

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0356.01 Duane Gall x4335

HOUSE BILL 12-1300

HOUSE SPONSORSHIP

Gardner B., Barker, Ryden, Waller

SENATE SPONSORSHIP

Aguilar,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING PROFESSIONAL REVIEW COMMITTEES, AND, IN
102 CONNECTION THEREWITH, IMPLEMENTING THE SUNSET REVIEW
103 RECOMMENDATIONS OF THE DEPARTMENT OF REGULATORY
104 AGENCIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Sunset Process - House Judiciary Committee. The bill implements the recommendations made by the department of regulatory

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

agencies (DORA) pursuant to DORA's 2011 sunset review report of professional review committees and the committee on anticompetitive conduct.

Sections 1 and 2 of the bill continue the functions of professional review committees for 7 years, until 2019.

Sections 3 to 7 of the bill authorize professional review of physician assistants and advanced practice nurses.

Section 6 of the bill also specifies that the sharing of professional review records and information with regulators and other professional review entities does not waive the professional review privilege or violate applicable confidentiality provisions.

Section 8 of the bill requires entities that conduct professional review of physicians or physician assistants to register with the Colorado medical board and report on their activities, and directs the medical board to publish summary data in aggregated form. **Section 9** of the bill requires entities that conduct professional review of the practice of advanced practice nursing to register with the nursing board and report on their activities, and directs the nursing board to publish summary data in aggregated form. If an entity fails to register and report as required, the entity and its governing board lose the qualified immunity that would otherwise apply for acts and omissions occurring during the period of noncompliance.

The bill also corrects inconsistent references to peer review and professional review and makes nonsubstantive clarifications and corrections to statutory language.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 12-36.5-107
3 as follows:

4 **12-36.5-107. Repeal of article.** This article is repealed, effective
5 ~~July 1, 2012~~ SEPTEMBER 1, 2019. Prior to such repeal, THE DEPARTMENT
6 OF REGULATORY AGENCIES SHALL REVIEW the functions of professional
7 review committees and the committee on anticompetitive conduct ~~shall~~
8 ~~be reviewed~~ in accordance with section 24-34-104, C.R.S.

9 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **amend**
10 (43) introductory portion and (50.5) introductory portion; **repeal** (43) (g);
11 and **add** (50.5) (e) as follows:

1 **24-34-104. General assembly review of regulatory agencies**
2 **and functions for termination, continuation, or reestablishment.**

3 (43) The following agencies, functions, or both, ~~shall~~ terminate on July
4 1, 2012:

5 (g) ~~The functions of professional review committees pursuant to~~
6 ~~article 36.5 of title 12, C.R.S.;~~

7 (50.5) The following agencies, functions, or both, ~~shall~~ terminate
8 on September 1, 2019:

9 (e) THE FUNCTIONS OF PROFESSIONAL REVIEW COMMITTEES
10 PURSUANT TO ARTICLE 36.5 OF TITLE 12, C.R.S.

11 **SECTION 3.** In Colorado Revised Statutes, **amend** 12-36.5-101
12 as follows:

13 **12-36.5-101. Legislative declaration.** (1) The general assembly
14 hereby finds, determines, and declares that the Colorado medical board
15 created ~~pursuant to~~ IN article 36 of this title ~~acts~~ AND THE STATE BOARD
16 OF NURSING CREATED IN ARTICLE 38 OF THIS TITLE ACT for the state in its
17 sovereign capacity to govern licensure, discipline, and professional
18 review of persons licensed to practice medicine AND NURSING,
19 RESPECTIVELY, in this state. The general assembly further finds,
20 determines, and declares that:

21 (a) The authority to ~~practice medicine~~ PROVIDE HEALTH CARE in
22 this state is a privilege granted by the legislative authority of the state; and
23 that

24 (b) It is necessary for the health, safety, and welfare of the people
25 of this state that the ~~Colorado medical board~~ APPROPRIATE REGULATORY
26 BOARDS exercise ~~its~~ THEIR authority to protect the people of this state
27 from ~~the~~ unauthorized practice of ~~medicine~~ and ~~from~~ unprofessional

1 conduct by persons licensed to ~~practice medicine~~ PROVIDE HEALTH CARE
2 under ~~article 36~~ ARTICLES 36 AND 38 of this title.

3 (2) The general assembly recognizes that:

4 (a) Many patients of persons licensed to ~~practice medicine~~
5 PROVIDE HEALTH CARE in this state have restricted choices of ~~physicians~~
6 HEALTH CARE PROVIDERS under a variety of circumstances and
7 conditions;

8 (b) Many patients lack the knowledge, experience, or education
9 to properly evaluate the quality of medical OR NURSING practice or the
10 professional conduct of those licensed to ~~practice medicine~~ PROVIDE
11 HEALTH CARE; and

12 (c) It is necessary and proper that the ~~Colorado medical board~~
13 APPROPRIATE REGULATORY BOARDS exercise ~~its~~ THEIR regulatory
14 authority to protect the health, safety, and welfare of the people of this
15 state.

16 (3) The general assembly recognizes that, in the proper exercise
17 of ~~its~~ THEIR authority and responsibilities under this article, the Colorado
18 medical board AND THE STATE BOARD OF NURSING must, to some extent,
19 replace competition with regulation, and that ~~such~~ THE replacement of
20 competition by regulation, particularly with regard to ~~physicians~~ HEALTH
21 CARE PROVIDERS, is related to a legitimate state interest in the protection
22 of the health, safety, and welfare of the people of this state.

23 **SECTION 4.** In Colorado Revised Statutes, **amend** 12-36.5-102
24 as follows:

25 **12-36.5-102. Definitions.** As used in this article, unless the
26 context otherwise requires:

27 (1) "~~Medical board~~" means the ~~Colorado medical board~~ created

1 ~~pursuant to section 12-36-103.~~ "GOVERNING BOARD" MEANS A BOARD,
2 BOARD OF TRUSTEES, GOVERNING BOARD, OR OTHER BODY, OR DULY
3 AUTHORIZED SUBCOMMITTEE THEREOF, OF AN ORGANIZATION OF HEALTH
4 CARE PROVIDERS, WHICH BOARD OR BODY HAS FINAL AUTHORITY
5 PURSUANT TO THE ORGANIZATION'S WRITTEN BYLAWS, POLICIES, OR
6 PROCEDURES TO TAKE FINAL ACTION REGARDING THE RECOMMENDATIONS
7 OF AN AUTHORIZED PROFESSIONAL REVIEW COMMITTEE.

8 (2) ~~"Governing board" means any board, board of trustees,~~
9 ~~governing board, or other body, or duly authorized subcommittee thereof,~~
10 ~~of any organization of health care providers, which board or body has~~
11 ~~final authority pursuant to such organization's written bylaws, policies, or~~
12 ~~procedures to take final action regarding the recommendations of any~~
13 ~~authorized professional review committee.~~ "HEALTH CARE PROVIDER"
14 MEANS:

15 (a) A PHYSICIAN LICENSED UNDER ARTICLE 36 OF THIS TITLE;

16 (b) A PHYSICIAN ASSISTANT LICENSED UNDER SECTION
17 12-36-107.4; AND

18 (c) AN ADVANCED PRACTICE NURSE LICENSED UNDER ARTICLE 38
19 OF THIS TITLE AND REGISTERED UNDER SECTION 12-38-111.5.

20 (3) "MEDICAL BOARD" MEANS THE COLORADO MEDICAL BOARD
21 CREATED IN SECTION 12-36-103 (1).

22 ~~(3)~~ (4) "Professional review committee" means any committee
23 authorized under ~~the provisions of this article~~ to review and evaluate the
24 professional conduct of, and the quality and appropriateness of patient
25 care provided by, any ~~physician licensed under article 36 of this title~~
26 HEALTH CARE PROVIDER.

27 ~~(4)~~ (5) "Records" means any and all written or ~~verbal~~ ORAL

1 communications by any person ~~any member of an investigative body, or~~
2 ~~any professional review committee or governing board, or the staff~~
3 ~~thereof~~ arising from any activities of a GOVERNING BOARD OR A
4 professional review, QUALITY, RISK MANAGEMENT, OR OTHER committee
5 authorized by this article OR BY THE AGENT OR STAFF THEREOF, including
6 ~~the~~ ANY:

7 (a) CREDENTIALS APPLICATION;

8 (b) REFERENCE;

9 (c) Complaint, response, OR correspondence related ~~thereto~~ TO
10 THE COMPLAINT OR RESPONSE;

11 (d) INTERVIEWS OR STATEMENTS, REPORTS, MEMORANDA,
12 ASSESSMENTS, AND PROGRESS REPORTS DEVELOPED TO ASSIST IN
13 EVALUATIONS;

14 (e) ASSESSMENTS AND PROGRESS REPORTS TO ASSIST IN
15 EVALUATIONS, REPORTS, AND ASSESSMENTS DEVELOPED BY INDEPENDENT
16 CONSULTANTS IN CONNECTION WITH PROFESSIONAL REVIEW REPORTS;

17 (f) ASSESSMENTS AND PROGRESS REPORTS TO ASSIST IN
18 PROFESSIONAL DEVELOPMENT ACTIVITIES; AND

19 (g) Recordings or transcripts of proceedings, minutes, formal
20 recommendations, decisions, exhibits, and other similar items or
21 documents typically constituting the records of administrative
22 proceedings.

23 (6) "STATE BOARD OF NURSING" OR "NURSING BOARD" MEANS THE
24 STATE BOARD OF NURSING CREATED IN SECTION 12-38-104.

25 **SECTION 5.** In Colorado Revised Statutes, **amend** 12-36.5-103
26 as follows:

27 **12-36.5-103. Use of professional review committees.**

1 (1) (a) The general assembly recognizes that:

2 (I) The medical board AND THE NURSING BOARD, while assuming
3 and retaining ultimate authority for licensure and discipline in accordance
4 with ~~article~~ ARTICLES 36 AND 38 of this title, RESPECTIVELY, and in
5 accordance with this article, cannot practically and economically assume
6 responsibility over every single allegation or instance of purported
7 deviation from the standards of quality for the practice of medicine OR
8 NURSING, from the standards of professional conduct, or from the
9 standards of appropriate care; and ~~that~~

10 (II) An attempt to exercise such oversight would result in
11 extraordinary delays in the determination of the legitimacy of ~~such~~ THE
12 allegations and would result in the inappropriate and unequal exercise of
13 its authority to license and discipline physicians.

14 (b) It is therefore the intent of the general assembly that the
15 medical board AND THE NURSING BOARD utilize and allow professional
16 review committees and governing boards to assist ~~it~~ THEM in meeting ~~its~~
17 THEIR responsibilities under ~~article~~ ARTICLES 36 AND 38 of this title,
18 RESPECTIVELY, and under this article.

19 (2) All ~~physicians~~ HEALTH CARE PROVIDERS are encouraged to
20 serve upon ~~such~~ professional review committees when called to do so and
21 to study and review in ~~good faith~~ AN OBJECTIVELY REASONABLE MANNER
22 the professional conduct of ~~physicians~~ HEALTH CARE PROVIDERS,
23 including the quality and appropriateness of patient care.

24 (3) (a) The use of professional review committees is ~~declared to~~
25 ~~be~~ an extension of the authority of the medical board AND NURSING
26 BOARD. However, except as otherwise provided in this article, nothing in
27 this article ~~shall limit~~ LIMITS the authority of professional review

1 committees properly constituted under this article.

2 (b) Professional review committees, the members who constitute
3 ~~such~~ THE committees, governing boards, and persons who participate
4 directly or indirectly in professional review proceedings are granted
5 certain immunities from liability FOR DAMAGES arising from actions
6 ~~which~~ THAT are within the scope of their activities ~~and taken in good faith~~
7 as provided in section 12-36.5-105. ~~Such~~ THESE grants of immunity from
8 liability are ~~declared to be~~ necessary to ensure that professional review
9 committees and governing boards can exercise their professional
10 knowledge and judgment.

11 **SECTION 6.** In Colorado Revised Statutes, **amend** 12-36.5-104
12 as follows:

13 **12-36.5-104. Establishment of professional review committees**
14 **- function - rules.** (1) A professional review committee may be
15 established pursuant to this section to review and evaluate the quality and
16 appropriateness of patient care provided by, and the professional conduct
17 of, any ~~physician licensed under article 36 of this title~~ HEALTH CARE
18 PROVIDER.

19 (2) ~~Persons Licensed to practice medicine under article 36 of this~~
20 ~~title~~ HEALTH CARE PROVIDERS who are actively ~~engaged in the practice of~~
21 ~~medicine~~ PRACTICING in this state ~~shall~~ MUST constitute a majority of any
22 professional review committee established pursuant to this section, except
23 for those boards authorized by paragraph (g) of subsection (4) of this
24 section.

25 (3) A utilization and quality control peer review organization, as
26 defined pursuant to 42 U.S.C. sec. 1320c-1, or any other organization
27 performing similar review services under federal or state law ~~shall be~~ IS

1 an approved professional review committee under this article.

2 (4) ~~Any~~ A professional review committee established by any of
3 the following organizations, entities, or professional societies ~~shall be~~ IS
4 an approved professional review committee under this article if it operates
5 ~~pursuant to~~ IN MATERIAL COMPLIANCE WITH written bylaws, policies, or
6 procedures that are in compliance with this article and that have been
7 approved by its governing board:

8 (a) The medical OR NURSING staff of a hospital licensed pursuant
9 to part 1 of article 3 of title 25, C.R.S., or certified pursuant to section
10 25-1.5-103 (1) (a) (II), C.R.S.;

11 (b) The medical OR NURSING staff of a hospital-related
12 corporation. For the purposes of this paragraph (b), a corporation is
13 "hospital-related" if the licensed or certified hospital or holding company
14 of ~~such~~ THE LICENSED OR CERTIFIED hospital has ownership or control of
15 ~~such~~ THE corporation;

16 (c) A society or association of ~~physicians~~ HEALTH CARE
17 PROVIDERS whose membership includes not less than one-third of the
18 ~~doctors of medicine or doctors of osteopathy~~ HEALTH CARE PROVIDERS
19 licensed to practice and residing in this state, if the ~~physician~~ HEALTH
20 CARE PROVIDER whose services are the subject of the review is a member
21 of ~~such~~ THE society or association;

22 (d) A society or association of ~~physicians~~ HEALTH CARE
23 PROVIDERS licensed to practice and residing in this state and specializing
24 in a specific discipline of medicine OR NURSING, whose society or
25 association has been designated by the medical board OR NURSING BOARD
26 as the specialty society or association representative of ~~physicians~~
27 HEALTH CARE PROVIDERS practicing ~~such~~ THE specific discipline of

1 medicine OR NURSING, if the ~~physician~~ HEALTH CARE PROVIDER whose
2 services are the subject of the review is a member of ~~such~~ THE specialty
3 society or association;

4 (e) An individual practice association or a preferred provider
5 organization ~~comprised~~ CONSISTING of at least twenty-five ~~physicians~~
6 HEALTH CARE PROVIDERS or a medical group ~~which~~ THAT predominantly
7 serves members of a health maintenance organization licensed pursuant
8 to parts 1 and 4 of article 16 of title 10, C.R.S. A professional review
9 committee established pursuant to this paragraph (e) ~~shall have~~ HAS
10 jurisdiction to review only ~~physicians~~ HEALTH CARE PROVIDERS who are
11 members of the association or organization creating and authorizing that
12 committee; except that ~~such~~ THE professional review committee may
13 review the care provided to a particular patient referred by a member of
14 ~~such~~ THE association or organization to another ~~physician~~ HEALTH CARE
15 PROVIDER who is not a member of ~~such~~ THE association or organization.

16 (f) A corporation authorized to insure ~~physicians~~ HEALTH CARE
17 PROVIDERS pursuant to article 3 of title 10, C.R.S., or any other
18 corporation authorized to insure ~~such physicians~~ HEALTH CARE PROVIDERS
19 in this state when designated by the medical board OR NURSING BOARD
20 under subsection (5) of this section;

21 (g) THE governing ~~boards~~ BOARD of any entity ~~which~~ THAT has a
22 professional review committee established pursuant to article 36 OR
23 ARTICLE 38 of this title;

24 (h) Any ~~peer~~ PROFESSIONAL review committee established or
25 created by a combination or pooling of any of the organizations
26 authorized by this section to have a professional review committee;

27 (i) (I) A nonprofit corporation or association ~~comprised~~

1 CONSISTING of representatives from a statewide ~~medical~~ PROFESSIONAL
2 society and a statewide hospital association. ~~Such~~ THE association ~~shall~~
3 ~~be comprised~~ MUST CONSIST of ~~physicians~~ HEALTH CARE PROVIDERS,
4 hospital administrators, and hospital trustees, with a majority of ~~such~~ THE
5 representatives being ~~physicians~~ HEALTH CARE PROVIDERS. The
6 association may establish, or contract for, one or more ~~peer~~ PROFESSIONAL
7 review committees to review the care by hospital staff ~~physicians~~ HEALTH
8 CARE PROVIDERS, with priority given to small rural ~~medical~~ HOSPITAL
9 staffs. ~~Such~~ ~~peer~~ THESE PROFESSIONAL review services ~~shall~~ MUST be
10 available statewide on a fee-for-service basis to licensed or certified
11 hospitals at the joint request of the governing body and the medical OR
12 NURSING staff of the hospital or at the sole request of the governing body
13 of the hospital. If a ~~physician~~ HEALTH CARE PROVIDER being reviewed
14 specializes in a generally recognized specialty of medicine OR NURSING,
15 at least one of the ~~physicians~~ HEALTH CARE PROVIDERS on the ~~peer~~
16 PROFESSIONAL review committee ~~shall~~ MUST be a ~~physician~~ HEALTH CARE
17 PROVIDER practicing such specialty.

18 (II) For purposes of the introductory portion to this subsection (4),
19 the bylaws, policies, and procedures ~~shall~~ MUST be in compliance with
20 this article and ~~be~~ approved by the nonprofit corporation or association.

21 (j) The medical OR NURSING staff of an ambulatory surgical center
22 licensed pursuant to part 1 of article 3 of title 25, C.R.S.

23 (5) The medical board AND THE NURSING BOARD, WITH RESPECT
24 TO THE HEALTH CARE PROVIDERS SUBJECT TO THEIR JURISDICTION, may
25 establish by rule procedures necessary to authorize other health care ~~or~~
26 ~~physician~~ PROVIDER organizations or professional societies to establish
27 professional review committees.

1 (6) (a) A professional review committee acting pursuant to this
2 part 1 may investigate or cause to be investigated:

3 (I) The qualifications of any ~~physician licensed under article 36~~
4 ~~of this title~~ HEALTH CARE PROVIDER who seeks to subject himself or
5 herself to the authority of any organization, entity, or professional society
6 listed in subsection (4) of this section or any organization or professional
7 society that has been authorized by the medical board OR NURSING BOARD
8 to establish a professional review committee pursuant to subsection (5)
9 of this section; or

10 (II) The quality or appropriateness of patient care rendered by, or
11 the professional conduct of, any ~~physician licensed under article 36 of this~~
12 ~~title~~ HEALTH CARE PROVIDER who is subject to the authority of ~~such~~ THE
13 organization, entity, or professional society.

14 (b) ~~Such~~ THE PROFESSIONAL REVIEW COMMITTEE SHALL CONDUCT
15 THE investigation ~~shall be conducted~~ in conformity with written bylaws,
16 policies, or procedures adopted by ~~such~~ THE organization, entity, or
17 professional society.

18 (7) The written bylaws, policies, or procedures of any professional
19 review committee ~~shall~~ MUST provide for at least the following:

20 (a) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
21 PARAGRAPH (a), if the findings of any investigation indicate that the
22 ~~physician~~ HEALTH CARE PROVIDER who is the subject of the investigation
23 is lacking in qualifications, has provided substandard or inappropriate
24 patient care, or has exhibited inappropriate professional conduct, the
25 professional review committee shall hold a hearing ~~unless the physician~~
26 ~~waives his right to a hearing~~, to consider the findings, ~~except that~~, UNLESS
27 THE HEALTH CARE PROVIDER WAIVES THE RIGHT TO A HEARING.

1 (II) If the professional review committee is submitting its findings
2 to another professional review committee for review, only one hearing
3 ~~shall be~~ IS necessary prior to any appeal before the governing body.

4 (b) ~~Any~~ A person who has participated in the course of ~~any~~ AN
5 investigation ~~shall be~~ IS disqualified as a member of the committee at any
6 hearing held pursuant to paragraph (a) of this subsection (7), but ~~such~~ THE
7 person may participate as a witness in ~~such~~ THE hearing.

8 (c) The ~~physician~~ PROFESSIONAL REVIEW COMMITTEE SHALL GIVE
9 REASONABLE NOTICE OF THE HEARING TO THE HEALTH CARE PROVIDER
10 who is the subject of ~~any~~ AN investigation, ~~shall be given reasonable~~
11 ~~notice of such hearing~~ and ~~shall have~~ THE HEALTH CARE PROVIDER HAS a
12 right to be present, to be represented by legal counsel at ~~such~~ THE hearing,
13 and to offer evidence in his OR HER own behalf.

14 (d) After ~~such~~ THE hearing, the professional review committee
15 shall make any recommendations it deems necessary to the governing
16 board, unless OTHERWISE provided by federal law or regulation.

17 (e) THE PROFESSIONAL REVIEW COMMITTEE SHALL GIVE a copy of
18 ~~such~~ THE recommendations ~~shall be given~~ to the subject ~~physician~~
19 HEALTH CARE PROVIDER, who then ~~shall have~~ HAS the right to appeal the
20 findings and recommendations of the professional review committee to
21 the governing board to which the recommendations are made.

22 (f) THE PROFESSIONAL REVIEW COMMITTEE SHALL FORWARD a
23 copy of any recommendations made pursuant to paragraph (d) of this
24 subsection (7) ~~shall be promptly forwarded~~ to the medical board OR THE
25 NURSING BOARD, AS APPROPRIATE. NOTWITHSTANDING ANY OTHER
26 PROVISION OF LAW, A RECOMMENDATION FOR THE FILING OF A COMPLAINT
27 AGAINST AN ADVANCED PRACTICE NURSE SHALL NOT BE FORWARDED TO,

1 AND SHALL NOT BE ACTED UPON BY, THE MEDICAL BOARD.

2 (8) (a) All governing boards shall adopt written bylaws, policies,
3 or procedures UNDER which ~~provide that a physician~~ HEALTH CARE
4 PROVIDER who is the subject of an adverse recommendation by a
5 professional review committee may appeal to the governing board. ~~such~~
6 THE bylaws, policies, or procedures ~~shall~~ MUST provide that the ~~physician~~
7 ~~shall~~ HEALTH CARE PROVIDER be given reasonable notice of his OR HER
8 right to appeal and, unless waived by the ~~physician shall have~~ HEALTH
9 CARE PROVIDER, HAS the right to appear before the governing board, to be
10 represented by legal counsel, and to offer ~~such~~ THE argument on the
11 record as he OR SHE deems appropriate.

12 (b) The bylaws may provide that a committee of not fewer than
13 three members of the governing board may hear the appeal. ~~such~~ ALSO,
14 THE bylaws may ~~also~~ allow for an appeal to be heard by an independent
15 third party designated by the board.

16 (9) All governing boards that are required to report their final
17 actions to the medical board OR THE NURSING BOARD, AS APPROPRIATE,
18 are not otherwise relieved of ~~such~~ THEIR obligations by virtue of ~~any~~
19 ~~provision of~~ this article.

20 (10) (a) EXCEPT AS SPECIFIED IN PARAGRAPH (b) OF THIS
21 SUBSECTION (10), the records of a professional review committee, a
22 governing board, or the committee on anticompetitive conduct ~~shall~~ ARE
23 not ~~be~~ subject to subpoena or discovery and ~~shall~~ ARE not ~~be~~ admissible
24 in any civil suit brought against a ~~physician~~ HEALTH CARE PROVIDER who
25 is the subject of ~~such~~ THE records.

26 (b) ~~Notwithstanding the provisions of paragraph (a) of this~~
27 ~~subsection (10), such~~ THE records: ~~shall be~~

1 (I) ARE subject to subpoena and available for use:
2 ~~(H)~~ (A) By the committee on anticompetitive conduct;
3 ~~(H)~~ (B) By either party in ~~any~~ AN appeal or de novo proceeding
4 brought pursuant to this part 1;
5 ~~(H)~~ (C) By a ~~physician~~ HEALTH CARE PROVIDER in a suit seeking
6 judicial review of ~~any~~ AN action by the governing board;
7 (D) BY THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND
8 ENVIRONMENT TO INVESTIGATE OR DISCIPLINE THE HEALTH CARE
9 PROVIDER WHO IS THE SUBJECT OF THE RECORDS;
10 (E) BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID
11 SERVICES OR THE JOINT COMMISSION ON THE ACCREDITATION OF HEALTH
12 CARE ORGANIZATIONS TO INVESTIGATE OR DISCIPLINE THE HEALTH CARE
13 PROVIDER WHO IS THE SUBJECT OF THE RECORDS;
14 ~~(IV)~~ (F) By a governing board seeking judicial review; AND
15 (II) MAY BE SHARED BY AND AMONG PROFESSIONAL REVIEW
16 COMMITTEES, GOVERNING BOARDS, AND THE ENTITIES SPECIFIED IN
17 SUB-SUBPARAGRAPHS (D) AND (E) OF SUBPARAGRAPH (I) OF THIS
18 PARAGRAPH (b), FOR THE PURPOSE OF IDENTIFYING HEALTH CARE
19 PROVIDERS THAT ARE OR WERE THE SUBJECT OF COMPLAINTS OR
20 PROFESSIONAL REVIEW PROCEEDINGS. SHARING OF OTHERWISE
21 PRIVILEGED RECORDS AND INFORMATION PURSUANT TO THIS
22 SUBPARAGRAPH (II) DOES NOT CONSTITUTE A WAIVER OF THE PRIVILEGE
23 SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (10). RECORDS
24 PROVIDED TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
25 PURSUANT TO THIS SUBPARAGRAPH (II) ARE NOT PUBLIC RECORDS SUBJECT
26 TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE
27 24, C.R.S., AND A PERSON PROVIDING THE RECORDS TO THE DEPARTMENT

1 DOES NOT THEREBY ABROGATE ANY IMMUNITY THE PERSON OTHERWISE
2 WOULD BE ENTITLED TO UNDER SECTION 12-36.5-105.

3 (11) At the request of the medical OR NURSING board OR OTHER
4 REGULATORY AGENCY ACTING WITHIN THE SCOPE OF ITS AUTHORITY, a
5 governing board shall provide the ~~medical~~ board OR AGENCY with the
6 complete record of all professional review proceedings, including ~~but not~~
7 ~~limited to~~, the GOVERNING BOARD'S findings, recommendations, and
8 actions taken.

9 (12) Investigations, examinations, hearings, meetings, ~~or any~~ AND
10 other proceedings of a professional review committee or governing board
11 conducted pursuant to ~~the provisions of this part 1 shall be~~ ARE exempt
12 from ~~the provisions of~~ any law requiring that proceedings be conducted
13 publicly or that the minutes or records be open to public inspection.

14 (13) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF
15 SUBSECTION (10) OF THIS SECTION, all proceedings, recommendations,
16 records, and reports involving professional review committees or
17 governing boards ~~shall be~~ ARE confidential.

18 (14) A professional review committee or governing board ~~which~~
19 THAT is constituted and conducts its reviews and activities ~~pursuant to the~~
20 ~~provisions of~~ IN ACCORDANCE WITH this part 1 is ~~declared not to be~~ an
21 unlawful conspiracy in violation of section 6-4-104 or 6-4-105, C.R.S.

22 **SECTION 7.** In Colorado Revised Statutes, 12-36.5-104.4,
23 **amend** (1) as follows:

24 **12-36.5-104.4. Hospital professional review committees.**

25 (1) The quality and appropriateness of patient care rendered by
26 ~~physicians~~ HEALTH CARE PROVIDERS and other licensed health care
27 professionals so influence the total quality of patient care that a review of

1 care provided in a hospital is ineffective without concomitantly reviewing
2 overall quality and appropriateness of care rendered by physicians
3 HEALTH CARE PROVIDERS and other licensed health care professionals.

4 **SECTION 8.** In Colorado Revised Statutes, **add** 12-36.5-104.6
5 as follows:

6 **12-36.5-104.6. Committees to register with medical board -**
7 **annual reports - aggregation and publication of data - rules.** (1) ON
8 OR BEFORE JULY 1, 2013, AND ANNUALLY THEREAFTER AS DETERMINED BY
9 THE MEDICAL BOARD, EACH GOVERNING BOARD THAT ESTABLISHES OR
10 USES ONE OR MORE PROFESSIONAL REVIEW COMMITTEES TO REVIEW THE
11 PRACTICE OF PHYSICIANS OR PHYSICIAN ASSISTANTS SHALL:

12 (a) REGISTER WITH THE MEDICAL BOARD, OR RENEW AN EXISTING
13 REGISTRATION, IN A FORM SATISFACTORY TO THE MEDICAL BOARD; AND

14 (b) REPORT ON ITS PROFESSIONAL REVIEW ACTIVITIES DURING THE
15 IMMEDIATELY PRECEDING CALENDAR YEAR, INCLUDING THE NUMBER AND
16 TYPE OF CASES REVIEWED AND THE RESULTS OF SUCH REVIEWS.

17 (2) THE MEDICAL BOARD SHALL PUBLISH THE DATA PROVIDED
18 PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION IN
19 AGGREGATE FORM AND WITHOUT INDIVIDUALLY IDENTIFIABLE
20 INFORMATION.

21 (3) THE MEDICAL BOARD SHALL ADOPT RULES TO IMPLEMENT THIS
22 SECTION AND MAY COLLECT A REASONABLE REGISTRATION FEE TO
23 RECOVER ITS DIRECT AND INDIRECT COSTS OF ADMINISTERING THE
24 REGISTRATION AND PUBLICATION SYSTEMS REQUIRED BY THIS SECTION.

25 (4) A GOVERNING BOARD THAT FAILS TO REGISTER OR REPORT AS
26 REQUIRED BY THIS SECTION OR BY ANY APPLICABLE RULE OR ORDER OF
27 THE MEDICAL BOARD, AND THE ENTITY REPRESENTED BY THAT GOVERNING

1 BOARD, ARE NOT ENTITLED TO THE IMMUNITY PROVIDED BY SECTION
2 12-36.5-105 (2) FOR ANY ACT OR OMISSION OCCURRING DURING THE
3 PERIOD THAT THE GOVERNING BOARD FAILED TO SO REGISTER OR REPORT,
4 AND THE PRIVILEGE OTHERWISE APPLICABLE UNDER SECTION 12-36.5-104
5 (10) (a) DOES NOT APPLY TO RECORDS OF THE PROFESSIONAL REVIEW
6 COMMITTEE CREATED DURING THAT PERIOD.

7 **SECTION 9.** In Colorado Revised Statutes, **add** 12-36.5-104.8
8 as follows:

9 **12-36.5-104.8. Committees to register with nursing board -**
10 **annual reports - aggregation and publication of data - rules.** (1) ON
11 OR BEFORE JULY 1, 2013, AND ANNUALLY THEREAFTER AS DETERMINED BY
12 THE NURSING BOARD, EACH GOVERNING BOARD THAT ESTABLISHES OR
13 USES ONE OR MORE PROFESSIONAL REVIEW COMMITTEES TO REVIEW THE
14 PRACTICE OF ADVANCED PRACTICE NURSES SHALL:

15 (a) REGISTER WITH THE NURSING BOARD, OR RENEW AN EXISTING
16 REGISTRATION, IN A FORM SATISFACTORY TO THE NURSING BOARD; AND

17 (b) REPORT ON ITS PROFESSIONAL REVIEW ACTIVITIES DURING THE
18 IMMEDIATELY PRECEDING CALENDAR YEAR, INCLUDING THE NUMBER AND
19 TYPE OF CASES REVIEWED AND THE RESULTS OF SUCH REVIEWS.

20 (2) THE NURSING BOARD SHALL PUBLISH THE DATA PROVIDED
21 PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION IN
22 AGGREGATE FORM AND WITHOUT INDIVIDUALLY IDENTIFIABLE
23 INFORMATION.

24 (3) THE NURSING BOARD SHALL ADOPT RULES TO IMPLEMENT THIS
25 SECTION AND MAY COLLECT A REASONABLE REGISTRATION FEE TO
26 RECOVER ITS DIRECT AND INDIRECT COSTS OF ADMINISTERING THE
27 REGISTRATION AND PUBLICATION SYSTEMS REQUIRED BY THIS SECTION.

1 (4) A GOVERNING BOARD THAT FAILS TO REGISTER OR REPORT AS
2 REQUIRED BY THIS SECTION OR BY ANY APPLICABLE RULE OR ORDER OF
3 THE NURSING BOARD, AND THE ENTITY REPRESENTED BY THAT GOVERNING
4 BOARD, ARE NOT ENTITLED TO THE IMMUNITY PROVIDED BY SECTION
5 12-36.5-105 (2) FOR ANY ACT OR OMISSION OCCURRING DURING THE
6 PERIOD THAT THE GOVERNING BOARD FAILED TO SO REGISTER OR REPORT,
7 AND THE PRIVILEGE OTHERWISE APPLICABLE UNDER SECTION 12-36.5-104
8 (10) (a) DOES NOT APPLY TO RECORDS OF THE PROFESSIONAL REVIEW
9 COMMITTEE CREATED DURING THAT PERIOD.

10 **SECTION 10.** In Colorado Revised Statutes, **amend** 12-36.5-105
11 as follows:

12 **12-36.5-105. Immunity from liability.** (1) A member of a
13 professional review committee, a witness before a professional review
14 committee, or ~~any~~ A person who files a complaint or otherwise
15 participates in the professional review process ~~shall be~~ IS immune from
16 suit in any civil or criminal action, including antitrust actions, brought by
17 a ~~physician~~ HEALTH CARE PROVIDER who is the subject of the review by
18 ~~such~~ THE professional review committee, if: ~~such~~

19 (a) THE member made a reasonable effort to obtain the facts of the
20 matter as to which he OR SHE acted, acted in the reasonable belief that the
21 action taken by him OR HER was warranted by the facts, and otherwise
22 acted in ~~good faith~~ AN OBJECTIVELY REASONABLE MANNER within the
23 scope of ~~such~~ THE professional review committee process; and

24 (b) ~~if such~~ THE witness, COMPLAINANT, or participant acted in
25 ~~good faith~~ AN OBJECTIVELY REASONABLE MANNER within the scope of
26 ~~such~~ THE professional review committee process.

27 (2) The governing board, the individual members of ~~such~~ THE

1 board and the entity that has established a ~~peer~~ PROFESSIONAL review
2 committee pursuant to section 12-36.5-104, the board's staff, ~~any~~ A person
3 acting as a witness or consultant to the board, ~~any~~ A witness testifying in
4 a proceeding authorized under this article, and ~~any~~ A person who lodges
5 a complaint pursuant to this article ~~shall be~~ ARE immune from liability
6 FOR DAMAGES in any civil action brought against him or her for acts
7 occurring while acting in his or her capacity as board member, staff,
8 consultant, or witness, respectively, if ~~such~~ THE individual was acting in
9 good faith within the scope of his or her respective capacity, made a
10 reasonable effort to obtain the facts of the matter as to which he or she
11 acted, and acted in the reasonable belief that the action taken by him or
12 her was warranted by the facts. ~~Any~~ A person participating in ~~good faith~~
13 AN OBJECTIVELY REASONABLE MANNER in lodging a complaint or
14 participating in ~~any~~ AN investigative or administrative proceeding
15 pursuant to this article ~~shall be~~ IS immune from any civil or criminal
16 liability that may result from ~~such~~ THE participation.

17 **SECTION 11.** In Colorado Revised Statutes, 12-36.5-106,
18 **amend** (2), (5), (7), (8), (9) introductory portion, (9) (a), (9) (b), (9) (e),
19 (9) (f), (9) (k), (9) (n), (10), (12), and (13) as follows:

20 **12-36.5-106. Committee on anticompetitive conduct.** (2) The
21 committee ~~shall be composed~~ CONSISTS of five persons, none of whom
22 ~~shall be~~ IS a member of the medical board, APPOINTED AS FOLLOWS:

23 (a) THE MEDICAL BOARD SHALL APPOINT four members of the
24 committee, ~~shall~~ WHO MUST be licensed to ~~practice medicine~~ PROVIDE
25 HEALTH CARE and actively engaged in the practice of medicine in this
26 state. ~~and shall be appointed by the medical board.~~ No A member
27 APPOINTED PURSUANT TO THIS PARAGRAPH (a) shall NOT practice in the

1 same medical subspecialty as any other member ~~nor~~ AND SHALL NOT
2 conduct his or her primary practice in the same county as any other
3 member.

4 (b) THE GOVERNOR SHALL APPOINT one member ~~shall be~~
5 ~~appointed by the governor and shall be~~ WHO IS an attorney licensed to
6 practice in this state AND who has particular expertise and experience in
7 the area of antitrust law.

8 (5) The committee shall annually elect a ~~chairman~~ CHAIR from
9 among its members. Any three members of the committee ~~shall~~ constitute
10 a quorum. Any action of a majority of those present comprising ~~such~~ THE
11 quorum ~~shall be~~ IS the action of the committee. Committee members ~~shall~~
12 ~~be~~ ARE compensated as provided in section 24-34-102 (13), C.R.S. The
13 committee may ~~in its discretion,~~ utilize the expertise of consultants,
14 including ~~but not limited to,~~ legal, medical, and business specialists. THE
15 COMMITTEE SHALL ASSESS AND COLLECT costs of ~~such~~ THE consultants
16 ~~shall be assessed and collected~~ as provided in subsection (11) of this
17 section.

18 (7) ~~Any physician~~ A HEALTH CARE PROVIDER who is the subject
19 of a final action by a governing board, which action results in the denial,
20 termination, or restriction of privileges at or membership ~~in~~ or
21 participation in an organization, and who believes that ~~such~~ THE action
22 resulted from unreasonable anticompetitive conduct ~~shall have, as his sole~~
23 ~~and exclusive remedy,~~ MAY SEEK direct review of the record by the
24 committee. ~~such~~ THE review, ~~shall be~~ WHICH IS THE HEALTH CARE
25 PROVIDER'S EXCLUSIVE REMEDY, IS limited to the sole issue of whether
26 ~~such~~ THE final board action resulted from unreasonable anticompetitive
27 conduct. Failure to exhaust this administrative remedy before the

1 committee ~~shall preclude~~ PRECLUDES the right of de novo review on the
2 merits of the issue of unreasonable anticompetitive conduct.

3 (8) Nothing in this article ~~shall preclude~~ PRECLUDES a physician
4 or health care provider otherwise aggrieved by the final action of a
5 governing board from seeking other remedies available to them by law,
6 except as provided in subsection (7) of this section.

7 (9) ~~Review by~~ The committee shall ~~be~~ CONDUCT THE REVIEW in
8 accordance with the following procedures and, to the extent practicable,
9 in accordance with the procedures used in the district courts of this state:

10 (a) ~~Review~~ THE AGGRIEVED HEALTH CARE PROVIDER shall ~~be~~
11 ~~initiated~~ INITIATE THE REVIEW by filing a verified complaint with the
12 committee, no later than thirty days after receipt of a notice of final action
13 by the governing board, alleging, with specificity, all facts disclosed in
14 the record and all additional facts known to the complainant ~~which~~ THAT
15 would support his OR HER allegation that the final action taken by the
16 governing board resulted from unreasonable anticompetitive conduct.

17 (b) The committee shall mail a copy of ~~such~~ THE complaint to the
18 governing board and the professional review committee by certified mail,
19 return receipt requested, within five days ~~of~~ AFTER the receipt of ~~such~~ THE
20 complaint by the committee, advising them of their right to file a verified
21 answer to the allegations stated ~~therein~~ IN THE COMPLAINT. ~~Receipt of~~
22 ~~such complaint by mail shall make~~ The recipients ~~thereof~~ OF THE
23 COMPLAINT BECOME a party to these proceedings UPON RECEIPT OF THE
24 COMPLAINT.

25 (e) If the committee finds THAT no ~~such~~ probable cause exists, it
26 shall dismiss the complaint, which dismissal ~~shall constitute~~ CONSTITUTES
27 final administrative action.

1 (f) If the committee finds ~~such~~ THAT probable cause exists, it shall
2 schedule a hearing. At ~~such~~ THE hearing, the committee shall review the
3 record below on the sole issue of whether the final action of the
4 governing board resulted from unreasonable anticompetitive conduct and
5 shall take evidence only with regard to the additional facts specifically
6 alleged in the complaint or answer regarding unreasonable
7 anticompetitive conduct, except when, in the discretion of the committee,
8 the interests of a fair hearing demand otherwise.

9 (k) If the committee finds by a preponderance of evidence that the
10 final action of the governing board resulted from unreasonable
11 anticompetitive conduct, it shall issue its final order disapproving and
12 setting aside ~~such~~ THE action or modifying the action taken by the
13 governing board in whole or in part, which final order ~~shall be~~ IS binding
14 on the parties. THE COMMITTEE SHALL MAIL a copy of ~~such~~ THE order
15 ~~shall be mailed~~ by certified mail, return receipt requested, to the parties.

16 (n) In any case presented to the committee where the ~~medical~~
17 HEALTH CARE practice of the complainant constitutes a clear and present
18 danger to patients, the committee shall refer the case to the medical board
19 OR NURSING BOARD, AS APPLICABLE, for ~~such~~ action as the board deems
20 appropriate.

21 (10) (a) Following final administrative action by the committee,
22 ~~such action of the committee may be reviewed~~ only by the court of
23 appeals MAY REVIEW THE ACTION OF THE COMMITTEE through appropriate
24 proceedings brought pursuant to section 24-4-106 (11), C.R.S.

25 (b) Following final administrative action by the committee, ~~any~~
26 A party aggrieved by the final action of a governing board who wishes to
27 challenge the action of ~~such~~ THE governing board, rather than the

1 committee's review of ~~such~~ THE action, ~~shall have~~ HAS the right to seek
2 de novo review on the merits in a district court in Colorado. In no event
3 shall the medical board, NURSING BOARD, or the committee be made
4 parties to ~~such a~~ THE district court action.

5 (c) As a condition of filing a complaint under paragraph (a) of
6 subsection (9) of this section, the complainant shall post a cash bond or
7 equivalent liquid security of three thousand dollars to cover anticipated
8 costs ~~which~~ THAT may be assessed against him OR HER. Within thirty days
9 ~~of~~ AFTER receipt of service of a complaint on a governing board, or
10 concurrently with the filing of an answer, whichever is earlier, the
11 governing board shall post a cash bond or equivalent liquid security of
12 three thousand dollars to cover anticipated costs ~~which~~ THAT may be
13 assessed against it as a party. The committee may enforce this latter
14 requirement through the district court.

15 (12) The committee shall promulgate ~~such rules and regulations~~
16 as ~~may be~~ necessary for the implementation of this section, including
17 mechanisms to secure the payment of costs as provided in paragraph (c)
18 of subsection (10) and subsection (11) of this section.

19 (13) ~~Any~~ A member of the committee, ~~any~~ A member of the
20 committee's staff, ~~any~~ A person acting as a witness or consultant to the
21 committee, ~~any~~ A witness testifying in a proceeding authorized under this
22 article, and ~~any~~ A person who lodges a complaint pursuant to this article
23 ~~shall be~~ ARE immune from liability in any civil action brought against him
24 or her for acts occurring while acting in his or her capacity as committee
25 member, staff, consultant, or witness, respectively, if ~~such~~ THE individual
26 was acting in ~~good faith~~ AN OBJECTIVELY REASONABLE MANNER within
27 the scope of his or her respective capacity, made a reasonable effort to

1 obtain the facts of the matter as to which he or she acted, and acted in the
2 reasonable belief that the action taken by him or her was warranted by the
3 facts. Any person participating in good faith in lodging a complaint or
4 participating in any investigative or administrative proceeding pursuant
5 to this article ~~shall be~~ IS immune from any civil or criminal liability that
6 may result from ~~such~~ THE participation.

7 **SECTION 12.** In Colorado Revised Statutes, **amend** 12-36.5-202
8 as follows:

9 **12-36.5-202. Rules - compliance with reporting requirements**
10 **of federal act.** Upon implementation of the federal "Health Care Quality
11 Improvement Act of 1986", as amended, 42 U.S.C. secs. 11101 through
12 11152, and upon implementation of the federal data bank, the medical
13 board AND NURSING BOARD shall promulgate rules to comply with ~~such~~
14 THE act ~~which rules~~ THAT are consistent with the standards and the
15 reporting requirements of ~~such~~ THE act.

16 **SECTION 13.** In Colorado Revised Statutes, 12-36.5-203,
17 **amend** (1) introductory portion, (2), and (3) as follows:

18 **12-36.5-203. Limitations on liability relating to professional**
19 **review actions.** (1) The following persons ~~shall~~ ARE not ~~be~~ liable for
20 damages in ~~any~~ A civil action with respect to their participation in,
21 assistance to, or reporting of information to a professional review body
22 in connection with a professional review action in this state, and ~~such~~ THE
23 persons ~~shall~~ ARE not ~~be~~ liable for damages in ~~any~~ A civil action with
24 respect to their participation in, assistance to, or reporting of information
25 to a professional review body ~~which~~ THAT meets the standards of and is
26 in conformity with ~~the provisions of~~ the federal "Health Care Quality
27 Improvement Act of 1986", as amended, 42 U.S.C. secs. 11101 through

1 11152: ~~upon implementation of such act by the federal government:~~

2 (2) Notwithstanding any other provision of law, ~~no~~ A person,
3 whether as a witness or otherwise, who provides information to a
4 professional review body regarding the competence or professional
5 conduct of a ~~physician~~ HEALTH CARE PROVIDER shall NOT be held ~~by~~
6 ~~reason of having provided such information,~~ liable in damages in ~~any~~ A
7 civil action FOR PROVIDING THE INFORMATION, unless ~~such~~ THE
8 information is false and the person providing it knew that ~~such~~ THE
9 information was false.

10 (3) For the purposes of this section, unless the context otherwise
11 requires:

12 (a) "Professional review action" means an action or
13 recommendation of a professional review body ~~which~~ THAT is taken or
14 made in the conduct of professional review activity and ~~which~~ THAT is
15 based on the competence or professional conduct of an individual
16 ~~physician~~ HEALTH CARE PROVIDER, which conduct affects or may affect
17 adversely the clinical privileges of or membership in a professional
18 society of the ~~physician~~ HEALTH CARE PROVIDER. "Professional review
19 action" includes a formal decision by the professional review body not to
20 take an action or make a recommendation as provided in this paragraph
21 (a) and also includes professional review activities relating to a
22 professional review action. An action ~~shall~~ IS not ~~be considered to be~~
23 based upon the competence or professional conduct of a ~~physician~~
24 HEALTH CARE PROVIDER if the action is primarily based on:

25 (I) The ~~physician's~~ HEALTH CARE PROVIDER'S association or lack
26 of association with a professional society or association;

27 (II) The ~~physician's~~ HEALTH CARE PROVIDER'S fees or his OR HER

1 advertising or engaging in other competitive acts intended to solicit or
2 retain business;

3 (III) The ~~physician's~~ HEALTH CARE PROVIDER'S association with,
4 supervision of, delegation of authority to, support for, training of, or
5 participation in a private group practice with a member or members of a
6 particular class of health care practitioners or professionals;

7 (IV) The ~~physician's~~ HEALTH CARE PROVIDER'S participation in
8 prepaid group health plans, salaried employment, or any other manner of
9 delivering health services whether on a fee-for-service basis or other
10 basis;

11 (V) Any other matter that does not relate to the competence or
12 professional conduct of a ~~physician~~ HEALTH CARE PROVIDER.

13 (b) "Professional review body" means a health care entity and the
14 governing body or ~~any~~ A committee of a health care entity ~~which~~ THAT
15 conducts professional review actions and includes any committee of the
16 medical staff of ~~such an~~ THE entity when assisting the governing body in
17 a professional review activity.

18 **SECTION 14.** In Colorado Revised Statutes, 12-36-118, **amend**
19 (10) (b) as follows:

20 **12-36-118. Disciplinary action by board - immunity - rules.**

21 (10) (b) For purposes of the records related to a complaint filed pursuant
22 to this section against a licensee, the board shall be considered a
23 professional review committee, the records related to the complaint shall
24 include all records described in section 12-36.5-102 (~~4~~) (5), and section
25 12-36.5-104 (10) shall apply to those records.

26 **SECTION 15. Effective date.** (1) Except as otherwise provided
27 in subsection (2) of this section, this act takes effect July 1, 2012.

1 (2) Section 11 of this act takes effect only if House Bill 12-____
2 does not become law.

3 **SECTION 16. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.