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# COLORADO REVISED STATUTES

## Title 12 **Professions and Occupations**

### Article 38 **Nurses**

Effective July 1, 2013

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# Colorado Revised Statutes 2013

## TITLE 12

### PROFESSIONS AND OCCUPATIONS

#### ARTICLE 38

##### Nurses

##### PART 1

##### GENERAL PROVISIONS

**12-38-101. Short title.** This article shall be known and may be cited as the "Nurse Practice Act".

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

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

- (1) Repealed.
- (2) "Approved education program" means a course of training conducted by an educational or health care institution which implements the basic practical or professional nursing curriculum prescribed and approved by the board.
- (3) "Board" means the state board of nursing.

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

(5) "Diagnosing", within the terms of this article, means the use of professional nursing knowledge and skills in the identification of, and discrimination between, physical and psychological signs or symptoms to arrive at a conclusion that a condition exists for which nursing care is indicated or for which referral to appropriate medical or community resources is required.

(6) and (7) Repealed.

(7.4) "Licensee" means a person licensed pursuant to this article.

(7.8) "Panel" means either panel of the board created in section 12-38-116.5 (1).

(8) "Practical nurse", "trained practical nurse", "licensed vocational nurse", or "licensed practical nurse" means a person who holds a license to practice pursuant to the provisions of this article as a licensed practical nurse in this state or is licensed in another state and is practicing in this state pursuant to section 24-60-3202, C.R.S., with the right to use the title "licensed practical nurse" and its abbreviation, "L.P.N."

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

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

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

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

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

(II) Teaching and promoting preventive health measures;

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(III) Acting to safeguard life and health; or

(IV) Administering treatments and medications prescribed by:

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

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

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

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

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

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

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

(II) Health teaching and health counseling;

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

(IV) Executing delegated medical functions;

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

(VI) Reviewing and monitoring therapy and treatment plans.

(11) "Registered nurse" or "registered professional nurse" means a professional nurse, and only a person who holds a license to practice professional nursing in this state pursuant to the provisions of this article or who holds a license in another state and is practicing in this state pursuant to section 24-60-3202, C.R.S., shall have the right to use the title "registered nurse" and its abbreviation, "R.N."

(12) "Treating" means the selection, recommendation, execution, and monitoring of those nursing measures essential to the effective determination and management of actual or potential human health problems and to the execution of the delegated medical functions. Such delegated medical functions shall be performed under the responsible

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direction and supervision of a person licensed under the laws of this state to practice medicine, podiatry, or dentistry.

(13) "Unauthorized practice" means the practice of practical nursing or the practice of professional nursing by any person who has not been issued a license under the provisions of this article, or is not practicing in this state pursuant to section 24-60-3202, C.R.S., or whose license has been suspended or revoked or has expired.

**12-38-104. State board of nursing created.** (1) (a) There is hereby created the state board of nursing in the division of professions and occupations in the department of regulatory agencies, which board shall consist of eleven members who are residents of this state, appointed by the governor as follows:

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

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

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

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

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

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

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

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

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

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

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

(b.5) When making appointments to the board, the governor shall strive to achieve

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geographical, political, urban, and rural balance among the board membership.

(c) (I) Each member of the board shall be appointed for a term of three years; except that members appointed to the board for a first or second term on or after July 1, 2009, shall be appointed for a term of four years.

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

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

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

(1.5) The board shall elect annually from its members a president.

(2) (a) Repealed.

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

(3) Each member of the board shall receive the same per diem compensation and reimbursement of expenses as those provided for members of boards and commissions in the division of professions and occupations pursuant to section 24-34-102 (13), C.R.S.

(4) (Deleted by amendment, L. 95, p. 1074, § 2, effective July 1, 1995.)

**12-38-105. Removal of board members.** The governor may remove any board member for negligence in the performance of any duty required by law, for incompetency, for unprofessional conduct, for willful misconduct, or for failure to continue to comply with the requirements of section 12-38-104.

**12-38-106. Meetings of board.** The board shall meet at least quarterly during the fiscal year and at such other times as it may determine.

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**12-38-107. Employees - executive officer.** After consultation with the board, the director of the division of professions and occupations shall appoint an executive administrator for the board and such other personnel as are deemed necessary, pursuant to section 13 of article XII of the state constitution. At least one member of the board shall serve on any panel convened by the department of personnel to interview candidates for the position of executive administrator.

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

(a) To approve, pursuant to rules and regulations adopted by the board, educational programs in this state preparing individuals for licensure, including approving curricula, conducting surveys, and establishing standards for such educational programs; to deny approval of or withdraw approval from such educational programs for failure to meet required standards as established by this article or pursuant to rules and regulations adopted by the board; and to further establish standards in accordance with this article in the form of rules and regulations to determine whether institutions outside this state shall be deemed to have acceptable educational programs and whether graduates of institutions outside this state shall be deemed to be graduates of approved educational programs for the purpose of licensing requirements in this state; and to determine by rule when accreditation by a state or voluntary agency may be accepted in lieu of board approval;

(b) (I) To examine, license, reactivate, and renew licenses of qualified applicants and to grant to such applicants temporary licenses and permits to engage in the practice of practical nursing and professional nursing in this state within the limitations imposed by this article. Licenses shall be renewed, reactivated, or reinstated pursuant to a schedule established by the director of the division of professions and occupations within the department of regulatory agencies and shall be renewed, reactivated, or reinstated pursuant to section 24-34-102 (8), C.R.S. The director of the division of professions and occupations within the department of regulatory agencies may establish renewal fees, reactivation fees, and delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S., and may increase fees to obtain or renew a professional nurse license or advanced practice nurse authority consistent with section 24-34-109 (4), C.R.S., to fund the division's costs in administering and staffing the nurse-physician advisory task force for Colorado health care created in section 24-34-109 (1), C.R.S. If a person fails to renew his or her license pursuant to the schedule established by the director of the division of professions and occupations, such license shall expire. Any person whose license has expired shall be subject to the penalties provided in this article or section 24-34-102 (8),

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

(b.5) To revoke, suspend, withhold, limit the scope of, or refuse to renew any license, to place a licensee or temporary licensee on probation, to impose an administrative fine on a licensee, or to issue a letter of admonition to a licensee in accordance with the procedures set forth in section 12-38-116.5 upon proof that such licensee has committed an act that constitutes grounds for discipline under section 12-38-117 or 12-42-113;

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

(d) To adopt and revise rules and regulations concerning qualifications needed to practice as a practical nurse when such practice requires preparation and skill beyond that of a practical nurse pursuant to section 12-38-112;

(e) Repealed.

(f) To provide by regulation for the legal recognition of nurse licensees from other states;

(g) To charge and collect appropriate fees;

(h) To investigate and conduct hearings upon charges for the discipline of nurses in accordance with the provisions of article 4 of title 24, C.R.S., and to impose disciplinary sanctions as provided in this article;

(i) To cause the prosecution and joinder of any person violating the provisions of this article and incur necessary expenses therefor;

(j) To adopt rules and regulations necessary to carry out the purposes of this article, such rules and regulations to be promulgated in accordance with the provisions of article 4 of title 24, C.R.S.;

(k) To administer the licensing and regulation of psychiatric technicians pursuant to article 42 of this title and to adopt and revise rules and regulations consistent with the laws of this state as may be necessary:

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

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

(III) To provide for surveys of such programs at such times as the board may

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deem necessary;

(IV) To accredit such programs as meet the requirements of the board and article 42 of this title;

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

(VI) To conduct hearings pursuant to section 12-42-114;

(VII) To cause the prosecution and enjoinder of any person violating the provisions of article 42 of this title and incur necessary expenses therefor;

(I) (I) (A) Repealed.

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

(C) Repealed.

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

(1.1) (a) The board shall appoint advisory committees pursuant to section 12-38-109 of at least three psychiatric technicians to advise the board on matters pertaining to psychiatric technician testing. The board shall, in its discretion, assign matters referred to the board by the psychiatric technicians advisory committee to a panel for consideration and implementation, if necessary.

(b) (Deleted by amendment, L. 92, p. 954, § 3, effective March 19, 1992.)

(2) When the board determines that rules and regulations are completed and established, the board shall make copies available at a reasonable cost.

(3) The board shall, in its discretion, assign matters referred to the board by the nurse aide advisory committee, created pursuant to section 12-38.1-110, to a panel for consideration and implementation, if necessary.

(4) The board shall administer the provisions of the nurse licensure compact pursuant to section 24-60-3202, C.R.S. Before recognizing a nurse license from another state that is party to the nurse licensure compact, the board shall determine that such state's qualifications for a nursing license are substantially equivalent to or more stringent than the minimum qualifications for issuance of a Colorado license under this article.

**12-38-108.5. Limitation on authority.** The authority granted the board under the provisions of this article shall not be construed to authorize the board to arbitrate or adjudicate fee disputes between licensees or between a licensee and any other party.

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

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

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

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

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

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

(c) Repealed.

(d) Passes an examination as provided in section 12-38-110 or is eligible for and is granted licensure by endorsement as provided in subsection (2) of this section;

(e) Pays the required fee.

(2) The board may issue a license by endorsement to engage in the practice of professional nursing in this state to a nurse who is licensed to practice professional nursing in another state or a territory of the United States or in a foreign country if the applicant presents proof satisfactory to the board that, at the time of application for a Colorado license by endorsement, the applicant possesses credentials and qualifications which are substantially equivalent to requirements in Colorado for licensure by examination. The board may specify by rule and regulation what shall constitute

substantially equivalent credentials and qualifications.

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

**12-38-111.5. Requirements for advanced practice nurse registration - legislative declaration - definition - advanced practice registry.** (1) The general assembly hereby recognizes that some individuals practicing pursuant to this article have acquired additional preparation for advanced practice and hereby determines that it is appropriate for the state to maintain a registry of such individuals. Such registry shall be known as the "advanced practice registry".

(2) As used in this section, "advanced practice nurse" means a professional nurse who is licensed to practice pursuant to this article, who obtains specialized education or training as provided in this section, and who applies to and is accepted by the board for inclusion in the advanced practice registry.

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

(4) (a) Repealed.

(b) On and after July 1, 1995, until July 1, 2008, the requirements for inclusion in the advanced practice registry shall include the successful completion of a nationally

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accredited education program for preparation as an advanced practice nurse or a passing score on a certification examination of a nationally recognized accrediting agency, or both, if applicable, as defined in rules adopted by the board.

(c) On and after July 1, 2008, the requirements for inclusion in the advanced practice registry shall include the successful completion of an appropriate graduate degree as determined by the board; except that individuals who are included in the registry as of June 30, 2008, but have not successfully completed such degree, may thereafter continue to be included in the registry and to use the appropriate title and abbreviation.

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

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

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

(II) The professional nurse holds national certification as provided in paragraph (d) of this subsection (4) and possesses an appropriate graduate degree as determined by the board.

(5) A nurse who meets the definition of advanced practice nurse, as defined in subsection (2) of this section, and the requirements of section 12-38-111.6, may be granted prescriptive authority as a function in addition to those defined in section 12-38-103 (10).

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

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

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

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- (II) Authorizes continuing treatment, tests, services, or equipment; or
- (III) Gives advance directives for end-of-life care.
- (b) Such affidavit, certification, or similar document may not:
  - (I) Be the prescription of medication unless the advanced practice nurse has been granted prescriptive authority pursuant to section 12-38-111.6; or
  - (II) Be in conflict with other requirements of law.

**12-38-111.6. Prescriptive authority - advanced practice nurses - rules.** (1) The board may authorize an advanced practice nurse who is listed on the advanced practice registry, has a license in good standing without disciplinary sanctions issued pursuant to section 12-38-111, and has fulfilled requirements established by the board pursuant to this section to prescribe controlled substances or prescription drugs as defined in part 1 of article 42.5 of this title.

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

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

(3) (a) An advanced practice nurse may be granted authority to prescribe prescription drugs and controlled substances to provide treatment to clients.

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

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

(II) A nurse's failure to advise a patient under subparagraph (I) of this paragraph (d) shall not be grounds for any disciplinary action against the nurse's professional license issued under this article. Failure to advise a patient pursuant to subparagraph (I) of this paragraph (d) shall not be grounds for any civil action against a nurse in a negligence or tort action, nor shall such failure be evidence in any civil action against a nurse.

(4) Repealed.

(4.5) (a) On or after July 1, 2010, or, if the director of the division of professions and occupations adopts rules pursuant to subparagraph (II) of paragraph (f) of this subsection (4.5), on or after July 2, 2010, an advanced practice nurse applying for prescriptive authority shall provide evidence to the board of the following:

(I) An appropriate graduate degree as determined by the board pursuant to section

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12-38-111.5 (4) (c);

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

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

(IV) Professional liability insurance as required by section 12-38-111.8; and

(V) (A) Completion of a mutually structured, post-graduate preceptorship, as defined by the board by rule, consisting of not less than one thousand eight hundred documented hours, to be completed within the immediately preceding five-year period. The preceptorship shall be conducted either with a physician or a physician and an advanced practice nurse who has prescriptive authority and experience in prescribing medications. The physician and, if applicable, advanced practice nurse serving as a preceptor to the applicant shall be actively practicing in this state and shall have education, training, experience, and active practice that corresponds with the role and population focus of the applicant.

(B) The physician and, if applicable, advanced practice nurse serving as a preceptor shall not require payment or employment as a condition of entering into the preceptorship relationship, but a preceptor may request reimbursement of reasonable expenses and time spent as a result of the preceptorship relationship.

(b) Upon satisfaction of the requirements set forth in paragraph (a) of this subsection (4.5), the board may grant provisional prescriptive authority to an advanced practice nurse. The provisional prescriptive authority that is granted shall be limited to those patients and medications appropriate to the advanced practice nurse's role and population focus. In order to retain provisional prescriptive authority and obtain and retain full prescriptive authority pursuant to this subsection (4.5) for patients and medications appropriate for the advanced practice nurse's role and population focus, an advanced practice nurse shall satisfy the following requirements:

(I) (A) Within five years after the provisional prescriptive authority is granted, the advanced practice nurse shall obtain an additional one thousand eight hundred hours of documented experience in a mutually structured mentorship either with a physician or with a physician and advanced practice nurse who has prescriptive authority and experience in prescribing medications. The mentorship need not be with the same persons who provided the preceptorship specified in subparagraph (V) of paragraph (a) of this subsection (4.5), but the mentor shall be practicing in Colorado and have education, training, experience, and active practice that corresponds with the role and population

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focus of the advanced practice nurse.

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

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

(D) If an advanced practice nurse with provisional prescriptive authority fails to complete the mentorship required by this subparagraph (I) within the specified period, the advanced practice nurse's provisional prescriptive authority expires for failure to comply with the statutory requirements.

(II) Within five years after obtaining provisional prescriptive authority, the advanced practice nurse shall develop an articulated plan for safe prescribing that documents how the advanced practice nurse intends to maintain ongoing collaboration with physicians and other health care professionals in connection with the advanced practice nurse's practice of prescribing medication within his or her role and population focus. The articulated plan shall guide the advanced practice nurse's prescriptive practice. The physician or physician and advanced practice nurse that mentored the advanced practice nurse as described in subparagraph (I) of this paragraph (b) shall provide his or her signature to verify that the advanced practice nurse has developed an articulated plan. The advanced practice nurse shall retain the articulated plan on file, shall review the plan annually, and shall update the plan as necessary. The articulated plan is subject to review by the board, and the advanced practice nurse shall provide the plan to the board upon request. If an advanced practice nurse with provisional prescriptive authority fails to develop the required articulated plan within the specified period, the advanced practice nurse's provisional prescriptive authority expires for failure to comply with the statutory requirements. An articulated plan developed pursuant to this subparagraph (II) shall include at least the following:

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

(B) A quality assurance plan;

(C) Decision support tools; and

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

(III) The advanced practice nurse shall maintain professional liability insurance as

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required by section 12-38-111.8.

(IV) The advanced practice nurse shall maintain national certification, as specified in subparagraph (III) of paragraph (a) of this subsection (4.5), unless the board grants an exception.

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

(I) (A) Except as provided in sub-subparagraph (B) of this subparagraph (I), no later than July 1, 2011, the advanced practice nurse shall develop an articulated plan as specified in subparagraph (II) of paragraph (b) of this subsection (4.5); except that to verify development of an articulated plan, the advanced practice nurse shall obtain the signature of either a physician or a physician and advanced practice nurse who has prescriptive authority and experience in prescribing medications, is practicing in Colorado, and has education, training, experience, and active practice that corresponds with the role and population focus of the advanced practice nurse developing the plan. If an advanced practice nurse with prescriptive authority granted prior to July 1, 2010, fails to develop the required articulated plan within the specified period, the advanced practice nurse's prescriptive authority expires for failure to comply with the statutory requirements.

(B) The board shall extend the deadline for an advanced practice nurse to develop an articulated plan if the advanced practice nurse satisfies the requirements of this sub-subparagraph (B), but in no event shall the board extend the deadline beyond September 30, 2012. Prior to September 30, 2012, an advanced practice nurse seeking a deadline extension shall submit to the board an application, the required fee, a signed verification that he or she developed an articulated plan by, or had an existing collaborative agreement with a physician on, July 1, 2011, and any other information or documentation required by the board.

(II) The advanced practice nurse shall maintain professional liability insurance as required by section 12-38-111.8.

(III) The advanced practice nurse shall maintain national certification, as specified in subparagraph (III) of paragraph (a) of this subsection (4.5), unless:

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

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

(C) The board grants an exception.

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(d) (I) On or after July 1, 2010, or, if the director of the division of professions and occupations adopts rules pursuant to subparagraph (II) of paragraph (f) of this subsection (4.5), on or after July 2, 2010, an advanced practice nurse who has obtained prescriptive authority from another state may obtain provisional prescriptive authority in this state if the advanced practice nurse satisfies the following requirements:

(A) The advanced practice nurse satisfies the requirements of subparagraphs (I), (II), (III), and (IV) of paragraph (a) of this subsection (4.5); and

(B) The advanced practice nurse has three thousand six hundred hours of documented experience prescribing medications without significant adverse prescribing issues, as determined by the board.

(II) Once an advanced practice nurse with prescriptive authority from another state obtains provisional prescriptive authority in this state, the advanced practice nurse shall satisfy the following requirements in order to obtain and maintain full prescriptive authority in this state:

(A) Within one year after obtaining provisional prescriptive authority in this state, the advanced practice nurse shall develop an articulated plan, as described in subparagraph (I) of paragraph (c) of this subsection (4.5); except that, if the advanced practice nurse with prescriptive authority from another state fails to develop the required articulated plan within the specified period, the advanced practice nurse's provisional prescriptive authority expires for failure to comply with the statutory requirements; and

(B) The advanced practice nurse shall maintain national certification, as specified in subparagraph (III) of paragraph (a) of this subsection (4.5), unless the board grants an exception.

(e) During the second year of implementation of this subsection (4.5) and rules adopted pursuant to paragraph (f) of this subsection (4.5), the board shall conduct random audits of articulated plans to ensure the plans satisfy the requirements of this subsection (4.5) and rules adopted pursuant to paragraph (f) of this subsection (4.5).

(f) (I) Except as provided in subparagraph (II) of this paragraph (f), the board shall adopt rules to implement this subsection (4.5), which rules shall take effect on July 1, 2010. The board shall consider the recommendations of the nurse-physician advisory task force for Colorado health care submitted in accordance with section 24-34-109, C.R.S., concerning prescriptive authority of advanced practice nurses. The rules shall be complementary to rules adopted by the Colorado medical board pursuant to section 12-36-106.4.

(II) (A) The director of the division of professions and occupations in the department of regulatory agencies shall review the rules adopted by the board pursuant to this paragraph (f) prior to the effective date of the rules to determine if the rules

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complement the rules of the Colorado medical board. If the director determines that the rules of the two boards are not complementary, the director shall adopt rules that supersede and replace the rules of the two boards regarding prescriptive authority of advanced practice nurses and collaboration between advanced practice nurses and physicians, and such rules shall take effect on July 2, 2010.

(B) If the director determines that the two boards have adopted complementary rules regarding the prescriptive authority of advanced practice nurses and collaboration between advanced practice nurses and physicians, the director shall not adopt rules that supersede and replace the rules of the two boards, but the director shall review any amendments to those rules by either board to ensure that the rules remain complementary. If the director determines that an amendment to the rules by the state board of nursing or the Colorado medical board results in rules on prescriptive authority and collaboration that are no longer complementary, the amendment shall not take effect.

(5) and (6) Repealed.

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

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

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

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

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

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

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

(11) No advanced practice nurse registered pursuant to section 12-38-111.5 shall

be required to apply for or obtain prescriptive authority.

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

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

(2) Professional liability insurance required by this section shall cover all acts within the scope of practice of an advanced practice nurse as defined in this part 1.

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

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

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

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

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

(c) Repealed.

(d) Passes an examination as provided in section 12-38-110 or is eligible for and is granted licensure by endorsement as provided in subsection (2) of this section;

(e) Pays the required fee.

(2) The board may issue a license by endorsement to engage in the practice of

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

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

**12-38-112.5. Retired volunteer nurse licensure.** (1) The board may issue a license to a retired volunteer nurse who meets the requirements set forth in this section.

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

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

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

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

(4) An applicant for a retired volunteer nursing license shall submit to the board an application containing such information as the board may prescribe, a copy of the applicant's most recent nursing license, and a statement signed under penalty of perjury in

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which the applicant agrees not to receive compensation for any nursing tasks that are performed while in possession of the license.

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

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

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

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

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

**12-38-113. Denial of license. (Repealed)**

**12-38-114. Persons licensed under previous laws.** Any person holding a valid

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Colorado license to engage in the practice of practical or professional nursing issued prior to July 1, 1980, shall continue to be licensed under the provisions of this article.

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

(2) Repealed.

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

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

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

(5) The board shall summarily withdraw a temporary license or permit issued pursuant to this section if the board determines that the license holder fails to meet the requirements of this section or section 12-38-110, 12-38-111, or 12-38-112. The holder of a temporary license or permit summarily withdrawn has the right to a hearing which shall be conducted pursuant to article 4 of title 24, C.R.S., by the board or by an administrative law judge at the board's discretion.

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

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- (2) For the practice of practical nursing, such educational program shall include:
- (a) Content fundamental to the knowledge and skills required for clinical nursing appropriate to the practice of practical nursing;
  - (b) Content relating to the principles of biological, physical, social, and behavioral sciences.
- (3) For the practice of professional nursing, such educational program shall include:
- (a) Content fundamental to the knowledge and skills required for clinical nursing appropriate to the practice of professional nursing;
  - (b) Content relating to the principles of biological, physical, social, and behavioral sciences.
- (4) Any educational program for practical or professional nurses in this state which was accredited by the former boards of nursing prior to July 1, 1980, shall be deemed to be an approved educational program for the purpose of this article, but such approval shall be subject to the powers and duties of the board under section 12-38-108 to deny or to withdraw approval.

**12-38-116.5. Disciplinary procedures of the board - inquiry and hearings panels.** (1) (a) The president of the board shall divide the other ten members of the board into two panels of five members each. Members representing the three different categories of membership (licensed practical nurses, professional nurses, and persons not licensed, employed, or in any way connected with, or with any financial interest in, any health care facility, agency, or insurer) shall be divided between the two panels as equally as possible.

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

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

(d) The initial decision of an administrative law judge may be reviewed pursuant to section 24-4-105 (14) and (15), C.R.S., by the filing of exceptions to the initial decision

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with the hearings panel that would have heard the case if it had not been referred to an administrative law judge or by review upon the motion of such hearings panel. The respondent or the board's counsel shall file such exceptions.

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

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

(A) "Grounds for discipline" includes grounds under sections 12-38-117 and 12-42-113.

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

(C) "Nurse", "licensee", or "respondent" includes a practical nurse, a professional nurse, and a psychiatric technician as described in section 12-42-102 (4).

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

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

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

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

(I) Disciplinary action taken by an employer of a nurse against the nurse or resignation in lieu of a disciplinary action for conduct that constitutes grounds for discipline under section 12-38-117 or 12-42-113. Such employer shall report such disciplinary action or resignation to the board.

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

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

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

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

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

(III) An instance of conduct occurred that does not warrant formal action by the board and that should be dismissed, but that indications of possible conduct by the nurse were noted that could lead to serious consequences if not corrected. In such a case, a confidential letter of concern shall be sent to the nurse against whom the complaint was made.

(IV) (A) When a complaint or investigation discloses an instance of misconduct that, in the opinion of the board, does not warrant formal action by the board but that should not be dismissed as being without merit, a letter of admonition may be issued and sent, by certified mail, to the licensee.

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

(C) If the request for adjudication is timely made, the letter of admonition shall be deemed vacated and the matter shall be processed by means of formal disciplinary proceedings.

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

(B) When a complaint or an investigation discloses an instance of misconduct that, in the opinion of the board, warrants formal action, the complaint shall not be resolved by a deferred settlement, action, judgment, or prosecution.

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

(b) Except as provided in subsection (1) of this section, an administrative law

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judge shall preside at the hearing and shall advise the hearings panel on all such legal matters in connection with the hearing as the panel may request. The administrative law judge shall provide such advice or assistance as the hearings panel may request in connection with the preparation of its findings and recommendations or conclusions. Such administrative law judge shall have the authority to administer oaths and affirmations, sign and issue subpoenas, and perform such other duties as the hearings panel may authorize the administrative law judge to perform. Such administrative law judge shall have the qualifications provided in section 24-30-1003 (2), C.R.S.

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

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

(III) If the hearings panel finds the charges proven and orders that discipline be imposed, it shall also determine the extent of such discipline, which may be in the form of a letter of admonition regarding a license or suspension for a definite or indefinite period, revocation, or nonrenewal of a license to practice. In addition to any other discipline that may be imposed pursuant to this section, the hearings panel may impose a fine of no less than two hundred fifty dollars but no more than one thousand dollars per violation on any nurse who violates this article or any rule adopted pursuant to this article. The board shall adopt rules establishing a fine structure and the circumstances under which fines may be imposed. All fines collected pursuant to this subparagraph (III) shall be transmitted to the state treasurer who shall credit the same to the general fund. In determining appropriate disciplinary action, the hearings panel shall first consider sanctions that are necessary to protect the public. Only after the panel has considered such sanctions shall it consider and order requirements designed to rehabilitate the nurse. If discipline other than revocation of a license to practice is imposed, the hearings panel may also order that the nurse be granted probation and allowed to continue to practice during the period of such probation. The hearings panel may also include in any disciplinary order that allows the nurse to continue to practice such conditions as the panel may deem appropriate to assure that the nurse is physically, mentally, and otherwise qualified to practice nursing in accordance with generally accepted standards of practice, including any of the following:

(A) Submission by the respondent to such examinations as the hearings panel may

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order to determine the respondent's physical or mental condition or the respondent's professional qualifications;

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

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

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

(IV) Upon the failure of the respondent to comply with any conditions imposed by the hearings panel pursuant to subparagraph (III) of this paragraph (c), the hearings panel may order revocation or suspension of the respondent's license to practice in this state until such time as the respondent complies with such conditions.

(V) In making any of the orders provided in subparagraphs (III) and (IV) of this paragraph (c), the hearings panel may take into consideration the respondent's prior disciplinary record. If the hearings panel does take into consideration any prior discipline of the respondent, its findings and recommendations shall so indicate.

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

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

(e) Any person whose license to practice nursing is revoked or who surrenders his or her license to avoid discipline shall not be eligible to apply for any license for two years after the date the license is revoked or surrendered. The two-year waiting period applies to any person whose license to practice nursing or any other health care occupation is revoked by any other legally qualified board.

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

(6) Upon the expiration of any term of suspension, the license shall be reinstated by the board if the board is furnished with evidence that the nurse has complied with all

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terms of the suspension. If such evidence shows the nurse has not complied with all terms of the suspension, the board may revoke or continue the suspension of the license at a hearing, notice of which and the procedure at which shall be as provided in this section.

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

(8) (a) If the board has reasonable cause to believe that a nurse is unable to practice nursing with reasonable skill and safety to patients because of a condition described in section 12-38-117 (1) (i) or (1) (j) or section 12-42-113 (1) (i) or (1) (j), it may require such nurse to submit to mental or physical examinations by a physician or other licensed health care professional designated by the board. If a nurse fails to submit to such mental or physical examinations, the board may suspend the nurse's license until the required examinations are conducted.

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

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

(d) The board may require that a nurse submit medical records for review in conjunction with an investigation made pursuant to paragraph (a) of this subsection (8);

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except that such records shall remain confidential and shall be reviewed by the board only to the extent necessary to conduct an investigation.

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

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

(10) A physician or other licensed health care professional who, at the request of the board, examines a nurse shall be immune from suit for damages by the nurse examined if the examining physician or examining licensed health care professional conducted the examination and made findings or a diagnosis in good faith.

(11) All investigations completed or in progress pursuant to section 12-38-117 or 12-42-113, as said sections existed on June 30, 1999, including those cases that have been referred to hearing, are before an administrative law judge, or are awaiting final disposition by the board, shall be referred to a panel of the board by the director of the division of professions and occupations for final adjudication. All actions taken and decisions rendered by the board prior to July 1, 1999, are hereby ratified.

(12) Final board action may be judicially reviewed in the court of appeals, and judicial proceedings for the enforcement of a board order may be instituted in accordance with section 24-4-106, C.R.S.

(13) (a) The board or an administrative law judge shall have the power to administer oaths, take affirmations of witnesses, and issue subpoenas to compel the attendance of witnesses and the production of all relevant papers, books, records, documentary evidence, and materials in any hearing, investigation, accusation, or other matter coming before the board. The board may appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., to take evidence and to make findings and report them to the board including, but not limited to, hospital and physician records. Upon certification of the custodian that the copies are true and complete except for the patient's name, the copies shall be deemed authentic, subject to the right to inspect the originals for the limited purpose of ascertaining the accuracy of the copies. No privilege of confidentiality shall exist with respect to such copies, and no liability shall lie against the board or the custodian or the custodian's authorized employee for furnishing or using

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such copies in accordance with this subsection (13).

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

(14) Any member of the board or the board's staff, any person acting as a witness or consultant to the board, any witness testifying in a proceeding authorized under this article, and any person who lodges a complaint pursuant to this article 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 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 the making of a complaint or report or participating in any investigative or administrative proceeding pursuant to this article shall be immune from any liability, civil or criminal, that otherwise might result by reason of such participation.

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

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

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

unregistered practice.

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

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

(II) If a person against whom an order to show cause has been issued pursuant to 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

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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.

**12-38-117. Grounds for discipline.** (1) "Grounds for discipline", as used in this article, 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 of this article.

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

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

(III) Repealed.

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

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

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

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

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

(h) Has falsified or in a negligent manner made incorrect entries or failed to make

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essential entries on patient records;

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

(j) Has a physical or mental disability which renders him unable to practice nursing with reasonable skill and safety to the patients and which may endanger the health or safety of persons under his care;

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

(l) Has engaged in any conduct which would constitute a crime as defined in title 18, C.R.S., and which conduct relates to such person's employment as a practical or professional nurse. In conjunction with any disciplinary proceeding pertaining to this paragraph (l), the board shall be governed by the provisions of section 24-5-101, C.R.S.

(m) (I) Has violated abuse of health insurance pursuant to section 18-13-119, C.R.S.; or

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

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

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

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

(q) Has dispensed, injected, or prescribed an anabolic steroid, as defined in section 18-18-102 (3), C.R.S., for the purpose of hormonal manipulation that is intended

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to increase muscle mass, strength, or weight without a medical necessity to do so or for the intended purpose of improving performance in any form of exercise, sport, or game;

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

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

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

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

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

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

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

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

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

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

(aa) Fails to maintain professional liability insurance in accordance with section 12-38-111.8.

(2) to (5) Repealed.

(6) The prescribing, dispensing, or distribution of an opiate antagonist by an advanced practice nurse shall not constitute grounds for discipline if he or she prescribed, dispensed, or distributed the opiate antagonist in a good faith effort to assist:

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(a) A person who is at increased risk of experiencing or likely to experience an opiate-related drug overdose event, as defined in section 18-1-712 (5) (e), C.R.S.; or

(b) A family member, friend, or other person who is in a position to assist a person who is at increased risk of experiencing or likely to experience an opiate-related drug overdose event, as defined in section 18-1-712 (5) (e), C.R.S.

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

(b) As used in this section:

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

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

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

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

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

(b) If the board refuses to issue a license to an applicant pursuant to paragraph (a) of this subsection (2), the provisions of section 24-4-104 (9), C.R.S., shall apply. Upon such refusal, the board shall provide the applicant with a statement in writing setting forth

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the following:

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

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

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

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

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

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

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

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

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

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

(I) The applicant possesses the qualifications required for licensure under this article;

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

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

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

**12-38-118.5. Inactive license status - reactivation.** (1) A nurse licensed pursuant to section 12-38-111 or 12-38-112 may request that the board place his or her

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license on inactive status. Such request shall be made in the form and manner designated by the board.

(2) A nurse requesting inactive license status shall provide an affidavit or other document required by the board certifying that, immediately upon the conferral of inactive status, the nurse shall not practice nursing in the state unless and until the nurse's license is reactivated pursuant to subsection (6) of this section.

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

(4) A license on inactive status shall constitute a single state license issued by Colorado and without multistate licensure privilege pursuant to part 32 of article 60 of title 24, C.R.S.

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

(6) (a) A nurse with a license on inactive status who wishes to resume the practice of nursing shall file an application in the form and manner designated by the board and pay the license reactivation fees established pursuant to section 12-38-108. The board shall reactivate such license unless paragraph (b) of this subsection (6) applies.

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

(I) Pursuant to section 12-38-118; or

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

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

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

**12-38-121. Immunity in professional review.** (1) If a professional review

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committee is established pursuant to section 12-38-109 to investigate the quality of care being given by a person licensed pursuant to this article, it shall include in its membership at least three persons licensed in the same category as the licensee under review, but such committee may be authorized to act only by the board.

(2) 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, any person acting as a witness or consultant to the board or committee, any witness testifying in a proceeding authorized under this article, and any person who lodges a complaint pursuant to this article 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 shall be immune from any civil or criminal liability that may result from such participation.

**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 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 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 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.

**12-38-123. 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

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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.

**12-38-124. Injunctive proceedings.** The board, in the name of the people of the state of Colorado, may apply for injunctive relief through the attorney general in any court of competent jurisdiction to enjoin any person who does not possess a currently valid or active practical or professional nurse license from committing any act declared to be unlawful or prohibited by this article. If it is established that the defendant has been or is committing an act declared to be unlawful or prohibited by this article, the court or any judge thereof shall enter a decree perpetually enjoining said defendant from further committing such act. In the case of a violation of any injunction issued under the provisions of this section, the court or any judge thereof may summarily try and punish the offender for contempt of court. Such injunctive proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided for in this article.

**12-38-125. Exclusions.** (1) No provision of this article shall be construed to prohibit:

- (a) Gratuitous care of friends or members of the family;
- (b) Domestic administration of family remedies or care of the sick by domestic servants, housekeepers, companions, or household aides of any type, whether employed regularly or because of an emergency of illness, but who shall not in any way assume to practice practical or professional nursing;
- (c) Nursing assistance in the case of an emergency;
- (d) The practice of nursing in this state by any legally qualified nurse of another state whose engagement requires him to accompany and care for a patient temporarily residing in this state, during the period of one such engagement, not to exceed six months in length, if such person does not represent or hold himself out as a practical or professional nurse licensed to practice in this state;
- (e) The practice of any nurse licensed in this state or another state or a territory of the United States who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of his official duties;
- (f) The practice of nursing by students enrolled in an educational program approved by the board when such practice is performed as part of an educational program

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prior to the graduation of such student;

(g) The practice of nursing by any nurse licensed in any other state or any territory of the United States or any other country enrolled in a baccalaureate or graduate program when such practice is performed as a part of such program;

(h) (I) The administration and monitoring of medications in facilities pursuant to part 3 of article 1.5 of title 25, C.R.S.

(II) Repealed.

(i) (I) The administration of nutrition or fluids through gastrostomy tubes as provided in section 27-10.5-103 (2) (k), C.R.S., as a part of residential or day program services provided through service agencies approved by the department of human services pursuant to section 27-10.5-104, C.R.S.

**Editor's note:** This version of subparagraph (I) is effective until March 1, 2014.

(I) The administration of nutrition or fluids through gastrostomy tubes as provided 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 program services provided through service agencies approved by the department of health care policy and financing pursuant to section 25.5-10-206, C.R.S.

**Editor's note:** This version of subparagraph (I) is effective March 1, 2014.

(II) Repealed.

(j) The administration of topical and aerosol medications within the scope of physical therapy practice as provided in section 12-41-113 (2);

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

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

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

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

(II) The issuance by an advanced practice nurse with prescriptive authority of standing orders and protocols for the use of epinephrine auto-injectors for emergency use in a public school or nonpublic school pursuant to a policy adopted in accordance with

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section 22-1-119.5, C.R.S.; or

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

**12-38-126. Religious exclusions.** No provision in this article shall be construed as applying to a person who nurses or cares for the sick in accordance with the practice or tenets of any church or religious denomination which teaches reliance upon spiritual means through prayer for healing, and who does not hold himself out to the public to be a licensed practical or professional nurse.

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

**12-38-128. Independent practice - direct reimbursement.** Nothing in this article shall be deemed to prohibit any licensee from practicing practical or professional nursing independently for compensation upon a fee for services basis. Nothing in this article shall be deemed to prohibit or require the direct reimbursement for nursing services and care through qualified governmental and insurance programs to persons duly licensed in accordance with this article.

**12-38-129. Disposition of fees - appropriation.** All fees collected pursuant to the authority of the state board of nursing shall be transmitted to the state treasurer who shall credit the same pursuant to section 24-34-105, C.R.S., and the general assembly shall

make annual appropriations pursuant to said section for the expenditures of the board incurred in the performance of its duties.

**12-38-130. Limitation of article.** Nothing in this article shall be interpreted as conveying to the practice of nursing the performance of medical practice as regulated by article 36 of this title.

**12-38-131. Nursing peer health assistance or nurse alternative to discipline program - fund - rules.** (1) As a condition of licensure and for the purpose of supporting a nursing peer health assistance program or a nurse alternative to discipline program, every applicant for an initial license or to reinstate a license and any person renewing a license issued pursuant to this article shall pay to the administering entity designated pursuant to paragraph (c) of subsection (3) of this section a fee in an amount set by the board, not to exceed twenty-five dollars per year; except that the board may adjust such amount each January 1 to reflect changes in the United States department of labor's bureau of labor statistics consumer price index, or its successor index, for the Denver-Boulder consolidated metropolitan statistical area for the price of goods paid by urban consumers.

(2) (a) No later than June 30, 2008, the board shall transfer any remaining balance in the impaired professional diversion fund, as such fund existed prior to January 1, 2008, to the administering entity chosen by the board pursuant to paragraph (c) of subsection (3) of this section.

(b) Moneys in the fund shall be used to support a nursing peer health assistance program or nurse alternative to discipline program in providing assistance to licensees needing help in dealing with physical, emotional, psychiatric, psychological, drug abuse, or alcohol abuse problems that may be detrimental to their ability to practice nursing.

(3) (a) The board shall select one or more recognized peer health assistance organizations or nurse alternative to discipline programs as designated providers. For purposes of selecting designated providers, the board shall use a competitive bidding process 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 discipline program shall:

(I) Offer assistance and education to licensees concerning the recognition, identification, and prevention of physical, emotional, psychiatric, psychological, drug abuse, or alcohol abuse problems and provide for intervention when necessary or under

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circumstances that may be established in rules promulgated by the board;

(II) Evaluate the extent of physical, emotional, psychiatric, psychological, drug abuse, or alcohol abuse problems and refer the licensee for appropriate treatment;

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

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

(V) Receive referrals from the board; and

(VI) Make services available to all licensees statewide.

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

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

(d) The administering entity shall:

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

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

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

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

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

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

(4) Notwithstanding sections 12-38-116.5 and 24-4-104, C.R.S., the board may immediately suspend the license of any licensee who is referred to a peer health assistance

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program or nurse alternative to discipline program by the board and who fails to attend or to complete the program. If the licensee objects to the suspension, he or she may submit a written request to the board for a formal hearing on the suspension within ten days after receiving notice of the suspension, and the board shall grant the request. In the hearing, the licensee shall bear the burden of proving that his or her license should not be suspended.

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

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

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

**12-38-132. Delegation of nursing tasks.** (1) Any registered nurse, as defined in section 12-38-103 (11), may delegate any task included in the practice of professional nursing, as defined in section 12-38-103 (10), subject to the requirements of this section. In no event may a registered nurse delegate to another person the authority to select medications if such person is not, independent of such delegation, authorized by law to select medications.

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

(3) No delegation shall be made without the delegating nurse making a determination that, in his or her professional judgment, the delegated task can be properly

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and safely performed by the delegatee and that such delegation is commensurate with the patient's safety and welfare.

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

- (a) The stability of the condition of the patient;
- (b) The training and ability of the delegatee;
- (c) The nature of the nursing task being delegated; and
- (d) Whether the delegated task has a predictable outcome.

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

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

**Editor's note:** This version of subsection (6) is effective until March 1, 2014.

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

**Editor's note:** This version of subsection (6) is effective March 1, 2014.

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

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

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)**