

**ARTICLE 38 255
NURSES**

~~PART 1 GENERAL PROVISIONS~~

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- ~~12-38-102~~ *12-255-102.* Legislative declaration.
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~~12-38-132~~ ~~12-255-131.~~ Nursing peer health assistance or nurse alternative to discipline program - fund - rules.
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~~12-38-132.5~~ ~~12-255-133.~~ School nurses - over-the-counter medication.
~~12-38-133~~ ~~12-255-134.~~ Licensee duties relating to assistance animals - definitions.
Repeal of article - review of functions.

PART 2 THE NURSING SHORTAGE
ALLEVIATION ACT OF 2002

~~12-38-201 and 12-38-202.~~ (Repealed)

PART 3 PILOT PROGRAM
IMPLEMENTATION COMMITTEE

~~12-38-301.~~ (Repealed)

1 **12-255-101. [Formerly 12-38-101] Short title.** THE SHORT TITLE OF this article shall
2 be known and may be cited as 255 IS the "Nurse Practice Act".
3

4 **12-255-102. [Formerly 12-38-102] Legislative declaration.** The general assembly
5 hereby declares it to be the policy of this state that, in order to safeguard the life, health,
6 property, and public welfare of the people of this state and in order to protect the people of
7 this state from the unauthorized, unqualified, and improper application of services by
8 individuals in the practice of nursing, it is necessary that a proper regulatory authority be
9 established. The general assembly further declares it to be the policy of this state to regulate
10 the practice of nursing through a state agency with the power to enforce the provisions of this
11 article 255.
12

1 **12-255-103. Applicability of common provisions.** ARTICLE 1, 20, AND 30 OF THIS
2 TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 255.
3

4 **12-255-104. [Formerly 12-38-103] Definitions.** As used in this article 38 255, unless
5 the context otherwise requires:

6 ~~(1) Repealed.~~

7 ~~(1.5)~~ (1) "Advanced practice nurse" means an advanced practice registered nurse who
8 is a professional nurse and is licensed to practice pursuant to this article 255, who obtains
9 specialized education or training as provided in this section, and who applies to and is
10 accepted by the board for inclusion in the advanced practice registry.

11 (2) "Approved education program" means a course of training conducted by an
12 educational or health care institution ~~which~~ THAT implements the basic practical or
13 professional nursing curriculum prescribed and approved by the board.

14 (3) "Board" means the state board of nursing CREATED IN SECTION 12-255-105.

15 (4) "Delegated medical function" means an aspect of care that implements and is
16 consistent with the medical plan as prescribed by a licensed or otherwise legally authorized
17 physician, podiatrist, or dentist and is delegated to a registered professional nurse or a
18 practical nurse by a physician, podiatrist, dentist, or physician assistant. For purposes of this
19 subsection (4), "medical plan" means a written plan, verbal order, standing order, or protocol,
20 whether patient specific or not, that authorizes specific or discretionary medical action, which
21 may include but is not limited to the selection of medication. Nothing in this subsection (4)
22 shall limit the practice of nursing as defined in this article 255.

23 (5) "Diagnosing", **within the terms of this article 255**, means the use of professional
24 nursing knowledge and skills in the identification of, and discrimination between, physical
25 and psychological signs or symptoms to arrive at a conclusion that a condition exists for
26 which nursing care is indicated or for which referral to appropriate medical or community
27 resources is required. <{*Should the highlighted phrase be repealed as redundant with the*
28 *introductory portion of this section?*}>

29 ~~(6) and (7) Repealed.~~

30 ~~(7.4) "Licensee" means a person licensed pursuant to this article 255.~~ <{*Redundant*
31 *with definitions common provision, 12-20-102 (9). Recommend repeal.*}>

32 ~~(7.8) (6) "Panel" means either panel of the board created in section 12-38-116.5 (1)~~
33 **12-255-119 (1).**

34 ~~(8)(a) (7)~~ **On and after January 18, 2018**, "Practical nurse", "trained practical nurse",
35 "licensed vocational nurse", or "licensed practical nurse" means a person who holds a license
36 to practice pursuant to this article 38 255 as a licensed practical nurse in this state or is
37 licensed in another state and is practicing in this state pursuant to section 24-60-3802, with
38 the right to use the title "licensed practical nurse" and its abbreviation, "L.P.N."

39 ~~(b) (I) On January 18, 2018, through one hundred eighty days after January 18, 2018,~~
40 **"practical nurse", "trained practical nurse", "licensed vocational nurse", or "licensed practical**
41 **nurse" means a person who holds a license to practice pursuant to this article 38 255 as a**

1 licensed practical nurse in this state or is licensed in another state and is practicing in this
2 state pursuant to section ~~24-60-3202~~, with the right to use the title "licensed practical nurse"
3 and its abbreviation, "L.P.N."

4 ~~(H) This subsection (8)(b) is repealed, effective January 1, 2019.~~ <{ *This paragraph*
5 *will be repealed before the 10/1/19 effective date of the title 12 recodification bill.* }>

6 ~~(8.5) (8) (a) "Practice of advanced practice nursing" means an expanded scope of~~
7 professional nursing in a scope, role, and population focus approved by the board, with or
8 without compensation or personal profit, and includes the practice of professional nursing.
9 as defined in subsection ~~(10)~~ of this section.

10 (b) "Practice of advanced practice nursing" includes prescribing medications as may
11 be authorized pursuant to section ~~12-38-111.6~~ **12-255-112.**

12 (c) Nothing in this subsection ~~(8.5)~~ (8) shall alter the definition of the practice of
13 professional nursing. as defined in subsection ~~(10)~~ of this section.

14 (9) (a) "Practice of practical nursing" means the performance, under the supervision
15 of a dentist, physician, podiatrist, or professional nurse authorized to practice in this state,
16 of those services requiring the education, training, and experience, as evidenced by
17 knowledge, abilities, and skills required in this article **255** for licensing as a practical nurse
18 pursuant to section ~~12-38-112~~ **12-255-114**, in:

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

20 (II) Teaching and promoting preventive health measures;

21 (III) Acting to safeguard life and health; or

22 (IV) Administering treatments and medications prescribed by:

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

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

26 (b) "Practice of practical nursing" includes the performance of delegated medical
27 functions.

28 (c) Nothing in this article **255** shall limit or deny a practical nurse from supervising
29 other practical nurses or other health care personnel.

30 (10) (a) "Practice of professional nursing" means the performance of both
31 independent nursing functions and delegated medical functions in accordance with accepted
32 practice standards. ~~Such~~ THE functions include the initiation and performance of nursing care
33 through health promotion, supportive or restorative care, disease prevention, diagnosis and
34 treatment of human disease, ailment, pain, injury, deformity, and physical or mental
35 condition using specialized knowledge, judgment, and skill involving the application of
36 biological, physical, social, and behavioral science principles required for licensure as a
37 professional nurse pursuant to section ~~12-38-111~~ **12-255-110.**

38 (b) The "practice of professional nursing" shall include the performance of such
39 services as:

40 (I) Evaluating health status through the collection and assessment of health data;

41 (II) Health teaching and health counseling;

1 (III) Providing therapy and treatment that is supportive and restorative to life and
2 well-being either directly to the patient or indirectly through consultation with, delegation
3 to, supervision of, or teaching of others;

4 (IV) Executing delegated medical functions;

5 (V) Referring to medical or community agencies those patients who need further
6 evaluation or treatment;

7 (VI) Reviewing and monitoring therapy and treatment plans.

8 (11) ~~(a) On and after January 18, 2018,~~ "Registered nurse" or "registered professional
9 nurse" means a professional nurse, and only a person who holds a license to practice
10 professional nursing in this state pursuant to this article 38 255 or who holds a license in
11 another state and is practicing in this state pursuant to section 24-60-3802 may use the title
12 "registered nurse" and its abbreviation, "R.N."

13 ~~(b) (I) On January 18, 2018, through one hundred eighty days after January 18, 2018,~~
14 ~~"registered nurse" or "registered professional nurse" means a professional nurse, and only a~~
15 ~~person who holds a license to practice professional nursing in this state pursuant to this~~
16 ~~article 38 255 or who holds a license in another state and is practicing in this state pursuant~~
17 ~~to section 24-60-3202 may use the title "registered nurse" and its abbreviation, "R.N."~~

18 ~~(II) This subsection (11)(b) is repealed, effective January 1, 2019. <{ *This paragraph*~~
19 ~~*will be repealed before the 10/1/19 effective date of the title 12 recodification bill.* }>~~

20 (12) "Treating" means the selection, recommendation, execution, and monitoring of
21 those nursing measures essential to the effective determination and management of actual or
22 potential human health problems and to the execution of the delegated medical functions.
23 ~~Such~~ THE delegated medical functions shall be performed under the responsible direction and
24 supervision of a person licensed under the laws of this state to practice medicine, podiatry,
25 or dentistry.

26 (13) ~~(a) On and after January 18, 2018,~~ "Unauthorized practice" means the practice
27 of practical nursing or the practice of professional nursing by any person who has not been
28 issued a license under this article 38 255, or WHO is not practicing in this state pursuant to
29 section 24-60-3802, or whose license has been suspended or revoked or has expired.

30 ~~(b) (I) On January 18, 2018, through one hundred eighty days after January 18, 2018,~~
31 ~~"unauthorized practice" means the practice of practical nursing or the practice of professional~~
32 ~~nursing by any person who has not been issued a license under this article 38 255, or is not~~
33 ~~practicing in this state pursuant to section 24-60-3202, or whose license has been suspended~~
34 ~~or revoked or has expired.~~

35 ~~(II) This subsection (13)(b) is repealed, effective January 1, 2019. <{ *This paragraph*~~
36 ~~*will be repealed before the 10/1/19 effective date of the title 12 recodification bill.* }>~~

37
38 **12-255-105. State board of nursing created - removal of board members -**
39 **meetings of board.** (1) [Formerly 12-38-104 (1)] (a) There is hereby created the state board
40 of nursing in the division, of professions and occupations in the department of regulatory
41 agencies, which board shall consist of eleven members who are residents of this state,

1 appointed by the governor as follows:

2 (I) Two members of the board shall be licensed practical nurses engaged in the
3 practice of practical nursing and licensed in this state;

4 (II) Seven members of the board shall be licensed professional nurses who are
5 actively employed in their respective nursing professions and licensed in this state. The
6 professional nurse members shall have been employed for at least three years in their
7 respective categories. Members shall be as follows:

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

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

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

12 (D) One member shall be registered as an advanced practice nurse pursuant to section
13 ~~12-38-111.5~~ **12-255-111**;

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

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

17 (III) Two members of the board shall be persons who are not currently licensed and
18 have not been previously licensed as health care providers, and who are not employed by or
19 in any way connected with, or have any financial interest in, a health care facility, agency,
20 or insurer.

21 ~~(IV) (Deleted by amendment, L. 2009, (SB 09-239), ch. 401, p. 2165, § 3, effective~~
22 ~~July 1, 2009.)~~

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

26 ~~(b.5)~~ (c) When making appointments to the board, the governor shall strive to achieve
27 geographical, political, urban, and rural balance among the board membership.

28 ~~(c)~~ (d) (I) Each member of the board shall be appointed for a term of **three years;**
29 **except that members appointed to the board for a first or second term on or after July 1, 2009,**
30 **shall be appointed for a term of** four years. *<{Does the repealed language have any*
31 *continuing effect?}>*

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

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

37 ~~(d)~~ (e) Notwithstanding the provisions of this subsection (1) to the contrary, if, as
38 determined by the governor, an appropriate applicant for membership on the board pursuant
39 to ~~paragraph (a) of this subsection~~ (1) SUBSECTION (1)(a) OF THIS SECTION is not available to
40 serve on the board for a particular term, the governor may appoint a nurse whose license is
41 in good standing to fill the vacancy for the length of that term. At the end of ~~such~~ THE term,

1 if the governor, after a good-faith attempt, cannot find an appropriate applicant pursuant to
2 paragraph (a) of this subsection (1) SUBSECTION (1)(a) OF THIS SECTION, the governor may
3 appoint a nurse whose license is in good standing to fill the vacancy for one term.

4 (2) [Formerly 12-38-104 (1.5)] The board shall elect annually from its members a
5 president.

6 (3) [Formerly 12-38-105] The governor may remove any board member for
7 negligence in the performance of any duty required by law, for incompetency, for
8 unprofessional conduct, for willful misconduct, or for failure to continue to comply with the
9 requirements of THIS section. ~~12-38-104.~~

10 <{*Note that the following language from former section 12-38-104 (3) is redundant with*
11 *per diem common provision, 12-20-103 (6), so we recommend repeal: "Each member of*
12 *the board shall receive the same per diem compensation and reimbursement of expenses*
13 *as those provided for members of boards and commissions in the division of professions*
14 *and occupations pursuant to section 24-34-102 (13), C.R.S."*>

15 (4) [Formerly 12-38-106] The board shall meet at least quarterly during the fiscal
16 year and at such other times as it may determine.

17
18 ~~12-38-105. Removal of board members.~~ The governor may remove any board
19 member for negligence in the performance of any duty required by law, for incompetency,
20 for unprofessional conduct, for willful misconduct, or for failure to continue to comply with
21 the requirements of section 12-38-104. <{*Moved to 12-38-104 (3).*>

22
23 ~~12-38-106. Meetings of board.~~ The board shall meet at least quarterly during the
24 fiscal year and at such other times as it may determine. <{*Moved to 12-38-104 (4).*>

25
26 ~~12-255-106. [Formerly 12-38-107] Employees - executive officer.~~ After consultation
27 with the board, the director of the division of professions and occupations shall appoint an
28 executive administrator for the board and such other personnel as are deemed necessary,
29 pursuant to section 13 of article XII of the state constitution. At least one member of the
30 board shall serve on any panel convened by the department of personnel to interview
31 candidates for the position of executive administrator.

32
33 ~~12-255-107. Powers and duties of the board - rules.~~ (1) [Formerly 12-38-108 (1)]
34 The board has the following powers and duties:

35 (a) To approve, pursuant to rules and regulations adopted by the board, educational
36 programs in this state preparing individuals for licensure, including approving curricula,
37 conducting surveys, and establishing standards for such THE educational programs; to deny
38 approval of or withdraw approval from such THE educational programs for failure to meet
39 required standards as established by this article 255 or pursuant to rules and regulations
40 adopted by the board; and to further establish standards in accordance with this article 255
41 in the form of rules and regulations to determine whether institutions outside this state shall

1 be deemed to have acceptable educational programs and whether graduates of institutions
2 outside this state shall be deemed to be graduates of approved educational programs for the
3 purpose of licensing requirements in this state; and to determine by rule when accreditation
4 by a state or voluntary agency may be accepted in lieu of board approval;

5 (b) (I) To examine, license, reactivate, and renew licenses of qualified applicants and
6 to grant to ~~such~~ THE applicants temporary licenses and permits to engage in the practice of
7 practical nursing and professional nursing in this state within the limitations imposed by this
8 article 255. ~~Licenses shall be renewed, reactivated, or reinstated pursuant to a schedule~~
9 ~~established by the director of the division of professions and occupations within the~~
10 ~~department of regulatory agencies and shall be renewed, reactivated, or reinstated pursuant~~
11 ~~to section 24-34-102 (8), C.R.S. The director of the division of professions and occupations~~
12 ~~within the department of regulatory agencies may establish renewal fees, reactivation fees,~~
13 ~~and delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S., and may~~
14 ~~increase fees to obtain or renew a professional nurse license or advanced practice nurse~~
15 ~~authority consistent with section 24-34-109 (4), C.R.S., to fund the division's costs in~~
16 ~~administering and staffing the nurse-physician advisory task force for Colorado health care~~
17 ~~created in section 24-34-109 (1), C.R.S. If a person fails to renew his or her license pursuant~~
18 ~~to the schedule established by the director of the division of professions and occupations,~~
19 ~~such license shall expire~~ ARE SUBJECT TO THE RENEWAL, EXPIRATION, REINSTATEMENT, AND
20 DELINQUENCY FEE PROVISIONS OF SECTION 12-20-202 (1) AND (2). Any person whose license
21 has expired shall be subject to the penalties provided in this article 255 or section 24-34-102
22 (8), C.R.S. *12-20-202 (1). <{Redundant with renewal / reinstatement / delinquency fees*
23 *common provision, 12-20-202; recommend amendment as indicated. Redundant with*
24 *NPATCH common provision, 12-30-104 (4); recommend repeal.}>*

25 (II) In order to facilitate the licensure of qualified applicants, the board may, in its
26 discretion, assign licensing functions in accordance with this article 255 to either panel. Any
27 action taken by a quorum of the assigned panel shall constitute action by the board.

28 (b.5) (c) ~~To revoke, suspend, withhold, limit the scope of or refuse to renew any~~
29 ~~license, to place a licensee or temporary licensee on probation, to impose an administrative~~
30 ~~fine on a licensee, or to issue a letter of admonition to a licensee in accordance with the~~
31 ~~procedures set forth in section 12-38-116.5 AND TO TAKE DISCIPLINARY OR OTHER ACTION AS~~
32 ~~SPECIFIED IN SECTION 12-20-404~~ upon proof that ~~such~~ THE licensee has committed an act that
33 constitutes grounds for discipline under section ~~12-38-117~~ 12-255-120 or ~~12-42-113~~
34 12-260-1XX; *<{Redundant with disciplinary authority common provisions, 12-20-404.*
35 *Recommend amending as indicated.}>*

36 (e) (d) To permit the executive officer, during the period between board meetings, to
37 administer examinations, issue licenses by endorsement and examination, renew licenses, and
38 issue temporary licenses and permits to qualified applicants, pursuant to rules and regulations
39 adopted by the board;

40 (d) (e) To adopt and revise rules and regulations concerning qualifications needed to
41 practice as a practical nurse when ~~such~~ THE practice requires preparation and skill beyond

1 that of a practical nurse pursuant to section ~~12-38-112~~ **12-255-114**;

2 ~~(e) Repeated.~~

3 (f) To provide by regulation RULE for the legal recognition of nurse licensees from
4 other states and jurisdictions;

5 (g) To charge and collect appropriate fees;

6 (h) **To investigate and conduct hearings upon charges for the discipline of nurses in**
7 **accordance with the provisions of article 4 of title 24 C.R.S., AND SECTION 12-20-403 and**
8 **to impose disciplinary sanctions as provided in this article 255 AND SECTION 12-20-404;**
9 **<{Recommend adding references to disciplinary proceedings and disciplinary actions**
10 **common provisions, 12-20-403 and 12-20-404.}>**

11 (i) **To cause the prosecution and enjoinder of any person violating the provisions of**
12 **this article 255 and incur necessary expenses therefor; <{Section 12-20-406 (1)(b)(VIII)**
13 **excludes this article from the injunction common provision, so no amendment**
14 **recommended.}>**

15 (j) **To adopt rules and regulations necessary to carry out the purposes of this article,**
16 **such rules and regulations to be promulgated in accordance with the provisions of article 4**
17 **of title 24, C.R.S. PURSUANT TO SECTION 12-20-204; <{Added a cross reference to the**
18 **rule-making common provision, 12-20-204, and proposed amendments.}>**

19 (k) To administer the licensing and regulation of psychiatric technicians pursuant to
20 article ~~42 295~~ of this title **12** and to adopt and revise rules and regulations consistent with the
21 laws of this state as may be necessary;

22 (I) To renew, grant, suspend, limit the scope of, and revoke licenses of psychiatric
23 technicians in accordance with article ~~42 295~~ of this title **12**;

24 (II) To prescribe standards and approve curricula for educational programs preparing
25 persons for licensure as psychiatric technicians;

26 (III) To provide for surveys of ~~such~~ EDUCATIONAL programs at such times as the
27 board may deem necessary;

28 (IV) To accredit ~~such~~ EDUCATIONAL programs as meet the requirements of the board
29 and article ~~42 295~~ of this title;

30 (V) To deny accreditation to or withdraw accreditation from educational programs
31 for failure to meet prescribed standards;

32 (VI) To conduct hearings pursuant to section ~~12-42-114~~ **12-295-___**;

33 (VII) To cause the prosecution and enjoinder of any person violating the provisions
34 of article ~~42 295~~ of this title **12** and incur necessary expenses therefor;

35 (l) (I) ~~(A) Repeated.~~

36 ~~(B)~~ To conduct criminal history record checks on any individual under the jurisdiction
37 of the board, against whom a complaint has been filed.

38 ~~(C) Repeated.~~

39 (II) For purposes of this paragraph ~~(I)~~ SUBSECTION (1)(l), "criminal history record
40 check" means a written review of an individual's criminal conviction history.

41 (m) To facilitate the licensure of nurses under the "Enhanced Nurse Licensure

1 Compact", part 38 of article 60 of title 24, as follows:

2 (I) Appoint a qualified delegate to serve on the Interstate Commission of Nurse
3 Licensure Compact Administrators;

4 (II) Participate in the coordinated licensure information system, as that is defined in
5 article II c. of section 24-60-3802;

6 (III) Require an applicant for licensure under the compact to have his or her
7 fingerprints taken by a local law enforcement agency or any third party approved by the
8 Colorado bureau of investigation for the purpose of obtaining a fingerprint-based criminal
9 history record check. The applicant is required to submit payment by certified check or
10 money order for the fingerprints and for the actual costs of the record check at the time the
11 fingerprints are submitted to the Colorado bureau of investigation. Upon receipt of
12 fingerprints and receipt of the payment for costs, the Colorado bureau of investigation shall
13 conduct a state and national fingerprint-based criminal history record check utilizing records
14 of the Colorado bureau of investigation and the federal bureau of investigation and shall
15 forward the results of the criminal history record check to the board. The board shall use the
16 information resulting from the fingerprint-based criminal history record check to investigate
17 and determine whether an applicant is qualified to hold a license pursuant to the compact.
18 The board may verify the information an applicant is required to submit. The results of the
19 criminal history record check are confidential. The board shall not release the results to the
20 public, the Interstate Commission of Nurse Licensure Compact Administrators, or other state
21 licensing boards.

22 (IV) Notify the Interstate Commission of Nurse Licensure Compact Administrators
23 of any adverse action taken by the board; and

24 (V) Approve payment of assessments levied by the Interstate Commission of Nurse
25 Licensure Compact Administrators to cover the cost of the operations and activities of the
26 commission and its staff.

27 (2) [Formerly 12-38-108 (1.1)(a)] The board shall appoint advisory committees
28 pursuant to section ~~12-38-109~~ 12-255-108 of at least three psychiatric technicians to advise
29 the board on matters pertaining to psychiatric technician testing. The board shall, in its
30 discretion, assign matters referred to the board by the psychiatric technicians advisory
31 committee to a panel for consideration and implementation, if necessary.

32 (3) [Formerly 12-38-108 (2)] When the board determines that rules and regulations
33 are completed and established, the board shall make copies available at a reasonable cost.

34 (4) [Formerly 12-38-108 (3)] The board shall, in its discretion, assign matters
35 referred to the board by the nurse aide advisory committee, created pursuant to section
36 ~~12-38.1-110~~ 12-260-___, to a panel for consideration and implementation, if necessary.

37 (5) [Formerly 12-38-108.5.] The authority granted the board under the provisions
38 of this article 255 shall not be construed to authorize the board to arbitrate or adjudicate fee
39 disputes between licensees or between a licensee and any other party.
40

1 ~~**12-38-108.5. Limitation on authority.** The authority granted the board under the~~
2 ~~provisions of this article shall not be construed to authorize the board to arbitrate or~~
3 ~~adjudicate fee disputes between licensees or between a licensee and any other party.~~
4 <{*Moved to section 12-255-107 (5).*}>
5

6 **12-255-108. [Formerly 12-38-109] Advisory committee.** The board may appoint
7 advisory committees including professional review committees to assist in the performance
8 of its duties. Each advisory committee shall consist of at least three licensees who have
9 expertise in the area under review. Members of the advisory committees shall receive no
10 compensation for their services but shall be reimbursed for the actual and necessary expenses
11 incurred in the performance of their duties.
12

13 **12-255-109. [Formerly 12-38-110] Examination.** (1) All nurse applicants, unless
14 eligible for licensure by endorsement, shall be required to pass a written examination
15 approved or prepared by the board, relating to the knowledge, skills, and judgments as
16 incorporated in their respective approved educational programs.

17 (2) In accordance with the requirements of this article **255**, the board shall hold at
18 least two examinations annually for practical nurses and for professional nurses at such
19 places and at such times as the board shall determine.
20

21 **12-255-110. [Formerly 12-38-111] Requirements for professional nurse licensure.**

22 (1) The board shall issue a license to engage in the practice of professional nursing to any
23 applicant who:

24 (a) Submits an application containing ~~such~~ THE information ~~as~~ the board may
25 prescribe;

26 (b) Submits proof satisfactory to the board in ~~such~~ THE manner and upon ~~such~~ THE
27 forms ~~as~~ the board may require to show that the applicant has completed a professional
28 nursing educational program ~~which~~ THAT meets the standards of the board for approval of
29 educational programs or ~~which~~ THAT is approved by the board and to show that the applicant
30 holds a certificate of graduation from or a certificate of completion of ~~such~~ THE approved
31 program;

32 ~~(c) Repealed.~~

33 ~~(d)~~ (c) Passes an examination as provided in section ~~12-38-110~~ **12-255-109** or is
34 eligible for and is granted licensure by endorsement as provided in subsection (2) of this
35 section;

36 ~~(e)~~ (d) Pays the required fee.

37 (2) The board may issue a license by endorsement to engage in the practice of
38 professional nursing in this state to a nurse who is licensed to practice professional nursing
39 in another state or a territory of the United States or in a foreign country if the applicant
40 presents proof satisfactory to the board that, at the time of application for a Colorado license
41 by endorsement, the applicant possesses credentials and qualifications ~~which~~ THAT are

1 substantially equivalent to requirements in Colorado for licensure by examination. The board
2 may specify by rule and regulation what shall constitute substantially equivalent credentials
3 and qualifications.

4 (3) The board shall design a questionnaire to be sent to all licensees who apply for
5 license renewal. Each applicant for license renewal shall complete the board-designed
6 questionnaire. The purpose of the questionnaire is to determine whether a licensee has acted
7 in violation of this article 255 or been disciplined for any action that might be considered a
8 violation of this article 255 or might make the licensee unfit to practice nursing with
9 reasonable care and safety. If an applicant fails to answer the questionnaire accurately, such
10 THE failure shall constitute grounds for discipline under section ~~12-38-117(1)(v)~~ **12-255-120**
11 **(I)(v)**. The board may include the cost of developing and reviewing the questionnaire in the
12 fee paid under ~~paragraph (e) of subsection (1)~~ SUBSECTION (1)(d) of this section. The board
13 may refuse an application for license renewal that does not accompany an accurately
14 completed questionnaire.

15
16 **12-255-111. [Formerly 12-38-111.5] Requirements for advanced practice nurse**
17 **registration - legislative declaration - definition - advanced practice registry - rules.**

18 (1) The general assembly hereby recognizes that some individuals practicing pursuant to this
19 article 255 have acquired additional preparation for advanced practice and hereby determines
20 that it is appropriate for the state to maintain a registry of such THOSE individuals. Such THE
21 registry shall be known as the "advanced practice registry".

22 ~~(2) Repealed.~~

23 ~~(3)~~ (2) The board shall establish the advanced practice registry and shall require that
24 a nurse applying for registration identify his or her role and population focus. The board shall
25 establish reasonable criteria for designation of specific role and population foci based on
26 currently accepted professional standards. A nurse who is included in the advanced practice
27 registry has the right to use the title "advanced practice nurse" or, if authorized by the board,
28 to use the title "certified nurse midwife", "clinical nurse specialist", "certified registered
29 nurse anesthetist", or "nurse practitioner". These titles may be abbreviated as "A.P.N.",
30 "C.N.M.", "C.N.S.", "C.R.N.A.", or "N.P.", respectively. It is unlawful for any person to use
31 any of the titles or abbreviations listed in this subsection ~~(3)~~ (2) unless included in the
32 registry and authorized by the board to do so.

33 ~~(4)(a) Repealed.~~

34 ~~(b) On and after July 1, 1995, until July 1, 2008, the requirements for inclusion in the~~
35 ~~advanced practice registry shall include the successful completion of a nationally accredited~~
36 ~~education program for preparation as an advanced practice nurse or a passing score on a~~
37 ~~certification examination of a nationally recognized accrediting agency, or both, if applicable,~~
38 ~~as defined in rules adopted by the board. <{*Does this paragraph have any continuing*~~
39 ~~*effect?*>~~

40 ~~(e)~~ (3) (a) On and after July 1, 2008, the requirements for inclusion in the advanced
41 practice registry shall include the successful completion of an appropriate graduate degree

1 as determined by the board; except that individuals who are included in the registry as of
2 June 30, 2008, but have not successfully completed ~~such~~ THAT degree, may thereafter
3 continue to be included in the registry and to use the appropriate title and abbreviation.

4 ~~(d)~~ (b) On and after July 1, 2010, in addition to the requirements of ~~paragraph (c) of~~
5 ~~this subsection (4)~~ SUBSECTION (3)(a) OF THIS SECTION, a professional nurse shall obtain
6 national certification from a nationally recognized accrediting agency, as defined by the
7 board by rule, in the appropriate role and population focus in order to be included in the
8 advanced practice registry; except that professional nurses who are included in the registry
9 as of June 30, 2010, but have not obtained ~~such~~ THE national certification, may thereafter
10 continue to be included in the registry and to use the appropriate title and abbreviation.

11 ~~(e)~~ (c) A professional nurse may be included in the advanced practice registry by
12 endorsement if the professional nurse meets one of the following qualifying standards:

13 (I) The professional nurse is recognized as an advanced practice nurse in another state
14 or jurisdiction and has practiced as an advanced practice nurse for at least two of the last five
15 years immediately preceding the date of application for inclusion in the advanced practice
16 registry; or

17 (II) The professional nurse holds national certification as provided in ~~paragraph (d)~~
18 ~~of this subsection (4)~~ SUBSECTION (3)(b) OF THIS SECTION and possesses an appropriate
19 graduate degree as determined by the board.

20 ~~(5)~~ (4) A nurse who meets the definition of advanced practice nurse ~~as defined in~~
21 ~~section 12-38-103~~, and the requirements of section ~~12-38-111.6~~; **12-255-112** may be granted
22 prescriptive authority as a function in addition to those defined in section ~~12-38-103 (10)~~
23 **12-255-104 (10)**.

24 ~~(6)~~ (5) An advanced practice nurse shall practice in accordance with the standards of
25 the appropriate national professional nursing organization and have a safe mechanism for
26 consultation or collaboration with a physician or, when appropriate, referral to a physician.
27 Advanced practice nursing also includes, when appropriate, referral to other health care
28 providers.

29 ~~(7)~~ (6) (a) In order to enhance the cost efficiency and continuity of care, an advanced
30 practice nurse may, within his or her scope of practice and within the advanced practice
31 nurse-patient relationship, sign an affidavit, certification, or similar document that:

32 (I) Documents a patient's current health status;

33 (II) Authorizes continuing treatment, tests, services, or equipment; or

34 (III) Gives advance directives for end-of-life care.

35 (b) ~~Such~~ THE affidavit, certification, or similar document may not:

36 (I) Be the prescription of medication unless the advanced practice nurse has been
37 granted prescriptive authority pursuant to section ~~12-38-111.6~~ **12-255-112**; or

38 (II) Be in conflict with other requirements of law.

39
40 **12-255-112. [Formerly 12-38-111.6] Prescriptive authority - advanced practice**
41 **nurses - limits on opioid prescriptions - rules - repeal.** (1) The board may authorize an

1 advanced practice nurse who is listed on the advanced practice registry, has a license in good
2 standing without disciplinary sanctions issued pursuant to section ~~12-38-111~~ **12-255-110**, and
3 has fulfilled requirements established by the board pursuant to this section to prescribe
4 controlled substances or prescription drugs as defined in **part 1 of article 42.5 280 of this title**
5 **12.**

6 (2) (a) The board shall adopt rules to implement this section.

7 (b) Rules adopted pursuant to this section shall reflect current, accepted professional
8 standards for the safe and effective use of controlled substances and prescription drugs.

9 (3) (a) An advanced practice nurse may be granted authority to prescribe prescription
10 drugs and controlled substances to provide treatment to clients within the role and population
11 focus of the advanced practice nurse.

12 ~~(b) and (c) (Deleted by amendment, L. 2009, (SB 09-239), ch. 401, p. 2174, § 20,
13 effective July 1, 2009.)~~

14 ~~(d) (b) (I)~~ An advanced practice nurse who has been granted authority to prescribe
15 prescription drugs and controlled substances under this article **255** may advise the nurse's
16 patients of their option to have the symptom or purpose for which a prescription is being
17 issued included on the prescription order.

18 (II) A nurse's failure to advise a patient under ~~subparagraph (I) of this paragraph (d)~~
19 SUBSECTION (3)(b)(I) OF THIS SECTION shall not be grounds for any disciplinary action against
20 the nurse's professional license issued under this article **255**. Failure to advise a patient
21 pursuant to ~~subparagraph (I) of this paragraph (d)~~ SUBSECTION (3)(b)(I) OF THIS SECTION shall
22 not be grounds for any civil action against a nurse in a negligence or tort action, nor shall
23 ~~such~~ THE failure be evidence in any civil action against a nurse.

24 ~~(4) Repealed.~~

25 ~~(4.5) (4)~~ (a) An advanced practice nurse applying for prescriptive authority shall
26 provide evidence to the board of the following:

27 (I) An appropriate graduate degree as determined by the board pursuant to section
28 ~~12-38-111.5(4)(c)~~ **12-255-111 (3)(a)**;

29 (II) Satisfactory completion of specific educational requirements in the use of
30 controlled substances and prescription drugs, as established by the board, either as part of a
31 degree program or in addition to a degree program;

32 (III) National certification from a nationally recognized accrediting agency, as
33 defined by the board by rule pursuant to section ~~12-38-111.5(4)(d)~~ **12-255-111 (3)(a)**, unless
34 the board grants an exception;

35 (IV) Professional liability insurance as required by section ~~12-38-111.8~~ **12-255-113**;

36 ~~(V) Repealed.~~

37 ~~(VI) (V)~~ Inclusion on the advanced practice registry pursuant to section ~~12-38-111.5~~
38 **12-255-111**; and

39 ~~(VII) (VI)~~ A signed attestation that states he or she has completed at least three years
40 of combined clinical work experience as a professional nurse or as an advanced practice
41 nurse.

1 (b) Upon satisfaction of the requirements set forth in ~~paragraph (a) of this subsection~~
2 ~~(4.5)~~ SUBSECTION (4)(a) OF THIS SECTION, the board may grant provisional prescriptive
3 authority to an advanced practice nurse. The provisional prescriptive authority that is granted
4 is limited to those patients and medications appropriate to the advanced practice nurse's role
5 and population focus. In order to retain provisional prescriptive authority and obtain and
6 retain full prescriptive authority pursuant to this subsection ~~(4.5)~~ (4) for patients and
7 medications appropriate for the advanced practice nurse's role and population focus, an
8 advanced practice nurse shall satisfy the following requirements:

9 (I) (A) Once the provisional prescriptive authority is granted, the advanced practice
10 nurse must obtain one thousand hours of documented experience in a mutually structured
11 prescribing mentorship either with a physician or with an advanced practice nurse who has
12 full prescriptive authority and experience in prescribing medications. The mentor must be
13 practicing in Colorado and have education, training, experience, and an active practice that
14 corresponds with the role and population focus of the advanced practice nurse.

15 ~~(A.5)~~ (B) Remote communication with the mentor is permissible within the
16 mentorship as long as the communication is synchronous. Synchronous communication does
17 not include communication by e-mail.

18 ~~(B)~~ (C) The physician or advanced practice nurse serving as a mentor shall not
19 require payment or employment as a condition of entering into the mentorship relationship,
20 but the mentor may request reimbursement of reasonable expenses and time spent as a result
21 of the mentorship relationship.

22 ~~(C)~~ (D) Upon successful completion of the mentorship period, the mentor shall
23 provide his or her signature and attestation to verify that the advanced practice nurse has
24 successfully completed the mentorship within the required period after the provisional
25 prescriptive authority was granted.

26 ~~(D)~~ (E) If an advanced practice nurse with provisional prescriptive authority fails to
27 complete the mentorship required by this ~~subparagraph (F)~~ SUBSECTION (4)(b)(I) within three
28 years or otherwise fails to demonstrate competence as determined by the board, the advanced
29 practice nurse's provisional prescriptive authority expires for failure to comply with the
30 statutory requirements.

31 (II) The advanced practice nurse with provisional prescriptive authority shall develop
32 an articulated plan for safe prescribing that documents how the advanced practice nurse
33 intends to maintain ongoing collaboration with physicians and other health care professionals
34 in connection with the advanced practice nurse's practice of prescribing medication within
35 his or her role and population focus. The articulated plan shall guide the advanced practice
36 nurse's prescriptive practice. The physician or advanced practice nurse that serves as a
37 mentor as described in ~~subparagraph (F) of this paragraph (b)~~ SUBSECTION (4)(b)(I) OF THIS
38 SECTION shall provide his or her signature and attestation on the articulated plan to verify that
39 the advanced practice nurse has developed an articulated plan. The advanced practice nurse
40 shall retain the articulated plan on file, shall review the plan annually, and shall update the
41 plan as necessary. The articulated plan is subject to review by the board, and the advanced

1 practice nurse shall provide the plan to the board upon request. If an advanced practice nurse
2 with provisional prescriptive authority fails to develop the required articulated plan within
3 three years or otherwise fails to demonstrate competence as determined by the board, the
4 advanced practice nurse's provisional prescriptive authority expires for failure to comply with
5 the statutory requirements. An articulated plan developed pursuant to this ~~subparagraph (H)~~
6 SUBSECTION (4)(b)(II) must include at least the following:

7 (A) A mechanism for consultation and referral for issues regarding prescriptive
8 authority;

9 (B) A quality assurance plan;

10 (C) Decision support tools; and

11 (D) Documentation of ongoing continuing education in pharmacology and safe
12 prescribing.

13 (III) The advanced practice nurse shall maintain professional liability insurance as
14 required by section ~~12-38-111.8~~ **12-255-113**.

15 (IV) The advanced practice nurse shall maintain national certification, as specified
16 in ~~subparagraph (H) of paragraph (a) of this subsection (4.5)~~ SUBSECTION (4)(a)(III) OF THIS
17 SECTION, unless the board grants an exception.

18 (c) An advanced practice nurse who was granted prescriptive authority prior to July
19 1, 2010, shall satisfy the following requirements in order to retain prescriptive authority:

20 (I) The advanced practice nurse shall develop an articulated plan as specified in
21 ~~subparagraph (H) of paragraph (b) of this subsection (4.5)~~ SUBSECTION (4)(b)(II) OF THIS
22 SECTION; except that to verify development of an articulated plan, the advanced practice
23 nurse shall obtain the signature of either a physician or an advanced practice nurse who has
24 prescriptive authority and experience in prescribing medications, is practicing in Colorado,
25 and has education, training, experience, and active practice that corresponds with the role and
26 population focus of the advanced practice nurse developing the plan.

27 (II) The advanced practice nurse shall maintain professional liability insurance as
28 required by section ~~12-38-111.8~~ **12-255-113**.

29 (III) The advanced practice nurse shall maintain national certification, as specified
30 in ~~subparagraph (H) of paragraph (a) of this subsection (4.5)~~ SUBSECTION (4)(a)(III) OF THIS
31 SECTION, unless:

32 (A) The advanced practice nurse was included on the advanced practice registry prior
33 to July 1, 2010, and has not obtained national certification;

34 (B) The advanced practice nurse was included on the advanced practice registry prior
35 to July 1, 2008, and has not completed a graduate degree as specified in section ~~12-38-111.5~~
36 ~~(4)(c)~~ **12-255-111 (3)(a)**; or

37 (C) The board grants an exception.

38 (d) In order to obtain provisional prescriptive authority and obtain and retain full
39 prescriptive authority in this state, an advanced practice nurse from another state must meet
40 the requirements of this section or substantially equivalent requirements, as determined by
41 the board.

1 (e) The board shall conduct random audits of articulated plans to ensure that the plans
2 satisfy the requirements of this subsection ~~(4.5)~~ (4) and rules adopted by the board.

3 ~~(f) Repealed.~~

4 ~~(5) and (6) Repealed.~~

5 ~~(7)~~ (5) An advanced practice nurse who obtains prescriptive authority pursuant to this
6 section shall be assigned a specific identifier by the board. This identifier shall be available
7 to the Colorado medical board and the board of pharmacy. The board shall establish a
8 mechanism to assure that the prescriptive authority of an advanced practice nurse may be
9 readily verified.

10 ~~(7.5)~~ (6) (a) An advanced practice nurse with prescriptive authority pursuant to this
11 section shall not prescribe more than a seven-day supply of an opioid to a patient who has
12 not had an opioid prescription in the last twelve months by that advance practice nurse, and
13 may exercise discretion to include a second fill for a seven-day supply. The limits on initial
14 prescribing do not apply if, in the judgment of the advanced practice nurse, the patient:

15 (I) Has chronic pain that typically lasts longer than ninety days or past the time of
16 normal healing, as determined by the advance practice nurse, or following transfer of care
17 from another advance practice nurse who prescribed an opioid to the patient;

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

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

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

24 (b) Prior to prescribing the second fill of any opioid prescription pursuant to this
25 section, an advanced practice nurse must comply with the requirements of section
26 ~~12-42.5-404 (3.6)~~ **12-280-XXX (X)**. Failure to comply with section ~~12-42.5-404 (3.6)~~
27 **12-280-XXX (X)** constitutes grounds for discipline under section ~~12-38-117~~ **12-255-120** only
28 if the advanced practice nurse repeatedly fails to comply.

29 (c) An advanced practice nurse with prescriptive authority pursuant to this section
30 may prescribe opioids electronically.

31 (d) A violation of this subsection ~~(7.5)~~ (6) does not create a private right of action or
32 serve as the basis of a cause of action. A violation of **this section** does not constitute
33 negligence per se or contributory negligence per se and does not alone establish a standard
34 of care. Compliance with **this section** does not alone establish an absolute defense to any
35 alleged breach of the standard of care. <{***Should these references be to this***
36 ***"subsection"?***>

37 (e) This subsection ~~(7.5)~~ (6) is repealed, effective September 1, 2021.

38 ~~(8)~~ (7) (a) The scope of practice for an advanced practice nurse may be determined
39 by the board in accordance with this article **255**.

40 (b) The board may consider information provided by nursing, medical, or other health
41 professional organizations, associations, or regulatory boards.

1 (c) (I) Prescriptive authority by an advanced practice nurse shall be limited to those
2 patients appropriate to ~~such~~ THE nurse's scope of practice. Prescriptive authority may be
3 limited or withdrawn and the advanced practice nurse may be subject to further disciplinary
4 action in accordance with this article **255** if ~~such~~ THE nurse has prescribed outside ~~such~~ THE
5 nurse's scope of practice or for other than a therapeutic purpose.

6 (II) Nothing in this section shall be construed to require a registered nurse to obtain
7 prescriptive authority to deliver anesthesia care.

8 ~~(9)~~ (8) All prescriptions must comply with applicable federal and state laws, including
9 article ~~42.5 280~~ of this title **12** and part 2 of article 18 of title 18. ~~C.R.S.~~

10 ~~(10)~~ (9) Nothing in this section shall be construed to permit dispensing or distribution,
11 as defined in section ~~12-42.5-102(11) and (12)~~ **12-280-XXX (XX) AND (XX)**, by an advanced
12 practice nurse, except for samples, under article ~~42.5 280~~ of this title **12** and the federal
13 "Prescription Drug Marketing Act of 1987".

14 ~~(11)~~ (10) No advanced practice nurse registered pursuant to section ~~12-38-111.5~~
15 **12-255-111** shall be required to apply for or obtain prescriptive authority.

16 ~~(12)~~ (11) Nothing in this section shall limit the practice of nursing ~~as defined in~~
17 ~~section 12-38-103(9) or (10)~~ by any nurse including, but not limited to, advanced practice
18 nurses.

19 <{ ***Should 12-255-128 re prescribing opiate antagonists be combined with this section or***
20 ***subsection (6) of this section regarding opiate prescription authority?*** }>

21
22 **12-255-113. [Formerly 12-38-111.8] Professional liability insurance required -**
23 **advanced practice nurses in independent practice - rules.** (1) It is unlawful for any
24 advanced practice nurse engaged in an independent practice of professional nursing to
25 practice within the state of Colorado unless the advanced practice nurse purchases and
26 maintains or is covered by professional liability insurance in an amount not less than five
27 hundred thousand dollars per claim with an aggregate liability for all claims during the year
28 of one million five hundred thousand dollars.

29 (2) Professional liability insurance required by this section shall cover all acts within
30 the scope of practice of an advanced practice nurse as defined in this ~~part~~ **ARTICLE 255**.

31 (3) Notwithstanding the requirements of subsection (1) of this section, the board, by
32 rule, may exempt or establish lesser liability insurance requirements for advanced practice
33 nurses.

34 (4) Nothing in this section shall be construed to confer liability on an employer for
35 the acts of an advanced practice nurse that are outside the scope of employment or to negate
36 the applicability of the "Colorado Governmental Immunity Act", article 10 of title 24. ~~C.R.S.~~

37
38 **12-255-114. [Formerly 12-38-112] Requirements for practical nurse licensure.**

39 (1) The board shall issue a license to engage in the practice of practical nursing to any
40 applicant who:

41 (a) Submits an application containing ~~such~~ information as the board may prescribe;

1 (b) Submits proof satisfactory to the board in ~~such~~ THE manner and upon ~~such~~ THE
2 forms as the board may require to show that the applicant has completed a practical nursing
3 educational program ~~which~~ THAT meets the standards of the board for approval of
4 educational programs or ~~which~~ THAT is approved by the board and to show that the applicant
5 holds a certificate of graduation from or a certificate of completion of ~~such~~ THE approved
6 program;

7 ~~(e) Repealed.~~

8 ~~(d)~~ (c) Passes an examination as provided in section ~~12-38-110~~ **12-255-109** or is
9 eligible for and is granted licensure by endorsement as provided in subsection (2) of this
10 section;

11 ~~(e)~~ (d) Pays the required fee.

12 (2) The board may issue a license by endorsement to engage in the practice of
13 practical nursing in this state to any applicant who has been duly licensed or registered as a
14 practical nurse or who is entitled to perform similar services under laws of another state or
15 a territory of the United States or a foreign country if the applicant presents proof satisfactory
16 to the board that, at the time of application for a Colorado license by endorsement, the
17 applicant possesses credentials and qualifications ~~which~~ THAT are substantially equivalent
18 to requirements in Colorado for licensure by examination. The board may specify by rule ~~and~~
19 ~~regulation~~ what shall constitute substantially equivalent credentials and qualifications.

20 (3) The board shall design a questionnaire to be sent to all licensed practical nurses
21 who apply for license renewal. Each applicant for license renewal shall complete the
22 board-designed questionnaire. The purpose of the questionnaire is to determine whether a
23 licensee has acted in violation of this article **255** or been disciplined for any action that might
24 be considered a violation of this article **255** or might make the licensee unfit to practice
25 nursing with reasonable care and safety. If an applicant fails to answer the questionnaire
26 accurately, ~~such~~ THE failure shall constitute grounds for discipline under section ~~12-38-117~~
27 ~~(1)(v)~~ **12-255-120 (1)(v)**. The board may include the cost of developing and reviewing the
28 questionnaire in the fee paid under ~~paragraph (e) of subsection (1)~~ SUBSECTION (1)(d) of this
29 section. The board may refuse an application for license renewal that does not accompany
30 an accurately completed questionnaire.

31
32 **12-255-115. [Formerly 12-38-112.5] Retired volunteer nurse licensure.** (1) The
33 board may issue a license to a retired volunteer nurse who meets the requirements set forth
34 in this section.

35 (2) A retired volunteer nursing license shall only be issued to an applicant who is at
36 least fifty-five years of age and:

37 (a) Currently holds a license to practice nursing, either as a practical nurse or as a
38 professional nurse, and ~~such~~ THE license is due to expire unless renewed; or

39 (b) Has retired from the practice of nursing and is not currently engaged in the
40 practice of nursing either full-time or part-time and has, prior to retirement, maintained full
41 licensure in good standing in any state or territory of the United States.

1 (3) A nurse who holds a retired volunteer nursing license shall not accept
2 compensation for nursing tasks that are performed while in possession of the license. A
3 retired volunteer nursing license shall permit the retired nurse to engage in volunteer nursing
4 tasks within the scope of the nurse's license.

5 (4) An applicant for a retired volunteer nursing license shall submit to the board an
6 application containing ~~such~~ THE information as the board may prescribe, a copy of the
7 applicant's most recent nursing license, and a statement signed under penalty of perjury in
8 which the applicant agrees not to receive compensation for any nursing tasks that are
9 performed while in possession of the license.

10 ~~(5) (Deleted by amendment, L. 2011, (SB 11-242), ch. 244, p. 1068, § 1, effective~~
11 ~~May 27, 2011.)~~

12 ~~(6)~~ (5) A person who possesses a retired volunteer nursing license shall be immune
13 from civil liability for actions performed within the scope of the nursing license unless it is
14 established that injury or death was caused by gross negligence or the willful and wanton
15 misconduct of the licensee. The immunity provided in this subsection ~~(6)~~ (5) shall apply only
16 to the licensee and shall not affect the liability of any other individual or entity. Nothing in
17 this subsection ~~(6)~~ (5) shall be construed to limit the ability of the board to take disciplinary
18 action against a licensee.

19 ~~(7)~~ (6) The fee for a retired volunteer nursing license, including assessments for legal
20 defense, peer assistance, and other programs for which licenses are assessed, shall be no
21 more than fifty percent of the license renewal fee, including all ~~such~~ assessments, established
22 by the board for an active nursing license.

23 ~~(8)~~ (7) The board shall design a questionnaire to be sent to all retired volunteer nurses
24 who apply for license renewal. Each applicant for license renewal shall complete the
25 board-designed questionnaire. The purpose of the questionnaire is to determine whether a
26 licensee has acted in violation of this article 255 or been disciplined for any action that might
27 be considered a violation of this article 255 or might make the licensee unfit to practice
28 nursing with reasonable care and safety. If an applicant fails to answer the questionnaire
29 accurately, ~~such~~ THE failure shall constitute grounds for discipline under section ~~12-38-117~~
30 ~~(1)(v)~~ 12-255-120 (1)(v). The board may include the cost of developing and reviewing the
31 questionnaire in the fee paid under subsection ~~(7)~~ (6) of this section. The board may refuse
32 an application for license renewal that does not accompany an accurately completed
33 questionnaire.

34 ~~(9)~~ (8) The board shall deny an application for the reactivation of a practical or
35 professional nurse license for a retired volunteer nurse if the board determines that the nurse
36 requesting reactivation has not actively volunteered as a nurse for the two-year period
37 immediately preceding the filing of the application for license reactivation or has not
38 otherwise demonstrated continued competency to return to the active practice of nursing in
39 a manner approved by the board.

40
41 ~~12-38-113. Denial of license. (Repealed)~~

1 **12-255-116. [Formerly 12-38-114] Persons licensed under previous laws.** Any
2 person holding a valid Colorado license to engage in the practice of practical or professional
3 nursing issued prior to July 1, 1980, shall continue to be licensed under the provisions of this
4 article **255**.

5
6 **12-255-117. [Formerly 12-38-115] Temporary licenses and permits.** (1) The board
7 may issue a temporary license to practice for a period of four months to an applicant for
8 licensure by endorsement, pending compliance with the requirements for licensure. To obtain
9 a temporary license, the applicant for licensure by endorsement shall show evidence of
10 current licensure in another state or country or in a territory of the United States.

11 ~~(2) Repealed.~~

12 ~~(3)~~ (2) The board may issue a permit to practice as a practical or professional nurse
13 for a period not to exceed two years or as determined by the board to any person from
14 another state or a territory of the United States or a foreign country who is in this state for
15 special training or for observation of nursing educational programs upon proof to the board
16 by ~~such~~ THE person that he OR SHE is currently licensed to practice as a nurse in the state,
17 territory, or country of his residency. The nursing practice permitted by ~~such~~ THE permit shall
18 be limited to that practice performed as part of the special training or nursing educational
19 program.

20 ~~(3.5)~~ (3) The board may, as it deems appropriate, issue a permit to a person who is
21 under the supervision of a professional nurse licensed pursuant to this article **255**.

22 (4) A person holding a permit may engage in the practice of practical or professional
23 nursing only under the personal and responsible supervision and direction of a person
24 licensed by the board to engage in the practice of professional nursing.

25 (5) The board shall summarily withdraw a temporary license or permit issued
26 pursuant to this section if the board determines that the license holder fails to meet the
27 requirements of this section or section ~~12-38-110, 12-38-111, or 12-38-112~~ **12-255-109,**
28 **12-255-110,** OR **12-255-114**. The holder of a temporary license or permit summarily
29 withdrawn has the right to a hearing ~~which~~ THAT shall be conducted pursuant to article 4 of
30 title 24 C.R.S., **AND SECTION 12-20-403** by the board, or by an administrative law judge at
31 the board's discretion. <{**Adding a cross reference to the disciplinary proceedings common**
32 **provision, 12-20-403.**>

33
34 **12-255-118. [Formerly 12-38-116] Approval of educational programs.** (1) Any
35 institution in this state desiring to receive from the board approval of its educational program
36 ~~which~~ THAT prepares individuals for licensure as a practical or as a professional nurse shall
37 apply to the board and submit evidence that it is prepared to carry out an educational program
38 ~~which~~ THAT complies with the provisions of this article **255** and with rules and regulations
39 adopted by the board pursuant to this article **255**.

40 (2) For the practice of practical nursing, ~~such~~ THE educational program shall include:

1 (a) Content fundamental to the knowledge and skills required for clinical nursing
2 appropriate to the practice of practical nursing;

3 (b) Content relating to the principles of biological, physical, social, and behavioral
4 sciences.

5 (3) For the practice of professional nursing, ~~such~~ THE educational program shall
6 include:

7 (a) Content fundamental to the knowledge and skills required for clinical nursing
8 appropriate to the practice of professional nursing;

9 (b) Content relating to the principles of biological, physical, social, and behavioral
10 sciences.

11 (4) Any educational program for practical or professional nurses in this state ~~which~~
12 THAT was accredited by the former boards of nursing prior to July 1, 1980, shall be deemed
13 to be an approved educational program for the purpose of this article 255, but ~~such~~ THE
14 approval shall be subject to the powers and duties of the board under section ~~12-38-108~~
15 **12-255-107** to deny or to withdraw approval.

16
17 **12-255-119. [Formerly 12-38-116.5] Disciplinary procedures of the board -**
18 **inquiry and hearings panels - mental and physical examinations - definitions.**

19 (1) (a) The president of the board shall divide the other ten members of the board into two
20 panels of five members each. Members representing the three different categories of
21 membership (licensed practical nurses, professional nurses, and persons not licensed,
22 employed, or in any way connected with, or with any financial interest in, any health care
23 facility, agency, or insurer) shall be divided between the two panels as equally as possible.

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

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

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

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

1 (3) (a) (I) For the purposes of this section:

2 (A) "Grounds for discipline" includes grounds under sections ~~12-38-117~~ **12-255-120**
3 and ~~12-42-113~~ **12-295-XXX**.

4 (B) "License" includes licensure for a practical nurse or professional nurse and
5 licensure for a psychiatric technician.

6 (C) "Nurse", "licensee", or "respondent" includes a practical nurse, a professional
7 nurse, and a psychiatric technician as described in section ~~12-42-102 (4)~~ **12-295-XXX (X)**.

8 (D) "Practice of nursing" includes the practice of practical nursing, the practice of
9 professional nursing, and the practice as a psychiatric technician.

10 (II) Written complaints relating to the conduct of a nurse licensed or authorized to
11 practice nursing in this state may be made by any person or may be initiated by an inquiry
12 panel of the board on its own motion. The nurse complained of shall be given notice, unless
13 the board determines the complaint to be without merit of investigation, by first-class mail,
14 and the notice shall state the nature of the complaint and shall state that the failure to respond
15 in a materially factual and timely manner constitutes grounds for discipline. The nurse
16 complained of shall be given thirty days to answer or explain in writing the matters described
17 in such complaint. Upon receipt of the nurse's answer or at the conclusion of thirty days,
18 whichever occurs first, the inquiry panel may take further action as set forth in ~~subparagraph~~
19 ~~(H)~~ of this paragraph (a) SUBSECTION (3)(a)(III) OF THIS SECTION.

20 (III) Upon receipt of the nurse's answer or the conclusion of thirty days, the inquiry
21 panel may conduct a further investigation that may be made by one or more members of the
22 inquiry panel, one or more nurses who are not members of the board, a member of the staff
23 of the board, a professional investigator, or any other person or organization as the inquiry
24 panel directs. ~~Any such~~ THE investigation shall be entirely informal.

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

26 (I) Disciplinary action taken by an employer of a nurse against the nurse or
27 resignation in lieu of a disciplinary action for conduct that constitutes grounds for discipline
28 under section ~~12-38-117~~ **12-255-120** or ~~12-42-113~~. ~~Such~~ **12-295-XXX**. THE employer shall
29 report ~~such~~ THE disciplinary action or resignation to the board.

30 (II) An instance of a malpractice settlement or judgment against a nurse;

31 (III) A nurse who has not timely renewed his or her license and the nurse is actively
32 engaged in the practice of nursing.

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

34 (I) The complaint is without merit and no further action need be taken;

35 (II) There is no reasonable cause to warrant further action on the complaint;

36 (III) An instance of conduct occurred that does not warrant formal action by the board
37 and that should be dismissed, but that indications of possible conduct by the nurse were noted
38 that could lead to serious consequences if not corrected. In such a case, **a confidential letter**
39 **of concern shall be sent PURSUANT TO SECTION 12-20-404 (5)** to the nurse against whom the
40 complaint was made. ~~<{Adding a cross reference to the confidential letter of concern~~
41 ~~common provisions, 12-20-404 (5).}>~~

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

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

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

13 (V) ~~(A)~~ Facts were disclosed that warrant further proceedings by formal complaint,
14 as provided in subsection (4) of this section, and that the complaint should be referred to the
15 attorney general for preparation and filing of a formal complaint.

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

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

27 (b) Except as provided in subsection (1) of this section, an administrative law judge
28 shall preside at the hearing and shall advise the hearings panel on all ~~such~~ legal matters in
29 connection with the hearing as the panel may request. The administrative law judge shall
30 provide such advice or assistance as the hearings panel may request in connection with the
31 preparation of its findings and recommendations or conclusions. ~~Such~~ THE administrative
32 law judge shall have the authority to administer oaths and affirmations, sign and issue
33 subpoenas, ~~MAY ACT IN ACCORDANCE WITH SECTION 12-20-403~~ and perform such other duties
34 as the hearings panel may authorize the administrative law judge to perform. ~~Such~~ THE
35 administrative law judge shall have the qualifications provided in section 24-30-1003 (2).
36 C.R.S. <{Recommend amending and adding a reference to the disciplinary procedures
37 common provision, 12-20-403.}>

38 (c) (I) To warrant a finding of grounds for discipline, the charges shall be established
39 as specified in section 24-4-105 (7). C.R.S. Except as provided in subsection (1) of this
40 section, the hearings panel shall make a report of its findings and conclusions that, when
41 approved by a majority of those members of the hearings panel who have conducted the

1 hearing pursuant to ~~paragraphs (a) and (b) of this subsection (4)~~ SUBSECTIONS (4)(a) AND
2 (4)(b) OF THIS SECTION, shall be the action of the board.

3 (II) If it is found that the charges are unproven, the hearings panel, or an
4 administrative law judge sitting in lieu of the hearings panel pursuant to subsection (1) of this
5 section, shall enter an order dismissing the complaint.

6 (III) If the hearings panel finds the charges proven and orders that discipline be
7 imposed, it shall also determine the extent of ~~such~~ THE discipline, which may be in the form
8 of a letter of admonition regarding a license or suspension for a definite or indefinite period,
9 revocation, or nonrenewal of a license to practice. In addition to any other discipline that may
10 be imposed pursuant to this section, the hearings panel may impose a fine of no less than two
11 hundred fifty dollars but no more than one thousand dollars per violation on any nurse who
12 violates this article 255 or any rule adopted pursuant to this article 255. The board shall adopt
13 rules establishing a fine structure and the circumstances under which fines may be imposed.
14 ~~All fines collected pursuant to this subparagraph (III) shall be transmitted to the state~~
15 ~~treasurer who shall credit the same to the general fund.~~

16 (IV) In determining appropriate disciplinary action, the hearings panel shall first
17 consider sanctions that are necessary to protect the public. Only after the panel has
18 considered such sanctions shall it consider and order requirements designed to rehabilitate
19 the nurse. If discipline other than revocation of a license to practice is imposed, the hearings
20 panel may also order that the nurse be granted probation and allowed to continue to practice
21 during the period of ~~such~~ THE probation. The hearings panel may also include in any
22 disciplinary order that allows the nurse to continue to practice such conditions as the panel
23 may deem appropriate to assure that the nurse is physically, mentally, and otherwise qualified
24 to practice nursing in accordance with generally accepted standards of practice, including any
25 of the following: <{*Redundant with disposition of fines common provision, 12-20-404 (6).*
26 *Recommend repeal. Also recommend splitting subparagraph (IV) from subparagraph*
27 *(III)}*>

28 (A) Submission by the respondent to such examinations as the hearings panel may
29 order to determine the respondent's physical or mental condition or the respondent's
30 professional qualifications;

31 (B) The taking by the respondent of such therapy or courses of training or education
32 as may be needed to correct deficiencies found either in the hearing or by ~~such~~ THE
33 examinations;

34 (C) The review or supervision of the respondent's practice of nursing as may be
35 necessary to determine the quality of the respondent's practice of nursing and to correct
36 deficiencies therein; or

37 (D) The imposition of restrictions upon the nature of the respondent's practice to
38 assure that the respondent does not practice beyond the limits of the respondent's capabilities.

39 ~~(IV)~~ (V) Upon the failure of the respondent to comply with any conditions imposed
40 by the hearings panel pursuant to ~~subparagraph (III) of this paragraph (c)~~ SUBSECTION
41 (4)(c)(IV) OF THIS SECTION, the hearings panel may order revocation or suspension of the

1 respondent's license to practice in this state until ~~such time as~~ the respondent complies with
2 ~~such~~ THE conditions.

3 ~~(V)~~ (VI) In making any of the orders provided in subparagraphs ~~(III)~~ and ~~(IV)~~ of this
4 paragraph ~~(c)~~ SUBSECTIONS (4)(c)(IV) AND (4)(c)(V) OF THIS SECTION, the hearings panel
5 may take into consideration the respondent's prior disciplinary record. If the hearings panel
6 does take into consideration any prior discipline of the respondent, its findings and
7 recommendations shall so indicate.

8 ~~(VI)~~ (VII) In all cases of revocation, suspension, probation, or nonrenewal, the board
9 shall enter in its records the facts of ~~such~~ THE revocation, suspension, probation, or
10 nonrenewal and of any subsequent action of the board with respect thereto.

11 (d) The attorney general shall prosecute those charges that have been referred to the
12 office of the attorney general by the inquiry panel pursuant to subparagraph ~~(V)~~ of paragraph
13 ~~(c)~~ of subsection ~~(3)~~ SUBSECTION (3)(c)(V) of this section. The board may direct the attorney
14 general to perfect an appeal.

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

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

26 (6) Upon the expiration of any term of suspension, the license shall be reinstated by
27 the board if the board is furnished with evidence that the nurse has complied with all terms
28 of the suspension. If ~~such~~ THE evidence shows the nurse has not complied with all terms of
29 the suspension, the board may revoke or continue the suspension of the license at a hearing,
30 notice of which and the procedure at which shall be as provided in this section.

31 (7) In case any nurse is determined to be mentally incompetent or insane by a court
32 of competent jurisdiction and a court enters, pursuant to part 3 or part 4 of article 14 of title
33 15 or section 27-65-109 (4) or 27-65-127, ~~C.R.S.~~, an order specifically finding that the
34 mental incompetency or insanity is of such a degree that the nurse is incapable of continuing
35 the practice of nursing, the nurse's license shall automatically be suspended by the board,
36 and, notwithstanding any provision of this article 255 to the contrary, ~~such~~ THE suspension
37 shall continue until the nurse is found by ~~such~~ THE court to be competent to continue the
38 practice of nursing.

39 (8) (a) **If the board has reasonable cause to believe that a nurse is unable to practice**
40 **nursing with reasonable skill and safety to patients because of a condition described in**
41 **section ~~12-38-117 (1)(i) or (1)(j)~~ 12-255-XXX (X)(X) OR (X)(X) or section ~~12-42-113 (1)(i)~~**

1 ~~or (1)(j) 12-295-120 (1)(i) OR (1)(j)~~, it may require ~~such~~ THE nurse to submit to mental or
2 physical examinations by a physician or other licensed health care professional designated
3 by the board IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION 12-30-108. If a
4 nurse fails to submit to such mental or physical examinations, the board may suspend the
5 nurse's license until the required examinations are conducted.

6 (b) ~~Every nurse shall be deemed, by so practicing or by applying for renewal~~
7 ~~registration of such nurse's license, to have consented to submit to mental or physical~~
8 ~~examinations when directed in writing by the board. Further, such nurse shall be deemed to~~
9 ~~have waived all objections to the admissibility of the examining physician's or other licensed~~
10 ~~health care professional's testimony or examination reports on the ground of privileged~~
11 ~~communication. Subject to applicable federal law, such nurse shall be deemed to have~~
12 ~~waived all objections to the production of medical records to the board from health care~~
13 ~~providers that may be necessary for the evaluations described in paragraph (a) of this~~
14 ~~subsection (8). Nothing in this section shall prevent the nurse from submitting to the board~~
15 ~~testimony or examination reports of a physician or other licensed health care professional~~
16 ~~designated by the nurse to a condition described in paragraph (a) of this subsection (8)~~
17 ~~SUBSECTION (8)(a) OF THIS SECTION that may be considered by the board in conjunction with,~~
18 ~~but not in lieu of, testimony and examination reports of the physician or licensed health care~~
19 ~~professional designated by the board.~~

20 (c) ~~The results of any mental or physical examination ordered by the board shall not~~
21 ~~be used as evidence in any proceeding other than before the board and shall not be deemed~~
22 ~~a public record nor made available to the public.~~

23 (d) (c) ~~The board may require that a nurse submit medical records for review in~~
24 ~~conjunction with an investigation made pursuant to paragraph (a) of this subsection (8)~~
25 ~~SUBSECTION (8)(a) OF THIS SECTION; except that such records shall remain confidential and~~
26 ~~shall be reviewed by the board only to the extent necessary to conduct an investigation.~~
27 ~~<{Redundant with mental/physical exams common provision, 12-30-108. Recommend~~
28 ~~amendment as indicated.}>~~

29 (9) (a) Investigations, examinations, hearings, meetings, or any other proceedings of
30 the board conducted pursuant to the provisions of this section shall be exempt from the open
31 meetings provisions of the "Colorado Sunshine Act of 1972" contained in part 4 of article
32 6 of title 24, ~~C.R.S.~~, requiring that proceedings of the board be conducted publicly, and the
33 open records provisions of article 72 of title 24, ~~C.R.S.~~, requiring that the minutes or records
34 of the board with respect to action of the board taken pursuant to the provisions of this
35 section be open to public inspection.

36 (b) Notwithstanding the exemptions in ~~paragraph (a) of this subsection (9)~~
37 ~~SUBSECTION (9)(a) OF THIS SECTION~~, records of disciplinary action taken by the board
38 pursuant to this section shall be open to public inspection pursuant to the open records
39 provisions of article 72 of title 24. ~~C.R.S.~~

40 (10) A physician or other licensed health care professional who, at the request of the
41 board, examines a nurse shall be immune from suit for damages by the nurse examined if the

1 examining physician or examining licensed health care professional conducted the
2 examination and made findings or a diagnosis in good faith. <{*This differs from the*
3 *immunity common provision, 12-20-402, so no change is recommended.*}>

4 (11) All investigations completed or in progress pursuant to section 12-38-117 or
5 12-42-113, as said sections existed on June 30, 1999, including those cases that have been
6 referred to hearing, are before an administrative law judge, or are awaiting final disposition
7 by the board, shall be referred to a panel of the board by the director of the division of
8 professions and occupations for final adjudication. All actions taken and decisions rendered
9 by the board prior to July 1, 1999, are hereby ratified. <{*Does the highlighted language*
10 *have any continuing effect? Recommend repeal.*}>

11 (12) Final board action may be judicially reviewed in the court of appeals, and IN
12 ACCORDANCE WITH SECTION 12-20-408. Judicial proceedings for the enforcement of a board
13 order may be instituted in accordance with section 24-4-106. C.R.S. <{*Redundant with*
14 *judicial review common provision, 12-20-408. Recommend amending as indicated.*}>

15 (13) (a) The board or an administrative law judge shall have the power to administer
16 oaths, take affirmations of witnesses, and issue subpoenas to compel the attendance of
17 witnesses and the production of all relevant papers, books, records, documentary evidence,
18 and materials in any hearing, investigation, accusation, or other matter coming before the
19 board. The board may appoint an administrative law judge pursuant to part 10 of article 255
20 30 of title 24, C.R.S., to take evidence and to make findings and report them to the board
21 including, but not limited to, hospital and physician records. MAY CONDUCT DISCIPLINARY
22 PROCEEDINGS IN ACCORDANCE WITH SECTION 12-20-403. Upon certification of the custodian
23 that the copies OF SUBPOENAED RECORDS are true and complete except for the patient's name,
24 the copies shall be deemed authentic, subject to the right to inspect the originals for the
25 limited purpose of ascertaining the accuracy of the copies. No privilege of confidentiality
26 shall exist with respect to such copies, and no liability shall lie against the board or the
27 custodian or the custodian's authorized employee for furnishing or using such copies in
28 accordance with this subsection (13).

29 (b) Upon failure of any witness to comply with such subpoena or process, the district
30 court of the county in which the subpoenaed person or licensee resides or conducts business,
31 upon application by the board or director with notice to the subpoenaed person or licensee,
32 may issue to the person or licensee an order requiring that person or licensee to appear before
33 the board or director; to produce the relevant papers, books, records, documentary evidence,
34 or materials if so ordered; or to give evidence touching the matter under investigation or in
35 question. Failure to obey the order of the court may be punished by the court as a contempt
36 of court. <{*Redundant with disciplinary procedures common provision, 12-20-403.*
37 *Recommend amending as indicated.*}>

38 (14) Any member of the board or the board's staff, any person acting as a witness or
39 consultant to the board, any witness testifying in a proceeding authorized under this article,
40 and any person who lodges a complaint pursuant to this article shall be immune from liability
41 in any civil action brought against him or her for acts occurring while acting in his or her

1 capacity as board member, staff, consultant, or witness, respectively, if such individual was
2 acting in good faith within the scope of his or her respective capacity, made a reasonable
3 effort to obtain the facts of the matter as to which he or she acted, and acted in the reasonable
4 belief that the action taken by him or her was warranted by the facts. Any person
5 participating in good faith in the making of a complaint or report or participating in any
6 investigative or administrative proceeding pursuant to this article shall be immune from any
7 liability, civil or criminal, that otherwise might result by reason of such participation.
8 <{*Redundant with the immunity common provision, 12-20-402. Recommend repeal.*}>

9 (15) (a) If it appears to the board, based upon credible evidence as presented in a
10 written complaint by any person, that a licensee or registrant is acting in a manner that is an
11 imminent threat to the health and safety of the public, or a person is acting or has acted
12 without the required license or registration, the board may issue an order to cease and desist
13 such activity. The order shall set forth the statutes and rules alleged to have been violated,
14 the facts alleged to have constituted the violation, and the requirement that all unlawful acts
15 or unlicensed or unregistered practices immediately cease.

16 (b) Within ten days after service of the order to cease and desist pursuant to paragraph
17 (a) of this subsection (15), the respondent may request a hearing on the question of whether
18 acts or practices in violation of this part 1 have occurred. Such hearing shall be conducted
19 pursuant to sections 24-4-104 and 24-4-105, C.R.S.

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

26 (b) A person against whom an order to show cause has been issued pursuant to
27 paragraph (a) of this subsection (16) shall be promptly notified by the board of the issuance
28 of the order, along with a copy of the order, the factual and legal basis for the order, and the
29 date set by the board for a hearing on the order. Such notice may be served by personal
30 service, by first-class United States mail, postage prepaid, or as may be practicable upon any
31 person against whom such order is issued. Personal service or mailing of an order or
32 document pursuant to this subsection (16) shall constitute notice thereof to the person.

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

40 (II) If a person against whom an order to show cause has been issued pursuant to
41 paragraph (a) of this subsection (16) does not appear at the hearing, the board may present

evidence that notification was properly sent or served upon such person pursuant to paragraph (b) of this subsection (16) and such other evidence related to the matter as the board deems appropriate. The board shall issue the order within ten days after the board's determination related to reasonable attempts to notify the respondent, and the order shall become final as to that person by operation of law. Such hearing shall be conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S.

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

(IV) The board shall provide notice, in the manner set forth in paragraph (b) of this subsection (16), of the final cease-and-desist order within ten calendar days after the hearing conducted pursuant to this paragraph (c) to each person against whom such order has been issued. The final order issued pursuant to subparagraph (III) of this paragraph (c) shall be effective when issued and shall be a final order for purposes of judicial review.

(17) If it appears to the board, based upon credible evidence presented to the board, that a person has engaged in or is about to engage in any unlicensed or unregistered act or practice, any act 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.

(18) 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.

(19) 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 subsection (12) of this section.

(14) THE BOARD MAY ISSUE CEASE-AND-DESIST ORDERS UNDER THE CIRCUMSTANCES AND IN ACCORDANCE THE PROCEDURES SPECIFIED IN SECTION 12-20-405. <{*Subsections (15) through (19) redundant with cease-and-desist orders common provision, 12-20-405. Recommend repeal and replacing with cross-reference to cease-and-desist orders common provisions.*}>

12-255-120. [Formerly 12-38-117] Grounds for discipline. (1) "Grounds for discipline", as used in this article 255, means any action by any person who:

- (a) Has procured or attempted to procure a license by fraud, deceit, misrepresentation, misleading omission, or material misstatement of fact;
- (b) (I) Has been convicted of a felony or any crime that would constitute a violation

1 of this article 255.

2 (II) (A) For purposes of this ~~paragraph (b)~~ SUBSECTION (1)(b), "conviction" includes
3 the entry of a plea of guilty or nolo contendere or the imposition of a deferred sentence.

4 (B) A certified copy of the judgment of a court of competent jurisdiction of ~~such~~ THE
5 conviction or plea shall be prima facie evidence of ~~such~~ THE conviction.

6 ~~(H) Repealed.~~

7 (c) Has willfully or negligently acted in a manner inconsistent with the health or
8 safety of persons under his care;

9 (d) Has had a license to practice nursing or any other health care occupation
10 suspended or revoked in any jurisdiction. A certified copy of the order of suspension or
11 revocation shall be prima facie evidence of ~~such~~ THE suspension or revocation.

12 (e) Has violated any provision of this article 255 or has aided or knowingly permitted
13 any person to violate any provision of this article 255;

14 (f) Has negligently or willfully practiced nursing in a manner ~~which~~ THAT fails to
15 meet generally accepted standards for ~~such~~ THE nursing practice;

16 (g) Has negligently or willfully violated any order OR rule ~~or regulation~~ of the board
17 pertaining to nursing practice or licensure;

18 (h) Has falsified or in a negligent manner made incorrect entries or failed to make
19 essential entries on patient records;

20 (i) Excessively uses or abuses alcohol, habit-forming drugs, controlled substances,
21 as defined in section 18-18-102 (5) ~~€R.S.~~, or other drugs having similar effects, or is
22 diverting controlled substances, as defined in section 18-18-102 (5) ~~€R.S.~~, or other drugs
23 having similar effects from the licensee's place of employment; except that the board has the
24 discretion not to discipline the licensee if ~~such~~ THE licensee is participating in good faith in
25 a program approved by the board designed to end ~~such~~ THE excessive use or abuse;

26 (j) Has a physical or mental disability ~~which~~ THAT renders ~~him~~ THE PERSON unable
27 to practice nursing with reasonable skill and safety to the patients and ~~which~~ THAT may
28 endanger the health or safety of persons under ~~his~~ THE PERSON'S care;

29 (k) Has violated the confidentiality of information or knowledge as prescribed by law
30 concerning any patient;

31 (l) Has engaged in any conduct ~~which~~ THAT would constitute a crime as defined in
32 title 18 ~~€R.S.~~, and ~~which~~ ~~conduct~~ THAT relates to ~~such~~ THE person's employment as a
33 practical or professional nurse. In conjunction with any disciplinary proceeding pertaining
34 to this ~~paragraph (l)~~ SUBSECTION (1)(l), the board shall be governed by the provisions of
35 section SECTIONS 12-20-202 (5) AND 24-5-101. ~~€R.S.~~ <{Adding a reference to the criminal
36 conviction common provision, 12-20-202 (5).}>

37 (m) (I) Has violated abuse of health insurance pursuant to section 18-13-119; ~~€R.S.~~;
38 or

39 (II) Has advertised through newspapers, magazines, circulars, direct mail, directories,
40 radio, television, or otherwise that the licensee will perform any act prohibited by section
41 18-13-119 (3); ~~€R.S.~~;

1 (n) Has engaged in any of the following activities and practices: Willful and repeated
2 ordering or performance, without clinical justification, of demonstrably unnecessary
3 laboratory tests or studies; the administration, without clinical justification, of treatment
4 ~~which~~ THAT is demonstrably unnecessary; the failure to obtain consultations or perform
5 referrals when failing to do so is not consistent with the standard of care for the profession;
6 or ordering or performing, without clinical justification, any service, X ray, or treatment
7 ~~which~~ THAT is contrary to recognized standards of the practice of nursing as interpreted by
8 the board;

9 (o) Has committed a fraudulent insurance act, as defined in section 10-1-128; ~~C.R.S.~~;

10 (p) Has prescribed, distributed, or given to himself or herself or a family member any
11 controlled substance as defined in part 2 of article 18 of title 18 ~~C.R.S.~~; or as contained in
12 schedule II of 21 U.S.C. sec. 812;

13 (q) Has dispensed, injected, or prescribed an anabolic steroid, as defined in section
14 18-18-102 (3), ~~C.R.S.~~, for the purpose of hormonal manipulation that is intended to increase
15 muscle mass, strength, or weight without a medical necessity to do so or for the intended
16 purpose of improving performance in any form of exercise, sport, or game;

17 (r) Has dispensed or injected an anabolic steroid, as defined in section 18-18-102 (3),
18 ~~C.R.S.~~, unless ~~such~~ THE anabolic steroid is dispensed from a pharmacy pursuant to a written
19 prescription or is dispensed by any person licensed to practice medicine in the course of ~~such~~
20 THE person's professional practice;

21 (s) Has administered, dispensed, or prescribed any habit-forming drug or any
22 controlled substance as defined in section 18-18-102 (5) ~~C.R.S.~~, other than in the course of
23 legitimate professional practice;

24 (t) Has been disciplined by another state, territory, or country based upon an act or
25 omission that is defined substantially the same as a ground for discipline pursuant to this
26 subsection (1);

27 (u) Willfully fails to respond in a materially factual and timely manner to a complaint
28 issued pursuant to section ~~12-38-116.5 (3)~~ **12-255-119 (3)**;

29 (v) Has failed to accurately complete and submit to the board the designated
30 questionnaire upon renewal of a license pursuant to section ~~12-38-111 (3), 12-38-112 (3), or~~
31 ~~12-38-112.5 (8)~~ **12-255-110 (3), 12-255-114 (3), OR 12-255-115 (7)**;

32 (w) (I) Represents himself or herself to an individual or to the general public by use
33 of any word or abbreviation to indicate or induce others to believe that he or she is a licensed
34 practical or professional nurse unless the person is actually licensed as a practical nurse or
35 professional nurse, respectively; or

36 (II) Uses the title "nurse", "registered nurse", "R.N.", "practical nurse", "trained
37 practical nurse", "licensed vocational nurse", "licensed practical nurse", or "L.P.N." unless
38 the person is licensed by the board;

39 (x) Practices as a practical or professional nurse during a period when the person's
40 license has been suspended, revoked, or placed on inactive status pursuant to section
41 ~~12-38-118.5~~ **12-255-122**;

1 (y) Sells or fraudulently obtains or furnishes a license to practice as a nurse or aids
2 or abets therein;

3 (z) Has failed to report to the board, within forty-five days after a final conviction,
4 that the person has been convicted of a crime, as defined in title 18; ~~C.R.S.~~;

5 (aa) Fails to maintain professional liability insurance in accordance with section
6 ~~12-38-111.8~~ **12-255-113**; or

7 (bb) Has verified by signature the articulated plan developed by an advanced practice
8 nurse pursuant to sections ~~12-36-106.4~~ **12-240-XXX** and ~~12-38-111.6 (4.5)~~ **12-255-112 (4)**
9 if the articulated plan fails to comply with the requirements of section ~~12-38-111.6~~
10 ~~(4.5)(b)(H)~~ **12-255-112 (4)(b)(II)**.

11 ~~(2) to (6) Repealed.~~

12
13 **12-255-121. [Formerly 12-38-118] Withholding or denial of license - hearing -**
14 **definitions.** (1) (a) The board is empowered to determine summarily whether an applicant
15 for a license or a temporary license to practice as a nurse possesses the qualifications required
16 by this article **255**, whether there is probable cause to believe that an applicant has done any
17 of the acts set forth in section ~~12-38-117~~ **12-255-120** as grounds for discipline, or whether
18 the applicant has had a license to practice nursing or any other health care occupation
19 revoked by any legally authorized board.

20 (b) As used in this section:

21 (I) "Applicant" includes a nurse seeking reinstatement or reactivation of a license
22 pursuant to section ~~12-38-118.5~~ **12-255-122**, but does not include a renewal applicant.

23 (II) "Legally authorized board" means a board created pursuant to the laws of this
24 state or of another state for the purpose of licensing or otherwise authorizing a person to
25 engage in a health care occupation. The term includes any governmental entity charged with
26 licensing or other oversight of persons engaged in a health care occupation.

27 (2) (a) (I) If the board determines that an applicant does not possess the qualifications
28 required by this article **255**, that probable cause exists to believe that an applicant has done
29 any of the acts set forth in section ~~12-38-117~~ **12-255-120**, or that the applicant has had a
30 nursing or other health care occupation license revoked by another legally authorized board,
31 the board may withhold or deny the applicant a license.

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

34 (III) The board may refuse to issue a license or may grant a license subject to terms
35 of probation if the board determines that an applicant for a license has not actively practiced
36 practical or professional nursing, or has not otherwise maintained continued competency, as
37 determined by the board, during the two years immediately preceding the application for
38 licensure under this article **255**.

39 (b) If the board refuses to issue a license to an applicant pursuant to ~~paragraph (a) of~~
40 ~~this subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION, the provisions of section 24-4-104
41 (9) ~~C.R.S.~~, shall apply. Upon ~~such~~ THE refusal, the board shall provide the applicant with a

1 statement in writing setting forth the following:

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

3 (A) Does not possess the qualifications required by this article **255**;

4 (B) Has had a nursing or other health care occupation license revoked or suspended
5 by another legally authorized board; or

6 (C) Has not actively practiced practical or professional nursing, or has not maintained
7 continued competency, during the previous two years; or

8 (II) The factual basis for probable cause that the applicant has done any of the acts
9 set forth in section ~~12-38-117~~ **12-255-120**.

10 (c) If the board refuses to issue a license to an applicant on the grounds that the
11 applicant's nursing or other health care occupation license was revoked by another legally
12 authorized board, the board may require the applicant to pass a written examination as
13 provided in section ~~12-38-110~~ **12-255-109** as a prerequisite to licensure. The applicant shall
14 not be allowed to take the written examination until at least two years after the revocation of
15 the nursing or other health care occupation license.

16 (3) If the applicant requests a hearing pursuant to the provisions of section 24-4-104
17 (9) ~~C.R.S.~~, and fails to appear without good cause at ~~such~~ THE hearing, the board may affirm
18 its prior action of withholding or denial without conducting a hearing.

19 (4) Following a hearing, the board shall affirm, modify, or reverse its prior action in
20 accordance with its findings at ~~such~~ THE hearing.

21 (5) No action shall lie against the board for the withholding or denial of a license or
22 temporary license without a hearing in accordance with the provisions of this section if the
23 board acted reasonably and in good faith.

24 (6) (a) At the hearing, the applicant shall have the burden of proof to show that:

25 (I) The applicant possesses the qualifications required for licensure under this article
26 **255**;

27 (II) The applicant's nursing or other health care occupation license was not revoked
28 by another legally authorized board; or

29 (III) The applicant has actively practiced practical or professional nursing, or has
30 maintained continued competency, during the two years prior to application for a license
31 under this article **255**.

32 (b) The board shall have the burden of proof to show commission of acts set forth in
33 section ~~12-38-117~~ **12-255-120**.

34
35 **12-255-122. [Formerly 12-38-118.5] Inactive license status - reactivation.** (1) A
36 nurse licensed pursuant to section ~~12-38-111~~ **12-255-110** or ~~12-38-112~~ **12-255-114** may
37 request that the board place his or her license on inactive status. ~~Such~~ THE request shall be
38 made in the form and manner designated by the board.

39 (2) A nurse requesting inactive license status shall provide an affidavit or other
40 document required by the board certifying that, immediately upon the conferral of inactive

1 status, the nurse shall not practice nursing in the state unless and until the nurse's license is
2 reactivated pursuant to subsection (6) of this section.

3 (3) Upon receiving the documentation pursuant to subsection (2) of this section, the
4 board shall approve a request for inactive license status. However, the board may deny such
5 a THE request if the board has probable cause to believe that the requesting nurse has
6 committed any of the acts set forth in section ~~12-38-117~~ **12-255-120**.

7 (4) ~~(a)~~ A license on inactive status shall constitute a single state license issued by
8 Colorado and without multistate licensure privilege pursuant to part 38 of article 60 of title
9 24.

10 ~~(b) (I) A license on inactive status shall constitute a single state license issued by~~
11 ~~Colorado and without multistate licensure privilege pursuant to part 32 of article 60 of title~~
12 ~~24.~~

13 ~~(II) This subsection (4)(b) is repealed, effective January 1, 2019. <{ This paragraph~~
14 ~~will be repealed before the 10/1/19 effective date of the title 12 recodification bill. }>~~

15 (5) A nurse with a license on inactive status is not authorized to practice nursing in
16 Colorado. Any nurse practicing nursing while his or her license is inactive shall be subject
17 to disciplinary action pursuant to section ~~12-38-116.5~~ **12-255-119** and criminal penalties
18 pursuant to section ~~12-38-123~~ **12-255-125**.

19 (6) (a) A nurse with a license on inactive status who wishes to resume the practice
20 of nursing shall file an application in the form and manner designated by the board and pay
21 the license reactivation fees established pursuant to section ~~12-38-108~~ **12-255-107**. The board
22 shall reactivate such license unless ~~paragraph (b) of this subsection (6)~~ SUBSECTION (6)(b)
23 OF THIS SECTION applies.

24 (b) The board shall deny an application for reactivation of an inactive license:

25 (I) Pursuant to section ~~12-38-118~~ **12-255-121**; or

26 (II) If the board determines that the nurse requesting reactivation has not actively
27 practiced nursing in another state for the two-year period immediately preceding the filing
28 of the request for reactivation or has not otherwise demonstrated continued competency to
29 return to the active practice of nursing in a manner approved by the board.

30
31 ~~**12-38-119. Mental and physical examination of licensees. (Repealed)**~~

32
33 ~~**12-38-120. Disciplinary proceedings - administrative law judges - judicial**~~
34 ~~**review. (Repealed)**~~

35
36 **12-255-123. [Formerly 12-38-121] Immunity in professional review.** (1) If a
37 professional review committee is established pursuant to section ~~12-38-109~~ **12-255-108** to
38 investigate the quality of care being given by a person licensed pursuant to this article **255**,
39 it shall include in its membership at least three persons licensed in the same category as the
40 licensee under review, but ~~such~~ THE committee may be authorized to act only by the board.

41 (2) **IN ADDITION TO THE PERSONS SPECIFIED IN SECTION 12-20-402, any member of the**

board or of a professional review committee authorized by the board, any member of the board's or committee's staff, AND any person acting as a witness or consultant to the board or committee any witness testifying in a proceeding authorized under this article 255, and any person who lodges a complaint pursuant to this article 255 shall be immune from liability in any civil action brought against him or her for acts occurring while acting in his or her capacity as board or committee member, staff, consultant, or witness, respectively, if such individual was acting in good faith within the scope of his or her respective capacity, made a reasonable effort to obtain the facts of the matter as to which he or she acted, and acted in the reasonable belief that the action taken by him or her was warranted by the facts. Any person participating in good faith in lodging a complaint or participating in any investigative or administrative proceeding pursuant to this article 255 shall be immune from any civil or criminal liability that may result from such participation IS GRANTED THE SAME IMMUNITY, AND IS SUBJECT TO THE SAME CONDITIONS FOR IMMUNITY, AS SPECIFIED IN SECTION 12-20-402. <{*Somewhat redundant with immunity common provision, section 12-20-402. Recommend amending as indicated.*}>

12-255-124. [Formerly 12-38-122] Surrender of license. (1) Prior to the initiation of an investigation or hearing, any licensee or temporary license holder may surrender his OR HER license to practice nursing.

(2) Following the initiation of an investigation or hearing and upon a finding that to do so would be in the public interest, the board may allow a licensee or temporary license holder to surrender his OR HER license to practice.

(3) The board shall not issue a license or temporary license or permit to a former licensee or temporary license or permit holder whose license has been surrendered unless the licensee meets all of the requirements of this article 255 for a new applicant, including the passing of an examination.

(4) The surrender of a license in accordance with this section removes all rights and privileges to practice nursing, including renewal of a license.

12-255-125. [Formerly 12-38-123] Unauthorized practice - penalties. (1) It is unlawful for any person

(a) to practice as a practical or professional nurse unless licensed therefor.

~~(b) to (d) Repealed.~~

(2) Any person who practices or offers or attempts to practice practical or professional nursing without an active license issued under this article commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., for the first offense, and for the second or any subsequent offense, the person commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S. 255 IS SUBJECT TO PENALTIES PURSUANT TO SECTION 12-20-407 (1)(a). <{*Redundant with unauthorized practice common provision, 12-20-407. Recommend amending as indicated.*}>

1 **12-255-126. [Formerly 12-38-124] Injunctive proceedings.** The board in the name
 2 of the people of the state of Colorado, may apply for SEEK injunctive relief through the
 3 attorney general in any court of competent jurisdiction to enjoin any person who does not
 4 possess a currently valid or active practical or professional nurse license from committing
 5 any act declared to be unlawful or prohibited by this article. If it is established that the
 6 defendant has been or is committing an act declared to be unlawful or prohibited by this
 7 article 255, the court or any judge thereof shall enter a decree perpetually enjoining said
 8 defendant from further committing such act IN ACCORDANCE WITH SECTION 12-20-406. In the
 9 case of a violation of any injunction issued under the provisions of this section, the court or
 10 any judge thereof may summarily try and punish the offender for contempt of court. Such
 11 injunctive proceedings shall be in addition to, and not in lieu of, all penalties and other
 12 remedies provided for in this article. <{*Other than the sentence regarding contempt of*
 13 *court, redundant with injunctive relief common provision, 12-20-406; recommend*
 14 *amendment as indicated.*>

15
 16 **12-255-127. Exclusions.** (1) [Formerly 12-38-125 (1)] No provision of this article
 17 255 shall be construed to prohibit:

- 18 (a) Gratuitous care of friends or members of the family;
- 19 (b) Domestic administration of family remedies or care of the sick by domestic
 20 servants, housekeepers, companions, or household aides of any type, whether employed
 21 regularly or because of an emergency of illness, but who shall not in any way assume to
 22 practice practical or professional nursing;
- 23 (c) Nursing assistance in the case of an emergency;
- 24 (d) The practice of nursing in this state by any legally qualified nurse of another state
 25 whose engagement requires him THE NURSE to accompany and care for a patient temporarily
 26 residing in this state, during the period of one such engagement, not to exceed six months in
 27 length, if such THE person does not represent or hold himself OR HERSELF out as a practical
 28 or professional nurse licensed to practice in this state;
- 29 (e) The practice of any nurse licensed in this state or another state or a territory of the
 30 United States who is employed by the United States government or any bureau, division, or
 31 agency thereof while in the discharge of his official duties;
- 32 (f) The practice of nursing by students enrolled in an educational program approved
 33 by the board when such THE practice is performed as part of an educational program prior
 34 to the graduation of such THE student;
- 35 (g) The practice of nursing by any nurse licensed in any other state or any territory
 36 of the United States or any other country enrolled in a baccalaureate or graduate program
 37 when such THE practice is performed as a part of such THE program;
- 38 (h) (H) The administration and monitoring of medications in facilities pursuant to part
 39 3 of article 1.5 of title 25; ~~C.R.S.~~
- 40 (H) ~~Repeated.~~
- 41 (i) (I) The administration of nutrition or fluids through gastrostomy tubes as provided

1 in sections 25.5-10-204 (2)(j) and 27-10.5-103 (2)(i) ~~C.R.S.~~; as a part of residential or day
2 program services provided through service agencies approved by the department of health
3 care policy and financing pursuant to section 25.5-10-206; ~~C.R.S.~~

4 ~~(H) Repealed:~~

5 (j) The administration of topical and aerosol medications within the scope of physical
6 therapy practice as provided in section ~~12-41-113 (2)~~ **12-285-XXX (X)**;

7 (k) The practice of administration and monitoring as defined in section 25-1.5-301
8 (1) and (3); ~~C.R.S.~~;

9 (l) The administration of medications by child care providers to children cared for in
10 family child care homes pursuant to section 26-6-119; ~~C.R.S.~~;

11 (m) A person who provides nonmedical support services from using the title
12 "Christian Science nurse" when offering or providing services to a member of his or her own
13 religious organization;

14 (n) (I) The administration of epinephrine auto-injectors by a licensee in a public
15 school or nonpublic school pursuant to a policy adopted in accordance with section
16 22-1-119.5; ~~C.R.S.~~;

17 (II) The issuance by an advanced practice nurse with prescriptive authority of
18 standing orders and protocols for the use of epinephrine auto-injectors for emergency use in
19 a public school or nonpublic school pursuant to a policy adopted in accordance with section
20 22-1-119.5; ~~C.R.S.~~; or

21 (III) The training by a licensee of and the delegation to designated school personnel
22 on the recognition of the symptoms of anaphylactic shock and on the administration of
23 epinephrine auto-injectors in a public school or nonpublic school pursuant to a policy
24 adopted in accordance with section 22-1-119.5; ~~C.R.S.~~;

25 (o) A prescription by an advanced practice nurse with prescriptive authority for the
26 use of epinephrine auto-injectors by an authorized entity in accordance with article 47 of title
27 25. ~~C.R.S.~~

28 (2) **[Formerly 12-38-126]** No provision in this article 255 shall be construed as
29 applying to a person who nurses or cares for the sick in accordance with the practice or tenets
30 of any church or religious denomination that teaches reliance upon spiritual means through
31 prayer for healing, and who does not hold himself or herself out to the public to be a licensed
32 practical or professional nurse.

33 (3) **[Formerly 12-38-128]** Nothing in this article 255 shall be deemed to prohibit any
34 licensee from practicing practical or professional nursing independently for compensation
35 upon a fee for services basis. Nothing in this article 255 shall be deemed to prohibit or
36 require the direct reimbursement for nursing services and care through qualified
37 governmental and insurance programs to persons duly licensed in accordance with this article
38 255.

39 (4) **[Formerly 12-38-130]** Nothing in this article 255 shall be interpreted as conveying
40 to the practice of nursing the performance of medical practice as regulated by article ~~36~~ **240**
41 of this title **12**.

1 <{ *Should 12-255-128 be combined with the prescription authority section, 12-255-112, or*
2 *subsection (6) of that section regarding opiate prescription authority?* }>
3

4 **12-255-128. [Formerly 12-38-125.5] Prescribing opiate antagonists - definitions.**

5 (1) An advanced practice nurse with prescriptive authority pursuant to section ~~12-38-111.6~~
6 **12-255-112** may prescribe or dispense, directly or in accordance with standing orders and
7 protocols, an opiate antagonist to:

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

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

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

12 (d) A first responder.

13 (2) An advanced practice nurse with prescriptive authority who prescribes or
14 dispenses an opiate antagonist pursuant to this section is strongly encouraged to educate
15 persons receiving the opiate antagonist on the use of an opiate antagonist for overdose,
16 including instruction concerning risk factors for overdose, recognizing an overdose, calling
17 emergency medical services, rescue breathing, and administering an opiate antagonist.

18 (3) An advanced practice nurse with prescriptive authority does not engage in conduct
19 that is grounds for discipline pursuant to section ~~12-38-117~~ **12-255-120** if the advanced
20 practice nurse issues standing orders and protocols regarding opiate antagonists or prescribes
21 or dispenses an opiate antagonist in a good-faith effort to assist:

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

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

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

30 (4) An advanced practice nurse with prescriptive authority who prescribes or
31 dispenses an opiate antagonist in accordance with this section is not subject to civil liability
32 or criminal prosecution, as specified in sections 13-21-108.7 (4) and 18-1-712 (3), ~~C.R.S.~~,
33 respectively.

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

36 (6) As used in this section:

37 (a) "First responder" means:

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

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

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

41 (b) "Harm reduction organization" means an organization that provides services,

1 including medical care, counseling, homeless services, or drug treatment, to individuals at
2 risk of experiencing an opiate-related drug overdose event or to the friends and family
3 members of an at-risk individual.

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

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

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

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

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

14 (III) Requires medical assistance.

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

19 (g) "Standing order" means a prescription order written by an advanced practice nurse
20 with prescriptive authority that is not specific to and does not identify a particular patient.

21
22 ~~**12-38-126. Religious exclusions.** No provision in this article shall be construed as
23 applying to a person who nurses or cares for the sick in accordance with the practice or tenets
24 of any church or religious denomination which teaches reliance upon spiritual means through
25 prayer for healing, and who does not hold himself out to the public to be a licensed practical
26 or professional nurse. <{*Moved to 12-255-127 (2).*>~~

27
28 **12-255-129. [Formerly 12-38-127] Continuing education - rules.** In addition to any
29 other authority conferred upon the board by this article ~~255~~, the board is authorized to require
30 no more than twenty hours of continuing education every two years as a condition of renewal
31 of licenses and to establish procedures and standards for ~~such~~ THE educational requirements.
32 The board shall, to assure that the continuing education requirements imposed do not have
33 the effect of restraining competition among providers of ~~such~~ THE education, recognize a
34 variety of alternative means of compliance with ~~such~~ THE requirements. The board shall
35 adopt rules ~~and regulations~~ that are necessary to carry out the provisions of this section, ~~such~~
36 THE rules ~~and regulations~~ to be promulgated in accordance with the provisions of article 4
37 of title 24. ~~C.R.S.~~

38
39 ~~**12-38-128. Independent practice - direct reimbursement.** Nothing in this article
40 255 shall be deemed to prohibit any licensee from practicing practical or professional nursing
41 independently for compensation upon a fee for services basis. Nothing in this article shall be~~

1 deemed to prohibit or require the direct reimbursement for nursing services and care through
2 qualified governmental and insurance programs to persons duly licensed in accordance with
3 this article. <{Moved to 12-255-127 (3).}>
4

5 **12-38-129. Disposition of fees - appropriation.** All fees collected pursuant to the
6 authority of the state board of nursing shall be transmitted to the state treasurer who shall
7 credit the same pursuant to section 24-34-105, C.R.S., and the general assembly shall make
8 annual appropriations pursuant to said section for the expenditures of the board incurred in
9 the performance of its duties. <{Redundant with fees common provision, 12-20-105;
10 recommend repeal.}>
11

12 **12-38-130. Limitation of article.** Nothing in this article shall be interpreted as
13 conveying to the practice of nursing the performance of medical practice as regulated by
14 article 36 of this title. <{Moved to 12-255-127 (4).}>
15

16 **12-255-130. [Formerly 12-38-131] Nursing peer health assistance or nurse**
17 **alternative to discipline program - fund - rules.** (1) As a condition of licensure and for
18 the purpose of supporting a nursing peer health assistance program or a nurse alternative to
19 discipline program, every applicant for an initial license or to reinstate a license and any
20 person renewing a license issued pursuant to this article 255 shall pay to the administering
21 entity designated pursuant to ~~paragraph (c) of subsection (3)~~ SUBSECTION (3)(c) of this
22 section a fee in an amount set by the board, not to exceed twenty-five dollars per year; except
23 that the board may adjust such THE amount each January 1 to reflect changes in the United
24 States department of labor's bureau of labor statistics consumer price index, or its successor
25 index, for ~~the Denver-Boulder consolidated metropolitan statistical area~~
26 DENVER-AURORA-LAKEWOOD for the price of goods paid by urban consumers. <{There is
27 a new CPI description - shall we update this reference?}>
28

29 (2) (a) No later than June 30, 2008, the board shall transfer any remaining balance in
30 the impaired professional diversion fund, as such fund existed prior to January 1, 2008, to
31 the administering entity chosen by the board pursuant to paragraph (c) of subsection (3) of
32 this section. <{Does this paragraph have any continuing effect?}>

33 (b) Money in the fund shall be used to support a nursing peer health assistance
34 program or nurse alternative to discipline program in providing assistance to licensees
35 needing help in dealing with physical, emotional, psychiatric, or psychological problems or
36 behavioral, mental health, or substance use disorders that may be detrimental to their ability
37 to practice nursing.

38 (3) (a) The board shall select one or more recognized peer health assistance
39 organizations or nurse alternative to discipline programs as designated providers. For
40 purposes of selecting designated providers, the board shall use a competitive bidding process
41 that encourages participation from interested vendors. To be eligible for designation by the
board pursuant to this section, a peer health assistance organization or nurse alternative to

1 discipline program shall:

2 (I) Offer assistance and education to licensees concerning the recognition,
3 identification, and prevention of physical, emotional, psychiatric, or psychological problems
4 or behavioral, mental health, or substance use disorders and provide for intervention when
5 necessary or under circumstances that may be established in rules promulgated by the board;

6 (II) Evaluate the extent of physical, emotional, psychiatric, or psychological problems
7 or behavioral, mental health, or substance use disorders and refer the licensee for appropriate
8 treatment;

9 (III) Monitor the status of a licensee who has been referred for treatment, including
10 assessing continued public protection;

11 (IV) Provide counseling and support for a licensee and for the family of a licensee
12 referred for treatment;

13 (V) Receive referrals from the board; and

14 (VI) Make services available to all licensees statewide.

15 (b) The board contract with the designated provider or providers selected pursuant
16 to ~~paragraph (a) of this subsection~~ (3) SUBSECTION (3)(a) OF THIS SECTION shall include
17 specific deliverables, performance measures, and documentation of results.

18 (c) The board shall designate an administering entity for a program established
19 pursuant to this section. ~~Such~~ THE entity shall be a nonprofit private entity that is qualified
20 under 26 U.S.C. sec. 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended,
21 and shall be dedicated to providing support for charitable, benevolent, educational, or
22 scientific purposes that are related to nursing, nursing education, nursing research and
23 science, and other nursing charitable purposes.

24 (d) The administering entity shall:

25 (I) Collect the required annual payments, directly or through the board;

26 (II) Distribute the moneys collected, less expenses, to the approved designated
27 provider, as directed by the board;

28 (III) Provide an annual accounting to the board of all amounts collected, expenses
29 incurred, and amounts disbursed; and

30 (IV) Post a surety performance bond in an amount specified by the board to secure
31 performance under this section.

32 (e) The administering entity may recover from the fee required by subsection (1) of
33 this section the actual administrative costs incurred in performing its duties under this
34 section. ~~Such~~ THE recovery shall not exceed ten percent of the total amount collected.

35 (f) The board, at its discretion, may collect the required annual payments payable to
36 the administering entity for the benefit of the administering entity and shall transfer ~~all such~~
37 THE payments to the administering entity. All required annual payments collected or due to
38 the board for each fiscal year shall be deemed custodial funds that are not subject to
39 appropriation by the general assembly, and ~~such~~ THE funds shall not constitute state fiscal
40 year spending for purposes of section 20 of article X of the state constitution.

41 (4) Notwithstanding sections ~~12-38-116.5~~ **12-255-119** and 24-4-104, ~~C.R.S.~~, the

1 board may immediately suspend the license of any licensee who is referred to a peer health
2 assistance program or nurse alternative to discipline program by the board and who fails to
3 attend or to complete the program. If the licensee objects to the suspension, he or she may
4 submit a written request to the board for a formal hearing on the suspension within ten days
5 after receiving notice of the suspension, and the board shall grant the request. In the hearing,
6 the licensee shall bear the burden of proving that his or her license should not be suspended.

7 (5) The records of a proceeding pertaining to the rehabilitation of a licensee under a
8 program established pursuant to this section shall be confidential and shall not be subject to
9 subpoena unless the licensee has been referred to the board for disciplinary action.

10 (6) Nothing in this section shall be construed to create any liability of the board,
11 members of the board, or the state of Colorado for the actions of the board in making awards
12 to peer health assistance organizations or nurse alternative to discipline programs or in
13 designating licensees to participate in the programs of such organizations. No civil action
14 may be brought or maintained against the board, its members, or the state for an injury
15 alleged to have been the result of an act or omission of a licensee participating in or referred
16 to a program provided by a peer health assistance organization or to a nurse alternative to
17 discipline program. However, the state shall remain liable under the provisions of the
18 "Colorado Governmental Immunity Act", article 10 of title 24, ~~C.R.S.~~, if an injury alleged
19 to have been the result of an act or omission of a licensee participating in or referred to a peer
20 health assistance diversion program or nurse alternative to discipline program occurred while
21 such licensee was performing duties as an employee of the state.

22 (7) The board is authorized to promulgate rules necessary to implement this section.
23

24 **12-255-131. [Formerly 12-38-132] Delegation of nursing tasks - rules.** (1) Any
25 registered nurse as ~~defined in section 12-38-103(11)~~; may delegate any task included in the
26 practice of professional nursing as ~~defined in section 12-38-103(10)~~; subject to the
27 requirements of this section. In no event may a registered nurse delegate to another person
28 the authority to select medications if ~~such~~ THE person is not, independent of ~~such~~ THE
29 delegation, authorized by law to select medications.

30 (2) Delegated tasks shall be within the area of responsibility of the delegating nurse
31 and shall not require any delegatee to exercise the judgment required of a nurse.

32 (3) No delegation shall be made without the delegating nurse making a determination
33 that, in his or her professional judgment, the delegated task can be properly and safely
34 performed by the delegatee and that ~~such~~ THE delegation is commensurate with the patient's
35 safety and welfare.

36 (4) The delegating nurse shall be solely responsible for determining the required
37 degree of supervision the delegatee will need, after an evaluation of the appropriate factors
38 which shall include but not be limited to the following:

- 39 (a) The stability of the condition of the patient;
40 (b) The training and ability of the delegatee;
41 (c) The nature of the nursing task being delegated; and

1 (d) Whether the delegated task has a predictable outcome.

2 (5) An employer of a nurse may establish policies, procedures, protocols, or standards
3 of care ~~which~~ THAT limit or prohibit delegations by nurses in specified circumstances.

4 (6) The board may promulgate rules pursuant to this section, including but not limited
5 to standards on the assessment of the proficiency of the delegatee to perform delegated tasks,
6 and standards for accountability of any nurse who delegates nursing tasks. ~~Such~~ THE rules
7 shall be consistent with the provisions of part 3 of article 1.5 of title 25, ~~C.R.S.~~, section
8 25.5-10-204 (2)(j), ~~C.R.S.~~, and section 27-10.5-103 (2)(i). ~~C.R.S.~~

9
10 **12-255-132. [Formerly 12-38-132.3] School nurses - over-the-counter medication.**

11 (1) This ~~part~~ ARTICLE 255 does not prohibit a person who has been appropriately trained
12 from dispensing an over-the-counter medication to a minor as long as the person has written
13 instructions from the minor's parent or guardian and there is a physician's standing medical
14 order.

15 (2) This section is not intended to affect the authority of a professional nurse to
16 delegate nursing tasks.

17
18 **12-255-133. [Formerly 12-38-132.5] Licensee duties relating to assistance animals**
19 **- definitions.** (1) A licensee who is approached by a patient seeking an assistance animal as
20 a reasonable accommodation in housing shall either:

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

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

26 (2) This section does not:

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

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

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

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

36 (a) Has met with the patient in person;

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

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

39 (4) For purposes of this section:

40 (a) "Assistance animal" means an animal that qualifies as a reasonable
41 accommodation under the federal "Fair Housing Act", 42 U.S.C. sec. 3601 et seq., as

1 amended, or section 504 of the federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 794, as
2 amended.

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

7 (c) "Service animal" has the same meaning as set forth in the implementing
8 regulations of Title II and Title III of the federal "Americans with Disabilities Act of 1990",
9 42 U.S.C. sec. 12101 et seq.

10
11 **12-255-134. [Formerly 12-38-133] Repeal of article - review of functions.** (†) This
12 article 255 is repealed, effective July 1, 2020.

13 (2) ~~The provisions of section 24-34-104, C.R.S., concerning the termination schedule~~
14 ~~for regulatory bodies of the state unless extended as provided in that section, are applicable~~
15 ~~to BEFORE THE REPEAL, the state board of nursing created by this article IS SCHEDULED FOR~~
16 ~~REVIEW IN ACCORDANCE WITH SECTION 24-34-104.~~

17
18 **~~12-38-201 and 12-38-202. (Repealed)~~**

19
20 **~~12-38-301. (Repealed)~~**