic condition that has stabilized; or~~

~~(fff) Terminal comfort care.~~

~~(c) For purposes of this subsection (3), "self-limiting condition" means a condition that has a defined diagnosis and a predictable outcome and is not threatening to life or limb.~~

(4) An advanced practice nurse applying for prescriptive authority BEFORE JULY 1, 2010, shall provide evidence to the board of the following:

(e) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2010.

(6) (a) Advanced practice nurses from other states applying for prescriptive authority BEFORE JULY 1, 2010, shall comply with all requirements set forth in this section or any rule adopted by the board pursuant to this section.

(b) THIS SUBSECTION (6) IS REPEALED, EFFECTIVE JULY 1, 2010.

**SECTION 21.** 12-38-111.6, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**12-38-111.6. Prescriptive authority - advance practice nurses.** (4.5) (a) ON OR AFTER JULY 1, 2010, OR, IF THE DIRECTOR OF THE DIVISION OF REGISTRATIONS ADOPTS RULES PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (f) OF THIS SUBSECTION (4.5), ON OR AFTER JULY 2, 2010, AN ADVANCED PRACTICE NURSE APPLYING FOR PRESCRIPTIVE AUTHORITY SHALL PROVIDE EVIDENCE TO THE BOARD OF THE FOLLOWING:

(I) A GRADUATE DEGREE IN A NURSING SPECIALTY;

(II) SATISFACTORY COMPLETION OF SPECIFIC EDUCATIONAL REQUIREMENTS IN THE USE OF CONTROLLED SUBSTANCES AND PRESCRIPTION DRUGS, AS ESTABLISHED BY THE BOARD, EITHER AS PART OF A DEGREE PROGRAM OR IN ADDITION TO A DEGREE PROGRAM;

(III) NATIONAL CERTIFICATION FROM A NATIONALLY RECOGNIZED ACCREDITING AGENCY, AS DEFINED BY THE BOARD BY RULE PURSUANT TO SECTION 12-38-111.5 (4) (d), IN THE SPECIALTY OF THE ADVANCED PRACTICE NURSE, UNLESS THE BOARD GRANTS AN EXCEPTION;

(IV) PROFESSIONAL LIABILITY INSURANCE AS REQUIRED BY SECTION 12-38-111.8; AND

(V) (A) COMPLETION OF A MUTUALLY STRUCTURED, POST-GRADUATE PRECEPTORSHIP, AS DEFINED BY THE BOARD BY RULE, CONSISTING OF NOT LESS THAN ONE THOUSAND EIGHT HUNDRED DOCUMENTED HOURS, TO BE COMPLETED WITHIN THE IMMEDIATELY PRECEDING FIVE-YEAR PERIOD. THE PRECEPTORSHIP SHALL BE CONDUCTED EITHER WITH A PHYSICIAN OR A PHYSICIAN AND AN ADVANCED PRACTICE NURSE WHO HAS PRESCRIPTIVE AUTHORITY AND EXPERIENCE IN PRESCRIBING MEDICATIONS. THE PHYSICIAN AND, IF APPLICABLE, ADVANCED PRACTICE NURSE SERVING AS A PRECEPTOR TO THE APPLICANT SHALL BE ACTIVELY PRACTICING IN THIS STATE AND SHALL HAVE EDUCATION, TRAINING, EXPERIENCE, AND ACTIVE PRACTICE THAT CORRESPONDS WITH THE ROLE AND POPULATION FOCUS OF THE APPLICANT.

(B) THE PHYSICIAN AND, IF APPLICABLE, ADVANCED PRACTICE NURSE SERVING AS A PRECEPTOR SHALL NOT REQUIRE PAYMENT OR EMPLOYMENT AS A CONDITION OF ENTERING INTO THE PRECEPTORSHIP RELATIONSHIP, BUT A PRECEPTOR MAY

REQUEST REIMBURSEMENT OF REASONABLE EXPENSES AND TIME SPENT AS A RESULT OF THE PRECEPTORSHIP RELATIONSHIP.

(b) UPON SATISFACTION OF THE REQUIREMENTS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (4.5), THE BOARD MAY GRANT PROVISIONAL PRESCRIPTIVE AUTHORITY TO AN ADVANCED PRACTICE NURSE. THE PROVISIONAL PRESCRIPTIVE AUTHORITY THAT IS GRANTED SHALL BE LIMITED TO THOSE PATIENTS AND MEDICATIONS APPROPRIATE TO THE ADVANCED PRACTICE NURSE'S ROLE AND POPULATION FOCUS. IN ORDER TO RETAIN PROVISIONAL PRESCRIPTIVE AUTHORITY AND OBTAIN AND RETAIN FULL PRESCRIPTIVE AUTHORITY PURSUANT TO THIS SUBSECTION (4.5) FOR PATIENTS AND MEDICATIONS APPROPRIATE FOR THE ADVANCED PRACTICE NURSE'S ROLE AND POPULATION FOCUS, AN ADVANCED PRACTICE NURSE SHALL SATISFY THE FOLLOWING REQUIREMENTS:

(I) (A) WITHIN FIVE YEARS AFTER THE PROVISIONAL PRESCRIPTIVE AUTHORITY IS GRANTED, THE ADVANCED PRACTICE NURSE SHALL OBTAIN AN ADDITIONAL ONE THOUSAND EIGHT HUNDRED HOURS OF DOCUMENTED EXPERIENCE IN A MUTUALLY STRUCTURED MENTORSHIP EITHER WITH A PHYSICIAN OR WITH A PHYSICIAN AND ADVANCED PRACTICE NURSE WHO HAS PRESCRIPTIVE AUTHORITY AND EXPERIENCE IN PRESCRIBING MEDICATIONS. THE MENTORSHIP NEED NOT BE WITH THE SAME PERSONS WHO PROVIDED THE PRECEPTORSHIP SPECIFIED IN SUBPARAGRAPH (V) OF PARAGRAPH (a) OF THIS SUBSECTION (4.5), BUT THE MENTOR SHALL BE PRACTICING IN COLORADO AND HAVE EDUCATION, TRAINING, EXPERIENCE, AND ACTIVE PRACTICE THAT CORRESPONDS WITH THE ROLE AND POPULATION FOCUS OF THE ADVANCED PRACTICE NURSE.

(B) THE PHYSICIAN AND, IF APPLICABLE, ADVANCED PRACTICE NURSE SERVING AS A MENTOR SHALL NOT REQUIRE PAYMENT OR EMPLOYMENT AS A CONDITION OF ENTERING INTO THE MENTORSHIP RELATIONSHIP, BUT THE MENTOR MAY REQUEST REIMBURSEMENT OF REASONABLE EXPENSES AND TIME SPENT AS A RESULT OF THE MENTORSHIP RELATIONSHIP.

(C) UPON SUCCESSFUL COMPLETION OF THE MENTORSHIP PERIOD, THE MENTOR SHALL PROVIDE HIS OR HER SIGNATURE TO VERIFY THAT THE ADVANCED PRACTICE NURSE HAS SUCCESSFULLY COMPLETED THE MENTORSHIP WITHIN THE REQUIRED PERIOD AFTER THE PROVISIONAL PRESCRIPTIVE AUTHORITY WAS GRANTED.

(D) IF AN ADVANCED PRACTICE NURSE WITH PROVISIONAL PRESCRIPTIVE AUTHORITY FAILS TO COMPLETE THE MENTORSHIP REQUIRED BY THIS SUBPARAGRAPH (I) WITHIN THE SPECIFIED PERIOD, THE ADVANCED PRACTICE NURSE'S PROVISIONAL PRESCRIPTIVE AUTHORITY EXPIRES FOR FAILURE TO COMPLY WITH THE STATUTORY REQUIREMENTS.

(II) WITHIN FIVE YEARS AFTER OBTAINING PROVISIONAL PRESCRIPTIVE AUTHORITY, THE ADVANCED PRACTICE NURSE SHALL DEVELOP AN ARTICULATED PLAN FOR SAFE PRESCRIBING THAT DOCUMENTS HOW THE ADVANCED PRACTICE NURSE INTENDS TO MAINTAIN ONGOING COLLABORATION WITH PHYSICIANS AND OTHER HEALTH CARE PROFESSIONALS IN CONNECTION WITH THE ADVANCED PRACTICE NURSE'S PRACTICE OF PRESCRIBING MEDICATION WITHIN HIS OR HER ROLE AND POPULATION FOCUS. THE ARTICULATED PLAN SHALL GUIDE THE ADVANCED PRACTICE NURSE'S PRESCRIPTIVE PRACTICE. THE PHYSICIAN OR PHYSICIAN AND

ADVANCED PRACTICE NURSE THAT MENTORED THE ADVANCED PRACTICE NURSE AS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL PROVIDE HIS OR HER SIGNATURE TO VERIFY THAT THE ADVANCED PRACTICE NURSE HAS DEVELOPED AN ARTICULATED PLAN. THE ADVANCED PRACTICE NURSE SHALL RETAIN THE ARTICULATED PLAN ON FILE, SHALL REVIEW THE PLAN ANNUALLY, AND SHALL UPDATE THE PLAN AS NECESSARY. THE ARTICULATED PLAN IS SUBJECT TO REVIEW BY THE BOARD, AND THE ADVANCED PRACTICE NURSE SHALL PROVIDE THE PLAN TO THE BOARD UPON REQUEST. IF AN ADVANCED PRACTICE NURSE WITH PROVISIONAL PRESCRIPTIVE AUTHORITY FAILS TO DEVELOP THE REQUIRED ARTICULATED PLAN WITHIN THE SPECIFIED PERIOD, THE ADVANCED PRACTICE NURSE'S PROVISIONAL PRESCRIPTIVE AUTHORITY EXPIRES FOR FAILURE TO COMPLY WITH THE STATUTORY REQUIREMENTS. AN ARTICULATED PLAN DEVELOPED PURSUANT TO THIS SUBPARAGRAPH (II) SHALL INCLUDE AT LEAST THE FOLLOWING:

(A) A MECHANISM FOR CONSULTATION AND REFERRAL FOR ISSUES REGARDING PRESCRIPTIVE AUTHORITY;

(B) A QUALITY ASSURANCE PLAN;

(C) DECISION SUPPORT TOOLS; AND

(D) DOCUMENTATION OF ONGOING CONTINUING EDUCATION IN PHARMACOLOGY AND SAFE PRESCRIBING.

(III) THE ADVANCED PRACTICE NURSE SHALL MAINTAIN PROFESSIONAL LIABILITY INSURANCE AS REQUIRED BY SECTION 12-38-111.8.

(IV) THE ADVANCED PRACTICE NURSE SHALL MAINTAIN NATIONAL CERTIFICATION, AS SPECIFIED IN SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS SUBSECTION (4.5), UNLESS THE BOARD GRANTS AN EXCEPTION.

(c) AN ADVANCED PRACTICE NURSE WHO WAS GRANTED PRESCRIPTIVE AUTHORITY PRIOR TO JULY 1, 2010, SHALL SATISFY THE FOLLOWING REQUIREMENTS IN ORDER TO RETAIN PRESCRIPTIVE AUTHORITY:

(I) WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF THE RULES ADOPTED TO IMPLEMENT THIS SUBSECTION (4.5), THE ADVANCED PRACTICE NURSE SHALL DEVELOP AN ARTICULATED PLAN AS SPECIFIED IN SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (4.5); EXCEPT THAT TO VERIFY DEVELOPMENT OF AN ARTICULATED PLAN, THE ADVANCED PRACTICE NURSE SHALL OBTAIN THE SIGNATURE OF EITHER A PHYSICIAN OR A PHYSICIAN AND ADVANCED PRACTICE NURSE WHO HAS PRESCRIPTIVE AUTHORITY AND EXPERIENCE IN PRESCRIBING MEDICATIONS, AND THE SIGNING PHYSICIAN OR ADVANCED PRACTICE NURSE SHALL BE PRACTICING IN COLORADO AND HAVE EDUCATION, TRAINING, EXPERIENCE, AND ACTIVE PRACTICE THAT CORRESPONDS WITH THE ROLE AND POPULATION FOCUS OF THE ADVANCED PRACTICE NURSE DEVELOPING THE PLAN. IF AN ADVANCED PRACTICE NURSE WITH PRESCRIPTIVE AUTHORITY GRANTED PRIOR TO JULY 1, 2010, FAILS TO DEVELOP THE REQUIRED ARTICULATED PLAN WITHIN THE SPECIFIED PERIOD, THE ADVANCED PRACTICE NURSE'S PRESCRIPTIVE AUTHORITY EXPIRES FOR FAILURE TO COMPLY WITH THE STATUTORY REQUIREMENTS.

(II) THE ADVANCED PRACTICE NURSE SHALL MAINTAIN PROFESSIONAL LIABILITY INSURANCE AS REQUIRED BY SECTION 12-38-111.8.

(III) THE ADVANCED PRACTICE NURSE SHALL MAINTAIN NATIONAL CERTIFICATION, AS SPECIFIED IN SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS SUBSECTION (4.5), UNLESS:

(A) THE ADVANCED PRACTICE NURSE WAS INCLUDED ON THE ADVANCED PRACTICE REGISTRY PRIOR TO JULY 1, 2010, AND HAS NOT OBTAINED NATIONAL CERTIFICATION;

(B) THE ADVANCED PRACTICE NURSE WAS INCLUDED ON THE ADVANCED PRACTICE REGISTRY PRIOR TO JULY 1, 2008, AND HAS NOT COMPLETED A GRADUATE DEGREE AS SPECIFIED IN SECTION 12-38-111.5 (4) (c); OR

(C) THE BOARD GRANTS AN EXCEPTION.

(d) (I) ON OR AFTER JULY 1, 2010, OR, IF THE DIRECTOR OF THE DIVISION OF REGISTRATIONS ADOPTS RULES PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (f) OF THIS SUBSECTION (4.5), ON OR AFTER JULY 2, 2010, AN ADVANCED PRACTICE NURSE WHO HAS OBTAINED PRESCRIPTIVE AUTHORITY FROM ANOTHER STATE MAY OBTAIN PROVISIONAL PRESCRIPTIVE AUTHORITY IN THIS STATE IF THE ADVANCED PRACTICE NURSE SATISFIES THE FOLLOWING REQUIREMENTS:

(A) THE ADVANCED PRACTICE NURSE SATISFIES THE REQUIREMENTS OF SUBPARAGRAPHS (I), (II), (III), AND (IV) OF PARAGRAPH (a) OF THIS SUBSECTION (4.5); AND

(B) THE ADVANCED PRACTICE NURSE HAS THREE THOUSAND SIX HUNDRED HOURS OF DOCUMENTED EXPERIENCE PRESCRIBING MEDICATIONS WITHOUT SIGNIFICANT ADVERSE PRESCRIBING ISSUES, AS DETERMINED BY THE BOARD.

(II) ONCE AN ADVANCED PRACTICE NURSE WITH PRESCRIPTIVE AUTHORITY FROM ANOTHER STATE OBTAINS PROVISIONAL PRESCRIPTIVE AUTHORITY IN THIS STATE, THE ADVANCED PRACTICE NURSE SHALL SATISFY THE FOLLOWING REQUIREMENTS IN ORDER TO OBTAIN AND MAINTAIN FULL PRESCRIPTIVE AUTHORITY IN THIS STATE:

(A) WITHIN ONE YEAR AFTER OBTAINING PROVISIONAL PRESCRIPTIVE AUTHORITY IN THIS STATE, THE ADVANCED PRACTICE NURSE SHALL DEVELOP AN ARTICULATED PLAN, AS DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (c) OF THIS SUBSECTION (4.5); EXCEPT THAT, IF THE ADVANCED PRACTICE NURSE WITH PRESCRIPTIVE AUTHORITY FROM ANOTHER STATE FAILS TO DEVELOP THE REQUIRED ARTICULATED PLAN WITHIN THE SPECIFIED PERIOD, THE ADVANCED PRACTICE NURSE'S PROVISIONAL PRESCRIPTIVE AUTHORITY EXPIRES FOR FAILURE TO COMPLY WITH THE STATUTORY REQUIREMENTS; AND

(B) THE ADVANCED PRACTICE NURSE SHALL MAINTAIN NATIONAL CERTIFICATION, AS SPECIFIED IN SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS SUBSECTION (4.5), UNLESS THE BOARD GRANTS AN EXCEPTION.

(e) DURING THE SECOND YEAR OF IMPLEMENTATION OF THIS SUBSECTION (4.5)

AND RULES ADOPTED PURSUANT TO PARAGRAPH (f) OF THIS SUBSECTION (4.5), THE BOARD SHALL CONDUCT RANDOM AUDITS OF ARTICULATED PLANS TO ENSURE THE PLANS SATISFY THE REQUIREMENTS OF THIS SUBSECTION (4.5) AND RULES ADOPTED PURSUANT TO PARAGRAPH (f) OF THIS SUBSECTION (4.5).

(f) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (f), THE BOARD SHALL ADOPT RULES TO IMPLEMENT THIS SUBSECTION (4.5), WHICH RULES SHALL TAKE EFFECT ON JULY 1, 2010. THE BOARD SHALL CONSIDER THE RECOMMENDATIONS OF THE NURSE-PHYSICIAN ADVISORY TASK FORCE FOR COLORADO HEALTH CARE SUBMITTED IN ACCORDANCE WITH SECTION 24-34-109, C.R.S., CONCERNING PRESCRIPTIVE AUTHORITY OF ADVANCED PRACTICE NURSES. THE RULES SHALL BE COMPLEMENTARY TO RULES ADOPTED BY THE STATE BOARD OF MEDICAL EXAMINERS PURSUANT TO SECTION 12-36-106.4.

(II) THE DIRECTOR OF THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW THE RULES ADOPTED BY THE BOARD PURSUANT TO THIS PARAGRAPH (f) PRIOR TO THE EFFECTIVE DATE OF THE RULES TO DETERMINE IF THE RULES COMPLEMENT THE RULES OF THE STATE BOARD OF MEDICAL EXAMINERS. IF THE DIRECTOR DETERMINES THAT THE RULES OF THE TWO BOARDS ARE NOT COMPLEMENTARY, THE DIRECTOR SHALL ADOPT RULES THAT SUPERCEDE AND REPLACE THE RULES OF THE TWO BOARDS REGARDING PRESCRIPTIVE AUTHORITY OF ADVANCED PRACTICE NURSES AND COLLABORATION BETWEEN ADVANCED PRACTICE NURSES AND PHYSICIANS, AND SUCH RULES SHALL TAKE EFFECT ON JULY 2, 2010.

**SECTION 22.** 12-38-108 (1) (b) (I), Colorado Revised Statutes, is amended to read:

**12-38-108. Powers and duties of the board - rules.** (1) The board has the following powers and duties:

(b) (I) To examine, license, reactivate, and renew licenses of qualified applicants and to grant to such applicants temporary licenses and permits to engage in the practice of practical nursing and professional nursing in this state within the limitations imposed by this article. Licenses shall be renewed, reactivated, or reinstated pursuant to a schedule established by the director of the division of registrations within the department of regulatory agencies and shall be renewed, reactivated, or reinstated pursuant to section 24-34-102 (8), C.R.S. The director of the division of registrations within the department of regulatory agencies may establish renewal fees, reactivation fees, and delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S., AND MAY INCREASE FEES TO OBTAIN OR RENEW A PROFESSIONAL NURSE LICENSE OR ADVANCED PRACTICE NURSE AUTHORITY CONSISTENT WITH SECTION 24-34-109 (4), C.R.S., TO FUND THE DIVISION'S COSTS IN ADMINISTERING AND STAFFING THE NURSE-PHYSICIAN ADVISORY TASK FORCE FOR COLORADO HEALTH CARE CREATED IN SECTION 24-34-109 (1), C.R.S. If a person fails to renew his or her license pursuant to the schedule established by the director of the division of registrations, such license shall expire. Any person whose license has expired shall be subject to the penalties provided in this article or section 24-34-102 (8), C.R.S.

**SECTION 23.** 12-36-106.3 (1), Colorado Revised Statutes, is amended, and the

said 12-36-106.3 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**12-36-106.3. Collaborative agreements with advanced practice nurses - repeal.** (1) PRIOR TO JULY 1, 2010, a physician licensed pursuant to the "Colorado Medical Practice Act" may enter into a collaborative agreement for the purposes of prescriptive authority by advanced practice nurses pursuant to section 12-38-111.6 (4) (d) (II).

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2010.

**SECTION 24.** Part 1 of article 36 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**12-36-106.4. Collaboration with advanced practice nurses with prescriptive authority - preceptorships - mentorships - board rules.** (1) (a) A PHYSICIAN LICENSED PURSUANT TO THIS ARTICLE MAY, AND IS ENCOURAGED TO, SERVE AS A PRECEPTOR OR MENTOR TO AN ADVANCED PRACTICE NURSE WHO IS APPLYING FOR PRESCRIPTIVE AUTHORITY PURSUANT TO SECTION 12-38-111.6 (4.5). A PHYSICIAN WHO SERVES AS A PRECEPTOR OR MENTOR TO AN ADVANCED PRACTICE NURSE SEEKING PRESCRIPTIVE AUTHORITY SHALL:

(I) BE PRACTICING IN COLORADO AND SHALL HAVE EDUCATION, TRAINING, EXPERIENCE, AND ACTIVE PRACTICE THAT CORRESPONDS WITH THE ROLE AND POPULATION FOCUS OF THE ADVANCED PRACTICE NURSE; AND

(II) HAVE A LICENSE IN GOOD STANDING WITHOUT DISCIPLINARY SANCTIONS TO PRACTICE MEDICINE IN COLORADO AND AN UNRESTRICTED REGISTRATION BY THE DRUG ENFORCEMENT ADMINISTRATION FOR THE SAME SCHEDULES AS THE ADVANCED PRACTICE NURSE.

(b) A PHYSICIAN SERVING AS A PRECEPTOR OR MENTOR TO AN ADVANCED PRACTICE NURSE PURSUANT TO SECTION 12-38-111.6 (4.5) SHALL NOT REQUIRE PAYMENT OR EMPLOYMENT AS A CONDITION OF ENTERING INTO THE PRECEPTORSHIP OR MENTORSHIP RELATIONSHIP, BUT THE PHYSICIAN MAY REQUEST REIMBURSEMENT OF REASONABLE EXPENSES AND TIME SPENT AS A RESULT OF THE PRECEPTORSHIP OR MENTORSHIP RELATIONSHIP.

(c) UPON SUCCESSFUL COMPLETION OF A MENTORSHIP AS DESCRIBED IN SECTION 12-38-111.6 (4.5) (b) (I), THE PHYSICIAN SHALL VERIFY BY HIS OR HER SIGNATURE THAT THE ADVANCED PRACTICE NURSE HAS SUCCESSFULLY COMPLETED THE MENTORSHIP WITHIN THE REQUIRED PERIOD.

(2) WHILE SERVING AS A MENTOR PURSUANT TO SECTION 12-38-111.6 (4.5) (b) (I), A PHYSICIAN SHALL ASSIST THE ADVANCED PRACTICE NURSE IN DEVELOPING AN ARTICULATED PLAN FOR SAFE PRESCRIBING, AS DESCRIBED IN SECTION 12-38-111.6 (4.5) (b) (II) AND SHALL VERIFY THROUGH HIS OR HER SIGNATURE THAT THE ADVANCED PRACTICE NURSE HAS DEVELOPED AN ARTICULATED PLAN IN COMPLIANCE WITH SAID SECTION.

(3) FOR PURPOSES OF AN ADVANCED PRACTICE NURSE WHO OBTAINED

PRESCRIPTIVE AUTHORITY PRIOR TO JULY 1, 2010, AS DESCRIBED IN SECTION 12-38-111.6(4.5)(c), OR WHO HAS PRESCRIPTIVE AUTHORITY FROM ANOTHER STATE AND OBTAINS PRESCRIPTIVE AUTHORITY IN THIS STATE, AS DESCRIBED IN SECTION 12-38-111.6(4.5)(d), PHYSICIANS MAY, AND ARE ENCOURAGED TO, ASSIST THOSE ADVANCED PRACTICE NURSES IN DEVELOPING THE ARTICULATED PLANS REQUIRED BY THOSE SECTIONS AND VERIFYING, THROUGH THE PHYSICIAN'S SIGNATURE, THE DEVELOPMENT OF THE REQUIRED PLANS. THE PHYSICIAN VERIFYING AN ADVANCED PRACTICE NURSE'S ARTICULATED PLAN SHALL BE PRACTICING IN COLORADO AND HAVE EDUCATION, TRAINING, EXPERIENCE, AND ACTIVE PRACTICE THAT CORRESPONDS WITH THE ROLE AND POPULATION FOCUS OF THE ADVANCED PRACTICE NURSE.

(4) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), THE BOARD SHALL ADOPT RULES TO IMPLEMENT THIS SECTION, WHICH RULES SHALL TAKE EFFECT ON JULY 1, 2010. THE BOARD SHALL CONSIDER THE RECOMMENDATIONS OF THE NURSE-PHYSICIAN ADVISORY TASK FORCE FOR COLORADO HEALTH CARE SUBMITTED IN ACCORDANCE WITH SECTION 24-34-109, C.R.S., CONCERNING THE ROLE OF PHYSICIANS IN COLLABORATING WITH ADVANCED PRACTICE NURSES WITH PRESCRIPTIVE AUTHORITY. THE RULES SHALL BE COMPLEMENTARY TO RULES ADOPTED BY THE STATE BOARD OF NURSING PURSUANT TO SECTION 12-38-111.6(4.5)(f)(I).

(b) THE DIRECTOR OF THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW THE RULES ADOPTED BY THE BOARD PURSUANT TO THIS SUBSECTION (4) TO DETERMINE IF THE RULES COMPLEMENT THE RULES OF THE STATE BOARD OF NURSING. IF THE DIRECTOR DETERMINES THAT THE RULES OF THE TWO BOARDS ARE NOT COMPLEMENTARY, THE DIRECTOR SHALL ADOPT RULES THAT SUPERCEDE AND REPLACE THE RULES OF THE TWO BOARDS REGARDING PRESCRIPTIVE AUTHORITY OF ADVANCED PRACTICE NURSES AND COLLABORATION BETWEEN ADVANCED PRACTICE NURSES AND PHYSICIANS, AND SUCH RULES SHALL TAKE EFFECT ON JULY 2, 2010.

**SECTION 25.** 12-36-106 (3) (t) (II) and (3) (t) (III), Colorado Revised Statutes, are amended, and the said 12-36-106 (3) (t) is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBPARAGRAPHS, to read:

**12-36-106. Practice of medicine defined - exemptions from licensing requirements - unauthorized practice by physician assistant - penalties - repeal.** (3) Nothing in this section shall be construed to prohibit, or to require a license or a physician training license under this article with respect to, any of the following acts:

(t) (II) A physician who signs a collaborative agreement with an advanced practice nurse pursuant to the requirements of section 12-38-111.6(4)(d) PRIOR TO JULY 1, 2010, shall have a license in good standing without disciplinary sanctions to practice medicine in Colorado and an unrestricted registration by the drug enforcement administration for the same schedules as the collaborating advanced practice nurse. THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2010.

(II.5) ON OR AFTER JULY 1, 2010, A PHYSICIAN WHO SERVES AS A PRECEPTOR OR MENTOR TO AN ADVANCED PRACTICE NURSE PURSUANT TO SECTIONS 12-36-106.4

AND 12-38-111.6 (4.5) SHALL HAVE A LICENSE IN GOOD STANDING WITHOUT DISCIPLINARY SANCTIONS TO PRACTICE MEDICINE IN COLORADO AND AN UNRESTRICTED REGISTRATION BY THE DRUG ENFORCEMENT ADMINISTRATION FOR THE SAME SCHEDULES AS THE COLLABORATING ADVANCED PRACTICE NURSE.

(III) (A) Except as provided in sub-subparagraph (C) of this subparagraph (III), a physician may not enter into more than five collaborative agreements in accordance with section 12-38-111.6.

(B) It is unlawful and a violation of this article for any person, corporation, or other entity to require as a condition of contract, employment, or compensation to exceed the limitation set pursuant to sub-subparagraph (A) of this subparagraph (III).

(C) The board may waive the maximum number of advanced practice nurses with whom a physician may sign a collaborative agreement for a specific physician upon a finding that quality patient care can be maintained.

(D) THIS SUBPARAGRAPH (III) IS REPEALED, EFFECTIVE JULY 1, 2010.

(IV) IT IS UNLAWFUL AND A VIOLATION OF THIS ARTICLE FOR ANY PERSON, CORPORATION, OR OTHER ENTITY TO REQUIRE PAYMENT OR EMPLOYMENT AS A CONDITION OF ENTERING INTO A MENTORSHIP RELATIONSHIP WITH THE ADVANCED PRACTICE NURSE PURSUANT TO SECTIONS 12-36-106.4 AND 12-38-111.6 (4.5), BUT THE MENTOR MAY REQUEST REIMBURSEMENT OF REASONABLE EXPENSES AND TIME SPENT AS A RESULT OF THE MENTORSHIP RELATIONSHIP.

**SECTION 26.** 12-36-117 (1) (ii), Colorado Revised Statutes, is amended, and the said 12-36-117 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

**12-36-117. Unprofessional conduct.** (1) "Unprofessional conduct" as used in this article means:

(ii) (I) Entering into or continuing a collaborative agreement pursuant to sections 12-38-111.6 (4) (d) (IV) and 12-36-106.3 that fails to meet generally acceptable standards of medical practice.

(II) THIS PARAGRAPH (ii) IS REPEALED, EFFECTIVE JULY 1, 2010.

(kk) ENTERING INTO OR CONTINUING IN A MENTORSHIP RELATIONSHIP WITH AN ADVANCED PRACTICE NURSE PURSUANT TO SECTIONS 12-36-106.4 AND 12-38-111.6 (4.5) THAT FAILS TO MEET GENERALLY ACCEPTABLE STANDARDS OF MEDICAL PRACTICE;

(ll) VERIFYING BY SIGNATURE THE ARTICULATED PLAN DEVELOPED BY AN ADVANCED PRACTICE NURSE PURSUANT TO SECTIONS 12-36-106.4 AND 12-38-111.6 (4.5) IF THE ARTICULATED PLAN FAILS TO COMPLY WITH THE REQUIREMENTS OF SECTION 12-38-111.6 (4.5) (b) (II).

**SECTION 27.** 12-36-123 (1) (a), Colorado Revised Statutes, is amended to read:

**12-36-123. Procedure - registration - fees.** (1) (a) All licenses shall be renewed or reinstated pursuant to a schedule established by the director of the division of registrations within the department of regulatory agencies and shall be renewed or reinstated pursuant to section 24-34-102 (8), C.R.S. The director of the division may establish renewal fees and delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S., AND SHALL INCREASE RENEWAL FEES CONSISTENT WITH SECTION 24-34-109 (4), C.R.S., TO FUND THE DIVISION'S COSTS IN ADMINISTERING AND STAFFING THE NURSE-PHYSICIAN ADVISORY TASK FORCE FOR COLORADO HEALTH CARE CREATED IN SECTION 24-34-109 (1), C.R.S. If a person fails to renew his or her license pursuant to the schedule established by the director of the division of registrations, such license shall expire. A person whose license has expired shall be subject to the penalties provided in this article or section 24-34-102 (8), C.R.S.

**SECTION 28.** Part 1 of article 34 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**24-34-109. Nurse-physician advisory task force for Colorado health care - creation - duties - repeal.** (1) THERE IS HEREBY CREATED, WITHIN THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES, THE NURSE-PHYSICIAN ADVISORY TASK FORCE FOR COLORADO HEALTH CARE, REFERRED TO IN THIS SECTION AS "NPATCH". THE PURPOSE OF NPATCH IS TO PROMOTE PUBLIC SAFETY AND IMPROVE HEALTH CARE IN COLORADO BY SUPPORTING COLLABORATION AND COMMUNICATION BETWEEN THE PRACTICES OF NURSING AND MEDICINE. THE NPATCH SHALL:

- (a) PROMOTE PATIENT SAFETY AND QUALITY CARE;
- (b) ADDRESS ISSUES OF MUTUAL CONCERN AT THE INTERFACE OF THE PRACTICES OF NURSING AND MEDICINE;
- (c) INFORM PUBLIC POLICY-MAKING; AND
- (d) MAKE CONSENSUS RECOMMENDATIONS TO POLICY-MAKING AND RULE-MAKING ENTITIES, INCLUDING:
  - (I) RECOMMENDATIONS TO THE STATE BOARD OF NURSING CREATED IN SECTION 12-38-104, C.R.S., AND THE STATE BOARD OR MEDICAL EXAMINERS CREATED IN SECTION 12-36-103, C.R.S., REGARDING THE TRANSITION TO THE ARTICULATED PLAN MODEL AND HARMONIZING LANGUAGE FOR ARTICULATED PLANS; AND
  - (II) RECOMMENDATIONS TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES.

(2) (a) THE NPATCH SHALL CONSIST OF TWELVE MEMBERS APPOINTED AS FOLLOWS:

- (I) ONE MEMBER OF THE STATE BOARD OF NURSING, APPOINTED BY THE PRESIDENT OF THE BOARD;
- (II) ONE MEMBER OF THE STATE BOARD OF MEDICAL EXAMINERS, APPOINTED BY

THE PRESIDENT OF THE BOARD;

(III) TEN MEMBERS APPOINTED BY THE GOVERNOR AS FOLLOWS:

(A) THREE MEMBERS RECOMMENDED BY AND REPRESENTING A STATEWIDE PROFESSIONAL NURSING ORGANIZATION;

(B) THREE MEMBERS RECOMMENDED BY AND REPRESENTING A STATEWIDE PHYSICIANS' ORGANIZATION;

(C) ONE MEMBER REPRESENTING THE NURSING COMMUNITY WHO MAY OR MAY NOT BE A MEMBER OF A STATEWIDE PROFESSIONAL NURSING ORGANIZATION;

(D) ONE MEMBER REPRESENTING THE PHYSICIAN COMMUNITY WHO MAY OR MAY NOT BE A MEMBER OF A STATEWIDE PHYSICIANS' ORGANIZATION; AND

(E) TWO MEMBERS REPRESENTING CONSUMERS.

(b) THE MEMBERS OF THE NPATCH SHALL SERVE ON A VOLUNTARY BASIS WITHOUT COMPENSATION AND SHALL SERVE THREE-YEAR TERMS; EXCEPT THAT, IN ORDER TO ENSURE STAGGERED TERMS OF OFFICE, FOUR OF THE INITIAL APPOINTEES SHALL SERVE INITIAL ONE-YEAR TERMS AND FOUR OF THE INITIAL APPOINTEES SHALL SERVE INITIAL TWO-YEAR TERMS.

(3) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (3), THE NPATCH MAY DEVELOP ITS OWN BYLAWS AND PROCEDURES TO GOVERN ITS OPERATIONS.

(b) A RECOMMENDATION OF THE NPATCH REQUIRES THE CONSENSUS OF THE MEMBERS OF THE TASK FORCE. FOR PURPOSES OF THIS SECTION, "CONSENSUS" MEANS AN AGREEMENT, DECISION, OR RECOMMENDATION THAT ALL MEMBERS OF THE TASK FORCE CAN ACTIVELY SUPPORT AND THAT NO MEMBER ACTIVELY OPPOSES.

(4) THE DIVISION OF REGISTRATIONS SHALL STAFF THE NPATCH. THE DIVISION'S COSTS FOR ADMINISTERING AND STAFFING THE NPATCH SHALL BE FUNDED BY AN INCREASE IN FEES FOR PROFESSIONAL AND ADVANCED PRACTICE NURSING AND MEDICAL LICENSE RENEWAL FEES, AS AUTHORIZED IN SECTIONS 12-38-108(1)(b)(I) AND 12-36-123, C.R.S., WITH FIFTY PERCENT OF THE FUNDING DERIVED FROM THE PHYSICIAN LICENSE RENEWAL FEES AND FIFTY PERCENT DERIVED FROM THE PROFESSIONAL AND ADVANCED PRACTICE NURSING FEES.

(5) THE NPATCH SHALL PRIORITIZE CONSIDERATION OF AND MAKE RECOMMENDATIONS ON THE FOLLOWING TOPICS:

(a) FACILITATING A SMOOTH TRANSITION TO THE ARTICULATED PLAN MODEL, AS DESCRIBED IN SECTIONS 12-38-111.6(4.5) AND 12-36-106.4, C.R.S.;

(b) THE FRAMEWORK FOR ARTICULATED PLANS, INCLUDING CREATION OF SAMPLE PLANS;

(c) QUALITY ASSURANCE MECHANISMS FOR ALL MEDICATION PRESCRIBERS;

- (d) EVIDENCE-BASED GUIDELINES;
- (e) DECISION SUPPORT TOOLS;
- (f) SAFE PRESCRIBING METRICS FOR ALL MEDICATION PRESCRIBERS;
- (g) METHODS TO FOSTER EFFECTIVE COMMUNICATION BETWEEN HEALTH PROFESSIONS;
- (h) HEALTH CARE DELIVERY SYSTEM INTEGRATION AND RELATED IMPROVEMENTS;
- (i) PHYSICIAN STANDARDS, PROCESS, AND METRICS TO ENSURE APPROPRIATE CONSULTATION, COLLABORATION, AND REFERRAL REGARDING ADVANCED PRACTICE NURSE PRESCRIPTIVE AUTHORITY; AND
- (j) PRESCRIBING ISSUES REGARDING PROVIDERS OTHER THAN PHYSICIANS AND ADVANCED PRACTICE NURSES.

(6)(a) THE NPATCH SHALL MAKE RECOMMENDATIONS TO THE STATE BOARD OF NURSING AND THE STATE BOARD OF MEDICAL EXAMINERS TO ASSIST THE BOARDS IN THE DEVELOPMENT OF INDEPENDENT RULES, CONSISTENT WITH SECTIONS 12-38-111.6 (4.5) AND 12-36-106.4, C.R.S., REGARDING PRESCRIPTIVE AUTHORITY OF ADVANCED PRACTICE NURSES, ARTICULATED PLANS, AND THE CONSULTATION OR COLLABORATION BETWEEN ADVANCED PRACTICE NURSES AND PHYSICIANS.

(b) THE NPATCH SHALL MAKE RECOMMENDATIONS, OTHER THAN THOSE DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (6), TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES.

(7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2014. PRIOR TO SUCH REPEAL, THE FUNCTIONS OF THE NPATCH SHALL BE REVIEWED AS PROVIDED IN SECTION 2-3-1203, C.R.S.

**SECTION 29.** 2-3-1203 (3) (aa), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

**2-3-1203. Sunset review of advisory committees.** (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(aa) July 1, 2014:

(V) THE NURSE-PHYSICIAN ADVISORY TASK FORCE FOR COLORADO HEALTH CARE, CREATED IN SECTION 24-34-109, C.R.S.;

**SECTION 30. Repeal.** Part 2 of article 38 of title 12, Colorado Revised Statutes, is repealed.

**SECTION 31.** Part 1 of article 38 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**12-38-111.8. Professional liability insurance required - advanced practice nurses in independent practice - rules.** (1) IT IS UNLAWFUL FOR ANY ADVANCED PRACTICE NURSE ENGAGED IN AN INDEPENDENT PRACTICE OF PROFESSIONAL NURSING TO PRACTICE WITHIN THE STATE OF COLORADO UNLESS THE ADVANCED PRACTICE NURSE PURCHASES AND MAINTAINS OR IS COVERED BY PROFESSIONAL LIABILITY INSURANCE IN AN AMOUNT NOT LESS THAN FIVE HUNDRED THOUSAND DOLLARS PER CLAIM WITH AN AGGREGATE LIABILITY FOR ALL CLAIMS DURING THE YEAR OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS.

(2) PROFESSIONAL LIABILITY INSURANCE REQUIRED BY THIS SECTION SHALL COVER ALL ACTS WITHIN THE SCOPE OF PRACTICE OF AN ADVANCED PRACTICE NURSE AS DEFINED IN THIS PART 1.

(3) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, THE BOARD, BY RULE, MAY EXEMPT OR ESTABLISH LESSER LIABILITY INSURANCE REQUIREMENTS FOR ADVANCED PRACTICE NURSES.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO CONFER LIABILITY ON AN EMPLOYER FOR THE ACTS OF AN ADVANCED PRACTICE NURSE THAT ARE OUTSIDE THE SCOPE OF EMPLOYMENT OR TO NEGATE THE APPLICABILITY OF THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S.

**SECTION 32.** 12-38-117 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**12-38-117. Grounds for discipline.** (1) "Grounds for discipline", as used in this article, means any action by any person who:

(aa) FAILS TO MAINTAIN PROFESSIONAL LIABILITY INSURANCE IN ACCORDANCE WITH SECTION 12-38-111.8.

**SECTION 33.** 25-1-311 (1), (3), and (10), Colorado Revised Statutes, as they will become effective July 1, 2009, are amended to read:

**25-1-311. Involuntary commitment of alcoholics.** (1) A person may be committed to the custody of the division by the court upon the petition of the person's spouse or guardian, a relative, a physician, an advanced practice nurse, the administrator in charge of any approved treatment facility, or any other responsible person. The petition shall allege that the person is an alcoholic and that the person has threatened or attempted to inflict or inflicted physical harm on himself or herself or on another and that unless committed the person is likely to inflict physical harm on himself or herself or on another or that the person is incapacitated by alcohol. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment. The petition shall be accompanied by a certificate of a licensed physician ~~or advanced practice nurse~~ who has examined the person within two days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the physician's ~~or advanced practice nurse's~~ findings in support of the allegations of the petition.

(3) At the hearing the court shall hear all relevant testimony, including, if

possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. The person shall be present unless the court believes that the person's presence is likely to be injurious to the person; in this event, the court shall appoint a guardian ad litem to represent the person throughout the proceeding. If the person has refused to be examined by a licensed physician, ~~or advanced practice nurse~~ he or she shall be given an opportunity to be examined by a court-appointed licensed physician. ~~or advanced practice nurse~~. If the person refuses and there is sufficient evidence to believe that the allegations of the petition are true or if the court believes that more medical evidence is necessary, the court may commit the person to a licensed hospital for a period of not more than five days for a diagnostic examination. In such event, the court shall schedule a further hearing for final determination of commitment, in no event later than five days after the first hearing.

(10) The court shall inform the person whose commitment or recommitment is sought of his or her right to contest the application, to be represented by counsel at every stage of any proceedings relating to the person's commitment and recommitment, and to have counsel appointed by the court or provided by the court if he or she wants the assistance of counsel and is unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for the person regardless of his or her wishes. The person whose commitment or recommitment is sought shall be informed of his or her right to be examined by a licensed physician of the person's choice. If the person is unable to obtain a licensed physician and requests examination by a physician, ~~or advanced practice nurse~~, the court shall employ a licensed physician. ~~or advanced practice nurse~~.

**SECTION 34.** 25-1-1107 (1), (3), and (11), Colorado Revised Statutes, as they will become effective July 1, 2009, are amended to read:

**25-1-1107. Involuntary commitment of drug abusers.** (1) A person may be committed to the custody of the division by the court upon the petition of the person's spouse or guardian, a relative, a physician, an advanced practice nurse, the administrator in charge of any approved treatment facility, or any other responsible person. The petition shall allege that the person is a drug abuser and that the person has threatened or attempted to inflict or inflicted physical harm on himself or herself or on another and that unless committed the person is likely to inflict physical harm on himself or herself or on another or that the person is incapacitated by drugs. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment. The petition shall be accompanied by a certificate of a licensed physician ~~or advanced practice nurse~~ who has examined the person within ten days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination or an examination cannot be made of such person due to the person's condition. The certificate shall set forth the physician's ~~or advanced practice nurse's~~ findings in support of the allegations of the petition.

(3) At the hearing the court shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician ~~or advanced practice nurse~~ who has examined the person whose commitment is sought. The person shall be present unless the court believes that the person's presence is likely to be injurious

to the person; in this event, the court shall appoint a guardian ad litem to represent the person throughout the proceeding. If the person has refused to be examined by a licensed physician, ~~or advanced practice nurse~~, he or she shall be given an opportunity to be examined by a court-appointed licensed physician. ~~or advanced practice nurse~~. If the person refuses and there is sufficient evidence to believe that the allegations of the petition are true or if the court believes that more medical evidence is necessary, the court may commit the person to a licensed hospital or an approved public or private treatment facility for a period of not more than five days for a diagnostic examination. In such event, the court shall schedule a further hearing for final determination of commitment, in no event later than five days after the first hearing.

(11) The court shall inform the person whose commitment or recommitment is sought of his or her right to contest the application, to be represented by counsel at every stage of any proceedings relating to the person's commitment and recommitment, and to have counsel appointed by the court or provided by the court if the person wants the assistance of counsel and is unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for the person regardless of the person's wishes. The person whose commitment or recommitment is sought shall be informed of his or her right to be examined by a licensed physician ~~or advanced practice nurse~~ of the person's choice. If the person is unable to obtain a licensed physician ~~or advanced practice nurse~~ and requests examination by a physician, ~~or advanced practice nurse~~, the court shall employ a licensed physician. ~~or advanced practice nurse~~.

**SECTION 35.** 25-1-304, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**25-1-304. Duties of division - review - repeal.** (2) (a) THE DIVISION SHALL CONDUCT A REVIEW OF THE INVOLUNTARY COMMITMENT PROCESS, INCLUDING QUALIFICATIONS OF HEALTH CARE PROVIDERS INVOLVED IN THE PROCESS AND ANY OTHER ISSUES THE DIVISION DEEMS APPROPRIATE THAT ARE RELATED TO INVOLUNTARY COMMITMENTS MADE PURSUANT TO SECTIONS 25-1-311 AND 25-1-1107. THE DIVISION SHALL CONSULT WITH INTERESTED PARTIES IN CONDUCTING THE REVIEW. ON OR BEFORE JANUARY 15, 2010, THE DIVISION SHALL PROVIDE A REPORT DETAILING THE FINDINGS AND ANY LEGISLATIVE RECOMMENDATIONS OF THE REVIEW TO THE HEALTH AND HUMAN SERVICE COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES.

(b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE MARCH 1, 2010.

**SECTION 36. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of registrations cash fund created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for allocation to the division of registrations, for the continuation of the state board of nursing, for the fiscal year beginning July 1, 2009, the sum of two hundred fifty-nine thousand eight hundred eighty-one dollars (\$259,881) cash funds and 2.7 FTE, 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, 2009, the sum of thirty-three thousand seven hundred ninety-five dollars (\$33,795) and 0.2 FTE, or so much thereof as may be necessary, for the provision of legal services to the department of regulatory agencies related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of regulatory agencies out of the appropriation made in subsection (1) of this section.

**SECTION 37. Effective date.** This act shall take effect July 1, 2009.

**SECTION 38. 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 2, 2009