

ARTICLE 36 240
Medical Practice

PART 1
GENERAL PROVISIONS

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~~PART 2~~

~~SAFETY TRAINING FOR UNLICENSED X-RAY TECHNICIANS~~

~~12-36-201 and 12-36-202. (Repealed)~~

1 **12-240-101. [Formerly 12-36-101] Short title.** THE SHORT TITLE OF this article shall
2 be known and may be cited as **240** IS the "Colorado Medical Practice Act".

3
4 **12-240-102. [Formerly 12-36-102] Legislative declaration.** (†) The general
5 assembly declares it to be in the interests of public health, safety, and welfare to enact laws
6 regulating and controlling the practice of the healing arts to the end that the people shall be
7 properly protected against unauthorized, unqualified, and improper practice of the healing
8 arts in this state, and this article **240** shall be construed in conformity with this declaration
9 of purpose.

10 (2) ~~Repealed.~~

11
12 **12-240-103. Applicability of common provisions.** ARTICLES 1, 20, AND 30 OF THIS
13 TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 240.

14
15 **12-240-104. [Formerly 12-36-102.5] Definitions.** As used in this article **240**, unless
16 the context otherwise requires:

17 (1) (a) "Approved fellowship" means a program that meets the following criteria:

18 (I) Is specialized, clearly defined, and delineated;

19 (II) Follows the completion of an approved residency;

20 (III) Provides additional training in a medical specialty or subspecialty; and

21 (IV) Is either:

22 (A) Performed in a hospital conforming to the minimum standards for fellowship
23 training established by the Accreditation Council for Graduate Medical Education or the
24 American Osteopathic Association, or by a successor of either organization; or

25 (B) Any other program that is approved by the Accreditation Council for Graduate
26 Medical Education or the American Osteopathic Association or a successor of either
27 organization.

1 (b) "Approved fellowship" includes any other fellowship that the board, upon its own
2 investigation, approves for purposes of issuing a physician training license pursuant to
3 section ~~12-36-122~~ **12-240-128**.

4 (2) (a) "Approved internship" means an internship:

5 (I) Of at least one year in a hospital conforming to the minimum standards for intern
6 training established by the Accreditation Council for Graduate Medical Education or the
7 American Osteopathic Association or a successor of either organization; or

8 (II) Approved by either of the organizations specified in ~~subparagraph (I) of this~~
9 ~~paragraph (a)~~ **SUBSECTION (2)(a)(I) OF THIS SECTION**.

10 (b) "Approved internship" includes any other internship approved by the board upon
11 its own investigation.

12 (3) (a) "Approved medical college" means a college that:

13 (I) Conforms to the minimum educational standards for medical colleges as
14 established by the Liaison Committee on Medical Education or any successor organization
15 that is the official accrediting body of educational programs leading to the degree of doctor
16 of medicine and recognized for such purpose by the federal department of education and the
17 **Council on Postsecondary Accreditation**; <{*COPA was dissolved in 1993 & seems to have*
18 *become the Council on Higher Education - should we update this reference?*}>

19 (II) Conforms to the minimum education standards for osteopathic colleges as
20 established by the American Osteopathic Association or any successor organization that is
21 the official accrediting body of education programs leading to the degree of doctor of
22 osteopathy; or

23 (III) Is approved by either of the organizations specified in ~~subparagraphs (I) and (II)~~
24 ~~of this paragraph (a)~~ **SUBSECTIONS (3)(a)(I) AND (3)(a)(II) OF THIS SECTION**.

25 (b) "Approved medical college" includes any other medical college approved by the
26 board upon its own investigation of the educational standards and facilities of the medical
27 college.

28 (4) (a) "Approved residency" means a residency:

29 (I) Performed in a hospital conforming to the minimum standards for residency
30 training established by the Accreditation Council for Graduate Medical Education or the
31 American Osteopathic Association or any successor of either organization; or

32 (II) Approved by either of the organizations specified in ~~subparagraph (I) of this~~
33 ~~paragraph (a)~~ **SUBSECTION (4)(a)(I) OF THIS SECTION**.

34 (b) "Approved residency" means any other residency approved by the board upon its
35 own investigation.

36 (5) "Board" means the Colorado medical board created in section ~~12-36-103 (1)~~
37 **12-240-105 (1)**.

38 ~~(6) "License" means the authority to practice medicine, practice as a physician~~
39 ~~assistant, or practice as an anesthesiologist assistant under this article.~~ <{*Redundant with*
40 *definitions common provision, 12-20-102 (11)*}>

41 ~~(7) "Licensee" means any physician, physician assistant, or anesthesiologist assistant~~
42 ~~who is licensed pursuant to this article.~~ <{*Redundant with definitions common provision,*

1 12-20-102 (12)>

2 (8) (6) "Telemedicine" means the delivery of medical services and any diagnosis,
3 consultation, or treatment using interactive audio, interactive video, or interactive data
4 communication.

5
6 **12-240-105. [Formerly 12-36-103] Colorado medical board - immunity - subject
7 to termination - repeal of article.** (1) (a) (H) There is hereby created the Colorado medical
8 board, referred to in this article **240** as the "board". The board shall consist of sixteen
9 members appointed by the governor and possessing the qualifications specified in this article
10 **240** and as follows:

11 (A) (I) Eleven physician members;

12 (B) (II) One member licensed under this article **240** as a physician assistant; and

13 (C) (III) Four members from the public at large who have no financial or
14 professional association with the medical profession.

15 (H) (b) The terms of the members of the board shall be four years. **For the two
16 physician and one physician assistant appointees added to the board during the calendar year
17 beginning January 1, 2010, the term for one of the physician member appointees shall expire
18 four years after the appointment; the term for the other physician member appointee shall
19 expire three years after the appointment; and the term for the physician assistant appointee
20 shall expire two years after the appointment. Thereafter, the terms of the members of the
21 board shall be four years.** <{*Does the highlighted portion of paragraph (b) have any
22 continuing effect?*}>

23 (b) (Deleted by amendment, L. 2003, p. 911, § 12, effective August 6, 2003.)

24 (2) The board shall be comprised at all times of eight members having the degree of
25 doctor of medicine, three members having the degree of doctor of osteopathy, and one
26 physician assistant, all of whom shall have been licensed in good standing and actively
27 engaged in the practice of their professions in this state for at least three years next preceding
28 their appointments, and four members of the public at large.

29 (3) If a vacancy in the membership of the board occurs for any cause other than
30 expiration of a term, the governor shall appoint a successor to fill the unexpired portion of
31 the term of the member whose office has been so vacated and shall appoint the new member
32 in the same manner as members for a full term. Members of the board shall remain in office
33 until their successors have been appointed. A member of the board may be removed by the
34 governor for continued neglect of duty, incompetence, or unprofessional or dishonorable
35 conduct.

36 (4) The board shall elect biennially from its members a president and a
37 vice-president. Meetings of the board or any panel established pursuant to this article **240**
38 shall be held as scheduled by the board in the state of Colorado. Except as provided in
39 section ~~12-36-118~~ **12-240-125 (6)**, a majority of the board shall constitute a quorum for
40 the transaction of all business. All meetings of the board shall be deemed to have been duly
41 called and regularly held, and all decisions, resolutions, and proceedings of the board shall
42 be deemed to have been duly authorized, unless the contrary be proved.

(5) (Deleted by amendment, L. 2004, p. 1827, § 67, effective August 4, 2004.)

(6)(a)(I) (5) The provisions of section 24-34-104, C.R.S., concerning the termination schedule for regulatory bodies of the state unless extended as provided in that section, are applicable to the Colorado medical board created by this section.

(II) The review required by this subsection (6) shall include an analysis of physician responsibilities related to recommendations for medical marijuana and the provisions of section 25-1.5-106, C.R.S.

(b) This article 240 is repealed, effective July 1, 2019. BEFORE ITS REPEAL, THIS ARTICLE, INCLUDING AN ANALYSIS OF PHYSICIAN RESPONSIBILITIES RELATED TO RECOMMENDATIONS FOR MEDICAL MARIJUANA, AND THE PROVISIONS OF SECTION 25-1.5-106 ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104. <{*Amended to comply with current sunset language. No medical board sunset report recommendations are included in this practice act. The medical board sunset bill will include sections that amend this practice act, as amended by the title 12 recodification bill, to enact the sunset report recommendations.*}>

(7) (Deleted by amendment, L. 2010, (HB 10-1260), ch. 403, p. 1948, § 14, effective July 1, 2010.)

12-36-106. Powers and duties of board - limitation on authority. (1) [Formerly 12-36-104 (1)] In addition to all other powers and duties conferred and imposed upon the board by this article 240, the board has the following powers and duties to:

(a) Adopt and Promulgate under the provisions of section 24-4-103, C.R.S., such rules, and regulations as the board may deem necessary or proper to carry out the provisions and purposes of this article which shall be fair, impartial, and nondiscriminatory, PURSUANT TO SECTION 12-20-204; <{*Mostly redundant with general rule-making common provision, 12-20-204*}; *recommend amendment.* }>

(b) (I) Make investigations, hold hearings, and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board

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

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

1 WITH SECTION 12-20-403. <{Subsection (1)(b) redundant with disciplinary
2 procedures/subpoena powers common provision, 12-20-403. Recommend repealing and
3 adding cross-reference to common provision, as indicated.}>

4 (c) (Deleted by amendment, L. 2010, (HB 10-1260), ch. 403, p. 1951, § 16, effective
5 July 1, 2010.)

6 (d) Repealed.

7 (e) (c) Aid law enforcement in the enforcement of this article 240 and in the
8 prosecution of all persons, firms, associations, or corporations charged with the violation of
9 any of its provisions.

10 (2) Repealed.

11 (3) (2) [Formerly 12-36-104 (3)] To facilitate the licensure of qualified applicants
12 and address the unlicensed practice of medicine, the unlicensed practice as a physician
13 assistant, and the unlicensed practice as an anesthesiologist assistant, the president of the
14 board shall establish a licensing panel in accordance with section ~~12-36-111.3~~ 12-240-116
15 to perform licensing functions in accordance with this article 240 and review and resolve
16 matters relating to the unlicensed practice of medicine, unlicensed practice as a physician
17 assistant, and unlicensed practice as an anesthesiologist assistant. Two panel members
18 constitute a quorum of the panel. Any action taken by a quorum of the panel constitutes
19 action by the board.

20 (4) (3) [Formerly 12-36-104 (4)] To facilitate the licensure of a physician under the
21 "Interstate Medical Licensure Compact Act", part 36 of article 60 of title 24, C.R.S.; the
22 board shall obtain a set of fingerprints from an applicant for licensure under the compact and
23 shall forward the fingerprints to the Colorado bureau of investigation for the purpose of
24 obtaining a fingerprint-based criminal history record check. Upon receipt of fingerprints and
25 payment for the costs, the Colorado bureau of investigation shall conduct a state and national
26 fingerprint-based criminal history record check using records of the Colorado bureau of
27 investigation and the federal bureau of investigation. The board is the authorized agency to
28 receive information regarding the result of a national criminal history record check. The
29 applicant whose fingerprints are checked shall pay the actual costs of the state and national
30 fingerprint-based criminal history record check.

31 (4) [Formerly 12-36-104.5] The authority granted the board under the provisions of
32 this article 240 shall not be construed to authorize the board to arbitrate or adjudicate fee
33 disputes between licensees or between a licensee and any other party.

34
35 ~~Formerly 12-36-104.5. Limitation on authority.~~ The authority granted the board
36 under the provisions of this article shall not be construed to authorize the board to arbitrate
37 or adjudicate fee disputes between licensees or between a licensee and any other party.
38 <{Moved to 12-240-106 (4).}>

39
40 ~~12-36-105. Surety bond. (Repealed)~~

41
42 12-240-107. [Formerly 12-36-106] Practice of medicine defined - exemptions

1 **from licensing requirements - unauthorized practice by physician assistants and**
2 **anesthesiologist assistants - penalties - definitions - rules - repeal.** (1) For the purpose
3 of this article ~~36~~ **240**, "practice of medicine" means:

4 (a) Holding out one's self to the public within this state as being able to diagnose,
5 treat, prescribe for, palliate, or prevent any human disease; ailment; pain; injury; deformity;
6 physical condition; or behavioral, mental health, or substance use disorder, whether by the
7 use of drugs, surgery, manipulation, electricity, telemedicine, the interpretation of tests,
8 including primary diagnosis of pathology specimens, images, or photographs, or any
9 physical, mechanical, or other means whatsoever;

10 (b) Suggesting, recommending, prescribing, or administering any form of treatment,
11 operation, or healing for the intended palliation, relief, or cure of a person's physical disease;
12 ailment; injury; condition; or behavioral, mental health, or substance use disorder;

13 (c) The maintenance of an office or other place for the purpose of examining or
14 treating persons afflicted with disease; injury; or a behavioral, mental health, or substance
15 use disorder;

16 (d) Using the title M.D., D.O., physician, surgeon, or any word or abbreviation to
17 indicate or induce others to believe that one is licensed to practice medicine in this state and
18 engaged in the diagnosis or treatment of persons afflicted with disease; injury; or a
19 behavioral, mental health, or substance use disorder, except as otherwise expressly permitted
20 by the laws of this state enacted relating to the practice of any limited field of the healing
21 arts;

22 (e) Performing any kind of surgical operation upon a human being;

23 (f) The practice of midwifery, except:

24 (I) Services rendered by certified nurse-midwives properly licensed and practicing
25 in accordance with the provisions of article ~~38~~ **255** of this title **12**; or

26 (II) (A) Services rendered by a person properly registered as a direct-entry midwife
27 and practicing in accordance with article ~~37~~ **225** of this title **12**.

28 (B) This ~~subparagraph~~ ~~(H)~~ SUBSECTION (1)(f)(II) is repealed, effective September 1,
29 2023.

30 (g) The delivery of telemedicine. Nothing in this ~~paragraph~~ ~~(g)~~ SUBSECTION (1)(g)
31 authorizes physicians to deliver services outside their scope of practice or limits the delivery
32 of health services by other licensed professionals, within the professional's scope of practice,
33 using advanced technology, including, but not limited to, interactive audio, interactive video,
34 or interactive data communication.

35 (2) If a person who does not possess and has not filed a license to practice medicine,
36 practice as a physician assistant, or practice as an anesthesiologist assistant in this state, as
37 provided in this article **240**, and who is not exempted from the licensing requirements under
38 this article **240**, performs any of the acts that constitute the practice of medicine as defined
39 in this section, the person shall be deemed to be practicing medicine, practicing as a
40 physician assistant, or practicing as an anesthesiologist assistant in violation of this article
41 **240**.

42 (3) A person may engage in, and shall not be required to obtain a license or a

1 physician training license under this article ~~36~~ **240** with respect to, any of the following acts:

2 (a) The gratuitous rendering of services in cases of emergency;

3 (b) The occasional rendering of services in this state by a physician if the physician:

4 (I) Is licensed and lawfully practicing medicine in another state or territory of the
5 United States without restrictions or conditions on the physician's license;

6 (II) Does not have any established or regularly used medical staff membership or
7 clinical privileges in this state;

8 (III) Is not party to any contract, agreement, or understanding to provide services in
9 this state on a regular or routine basis;

10 (IV) Does not maintain an office or other place for the rendering of such services;

11 (V) Has medical liability insurance coverage in the amounts required pursuant to
12 section 13-64-302 ~~C.R.S.~~, for the services rendered in this state; and

13 (VI) Limits the services provided in this state to an occasional case or consultation;

14 (c) The practice of dentistry under the conditions and limitations defined by the laws
15 of this state;

16 (d) The practice of podiatry under the conditions and limitations defined by the laws
17 of this state;

18 (e) The practice of optometry under the conditions and limitations defined by the
19 laws of this state;

20 (f) The practice of chiropractic under the conditions and limitations defined by the
21 laws of this state;

22 (g) The practice of religious worship;

23 (h) The practice of Christian Science, with or without compensation;

24 (i) The performance by commissioned medical officers of the armed forces of the
25 United States of America or of the United States public health service or of the United States
26 veterans administration of their lawful duties in this state as ~~such~~ officers;

27 (j) The rendering of nursing services and delegated medical functions by registered
28 or other nurses in the lawful discharge of their duties, as such;

29 (k) The rendering of services by students currently enrolled in an approved medical
30 college;

31 (l) The rendering of services, other than the prescribing of drugs, by persons
32 qualified by experience, education, or training, under the personal and responsible direction
33 and supervision of a person licensed under the laws of this state to practice medicine, but
34 nothing in this exemption shall be deemed to extend or limit the scope of any license, and
35 this exemption shall not apply to persons otherwise qualified to practice medicine but not
36 licensed to so practice in this state;

37 (m) The practice by persons licensed or registered under any law of this state to
38 practice a limited field of the healing arts not specifically designated in this section, under
39 the conditions and limitations defined by such law;

40 ~~(n) (Deleted by amendment, L. 2000, p. 30, § 1, effective March 10, 2000.)~~

41 ~~(o)~~ (n) The administration and monitoring of medications in facilities as provided
42 in part 3 of article 1.5 of title 25; ~~C.R.S.~~;

1 ~~(H) Repealed.~~

2 ~~(p)~~ (o) The rendering of acupuncture services subject to the conditions and
3 limitations provided in article ~~29.5~~ **200** of this title **12**;

4 ~~(q)~~ (p) The administration of nutrition or fluids through gastrostomy tubes as
5 provided in sections 25.5-10-204 (2)(j) and 27-10.5-103 (2)(i), ~~C.R.S.~~, as a part of
6 residential or day program services provided through service agencies approved by the
7 department of health care policy and financing pursuant to section 25.5-10-208; ~~C.R.S.~~;

8 ~~(H) Repealed.~~

9 ~~(r)~~ (q) (I) The administration of topical and aerosol medications within the scope of
10 physical therapy practice as provided in section ~~12-41-113 (2)~~ **12-285-XXX (X)**;

11 (II) The performance of wound debridement under a physician's order within the
12 scope of physical therapy practice as provided in section ~~12-41-113 (3)~~ **12-285-XXX (X)**
13 or the performance of noninvasive wound debridement within the scope of practice as a
14 physical therapist assistant as provided in section ~~12-41-209 (1)(f)~~ **12-285-XXX (X)(X)**;

15 ~~(s)~~ (r) The rendering of services by an athletic trainer subject to the conditions and
16 limitations provided in article ~~29.7~~ **205** of this title **12**;

17 ~~(t)~~ (s) (I) The rendering of prescriptions by an advanced practice nurse pursuant to
18 section ~~12-38-111.6~~ **12-255-112**.

19 ~~(H) Repealed.~~

20 ~~(H.5)~~ (II) On or after July 1, 2010, a physician who serves as a preceptor or mentor
21 to an advanced practice nurse pursuant to sections ~~12-36-106.4~~ **12-240-108** and ~~12-38-111.6~~
22 ~~(4.5)~~ **12-255-112 (4)** shall have a license in good standing without disciplinary sanctions to
23 practice medicine in Colorado and an unrestricted registration by the drug enforcement
24 administration for the same schedules as the collaborating advanced practice nurse.

25 ~~(H) Repealed.~~

26 ~~(IV)~~ (III) It is unlawful and a violation of this article **240** for any person, corporation,
27 or other entity to require payment or employment as a condition of entering into a
28 mentorship relationship with the advanced practice nurse pursuant to sections ~~12-36-106.4~~
29 **12-240-108** and ~~12-38-111.6 (4.5)~~ **12-255-112 (4)**, but the mentor may request
30 reimbursement of reasonable expenses and time spent as a result of the mentorship
31 relationship.

32 ~~(tt)~~ (t) (I) The provision, to a treating physician licensed in this state, of the results
33 of laboratory tests, excluding histopathology tests and cytology tests, performed in a
34 laboratory certified under the federal "Clinical Laboratories Improvement Act of 1967", as
35 amended, 42 U.S.C. sec. 263a, to perform high complexity testing, as ~~such~~ THE term is used
36 in 42 CFR 493.1701 and any related or successor provision;

37 (II) The provision, to a pathologist licensed in this state, of the results of
38 histopathology tests and cytology tests performed in a laboratory certified under the federal
39 "Clinical Laboratories Improvement Act of 1967", as amended, 42 U.S.C. sec. 263a, to
40 perform high complexity testing, as ~~such~~ THE term is used in 42 CFR 493.1701 and any
41 related or successor provision;

42 ~~(v)~~ (u) The rendering of services by any person serving an approved internship,

1 residency, or fellowship as defined by this article **240** for an aggregate period not to exceed
2 sixty days;

3 ~~(w)~~ (v) A physician lawfully practicing medicine in another state or territory
4 providing medical services to athletes or team personnel registered to train at the United
5 States Olympic training center at Colorado Springs or providing medical services at an event
6 in this state sanctioned by the United States Olympic committee. The physician's medical
7 practice shall be contingent upon the requirements and approvals of the United States
8 Olympic committee and shall not exceed ninety days per calendar year.

9 ~~(x)~~ Repealed.

10 ~~(y)~~ (w) The rendering of services by an emergency medical service provider certified
11 under section 25-3.5-203 ~~C.R.S.~~, if the services rendered are consistent with **rules adopted**
12 **by the executive director or chief medical officer, as applicable, under section 25-3.5-206**
13 ~~C.R.S.~~, defining the duties and functions of emergency medical service providers; <{ ***Section***
14 ***25-3.5-206 actually refers to rules adopted by the chief medical officer or the "director",***
15 ***which is defined to mean the executive director of CDPHE. To resolve this potential***
16 ***ambiguity, propose to repeal the reference to who adopts the rules.*** }>

17 ~~(z)~~ (x) Rendering complementary and alternative health care services consistent with
18 section 6-1-724; ~~C.R.S.~~;

19 ~~(aa)~~ (y) Practicing as a medical director pursuant to the "Recognition of Emergency
20 Medical Services Personnel Licensure Interstate Compact Act", part 35 of article 60 of title
21 24, ~~C.R.S.~~, so long as the person is licensed in good standing in a state that has enacted and
22 is a member of the compact.

23 ~~(3.2)~~ (4) Nothing in this section shall be construed to prohibit patient consultation
24 between a practicing physician licensed in Colorado and a practicing physician licensed in
25 another state or jurisdiction.

26 ~~(3.5)~~ ~~(Deleted by amendment, L. 2009, (SB-09-026), ch. 373, p. 2031, § 2, effective~~
27 ~~July 1, 2009.)~~

28 ~~(4)~~ (5) All licensees designated or referred to in subsection (3) of this section, who
29 are licensed to practice a limited field of the healing arts, shall confine themselves strictly
30 to the field for which they are licensed and to the scope of their respective licenses, and shall
31 not use any title, word, or abbreviation mentioned in ~~paragraph (d) of subsection (1)~~
32 ~~SUBSECTION (1)(d) of this section, except to the extent and under the conditions expressly~~
33 ~~permitted by the law under which they are licensed.~~

34 ~~(5)~~ (6) (a) A person licensed under the laws of this state to practice medicine may
35 delegate to a physician assistant licensed by the board pursuant to section ~~12-36-107.4~~
36 **12-240-113** the authority to perform acts that constitute the practice of medicine and acts
37 that physicians are authorized by law to perform to the extent and in the manner authorized
38 by rules promulgated by the board, including the authority to prescribe medication, including
39 controlled substances, and dispense only the drugs designated by the board. ~~Such~~ THE acts
40 must be consistent with sound medical practice. Each prescription for a controlled substance,
41 as defined in section 18-18-102 (5), ~~C.R.S.~~, issued by a physician assistant licensed by the
42 board shall be imprinted with the name of the physician assistant's supervising physician.

1 For all other prescriptions issued by a physician assistant, the name and address of the health
 2 facility and, if the health facility is a multi-speciality organization, the name and address of
 3 the speciality clinic within the health facility where the physician assistant is practicing must
 4 be imprinted on the prescription. Nothing in this subsection ~~(5)~~ (6) limits the ability of
 5 otherwise licensed health personnel to perform delegated acts. The dispensing of
 6 prescription medication by a physician assistant is subject to section ~~12-42.5-118~~ (6)
 7 **12-280-XXX (X)**.

8 (b) (I) If the authority to perform an act is delegated pursuant to ~~paragraph (a) of this~~
 9 ~~subsection (5)~~ SUBSECTION (6)(a) OF THIS SECTION, the act shall not be performed except
 10 under the personal and responsible direction and supervision of a person licensed under the
 11 laws of this state to practice medicine. A licensed physician may be responsible for the
 12 direction and supervision of up to four physician assistants at any one time, and may be
 13 responsible for the direction and supervision of more than four physician assistants upon
 14 receiving specific approval from the board. The board, by rule, may define what constitutes
 15 appropriate direction and supervision of a physician assistant.

16 (II) For purposes of this subsection ~~(5)~~ (6), "personal and responsible direction and
 17 supervision" means that the direction and supervision of a physician assistant is personally
 18 rendered by a licensed physician practicing in the state of Colorado and is not rendered
 19 through intermediaries. The extent of direction and supervision shall be determined by rules
 20 promulgated by the board and as otherwise provided in this ~~paragraph (b)~~ SUBSECTION
 21 (6)(b); except that, when a physician assistant is performing a delegated medical function
 22 in an acute care hospital, the board shall allow supervision and direction to be performed
 23 without the physical presence of the physician during the time the delegated medical
 24 functions are being implemented if:

25 (A) ~~Such~~ THE medical functions are performed where the supervising physician
 26 regularly practices or in a designated health manpower shortage area;

27 (B) The licensed supervising physician reviews the quality of medical services
 28 rendered by the physician assistant by reviewing the medical records to assure compliance
 29 with the physicians' directions; and

30 (C) The performance of the delegated medical function otherwise complies with the
 31 board's ~~regulations~~ RULES and any restrictions and protocols of the licensed supervising
 32 physician and hospital.

33 ~~(H) Repealed.~~

34 ~~(e) to (f) (Deleted by amendment, L. 2010, (HB 10-1260), ch. 403, p. 1966, § 35,~~
 35 ~~effective July 1, 2010.)~~

36 ~~(g)~~ (c) Pursuant to section ~~12-36-129~~ (6) **12-240-135** (7), the board may apply for
 37 an injunction to enjoin any person from performing delegated medical acts that are in
 38 violation of this section or of any rules promulgated by the board.

39 ~~(h)~~ (d) This subsection ~~(5)~~ (6) shall not apply to any person who performs delegated
 40 medical tasks within the scope of the exemption contained in ~~paragraph (f) of subsection (3)~~
 41 SUBSECTION (3)(l) of this section.

42 ~~(i) and (j) (Deleted by amendment, L. 2010, (HB 10-1260), ch. 403, p. 1966, § 35,~~

1 effective July 1, 2010.)

2 (k) Repealed. / (Deleted by amendment, L. 2010, (HB 10-1260), ch. 403, p. 1966,
3 § 35, effective July 1, 2010.)

4 (6) Repealed.

5 (7) (a) A physician licensed in this state that practices as an anesthesiologist may
6 delegate tasks constituting the practice of medicine to an anesthesiologist assistant licensed
7 pursuant to section ~~12-36-107.3~~ **12-240-112** who has been educated and trained in
8 accordance with rules promulgated by the board. The delegated medical tasks referred to in
9 this paragraph (a) SUBSECTION (7)(a) are limited to the medical functions that constitute the
10 delivery or provision of anesthesia services as practiced by the supervising physician.

11 (b) An anesthesiologist assistant shall perform delegated medical tasks only under
12 the direct supervision of a physician who practices as an anesthesiologist. A patient or the
13 patient's representative shall be advised if an anesthesiologist assistant is involved in the care
14 of a patient. Unless approved by the board, a supervising physician shall not concurrently
15 supervise more than three anesthesiologist assistants; except that the board may, by rule,
16 allow an anesthesiologist to supervise up to four anesthesiologist assistants on and after July
17 1, 2016. The board may consider information from anesthesiologists, anesthesiologist
18 assistants, patients, and other sources when considering a ratio change of supervision of
19 anesthesiologist assistants. Direct supervision of anesthesiologist assistants may be
20 transferred between anesthesiologists of the same group or practice in accordance with
21 generally accepted standards of care.

22 (c) Nothing in this subsection (7) affects the practice of dentists and dental assistants
23 practicing pursuant to article ~~35~~ **220** of this title **12**.

24
25 ~~**12-36-106.3. Collaborative agreements with advanced practice nurses - repeal.**~~
26 ~~**(Repealed)**~~

27
28 **12-240-108. [Formerly 12-36-106.4] Collaboration with advanced practice**
29 **nurses with prescriptive authority - mentorships.** (1) (a) A physician licensed pursuant
30 to this article **240** may, and is encouraged to, serve as a mentor to an advanced practice nurse
31 who is applying for prescriptive authority pursuant to section ~~12-38-111.6(4.5)~~ **12-255-112**
32 **(4)**. A physician who serves as a mentor to an advanced practice nurse seeking prescriptive
33 authority shall:

34 (I) Be practicing in Colorado and shall have education, training, experience, and
35 active practice that corresponds with the role and population focus of the advanced practice
36 nurse; and

37 (II) Have a license in good standing without disciplinary sanctions to practice
38 medicine in Colorado and an unrestricted registration by the drug enforcement
39 administration for the same schedules as the advanced practice nurse.

40 (b) A physician serving as a mentor to an advanced practice nurse pursuant to section
41 ~~12-38-111.6(4.5)~~ **12-255-112 (4)** shall not require payment or employment as a condition
42 of entering into the mentorship relationship, but the physician may request reimbursement

1 of reasonable expenses and time spent as a result of the mentorship relationship.

2 (c) Upon successful completion of a mentorship as described in section ~~12-38-111.6~~
 3 ~~(4.5)(b)(I)~~ **12-255-112 (4)(b)(I)**, the physician shall verify by his or her signature that the
 4 advanced practice nurse has successfully completed the mentorship within the required
 5 period.

6 (2) While serving as a mentor pursuant to section ~~12-38-111.6(4.5)(I)~~ **12-255-112**
 7 **(4)(b)(I)**, a physician shall assist the advanced practice nurse in developing an articulated
 8 plan for safe prescribing, as described in section ~~12-38-111.6(4.5)(II)~~ **12-255-112**
 9 **(4)(b)(II)** and shall verify through his or her signature that the advanced practice nurse has
 10 developed an articulated plan in compliance with ~~said~~ THAT section.

11 (3) For purposes of an advanced practice nurse who obtained prescriptive authority
 12 prior to July 1, 2010, as described in section ~~12-38-111.6(4.5)(c)~~ **12-255-112 (4)(c)**, or who
 13 has prescriptive authority from another state and obtains prescriptive authority in this state,
 14 as described in section ~~12-38-111.6(4.5)(d)~~ **12-255-112 (4)(d)**, physicians may, and are
 15 encouraged to, assist those advanced practice nurses in developing the articulated plans
 16 required by those sections and verifying, through the physician's signature, the development
 17 of the required plans. The physician verifying an advanced practice nurse's articulated plan
 18 shall be practicing in Colorado and have education, training, experience, and active practice
 19 that corresponds with the role and population focus of the advanced practice nurse.

20 ~~(4) Repeated.~~

21
 22 **12-240-109. [Formerly 12-36-106.5] Child health associates - scope of practice.**

23 On and after July 1, 1990, any person who, on June 30, 1990, was certified only as a child
 24 health associate under the laws of this state shall, upon application to the board, be granted
 25 licensure as a physician assistant. The practice of ~~any such~~ THE person shall be subject to
 26 sections ~~12-36-106(5)~~ **12-240-107 (6)** and ~~12-36-107.4~~ **12-240-113**; except that ~~such~~ THE
 27 practice shall be limited to patients under the age of twenty-one.

28
 29 **12-240-110. [Formerly 12-36-107] Qualifications for licensure.** (1) Subject to the

30 other conditions and provisions of this article **240**, a license to practice medicine shall be
 31 granted by the board to an applicant only upon the basis of:

32 (a) The passing by the applicant of an examination approved by the board;

33 (b) The applicant's passage of examinations conducted by the National Board of
 34 Medical Examiners, the **National Board of Examiners for Osteopathic Physicians and**
 35 **Surgeons**, the Federation of State Medical Boards, or any successor to ~~said~~ THOSE
 36 organizations, as approved by the board; ~~<{The highlighted entity is now named the~~
 37 ***National Board of Osteopath Medical Examiners; should we updated the reference?***>

38 (c) Any combination of the examinations provided in ~~paragraphs (a) and (b) of this~~
 39 ~~subsection (1)~~ SUBSECTIONS (1)(a) AND (1)(b) OF THIS SECTION approved by the board;

40 ~~(d) (Deleted by amendment, L. 2010, (HB 10-1260), ch. 403, p. 1959, § 27, effective~~
 41 ~~July 1, 2010.)~~

42 ~~(e)~~ (d) (I) Endorsement, if the applicant for licensure by endorsement:

1 (A) Files an application and pays a fee as prescribed by the board;

2 (B) Holds a current, valid license in a jurisdiction that requires qualifications
3 substantially equivalent to the qualifications for licensure in this state as specified in this
4 section;

5 (C) Submits written verification that he or she has actively practiced medicine in
6 another jurisdiction for at least five of the immediately preceding seven years or has
7 otherwise maintained continued competency as determined by the board; and

8 (D) Submits proof satisfactory to the board that he or she has not been and is not
9 subject to final or pending disciplinary or other action by any state or jurisdiction in which
10 the applicant is or has been previously licensed; except that, if the applicant is or has been
11 subject to ~~such~~ action, the board may review the action to determine whether the underlying
12 conduct warrants refusal of a license pursuant to section ~~12-36-116~~ **12-240-120**.

13 (II) Upon receipt of all documents required by this ~~paragraph (e)~~ SUBSECTION (1)(d),
14 the board shall review the application and make a determination of the applicant's
15 qualification to be licensed by endorsement.

16 (2) No person shall be granted a license to practice medicine as provided by
17 subsection (1) of this section unless ~~such~~ THE person:

18 (a) Is at least twenty-one years of age;

19 (b) Is a graduate of an approved medical college; and

20 (c) Has completed either an approved internship of at least one year or at least one
21 year of postgraduate training approved by the board.

22 ~~(3) to (5) Repealed.~~

23
24 **12-240-111. [Formerly 12-36-107.2] Distinguished foreign teaching physician**
25 **license - qualifications - rules.** (1) Notwithstanding any other provision of this article **240**,
26 an applicant of noteworthy and recognized professional attainment who is a graduate of a
27 foreign medical school and who is licensed in a foreign jurisdiction, if that jurisdiction has
28 a licensing procedure, may be granted a distinguished foreign teaching physician license to
29 practice medicine in this state, upon application to the board in the manner determined by
30 the board, if the following conditions are met:

31 (a) The applicant has been invited by a medical school in this state to serve as a
32 full-time member of its academic faculty for the period of his or her appointment, at a rank
33 equal to an associate professor or higher;

34 (b) The applicant's medical practice is limited to that required by his or her academic
35 position, the limitation is so designated on the license in accordance with board procedure,
36 and the medical practice is also limited to the core teaching hospitals affiliated with the
37 medical school, as identified by the board, on which the applicant is serving as a faculty
38 member.

39 (2) An applicant who meets the qualifications and conditions set forth in subsection
40 (1) of this section but is not offered the rank of associate professor or higher may be granted
41 a temporary license, for one year only, to practice medicine in this state, as a member of the
42 academic faculty, at the discretion of the board and in the manner determined by the board.

1 If the applicant is granted a temporary license, he or she shall practice only under the direct
2 supervision of a person who has the rank of associate professor or higher.

3 (3) A distinguished foreign teaching physician license is effective and in force only
4 while the holder is serving on the academic staff of a medical school. The license expires
5 one year after the date of issuance and may be renewed annually only after the board has
6 specifically determined that the conditions specified in subsection (1) or (2) of this section
7 will continue during the ensuing period of licensure. The board may require an applicant for
8 licensure under this section to present himself or herself to the board for an interview. The
9 board may withdraw licensure granted under this section prior to the expiration of the license
10 for unprofessional conduct as defined in section ~~12-36-117~~ **12-240-121**.

11 (4) The board may establish and charge a fee for a distinguished foreign teaching
12 physician license pursuant to section ~~24-34-105, C.R.S.~~, **12-20-105** not to exceed the amount
13 of the fee for renewal of a physician's license.

14 (5) The board shall promulgate rules specifying standards related to the qualification
15 and supervision of distinguished foreign teaching physicians.

16
17 **12-240-112. [Formerly 12-36-107.3] Anesthesiologist assistant license -**
18 **qualifications - effective date.** (1) To be licensed as an anesthesiologist assistant under this
19 article **240**, an applicant must be at least twenty-one years of age and must have:

20 (a) Successfully completed an education program for anesthesiologist assistants that
21 conforms to standards delineated by the Commission on Accreditation of Allied Health
22 Education Programs, or its successor organization, and approved by the board;

23 (b) Successfully completed the national certifying examination for anesthesiologist
24 assistants that is administered by the National Commission for Certification of
25 Anesthesiologist Assistants or a successor organization; and

26 (c) Submitted an application to the board in the manner designated by the board and
27 paid the appropriate fee established by the board pursuant to section ~~24-34-105, C.R.S.~~
28 **12-20-105**.

29 (2) A person applying for a license to practice as an anesthesiologist assistant in this
30 state shall notify the board, in connection with his or her application for licensure, of the
31 commission of any act that would be grounds for disciplinary action against a licensed
32 anesthesiologist assistant under section ~~12-36-117~~ **12-240-121**, along with an explanation
33 of the circumstances of the act. The board may deny licensure to any applicant as set forth
34 in section ~~12-36-116~~ **12-240-120**.

35 (3) A person licensed to practice as an anesthesiologist assistant shall not perform
36 any act that constitutes the practice of medicine within a hospital or ambulatory surgical
37 center licensed pursuant to part 1 of article 3 of title 25 ~~C.R.S.~~, or required to obtain a
38 certificate of compliance pursuant to section 25-1.5-103 (1)(a)(II), ~~C.R.S.~~, unless the
39 licensed anesthesiologist assistant obtains authorization from the governing board of the
40 hospital or ambulatory surgical center. The governing board of a hospital or ambulatory
41 surgical center may grant, deny, or limit a licensed anesthesiologist assistant's authorization
42 based on the governing board's established procedures.

1 (4) The board may take any disciplinary action with respect to an anesthesiologist
2 assistant license as it may with respect to the license of a physician, in accordance with
3 section ~~12-36-118~~ **12-240-125**.

4 (5) The board shall license and keep a record of anesthesiologist assistants who have
5 been licensed pursuant to this section. A licensed anesthesiologist assistant shall renew his
6 or her license in accordance with section ~~12-36-123~~ **12-240-130**.

7 (6) This section takes effect July 1, 2013. <{*Can this subsection (6) be repealed as*
8 *obsolete?*}>

9
10 **12-240-113. [Formerly 12-36-107.4] Physician assistant license - qualifications.**

11 (1) To be licensed as a physician assistant under this article **240**, an applicant shall be at
12 least twenty-one years of age and shall have:

13 (a) Successfully completed an education program for physician assistants that
14 conforms to standards approved by the board, which standards may be established by
15 utilizing the assistance of any responsible accrediting organization;

16 (b) Successfully completed the national certifying examination for physician
17 assistants that is administered by the National Commission on Certification of Physician
18 Assistants or a successor organization or successfully completed any other examination
19 approved by the board; and

20 (c) Submitted an application to the board in the manner designated by the board and
21 paid the appropriate fee established by the board pursuant to section ~~24-34-105, C.R.S.~~
22 **12-20-105**.

23 (2) The board may determine whether any applicant for licensure as a physician
24 assistant possesses education, experience, or training in health care that is sufficient to be
25 accepted in lieu of the qualifications required for licensure under subsection (1) of this
26 section.

27 (3) A person applying for a license to practice as a physician assistant in this state
28 shall notify the board, in connection with his or her application for licensure, of the
29 commission of any act that would be grounds for disciplinary action against a licensed
30 physician assistant under section ~~12-36-117~~ **12-240-121**, along with an explanation of the
31 circumstances of the act. The board may deny licensure to any applicant as set forth in
32 section ~~12-36-116~~ **12-240-120**.

33 (4) A person licensed as a physician assistant shall not perform any act that
34 constitutes the practice of medicine within a hospital or nursing care facility that is licensed
35 pursuant to part 1 of article 3 of title 25 ~~C.R.S.~~, or that is required to obtain a certificate of
36 compliance pursuant to section 25-1.5-103 (1)(a)(II), ~~C.R.S.~~, without authorization from the
37 governing board of the hospital or nursing care facility. The governing board may grant,
38 deny, or limit a physician assistant's authorization based on its own established procedures.

39 (5) The board may take any disciplinary action with respect to a physician assistant
40 license as it may with respect to the license of a physician, in accordance with section
41 ~~12-36-118~~ **12-240-125**.

42 (6) The board shall license and keep a record of physician assistants who have been

1 licensed pursuant to this section. A licensed physician assistant shall renew his or her license
2 in accordance with section ~~12-36-123~~ **12-240-130**.

3
4 ~~**12-36-107.5. Colorado resident physicians trained at foreign medical schools.**~~
5 ~~**(Repealed)**~~

6
7 **12-240-114. [Formerly 12-36-107.6] Foreign medical school graduates - degree**
8 **equivalence.** (1) For graduates of schools other than those approved by the Liaison
9 Committee for ON Medical Education or the American Osteopathic Association, or the
10 successor of either entity, the board may require three years of postgraduate clinical training
11 approved by the board. An applicant whose foreign medical school is not an approved
12 medical college is eligible for licensure at the discretion of the board if the applicant meets
13 all other requirements for licensure and holds specialty board certification, current at the
14 time of application for licensure, conferred by a regular member board of the American
15 Board of Medical Specialties or the American Osteopathic Association. The factors to be
16 considered by the board in the exercise of its discretion in determining the qualifications of
17 ~~such~~ applicants shall include the following:

18 (a) The information available to the board relating to the medical school of the
19 applicant; and

20 (b) The nature and length of the post-graduate training completed by the applicant.

21 ~~(2) Repealed.~~

22
23 ~~**12-36-108. Approved medical college. (Repealed)**~~

24 ~~**12-36-109. Approved internship. (Repealed)**~~

25 ~~**12-36-110. Approved residency. (Repealed)**~~

26 ~~**12-36-110.5. Approved fellowship. (Repealed)**~~

27
28 **12-240-115. [Formerly 12-36-111] Applications for license.** (1) Every person
29 desiring a license to practice medicine shall make application to the board, ~~such~~ THE
30 application to be verified by oath and to be in ~~such~~ form as ~~shall be~~ prescribed by the board.
31 ~~Such~~ THE application shall be accompanied by the license fee and ~~such~~ THE documents,
32 affidavits, and certificates ~~as are~~ necessary to establish that the applicant possesses the
33 qualifications prescribed by this article **240**, apart from any required examination by the
34 board. The burden of proof shall be upon the applicant, but the board may make ~~such~~ AN
35 independent investigation as it may deem advisable to determine whether the applicant
36 possesses ~~such~~ THE qualifications and whether the applicant has at any time committed any
37 of the acts or offenses defined in this article **240** as unprofessional conduct.

38 ~~(2) Repealed.~~

39
40 **12-240-116. [Formerly 12-36-111.3] Licensing panel.** (1) (a) The president of the
41 board shall establish a licensing panel consisting of three members of the board as follows:

42 (I) One panel member shall be a licensed physician having the degree of doctor of

1 medicine;

2 (II) One panel member shall be a licensed physician having the degree of doctor of
3 osteopathy; and

4 (III) One panel member shall be a public member of the board.

5 (b) The president may rotate the licensing panel membership and the membership on
6 the inquiry and hearing panels established pursuant to section ~~12-36-118~~ **12-240-125** so that
7 all members of the board, including the board president, may serve on each of the board
8 panels.

9 (c) If the president determines that the board lacks a member to serve on the licensing
10 panel that meets the criteria specified in ~~paragraph (a) of this subsection (1)~~ SUBSECTION
11 (1)(a) OF THIS SECTION, the president may appoint another board member to fill the vacancy
12 on the panel.

13 (2) The licensing panel shall review and make determinations on applications for a
14 license under this article **240**.

15 (3) The licensing panel shall review and resolve matters relating to the unlicensed
16 practice of medicine. If it appears to the licensing panel, based upon credible evidence in a
17 written complaint by any person or upon credible evidence in a motion of the licensing
18 panel, that a person is practicing or has practiced medicine, practiced as a physician assistant,
19 or practiced as an anesthesiologist assistant without a license as required by this article **240**,
20 the licensing panel may issue an order to cease and desist the unlicensed practice. The order
21 must set forth the particular statutes and rules that have been violated, the facts alleged to
22 have constituted the violation, and the requirement that all unlicensed practices immediately
23 cease. **The respondent may request a hearing on a cease-and-desist order in accordance with**
24 **section ~~12-36-118 (14)(b)~~ **12-20-405**.** Section ~~12-36-118 (10)~~ **12-240-125 (9)**, exempting
25 board disciplinary proceedings and records from open meetings and public records
26 requirements, does not apply to a hearing or any other proceeding held by the licensing panel
27 pursuant to this subsection (3) regarding the unlicensed practice of medicine. **The**
28 **procedures specified in section ~~12-36-118 (15), (16), (17), and (18)~~ **12-20-405** apply to**
29 **allegations and orders regarding the unlicensed practice of medicine before the licensing**
30 **panel.** ~~<{Changes the cross reference to the cease-and-desist common provision,
31 **12-20-405.}>**~~

32
33 ~~**12-36-111.5. — Michael Skolnik medical transparency act - disclosure of**~~
34 ~~**information about licensees - rules. (Repealed)**~~

35 ~~**12-36-112. License fee. (Repealed)**~~

36 ~~**12-36-113. Examinations. (Repealed)**~~

37
38 **12-240-117. [Formerly 12-36-114] Issuance of licenses - prior practice**
39 **prohibited.** (1) If the board determines that an applicant possesses the qualifications
40 required by this article **240**, the board shall issue to the applicant a license to practice
41 medicine.

42 (2) Prior to the approval of ~~such~~ A license, the applicant shall not engage in the

1 practice of medicine in this state, and any person who practices medicine in this state without
2 first obtaining approval of ~~such~~ A license shall be deemed to have violated the provisions
3 of this article **240**.

4 (3) All holders of a license to practice medicine granted by the board, or by the state
5 board of medical examiners as constituted under any prior law of this state, shall be accorded
6 equal rights and privileges under all laws of the state of Colorado, shall be subject to the
7 same duties and obligations, and shall be authorized to practice medicine, as defined by this
8 article **240** in all its branches.
9

10 **12-240-118. [Formerly 12-36-114.3] Pro bono license - qualifications - reduced**
11 **fee - rules.** (1) Notwithstanding any other provision of this article **240**, the board may issue
12 a pro bono license to a physician to practice medicine in this state for not more than sixty
13 days in a calendar year if the physician:

14 (a) (I) Holds an active and unrestricted license to practice medicine in Colorado and
15 is in active practice in this state;

16 (II) Has been on inactive status pursuant to section ~~12-36-137~~ **12-240-141** for not
17 more than two years; or

18 (III) Holds an active and unrestricted license to practice medicine in another state or
19 territory of the United States;

20 (b) Attests to the board that he or she:

21 (I) Does not charge for his or her services; except that the facility at which the
22 services are provided may charge on a not-for-profit basis for the provision of services; or

23 (II) Works for and may be compensated by an organization that does not charge
24 Colorado patients for its services;

25 (c) Has never had a license to practice medicine in this state or in another state or
26 territory revoked or suspended, as verified by the applicant in the manner prescribed by the
27 board;

28 (d) Is not the subject of an unresolved complaint;

29 (e) Maintains commercial professional liability insurance coverage in accordance
30 with section 13-64-301; ~~C.R.S.~~; and

31 (f) Pays the fee established by the board.

32 (2) The board shall establish and charge an application fee for an initial and renewal
33 pro bono license, not to exceed one-half the amount of the fee for a renewal of a physician's
34 license and not to exceed the cost of administering the license.

35 (3) A pro bono license is subject to the renewal requirements set forth in section
36 ~~12-36-123~~ **12-240-130**.

37 (4) A physician granted a pro bono license under this section shall not
38 simultaneously hold a full license to practice medicine issued under this article **240**.

39 (5) A physician granted a pro bono license under this section is subject to discipline
40 by the board for committing unprofessional conduct, as defined in section ~~12-36-117~~
41 **12-240-121**, or any other act prohibited by this article **240**.

42 (6) The board may refrain from issuing a pro bono license in accordance with section

1 ~~12-36-116~~ **12-240-120.**

2 (7) The board may adopt rules as necessary to implement this section.

3
4 **12-240-119. [Formerly 12-36-114.5] Reentry license.** (1) Notwithstanding any
5 other provision of this article **240**, the board may issue a reentry license to a physician,
6 physician assistant, or anesthesiologist assistant who has not actively practiced medicine,
7 practiced as a physician assistant, or practiced as an anesthesiologist assistant, as applicable,
8 for the two-year period immediately preceding the filing of an application for a reentry
9 license, or who has not otherwise maintained continued competency during ~~such~~ THAT
10 period, as determined by the board. The board may charge a fee for a reentry license.

11 (2) (a) In order to qualify for a reentry license, the physician, physician assistant, or
12 anesthesiologist assistant shall submit to evaluations, assessments, and an educational
13 program as required by the board. The board may work with a private entity that specializes
14 in physician, physician assistant, or anesthesiologist assistant assessment to:

15 (I) Determine the applicant's competency and areas in which improvement is needed,
16 if any;

17 (II) Develop an educational program specific to the applicant; and

18 (III) Upon completion of the educational program, conduct an evaluation to
19 determine the applicant's competency.

20 (b) (I) If, based on the assessment, the board determines that the applicant requires
21 a period of supervised practice, the board may issue a reentry license, allowing the applicant
22 to practice medicine, practice as a physician assistant, or practice as an anesthesiologist
23 assistant, as applicable, under supervision as specified by the board.

24 (II) After satisfactory completion of the period of supervised practice, as determined
25 by the board, the reentry licensee may apply to the board for conversion of the reentry
26 license to a full license to practice medicine, practice as a physician assistant, or practice as
27 an anesthesiologist assistant, as applicable, under this article **240**.

28 (c) If, based on the assessment and after completion of an educational program, if
29 prescribed, the board determines that the applicant is competent and qualified to practice
30 medicine without supervision or practice as a physician assistant or as an anesthesiologist
31 assistant with supervision as specified in this article **240**, the board may convert the reentry
32 license to a full license to practice medicine, practice as a physician assistant, or practice as
33 an anesthesiologist assistant, as applicable, under this article **240**.

34 (3) A reentry license shall be valid for no more than three years and shall not be
35 renewable.

36
37 ~~**12-36-115. License must be recorded. (Repealed)**~~

38
39 **12-240-120. [Formerly 12-36-116] Refusal of license - issuance subject to**
40 **probation.** (1) The board may refrain from issuing a license or may grant a license subject
41 to terms of probation if the board determines that an applicant for a license:

42 (a) Does not possess the qualifications required by this article **240**;

1 (b) Has engaged in unprofessional conduct, as defined in section ~~12-36-117~~
2 **12-240-121**;

3 (c) Has been disciplined in another state or foreign jurisdiction with respect to his
4 or her license to practice medicine, license to practice as a physician assistant, or license to
5 practice as an anesthesiologist assistant; or

6 (d) Has not actively practiced medicine, practiced as a physician assistant, or
7 practiced as an anesthesiologist assistant for the two-year period immediately preceding the
8 filing of ~~such~~ AN application or otherwise maintained continued competency during ~~such~~
9 THAT period, as determined by the board.

10 (2) For purposes of this section, "discipline" includes any matter that must be
11 reported pursuant to 45 CFR 60.8 and is substantially similar to unprofessional conduct, as
12 defined in section ~~12-36-117~~ **12-240-121**.

13 (3) An applicant whose application is denied or whose license is granted subject to
14 terms of probation may seek review pursuant to section 24-4-104 (9); ~~€R.S.~~; except that,
15 if an applicant accepts a license that is subject to terms of probation, ~~such~~ THE acceptance
16 shall be in lieu of and not in addition to the remedies set forth in section 24-4-104 (9).
17 ~~€R.S.~~

18
19 **12-240-121. [Formerly 12-36-117] Unprofessional conduct - definitions.**

20 (1) "Unprofessional conduct" as used in this article ~~36~~ **240** means:

21 (a) Resorting to fraud, misrepresentation, or deception in applying for, securing,
22 renewing, or seeking reinstatement of a license to practice medicine or a license to practice
23 as a physician assistant in this state or any other state, in applying for professional liability
24 coverage, required pursuant to section 13-64-301, ~~€R.S.~~, or privileges at a hospital, or in
25 taking the examination provided for in this article **240**;

26 ~~(b) to (e) Repealed.~~

27 (f) (b) Any conviction of an offense of moral turpitude, a felony, or a crime that
28 would constitute a violation of this article **240**. For purposes of this paragraph (f)
29 SUBSECTION (1)(b), "conviction" includes the entry of a plea of guilty or nolo contendere or
30 the imposition of a deferred sentence.

31 (g) (c) Administering, dispensing, or prescribing any habit-forming drug or any
32 controlled substance as defined in section 18-18-102 (5) ~~€R.S.~~, other than in the course of
33 legitimate professional practice;

34 (h) (d) Any conviction of violation of any federal or state law regulating the
35 possession, distribution, or use of any controlled substance, as defined in section 18-18-102
36 (5), ~~€R.S.~~, and, in determining if a license should be denied, revoked, or suspended, or if
37 the licensee should be placed on probation, the board shall be governed by section **SECTIONS**
38 **12-20-202 (5) AND 24-5-101**, ~~€R.S.~~ For purposes of this paragraph (h) SUBSECTION (1)(d),
39 "conviction" includes the entry of a plea of guilty or nolo contendere or the imposition of
40 a deferred sentence. <{Adding a cross reference to the consideration of criminal
41 convictions common provision, 12-20-202 (5).}>

42 (i) (e) Habitual or excessive use or abuse of alcohol, a habit-forming drug, or a

1 controlled substance as defined in section 18-18-102 (5); ~~C.R.S.~~;

2 ~~(j) Repealed.~~

3 ~~(k)~~ (f) The aiding or abetting, in the practice of medicine, of any person not licensed
4 to practice medicine as defined under this article **240** or of any person whose license to
5 practice medicine is suspended;

6 ~~(l) Repealed.~~

7 ~~(m)~~ (g) (I) Except as otherwise provided in sections ~~12-36-134~~ **12-240-138**,
8 25-3-103.7, and 25-3-314, ~~C.R.S.~~, practicing medicine as the partner, agent, or employee of,
9 or in joint venture with, any person who does not hold a license to practice medicine within
10 this state, or practicing medicine as an employee of, or in joint venture with, any partnership
11 or association any of whose partners or associates do not hold a license to practice medicine
12 within this state, or practicing medicine as an employee of or in joint venture with any
13 corporation other than a professional service corporation for the practice of medicine as
14 described in section ~~12-36-134~~ **12-240-138**. Any licensee holding a license to practice
15 medicine in this state may accept employment from any person, partnership, association, or
16 corporation to examine and treat the employees of ~~such~~ THE person, partnership, association,
17 or corporation.

18 (II) (A) Nothing in this ~~paragraph~~ ~~(m)~~ SUBSECTION (1)(g) shall be construed to
19 permit a professional services corporation for the practice of medicine, as described in
20 section ~~12-36-134~~ **12-240-138**, to practice medicine.

21 (B) Nothing in this ~~paragraph~~ ~~(m)~~ SUBSECTION (1)(g) shall be construed to otherwise
22 create an exception to the corporate practice of medicine doctrine.

23 ~~(n)~~ (h) Violating, or attempting to violate, directly or indirectly, or assisting in or
24 abetting the violation of or conspiring to violate any provision or term of this article **240**;

25 ~~(o)~~ (i) Failing to notify the board, as required by **section 12-36-118.5 (1) SECTIONS**
26 **12-30-107 AND 12-240-126**, of a physical illness; a physical condition; or a behavioral,
27 mental health, or substance use disorder that impacts the licensee's ability to perform a
28 medical service with reasonable skill and with safety to patients, failing to act within the
29 limitations created by a physical illness; a physical condition; or a behavioral, mental health,
30 or substance use disorder that renders the licensee unable to perform a medical service with
31 reasonable skill and with safety to the patient, or failing to comply with the limitations
32 agreed to under a confidential agreement entered pursuant to **section 12-36-118.5 SECTIONS**
33 **12-30-107 AND 12-240-126**; *<{Adding a cross reference to the confidential agreement*
34 *common provision, 12-30-107.}>*

35 ~~(p)~~ (j) Any act or omission ~~which~~ THAT fails to meet generally accepted standards
36 of medical practice;

37 ~~(q) Repealed.~~

38 ~~(r)~~ (k) Engaging in a sexual act with a patient during the course of patient care or
39 within six months immediately following the termination of the licensee's professional
40 relationship with the patient. "Sexual act", as used in this ~~paragraph~~ ~~(r)~~ SUBSECTION (1)(k),
41 means sexual contact, sexual intrusion, or sexual penetration as defined in section 18-3-401.
42 ~~C.R.S.~~

1 ~~(s)~~ (l) Refusal of an attending physician to comply with the terms of a declaration
2 executed by a patient pursuant to the provisions of article 18 of title 15, ~~C.R.S.~~, and failure
3 of the attending physician to transfer care of ~~said~~ THE patient to another physician;

4 ~~(t)~~ (m) (I) Violation of abuse of health insurance pursuant to section 18-13-119;
5 ~~C.R.S.~~; or

6 (II) Advertising through newspapers, magazines, circulars, direct mail, directories,
7 radio, television, or otherwise that the licensee will perform any act prohibited by section
8 18-13-119 (3); ~~C.R.S.~~;

9 ~~(u)~~ (n) Violation of any valid board order or any rule ~~or regulation~~ promulgated by
10 the board in conformance with law;

11 ~~(v)~~ (o) Dispensing, injecting, or prescribing an anabolic steroid as defined in section
12 18-18-102 (3) ~~C.R.S.~~, for the purpose of the hormonal manipulation that is intended to
13 increase muscle mass, strength, or weight without a medical necessity to do so or for the
14 intended purpose of improving performance in any form of exercise, sport, or game;

15 ~~(w)~~ (p) Dispensing or injecting an anabolic steroid as defined in section 18-18-102
16 (3), ~~C.R.S.~~, unless ~~such~~ THE anabolic steroid is dispensed from a pharmacy prescription drug
17 outlet pursuant to a prescription order or is dispensed by any practitioner in the course of ~~his~~
18 THE PRACTITIONER'S professional practice;

19 ~~(x)~~ (q) Prescribing, distributing, or giving to a family member or to oneself except
20 on an emergency basis any controlled substance as defined in section 18-18-204 ~~C.R.S.~~, or
21 as contained in schedule II of 21 U.S.C. sec. 812, as amended;

22 ~~(y)~~ (r) Failing to report to the board, within thirty days after an adverse action, that
23 an adverse action has been taken against the licensee by another licensing agency in another
24 state or country, a peer review body, a health care institution, a professional or medical
25 society or association, a governmental agency, a law enforcement agency, or a court for acts
26 or conduct that would constitute grounds for disciplinary or adverse action as described in
27 this article **240**;

28 ~~(z)~~ (s) Failing to report to the board, within thirty days, the surrender of a license or
29 other authorization to practice medicine in another state or jurisdiction or the surrender of
30 membership on any medical staff or in any medical or professional association or society
31 while under investigation by any of those authorities or bodies for acts or conduct similar
32 to acts or conduct that would constitute grounds for action as described in this article **240**;

33 ~~(aa)~~ (t) Failing to accurately answer the questionnaire accompanying the renewal
34 form as required pursuant to section ~~12-36-123 (1)(b)~~ **12-240-130 (1)(b)**;

35 ~~(bb)~~ (u) (I) Engaging in any of the following activities and practices: Willful and
36 repeated ordering or performance, without clinical justification, of demonstrably
37 unnecessary laboratory tests or studies; the administration, without clinical justification, of
38 treatment ~~which~~ THAT is demonstrably unnecessary; the failure to obtain consultations or
39 perform referrals when failing to do so is not consistent with the standard of care for the
40 profession; or ordering or performing, without clinical justification, any service, X ray, or
41 treatment ~~which~~ THAT is contrary to recognized standards of the practice of medicine as
42 interpreted by the board.

1 (II) In determining which activities and practices are not consistent with the standard
2 of care or are contrary to recognized standards of the practice of medicine, the board shall
3 utilize, in addition to its own expertise, the standards developed by recognized and
4 established accreditation or review organizations that meet requirements established by the
5 board by rule. ~~Such~~ THE determinations shall include but not be limited to appropriate
6 ordering of laboratory tests and studies, appropriate ordering of diagnostic tests and studies,
7 appropriate treatment of the medical condition under review, appropriate use of
8 consultations or referrals in patient care, and appropriate creation and maintenance of patient
9 records.

10 ~~(ee)~~ (v) Falsifying or repeatedly making incorrect essential entries or repeatedly
11 failing to make essential entries on patient records;

12 ~~(dd)~~ (w) Committing a fraudulent insurance act, as defined in section 10-1-128;
13 ~~C.R.S.;~~

14 ~~(ee)~~ (x) Failing to establish and continuously maintain financial responsibility, as
15 required in section 13-64-301; ~~C.R.S.;~~

16 ~~(ff) Repealed.~~

17 ~~(gg)~~ (y) Failing to respond in an honest, materially responsive, and timely manner
18 to a complaint issued pursuant to section ~~12-36-118 (4)~~ **12-240-125 (4)**;

19 ~~(hh)~~ (z) Advertising in a manner that is misleading, deceptive, or false;

20 ~~(ii) Repealed.~~

21 ~~(jj)~~ (aa) Any act or omission in the practice of telemedicine that fails to meet
22 generally accepted standards of medical practice;

23 ~~(kk)~~ (bb) Entering into or continuing in a mentorship relationship with an advanced
24 practice nurse pursuant to sections ~~12-36-106.4~~ **12-240-108** and ~~12-38-111.6 (4.5)~~
25 **12-255-112 (4)** that fails to meet generally acceptable standards of medical practice;

26 ~~(H)~~ (cc) Verifying by signature the articulated plan developed by an advanced
27 practice nurse pursuant to sections ~~12-36-106.4~~ **12-240-108** and ~~12-38-111.6 (4.5)~~
28 **12-255-112** if the articulated plan fails to comply with the requirements of section
29 ~~12-38-111.6 (4.5)(b)(H)~~ **12-255-112 (4)(b)(II)**;

30 ~~(mm)~~ (dd) Failure to comply with the requirements of section 14 of article XVIII of
31 the state constitution, section 25-1.5-106, ~~C.R.S.~~, or the rules promulgated by the state health
32 agency pursuant to section 25-1.5-106 (3). ~~C.R.S.~~

33 ~~(1.5) (2)~~ (a) A licensee shall not be subject to disciplinary action by the board solely
34 for prescribing controlled substances for the relief of intractable pain.

35 (b) For the purposes of this subsection ~~(1.5) (2)~~, "intractable pain" means a pain state
36 in which the cause of the pain cannot be removed and **FOR** which in the generally accepted
37 course of medical practice no relief or cure of the cause of the pain is possible or none has
38 been found after reasonable efforts including, but not limited to, evaluation by the attending
39 physician and one or more physicians specializing in the treatment of the area, system, or
40 organ of the body perceived as the source of the pain. <{**Suggest amendment as**
41 **indicated.**>

42 ~~(1.7) Repealed.~~

1 ~~(1-8)~~ (3) A licensee is not subject to disciplinary action by the board for issuing
2 standing orders and protocols regarding the use of epinephrine auto-injectors in a public or
3 nonpublic school in accordance with the requirements of section 22-1-119.5, ~~C.R.S.~~, for the
4 actions taken by a school nurse or by any designated school personnel who administers
5 epinephrine auto-injectors in accordance with the requirements of section 22-1-119.5,
6 ~~C.R.S.~~, or for prescribing epinephrine auto-injectors in accordance with the requirements
7 of article 47 of title 25. ~~C.R.S.~~

8 ~~(2)~~ (4) The discipline of a license to practice medicine, of a license to practice as a
9 physician assistant, or of a license to practice as an anesthesiologist assistant in another state,
10 territory, or country shall be deemed to be unprofessional conduct. For purposes of this
11 subsection ~~(2)~~ (4), "discipline" includes any sanction required to be reported pursuant to 45
12 CFR 60.8. This subsection ~~(2)~~ (4) applies only to discipline that is based upon an act or
13 omission in ~~such~~ THE other state, territory, or country that is defined substantially the same
14 as unprofessional conduct pursuant to subsection (1) of this section.

15 ~~(3)~~ (5) (a) For purposes of this section, "alternative medicine" means those health
16 care methods of diagnosis, treatment, or healing that are not generally used but that provide
17 a reasonable potential for therapeutic gain in a patient's medical condition that is not
18 outweighed by the risk of ~~such~~ THE methods. A licensee who practices alternative medicine
19 shall inform each patient in writing, during the initial patient contact, of ~~such~~ THE licensee's
20 education, experience, and credentials related to the alternative medicine practiced by ~~such~~
21 THE licensee. The board shall not take disciplinary action against a licensee solely on the
22 grounds that ~~such~~ THE licensee practices alternative medicine.

23 (b) Nothing in ~~paragraph (a) of this subsection (3)~~ SUBSECTION (5)(a) OF THIS
24 SECTION prevents disciplinary action against a licensee for practicing medicine, practicing
25 as a physician assistant, or practicing as an anesthesiologist assistant in violation of this
26 article 240.

27
28 **12-240-122. [Formerly 12-36-117.5] Prescriptions - requirement to advise**
29 **patients.** (1) A physician licensed under this article 240, or a physician assistant licensed
30 by the board who has been delegated the authority to prescribe medication, may advise the
31 physician's or the physician assistant's patients of their option to have the symptom or
32 purpose for which a prescription is being issued included on the prescription order.

33 (2) A physician's or a physician assistant's failure to advise a patient under subsection
34 (1) of this section shall not be grounds for any disciplinary action against the physician's or
35 the physician assistant's professional license issued under this article 240. Failure to advise
36 a patient pursuant to subsection (1) of this section shall not be grounds for any civil action
37 against a physician or physician's assistant in a negligence or tort action, nor shall ~~such~~ THE
38 failure be evidence in any civil action against a physician or a physician's assistant.

39
40 **12-240-123. [Formerly 12-36-117.6] Prescribing opiates - limitations - repeal.**
41 (1) (a) A physician or physician assistant shall not prescribe more than a seven-day supply
42 of an opioid to a patient who has not had an opioid prescription in the last twelve months

1 by that physician or physician assistant, and may exercise discretion to include a second fill
2 for a seven-day supply. The limits on initial prescribing do not apply if, in the judgment of
3 the physician or physician assistant, the patient:

4 (I) Has chronic pain that typically lasts longer than ninety days or past the time of
5 normal healing, as determined by the physician or physician assistant, or following transfer
6 of care from another physician or physician assistant who prescribed an opioid to the patient;

7 (II) Has been diagnosed with cancer and is experiencing cancer-related pain;

8 (III) Is experiencing post-surgical pain that, because of the nature of the procedure,
9 is expected to last more than fourteen days; or

10 (IV) Is undergoing palliative care or hospice care focused on providing the patient
11 with relief from symptoms, pain, and stress resulting from a serious illness in order to
12 improve quality of life.

13 (b) Prior to prescribing the second fill of any opioid prescription pursuant to this
14 section, a physician or physician assistant must comply with the requirements of section
15 ~~12-42.5-404 (3.6)~~ **12-280-XXX (X)**. Failure to comply with section ~~12-42.5-404 (3.6)~~
16 **12-280-XXX (X)** constitutes unprofessional conduct under section ~~12-36-117~~ **12-240-121**
17 only if the physician or physician assistant repeatedly fails to comply.

18 (2) A physician or physician assistant licensed pursuant to this article ~~36~~ **240** may
19 prescribe opioids electronically.

20 (3) A violation of this section does not create a private right of action or serve as the
21 basis of a cause of action. A violation of this section does not constitute negligence per se
22 or contributory negligence per se and does not alone establish a standard of care.
23 Compliance with this section does not alone establish an absolute defense to any alleged
24 breach of the standard of care.

25 (4) This section is repealed, effective September 1, 2021.

26
27 **12-240-124. [Formerly 12-36-117.7] Prescribing opiate antagonists - definitions.**

28 (1) A physician or physician assistant licensed pursuant to this article **240** may prescribe or
29 dispense, directly or in accordance with standing orders and protocols, an opiate antagonist
30 to:

31 (a) An individual at risk of experiencing an opiate-related drug overdose event;

32 (b) A family member, friend, or other person in a position to assist an individual at
33 risk of experiencing an opiate-related drug overdose event;

34 (c) An employee or volunteer of a harm reduction organization; or

35 (d) A first responder.

36 (2) A licensed physician or physician assistant who prescribes or dispenses an opiate
37 antagonist pursuant to this section is strongly encouraged to educate persons receiving the
38 opiate antagonist on the use of an opiate antagonist for overdose, including instruction
39 concerning risk factors for overdose, recognizing an overdose, calling emergency medical
40 services, rescue breathing, and administering an opiate antagonist.

41 (3) A licensed physician or physician assistant does not engage in unprofessional
42 conduct pursuant to section ~~12-36-117~~ **12-240-121** if the physician or physician assistant

1 issues standing orders and protocols regarding opiate antagonists or prescribes or dispenses
2 an opiate antagonist in a good-faith effort to assist:

3 (a) An individual who is at risk of experiencing an opiate-related drug overdose
4 event;

5 (b) A family member, friend, or other person who is in a position to assist an
6 individual who is at risk of experiencing an opiate-related drug overdose event; or

7 (c) A first responder or an employee or volunteer of a harm reduction organization
8 in responding to, treating, or otherwise assisting an individual who is experiencing or is at
9 risk of experiencing an opiate-related drug overdose event or a friend, family member, or
10 other person in a position to assist an at-risk individual.

11 (4) A licensed physician or physician assistant who prescribes or dispenses an opiate
12 antagonist in accordance with this section is not subject to civil liability or criminal
13 prosecution, as specified in sections 13-21-108.7 (4) and 18-1-712 (3), ~~C.R.S.~~, respectively.

14 (5) This section does not establish a duty or standard of care regarding the
15 prescribing, dispensing, or administering of an opiate antagonist.

16 (6) As used in this section:

17 (a) "First responder" means:

18 (I) A peace officer, as defined in section 16-2.5-101; ~~C.R.S.~~;

19 (II) A firefighter, as defined in section 29-5-203 (10); ~~C.R.S.~~; or

20 (III) A volunteer firefighter, as defined in section 31-30-1102 (9). ~~C.R.S.~~

21 (b) "Harm reduction organization" means an organization that provides services,
22 including medical care, counseling, homeless services, or drug treatment, to individuals at
23 risk of experiencing an opiate-related drug overdose event or to the friends and family
24 members of an at-risk individual.

25 (c) "Opiate" has the same meaning as set forth in section 18-18-102 (21). ~~C.R.S.~~

26 (d) "Opiate antagonist" means naloxone hydrochloride or any similarly acting drug
27 that is not a controlled substance and that is approved by the federal food and drug
28 administration for the treatment of a drug overdose.

29 (e) "Opiate-related drug overdose event" means an acute condition, including a
30 decreased level of consciousness or respiratory depression, that:

31 (I) Results from the consumption or use of a controlled substance or another
32 substance with which a controlled substance was combined;

33 (II) A layperson would reasonably believe to be caused by an opiate-related drug
34 overdose event; and

35 (III) Requires medical assistance.

36 (f) "Protocol" means a specific written plan for a course of medical treatment
37 containing a written set of specific directions created by a physician, group of physicians,
38 hospital medical committee, pharmacy and therapeutics committee, or other similar
39 practitioners or groups of practitioners with expertise in the use of opiate antagonists.

40 (g) "Standing order" means a prescription order written by a physician or physician
41 assistant that is not specific to and does not identify a particular patient.

1 **12-240-125. [Formerly 12-36-118] Disciplinary action by board - immunity -**
 2 **rules.** (1) (a) The president of the board shall divide those members of the board other than
 3 the president into two panels of six members each, four of whom shall be physician
 4 members.

5 (b) Each panel shall act as both an inquiry and a hearings panel. Members of the
 6 board may be assigned from one panel to the other by the president. The president may be
 7 a member of both panels, but in no event shall the president or any other member who has
 8 considered a complaint as a member of a panel acting as an inquiry panel take any part in
 9 the consideration of a formal complaint involving the same matter.

10 (c) All matters referred to one panel for investigation shall be heard, if referred for
 11 formal hearing, by the other panel or a committee of ~~such~~ THAT panel. However, in its
 12 discretion, either inquiry panel may elect to refer a case for formal hearing to a qualified
 13 administrative law judge in lieu of a hearings panel of the board, for an initial decision
 14 pursuant to section 24-4-105. ~~C.R.S.~~

15 (d) The initial decision of an administrative law judge may be reviewed pursuant to
 16 section 24-4-105 (14) and (15), ~~C.R.S.~~, by the filing of exceptions to the initial decision with
 17 the hearings panel ~~which~~ THAT would have heard the case if it had not been referred to an
 18 administrative law judge or by review upon the motion of ~~such~~ THE hearings panel. The
 19 respondent or the board's counsel shall file ~~such~~ THE exceptions.

20 (2) Investigations shall be under the supervision of the panel to which they are
 21 assigned. The persons making ~~such~~ THE investigation shall report the results thereof to the
 22 assigning panel for appropriate action.

23 (3) (a) In the discharge of its duties, the board may enlist the assistance of other
 24 licensees. Licensees have the duty to report to the board any licensee known, or upon
 25 information and belief, to have violated any of the provisions of section ~~12-36-117 (1)~~
 26 **12-240-121 (1)**; except that a licensee who is treating another licensee for a behavioral,
 27 mental health, or substance use disorder or the excessive use of any habit-forming drug, shall
 28 not have a duty to report his or her patient unless, in the opinion of the treating licensee, the
 29 impaired licensee presents a danger to himself, herself, or others.

30 ~~(b) Any member of the board, any member of the board's staff, any person acting as
 31 a witness or consultant to the board, any witness testifying in a proceeding authorized under
 32 this part 1, and any person who lodges a complaint pursuant to this part 1 shall be immune
 33 from liability in any civil action brought against him or her for acts occurring while acting
 34 in his or her capacity as board member, staff, consultant, or witness, respectively, if such
 35 individual was acting in good faith within the scope of his or her respective capacity, made
 36 a reasonable effort to obtain the facts of the matter as to which he or she acted, and acted in
 37 the reasonable belief that the action taken by him or her was warranted by the facts. Any
 38 person participating in good faith in the making of a complaint or report or participating in
 39 any investigative or administrative proceeding pursuant to this section shall be immune from
 40 any liability, civil or criminal, that otherwise might result by reason of such participation.
 41 <{**Redundant with immunity common provision, 12-20-402; recommend repeal.**}>~~

42 (4) (a) (I) Written complaints relating to the conduct of a licensee licensed or

1 authorized to practice medicine in this state may be made by any person or may be initiated
 2 by an inquiry panel of the board on its own motion. The licensee complained of shall be
 3 given notice by first-class mail of the nature of the complaint and shall be given thirty days
 4 to answer or explain in writing the matters described in such complaint. Upon receipt of the
 5 licensee's answer or at the conclusion of thirty days, whichever occurs first, the inquiry panel
 6 may take further action as set forth in ~~subparagraph (H) of this paragraph (a)~~ SUBSECTION
 7 (4)(a)(II) OF THIS SECTION.

8 (II) The inquiry panel may then conduct a further investigation, which may be made
 9 by one or more members of the inquiry panel, one or more licensees who are not members
 10 of the board, a member of the staff of the board, a professional investigator, or any other
 11 person or organization as the inquiry panel directs. ~~Any such~~ THE investigation shall be
 12 entirely informal.

13 (b) The board shall cause an investigation to be made when the board is informed
 14 of:

15 (I) Disciplinary actions taken by hospitals to suspend or revoke the privileges of a
 16 physician and reported to the board pursuant to section 25-3-107; ~~C.R.S.;~~

17 (II) Disciplinary actions taken as a result of a professional review proceeding
 18 pursuant to part † (2) of article 36.5 30 of this title 12 against a physician. ~~Such~~ Disciplinary
 19 actions shall be promptly reported to the board.

20 (III) An instance of a medical malpractice settlement or judgment against a licensee
 21 reported to the board pursuant to section 10-1-120; ~~C.R.S.;~~ or

22 (IV) Licensees who have been allowed to resign from hospitals for medical
 23 misconduct. ~~Such~~ Hospitals shall report the ~~same~~ RESIGNATION.

24 (c) On completion of an investigation, the inquiry panel shall make a finding that:

25 (I) The complaint is without merit and no further action need be taken with reference
 26 thereto;

27 (II) There is no reasonable cause to warrant further action with reference thereto;

28 ~~(H.5)~~ (III) The investigation discloses an instance of conduct that does not warrant
 29 formal action by the board and should be dismissed but in which the inquiry panel has
 30 noticed indications of possible errant conduct by the licensee that could lead to serious
 31 consequences if not corrected. In such a case, a confidential letter of concern shall be sent
 32 to the licensee against whom the complaint was made PURSUANT TO SECTION 12-20-404 (5).
 33 <{Adding a cross reference to the confidential letter of concern common provisions,
 34 12-20-404 (5).}>

35 ~~(HH)(IV) (A)~~ When a complaint or investigation discloses An instance of misconduct
 36 that, in the opinion of the board, does not warrant formal action by the board but that should
 37 not be dismissed as being without merit, IN WHICH CASE a letter of admonition may be issued
 38 and sent, by certified mail, to the licensee PURSUANT TO SECTION 12-20-404 (4).

39 ~~(B)~~ When a letter of admonition is sent by the board, by certified mail, to a licensee,
 40 such licensee shall be advised that he or she has the right to request in writing, within twenty
 41 days after receipt of the letter, that formal disciplinary proceedings be initiated to adjudicate
 42 the propriety of the conduct upon which the letter of admonition is based.

1 ~~(C) If the request for adjudication is timely made, the letter of admonition shall be~~
 2 ~~deemed vacated and the matter shall be processed by means of formal disciplinary~~
 3 ~~proceedings.~~ <{Amending to follow the introductory portion and to refer to the letter of
 4 ~~admonition common provision, 12-20-404 (4).~~>

5 ~~(IV) (V) (A)~~ The investigation discloses facts that warrant further proceedings by
 6 formal complaint, as provided in subsection (5) of this section, in which event the complaint
 7 shall be referred to the attorney general for preparation and filing of a formal complaint.

8 ~~(B) When a complaint or an investigation discloses an instance of misconduct that,~~
 9 ~~in the opinion of the board, warrants formal action, the complaint shall not be resolved by~~
 10 ~~a deferred settlement, action, judgment, or prosecution.~~ <{Redundant with disciplinary
 11 ~~actions/no deferment common provision, 12-20-404 (2). Recommend repealing.~~>

12 (d) All proceedings pursuant to this subsection (4) shall be expeditiously and
 13 informally conducted so that no licensee is subjected to unfair and unjust charges and that
 14 no complainant is deprived of his or her right to a timely, fair, and proper investigation of
 15 his or her complaint.

16 ~~(e) Repealed.~~

17 ~~(5) (a) to (d) (Deleted by amendment, L. 95, p. 1062, § 13, effective July 1, 1995.)~~

18 ~~(e) (5) (a)~~ All formal complaints shall be heard and determined in accordance with
 19 ~~paragraph (f) of this subsection (5)~~ SUBSECTION (5)(b) OF THIS SECTION and section
 20 24-4-105. ~~C.R.S.~~ Except as provided in subsection (1) of this section, all formal hearings
 21 shall be conducted by the hearings panel. The licensee may be present in person and by
 22 counsel, if so desired, to offer evidence and be heard in his or her own defense. At formal
 23 hearings, the witnesses shall be sworn and a complete record shall be made of all
 24 proceedings and testimony.

25 ~~(f) (b)~~ Except as provided in subsection (1) of this section, an administrative law
 26 judge shall preside at the hearing and shall advise the hearings panel, as requested, on legal
 27 matters in connection with the hearing. The administrative law judge shall provide advice
 28 or assistance as requested by the hearings panel in connection with its preparations of its
 29 findings and recommendations or conclusions to be made. The administrative law judge may
 30 ~~administer oaths and affirmations, sign and issue subpoenas,~~ **ACT IN ACCORDANCE WITH**
 31 **SECTION 12-20-403** and perform other duties as authorized by the hearings panel.
 32 <{Recommend adding reference to disciplinary procedures common provision,
 33 ~~12-20-403.~~>

34 ~~(g) (c) (I)~~ To warrant a finding of unprofessional conduct, the charges shall be
 35 established as specified in section 24-4-105 (7). ~~C.R.S.~~ Except as provided in subsection (1)
 36 of this section, the hearings panel shall make a report of its findings and conclusions ~~which~~
 37 ~~THAT,~~ when approved and signed by a majority of those members of the hearings panel who
 38 have conducted the hearing pursuant to ~~paragraphs (e) and (f) of this subsection (5)~~
 39 ~~SUBSECTIONS (5)(a) AND (5)(b) OF THIS SECTION,~~ shall be and become the action of the
 40 board.

41 (II) If it is found that the charges are unproven, the hearings panel, or an
 42 administrative law judge sitting in lieu of the hearings panel pursuant to subsection (1) of

1 this section, shall enter an order dismissing the complaint.

2 (III) If the hearings panel finds the charges proven and orders that discipline be
3 imposed, it shall also determine the extent of ~~such~~ THE discipline, which must be in the form
4 of a letter of admonition, suspension for a definite or indefinite period, or revocation of
5 license to practice. The hearings panel also may impose a fine of up to five thousand dollars
6 per violation. In determining appropriate disciplinary action, the hearings panel shall first
7 consider sanctions that are necessary to protect the public. Only after the panel has
8 considered ~~such~~ sanctions may it consider and order requirements designed to rehabilitate
9 the licensee or applicant. If discipline other than revocation of a license to practice is
10 imposed, the hearings panel may also order that the licensee be granted probation and
11 allowed to continue to practice during the period of ~~such~~ probation. The hearings panel may
12 also include in any disciplinary order that allows the licensee to continue to practice ~~such~~
13 conditions as the panel may deem appropriate to assure that the licensee is physically,
14 mentally, morally, and otherwise qualified to practice medicine, practice as a physician
15 assistant, or practice as an anesthesiologist assistant in accordance with generally accepted
16 professional standards of practice, including any or all of the following:

17 (A) Submission by the respondent to such examinations as the hearings panel may
18 order to determine ~~his~~ THE RESPONDENT'S physical or mental condition or ~~his~~ THE
19 RESPONDENT'S professional qualifications;

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

23 (C) The review or supervision of ~~his~~ THE RESPONDENT'S practice as may be necessary
24 to determine the quality of ~~his~~ THE RESPONDENT'S practice and to correct deficiencies
25 therein; and

26 (D) The imposition of restrictions upon the nature of ~~his~~ THE RESPONDENT'S practice
27 to assure that ~~he~~ THE RESPONDENT does not practice beyond the limits of ~~his~~ THE
28 RESPONDENT'S capabilities.

29 ~~(HI.5) Any moneys collected pursuant to subparagraph (HI) of this paragraph (g)~~
30 ~~shall be transmitted to the state treasurer, who shall credit the same to the general fund.~~
31 ~~<{***Redundant with disposition of fines common provision, 12-20-404 (6). Recommend***~~
32 ~~***repeal.***>~~

33 (IV) Upon the failure of the licensee to comply with any conditions imposed by the
34 hearings panel pursuant to ~~subparagraph (HI) of this paragraph (g)~~ SUBSECTION (5)(c)(III)
35 OF THIS SECTION, unless due to conditions beyond the licensee's control, the hearings panel
36 may order suspension of the licensee's license to practice medicine, practice as a physician
37 assistant, or practice as an anesthesiologist assistant in this state until ~~such time as~~ the
38 licensee complies with ~~such~~ THE conditions.

39 (V) In making any of the orders provided in ~~subparagraphs (HI) and (IV) of this~~
40 ~~paragraph (g)~~ SUBSECTIONS (5)(c)(III) AND (5)(c)(IV) OF THIS SECTION, the hearings panel
41 may take into consideration the licensee's prior disciplinary record. If the hearings panel does
42 take into consideration any prior discipline of the licensee, its findings and recommendations

1 shall so indicate.

2 (VI) In all cases of revocation, suspension, or probation, the board shall enter in its
3 records the facts of ~~such~~ THE revocation, suspension, or probation and of any subsequent
4 action of the board with respect thereto.

5 ~~(VII) to (IX) (Deleted by amendment, L. 79, p. 512, § 14, effective July 1, 1979.)~~

6 ~~(X) (VII)~~ In all cases involving alleged violations of section ~~12-36-117 (1)(mm)~~
7 **12-240-121 (1)(dd)**, the board shall promptly notify the executive director of the department
8 of public health and environment of its findings, including whether it found that the
9 physician violated section ~~12-36-117 (1)(mm)~~ **12-240-121 (1)(dd)** and any restrictions it
10 placed on the physician with respect to recommending the use of medical marijuana.

11 ~~(h) (d)~~ The attorney general shall prosecute those charges ~~which~~ THAT have been
12 referred to him or her by the inquiry panel pursuant to ~~subparagraph (IV) of paragraph (c)~~
13 ~~of subsection (4)~~ SUBSECTION (4)(c)(V) of this section. The board may direct the attorney
14 general to perfect an appeal.

15 ~~(i) (e) Any person whose license to practice medicine, to practice as a physician~~
16 ~~assistant, or to practice as an anesthesiologist assistant is revoked or who surrenders his or~~
17 ~~her license to avoid discipline is not eligible to apply for any license for two years after the~~
18 ~~date the license is revoked or surrendered. The two-year waiting period SPECIFIED IN~~
19 ~~SECTION 12-20-404 (3) applies to any person whose license to practice medicine, to practice~~
20 ~~as a physician assistant, to practice as an anesthesiologist assistant, or to practice any other~~
21 ~~health care occupation is revoked by any other legally qualified board or regulatory entity.~~
22 ~~<{Adding a cross reference to the waiting period common provision, 12-20-404 (3), and~~
23 ~~keeping the broader applicability specified in this paragraph.}>~~

24 (6) A majority of the members of the board, three members of the inquiry panel, or
25 three members of the hearings panel shall constitute a quorum. The action of a majority of
26 those present comprising ~~such~~ A quorum shall be the action of the board, the inquiry panel,
27 or the hearings panel.

28 ~~(7) (Deleted by amendment, L. 2010, (HB 10-1260), ch. 403, p. 1951, § 17, effective~~
29 ~~July 1, 2010.)~~

30 ~~(8) (7)~~ If any licensee is determined to be mentally incompetent or insane by a court
31 of competent jurisdiction and a court enters, pursuant to part 3 or part 4 of article 14 of title
32 15 or section 27-65-109 (4) or 27-65-127, ~~C.R.S.~~, an order specifically finding that the
33 mental incompetency or insanity is of such a degree that the licensee is incapable of
34 continuing to practice medicine, practice as a physician assistant, or practice as an
35 anesthesiologist assistant, the board shall automatically suspend his or her license, and,
36 anything in this article **240** to the contrary notwithstanding, ~~such~~ THE suspension must
37 continue until the licensee is found by ~~such~~ THE court to be competent to practice medicine,
38 practice as a physician assistant, or practice as an anesthesiologist assistant.

39 ~~(9) (8) (a) If the board has reasonable cause to believe that a licensee is unable to~~
40 ~~practice with reasonable skill and safety to patients because of a condition described in~~
41 ~~section 12-36-117 (1)(i) or (1)(o) 12-240-121 (1)(e) OR (1)(i), it may require such THE~~
42 ~~licensee to submit to mental or physical examinations IN ACCORDANCE WITH THE~~

1 PROCEDURES SPECIFIED IN SECTION 12-30-108 by physicians designated by the board. If a
2 licensee fails to submit to such mental or physical examinations, the board may suspend the
3 license until the required examinations are conducted.

4 ~~(b) Every licensee shall be deemed, by so practicing or by applying for annual~~
5 ~~registration of such person's license, to have consented to submit to mental or physical~~
6 ~~examinations when directed in writing by the board. Further, such person shall be deemed~~
7 ~~to have waived all objections to the admissibility of the examining physician's testimony or~~
8 ~~examination reports on the ground of privileged communication. Subject to applicable~~
9 ~~federal law, such licensee shall be deemed to have waived all objections to the production~~
10 ~~of medical records to the board from health care providers that may be necessary for the~~
11 ~~evaluations described in paragraph (a) of this subsection (9) subsection (9)(a) of this section.~~

12 ~~(c) The results of any mental or physical examination ordered by the board shall not~~
13 ~~be used as evidence in any proceeding other than before the board. <{~~***Subsection (8) is***
14 ***largely redundant with mental/physical exams common provision, 12-30-108; recommend***
15 ***amendment as indicated.***~~>~~

16 ~~(10) (9) (a) Investigations, examinations, hearings, meetings, or any other~~
17 ~~proceedings of the board conducted pursuant to this section shall be exempt from any law~~
18 ~~requiring that proceedings of the board be conducted publicly or that the minutes or records~~
19 ~~of the board with respect to action of the board taken pursuant to this section be open to~~
20 ~~public inspection. This subsection (10) (9) shall not apply to investigations, examinations,~~
21 ~~hearings, meetings, or any other proceedings or records of the licensing panel created~~
22 ~~pursuant to section 12-36-111.3 12-240-116 related to the unlicensed practice of medicine.~~

23 (b) For purposes of the records related to a complaint filed pursuant to this section
24 against a licensee, the board is considered a professional review committee, the records
25 related to the complaint include all records described in section 12-36.5-102 (7) 12-20-202
26 (8), and section 12-36.5-104 (11) 12-30-204 (12) applies to those records.

27 ~~(11) (10) A licensee who, at the request of the board, examines another licensee shall~~
28 ~~be immune from suit for damages by the person examined if the examining person~~
29 ~~conducted the examination and made his or her findings or diagnosis in good faith.~~

30 ~~(12) (Deleted by amendment, L. 95, p. 1062, § 13, effective July 1, 1995.)~~

31 ~~(13) (11) Within thirty days after the board takes final action, which is of public~~
32 ~~record, to revoke or suspend a license or to place a licensee on probation based on~~
33 ~~competence or professional conduct, the board shall send notice of the final action to any~~
34 ~~hospital in which the licensee has clinical privileges, as indicated by the licensee.~~

35 ~~(14) (a) If it appears to the board, based upon credible evidence as presented in a~~
36 ~~written complaint by any person or in its own motion, that a licensee is acting in a manner~~
37 ~~that is an imminent threat to the health and safety of the public, the board may issue an order~~
38 ~~to cease and desist such activity. The order shall set forth the statutes and rules alleged to~~
39 ~~have been violated, the facts alleged to have constituted the violation, and the requirement~~
40 ~~that all unlawful acts or practices immediately cease.~~

41 ~~(b) Within ten days after service of the order to cease and desist pursuant to~~
42 ~~paragraph (a) of this subsection (14), the respondent may request a hearing on the question~~

1 of whether acts or practices in violation of this part 1 have occurred. Such hearing shall be
2 conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S.

3 (15) (a) If it appears to the board, based upon credible evidence as presented in a
4 written complaint by any person, that a person has violated any other portion of this part 1,
5 then, in addition to any specific powers granted pursuant to this part 1, the board may issue
6 to such person an order to show cause as to why the board should not issue a final order
7 directing such person to cease and desist from the unlawful act or unlicensed practice.

8 (b) A person against whom an order to show cause has been issued pursuant to
9 paragraph (a) of this subsection (15) shall be promptly notified by the board of the issuance
10 of the order, along with a copy of the order, the factual and legal basis for the order, and the
11 date set by the board for a hearing on the order. Such notice may be served by personal
12 service, by first-class United States mail, postage prepaid, or as may be practicable upon any
13 person against whom such order is issued. Personal service or mailing of an order or
14 document pursuant to this subsection (15) shall constitute notice thereof to the person.

15 (c) (I) The hearing on an order to show cause shall be commenced no sooner than
16 ten and no later than forty-five calendar days after the date of transmission or service of the
17 notification by the board as provided in paragraph (b) of this subsection (15). The hearing
18 may be continued by agreement of all parties based upon the complexity of the matter,
19 number of parties to the matter, and legal issues presented in the matter, but in no event shall
20 the hearing commence later than sixty calendar days after the date of transmission or service
21 of the notification.

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

30 (III) If the board reasonably finds that the person against whom the order to show
31 cause was issued is acting or has acted without the required license or has or is about to
32 engage in acts or practices constituting violations of this part 1, a final cease-and-desist order
33 may be issued directing such person to cease and desist from further unlawful acts or
34 unlicensed practices.

35 (IV) The board shall provide notice, in the manner set forth in paragraph (b) of this
36 subsection (15), of the final cease-and-desist order within ten calendar days after the hearing
37 conducted pursuant to this paragraph (c) to each person against whom such order has been
38 issued. The final order issued pursuant to subparagraph (III) of this paragraph (c) shall be
39 effective when issued and shall be a final order for purposes of judicial review.

40 (16) If it appears to the board, based upon credible evidence presented to the board,
41 that a person has engaged in or is about to engage in any unlicensed act or practice, any act
42 or practice constituting a violation of this part 1, any rule promulgated pursuant to this part

1, any order issued pursuant to this part 1, or any act or practice constituting grounds for administrative sanction pursuant to this part 1, the board may enter into a stipulation with such person.

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

(18) A person aggrieved by the final cease-and-desist order may seek judicial review of the board's determination or of the board's final order as provided in section 12-36-119.

(12) THE BOARD MAY ISSUE CEASE-AND-DESIST ORDERS UNDER THE CIRCUMSTANCES AND IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION 12-20-405. <{Subsections (14)-(18) redundant with cease-and-desist orders common provision. Subsection (18) is redundant with judicial review common provision, 12-20-408. Recommend repealing and replacing with cross-reference to common provision.}>

(19) (13) If a physician has a restriction placed on his or her license, the restriction shall, if practicable, state whether the restriction prohibits the physician from making a medical marijuana recommendation.

12-240-126. [Formerly 12-36-118.5] Confidential agreements to limit practice - violation grounds for discipline. (1) If a physician, physician assistant, or anesthesiologist assistant suffers from a physical illness; a physical condition; or a behavioral or mental health disorder that renders the licensee unable to practice medicine, practice as a physician assistant, or practice as an anesthesiologist assistant with reasonable skill and with safety to patients, the physician, physician assistant, or anesthesiologist assistant shall notify the board of the physical illness; the physical condition; or the behavioral or mental health disorder in a manner and within a period determined by the board. The board may require the licensee to submit to an examination or refer the licensee to a peer health assistance program pursuant to section 12-36-123.5 to evaluate the extent of the physical illness; the physical condition; or the behavioral or mental health disorder and its impact on the licensee's ability to practice with reasonable skill and with safety to patients.

(2) (a) Upon determining that a physician, physician assistant, or anesthesiologist assistant with a physical illness; a physical condition; or a behavioral or mental health disorder is able to render limited medical services with reasonable skill and with safety to patients, the board may enter into a confidential agreement with the physician, physician assistant, or anesthesiologist assistant in which the physician, physician assistant, or anesthesiologist assistant agrees to limit his or her practice based on the restrictions imposed by the physical illness; the physical condition; or the behavioral or mental health disorder, as determined by the board.

(b) As part of the agreement, the licensee shall be subject to periodic reevaluations or monitoring as determined appropriate by the board. The board may refer the licensee to the peer assistance health program for reevaluation or monitoring.

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

(3) By entering into an agreement with the board pursuant to this section to limit his or her practice, the licensee shall not be deemed to be engaging in unprofessional conduct, and the agreement shall be considered an administrative action and shall not constitute a restriction or discipline by the board. However, if the licensee fails to comply with the terms of an agreement entered into pursuant to this section, such failure constitutes unprofessional conduct pursuant to section 12-36-117 (1)(o), and the licensee shall be subject to discipline in accordance with section 12-36-118.

(1) EXCEPT AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, SECTION 12-30-107 CONCERNING CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE APPLIES TO THIS ARTICLE 240.

(4) (2) This section shall not apply to a licensee subject to discipline for unprofessional conduct as described in section 12-36-117 (1)(i) AN AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION SHALL BE CONSIDERED AN ADMINISTRATIVE ACTION BY THE BOARD. <{*Largely redundant with confidential agreement common provision, 12-30-107. Recommend amendment as indicated.*}>

12-240-127. [Formerly 12-36-119] Appeal of final board actions. When the board refuses to grant a license, imposes disciplinary action pursuant to section ~~12-36-118~~ **12-240-125**, or places a licensee on probation, ~~such~~ THE action may be reviewed by the court of appeals pursuant to section ~~24-4-106 (11), C.R.S. 12-20-408~~, unless the licensee has accepted a license subject to terms of probation as set forth in section ~~12-36-116 (3)~~ **12-240-120 (3)**. <{*Redundant with judicial review, 12-20-408; recommend amendment.*}>

~~**12-36-120. Other licensees of board - disciplinary action. (Repealed)**~~

~~**12-36-121. Duplicates of license. (Repealed)**~~

12-240-128. [Formerly 12-36-122] Physician training licenses. (1) Any person serving an approved internship, residency, or fellowship, as defined by this article **240**, in a hospital in this state may do so for an aggregate period of up to six years under the authority of a physician training license issued pursuant to this **subsection** <{*Should this be section?*}> and without a license to practice medicine issued pursuant to section ~~12-36-107~~ **12-240-110** or ~~12-36-107.6~~ **12-240-114**.

(2) No person shall be granted a physician training license unless ~~such~~ THE person meets the following criteria:

(a) The person has been accepted into and demonstrates the intention to participate in an approved internship, residency, or fellowship, as defined by this article **240**; and

(b) The person is not otherwise licensed to practice medicine in this state.

(3) The board may refrain from issuing a physician training license, or may grant a physician training license subject to terms or probation, for any of the reasons listed in section ~~12-36-116 (1)(a), (1)(b), or (1)(c)~~ **12-240-120 (1)(a), (1)(b), OR (1)(c)**. An applicant whose physician training license is denied or is granted subject to terms of probation may

1 seek review pursuant to section 24-4-104 (9); ~~C.R.S.~~; except that, if an applicant accepts a
2 physician training license that is subject to terms of probation, ~~such~~ acceptance shall be in
3 lieu of and not in addition to the remedies set forth in section 24-4-104 (9). ~~C.R.S.~~

4 (4) Except as provided in subsection (3) of this section, the board shall issue a
5 physician training license upon receipt of a statement from the approved internship,
6 residency, or fellowship program stating that the applicant meets the criteria set forth in
7 subsection (2) of this section and that the approved internship, residency, or fellowship
8 accepts responsibility for the applicant's training while in the program. The statement shall
9 be signed by the program director, clinical director, or other physician responsible for the
10 training of the applicant. The statement shall be submitted to the board no later than thirty
11 days prior to the date on which the applicant begins the approved internship, residency, or
12 fellowship in this state.

13 (5) Where feasible, the applicant shall submit a completed application, on a form
14 approved by the board, on or before the date on which the applicant begins the approved
15 internship, residency, or fellowship in this state. Any physician training license granted
16 pursuant to this section shall expire if a completed application is not received by the board
17 sixty days after the applicant begins the approved internship, residency, or fellowship in this
18 state. The board may establish and charge an application and renewal fee not to exceed fifty
19 dollars for ~~such~~ physician training licenses pursuant to section ~~24-34-105, C.R.S. 12-20-105.~~
20 ~~Such~~ Applicants and renewal applicants shall not be required to pay any fee pursuant to
21 section ~~12-36-123.5 12-240-131.~~

22 (6) Except as otherwise provided in this section, ~~such~~ A physician training license
23 shall be subject to renewal as set forth in section ~~12-36-123 (1)(a) and (1)(b) 12-240-130~~
24 ~~(1)(a) AND (1)(b)~~. In no event shall any person hold a Colorado physician training license
25 for more than an aggregate period of six years.

26 (7) A physician training licensee may practice medicine as defined by this article **240**
27 with the following restrictions:

28 (a) A physician training licensee shall be authorized to practice medicine only under
29 the supervision of a physician licensed to practice medicine pursuant to section ~~12-36-107~~
30 ~~12-240-110~~ or ~~12-36-107.6 12-240-114~~ and only as necessary for the physician training
31 licensee's participation in the approved internship, residency, or fellowship designated on
32 the licensee's application for a physician training license.

33 (b) (I) A physician training license shall expire:

34 (A) Within sixty days under the circumstances described in subsection (5) of this
35 section;

36 (B) At the time the physician training licensee ceases to participate in the approved
37 internship, residency, or fellowship program identified on the licensee's application form;
38 or

39 (C) At the time the physician training licensee obtains any other license to practice
40 medicine issued by the board.

41 (II) If a physician training licensee entered an approved internship, residency, or
42 fellowship other than the approved internship, residency, or fellowship indicated on the

1 licensee's application, the licensee shall file a new application with the board pursuant to
2 subsections (4) and (5) of this section.

3 (c) A physician training licensee shall not have the authority to delegate the rendering
4 of medical services to a person who is not licensed to practice medicine pursuant to section
5 ~~12-36-106(3)(f)~~ **12-240-107 (3)(l)** and shall not have the authority to supervise physician
6 assistants as provided by section ~~12-36-106(5)~~ **12-24-107 (6)**.

7 (d) The issuance of a physician training license shall not be construed to require the
8 board to issue the physician training licensee a license to practice medicine pursuant to
9 section ~~12-36-107~~ **12-240-110** or ~~12-36-107.6~~ **12-240-114**.

10 (8) A physician training licensee may be disciplined for unprofessional conduct as
11 defined in section ~~12-36-117~~ **12-240-121**, pursuant to the procedures outlined in section
12 ~~12-36-118~~ **12-240-125**.

13 ~~(9) Repeated:~~

14 ~~(10)~~ (9) Licensed physicians responsible for the supervision of interns, residents, or
15 fellows in graduate training programs shall report to the board no later than thirty days after
16 a physician training licensee has been terminated or has resigned from the approved
17 internship, residency, or fellowship.

18
19 **12-240-129. [Formerly 12-36-122.5] Intern, resident, or fellow reporting.**

20 (1) Notwithstanding any provision of ~~12-36-118(10)~~ **12-240-125 (9)** to the contrary, the
21 board shall inform the licensed physicians responsible for the supervision of an intern,
22 resident, or fellow of any complaint received in writing relating to the intern, resident, or
23 fellow. The board shall also inform the program sponsoring ~~such~~ THE intern, resident, or
24 fellow of actions of the board regarding ~~such~~ THE complaint.

25 (2) The board in its discretion may release records that are not otherwise privileged
26 or confidential by law to the licensed physicians responsible for the supervision of an intern,
27 resident, or fellow, but only if ~~such~~ THE physician agrees in writing not to redisclose ~~such~~
28 THE records or the information contained therein for use outside of any proceeding within
29 the program or practice site.

30 (3) Licensed physicians responsible for the supervision of interns, residents, or
31 fellows in graduate training programs shall promptly report to the board anything concerning
32 a licensee in the graduate training program that would constitute a violation of this article
33 **240**. The physicians shall also report to the board any licensee who has not progressed
34 satisfactorily in the program because the licensee has been dismissed, suspended, or placed
35 on probation for reasons that constitute unprofessional conduct as defined in section
36 ~~12-36-117~~ **12-240-121**, unless the conduct has been reported to the peer health assistance
37 program pursuant to section ~~12-36-123.5~~ **12-240-131**.

38
39 **12-240-130. [Formerly 12-36-123] Procedure - registration - fees.** (1) (a) All
40 licenses shall be renewed or reinstated pursuant to a schedule established by the director of
41 the division of professions and occupations within the department of regulatory agencies and
42 shall be renewed or reinstated pursuant to section ~~24-34-102(8)~~, C.R.S. The director of the

1 ~~division may establish renewal fees and delinquency fees for reinstatement pursuant to~~
 2 ~~section 24-34-105, C.R.S., and shall increase renewal fees consistent with section 24-34-109~~
 3 ~~(4), C.R.S., to fund the division's costs in administering and staffing the nurse-physician~~
 4 ~~advisory task force for Colorado health care created in section 24-34-109 (1), C.R.S. If a~~
 5 ~~person fails to renew his or her license pursuant to the schedule established by the director~~
 6 ~~of the division of professions and occupations, such license shall expire~~ ARE SUBJECT TO THE
 7 RENEWAL, EXPIRATION, REINSTATEMENT, AND DELINQUENCY FEE PROVISIONS OF SECTION
 8 12-20-202 (1) AND (2). A person whose license has expired shall be subject to the penalties
 9 provided in this article **240** or section ~~24-34-102 (8), C.R.S.~~ **12-20-202 (1)**. <{*Redundant*
 10 *with renewal / reinstatement / delinquency fees common provision, 12-20-202;*
 11 *recommend amendment as indicated. Redundant with NPATCH common provision,*
 12 *12-30-104 (4); recommend repeal.*}>

13 (b) The board shall design a questionnaire to accompany the renewal form for the
 14 purpose of determining whether a licensee has acted in violation of this article **240** or been
 15 disciplined for any action that might be considered a violation of this article **240** or might
 16 make the licensee unfit to practice medicine with reasonable care and safety. If an applicant
 17 fails to answer the questionnaire accurately, ~~such~~ THE failure shall constitute unprofessional
 18 conduct under section ~~12-36-117 (1)(aa)~~ **12-240-121 (1)(t)**.

19 (c) Applicants for relicensure shall not be required to attend and complete continuing
 20 medical education programs, except as directed by the board to correct deficiencies of
 21 training or education as directed under section ~~12-36-118 (5)(g)(HH)(B)~~ **12-240-125**
 22 **(5)(c)(III)(B)**.

23 (2) ~~(Deleted by amendment, L. 2004, p. 1829, § 70, effective August 4, 2004.)~~

24 (3) ~~(Deleted by amendment, L. 95, p. 1067, § 16, effective July 1, 1995.)~~

25
 26 **12-240-131. [Formerly 12-36-123.5] Peer health assistance program.**

27 (1) to (3) ~~Repealed.~~

28 (3.5) (a) ~~(Deleted by amendment, L. 95, p. 1068, § 17, effective July 1, 1995.)~~

29 (1) ~~(b)~~ (a) (I) As a condition of physician, physician assistant, and anesthesiologist
 30 assistant licensure and renewal in this state, every applicant shall pay, pursuant to ~~paragraph~~
 31 ~~(e) of this subsection (3.5)~~ SUBSECTION (1)(d) OF THIS SECTION, an amount set by the board,
 32 not to exceed sixty-one dollars per year, which maximum amount may be adjusted on
 33 January 1, 2011, and annually thereafter by the board to reflect:

34 (A) Changes in the United States DEPARTMENT OF LABOR, bureau of labor statistics,
 35 consumer price index for ~~the Denver-Boulder consolidated metropolitan statistical area~~
 36 DENVER-AURORA-LAKEWOOD for all urban consumers, all goods, or its successor index;

37 (B) Overall utilization of the program; and

38 (C) Differences in program utilization by physicians, physician assistants, and
 39 anesthesiologist assistants.

40 (II) Based on differences in utilization rates between physicians, physician assistants,
 41 and anesthesiologist assistants, the board may establish different fee amounts for physicians,
 42 physician assistants, and anesthesiologist assistants.

1 (III) The fee imposed pursuant to this ~~paragraph (b)~~ SUBSECTION (1)(a) is to support
2 designated providers that have been selected by the board to provide assistance to
3 physicians, physician assistants, and anesthesiologist assistants needing help in dealing with
4 physical, emotional, or psychological problems that may be detrimental to their ability to
5 practice medicine, practice as a physician assistant, or practice as an anesthesiologist
6 assistant, as applicable.

7 ~~(e)~~ (b) The board shall select one or more peer health assistance programs as
8 designated providers. To be eligible for designation by the board, a peer health assistance
9 program must:

10 (I) Provide for the education of physicians, physician assistants, and anesthesiologist
11 assistants with respect to the recognition and prevention of physical, emotional, and
12 psychological problems and provide for intervention when necessary or under circumstances
13 that may be established by rules promulgated by the board;

14 (II) Offer assistance to a physician, physician assistant, or anesthesiologist assistant
15 in identifying physical, emotional, or psychological problems;

16 (III) Evaluate the extent of physical, emotional, or psychological problems and refer
17 the physician, physician assistant, or anesthesiologist assistant for appropriate treatment;

18 (IV) Monitor the status of a physician, physician assistant, or anesthesiologist
19 assistant who has been referred for treatment;

20 (V) Provide counseling and support for the physician, physician assistant, or
21 anesthesiologist assistant and for the family of any physician, physician assistant, or
22 anesthesiologist assistant referred for treatment;

23 (VI) Agree to receive referrals from the board;

24 (VII) Agree to make their services available to all licensed Colorado physicians,
25 licensed Colorado physician assistants, and licensed Colorado anesthesiologist assistants.

26 ~~(d)~~ (c) The administering entity shall be a qualified, nonprofit private foundation that
27 is qualified under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as
28 amended, and shall be dedicated to providing support for charitable, benevolent,
29 educational, and scientific purposes that are related to medicine, medical education, medical
30 research and science, and other medical charitable purposes.

31 ~~(e)~~ (d) The responsibilities of the administering entity are:

32 (I) To collect the required annual payments, either directly or through the board
33 pursuant to ~~paragraph (e.5) of this subsection (3.5)~~ SUBSECTION (1)(e) OF THIS SECTION;

34 (II) To verify to the board, in a manner acceptable to the board, the names of all
35 physician, physician assistant, and anesthesiologist assistant applicants who have paid the
36 fee set by the board;

37 (III) To distribute the ~~moneys~~ MONEY collected, less expenses, to the approved
38 designated provider, as directed by the board;

39 (IV) To provide an annual accounting to the board of all amounts collected, expenses
40 incurred, and amounts disbursed; and

41 (V) To post a surety performance bond in an amount specified by the board to secure
42 performance under the requirements of this section. The administering entity may recover

1 the actual administrative costs incurred in performing its duties under this section in an
2 amount not to exceed ten percent of the total amount collected.

3 ~~(e.5)~~ (e) The board may collect the required annual payments payable to the
4 administering entity for the benefit of the administering entity and shall transfer all ~~such~~
5 payments to the administering entity. All required annual payments collected by or due to
6 the board for each fiscal year are custodial funds that are not subject to appropriation by the
7 general assembly, and the distribution of the payments to the administering entity or
8 expenditure of the payments by the administering entity does not constitute state fiscal year
9 spending for purposes of section 20 of article X of the state constitution.

10 ~~(f) Repealed.~~

11 ~~(4) (Deleted by amendment, L. 95, p. 1068, § 17, effective July 1, 1995.)~~

12 ~~(5)~~ (2) Nothing in this section creates any liability on the board or the state of
13 Colorado for the actions of the board in making grants to peer assistance programs, and no
14 civil action may be brought or maintained against the board or the state for an injury alleged
15 to have been the result of the activities of any state-funded peer assistance program or the
16 result of an act or omission of a physician, physician assistant, or anesthesiologist assistant
17 participating in or referred by a state-funded peer assistance program.

18 ~~(6) Repealed.~~

19
20 ~~**12-36-124. Certification of licensing. (Repealed)**~~

21
22 **12-240-132. [Formerly 12-36-125] Division of fees - independent advertising or**
23 **marketing agent - definition.** (1) (a) If any person holding a license issued by the board
24 or by the state board of medical examiners as constituted under any prior law of this state
25 divides any fee or compensation received or charged for services rendered by him or her as
26 ~~such~~ A licensee or agrees to divide any ~~such~~ fee or compensation with any person, firm,
27 association, or corporation as pay or compensation to ~~such~~ THE other person for sending or
28 bringing any patient or other person to ~~such~~ THE licensee, or for recommending ~~such~~ THE
29 licensee to any person, or for being instrumental in any manner in causing any person to
30 engage ~~such~~ THE licensee in his or her professional capacity; or if any ~~such~~ licensee shall
31 either directly or indirectly pay or compensate or agree to pay or compensate any person,
32 firm, association, or corporation for sending or bringing any patient or other person to ~~such~~
33 THE licensee for examination or treatment, ~~or~~ for recommending ~~such~~ THE licensee to any
34 person, or for being instrumental in causing any person to engage ~~such~~ THE licensee in his
35 or her professional capacity; or if any ~~such~~ licensee, in his or her professional capacity and
36 in his or her own name or behalf, shall make or present a bill or request a payment for
37 services rendered by any person other than the licensee, ~~such~~ THE licensee commits a class
38 3 misdemeanor and shall be punished as provided in section 18-1.3-501. ~~C.R.S.~~ <{Does the
39 highlighted language have any current effect?}>

40 (b) Notwithstanding the provisions of ~~paragraph (a) of subsection (1)~~ SUBSECTION
41 (1)(a) of this section, a licensee may pay an independent advertising or marketing agent
42 compensation for the advertising or marketing services rendered on the licensee's behalf by

1 ~~such~~ THE agent, including compensation ~~which~~ THAT is paid for the results or performance
2 of ~~such~~ THE services on a per patient basis.

3 (c) As used in this subsection (1), "independent advertising or marketing agent"
4 means a person, firm, association, or corporation ~~which~~ THAT performs advertising or other
5 marketing services on behalf of licensees, including referrals of patients to licensees
6 resulting from patient-initiated responses to ~~such~~ advertising or marketing services.

7 (2) Violation of the provisions of this section shall constitute grounds for the
8 suspension or revocation of a license or the placing of the holder thereof on probation.

9 ~~(3) Repealed.~~

10
11 **12-240-133. [Formerly 12-36-126] Recovery of fees illegally paid.** If any licensee,
12 in violation of section ~~12-36-125~~ **12-240-132**, divides or agrees to divide any fee or
13 compensation received by ~~him~~ THE LICENSEE for services rendered in his OR HER
14 professional capacity with any person whomsoever, the person who has paid ~~such~~ THE fee
15 or compensation to ~~such~~ THE licensee may recover the amount unlawfully paid or agreed to
16 be paid from either the licensee or from the person to whom ~~such~~ THE fee or compensation
17 has been paid, by an action to be instituted within two years from the date on which ~~such~~
18 THE fee or compensation was so divided or agreed to be divided.

19
20 **12-240-134. [Formerly 12-36-127] Liability of persons other than licensee.** If any
21 person, firm, association, or corporation receives, either directly or indirectly, any pay or
22 compensation given or paid in violation of section ~~12-36-125~~, ~~such~~ **12-240-132**, THE person,
23 firm, association, or corporation, and the officers and directors thereof, commits a class 3
24 misdemeanor and shall be punished as provided in section 18-1.3-501. ~~C.R.S.~~

25
26 ~~**12-36-128. Advertising. (Repealed)**~~

27 ~~**12-36-128.5. Public communications and advertisements. (Repealed)**~~

28
29 **12-240-135. [Formerly 12-36-129] Unauthorized practice - penalties.** (1) Any
30 person who practices or offers or attempts to practice medicine, practice as a physician
31 assistant, or practice as an anesthesiologist assistant within this state without an active
32 license issued under this article ~~commits a class 2 misdemeanor and shall be punished as~~
33 ~~provided in section 18-1.3-501, C.R.S., for the first offense, and any person committing a~~
34 ~~second or subsequent offense commits a class 6 felony and shall be punished as provided~~
35 ~~in section 18-1.3-401, C.R.S. 240 IS SUBJECT TO THE PENALTIES PURSUANT TO SECTION~~
36 ~~12-20-407 (1)(a). <{Redundant with unauthorized practice common provision, 12-20-407.~~
37 ~~Recommend amendment as indicated.}>~~

38 (2) Any person who engages in any of the following activities commits a class 6
39 felony and shall be punished as provided in section 18-1.3-401: ~~C.R.S.:~~

40 (a) Presents as his or her own the diploma, license, certificate, or credentials of
41 another;

42 (b) Gives either false or forged evidence of any kind to the board or any board

1 member in connection with an application for a license to practice medicine, practice as a
2 physician assistant, or practice as an anesthesiologist assistant;

3 (c) Practices medicine, practices as a physician assistant, or practices as an
4 anesthesiologist assistant under a false or assumed name; or

5 (d) Falsely impersonates another licensee of a like or different name.

6 ~~(2.5)~~ (3) Any person who violates section ~~12-36-117 (1)(w)~~ **12-240-121 (1)(p)**
7 commits a class 5 felony, and any person committing a second or subsequent violation
8 commits a class 3 felony; and ~~such~~ **THOSE** persons shall be punished as provided in section
9 18-1.3-401. ~~C.R.S.~~

10 ~~(3)~~ (4) No action may be maintained against an individual who has been the recipient
11 of services constituting the unlawful practice of medicine, unlawful practice as a physician
12 assistant, or unlawful practice as an anesthesiologist assistant, for the breach of a contract
13 involving the unlawful practice of medicine, unlawful practice as a physician assistant, or
14 unlawful practice as an anesthesiologist assistant or the recovery of compensation for
15 services rendered under such a contract.

16 ~~(4)~~ (5) When an individual has been the recipient of services constituting the
17 unlawful practice of medicine, unlawful practice as a physician assistant, or unlawful
18 practice as an anesthesiologist assistant, whether or not the individual knew that the
19 rendition of the services was unlawful:

20 (a) The individual or the individual's personal representative is entitled to recover the
21 amount of any fee paid for the services; and

22 (b) The individual or the individual's personal representative may also recover a
23 reasonable attorney fee as fixed by the court, to be assessed as part of the costs of the action.

24 ~~(5)~~ (6) (a) No specialty society, association of physicians, or licensed physician may
25 discriminate against any person licensed to practice medicine if ~~such~~ **THE** physician is
26 qualified for membership in the specialty society or association. If board certification or
27 eligibility in a specialty is a membership requirement, certification or eligibility by either the
28 American Board of Medical Specialties or the American Osteopathic Association based
29 upon the applicant's training as a doctor of medicine or doctor of osteopathy, is sufficient.
30 Notwithstanding any other remedies provided under this article **240**, a licensed physician
31 who is discriminated against in violation of this section shall have a private right of action
32 against the licensed physician or specialty society or association that so discriminates.

33 (b) Any licensed physician, specialty society, or association of physicians held liable
34 for a violation of this subsection ~~(5)~~ **(6)** shall pay the costs and reasonable attorney fees
35 incurred by the aggrieved physician associated with his OR HER pursuit of any claim for
36 relief authorized by this subsection ~~(5)~~ **(6)**.

37 ~~(6)~~ (7) (a) **The board may in the name of the people of the state of Colorado and**
38 **through the attorney general of the state of Colorado, apply for an injunction in any court**
39 **of competent jurisdiction to enjoin any person from committing any act prohibited by this**
40 **article IN ACCORDANCE WITH SECTION 12-20-406. <{Redundant with injunctive relief**
41 **common provision, 12-20-406. Recommend amending as indicated.}>**

42 (b) If the board establishes that the defendant has been or is committing an act

1 prohibited by this article **240**, the court shall enter a decree perpetually enjoining the
2 defendant from further committing the act.

3 (c) An injunctive proceeding may be brought pursuant to this section in addition to,
4 and not in lieu of, all penalties and other remedies provided in this article **240**.

5
6 **~~12-36-130. Moneys collected. (Repealed)~~**

7
8 **12-240-136. [Formerly 12-36-131] Existing licenses.** (1) Nothing in this article **240**
9 shall be construed to invalidate or affect the license of any person holding a valid,
10 unrevoked, and unsuspended license to practice medicine in this state on July 1, 1951,
11 except as otherwise provided by this article **240**.

12 (2) Nothing in this article **240** shall be construed to invalidate the license of any
13 person holding a valid, unrevoked, and unsuspended license on June 30, 1979, to practice
14 medicine in this state or to affect any disciplinary proceeding or appeal pending on June 30,
15 1979, or any appointment to the board, the inquiry panel, or the hearings panel made on or
16 before June 30, 1979. <{*Does this language have any current effect?*}>

17
18 **~~12-36-132. Injunctive proceedings. (Repealed)~~**

19
20 **12-240-137. [Formerly 12-36-133] Postmortem examinations by licensee -**
21 **definition - application of this section.** (1) As used in this section, "person or persons"
22 shall include any individual, partnership, corporation, body politic, or association.

23 (2) Consent for a licensee to conduct a postmortem examination of the body of a
24 deceased person shall be deemed sufficient when given by whichever one of the following
25 assumes custody of the body for purposes of burial: Father, mother, husband, wife, child,
26 guardian, next of kin, or, in the absence of any of the foregoing, a friend or a person charged
27 by law with the responsibility for burial. If two or more ~~such~~ persons assume custody of the
28 body, the consent of one of them shall be deemed sufficient.

29 (3) Nothing in this section shall be construed as a repeal of any provision of part 6
30 of article 10 of title 30. ~~C.R.S.~~

31
32 **12-240-138. [Formerly 12-36-134] Professional service corporations, limited**
33 **liability companies, and registered limited liability partnerships for the practice of**
34 **medicine - definitions.** (1) Persons licensed to practice medicine by the board may form
35 professional service corporations for such persons' practice of medicine under the "Colorado
36 Business Corporation Act", articles 101 to 117 of title 7, ~~C.R.S.~~, if ~~such~~ THE corporations
37 are organized and operated in accordance with the provisions of this section. The articles of
38 incorporation of ~~such~~ THE corporations shall contain provisions complying with the
39 following requirements:

40 (a) The name of the corporation shall contain the words "professional company" or
41 "professional corporation" or abbreviations thereof.

42 (b) The corporation is organized solely for the purpose of permitting individuals to

1 conduct the practice of medicine through a corporate entity, so long as all the individuals are
2 actively licensed physicians or physician assistants in the state of Colorado.

3 (c) The corporation may exercise the powers and privileges conferred upon
4 corporations by the laws of Colorado only in furtherance of and subject to its corporate
5 purpose.

6 (d) (I) Except as specified in ~~subparagraph (II) of this paragraph (d)~~ SUBSECTION
7 (1)(d)(II) OF THIS SECTION, all shareholders of the corporation are persons licensed by the
8 board to practice medicine in the state of Colorado who at all times own their shares in their
9 own right; except that one or more persons licensed by the board as a physician assistant
10 may be a shareholder of the corporation as long as the physician shareholders maintain
11 majority ownership of the corporation. The shareholders shall be individuals who, except
12 for illness, accident, time spent in the armed services, on vacations, and on leaves of absence
13 not to exceed one year, are actively engaged in the practice of medicine or as a physician
14 assistant in the offices of the corporation.

15 (II) If a person licensed to practice medicine who was a shareholder of the
16 corporation dies, an heir to the deceased shareholder may become a shareholder of the
17 corporation for up to two years, regardless of whether the heir is licensed to practice
18 medicine. Unless the deceased shareholder was the only shareholder of the corporation, the
19 heir who becomes a shareholder shall be a nonvoting shareholder in all matters concerning
20 the corporation. If the heir of the deceased shareholder ceases to be a shareholder, the shares
21 shall be disposed of pursuant to ~~paragraph (e) of this subsection (1)~~ SUBSECTION (1)(e) OF
22 THIS SECTION.

23 (e) Provisions shall be made requiring any shareholder who ceases to be or for any
24 reason is ineligible to be a shareholder to dispose of all HIS OR HER shares forthwith, either
25 to the corporation or to any person having the qualifications described in ~~paragraph (d) of~~
26 ~~this subsection (1)~~ SUBSECTION (1)(d) OF THIS SECTION.

27 (f) The president shall be a shareholder and a director and, to the extent possible, all
28 other directors and officers shall be persons having the qualifications described in ~~paragraph~~
29 ~~(d) of this subsection (1)~~ SUBSECTION (1)(d) OF THIS SECTION. Lay directors, officers, and
30 heirs of deceased shareholders shall not exercise any authority whatsoever over the
31 independent medical judgment of persons licensed by the board to practice medicine in this
32 state. Notwithstanding sections 7-108-103 to 7-108-106 ~~C.R.S.~~, relating to the terms of
33 office and classification of directors, a professional service corporation for the practice of
34 medicine may provide in the articles of incorporation or the bylaws that the directors may
35 have terms of office of up to six years and that the directors may be divided into classes,
36 with the terms of each class staggered to provide for the periodic election of less than all the
37 directors. Nothing in this article **240** shall be construed to cause a professional service
38 corporation to be vicariously liable to a patient or third person for the professional
39 negligence or other tortious conduct of a physician who is a shareholder or employee of a
40 professional service corporation.

41 ~~(f.5)~~(g) An heir to a deceased shareholder who becomes a shareholder shall be liable
42 only to the same extent as the deceased shareholder would have been in his or her capacity

1 as a shareholder, had he or she lived and remained a shareholder, for all acts, errors, and
2 omissions of the employees of the corporation.

3 ~~(g)~~ (h) The articles of incorporation provide and all shareholders of the corporation
4 agree that all shareholders of the corporation are jointly and severally liable for all acts,
5 errors, and omissions of the employees of the corporation or that all shareholders of the
6 corporation are jointly and severally liable for all acts, errors, and omissions of the
7 employees of the corporation, except during periods of time when each licensee who is a
8 shareholder or any employee of the corporation has a professional liability policy insuring
9 himself or herself and all employees who are not licensed pursuant to this article **240** who
10 act at his or her direction, in the amount of fifty thousand dollars for each claim and an
11 aggregate top limit of liability per year for all claims of one hundred fifty thousand dollars,
12 or the corporation maintains in good standing professional liability insurance that meets the
13 following minimum standards:

14 (I) The insurance insures the corporation against liability imposed upon the
15 corporation by law for damages resulting from any claim made against the corporation
16 arising out of the performance of professional services for others by those officers and
17 employees of the corporation who are licensees.

18 (II) The policies insure the corporation against liability imposed upon it by law for
19 damages arising out of the acts, errors, and omissions of all nonprofessional employees.

20 (III) The insurance is in an amount for each claim of at least fifty thousand dollars
21 multiplied by the number of licensees employed by the corporation. The policy may provide
22 for an aggregate top limit of liability per year for all claims of one hundred fifty thousand
23 dollars also multiplied by the number of licensees employed by the corporation, but no firm
24 shall be required to carry insurance in excess of three hundred thousand dollars for each
25 claim with an aggregate top limit of liability for all claims during the year of nine hundred
26 thousand dollars.

27 (IV) The policy may provide that it does not apply to: Any dishonest, fraudulent,
28 criminal, or malicious act or omission of the insured corporation or any stockholder or
29 employee thereof; the conduct of any business enterprise, as distinguished from the practice
30 of medicine, in which the insured corporation under this section is not permitted to engage
31 but which nevertheless may be owned by the insured corporation or in which the insured
32 corporation may be a partner or which may be controlled, operated, or managed by the
33 insured corporation in its own or in a fiduciary capacity, including the ownership,
34 maintenance, or use of any property in connection therewith; when not resulting from breach
35 of professional duty, bodily injury to, or sickness, disease, or death of any person, or to
36 injury to or destruction of any tangible property, including the loss of use thereof; and ~~such~~
37 THE policy may contain reasonable provisions with respect to policy periods, territory,
38 claims, conditions, and other usual matters.

39 ~~(2) Repeated.~~

40 ~~(3)~~ (2) The corporation shall do nothing that, if done by a licensee employed by the
41 corporation, would violate the standards of professional conduct as provided for in section
42 ~~12-36-117 12-240-121~~. Any violation of this section by the corporation is grounds for the

1 board to revoke or suspend the license of the person or persons responsible for the violation.

2 ~~(4)~~ (3) Nothing in this section diminishes or changes the obligation of each licensee
3 employed by the corporation to conduct his or her practice in accordance with the standards
4 of professional conduct provided for in section ~~12-36-117~~ **12-240-121**. Any licensee who,
5 by act or omission, causes the corporation to act or fail to act in a way that violates the
6 standards of professional conduct, including any provision of this section, is personally
7 responsible for such act or omission and is subject to discipline for the act or omission.

8 ~~(5)~~ (4) Nothing in this section modifies the physician-patient privilege specified in
9 section 13-90-107 (1)(d). ~~C.R.S.~~

10 ~~(6)~~ (5) A professional service corporation may adopt a pension, CASH OR DEFERRED
11 profit-sharing, ~~(whether cash or deferred)~~, health and accident, insurance, or welfare plan
12 for all or part of its employees including lay employees if ~~such~~ THE plan does not require or
13 result in the sharing of specific or identifiable fees with lay employees, and if any payments
14 made to lay employees, or into any ~~such~~ plan in behalf of lay employees, are based upon
15 their compensation or length of service, or both, rather than the amount of fees or income
16 received.

17 ~~(7)~~ (6) (a) Corporations shall not practice medicine. Nothing in this section shall be
18 construed to abrogate a cause of action against a professional corporation for its independent
19 acts of negligence.

20 (b) Employment of a physician in accordance with section 25-3-103.7 ~~C.R.S.~~, shall
21 not be considered the corporate practice of medicine.

22 ~~(8)~~ (7) As used in this section, unless the context otherwise requires:

23 (a) "Articles of incorporation" includes operating agreements of limited liability
24 companies and partnership agreements of registered limited liability partnerships.

25 (b) "Corporation" includes a limited liability company organized under the "Colorado
26 Limited Liability Company Act", article 80 of title 7 ~~C.R.S.~~, and a limited liability
27 partnership registered under section 7-60-144 or 7-64-1002; ~~C.R.S.~~; except that the name
28 of an entity other than a corporation shall contain the word "professional" or the
29 abbreviation "prof." in addition to any other words required by the statute under which ~~such~~
30 THE entity is organized.

31 (c) "Director" and "officer" of a corporation includes a member and a manager of a
32 limited liability company and a partner in a registered limited liability partnership.

33 (d) "Employees" includes employees, members, and managers of a limited liability
34 company and employees and partners of a registered limited liability partnership.

35 (e) "President" includes all managers, if any, of a limited liability company and all
36 partners in a registered limited liability partnership.

37 (f) "Share" includes a member's rights in a limited liability company and a partner's
38 rights in a registered limited liability partnership.

39 (g) "Shareholder" includes a member of a limited liability company and a partner in
40 a registered limited liability partnership.

41
42 **12-240-139. [Formerly 12-36-135] Injuries to be reported - penalty for failure**

1 **to report - immunity from liability - definitions.** (1) (a) (I) Every licensee who attends
2 or treats any of the following injuries shall report the injury at once to the police of the city,
3 town, or city and county or the sheriff of the county in which the licensee is located:

4 (A) A bullet wound, a gunshot wound, a powder burn, or any other injury arising
5 from the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other
6 sharp or pointed instrument that the licensee believes to have been intentionally inflicted
7 upon a person;

8 (B) An injury arising from a dog bite that the licensee believes was inflicted upon
9 a person by a dangerous dog, as defined in section 18-9-204.5 (2)(b); ~~C.R.S.~~; or

10 (C) Any other injury that the licensee has reason to believe involves a criminal act;
11 except that a licensee is not required to report an injury that he or she has reason to believe
12 resulted from domestic violence unless he or she is required to report the injury pursuant to
13 subsection (1)(a)(I)(A) or (1)(a)(I)(B) of this section or the injury is a serious bodily injury,
14 as defined in section 18-1-901 (3)(p).

15 (II) Any licensee who fails to make a report as required by this section commits a
16 class 2 petty offense, as defined by section 18-1.3-503 ~~C.R.S.~~; and, upon conviction thereof,
17 shall be punished by a fine of not more than three hundred dollars, ~~or by~~ imprisonment in
18 the county jail for not more than ninety days, ~~or by both such~~ fine and imprisonment.

19 (III) Except as described in subsection (1)(a)(I)(C) of this section, a licensee may,
20 but is not required to, report an injury that he or she has reason to believe occurred as a result
21 of domestic violence if:

22 (A) The victim of the injury is at least eighteen years of age and indicates his or her
23 preference that the injury not be reported; and

24 (B) The injury is not an injury that the licensee is required to report pursuant to
25 subsection (1)(a)(I)(A) or (1)(a)(I)(B) of this section.

26 (IV) If a licensee does not report an injury pursuant to a victim's request, as described
27 in subsection (1)(a)(III) of this section, the licensee shall document the victim's request in
28 the victim's medical record.

29 (V) Before a licensee reports an injury that he or she has reason to believe resulted
30 from domestic violence, as described in subsection (1)(a)(III) of this section, the licensee
31 shall make a good-faith effort, confidentially, to advise the victim of the licensee's intent to
32 do so.

33 (VI) If a licensee has reason to believe that an injury resulted from domestic
34 violence, then, regardless of whether the licensee reports the injury to law enforcement, the
35 licensee shall either refer the victim to a victim's advocate, as defined in section 13-90-107
36 (1)(k)(II), or provide the victim with information concerning services available to victims
37 of abuse.

38 (b) (I) When a licensee or nurse performs a medical forensic examination that
39 includes the collection of evidence at the request of a victim of sexual assault, the licensee's
40 or nurse's employing medical facility shall, with the consent of the victim of the sexual
41 assault, make one of the following reports to law enforcement:

42 (A) A law enforcement report if a victim wishes to obtain a medical forensic

1 examination with evidence collection and at the time of the medical forensic examination
2 chooses to participate in the criminal justice system;

3 (B) A medical report if a victim wishes to obtain a medical forensic examination with
4 evidence collection but at the time of the medical forensic examination chooses not to
5 participate in the criminal justice system. The licensee or nurse shall collect ~~such~~ THE
6 evidence and victim identifying information, and the employing medical facility shall release
7 the evidence and information to law enforcement for testing in accordance with section
8 24-33.5-113 (1)(b)(III) ~~C.R.S.~~, and storage in accordance with section 18-3-407.5 (3)(c).
9 ~~C.R.S.~~

10 (C) An anonymous report if a victim wishes to obtain a medical forensic examination
11 with evidence collection but at the time of the medical forensic examination chooses not to
12 have personal identifying information provided to law enforcement or to participate in the
13 criminal justice system. The licensee or nurse shall collect ~~such~~ THE evidence, and the
14 employing medical facility shall release it to law enforcement for storage in accordance with
15 section 18-3-407.5 (3)(c). ~~C.R.S.~~ Law enforcement shall receive no identifying information
16 for the victim. Law enforcement shall assign a unique identifying number to the evidence,
17 and the licensee or nurse shall record the identifying number in the medical record and notify
18 the victim that the identifying number is recorded. Additionally, the licensee or nurse shall
19 provide the identifying number to the victim.

20 (II) Nothing in this section:

21 (A) Prohibits a victim from anonymously speaking to law enforcement about the
22 victim's rights or options prior to determining whether to consent to a report described in this
23 paragraph ~~(b)~~ SUBSECTION (1)(b); or

24 (B) Requires a licensee, nurse, or medical facility to make a report to law
25 enforcement concerning an alleged sexual assault if medical forensic evidence is not
26 collected.

27 (III) If the licensee's employing medical facility knows where the alleged sexual
28 assault occurred, the facility shall make the report with the law enforcement agency in whose
29 jurisdiction the crime occurred regarding preservation of the evidence. If the medical facility
30 does not know where the alleged sexual assault occurred, the facility shall make the report
31 with its local law enforcement agency regarding preservation of the evidence.

32 (IV) In addition to the report required by ~~subparagraph (I) of this paragraph (b)~~
33 SUBSECTION (1)(b)(I) OF THIS SECTION to be filed by the employing medical facility, a
34 licensee who attends or treats any of the injuries described in ~~sub-subparagraph (A) of~~
35 ~~subparagraph (I) of paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a)(I)(A) OF THIS
36 SECTION of a victim of a sexual assault shall also report the injury to the police or sheriff as
37 required by ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION.

38 ~~(1.5)~~ (2) As used in subsection (1) of this section, unless the context otherwise
39 requires:

40 (a) "Domestic violence" means an act of violence upon a person with whom the actor
41 is or has been involved in an intimate relationship. Domestic violence also includes any
42 other crime against a person or any municipal ordinance violation against a person when

1 used as a method of coercion, control, punishment, intimidation, or revenge directed against
2 a person with whom the actor is or has been involved in an intimate relationship.

3 (b) "Intimate relationship" means a relationship between spouses, former spouses,
4 past or present unmarried couples, or persons who are both the parents of the same child
5 regardless of whether the persons have been married or have lived together at any time.

6 ~~(2)~~ (3) (a) Any licensee who, in good faith, makes a report pursuant to subsection (1)
7 of this section or does not make a report as described in subsection (1)(a)(III) of this section
8 is immune from any liability, civil or criminal, that might otherwise be incurred or imposed
9 with respect to the making of such report, and has the same immunity with respect to
10 participation in any judicial proceeding resulting from ~~such~~ THE report.

11 (b) A licensee who, in good faith, refers a victim to a victim's advocate or provides
12 a victim with information concerning services available to victims of abuse, as described in
13 subsection (1)(a)(VI) of this section, is not civilly liable for any act or omission of the
14 victim's advocate or of any agency that provides such services to the victim.

15 ~~(3)~~ (4) Any licensee who makes a report pursuant to subsection (1) of this section
16 shall not be subject to the physician-patient relationship described in section 13-90-107
17 (1)(d), ~~C.R.S.~~, as to the medical examination and diagnosis. ~~Such~~ THE licensee may be
18 examined as a witness, but not as to any statements made by the patient that are the subject
19 matter of section 13-90-107 (1)(d). ~~C.R.S.~~

20
21 **12-240-140. [Formerly 12-36-136] Determination of death.** (1) An individual is
22 dead if:

23 (a) ~~He~~ THE INDIVIDUAL has sustained irreversible cessation of circulatory and
24 respiratory functions; or

25 (b) ~~He~~ THE INDIVIDUAL has sustained irreversible cessation of all functions of the
26 entire brain, including the brain stem.

27 (2) A determination of death under this section shall be in accordance with accepted
28 medical standards.

29
30 **12-240-141. [Formerly 12-36-137] Inactive license.** (1) Any licensee pursuant to
31 section ~~12-36-114~~ **12-240-117** may apply to the board to be transferred to an inactive status.
32 ~~Such~~ THE application shall be in the form and manner designated by the board. The board
33 may grant ~~such~~ THAT status by issuing an inactive license or it may deny the application as
34 set forth in section ~~12-36-116~~ **12-240-120**.

35 (2) Any person applying for a license under this section shall:

36 (a) Provide an affidavit to the board that the applicant, after a date certain, will not
37 practice medicine, practice as a physician assistant, or practice as an anesthesiologist
38 assistant in this state unless the applicant is issued a license to practice medicine, practice
39 as a physician assistant, or practice as an anesthesiologist assistant pursuant to subsection
40 (5) of this section;

41 (b) Pay the license fee as authorized pursuant to section ~~12-36-123~~ **12-240-130**; and

42 (c) Comply with any financial responsibility standards promulgated by the board

1 pursuant to section 13-64-301 (1). ~~C.R.S.~~

2 (3) ~~Such~~ THE inactive status shall be plainly indicated on the face of any inactive
3 license issued under this section.

4 (4) The board is authorized to undertake disciplinary proceedings as set forth in
5 sections ~~12-36-117~~ **12-240-121** and ~~12-36-118~~ **12-240-125** against any person licensed
6 under this section for any act committed while the person was licensed pursuant to this
7 article **240**.

8 (5) Any person licensed under this section who wishes to resume the practice of
9 medicine or to resume practice as a physician assistant shall file an application in the form
10 and manner the board shall designate, pay the license fee promulgated by the board pursuant
11 to section ~~12-36-123~~ **12-240-130**, and meet the financial responsibility requirements
12 promulgated by the board pursuant to section 13-64-301 (1). ~~C.R.S.~~ The board may approve
13 ~~such~~ THE application and issue a license or may deny the application as set forth in section
14 ~~12-36-116~~ **12-240-120**.

15
16 ~~**12-36-138. Rules and regulations - compliance with reporting requirements of**~~
17 ~~**federal act. (Repealed)**~~

18 ~~**12-36-139. Limitations on liability relating to professional review actions.**~~
19 ~~**(Repealed)**~~

20
21 **12-240-142. [Formerly 12-36-140] Protection of medical records - licensee's**
22 **obligations - verification of compliance - noncompliance grounds for discipline - rules.**

23 (1) Each licensed physician and physician assistant shall develop a written plan to ensure
24 the security of patient medical records. The plan shall address at least the following:

25 (a) The storage and proper disposal, if appropriate, of patient medical records;

26 (b) The disposition of patient medical records in the event the licensee dies, retires,
27 or otherwise ceases to practice or provide medical care to patients; and

28 (c) The method by which patients may access or obtain their medical records
29 promptly if any of the events described in ~~paragraph (b) of this subsection (1)~~ occurs
30 SUBSECTION (1)(b) OF THIS SECTION OCCUR.

31 (2) Upon initial licensure under this article **240** and upon renewal of a license, the
32 applicant or licensee, as applicable, shall attest to the board that he or she has developed a
33 plan in compliance with this section.

34 (3) A licensee shall inform each patient, in writing, of the method by which the
35 patient may access or obtain his or her medical records if an event described in ~~paragraph~~
36 ~~(b) of subsection (1)~~ SUBSECTION (1)(b) OF THIS SECTION of this section occurs.

37 (4) A licensee who fails to comply with this section shall be subject to discipline in
38 accordance with section ~~12-36-118~~ **12-240-125**.

39 (5) The board may adopt rules as necessary to implement this section.

40
41 **12-240-143. [Formerly 12-36-141] Medical marijuana recommendations -**
42 **guidelines.** The board, in consultation with the department of public health and environment

1 and physicians specializing in medical marijuana, shall establish guidelines for physicians
2 making medical marijuana recommendations.
3

4 **12-240-144. [Formerly 12-36-142] Licensee duties relating to assistance animals**
5 **- definitions.** (1) A licensee who is approached by a patient seeking an assistance animal
6 as a reasonable accommodation in housing shall either:

7 (a) Make a written finding regarding whether the patient has a disability and, if a
8 disability is found, a separate written finding regarding whether the need for the animal is
9 related to that disability; or

10 (b) Make a written finding that there is insufficient information available to make a
11 finding regarding disability or the disability-related need for the animal.

12 (2) This section does not:

13 (a) Change any laws or procedures related to a service animal under Title II and Title
14 III of the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq.;

15 (b) Affect in any way the right of pet ownership in public housing established in 42
16 U.S.C. sec. 1437z-3, as amended; or

17 (c) Limit the means by which a person with a disability may demonstrate, pursuant
18 to state or federal law, that the person has a disability or that the person has a
19 disability-related need for an assistance animal.

20 (3) A licensee shall not make a determination related to subsection (1) of this section
21 unless the licensee:

22 (a) Has met with the patient in person or by telemedicine;

23 (b) Is sufficiently familiar with the patient and the disability; and

24 (c) Is legally and professionally qualified to make the determination.

25 (4) For purposes of this section:

26 (a) "Assistance animal" means an animal that qualifies as a reasonable
27 accommodation under the federal "Fair Housing Act", 42 U.S.C. sec. 3601 et seq., as
28 amended, or section 504 of the federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 794, as
29 amended.

30 (b) "Disability" has the same meaning as set forth in the federal "Americans with
31 Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., and its related amendments and
32 implementing regulations and includes a handicap as that term is defined in the federal "Fair
33 Housing Act", 42 U.S.C. sec. 3601 et seq., as amended, and 24 CFR 100.201.

34 (c) "Service animal" has the same meaning as set forth in the implementing
35 regulations of Title II and Title III of the federal "Americans with Disabilities Act of 1990",
36 42 U.S.C. sec. 12101 et seq.

37
38 **~~12-36-201 and 12-36-202. (Repealed)~~**