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Sixty-eighth General Assembly
STATE OF COLORADO**

REREVISED

This Version Includes All Amendments

Adopted in the Second House

LLS NO. 12-0234.02 Christy Chase x2008

HOUSE BILL 12-1311

HOUSE SPONSORSHIP

Summers, Acree, Brown, Fields, Joshi, Kefalas, McCann, Schafer S., Young

SENATE SPONSORSHIP

Boyd,

House Committees

Health and Environment

Finance

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Senate Committees

Health and Human Services

Finance

Appropriations

A BILL FOR AN ACT

101 **CONCERNING CONTINUATION OF THE STATE BOARD OF PHARMACY,**
102 **AND, IN CONNECTION THEREWITH, IMPLEMENTING THE**
103 **RECOMMENDATIONS CONTAINED IN THE SUNSET REVIEW AND**
104 **REPORT REGARDING THE BOARD AND RECODIFYING THE LAWS**
105 **REGULATING PHARMACISTS, THE PRACTICE OF PHARMACY, AND**
106 **THE MANUFACTURE, DISTRIBUTION, AND DISPENSING OF**
107 **PRESCRIPTION DRUGS AND CONTROLLED SUBSTANCES, AND**
108 **MAKING AN APPROPRIATION.**

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

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.

SENATE
3rd Reading Unamended
May 9, 2012

SENATE
Amended 2nd Reading
May 8, 2012

HOUSE
3rd Reading Unamended
April 18, 2012

HOUSE
Amended 2nd Reading
April 17, 2012

applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Sunset Process - House Health and Environment Committee.

The bill implements the recommendations of the sunset review and report on the Colorado state board of pharmacy as follows:

Recommendation 1 - Contained in C.R.S. section 12-42.5-103 (3)(b) and Section 3 of the bill

! The bill continues the state board of pharmacy (board) and its functions and the regulation of the practice of pharmacy through September 1, 2021.

Recommendation 2 - Contained in C.R.S. sections 12-42.5-106 (1)(j) and 12-42.5-202 (1.5) and Section 2 of the bill

! The bill repeals the rehabilitation evaluation committee, which is tasked with reviewing applications to participate in the pharmacy peer health assistance program and making recommendations to the board. The functions of the rehabilitation evaluation committee are transferred to the board.

Recommendation 3 - Contained in C.R.S. section 12-42.5-203 (2)(a)

! The pharmacy peer health assistance program is funded from license and renewal fees, the amount of which are set in statute. The bill permits the board annually to increase license and renewal fees, based on increases in the consumer price index, to cover the costs of the pharmacy peer health assistance program.

Recommendation 4 - Contained in C.R.S. section 12-42.5-102 (25)(b)

! The definition of an "other outlet" that registers with the board is expanded to include ambulatory surgical centers, medical clinics operated by hospitals, and long-term care facilities for seniors.

Recommendation 5 - Contained in C.R.S. sections 12-42.5-102 (16) and 12-42.5-118 (10)

! Currently, hospitals, which are registered as prescription drug outlets (PDOs), are allowed to operate "satellite" pharmacies that are located in an area outside the PDO but at the same location as the PDO. If a satellite has an address that differs from the PDO, the satellite must obtain a separate registration from the federal drug enforcement agency (DEA), which requires, as a prerequisite, a state registration; however, current law does not permit a separate registration for a satellite that has a different address than the PDO. The bill establishes a new hospital satellite pharmacy registration to require a satellite that is located in a building that is under the same ownership and

control as a registered PDO but that has a different address to obtain a separate registration from the board, thereby allowing the hospital satellite pharmacy to obtain its own registration from the DEA.

Recommendation 6 - Contained in C.R.S. section 12-42.5-302 (2)

- ! Current law permits the board to exempt wholesalers who exclusively distribute veterinary prescription drugs from the requirements that otherwise apply to prescription drug wholesalers, including the requirement to maintain records of the pedigree of each wholesale distribution of a prescription drug that occurs outside the normal distribution channel. The bill allows the board to exempt wholesalers that distribute veterinary prescription drugs from the pedigree requirement, regardless of whether the wholesaler exclusively distributes veterinary prescription drugs.

Recommendation 7 - Contained in C.R.S. section 12-42.5-119 (3)(b) and 12-64-111 (1)(hh)

- ! A licensed veterinarian is permitted to issue an oral prescription order to a wholesaler, in which case the veterinarian must provide a written prescription to the wholesaler within 72 hours after issuing the oral order. A licensed veterinarian is subject to discipline by the state board of veterinary medicine if he or she fails to provide a written prescription within 72 hours as required by section 12 of the bill.

Recommendation 8 - Contained in C.R.S. section 12-42.5-125 (6)

- ! Under current law, the board may issue a letter of admonition to a licensee as a form of discipline, but the board is not authorized to issue letters of admonition to registrants. The bill permits the board to issue letters of admonition to registrants as a disciplinary tool.

Recommendation 9 - Contained in C.R.S. section 12-42.5-125 (7)

- ! When the board issues a confidential letter of concern to a licensee or registrant, current law requires the board to send the letter via certified mail. The bill deletes the certified mail requirement, thereby allowing the board to determine the manner in which to transmit the letter to the licensee or registrant.

Recommendation 10 - Contained in C.R.S. section 12-42.5-117 (1)(b)

- ! PDOs are required to employ a pharmacist manager to ensure the PDO operates in accordance with applicable laws. If the pharmacist manager's employment is terminated, either voluntarily or involuntarily, the PDO must replace the former pharmacist manager and, within 14

days after termination of the former pharmacist manager, apply to transfer the registration of the former pharmacist manager to a new pharmacist manager, and pay a transfer fee. The bill extends the deadline for applying for the registration transfer and payment of the fee to 30 days after termination of the former pharmacist manager.

Recommendation 11 - Contained in C.R.S. section 12-42.5-204 (1) and (2)(a)

! Current law requires a pharmacist or pharmacy intern to actually experience impaired practice before he or she is allowed to apply to the board for participation in a pharmacy peer health assistance program. The requirement to experience impaired practice is repealed, and a pharmacist or pharmacy intern who recognizes a potential for the existence of a problem that may impair his or her practice is allowed to apply for the program.

Recommendation 12 - Contained in C.R.S. section 12-42.5-123 (2)

! When a practitioner determines that an equivalent drug should not be substituted for the prescribed drug, the practitioner must indicate that order by writing "dispense as written" on the prescription order or by initialing in his or her own handwriting a preprinted box labeled "dispense as written". The bill allows the practitioner, when issuing an electronically generated prescription order, to indicate the "dispense as written" by electronic means, including use of an electronic signature.

Recommendation 13 - Contained in C.R.S. sections 12-42.5-124 (1)(d) and (1)(r) and 12-42.5-125

! Under current law, a pharmacist or pharmacy intern is subject to discipline if he or she is unfit to practice by reason of a physical or mental illness. The bill removes as grounds for discipline the mere existence of a physical or mental illness and instead authorizes discipline only if the pharmacist or pharmacy intern fails to notify the board of a physical or mental illness or condition that affects his or her ability to safely practice pharmacy; fails to act within the limitations of the illness or condition; or fails to comply with the limitations agreed to under a confidential agreement with the board. Additionally, the bill authorizes the board to enter into a confidential agreement to limit the practice of a pharmacist or pharmacy intern who has a physical or mental illness or condition that impedes his or her ability to practice with reasonable skill and safety.

The bill, in C.R.S. section 12-42.5-119 (13), permits interns to practice pharmacy under the direct and immediate supervision of a

registered manufacturer or regulated health care-related professional, as determined pursuant to board rule.

Section 1 of the bill also recodifies and relocates the laws regulating pharmacists and the practice of pharmacy by the board from article 22 in title 12, C.R.S., to a new article 42.5 in title 12, C.R.S. **Section 5** relocates laws pertaining to the licensing of addiction programs and researchers by the department of human services to a new part 2 in article 80 of title 27, C.R.S.

Sections 6 through 91 contain conforming amendments related to the recodification and relocations.

The bill takes effect July 1, 2012.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add with amended**
3 **and relocated provisions** article 42.5 to title 12 as follows:

4 **ARTICLE 42.5**

5 **Pharmacists, Pharmacy Businesses,**
6 **and Pharmaceuticals**

7 **PART 1**

8 **GENERAL PROVISIONS**

9 **12-42.5-101. [Formerly 12-22-101] Public interest.** The practice
10 of pharmacy is ~~declared~~ a professional practice affecting the public
11 health, safety, and welfare and is subject to regulation and control in the
12 public interest. It is a matter of public interest and concern that the
13 practice of pharmacy, as defined in this ~~part 1~~ **ARTICLE**, merits and
14 receives the confidence of the public, and that only qualified persons be
15 permitted to practice pharmacy in this state. This ~~part 1 shall be~~ **ARTICLE**
16 **IS** liberally construed to carry out these objects and purposes. Pursuant to
17 these standards and obligations, the state board of pharmacy may adopt
18 ~~by rule and regulation~~, rules of professional conduct **IN ACCORDANCE**
19 **WITH ARTICLE 4 OF TITLE 24, C.R.S.**

1 **12-42.5-102. [Formerly 12-22-102] Definitions.** As used in this
2 ~~part~~ ARTICLE, unless the context otherwise requires OR THE TERM IS
3 OTHERWISE DEFINED IN ANOTHER PART OF THIS ARTICLE:

4 (1) "Administer" means the direct application of a drug to the
5 body of a patient or research subject by injection, inhalation, ingestion,
6 or any other method.

7 (2) "Advertise" means to publish or display information about
8 prescription prices or drugs in any medium.

9 ~~(2.5)~~ (3) "Anabolic steroid" has the same meaning as ~~that~~ set forth
10 in section 18-18-102 (3), C.R.S.

11 ~~(3) Repealed.~~

12 (3.5) **[Formerly 12-22-801 (1) (b)]** "Authorized distributor of
13 record" means a wholesaler with whom a manufacturer has established an
14 ongoing relationship to distribute the manufacturer's prescription drug.
15 FOR PURPOSES OF THIS SUBSECTION (3.5), an ongoing relationship is
16 deemed to exist between a wholesaler and a manufacturer when the
17 wholesaler, including any affiliated group of the wholesaler as defined in
18 section 1504 of the federal "Internal Revenue Code of 1986", complies
19 with the following:

20 ~~(A)~~ (a) The wholesaler has a written agreement currently in effect
21 with the manufacturer evidencing such ongoing relationship; and

22 ~~(B)~~ (b) The wholesaler is listed on the manufacturer's current list
23 of authorized distributors of record, which list is updated by the
24 manufacturer on no less than a monthly basis.

25 (4) "Board" means the state board of pharmacy.

26 (5) **[Formerly 12-22-303 (6)]** "Bureau" means the drug
27 enforcement administration, or its successor agency, of the United States

1 department of justice.

2 (5) (6) "Casual sale" means a transfer, delivery, or distribution to
3 a corporation, individual, or other entity, other than a consumer, entitled
4 to possess prescription drugs; except that the amount of drugs transferred,
5 delivered, or distributed in such manner by any registered prescription
6 drug outlet or hospital other outlet shall not exceed ten percent of the total
7 number of dosage units of drugs dispensed and distributed on an annual
8 basis by such outlet.

9 (6.5) [Formerly 12-22-801 (1) (d)] "Chain pharmacy warehouse"
10 means a physical location for prescription drugs that acts SERVES as a
11 central warehouse and performs intracompany sales or transfers of such
12 PRESCRIPTION drugs to a group of chain pharmacies or other chain
13 pharmacy warehouses that are under common ownership or control.
14 Notwithstanding any other provision of this ~~part 8~~ ARTICLE, a chain
15 pharmacy warehouse receiving distributions on behalf of, or making
16 distributions to, an intracompany pharmacy is ~~not required to~~ NEED NOT
17 be an authorized distributor of record to be ~~considered~~ part of the normal
18 distribution channel.

19 (6) (7) (a) "Compounding" means the preparation, mixing,
20 assembling, packaging, or labeling of a drug or device:

21 (I) As the result of a practitioner's prescription drug order, chart
22 order, or initiative, based on the relationship between the practitioner,
23 patient, and pharmacist in the course of professional practice; or

24 (II) For the purpose of, or as an incident to, research, teaching, or
25 chemical analysis and not for sale or dispensing.

26 (b) "Compounding" also includes the preparation of drugs or
27 devices in anticipation of prescription drug orders based on routine,

1 regularly observed prescribing patterns.

2 (8) [Formerly 12-22-303 (7)] "Controlled substance" shall have
3 the same meaning as in section 18-18-102 (5), C.R.S.

4 (7) (9) "Delivery" means the actual, constructive, or attempted
5 transfer of a drug or device from one person to another, whether or not for
6 consideration.

7 (8) (10) "Device" means an instrument, apparatus, implement,
8 machine, contrivance, implant, or similar or related article that is required
9 under federal law to bear the label, "**Caution: federal law requires**
10 **dispensing by or on the order of a physician.**" "Device" also includes
11 any component part of, or accessory or attachment to, any such article,
12 whether or not the component part, accessory, or attachment is separately
13 so labeled.

14 (9) (11) "Dispense" means to interpret, evaluate, and implement
15 a prescription drug order or chart order, including the preparation of a
16 drug or device for a patient or patient's agent in a suitable container
17 appropriately labeled for subsequent administration to or use by a patient.

18 (10) (12) "Distribution" means the transfer of a drug or device
19 other than by administering or dispensing.

20 (11) (13) (a) "Drug" means:

21 (I) Substances recognized as drugs in the official ~~United States~~
22 ~~pharmacopoeia, national formulary, or the official homeopathic~~
23 ~~pharmacopoeia of the United States, or any supplement to any of them~~
24 COMPENDIA;

25 (II) Substances intended for use in the diagnosis, cure, mitigation,
26 treatment, or prevention of disease in individuals or animals;

27 (III) Substances, other than food, intended to affect the structure

1 or any function of the body of individuals or animals; and

2 (IV) Substances intended for use as a component of any substance
3 specified in subparagraph (I), (II), or (III) of this paragraph (a).

4 (b) "Drug" does not include devices or their components, parts, or
5 accessories.

6 ~~(12)~~ (14) "Generic drug type" means the chemical or generic
7 name, as determined by the United States adopted names (USAN) and
8 accepted by the federal food and drug administration (FDA), of those
9 drug products having exactly the same active chemical ingredients in
10 exactly the same strength and quantity.

11 ~~(13) (Deleted by amendment, L. 2003, p. 944, § 1, effective July~~
12 ~~1, 2003.)~~

13 ~~(14)~~ (15) "Hospital" means a general hospital or specialty hospital
14 having a license or certificate of compliance issued by the department of
15 public health and environment.

16 (16) "HOSPITAL SATELLITE PHARMACY" MEANS A SATELLITE THAT
17 REGISTERS PURSUANT TO SECTION 12-42.5-117 (10) FOR THE PURPOSE OF
18 ADMINISTRATION OF DRUGS TO PATIENTS WHILE BEING TREATED IN THE
19 FACILITY.

20 ~~(15)~~ (17) "Intern" means a person who is: attending, or who is in
21 good standing with, an accredited school of pharmacy, who has graduated
22 from an accredited school of pharmacy and is completing an internship
23 to satisfy board requirements for licensure, or who is licensed

24 (a) (I) ENROLLED IN A PROFESSIONAL DEGREE PROGRAM OF A
25 SCHOOL OR COLLEGE OF PHARMACY THAT HAS BEEN APPROVED BY THE
26 BOARD;

27 (II) CURRENTLY LICENSED BY THE BOARD TO ENGAGE IN THE

1 PRACTICE OF PHARMACY; AND

2 (III) IS SATISFACTORILY PROGRESSING TOWARD MEETING THE
3 REQUIREMENTS FOR LICENSURE AS A PHARMACIST;

4 (b) LICENSED AS A PHARMACIST IN COLORADO OR ANOTHER STATE
5 OR TERRITORY OF THE UNITED STATES and in good standing and making
6 the clinical rotations of the nontraditional pharmacy program at the
7 university of Colorado or a substantially equivalent program as
8 determined by the board;

9 (c) A GRADUATE OF AN APPROVED PROFESSIONAL DEGREE
10 PROGRAM OF A SCHOOL OR COLLEGE OF PHARMACY OR A GRADUATE WHO
11 HAS ESTABLISHED EDUCATION EQUIVALENCY BY OBTAINING A
12 BOARD-APPROVED FOREIGN PHARMACY GRADUATE CERTIFICATION AND
13 WHO IS CURRENTLY LICENSED BY THE BOARD FOR THE PURPOSE OF
14 OBTAINING PRACTICAL EXPERIENCE AS A REQUIREMENT FOR LICENSURE AS
15 A PHARMACIST; OR

16 (d) A QUALIFIED APPLICANT AWAITING EXAMINATION FOR
17 LICENSURE AS A PHARMACIST OR MEETING BOARD REQUIREMENTS FOR
18 LICENSURE.

19 ~~(16)~~ (18) "Labeling" means the process of preparing and affixing
20 a label to any drug container, exclusive, however, of the labeling by a
21 manufacturer, packer, or distributor of a nonprescription drug or
22 commercially packaged legend drug or device. Any such label shall
23 include all information required by federal and state law or regulation.

24 ~~(16.5)~~ (19) "Location" means the physical confines of an
25 individual building or at the same address.

26 (19.5) "LONG-TERM CARE FACILITY" MEANS A NURSING FACILITY,
27 AS DEFINED IN SECTION 25.5-4-103 (14), C.R.S., THAT IS LICENSED

1 PURSUANT TO SECTION 25-1.5-103, C.R.S.

2 (17) (20) "Manufacture" means to cultivate, grow, or prepare by
3 other process drugs for sale to wholesalers or other persons entitled to
4 purchase drugs other than the ultimate user, but "manufacture" does not
5 include the compounding and dispensing of a prescription drug pursuant
6 to a prescription order.

7 (18) and (19) Repealed.

8 (20.5) [Formerly 12-22-801 (1) (h)] "Manufacturer's exclusive
9 distributor" means ~~anyone~~ A PERSON who contracts with a manufacturer
10 to provide or coordinate warehousing, distribution, or other services on
11 behalf of a manufacturer and who takes title to the manufacturer's
12 prescription drug but who does not have general responsibility to direct
13 the sale or disposition of the manufacturer's prescription drug. ~~Such~~
14 ~~manufacturer's exclusive distributor shall be licensed as a wholesaler~~
15 ~~under this part 8 and~~; To be considered part of the normal distribution
16 channel, AS DEFINED IN SECTION 12-42.5-301 (6), A MANUFACTURER'S
17 EXCLUSIVE DISTRIBUTOR shall also be an authorized distributor of record.

18 (20) (21) "Nonprescription drug" means a drug that may be sold
19 without a prescription and that is labeled for use by the consumer in
20 accordance with the requirements of the law and rules of this state and the
21 federal government.

22 (21) (22) "Nuclear pharmacy" means a specialized pharmacy
23 ~~which~~ THAT deals with the preparation and delivery of radioactive
24 material as defined in section 25-11-101, C.R.S.

25 (22) (23) "Official compendia" means the official United States
26 pharmacopeia, national formulary, homeopathic pharmacopoeia of the
27 United States, or any supplements thereto.

1 ~~(22.5)~~ (24) "Order" means:

2 (a) A prescription order ~~which~~ THAT is any order, other than a
3 chart order, authorizing the dispensing of a single drug or device that is
4 written, mechanically produced, computer generated and signed by the
5 practitioner, transmitted electronically or by facsimile, or produced by
6 other means of communication by a practitioner to a licensed pharmacy
7 or pharmacist and that includes the name or identification of the patient,
8 the date, the symptom or purpose for which the drug is being prescribed,
9 if included by the practitioner at the patient's authorization, and sufficient
10 information for compounding, dispensing, and labeling; or

11 (b) A chart order, which is an order for inpatient drugs or
12 medications that are to be dispensed by a pharmacist, or by a pharmacy
13 intern under the direct supervision of a pharmacist, and administered by
14 an authorized person only during the patient's stay in a hospital, MEDICAL
15 CLINIC OPERATED BY A HOSPITAL, AMBULATORY SURGICAL CENTER,
16 HOSPICE, or long-term care facility. The chart order shall contain the name
17 of the patient and the medicine ordered and such directions as the
18 practitioner may prescribe concerning strength, dosage, frequency, and
19 route of administration.

20 ~~(23)~~ (25) "Other outlet" means: ~~any~~

21 (a) A hospital that does not operate a registered pharmacy, ~~and~~
22 ~~any~~ rural health clinic, FEDERALLY QUALIFIED HEALTH CENTER, AS
23 DEFINED IN SECTION 1861 (aa) (4) OF THE FEDERAL "SOCIAL SECURITY
24 ACT", 42 U.S.C. SEC. 1395x (aa) (4), family planning clinic, school, jail,
25 county or district public health agency, community health clinic,
26 university, or college that:

27 (I) Has facilities in this state registered pursuant to this article; and

1 (II) ~~that~~ Engages in the compounding, dispensing, and delivery of
2 drugs or devices; OR

3 (b) AN AMBULATORY SURGICAL CENTER LICENSED PURSUANT TO
4 PART 1 OF ARTICLE 3 OF TITLE 25, C.R.S., A MEDICAL CLINIC OPERATED BY
5 A HOSPITAL, OR A HOSPICE LICENSED PURSUANT TO PART 1 OF ARTICLE 3
6 OF TITLE 25, C.R.S., THAT:

7 (I) HAS FACILITIES IN THIS STATE REGISTERED PURSUANT TO THIS
8 ARTICLE; AND

9 (II) ENGAGES IN THE COMPOUNDING, DISPENSING, AND DELIVERY
10 OF DRUGS OR DEVICES FOR ADMINISTRATION TO PATIENTS WHILE BEING
11 TREATED IN THE FACILITY.

12 ~~(23.5)~~ (26) "Patient counseling" means the oral communication by
13 a pharmacist or intern of information to the patient or caregiver in order
14 to improve therapy by ensuring proper use of drugs and devices.

15 ~~(23.6)~~ (27) "Pharmaceutical care" means the provision of drug
16 therapy and other pharmaceutical patient care services by a pharmacist
17 intended to achieve outcomes related to the cure or prevention of a
18 disease, elimination or reduction of a patient's symptoms, or arresting or
19 slowing of a disease process. In addition to the preparation, dispensing,
20 and distribution of medications, "pharmaceutical care" may include
21 assessment and evaluation of the patient's medication-related needs and
22 development and communication of a therapeutic plan with defined
23 outcomes in consultation with the patient and the patient's other health
24 care professionals to attain the desired outcome. This function includes
25 efforts to prevent, detect, and resolve medication-related problems for
26 individual patients. "Pharmaceutical care" does not include prescriptive
27 authority; except that a pharmacist may prescribe only over-the-counter

1 medications to a recipient under the "Colorado Medical Assistance Act"
2 as authorized pursuant to section 25.5-5-322, C.R.S.

3 ~~(24)~~ (28) "Pharmacist" means an individual licensed by this state
4 to engage in the practice of pharmacy.

5 ~~(24.1)~~ (29) "Pharmacist manager" means an individual, licensed
6 in this state as a pharmacist, who has direct control of the pharmaceutical
7 affairs of a prescription drug outlet, and who is not the manager of any
8 other prescription drug outlet.

9 (29.5) **[Formerly 12-22-801 (1) (k)]** "Pharmacy buying
10 cooperative warehouse" means a permanent physical location that acts as
11 a central warehouse for prescription drugs and from which sales of ~~such~~
12 ~~PRESCRIPTION~~ drugs are made to an exclusive group of pharmacies that
13 are members or member owners of the buying cooperative operating the
14 warehouse. ~~that shall be licensed as a wholesaler.~~

15 ~~(24.2)~~ (30) "Pharmacy technician" means an unlicensed person
16 who performs those functions set forth in paragraph (b) of subsection ~~(26)~~
17 (31) of this section under the supervision of a pharmacist.

18 ~~(24.5) and (25) Repealed.~~

19 ~~(26)~~ (31) "Practice of pharmacy" means:

20 (a) The interpretation, evaluation, implementation, and dispensing
21 of orders; participation in drug and device selection, drug administration,
22 drug regimen reviews, and drug or drug-related research; provision of
23 patient counseling; and the provision of those acts or services necessary
24 to provide pharmaceutical care in all areas of patient care; and

25 (b) (I) The preparation, mixing, assembling, packaging, labeling,
26 or delivery of a drug or device;

27 (II) Proper and safe storage of drugs or devices; and

1 (III) The maintenance of proper records for such drugs and
2 devices.

3 (c) ~~(Deleted by amendment, L. 81, p. 696, § 1, effective July 1,~~
4 ~~1981.)~~

5 ~~(27)~~ (32) "Practitioner" means a person authorized by law to
6 prescribe any drug or device, acting within the scope of such authority.

7 ~~(28) Repealed.~~

8 ~~(29)~~ (33) "Prescription" means the finished product of the
9 dispensing of a prescription order in an appropriately labeled and suitable
10 container.

11 ~~(30)~~ (34) "Prescription drug" means a drug that:

12 (a) IS REQUIRED BY ANY APPLICABLE FEDERAL OR STATE LAW OR
13 RULE TO BE DISPENSED ONLY PURSUANT TO AN ORDER;

14 (b) IS RESTRICTED BY ANY APPLICABLE FEDERAL OR STATE LAW OR
15 RULE TO USE BY PRACTITIONERS ONLY; OR

16 (c) Prior to being dispensed or delivered, is required UNDER
17 FEDERAL LAW to be labeled with ONE OF the following ~~statement:~~
18 ~~"Caution: Federal law prohibits dispensing without a prescription."~~
19 STATEMENTS:

20 (I) "Rx only"; or

21 (II) "Caution: Federal law restricts this drug to use by or on the
22 order of a licensed veterinarian."

23 ~~(30.2)~~ (35) "Prescription drug outlet" OR "PHARMACY" means any
24 pharmacy outlet registered pursuant to this article where prescriptions are
25 compounded and dispensed. "Prescription drug outlet" includes, without
26 limitation, a compounding prescription drug outlet registered pursuant to
27 section ~~12-22-120~~ ~~(9)~~ 12-42.5-117 (9) OR SPECIALIZED PRESCRIPTION

1 DRUG OUTLET REGISTERED PURSUANT TO SECTION 12-42.5-117 (11).
2 ~~(30.3)~~ (36) "Refill" means the compounding and dispensing of any
3 drug pursuant to a previously executed order.
4 ~~(31) Repealed.~~
5 (36.3) [Formerly 12-22-801 (1) (m)] "Repackage" means
6 repackaging or otherwise changing the container, wrapper, or labeling to
7 further the distribution of a prescription drug, excluding that
8 REPACKAGING OR LABELING completed by the pharmacist responsible for
9 dispensing product to the patient.
10 (36.5) [Formerly 12-22-801 (1) (n)] "Repackager" means a
11 person who repackages prescription drugs.
12 ~~(32)~~ (37) "Sample" means any prescription drug given free of
13 charge to any practitioner for any reason except for a bona fide research
14 program.
15 ~~(32.5)~~ (38) "Satellite" means an area outside the prescription drug
16 outlet where pharmaceutical care and services are provided and that is in
17 the same location.
18 ~~(32.6)~~ (39) "Supervision" means that a licensed pharmacist is on
19 the location and readily available to consult with and assist unlicensed
20 personnel performing tasks described in paragraph (b) of subsection ~~(26)~~
21 (31) of this section.
22 ~~(33)~~ (40) "Therapeutically equivalent" or "equivalent" means
23 those compounds containing the identical active chemical ingredients of
24 identical strength, quantity, and dosage form and of the same generic drug
25 type, which, when administered in the same amounts, will provide the
26 same therapeutic effect as evidenced by the control of a symptom or
27 disease.

1 ~~(33.5) Repealed.~~

2 (41) [Formerly 12-22-303 (33)] "Ultimate user" means a person
3 who lawfully possesses a ~~controlled substance~~ PRESCRIPTION DRUG for his
4 OR HER own use, for the use of a member of ~~his~~ THE PERSON'S household,
5 or for use in administering to an animal owned by ~~him~~ THE PERSON or a
6 member of his OR HER household.

7 (42) [Formerly 12-22-801 (2)] (a) ~~For the purposes of this part~~
8 ~~8,~~ "Wholesale distribution" means distribution of prescription drugs to
9 persons or entities other than a consumer or patient.

10 (b) "Wholesale distribution" does not include:

11 ~~(a)~~ (I) Intracompany sales or transfers of prescription drugs,
12 including a transaction or transfer between a division, subsidiary, parent,
13 or affiliated or related company under common ownership or control of
14 an entity;

15 ~~(b)~~ (II) The sale, purchase, distribution, trade, or transfer of a
16 prescription drug or offer to sell, purchase, distribute, trade, or transfer a
17 prescription drug for emergency medical reasons or during a state or
18 national declaration of emergency;

19 ~~(c)~~ (III) The sale or transfer of a drug for medical reasons by a
20 retail pharmacy to another retail pharmacy to alleviate a temporary
21 shortage; ~~pursuant to Colorado law;~~

22 ~~(d)~~ (IV) The distribution of prescription drug samples by a
23 manufacturer's representative;

24 ~~(e)~~ (V) Drug returns, when conducted by a hospital, health care
25 entity, or charitable institution in accordance with 21 CFR 203.23;

26 ~~(f)~~ (VI) The sale of minimal quantities of prescription drugs by
27 retail pharmacies to licensed practitioners for office use;

1 ~~(g)~~ (VII) A retail pharmacy's delivery of prescription drugs to a
2 patient or patient's agent pursuant to the lawful order of a licensed
3 practitioner;

4 ~~(h)~~ (VIII) The sale, transfer, merger, or consolidation of all or part
5 of the business of a pharmacy or pharmacies from or with another
6 pharmacy or pharmacies, whether accomplished as a purchase and sale of
7 stock or business assets;

8 ~~(i)~~ (IX) The direct sale, purchase, distribution, trade, or transfer
9 of a prescription drug from a manufacturer to an authorized distributor of
10 record to one additional authorized distributor of record but only if an
11 authorized distributor of record that purchases a prescription drug from
12 an authorized distributor of record that purchased the prescription drug
13 directly from the manufacturer:

14 ~~(H)~~ (A) Provides the supplying authorized distributor of record
15 with a verifiable statement that the product is unavailable from the
16 manufacturer; and

17 ~~(H)~~ (B) Receives a verifiable statement from the supplying
18 authorized distributor of record that the product was purchased directly
19 from the manufacturer;

20 ~~(j)~~ ~~(Deleted by amendment, L. 2007, p. 1246, § 1, effective~~
21 ~~August 3, 2007.)~~

22 ~~(k)~~ (X) The delivery of, or offer to deliver, a prescription drug by
23 a common carrier solely in the common carrier's usual course of business
24 of transporting prescription drugs where the common carrier does not
25 store, warehouse, or take legal ownership of the prescription drug;

26 ~~(H)~~ (XI) The sale or transfer from a retail pharmacy or chain
27 pharmacy warehouse of expired, damaged, returned, or recalled

1 prescription drugs to the original manufacturer or to a third-party returns
2 processor;

3 ~~(m)~~ (XII) The sale or transfer of compounded drugs compounded
4 by a retail pharmacy as defined in ~~section 12-22-102 (6)~~ SUBSECTION (7)
5 OF THIS SECTION and as authorized by section ~~12-22-121~~ 12-42.5-119 (6)
6 (b);

7 ~~(n)~~ (XIII) The transfer of prescription drugs within Colorado
8 purchased with public funds by the department of public health and
9 environment, created in section 25-1-102, C.R.S., or a district or county
10 public health agency, created pursuant to section 25-1-506, C.R.S., and
11 procured by a physician licensed in Colorado who is either the executive
12 director or the chief medical officer appointed pursuant to section
13 25-1-105, C.R.S., or a public health director or medical officer of a
14 county or district public health agency selected pursuant to section
15 25-1-508 (5) (c) (I), C.R.S. The transfers may only be made to the
16 department of public health and environment pursuant to the Colorado
17 medical license of the executive director or chief medical officer, a
18 district or county public health agency pursuant to the Colorado medical
19 license of the public health director or medical officer, or a physician
20 licensed in Colorado.

21 ~~(34)~~ (43) "Wholesaler" means a ~~corporation, individual, or other~~
22 ~~entity with facilities in this state that buys drugs or devices for resale or~~
23 ~~distributes drugs or devices to corporations, individuals, or entities~~
24 ~~entitled to possess such drugs or devices, other than consumers~~ PERSON
25 ENGAGED IN THE WHOLESALE DISTRIBUTION OF PRESCRIPTION DRUGS TO
26 PERSONS, OTHER THAN CONSUMERS, WHO ARE ENTITLED TO POSSESS
27 PRESCRIPTION DRUGS, INCLUDING: REPACKAGERS; OWN-LABEL

1 DISTRIBUTORS; PRIVATE-LABEL DISTRIBUTORS; JOBBERS; BROKERS;
2 WAREHOUSES, INCLUDING MANUFACTURERS' AND DISTRIBUTORS'
3 WAREHOUSES; MANUFACTURERS' EXCLUSIVE DISTRIBUTORS; AUTHORIZED
4 DISTRIBUTORS OF RECORD; DRUG WHOLESALERS OR DISTRIBUTORS;
5 INDEPENDENT WHOLESALE DRUG TRADERS; PHARMACY BUYING
6 COOPERATIVE WAREHOUSES; RETAIL PHARMACIES THAT CONDUCT
7 WHOLESALE DISTRIBUTION; AND CHAIN PHARMACY WAREHOUSES THAT
8 CONDUCT WHOLESALE DISTRIBUTION.

9 **12-42.5-103. [Formerly 12-22-103] State board of pharmacy**
10 **- creation - subject to termination - repeal of parts.** (1) The
11 responsibility for enforcement of ~~the provisions of this part 1~~ ARTICLE is
12 vested in the state board of pharmacy, which is hereby created. The board
13 ~~shall have~~ HAS all of the duties, powers, and authority specifically granted
14 by and necessary to the enforcement of this ~~part 1~~ ARTICLE, as well as
15 ~~such~~ other duties, powers, and authority as may be granted by statute from
16 time to time. Except as otherwise provided to the contrary, the board shall
17 exercise all its duties, powers, and authority in accordance with the "State
18 Administrative Procedure Act", article 4 of title 24, C.R.S.

19 (2) The board shall exercise its powers and perform its duties and
20 functions specified by this ~~part 1~~ ARTICLE under the department of
21 regulatory agencies and the executive director ~~thereof~~ OF THE
22 DEPARTMENT as if the same were transferred to the department by a **type**
23 **1** transfer, as ~~such transfer~~ is defined in the "Administrative Organization
24 Act of 1968", article 1 of title 24, C.R.S.

25 (3) (a) ~~The provisions of~~ Section 24-34-104, C.R.S., concerning
26 the termination schedule for regulatory bodies of the state, unless
27 extended as provided in that section, ~~are applicable~~ APPLIES to the state

1 board of pharmacy created by this section.

2 (b) PARTS 1 TO 3 OF this article ~~is~~ ARE repealed, effective ~~July 1,~~
3 ~~2012~~ SEPTEMBER 1, 2021. PRIOR TO THE REPEAL, THE DEPARTMENT OF
4 REGULATORY AGENCIES SHALL REVIEW THE BOARD AND THE REGULATION
5 OF THE PRACTICE OF PHARMACY PURSUANT TO PARTS 1 TO 3 OF THIS
6 ARTICLE AS PROVIDED IN SECTION 24-34-104, C.R.S.

7 **12-42.5-104. [Formerly 12-22-104] Membership of board -**
8 **removal - compensation - meetings.** (1) (a) The board ~~shall be~~ IS
9 composed of five licensed pharmacists, each having at least five years'
10 experience in this state and actively engaged in the practice of pharmacy
11 in this state, and two nonpharmacists who have no financial interest in the
12 practice of pharmacy.

13 ~~(2)~~ (b) THE GOVERNOR SHALL MAKE all appointments ~~shall be~~
14 ~~made by the governor~~ TO THE BOARD in accordance with this section.

15 ~~(3)~~ (c) For purposes of achieving a balance in the membership on
16 the board, the governor shall consider:

17 ~~(a)~~ (I) Whether the appointee's home is in:

18 ~~(A)~~ (A) An urban or rural location; and

19 ~~(B)~~ (B) An area already represented geographically by another
20 appointee on the board; and

21 ~~(b)~~ (II) The type of practice of the appointee so that various types
22 of practices are represented on the board.

23 ~~(4)~~ ~~(a)~~ (d) (I) The term of office of each member ~~shall be~~ IS four
24 years.

25 ~~(b)~~ (II) In the case of ~~any~~ AN appointment to fill a vacancy, the
26 appointee shall complete the unexpired term of the former board member.

27 ~~(c)~~ (III) No member of the board may serve more than two

1 consecutive full terms.

2 ~~(5)~~ (e) No more than four members of the board shall be members
3 of the same major political party.

4 ~~(6)~~ (f) The GOVERNOR SHALL APPOINT THE pharmacist members
5 ~~shall be appointed so~~ IN A MANNER TO ENSURE that the term of one
6 member ~~shall expire~~ EXPIRES July 1 OF each year.

7 (2) [Formerly 12-22-105] The governor may remove any board
8 member for misconduct, incompetence, or neglect of duty.

9 (3) [Formerly 12-22-106] Each member of the board shall receive
10 the compensation provided for in section 24-34-102 (13), C.R.S.

11 (4) [Formerly 12-22-107] ~~Meetings of~~ The board shall ~~be held~~
12 HOLD MEETINGS at least once every four months at ~~such~~ THE times and
13 places ~~as may be~~ fixed by the board. AT one meeting, THE BOARD shall ~~be~~
14 ~~for the purpose of electing officers, who shall be~~ ELECT a president and
15 a vice-president. A majority of the members of the board ~~shall constitute~~
16 CONSTITUTES a quorum for the conduct of business, and, except as
17 otherwise provided in this part 1, all actions of the board ~~shall~~ MUST be
18 by a majority of a quorum. THE BOARD SHALL GIVE full and timely notice
19 of all meetings of the board ~~shall be given~~ pursuant to any requirements
20 of state laws. All board meetings and hearings ~~shall be~~ ARE open to the
21 public; except that the board may conduct any portion of its meetings in
22 executive session closed to the public, as may be permitted by law.

23 **12-42.5-105. [Formerly 12-22-108] Rules.** The board shall make,
24 adopt, amend, or repeal ~~such rules and regulations as may be deemed~~ IN
25 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., THAT THE BOARD
26 DEEMS necessary ~~by the board~~ for the proper administration and
27 enforcement of the responsibilities and duties delegated to the board by

1 this article, including those relating to ~~prescription drug outlets dealing~~
2 ~~with the prescription and delivering of radioactive materials, as defined~~
3 ~~in section 25-11-101, C.R.S. All rules adopted or amended by the board~~
4 ~~on or after July 1, 1979, shall be subject to sections 24-4-103 (8) (c) and~~
5 ~~(8) (d) and 24-34-104 (9) (b) (H), C.R.S. NUCLEAR PHARMACIES.~~

6 **12-42.5-106. [Formerly 12-22-110] Powers and duties.** (1) The
7 board shall:

8 (a) Inspect, or direct inspectors who are licensed pharmacists to
9 inspect, all outlets and investigate violations of this ~~part 4~~ ARTICLE;

10 (b) Prescribe forms and receive applications for licensure and
11 registration and ~~grant, and renew, REACTIVATE, AND REINSTATE~~ licenses
12 and registrations;

13 (c) Deny, suspend, or revoke licenses or registrations;

14 (d) Apply to the courts for and obtain in accordance with the
15 Colorado rules of civil procedure restraining orders and injunctions to
16 enjoin violations of the laws ~~which~~ THAT the board is empowered to
17 enforce;

18 (e) Administer examinations to, and determine the qualifications
19 and fitness of, applicants for licensure OR REGISTRATION;

20 (f) Keep a record of:

21 (I) All licenses, registrations, and license and registration
22 ~~renewals, REACTIVATIONS, AND REINSTATEMENTS~~ for a reasonable period;

23 (II) All suspensions, revocations, and any other disciplinary
24 actions; and

25 (III) Its own proceedings;

26 (g) Collect all fees prescribed by this ~~part 4~~ ARTICLE;

27 (h) Fine registrants when consistent with the provisions of this

1 article and the rules adopted pursuant to this article;

2 (i) (I) ~~Make~~ CONDUCT investigations, hold hearings, and take
3 evidence in all matters relating to the exercise and performance of the
4 powers and duties of the board.

5 (II) (A) The board or an administrative law judge may administer
6 oaths, take affirmations of witnesses, and issue subpoenas to compel the
7 attendance of witnesses and the production of all relevant papers, books,
8 records, documentary evidence, and materials in any hearing,
9 investigation, accusation, or other matter ~~coming~~ before the board.

10 (B) The board may appoint an administrative law judge pursuant
11 to part 10 of article 30 of title 24, C.R.S., to take evidence, ~~and to~~ make
12 findings, and report ~~them~~ THE FINDINGS to the board.

13 (III) Upon failure of any witness to comply with ~~such~~ A subpoena
14 or process, the district court of the county in which the subpoenaed
15 person or licensee resides or conducts business, upon application by the
16 board ~~or director~~ with notice to the subpoenaed person or licensee, may
17 issue to the person or licensee an order requiring that person or licensee
18 to appear before the board; ~~or director~~; to produce the relevant papers,
19 books, records, documentary evidence, or materials if so ordered; or to
20 give evidence touching the matter under investigation or in question. THE
21 COURT MAY HOLD THE PERSON OR LICENSEE IN CONTEMPT OF COURT FOR
22 failure to obey the order of the court. ~~may be punished by the court as a~~
23 ~~contempt of court.~~

24 (j) REVIEW AND APPROVE OR REJECT APPLICATIONS FOR
25 PARTICIPATION IN THE PHARMACY PEER HEALTH ASSISTANCE DIVERSION
26 PROGRAM PURSUANT TO PART 2 OF THIS ARTICLE AND PERFORM ANY
27 OTHER FUNCTIONS THAT WERE PERFORMED BY THE REHABILITATION

1 EVALUATION COMMITTEE PRIOR TO ITS REPEAL.

2 (2) The board ~~shall have such~~ HAS other duties, powers, and
3 authority as may be necessary to ~~the enforcement of~~ ENFORCE this part 4
4 ARTICLE and to ~~the enforcement of~~ THE rules and regulations made
5 pursuant thereto ADOPTED PURSUANT TO THIS ARTICLE.

6 (3) The board may:

7 (a) Adopt a seal to be used only in ~~such~~ THE manner as may be
8 prescribed by the board PRESCRIBES;

9 (b) Promulgate rules governing the compounding of
10 pharmaceutical products, which rules ~~shall~~ MUST address the following:

11 (I) Training and qualifications;

12 (II) Quality control;

13 (III) Internal operating procedures;

14 (IV) Procurement of compounding materials;

15 (V) Formulation, documentation, and testing requirements;

16 (VI) Equipment standards;

17 (VII) Facility standards; and

18 (VIII) A recall system.

19 (4) (a) (I) Whenever a duly authorized agent of the board finds or
20 has probable cause to believe that, in any registered outlet, any drug,
21 nonprescription drug, or device is adulterated or misbranded within the
22 meaning of the "Colorado Food and Drug Act", part 4 of article 5 of title
23 25, C.R.S., the agent shall affix to ~~such~~ THE article a tag or other
24 appropriate marking giving notice:

25 (A) That ~~such~~ THE article is, or is suspected of being, adulterated
26 or misbranded; and

27 (B) THAT THE ARTICLE has been detained or embargoed; and

1 (C) Warning all persons not to remove or dispose of ~~such~~ THE
2 article by sale or otherwise until THE BOARD, ITS AGENT, OR THE COURT
3 GIVES provision for removal or disposal. ~~is given by the board, its agent,~~
4 ~~or the court.~~

5 (II) No person shall remove or dispose of ~~such~~ AN embargoed
6 article by sale or otherwise without the permission of the board or its
7 agent or, after summary proceedings have been instituted, without
8 permission from the court.

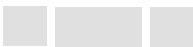
9 (b) If the BOARD OR THE COURT REMOVE THE embargo, ~~is removed~~
10 ~~by the board or by the court,~~ neither the board nor the state ~~shall be held~~
11 IS liable for damages because of ~~such~~ THE embargo ~~in the event that~~ IF the
12 court finds that there was probable cause for the embargo.

13 (c) When an AGENT FINDS THAT AN article detained or embargoed
14 under paragraph (a) of this subsection (4) ~~has been found by an agent to~~
15 ~~be~~ IS adulterated or misbranded, ~~such~~ THE agent shall petition the judge
16 of the district court in whose jurisdiction the article is detained or
17 embargoed for an order for condemnation of ~~such~~ THE article. When ~~such~~
18 THE agent finds that an article so detained or embargoed is not adulterated
19 or misbranded, he OR SHE shall remove the tag or other marking.

20 (d) (I) If the court finds that a detained or embargoed article is
21 adulterated or misbranded, ~~such article shall~~ EXCEPT AS PROVIDED IN
22 SUBPARAGRAPH (II) OF THIS PARAGRAPH (d), THE COURT SHALL ORDER
23 THE ARTICLE, after entry of the decree, TO be destroyed at the expense of
24 the owner ~~thereof~~ OF THE ARTICLE under the supervision of ~~such~~ THE
25 agent. ~~and~~ THE OWNER OF THE ARTICLE OR THE OWNER'S AGENT SHALL
26 BEAR all court costs and fees, storage, and other proper expense; ~~shall be~~
27 ~~borne by the owner of such article or his agent; except that,~~

1 (II) When THE OWNER CAN CORRECT the adulteration or
2 misbranding ~~can be corrected~~ by proper labeling or processing of the
3 article, ~~the court~~, after entry of the decree and after ~~such~~ THE OWNER HAS
4 PAID THE costs, fees, and expenses ~~have been paid by the owner of such~~
5 ~~article~~ and HAS POSTED a good and sufficient bond, conditioned that ~~such~~
6 THE article ~~shall be so~~ PROPERLY labeled or processed, ~~has been executed~~;
7 THE COURT may ~~by order~~, direct, BY ORDER, that ~~such~~ THE article be
8 delivered to the owner ~~thereof~~ for ~~such~~ PROPER labeling or processing
9 under the supervision of an agent. The OWNER SHALL PAY THE expense of
10 ~~such~~ THE AGENT'S supervision. ~~shall be paid by the owner. Such~~ THE bond
11 ~~shall~~ MUST be returned to the owner of the article ~~on representation~~ ONCE
12 THE BOARD REPRESENTS to the court ~~by the board~~ that the article is no
13 longer in violation of the embargo and that THE OWNER HAS PAID the
14 expenses of supervision. ~~have been paid.~~

15 (e) It is the duty of the attorney general or the district attorney to
16 whom the board reports any violation of this subsection (4) to ~~cause~~
17 INSTITUTE appropriate proceedings ~~to be instituted~~ in the proper courts
18 without delay and to ~~be prosecuted~~ PROSECUTE THE MATTER in the
19 manner required by law. Nothing in this paragraph (e) ~~shall be construed~~
20 ~~as requiring~~ REQUIRES the board to report violations ~~whenever~~ WHEN the
21 board believes the public interest will be adequately served in the
22 circumstances by a suitable written notice or warning.

23 
24 **12-42.5-107. [Formerly 12-22-112] Drugs, devices, and other**
25 **materials.** (1) The board ~~shall be~~ IS responsible for the control and
26 regulation of drugs, including the following:

27 (a) The regulation of the sale at retail and the dispensing of drugs;

1 (b) The specification of minimum professional and technical
2 equipment, environment, supplies, and procedures for the compounding
3 or dispensing of medications and drugs;

4 (c) The control of the purity and quality of drugs.

5 (2) The board ~~shall be~~ IS responsible for the control and regulation
6 of the sale of devices at retail.

7 **12-42.5-108. [Formerly 12-22-113] Publications.** THE BOARD
8 SHALL ISSUE ITS publications ~~of the board~~ THAT ARE circulated in quantity
9 outside the executive branch ~~shall be issued~~ in accordance with ~~the~~
10 ~~provisions of~~ section 24-1-136, C.R.S. THE BOARD SHALL CIRCULATE ITS
11 publications ~~of the board shall be circulated~~ to all registered prescription
12 drug outlets ~~which~~ THAT will be directly affected by the publications.

13 **12-42.5-109. [Formerly 12-22-113.5] Reporting - malpractice**
14 **claims.** (1) Each insurance company licensed to do business in this state
15 and engaged in the writing of malpractice insurance for licensed
16 ~~pharmacists AND PHARMACIES,~~ and each pharmacist or pharmacy that
17 self-insures, shall send to the board, in the form prescribed by the board,
18 information relating to each malpractice claim against a licensed
19 pharmacist ~~which~~ THAT is settled or in which judgment is rendered
20 against the insured.

21 (2) The insurance company or self-insured pharmacist or
22 pharmacy shall provide information relating to each malpractice claim as
23 is deemed necessary by the board to conduct a further investigation and
24 hearing.

25 (3) Information relating to each malpractice claim provided by
26 insurance companies or self-insured pharmacists or pharmacies ~~shall be~~
27 IS exempt from the provisions of any law requiring that the proceedings

1 of the board be conducted publicly or that the minutes or records of the
2 board be open to public inspection unless ~~there is~~ THE BOARD TAKES final
3 disciplinary action. ~~taken.~~ The board may use ~~such~~ THE information in any
4 formal hearing involving a licensee OR REGISTRANT.

5 **12-42.5-110. [Formerly 12-22-114] Fees.** (1) THE DIRECTOR OF
6 THE DIVISION OF REGISTRATIONS SHALL DETERMINE, AND THE BOARD
7 SHALL COLLECT, fees ~~shall be determined and collected~~ pursuant to
8 section 24-34-105, C.R.S., for the following licenses and registrations:

9 (a) For certifying to another state the grades of a person who has
10 taken the pharmacist examination in this state;

11 ~~(b) Repealed.~~

12 ~~(c)~~ (b) For the initial licensure, upon examination, as a pharmacist,
13 as provided in section ~~12-22-116 (3.3)~~ 12-42.5-112 (4);

14 ~~(d)~~ (c) For the initial licensure, without examination and upon
15 presentation of evidence of licensure in another state, as a pharmacist, as
16 provided in section ~~12-22-116 (7)~~ 12-42.5-112 (8);

17 ~~(e)~~ (d) For the renewal of a license as a licensed pharmacist, as
18 provided in section ~~12-22-118 (2)~~ 12-42.5-114 (1);

19 ~~(f)~~ (e) For reinstatement as a licensed pharmacist, as provided in
20 section ~~12-22-118 (2)~~ 12-42.5-114 (2);

21 ~~(g)~~ (f) For the transfer of a prescription drug outlet registration to
22 a new owner, as provided in section ~~12-22-119 (2)~~ 12-42.5-116 (2);

23 ~~(h)~~ (g) For the transfer of a manager's name, as provided in
24 section ~~12-22-119 (1)~~ 12-42.5-116 (1);

25 ~~(i)~~ (h) For the issuance of a duplicate certificate to a licensed
26 pharmacist;

27 ~~(j)~~ (i) For the initial licensure as a pharmacy intern;

1 ~~(k)~~ (j) For the issuance of a duplicate license of a pharmacy intern;

2 ~~(l)~~ Repealed.

3 ~~(m)~~ (k) For the transfer of a prescription drug outlet registration
4 to a new location, as provided in section ~~12-22-119 (2)~~ 12-42.5-116 (2);

5 ~~(n)~~ (l) For reissuing a prescription drug outlet registration in a new
6 store name, without change of owner or manager, as provided in section
7 ~~12-22-119 (2)~~ 12-42.5-116 (2);

8 ~~(o)~~ (m) For the initial registration or the renewal of the registration
9 of a prescription drug outlet, as provided in section ~~12-22-119 (2)~~
10 12-42.5-116 (2);

11 ~~(p)~~ (n) For the initial certificate evidencing licensure for all
12 pharmacists;

13 ~~(q)~~ (o) For the initial and renewal registration of all other outlets
14 under section ~~12-22-120~~ 12-42.5-117 not covered in this section;

15 ~~(r)~~ (p) For the initial and renewal registration of all nonresident
16 prescription drug outlets under section ~~12-22-130~~ 12-42.5-130;

17 (q) FOR THE INITIAL AND RENEWAL REGISTRATION OF HUMANE
18 SOCIETIES AND ANIMAL CONTROL AGENCIES PURSUANT TO SECTION
19 12-42.5-117 (12).

20 (2) Any ~~licensed~~ pharmacist licensed in Colorado for fifty years
21 or more as a ~~licensed~~ pharmacist ~~shall be~~ IS exempt from the payment of
22 fees under this ~~part 1 but shall be~~ ARTICLE AND IS allowed to practice as
23 a licensed pharmacist.

24 **12-42.5-111. [Formerly 12-22-115] Approval of schools.** (1) A
25 school or college of pharmacy ~~which~~ THAT is approved by the board as a
26 school or college of pharmacy from which graduation is required in order
27 for the graduate ~~thereof~~ OF THE SCHOOL OR COLLEGE OF PHARMACY to be

1 ~~an applicant for licensure~~ APPLY FOR A LICENSE as a pharmacist ~~shall~~
2 MUST meet the requirements set forth by the board.

3 (2) The board may utilize the facilities, reports, requirements, and
4 recommendations of any recognized accrediting organization in
5 determining the requirements for a school or college of pharmacy.

6 (3) THE BOARD SHALL MAINTAIN a list of approved schools or
7 colleges. ~~shall be maintained by the board at its office.~~

8 **12-42.5-112. [Formerly 12-22-116] Licensure or registrations**

9 **- applicability - applications - licensure requirements.** (1) The
10 provisions of This ~~part 1 shall apply~~ ARTICLE APPLIES to all persons in this
11 state engaged in the practice of pharmacy and to all outlets in this state
12 engaged in the manufacture, ~~DISPENSING~~, production, sale, and
13 distribution of drugs, devices, and other materials used in the treatment
14 of injury, illness, and disease.

15 (2) (a) Every applicant for a license under this ~~part 1 shall be able~~
16 ~~to~~ ARTICLE MUST read and write the English language, or IF THE
17 APPLICANT IS a partnership, each ~~of whose members meet said~~
18 ~~qualifications, or~~ MEMBER OF THE PARTNERSHIP MUST READ AND WRITE
19 THE ENGLISH LANGUAGE. IF THE APPLICANT IS a Colorado corporation,
20 THE CORPORATION MUST BE in good standing, ~~or~~ AND IF THE APPLICANT
21 IS a foreign corporation, IT MUST BE qualified to do business in this state.

22 (b) **[Formerly 12-22-305 (1)]** The ~~department or the~~ board as
23 ~~provided in section 12-22-304 (1) or (2)~~ shall issue the appropriate license
24 REGISTRATION to each manufacturer ~~distributor, researcher, and addiction~~
25 ~~program meeting all~~ WHOLESALER THAT MEETS the requirements of this
26 ~~part 3~~ ARTICLE unless ~~it~~ THE BOARD determines that the issuance of the
27 ~~license~~ REGISTRATION would be inconsistent with the public interest. In

1 determining the public interest, the ~~department or the~~ board shall consider
2 the following factors:

3 (a) (I) Maintenance of effective controls against diversion of
4 controlled substances into illegitimate medical, scientific, or industrial
5 channels;

6 (b) (II) Compliance with applicable state and local laws;

7 (c) (III) Any conviction of the applicant under any federal or state
8 law relating to a controlled substance;

9 (d) (IV) Past experience in the manufacture or distribution of
10 controlled substances and the existence in the applicant's establishment
11 of effective controls against diversion;

12 (e) (V) Any false or fraudulent information in an application filed
13 under this part 3 1;

14 (f) (VI) Suspension or revocation of the applicant's federal
15 registration to manufacture, distribute, or dispense a controlled substance
16 as authorized by federal law; and

17 (g) (VII) Any other factors relevant to and consistent with the
18 public peace, health, and safety.

19 (3) Every applicant for a license or registration under this ~~part 1~~
20 ~~ARTICLE~~ shall make written application in the manner and form prescribed
21 by the board, setting forth the applicant's name and address, the
22 applicant's qualifications for ~~said~~ THE license or registration, and other
23 information required by the board. ~~Every~~ THE APPLICANT SHALL SUBMIT
24 WITH THE application ~~shall be accompanied by~~ the REQUIRED fee,
25 ~~specified~~, and, if the applicant is required to take an examination, ~~such~~
26 THE applicant shall appear for examination at the time and place fixed by
27 the board.

1 ~~(3.3)~~ (4) (I) An applicant who has graduated from a school or
2 college of pharmacy approved by the board may take an examination
3 before the board.

4 (II) The examination ~~shall be fairly~~ MUST BE designed FAIRLY to
5 test the applicant's knowledge of pharmacy and other related subjects and
6 ~~shall~~ MUST be in a form approved by the board. ~~except that~~ The
7 examination ~~shall not~~ CANNOT be administered orally.

8 (III) An applicant for licensure by examination shall have
9 completed an internship as prescribed by the board.

10 (b) A person who produces evidence satisfactory to the board that
11 ~~such~~ THE person has graduated and obtained a degree from a school of
12 pharmacy outside the United States and has passed a foreign graduate
13 equivalency test given or approved by the board may apply to take the
14 examination set forth in paragraph (a) of this subsection ~~(3.3)~~ (4).

15 ~~(3.5)~~ (5) Every applicant for licensure as a pharmacist, whether by
16 examination, transfer of license, REACTIVATION, or reinstatement, shall
17 take a jurisprudence examination approved by the board that tests such
18 applicant's knowledge of the laws of this state.

19 ~~(4) Repealed.~~

20 ~~(5)~~ (6) No applicant shall exercise the privileges of licensure or
21 ~~registrations~~ REGISTRATION until the BOARD GRANTS THE license or
22 registration. ~~has been granted by the board.~~

23 ~~(6)~~ (7) The board may require any applicant for licensure to
24 display written or oral competency in English. The board may utilize a
25 standardized test to determine language proficiency.

26 ~~(7)~~ (8) A person licensed by examination and in good standing in
27 another state may apply for A license transfer. The board shall designate

1 a clearinghouse for license transfer applicants, and ~~such individuals~~ A
2 PERSON APPLYING FOR A LICENSE TRANSFER shall apply for ~~license~~
3 ~~transfer~~ through the clearinghouse designated by the board.

4 (8) (9) The board shall adopt ~~such rules and regulations~~ as may be
5 ~~deemed~~ necessary ~~by the board~~ to ensure that any person who
6 manufactures drugs as defined in section 12-22-102 (17), and any
7 wholesaler of drugs as defined in section 12-22-102 (34), possesses
8 the minimum qualifications required for wholesale drug distributors
9 pursuant to the federal "Prescription Drug Marketing Act of 1987", 21
10 U.S.C. sec. 353, as amended.

11 (9) (10) ~~No individual~~ A PERSON whose license has been revoked
12 shall NOT reapply for licensure earlier than two years after the effective
13 date of the revocation.

14 (11) [Formerly 12-22-305 (2)] Issuance of a license OR
15 REGISTRATION under ~~subsection (1)~~ of this section AND SECTION
16 12-42.5-117 does not entitle a licensee OR REGISTERED FACILITY OR
17 OUTLET to wholesale, manufacture, distribute, DISPENSE, or professionally
18 use controlled substances beyond the scope of his OR HER federal
19 registration.

20 **12-42.5-113. [Formerly 12-22-116.5] Exemptions from**
21 **licensure - hospital residency programs - home renal dialysis -**
22 **research companies.** (1) The board ~~shall have the authority~~ IS
23 AUTHORIZED to approve hospital residency programs in the practice of
24 pharmacy. Persons accepted into an approved hospital residency program
25 who are licensed to practice pharmacy in another state ~~shall be~~ ARE
26 exempt from the licensing requirements of this ~~part~~ ARTICLE so long as
27 their practice is limited to participation in the residency program.

1 (2) This article ~~shall~~ DOES not apply to the sale or delivery of a
2 dialysis solution if all of the following conditions are met:

3 (a) The sale or delivery is made directly by the manufacturer to a
4 person with chronic kidney failure or to the designee of ~~such a~~ THE
5 person;

6 (b) ~~Such~~ THE sale or delivery is for the purpose of
7 self-administration by the person pursuant to an order by a physician
8 lawfully practicing in this state; and

9 (c) The solution is sold or delivered in original packages, properly
10 labeled, and unadulterated in accordance with the requirements of the
11 "Colorado Food and Drug Act", part 4 of article 5 of title 25, C.R.S., and
12 the "Federal Food, Drug, and Cosmetic Act".

13 (3) A manufacturer that must obtain a prescription drug or device
14 solely for use in its research, development, or testing procedures and that
15 does not further distribute the drug or device may apply to the board for
16 a waiver of registration pursuant to this subsection (3). The board may
17 grant ~~such~~ a waiver if the manufacturer submits to the board the name of
18 the drug or device it requires and an affidavit certifying that the drug or
19 device ~~shall~~ WILL only be used for necessary research, development, or
20 testing procedures and ~~shall~~ WILL not be further distributed. ~~No~~ A waiver
21 granted pursuant to this subsection (3) ~~shall~~ DOES NOT apply to ~~any~~ A
22 controlled substance, as defined in ~~state~~ SECTION 18-18-102 (5), C.R.S.,
23 or IN federal law.

24 (4) **[Formerly 12-22-304 (5)]** The following persons need not be
25 licensed by the department or by the board to lawfully possess controlled
26 substances under this part 3:

27 (a) to (d) (~~Deleted by amendment, L. 92, p. 387, § 6, effective July~~

1 ~~1, 1992.)~~

2 ~~(e) Employees of facilities~~ AN EMPLOYEE OF A FACILITY, as
3 defined in section 25-1.5-301, C.R.S., who ~~are~~ IS administering and
4 monitoring medications to persons under the care or jurisdiction of ~~such~~
5 ~~facilities~~ THE FACILITY pursuant to part 3 of article 1.5 of title 25, C.R.S.,
6 NEED NOT BE LICENSED BY THE BOARD TO LAWFULLY POSSESS
7 CONTROLLED SUBSTANCES UNDER THIS ARTICLE.

8 **12-42.5-114. [Formerly 12-22-118] Expiration and renewal of**
9 **licenses or registrations.** (1) All licenses ~~shall~~ AND REGISTRATIONS
10 expire pursuant to a schedule established by the director of the division
11 of registrations within the department of regulatory agencies and ~~shall~~
12 MUST be renewed or reinstated pursuant to section 24-34-102 (8), C.R.S.
13 The director of the division of registrations ~~within the department of~~
14 ~~regulatory agencies~~ may establish renewal fees and delinquency fees for
15 reinstatement pursuant to section 24-34-105, C.R.S. If a person fails to
16 renew his or her license OR REGISTRATION pursuant to the schedule
17 established by the director of the division of registrations, ~~such~~ THE
18 license ~~shall expire~~ OR REGISTRATION EXPIRES. Any person whose license
19 ~~has expired shall be~~ OR REGISTRATION EXPIRES IS subject to the penalties
20 provided in this article or section 24-34-102 (8), C.R.S.

21 ~~(2) (a) and (b) (Deleted by amendment, L. 2004, p. 1806, § 29,~~
22 ~~effective August 4, 2004.)~~

23 ~~(e) (2) Any~~ A pharmacist ~~failing~~ WHO FAILS to renew ~~such~~
24 ~~pharmacist's~~ HIS OR HER license on or before the applicable renewal time
25 may ~~be~~ HAVE HIS OR HER LICENSE reinstated for the remainder of the
26 current renewal period by filing a proper application, satisfying the board
27 that ~~such~~ THE pharmacist is fully qualified to practice, and paying the

1 reinstatement fee as provided in section ~~12-22-114(1)(f)~~ 12-42.5-110(1)
2 (e) and all delinquent fees.

3 (3) Except for good cause shown, ~~no~~ THE BOARD SHALL NOT
4 GRANT A license ~~shall be granted~~ to a pharmacy intern more than two
5 years after the applicant has ceased to be an enrolled student in a college
6 or school of pharmacy approved by the board.

7 **12-42.5-115. [Formerly 12-22-118.5] Continuing education.**

8 (1) Except as permitted in subsections (2) and (3) of this section, the
9 board ~~may~~ SHALL not ~~renew, REINSTATE,~~ or reactivate the license of any
10 pharmacist until the pharmacist presents evidence ~~of having~~ THAT HE OR
11 SHE HAS completed twenty-four hours of approved continuing
12 pharmaceutical education within the preceding two years. Subject to
13 subsection (9) of this section, ~~such~~ THE evidence may be provided by
14 checking a sign-off box on the license renewal application.

15 (2) (a) The board may renew the license of a pharmacist who
16 presents acceptable evidence that the pharmacist was unable to comply
17 with subsection (1) of this section.

18 (b) The board may grant a six-month compliance extension to
19 pharmacists who are unable to comply with subsection (1) of this section.

20 ~~(c) With regard to license renewals occurring prior to July 1,~~
21 ~~2002, the board shall require pharmacists to present evidence of having~~
22 ~~completed only twelve hours of approved continuing pharmaceutical~~
23 ~~education.~~

24 (3) The board may renew the license for the first renewal period
25 following the issuance of the original license without requiring a
26 pharmacist to complete any continuing pharmaceutical education if the
27 pharmacist obtains a license within one year after the completion of the

1 pharmacist's pharmaceutical education.

2 (4) To qualify for continuing education credit, a program of
3 continuing pharmaceutical education must be currently approved by the
4 ~~American~~ ACCREDITATION council on pharmaceutical education or an
5 equivalent accrediting body as determined by the board.

6 (5) Each program of continuing pharmaceutical education ~~shall~~
7 MUST consist of at least one continuing education unit, which is one hour
8 of participation in an organized continuing educational experience,
9 including postgraduate studies, institutes, seminars, lectures, conferences,
10 workshops, correspondence courses, cassette programs, programmed
11 learning courses, audiovisual programs, internet programs, and any other
12 form of presentation that is accredited.

13 (6) Any aspect of the practice of pharmacy may be the subject of
14 a program of continuing pharmaceutical education, including ~~but not~~
15 ~~limited to~~, pharmaceutics, compounding, pharmacology, pharmaceutical
16 chemistry, biochemistry, physiology, microbiology, pharmacy
17 administration, and professional practice management.

18 (7) A program of continuing pharmaceutical education may
19 include ~~but is not limited to~~, the following:

- 20 (a) A definite stated objective;
- 21 (b) Presentation in an organized manner; and
- 22 (c) A method of program evaluation that is suitable to the type of
23 program being presented.

24 (8) A program of continuing pharmaceutical education ~~shall~~ MUST
25 meet the requirements as established by the accrediting body.

26 (9) The board may annually audit up to five percent of the
27 pharmacists licensed and residing in Colorado to determine compliance

1 with this section.

2 (10) ~~Failure~~ IF A LICENSED PHARMACIST FAILS to obtain the
3 twenty-four hours of approved continuing pharmaceutical education, ~~shall~~
4 ~~result in~~ the PHARMACIST'S license ~~becoming~~ BECOMES inactive. AN
5 inactive ~~licensees shall~~ LICENSEE IS not ~~be~~ required to comply with any
6 continuing pharmaceutical education requirement so long as ~~such~~
7 ~~licensees remain~~ THE LICENSEE REMAINS inactive, but ~~shall~~ THE LICENSEE
8 MUST continue ~~to be required~~ to pay applicable fees, including renewal
9 fees. ~~Inactive status shall be noted~~ THE BOARD SHALL NOTE "INACTIVE
10 STATUS" on the face of any license ~~issued~~ IT ISSUES TO A LICENSEE while
11 the licensee remains inactive. Should an inactive pharmacist wish to
12 resume the practice of pharmacy after being placed on an inactive list, the
13 pharmacist shall file an application ~~therefor~~ TO ACTIVATE HIS OR HER
14 LICENSE, pay the ~~registration~~ LICENSE renewal fee, and, subject to
15 subsections (2) and (3) of this section, meet the twenty-four-hour
16 continuing education requirement. ~~Engaging~~ IF A LICENSED PHARMACIST
17 ENGAGES in the practice of pharmacy while on inactive status, ~~pursuant~~
18 ~~to this article~~ THAT CONDUCT may be grounds for license revocation
19 UNDER THIS ARTICLE.

20 **12-42.5-116. [Formerly 12-22-119] Prescription drug outlet**
21 **under charge of pharmacist.** (1) (a) A prescription drug outlet ~~shall~~
22 MUST be under the direct charge of a pharmacist manager. A proprietor
23 who is not a pharmacist shall comply with this requirement and shall
24 provide a manager who is a pharmacist.

25 (b) The registration of any prescription drug outlet ~~shall become~~
26 BECOMES void if the pharmacist manager in whose name the prescription
27 drug outlet registration was issued ceases to be engaged as the manager.

1 ~~and~~ The owner shall close the prescription drug outlet unless ~~such~~ THE
2 owner:

- 3 (I) ~~has employed~~ EMPLOYS a NEW pharmacist manager; and
- 4 (II) Within ~~fourteen~~ THIRTY days after termination of the former
5 manager's employment: ~~has made application~~

6 (A) APPLIES to transfer the registration to the new pharmacist
7 manager; and

8 (B) ~~has paid~~ PAYS the REGISTRATION transfer fee. ~~therefor.~~

9 (c) AT THE TIME the pharmacist manager in whose name the
10 registration was obtained ~~at the time such pharmacist manager~~ ceases to
11 be employed as ~~such~~ THE PHARMACIST MANAGER, HE OR SHE shall
12 immediately report to the board the fact that he or she is no longer
13 manager of the prescription drug outlet. ~~Such~~ THE pharmacist manager
14 ~~shall be held~~ IS responsible as the manager until the cessation of
15 employment is reported. The proprietor of the prescription drug outlet
16 shall also notify the board of the termination of managership.

17 (2) ~~No~~ A prescription drug outlet shall NOT commence business
18 until it ~~has made application~~ APPLIES TO THE BOARD for a registration and
19 ~~has received~~ RECEIVES from the board a registration showing the name of
20 the proprietor and the name of the manager. Upon transfer of the
21 ownership of a prescription drug outlet, THE NEW PROPRIETOR SHALL
22 SUBMIT TO THE BOARD an application to transfer the registration of ~~said~~
23 THE prescription drug outlet, ~~shall be submitted,~~ and, upon approval of the
24 transfer by the board, the BOARD SHALL TRANSFER THE registration ~~shall~~
25 ~~be transferred~~ to the new proprietor. Upon the change of name or location
26 of a prescription drug outlet, the registrant shall submit an application to
27 change the name or location AND THE APPLICABLE FEE, and, upon

1 approval of the ~~same and the payment of the fee therefor~~ APPLICATION,
2 THE BOARD SHALL ISSUE a new registration showing the new name or new
3 location. ~~shall be issued.~~

4 (3) (a) A prescription drug outlet operated by the state of Colorado
5 or any political subdivision ~~thereof~~, OF THE STATE is not required to be
6 registered but, in lieu ~~thereof~~, ~~shall~~ OF A REGISTRATION, MUST apply to the
7 board, on a form approved by the board, for a certificate of compliance.
8 The board shall determine whether ~~said~~ THE prescription drug outlet is
9 operated in accordance with the laws of this state and the rules ~~and~~
10 ~~regulations~~ of the board. ~~and~~, If ~~it~~ THE BOARD determines that the
11 prescription drug outlet is ~~so~~ operated IN ACCORDANCE WITH STATE LAWS
12 AND BOARD RULES, except for the holding of a prescription drug outlet
13 registration, ~~it~~ THE BOARD shall issue a certificate of compliance, which
14 ~~shall expire~~ CERTIFICATE EXPIRES and may be renewed in accordance with
15 ~~the provisions of~~ section 24-34-102 (8), C.R.S. ~~and, thereafter, said~~ ONCE
16 THE BOARD ISSUES THE CERTIFICATE OF COMPLIANCE, THE prescription
17 drug outlet ~~shall have~~ HAS the rights and privileges of, and ~~shall be~~ IS
18 treated in all respects as, a registered prescription drug outlet. The
19 provisions of this ~~part~~ **ARTICLE** with respect to the denial, suspension,
20 or revocation of a prescription drug outlet registration ~~shall~~ apply to a
21 certificate of compliance.

22 (b) An outlet as recognized in section ~~12-22-120 (1) (e)~~
23 **12-42.5-117** (1) (d) need not be under the direct charge of a pharmacist,
24 but a licensed pharmacist shall either initially interpret all prescription
25 orders compounded or dispensed from ~~such~~ THE outlet or provide written
26 protocols for ~~such~~ compounding and dispensing by unlicensed persons.
27 An outlet qualifying for registration under this paragraph (b) may also

1 apply to the board for a waiver of ~~such~~ THE requirements concerning
2 physical space, equipment, inventory, or business hours as ~~may be~~
3 necessary and consistent with the outlet's limited public welfare purpose.
4 In determining the ~~grant~~ GRANTING or denial of ~~such~~ A waiver
5 application, the board shall ensure that the public interest criteria set forth
6 in section ~~12-22-101~~ 12-42.5-101 are satisfied. All other provisions of
7 this ~~part 1~~ ARTICLE, except as specifically waived by the board, shall
8 apply to ~~such~~ THE outlet.

9 (4) ~~The registration of~~ Every outlet and ~~the license of~~ every
10 pharmacist and pharmacy intern regularly practicing shall ~~be~~
11 conspicuously ~~displayed~~ DISPLAY THE REGISTRATION AND LICENSE,
12 RESPECTIVELY, within the premises of the place of practice or outlet.

13 (5)(a) ~~Repealed.~~

14 (b) ~~(f)~~ (5) The pharmacist responsible for the prescription order
15 or chart order may delegate certain specific tasks ~~as provided~~ DESCRIBED
16 in section ~~12-22-102 (26) (b)~~, 12-42.5-102 (31) (b) to a person who is not
17 a pharmacist or pharmacy intern but who is an unlicensed assistant under
18 ~~such~~ THE pharmacist's supervision if, in the pharmacist's professional
19 judgment, ~~such~~ THE delegation is appropriate; except that ~~no such~~ THE
20 PHARMACIST SHALL NOT MAKE THE delegation ~~may be made~~ if the
21 delegation jeopardizes the public health, safety, or welfare, is prohibited
22 by rule ~~or regulation~~ of the board, or violates ~~the provisions of~~ section
23 ~~12-22-126 (1)~~ 12-42.5-126 (1).

24 (H) ~~This paragraph (b) is effective February 1, 1999.~~

25 **12-42.5-117. [Formerly 12-22-120] Registration of facilities -**
26 **rules.** (1) All outlets with facilities in this state shall register with the
27 board in one of the following classifications:

- 1 (a) Prescription drug outlet;
- 2 (b) Wholesale drug outlet;
- 3 (c) Manufacturing drug outlet;
- 4 ~~(d) Repealed.~~
- 5 ~~(e)~~ (d) Any other outlet, as may be authorized by this article or
- 6 that meets the definition of outlet as set forth in section ~~12-22-102 (23)~~
- 7 12-42.5-102 (25).

8 (2) The board shall establish, by rule, ~~or regulation~~ criteria,

9 consistent with section ~~12-22-116~~ 12-42.5-112 and with the public

10 interest as set forth in section ~~12-22-101, which~~ 12-42.5-101, THAT an

11 outlet that has employees or personnel engaged in the practice of

12 pharmacy must meet to qualify for registration in each classification.

13 (3) The board shall specify by rule ~~or regulation~~ the registration

14 procedures ~~to be followed~~ APPLICANTS MUST FOLLOW, including ~~but not~~

15 ~~limited to,~~ the ~~specification of forms~~ SPECIFICATIONS for use in applying

16 ~~APPLICATION~~ for registration and the information needed.

17 (4) Registrations issued by the board pursuant to this section are

18 transferable or assignable only pursuant to this article and rules

19 established by the board.

20 (5) It ~~shall be~~ IS lawful for a person to sell and distribute

21 nonprescription drugs. Any person engaged in the sale and distribution of

22 ~~such~~ NONPRESCRIPTION drugs ~~shall~~ IS not ~~be deemed to be~~ improperly

23 engaged in the practice of pharmacy, ~~nor~~ AND THE BOARD shall ~~the board~~

24 NOT promulgate any rule ~~or regulation~~ pursuant to this ~~part 1 which~~

25 ~~ARTICLE~~ THAT permits the sale of nonprescription drugs only by a

26 licensed pharmacist or only under the supervision of a licensed

27 pharmacist or ~~which~~ THAT would otherwise apply to or interfere with the

1 sale and distribution of nonprescription drugs.

2 (6) The board shall accept the licensure or certification of nursing
3 care facilities and intermediate care facilities required by the department
4 of public health and environment as sufficient registration under this
5 section.

6 (7) A separate registration ~~shall be~~ IS required under this section
7 for any area outside the outlet that is not a satellite where pharmaceutical
8 care and services are provided and for any ~~such~~ area OUTSIDE THE OUTLET
9 that is under different ownership from the outlet.

10 (8) No hospital outlet filling inpatient chart orders shall sell or
11 otherwise transfer any portion of its prescription drug inventory to
12 another registered outlet for sale or dispensing at retail. This subsection
13 (8) ~~shall not be construed to~~ DOES NOT limit any transfer of prescription
14 drugs for the hospital's own use or ~~to~~ limit the ability of a hospital outlet
15 to engage in a casual sale. ~~as defined in section 12-22-102 (5).~~

16 (9) (a) Subject to paragraph (b) of this subsection (9), a
17 prescription drug outlet may register as a compounding prescription drug
18 outlet.

19 (b) ~~No~~ THE BOARD SHALL NOT REGISTER A facility ~~shall be~~
20 ~~registered~~ as a compounding prescription drug outlet unless:

21 (I) The facility has been accredited by a board-approved
22 compounding accreditation entity to be within acceptable parameters to
23 compound more than ten percent of the facility's total sales; and

24 (II) Ownership of the facility is vested solely in a pharmacist.

25 (c) To be approved by the board to accredit a compounding
26 prescription drug outlet, a compounding accreditation entity shall be, at
27 a minimum, a scientific organization with expertise in compounding

1 medications.

2 (10) (a) ON OR AFTER JANUARY 1, 2013, A SATELLITE SHALL
3 REGISTER AS A HOSPITAL SATELLITE PHARMACY IF THE SATELLITE:

4 (I) IS LOCATED IN A FACILITY THAT IS UNDER THE SAME
5 MANAGEMENT AND CONTROL AS THE BUILDING OR SITE WHERE THE
6 PRESCRIPTION DRUG OUTLET IS LOCATED; AND

7 (II) HAS A DIFFERENT ADDRESS THAN THE PRESCRIPTION DRUG
8 OUTLET.

9 (b) THE BOARD SHALL ADOPT RULES AS NECESSARY TO IMPLEMENT
10 THIS SUBSECTION (10). AT A MINIMUM, THE RULES MUST SET FORTH THE
11 MANNER IN WHICH A SATELLITE IS TO APPLY FOR A HOSPITAL SATELLITE
12 PHARMACY REGISTRATION AND THE LIMITS ON THE DISTANCE OF
13 SATELLITES FROM THE MAIN PRESCRIPTION DRUG OUTLET.

14 (11) ON OR AFTER JANUARY 1, 2013, A PRESCRIPTION DRUG
15 OUTLET MAY REGISTER AS A SPECIALIZED PRESCRIPTION DRUG OUTLET IF
16 IT ENGAGES IN THE COMPOUNDING, DISPENSING, AND DELIVERY OF DRUGS
17 AND DEVICES TO, OR THE PROVISION OF PHARMACEUTICAL CARE TO
18 RESIDENTS OF, A LONG-TERM CARE FACILITY. THE BOARD SHALL ADOPT
19 RULES AS NECESSARY TO IMPLEMENT THIS SUBSECTION (11).

20 (12) [Formerly 12-22-304 (3)] (a) ~~A license issued by A~~
21 HUMANE SOCIETY THAT IS DULY REGISTERED WITH THE SECRETARY OF
22 STATE AND HAS BEEN IN EXISTENCE AND IN BUSINESS FOR AT LEAST FIVE
23 YEARS IN THIS STATE AS A NONPROFIT CORPORATION, OR AN ANIMAL
24 CONTROL AGENCY THAT IS OPERATED BY A UNIT OF GOVERNMENT, SHALL
25 REGISTER WITH the board. ~~shall be obtained annually by a humane society~~
26 ~~as provided in this subsection (3). The board shall, as provided in section~~
27 ~~24-34-105, C.R.S., collect a fee and issue a license to a humane society~~

1 as provided in this subsection (3).

2 (b) ~~A humane society that is duly registered with the secretary of~~
3 ~~state and has been in existence and in business for at least five years in~~
4 ~~this state as a nonprofit corporation, or an animal control agency that is~~
5 ~~operated by a unit of government, may apply to the board for a license for~~
6 ~~the purposes of being authorized to purchase, possess, and administer~~
7 ~~sodium pentobarbital, or sodium pentobarbital in combination with other~~
8 ~~prescription drugs that are medically recognized for euthanasia, to~~
9 ~~euthanize injured, sick, homeless, or unwanted pets and animals and to~~
10 ~~purchase, possess, and administer drugs commonly used for the chemical~~
11 ~~capture of animals for control purposes or to sedate or immobilize pet~~
12 ~~animals immediately prior to euthanasia. Any society or agency so~~
13 ~~licensed shall not permit a person to administer scheduled controlled~~
14 ~~substances, sodium pentobarbital, or sodium pentobarbital in combination~~
15 ~~with other noncontrolled prescription drugs that are medically recognized~~
16 ~~for euthanasia unless such person has demonstrated adequate knowledge~~
17 ~~of the potential hazards and proper techniques to be used in administering~~
18 ~~such drug or combination of drugs. The board may issue a limited license~~
19 ~~to carry out the provisions of this subsection (3) A HUMANE SOCIETY OR~~
20 ~~ANIMAL CONTROL AGENCY TO PERFORM THE ACTIVITIES DESCRIBED IN~~
21 ~~SECTION 12-42.5-118 (17).~~

22 (c) The board shall ~~issue such~~ ADOPT rules as ~~it deems~~ necessary
23 to ensure strict compliance with ~~the provisions of this subsection (3)~~ (12)
24 AND SECTION 12-42.5-118 (17) and, ~~shall~~, in conjunction with the state
25 board of veterinary medicine, SHALL develop criteria for training
26 individuals in the administration of ~~such~~ THE drug or combination of
27 drugs. The board may suspend or revoke the license upon determination

1 that the person administering such drug or combination of drugs has not
2 demonstrated adequate knowledge required by this subsection (3).

3 (d) Nothing in this subsection (3) shall be construed to apply (12)
4 APPLIES to a licensed veterinarian.

5 (13) [Formerly 12-22-307 (1)] An applicant A FACILITY OR
6 OUTLET APPLYING for a license REGISTRATION under this part 3 must
7 SECTION SHALL have adequate and proper facilities for the handling and
8 storage of controlled substances and SHALL maintain proper control over
9 such THE controlled substances to insure against their being ENSURE THE
10 CONTROLLED SUBSTANCES ARE NOT illegally dispensed or distributed.

11 (14) [Formerly 12-22-304 (7)] No license shall be issued THE
12 BOARD SHALL NOT ISSUE A REGISTRATION under this part 3 SECTION to a
13 researcher, manufacturer or distributor of marijuana or marijuana
14 concentrate, AS THOSE TERMS ARE DEFINED IN SECTION 27-80-203 (15)
15 AND (16), C.R.S., RESPECTIVELY.

16 **12-42.5-118. [Formerly 12-22-121] Compounding - dispensing**
17 **- sale of drugs and devices - rules.** (1) Except as otherwise provided in
18 this section and part 3 of this article OR PART 2 OF ARTICLE 80 OF TITLE 27,
19 C.R.S., no drug, controlled substance, as defined in section 12-22-303 (7),
20 or device shall be sold, compounded, dispensed, given, received, or held
21 in possession unless it is sold, compounded, dispensed, given, or received
22 in accordance with this section.

23 (2) Except as provided in subsection (7) of this section, a
24 manufacturer of drugs may sell or give any drug to:

25 (a) Any wholesaler of drugs;

26 (b) A licensed hospital;

27 (c) An other outlet; as defined in section 12-22-102 (23);

1 (d) A registered prescription drug outlet; or
2 (e) Any practitioner authorized by law to prescribe the drugs.
3 (3) (a) A wholesaler may sell or give any drug or device to:
4 (I) Another wholesaler of drugs or devices;
5 (II) Any licensed hospital;
6 (III) A registered prescription drug outlet;
7 (IV) An other outlet; ~~as defined in section 12-22-102 (23)~~; or
8 (V) Any practitioner authorized by law to prescribe the drugs or
9 devices.

10 (b) A wholesaler may sell or deliver to a person responsible for
11 the control of an animal a drug intended for veterinary use for that animal
12 only if a licensed veterinarian has issued, prior to such sale or delivery,
13 a written prescription order for the drug in the course of an existing,
14 valid veterinarian-client-patient relationship as defined in section
15 12-64-103 (15.5); EXCEPT THAT, IF THE PRESCRIPTION ORDER IS FOR A
16 DRUG THAT IS NOT A CONTROLLED SUBSTANCE OR IS A CONTROLLED
17 SUBSTANCE LISTED ON SCHEDULE III, IV, OR V, THE LICENSED
18 VETERINARIAN MAY ISSUE AN ORAL PRESCRIPTION ORDER FOR THAT DRUG.
19 IF THE LICENSED VETERINARIAN ISSUES AN ORAL PRESCRIPTION ORDER FOR
20 A CONTROLLED SUBSTANCE LISTED ON SCHEDULE III, IV, OR V, THE
21 LICENSED VETERINARIAN SHALL PROVIDE A WRITTEN PRESCRIPTION TO THE
22 WHOLESALER WITHIN THREE BUSINESS DAYS AFTER ISSUING THE ORAL
23 ORDER.

24 (4) ~~An order shall be compounded~~ ONLY A REGISTERED
25 PRESCRIPTION DRUG OUTLET OR OTHER OUTLET REGISTERED PURSUANT TO
26 SECTION 12-42.5-117 (1) (d) MAY COMPOUND OR DISPENSE a prescription.
27 ~~dispensed only from a registered prescription drug outlet or other outlet~~

1 registered pursuant to section 12-22-120 (1) (e). INITIAL INTERPRETATION
2 AND FINAL EVALUATION, AS DEFINED BY THE BOARD, MAY BE CONDUCTED
3 AT A LOCATION OTHER THAN A REGISTERED PRESCRIPTION DRUG OUTLET
4 OR OTHER OUTLET REGISTERED PURSUANT TO THIS ARTICLE IN
5 ACCORDANCE WITH RULES ADOPTED BY THE BOARD.

6 (5) (a) A registered prescription drug or licensed hospital other
7 outlet may:

8 (I) Make a casual sale or loan of or ~~may~~ give a drug to another
9 registered outlet or to a wholesaler of drugs; ~~or it may~~

10 (II) Sell or give a drug to a practitioner authorized by law to
11 prescribe the drug; ~~or it may~~

12 (III) Supply an emergency kit OR STARTER DOSE, AS DEFINED BY
13 THE BOARD BY RULE, to:

14 (A) Any facility approved by the board for receipt of an
15 emergency kit;

16 (B) Any home health agency ~~certified~~ LICENSED by the department
17 of public health and environment and approved by the board for receipt
18 of an emergency kit; and

19 (C) Any licensed hospice approved by the board for receipt of an
20 emergency kit in compliance with subsection ~~(13)~~ (12) of this section.

21 (b) In the case of a county or district public health agency that
22 operates registered other outlets, ~~as defined in section 12-22-102 (23)~~;
23 one registered other outlet may make a casual sale of a drug to another
24 registered other outlet if:

25 (I) The drug is sold in the original sealed container in which it was
26 originally received from the wholesaler;

27 (II) ~~No such~~ A casual sale is NOT made to ~~any~~ A registered other

1 outlet that is not owned or operated by that county or district public health
2 agency; and

3 (III) The amount sold does not exceed the ~~five~~ TEN percent limit
4 established by section ~~12-22-102 (5)~~ 12-42.5-102 (6).

5 (c) PURSUANT TO SECTION 17-1-113.1, C.R.S., the department of
6 corrections may ~~pursuant to section 17-1-113.1, C.R.S.,~~ transfer, deliver,
7 or distribute to a corporation, individual, or other entity ~~other than a~~
8 ~~consumer,~~ entitled to possess prescription drugs, OTHER THAN A
9 CONSUMER, PRESCRIPTION DRUGS in an amount that is less than, equal to,
10 or in excess of five percent of ~~a casual sale~~ THE TOTAL NUMBER OF
11 DOSAGE UNITS OF DRUGS DISPENSED AND DISTRIBUTED ON AN ANNUAL
12 BASIS.

13 (6) (a) A practitioner may personally compound and dispense for
14 any patient under the practitioner's care any drug that the practitioner is
15 authorized to prescribe and that the practitioner deems desirable or
16 necessary in the treatment of any condition being treated by the
17 practitioner, and ~~such~~ THE practitioner ~~shall be~~ IS exempt from all
18 provisions of this ~~part 1~~ ARTICLE except for the provisions of section
19 ~~12-22-126~~ 12-42.5-126.

20 (b) The board shall promulgate rules authorizing a pharmacist to
21 compound drugs for office use by a practitioner. ~~Such~~ THE rules ~~shall~~
22 MUST limit the amount of drugs a pharmacist may compound to no more
23 than ten percent of the total number of drug dosage units dispensed and
24 distributed on an annual basis by ~~such~~ THE outlet.

25 (c) Nothing in this section ~~shall prohibit~~ PROHIBITS an optometrist
26 licensed pursuant to article 40 of this title or a physician licensed pursuant
27 to article 36 of this title from charging a fee for prescribing, adjusting,

1 fitting, adapting, or dispensing ophthalmic devices, such as contact
2 lenses, that are classified by the federal food and drug administration as
3 a drug, as long as the activity is within the scope of practice of the
4 optometrist pursuant to article 40 of this title or the scope of practice of
5 the physician pursuant to article 36 of this title.

6 (7) Distribution of any sample ~~shall~~ MAY be made only upon
7 written receipt from a practitioner, and ~~such~~ THE receipt must be given
8 specifically for each drug or drug strength received.

9 (8) It is lawful for the vendor of any drug or device to repurchase
10 the ~~same~~ DRUG OR DEVICE from the vendee to correct an error, to retire an
11 outdated article, or for other good reason, under ~~such~~ rules ~~and~~
12 ~~regulations~~ as the board may adopt to protect consumers of drugs and
13 devices against the possibility of obtaining unsafe or contaminated drugs
14 or devices.

15 (9) A duly authorized agent or employee of an outlet registered by
16 the board is not deemed to be in possession of a drug or device in
17 violation of this section if he OR SHE is in possession ~~thereof~~ OF THE DRUG
18 OR DEVICE for the sole purpose of carrying out the authority granted by
19 this section to his OR HER principal or employer.

20 ~~(10) (Deleted by amendment, L. 96, p. 1424, § 12, effective July~~
21 ~~1, 1996.)~~

22 ~~(11)~~ (10) Any hospital employee or agent authorized by law to
23 administer or dispense medications may dispense a twenty-four-hour
24 supply of drugs on the specific order of a practitioner to a registered
25 emergency room patient.

26 ~~(12)~~ (11) The original, duplicate, or electronic or mechanical
27 facsimile of a chart order by the physician or lawfully designated agent

1 ~~shall constitute~~ CONSTITUTES a valid authorization to a pharmacist or
2 pharmacy intern to dispense to a hospitalized patient for administration
3 ~~such~~ THE amounts of ~~such~~ THE drugs as will enable an authorized person
4 to administer to ~~such~~ THE patient the drug ordered by the practitioner. ~~It~~
5 ~~shall be the responsibility of the practitioner to verify for~~ THE
6 PRACTITIONER IS RESPONSIBLE FOR VERIFYING THE accuracy OF any chart
7 order HE OR SHE transmitted to anyone other than a pharmacist or
8 pharmacist intern within forty-eight hours of ~~such~~ THE transmittal.

9 ~~(13)~~ (12) Any facility approved by the board, any home health
10 agency certified by the department of public health and environment and
11 approved by the board, and any licensed hospice approved by the board
12 may maintain emergency drugs provided and owned by a prescription
13 drug outlet, consisting of drugs and quantities as established by the board.

14 ~~(14) Repealed.~~

15 ~~(15)~~ (13) ~~Interns~~ AN INTERN under the direct and immediate
16 supervision of a pharmacist ~~may engage in the practice of pharmacy.~~
17 AN INTERN, AS DEFINED IN SECTION 12-42.5-102 (17) (a), ENGAGED IN THE
18 PRACTICE OF PHARMACY WITHIN THE CURRICULUM OF A SCHOOL OR
19 COLLEGE OF PHARMACY IN ACCORDANCE WITH SECTION 12-42.5-102 (17)
20 (a), MAY BE SUPERVISED BY A MANUFACTURER REGISTERED PURSUANT TO
21 SECTION 12-42.5-112 OR BY ANOTHER REGULATED INDIVIDUAL AS
22 PROVIDED FOR IN RULES ADOPTED BY THE BOARD.

23 ~~(16)~~ (14) ~~No~~ A manufacturer or wholesaler of prescription drugs
24 shall NOT sell or give any prescription drug, as provided in subsections (2)
25 and (3) of this section, to a licensed hospital or registered outlet or to any
26 practitioner unless the prescription drug stock container bears a label
27 containing the name and place of business of the manufacturer of the

1 finished dosage form of the drug and, if different from the manufacturer,
2 the name and place of business of the packer or distributor.

3 ~~(17) (Deleted by amendment, L. 2007, p. 807, § 4, effective~~
4 ~~August 3, 2007.)~~

5 ~~(18)~~ (15) (a) A compounding prescription drug outlet registered
6 pursuant to section ~~12-22-120 (9)~~ 12-42.5-117 (9) may dispense and
7 distribute compounded drugs without limitation to practitioners or to
8 prescription drug outlets under common ownership with the pharmacist
9 who owns the compounding prescription drug outlet.

10 (b) The following may distribute compounded and prepackaged
11 medications, without limitation, to pharmacies under common ownership
12 of the entity:

13 (I) A prescription drug outlet owned and operated by a hospital
14 that is accredited by the joint commission on accreditation of healthcare
15 organizations or a successor organization; and

16 (II) A prescription drug outlet operated by a health maintenance
17 organization, as defined in section 10-16-102, C.R.S.

18 (c) (I) A prescription drug outlet shall not compound drugs that
19 are commercially available except as provided in subparagraph (II) of this
20 paragraph (c).

21 (II) A pharmacist may compound a commercially available drug
22 if the compounded drug is significantly different from the commercially
23 available drug or if use of the compounded drug is in the best medical
24 interest of the patient, based upon the practitioner's drug order, including
25 ~~without limitation,~~ the removal of a dye that causes an allergic reaction.
26 If THE PHARMACIST COMPOUNDS a drug ~~is compounded~~ in lieu of a
27 commercially available product, the PHARMACIST SHALL NOTIFY THE

1 patient ~~shall be notified of the~~ THAT fact.

2 (19) (16) A prescription drug outlet may allow a licensed
3 pharmacist to remove immunizations and vaccines from the prescription
4 drug outlet for the purpose of administration by a licensed pharmacist, or
5 an intern under the supervision of a pharmacist certified in immunization,
6 pursuant to rules promulgated by the board. The board shall promulgate
7 rules regarding the storage, transportation, and record-keeping of
8 immunizations and vaccines that are administered off-site.

9 (17) [Formerly 12-22-304 (3) (b)] (a) A humane society OR
10 ANIMAL CONTROL AGENCY that is ~~duly~~ registered with ~~the secretary of~~
11 ~~state and has been in existence and in business for at least five years in~~
12 ~~this state as a nonprofit corporation, or an animal control agency that is~~
13 ~~operated by a unit of government, may apply to the board for a license for~~
14 ~~the purposes of being authorized~~ PURSUANT TO SECTION 12-42.5-117(12)
15 IS AUTHORIZED to:

16 (I) Purchase, possess, and administer sodium pentobarbital, or
17 sodium pentobarbital in combination with other prescription drugs that
18 are medically recognized for euthanasia, to euthanize injured, sick,
19 homeless, or unwanted pets and animals; and ~~to~~

20 (II) Purchase, possess, and administer drugs commonly used for
21 the chemical capture of animals for control purposes or to sedate or
22 immobilize pet animals immediately prior to euthanasia.

23 (b) ~~Any~~ A society or agency ~~so licensed~~ REGISTERED PURSUANT
24 TO SECTION 12-42.5-117 (12) shall not permit a person to administer
25 scheduled controlled substances, sodium pentobarbital, or sodium
26 pentobarbital in combination with other noncontrolled prescription drugs
27 that are medically recognized for euthanasia unless ~~such~~ THE person has

1 demonstrated adequate knowledge of the potential hazards and proper
2 techniques to be used in administering ~~such~~ THE drug or combination of
3 drugs. ~~The board may issue a limited license to carry out the provisions~~
4 ~~of this subsection (3). The board shall issue such rules as it deems~~
5 ~~necessary to ensure strict compliance with the provisions of this~~
6 ~~subsection (3) and shall, in conjunction with the state board of veterinary~~
7 ~~medicine, develop criteria for training individuals in the administration~~
8 ~~of such drug or combination of drugs. The board may suspend or revoke~~
9 ~~the license upon determination that the person administering such drug or~~
10 ~~combination of drugs has not demonstrated adequate knowledge required~~
11 ~~by this subsection (3). Nothing in this subsection (3) shall be construed~~
12 ~~to apply to a licensed veterinarian.~~

13 (18) [Formerly 12-22-304 (4)] Persons ~~licensed~~ REGISTERED as
14 required under this part 3 1, or otherwise licensed OR REGISTERED as
15 required by federal law, may possess, manufacture, distribute, dispense,
16 OR administer ~~or conduct or do research with~~ controlled substances only
17 to the extent authorized by their ~~licenses~~ REGISTRATIONS OR FEDERAL
18 REGISTRATIONS OR LICENSES and in conformity with ~~the provisions of this~~
19 ~~part 3~~ ARTICLE and with article 18 of title 18, C.R.S.

20 **12-42.5-119. [Formerly 12-22-121.7] Limited authority to**
21 **delegate activities constituting practice of pharmacy to pharmacy**
22 **interns or pharmacy technicians.**

23 (1) ~~Repealed.~~

24 (2)(a) (1) A pharmacist may supervise up to three persons who
25 are either pharmacy interns or pharmacy technicians, of whom no more
26 than two may be pharmacy interns. If three pharmacy technicians are on
27 duty, at least one ~~shall~~ MUST be certified by a nationally recognized

1 certification board, possess a degree from an accredited pharmacy
2 technician training program, or have completed five hundred hours of
3 experiential training in duties described in section ~~12-22-102 (26) (b)~~
4 12-42.5-102 (31) (b) at the pharmacy as certified by the pharmacist
5 manager.

6 (2) THE PHARMACY SHALL RETAIN documentation verifying the
7 training ~~shall be retained within the pharmacy~~ for review by the
8 pharmacist responsible for the final check on prescriptions filled by the
9 pharmacy technician and SHALL MAKE THE DOCUMENTATION available for
10 inspection by the board.

11 (3) ~~This~~ THE supervision ratio SPECIFIED IN SUBSECTION (1) OF
12 THIS SECTION does not include other ancillary personnel ~~that~~ WHO may be
13 in the prescription drug outlet but WHO are not performing duties
14 described in section ~~12-22-102 (26) (b)~~ 12-42.5-102 (31) (b) that are
15 delegated to ~~such~~ THE interns or pharmacy technicians.

16 (b) ~~This subsection (2) is effective February 1, 1999.~~

17 **12-42.5-120. [Formerly 12-22-122] Prescription required -**
18 **exception.** (1) Except as provided in section 18-18-414, C.R.S., and
19 subsection (2) of this section, an order is required prior to dispensing any
20 prescription drug. Orders shall be readily retrievable within the
21 appropriate statute of limitations.

22 (2) A pharmacist may refill a prescription order for any
23 prescription drug without the ~~prescriber's~~ PRACTITIONER'S authorization
24 when all reasonable efforts to contact the ~~prescriber~~ PRACTITIONER have
25 failed and when, in the pharmacist's professional judgment, continuation
26 of the medication is necessary for the patient's health, safety, and welfare.
27 ~~Such~~ THE prescription refill ~~shall~~ MAY only be in an amount sufficient to

1 maintain the patient until the ~~prescriber~~ PRACTITIONER can be contacted,
2 but in no event ~~shall~~ MAY a refill under this subsection (2) continue
3 medication beyond seventy-two hours. However, if the ~~prescriber~~
4 PRACTITIONER states on the prescription that ~~there shall be~~ no emergency
5 filling of the prescription IS PERMITTED, then the pharmacist shall not
6 issue any medication THAT IS not authorized by the prescription. Neither
7 a prescription drug outlet nor a pharmacist ~~shall incur any liability~~ IS
8 LIABLE as a result of refusing to refill a prescription pursuant to this
9 subsection (2).

10 **12-42.5-121. [Formerly 12-22-123] Labeling.** (1) A prescription
11 drug dispensed pursuant to an order must be labeled as follows:

12 ~~(a) Repealed.~~

13 ~~(b)~~ (a) Drugs compounded and dispensed pursuant to a chart order
14 for a patient in a hospital ~~shall~~ MUST bear a label containing the name of
15 the outlet, the name and location of the patient, ~~and~~ the identification of
16 the drug and, when applicable, any suitable control numbers, the
17 expiration date, any warnings, and any precautionary statements.

18 ~~(c)~~ (b) (I) If the prescription is for an anabolic steroid, the purpose
19 for which the anabolic steroid is being prescribed ~~shall~~ MUST appear on
20 the label.

21 (II) If the prescription is for any drug other than an anabolic
22 steroid, the symptom or purpose for which the drug is being prescribed
23 ~~shall~~ MUST appear on the label, if, after being advised by the practitioner,
24 the patient or the patient's authorized representative so requests. If the
25 PRACTITIONER DOES NOT PROVIDE THE symptom or purpose for which a
26 drug is being prescribed, ~~is not provided by the practitioner,~~ the
27 pharmacist may fill the prescription order without contacting the

1 practitioner, patient, or ~~the~~ patient's representative, unless the prescription
2 is for an anabolic steroid.

3 (2) Except as otherwise required by law, any drug dispensed
4 pursuant to a prescription order ~~shall~~ MUST bear a label prepared and
5 placed on or securely attached to the medicine container stating at least
6 the name and address of the prescription drug outlet, the serial number
7 and the date of the prescription or of its dispensing, the name of the drug
8 dispensed unless otherwise requested by the practitioner, the name of the
9 practitioner, the name of the patient, and, if stated in the prescription, the
10 directions for use and cautionary statements, if any, contained in ~~such~~ THE
11 prescription.

12 **12-42.5-122. [Formerly 12-22-124] Substitution of prescribed**
13 **drugs authorized - when - conditions.** (1) A pharmacist filling a
14 prescription order for a specific drug by brand or proprietary name may
15 substitute an equivalent drug product if the substituted drug product is the
16 same generic drug type ~~as defined in section 12-22-102 (12)~~ and, in the
17 pharmacist's professional judgment, the substituted drug product is
18 therapeutically equivalent, ~~as defined in section 12-22-102 (33)~~, is
19 interchangeable with the prescribed drug, and is permitted to be moved
20 in interstate commerce. A pharmacist making a substitution shall assume
21 the same responsibility for selecting the dispensed drug product as he OR
22 SHE would incur in filling a prescription for a drug product prescribed by
23 a generic name; except that ~~he shall be~~ THE PHARMACIST IS charged with
24 notice and knowledge of the federal food and drug administration list of
25 approved drug substances and manufacturers ~~as may be~~ THAT IS published
26 ~~from time to time~~ PERIODICALLY.

27 (2) (a) If, in the opinion of the practitioner, it is in the best interest

1 of his THE patient that THE PHARMACIST NOT SUBSTITUTE an equivalent
2 drug ~~not be substituted, he~~ FOR THE SPECIFIC DRUG HE OR SHE
3 PRESCRIBED, THE PRACTITIONER may ~~so indicate on the prescription by~~
4 ~~either writing the words "dispense as written" or by~~ CONVEY THIS
5 INFORMATION TO THE PHARMACIST IN ANY OF THE FOLLOWING MANNERS:

6 (I) Initialing ~~in his own handwriting~~ BY HAND OR
7 ELECTRONICALLY a preprinted box ~~labeled~~ THAT STATES "dispense as
8 written" ~~In no case shall a facsimile of the handwritten signature or the~~
9 ~~handwritten initials of a practitioner be~~ OR "DAW";

10 (II) SIGNING BY HAND OR ELECTRONICALLY A preprinted ~~to~~
11 ~~indicate~~ BOX STATING "DO NOT SUBSTITUTE" OR "dispense as written"; OR

12 (III) ORALLY, if the PRACTITIONER COMMUNICATES THE
13 prescription is ~~communicated~~ orally ~~by the practitioner~~ to the pharmacist.
14 ~~the practitioner may indicate the prohibition on substitution in the same~~
15 ~~manner and at the same time.~~

16 (b) THE PRACTITIONER SHALL NOT TRANSMIT BY FACSIMILE HIS OR
17 HER HANDWRITTEN SIGNATURE, NOR PREPRINT HIS OR HER INITIALS, TO
18 INDICATE "DISPENSE AS WRITTEN".

19 (3) If a PHARMACIST MAKES A substitution, ~~is made,~~ the
20 PHARMACIST SHALL COMMUNICATE THE substitution ~~shall be~~
21 ~~communicated~~ to the purchaser in writing and orally, LABEL the container
22 ~~shall be labeled~~ with the name of the drug dispensed, and ~~the pharmacist~~
23 ~~shall~~ indicate on the file copy of the prescription both the name of the
24 prescribed drug and the name of the drug dispensed in lieu ~~thereof.~~
25 ~~Communication of such~~ OF THE PRESCRIBED DRUG. THE PHARMACIST IS
26 NOT REQUIRED TO COMMUNICATE A substitution to institutionalized
27 patients. ~~shall not be required.~~

1 (4) Except as provided in subsection (5) of this section, ~~in no case~~
2 ~~shall~~ the pharmacist SHALL NOT substitute a drug product as provided in
3 this section unless the drug product substituted costs the purchaser less
4 than the drug product prescribed. The prescription shall be priced as if it
5 had been prescribed generically.

6 (5) If a prescription drug outlet does not have in stock the
7 prescribed drug product and the only equivalent drug product in stock is
8 higher priced, the pharmacist, with the consent of the purchaser, may
9 substitute the higher priced drug product. This subsection (5) applies only
10 to a prescription drug outlet located in a town, as defined in section
11 31-1-101 (13), C.R.S.

12 **12-42.5-123. [Formerly 12-22-125] Unprofessional conduct -**
13 **grounds for discipline.** (1) The board may suspend, revoke, refuse to
14 renew, or otherwise discipline any license or registration issued by it,
15 after a hearing held in accordance with the provisions of this section,
16 upon proof that the licensee or registrant:

17 (a) Is guilty of misrepresentation, fraud, or deceit in procuring,
18 attempting to procure, or renewing a license or registration;

19 (b) Is guilty of the commission of a felony or has had accepted by
20 a court a plea of guilty or nolo contendere to a felony or has received a
21 deferred judgment and sentence for a felony;

22 (c) Has violated:

23 (I) Any of the provisions of this ~~part~~ **ARTICLE**, including ~~but not~~
24 ~~limited to any acts~~ COMMISSION OF AN ACT DECLARED UNLAWFUL in
25 section ~~12-22-126~~ **12-42.5-126**;

26 (II) The lawful rules of the board; or

27 (III) Any state or federal law pertaining to drugs;

1 (d) Is unfit or incompetent by reason of negligence OR habits, or
2 ~~physical or mental illness~~, or for any other cause, to practice as such
3 PHARMACY;

4 (e) Is addicted to, dependent on, or engages in the habitual or
5 excessive use or abuse of intoxicating liquors, a habit-forming drug, or a
6 controlled substance, as defined in section 18-18-102 (5), C.R.S.;

7 (f) Knowingly permits a person not licensed as a pharmacist or
8 pharmacy intern to engage in the practice of pharmacy;

9 (g) Has had his or her license to practice pharmacy in another state
10 revoked or suspended, or is otherwise disciplined or has committed acts
11 in any other state that would subject him or her to disciplinary action in
12 this state;

13 (h) Has engaged in advertising that is misleading, deceptive, or
14 false;

15 (i) Has dispensed a schedule III, IV, or V controlled substance
16 order as listed in sections 18-18-205 to 18-18-207, C.R.S., more than six
17 months after the date of issue of the order;

18 (j) Has engaged in the practice of pharmacy while on inactive
19 status;

20 (k) Has failed to meet generally accepted standards of pharmacy
21 practice;

22 (l) Fails or has failed to permit the board or its agents to conduct
23 a lawful inspection;

24 (m) Has violated any lawful board order;

25 (n) Has committed any fraudulent insurance act as defined in
26 section 10-1-128, C.R.S.;

27 (o) Has willfully deceived or attempted to deceive the board or its

1 agents with regard to any matter under investigation by the board;

2 (p) Has failed to notify the board of any criminal conviction or
3 deferred judgment within thirty days after ~~such~~ THE conviction or
4 judgment;

5 (q) Has failed to notify the board of any discipline against his or
6 her license in another state within thirty days after ~~such~~ THE discipline;

7 (r) (I) HAS FAILED TO NOTIFY THE BOARD OF A PHYSICAL OR
8 MENTAL ILLNESS OR CONDITION THAT AFFECTS THE PERSON'S ABILITY TO
9 TREAT CLIENTS WITH REASONABLE SKILL AND SAFETY OR THAT MAY
10 ENDANGER THE HEALTH OR SAFETY OF PERSONS UNDER HIS OR HER CARE;

11 (II) HAS FAILED TO ACT WITHIN THE LIMITATIONS CREATED BY A
12 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE PERSON
13 UNABLE TO PRACTICE PHARMACY WITH REASONABLE SKILL AND SAFETY
14 OR THAT MAY ENDANGER THE HEALTH OR SAFETY OF PERSONS UNDER HIS
15 OR HER CARE; OR

16 (III) HAS FAILED TO COMPLY WITH THE LIMITATIONS AGREED TO
17 UNDER A CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION
18 12-42.5-134;

19 (s) [**Formerly 12-22-308 (1)(c)**] Has had his or her federal
20 registration to manufacture, ~~conduct research on~~, distribute, or dispense
21 a controlled substance suspended or revoked. ~~or~~

22 (2) In considering the conviction of a crime, the board ~~shall be~~ IS
23 governed by ~~the provisions of~~ section 24-5-101, C.R.S.

24 (3) to (7) (~~Deleted by amendment, L. 2003, p. 950, § 10, effective~~
25 ~~July 1, 2003.~~)

26 **12-42.5-124. [Formerly 12-22-125.2] Disciplinary actions.**

27 (1) (a) The board may deny or discipline an applicant, licensee, or

1 registrant when the board determines that ~~such~~ THE applicant, licensee, or
2 registrant has engaged in activities that are grounds for discipline.

3 (b) THE BOARD MAY SUSPEND OR REVOKE A REGISTRATION ISSUED
4 PURSUANT TO SECTION 12-42.5-117(12) UPON DETERMINATION THAT THE
5 PERSON ADMINISTERING A DRUG OR COMBINATION OF DRUGS TO AN
6 ANIMAL HAS NOT DEMONSTRATED ADEQUATE KNOWLEDGE REQUIRED BY
7 SECTIONS 12-42.5-117 (12) AND 12-42.5-118 (17).

8 (2) (a) Proceedings for the denial, suspension, or revocation of a
9 license or registration and any judicial review of ~~such~~ A suspension or
10 revocation ~~shall~~ MUST be CONDUCTED in accordance with ~~the provisions~~
11 ~~of~~ article 4 of title 24, C.R.S., and THE BOARD OR, AT THE BOARD'S
12 DISCRETION, AN ADMINISTRATIVE LAW JUDGE, SHALL CONDUCT the
13 hearing and opportunity for review. ~~shall be conducted pursuant to said~~
14 ~~article by the board or, at the board's discretion, by an administrative law~~
15 ~~judge.~~

16 (b) Upon ~~the finding of the existence of~~ THAT grounds for
17 discipline ~~of any person holding or seeking a license or registration or the~~
18 ~~renewal thereof under the provisions of~~ PURSUANT TO section ~~12-22-125~~
19 12-42.5-123 EXIST, the board may impose one or more of the following
20 penalties ON A PERSON WHO HOLDS OR IS SEEKING A NEW OR RENEWAL
21 LICENSE OR REGISTRATION:

22 (I) Suspension of the offender's license or registration for a period
23 to be determined by the board;

24 (II) Revocation of the offender's license or registration;

25 (III) Restriction of the offender's license or registration to prohibit
26 the offender from performing certain acts or from practicing pharmacy in
27 a particular manner for a period to be determined by the board;

1 (IV) Refusal to renew the offender's license or registration;

2 (V) Placement of the offender on probation and supervision by the
3 board for a period to be determined by the board;

4 (VI) Suspension of the registration of the outlet that is owned by
5 or employs the offender for a period to be determined by the board.

6 (c) **[Formerly 12-22-308 (2)]** ~~The department or the~~ board may
7 limit revocation or suspension of a ~~license~~ REGISTRATION to the particular
8 controlled substance which was the basis for revocation or suspension.

9 (d) **[Formerly 12-22-308 (3)]** ~~If the department or the~~ board
10 suspends or revokes a ~~license~~ REGISTRATION, THE BOARD MAY PLACE all
11 controlled substances owned or possessed by the ~~licensee~~ REGISTRANT at
12 the time of the suspension or on the effective date of the revocation order
13 ~~may be placed~~ under seal. ~~No disposition may be made~~ THE BOARD MAY
14 NOT DISPOSE of substances under seal until the time for making an appeal
15 has elapsed or until all appeals have been concluded, unless a court orders
16 otherwise or orders the sale of any perishable controlled substances and
17 the deposit of the proceeds with the court. ~~Upon~~ WHEN a revocation
18 ~~order's becoming~~ BECOMES final, all controlled substances may be
19 forfeited to the state.

20 (e) **[Formerly 12-22-308 (4)]** ~~The department or the~~ board shall
21 promptly notify the bureau and the appropriate professional licensing
22 agency, if any, of all charges and the final disposition ~~thereof~~ OF THE
23 CHARGES and of all forfeitures of a controlled substance.

24 (3) The board may also include in any disciplinary order that
25 allows the licensee or registrant to continue to practice ~~such conditions as~~
26 THAT the board ~~may deem~~ DEEMS appropriate to assure that the licensee
27 OR REGISTRANT is physically, mentally, morally, and otherwise qualified

1 to practice pharmacy in accordance with the generally accepted
2 professional standards of practice, including any or all of the following:

3 (a) Requiring the licensee OR REGISTRANT to submit to ~~such~~
4 examinations ~~as~~ THAT the board may order to determine the licensee's
5 physical or mental condition or professional qualifications;

6 (b) Requiring the licensee to take ~~such~~ therapy courses of training
7 or education ~~as may be needed~~ THAT THE BOARD DEEMS NECESSARY to
8 correct deficiencies found either in the hearing or by ~~such~~ examinations
9 REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3);

10 (c) Requiring the review or supervision of the licensee's practice
11 ~~as may be necessary~~ to determine the quality of AND CORRECT
12 DEFICIENCIES IN his or her practice; ~~and to correct deficiencies therein;~~
13 and

14 (d) Imposing restrictions upon the nature of the licensee's practice
15 to assure that he or she does not practice beyond the limits of his or her
16 capabilities.

17 (4) Upon failure of the licensee or registrant to comply with any
18 conditions imposed by the board pursuant to subsection (3) of this
19 section, unless due to conditions beyond the licensee's or registrant's
20 control, the board may order suspension of the license or registration in
21 this state until ~~such time as~~ the licensee or registrant complies with ~~such~~
22 THE conditions.

23 (5) (a) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
24 PARAGRAPH (a), in addition to any other penalty ~~that~~ THE BOARD may ~~be~~
25 ~~imposed~~ IMPOSE pursuant to this section, THE BOARD MAY FINE any
26 registrant violating ~~any provision of~~ this article or any rules promulgated
27 pursuant to this article ~~may be fined~~ not less than five hundred dollars and

1 not more than five thousand dollars for each ~~such~~ violation.

2 (II) IN ADDITION TO ANY OTHER PENALTY THE BOARD MAY IMPOSE
3 PURSUANT TO THIS SECTION, THE BOARD MAY FINE A REGISTRANT
4 VIOLATING PART 4 OF THIS ARTICLE NOT LESS THAN FIVE HUNDRED
5 DOLLARS AND NOT MORE THAN ONE THOUSAND DOLLARS FOR THE FIRST
6 TIME THE BOARD IMPOSES A FINE, NOT MORE THAN TWO THOUSAND
7 DOLLARS FOR THE SECOND TIME THE BOARD IMPOSES A FINE, AND NOT
8 MORE THAN FIVE THOUSAND DOLLARS FOR A THIRD OR SUBSEQUENT TIME
9 THE BOARD IMPOSES A FINE. IF A REGISTRANT VIOLATES AN AGREEMENT
10 TO REFRAIN FROM COMMITTING SUBSEQUENT VIOLATIONS OF PART 4 OF
11 THIS ARTICLE, THE BOARD MAY IMPOSE A FINE OF NOT MORE THAN ONE
12 THOUSAND DOLLARS FOR EACH VIOLATION OF THE AGREEMENT.

13 (b) THE BOARD SHALL TRANSMIT any moneys collected as
14 administrative fines pursuant to this subsection (5) ~~shall be transmitted~~ to
15 the state treasurer ~~who shall~~ FOR credit ~~such moneys~~ to the general fund.

16 (6) (a) When a complaint or an investigation discloses an instance
17 of misconduct that, in the opinion of the board, does not warrant formal
18 action by the board but ~~which~~ should not be dismissed as being without
19 merit, THE BOARD MAY SEND a letter of admonition ~~may be sent~~ by
20 certified mail to the licensee OR REGISTRANT against whom a THE
21 complaint was made OR WHO WAS THE SUBJECT OF INVESTIGATION and,
22 IN THE CASE OF A COMPLAINT, MAY SEND a copy ~~thereof~~ OF THE LETTER OF
23 ADMONITION to the person making the complaint.

24 (b) When THE BOARD SENDS a letter of admonition ~~is sent by~~
25 ~~certified mail by the board~~ to a licensee OR REGISTRANT complained
26 against, ~~such~~ THE BOARD SHALL INCLUDE IN THE LETTER A STATEMENT
27 ADVISING THE licensee ~~shall be advised~~ OR REGISTRANT that ~~he or she~~ THE

1 LICENSEE OR REGISTRANT has the right to request in writing, within
2 twenty days after receipt of the letter, that THE BOARD INITIATE formal
3 disciplinary proceedings ~~be initiated~~ to adjudicate the propriety of the
4 conduct upon which the letter of admonition is based.

5 (c) If the ~~request for~~ LICENSEE OR REGISTRANT TIMELY REQUESTS
6 adjudication, ~~is timely made,~~ the letter of admonition ~~shall be deemed~~ IS
7 vacated, and the BOARD SHALL PROCESS THE matter ~~shall be processed~~ by
8 means of formal disciplinary proceedings.

9 (7) (a) When a complaint or an investigation discloses an instance
10 of conduct that does not warrant formal action by the board but the board
11 determines that ~~continuation of such~~ THE conduct could warrant action if
12 continued, THE BOARD MAY SEND a confidential letter of concern ~~may be~~
13 ~~sent by certified mail~~ to the licensee or registrant against whom the
14 complaint was made or who was the subject of investigation. If a
15 complaint precipitated the investigation, THE BOARD SHALL SEND a
16 response ~~shall be sent~~ to the person making the complaint.

17 (b) ~~Notice that a confidential letter of concern has been issued by~~
18 ~~the board shall be sent to the complainant.~~

19 (e) (b) A confidential letter of concern ~~shall not be construed as~~
20 IS NOT discipline.

21 (8) When a complaint or an investigation discloses an instance of
22 misconduct that, in the opinion of the board, warrants formal action, the
23 BOARD SHALL NOT RESOLVE THE complaint ~~shall not be resolved~~ by a
24 deferred settlement, action, judgment, or prosecution.

25 (9) (a) If it appears to the board, based upon credible evidence as
26 presented in a written complaint by any person, that a licensee or
27 registrant is acting in a manner that is an imminent threat to the health and

1 safety of the public or a person is acting or has acted without the required
2 license or registration, the board may issue an order to cease and desist
3 ~~such~~ THE activity. The ~~order~~ BOARD shall set forth IN THE ORDER the
4 statutes and rules alleged to have been violated, the facts alleged to have
5 constituted the violation, and the requirement that all unlawful acts or
6 unlicensed or unregistered practices immediately cease.

7 (b) Within ten days after service of the order to cease and desist
8 pursuant to paragraph (a) of this subsection (9), the respondent may
9 request a hearing on the question of whether acts or practices in violation
10 of this ~~part~~ ARTICLE have occurred. ~~Such~~ THE BOARD SHALL CONDUCT
11 THE hearing ~~shall be conducted~~ pursuant to sections 24-4-104 and
12 24-4-105, C.R.S.

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

20 (b) THE BOARD SHALL PROMPTLY NOTIFY a person against whom
21 THE BOARD HAS ISSUED an order to show cause ~~has been issued~~ pursuant
22 to paragraph (a) of this subsection (10) ~~shall be promptly notified by the~~
23 ~~board~~ of the issuance of the order ~~along with~~ AND SHALL INCLUDE IN THE
24 NOTICE a copy of the order, the factual and legal basis for the order, and
25 the date set by the board for a hearing on the order. ~~Such~~ THE BOARD MAY
26 SERVE THE notice ~~may be served~~ UPON THE PERSON AGAINST WHOM THE
27 ORDER IS ISSUED by personal service, by first-class United States mail,

1 postage prepaid, or as may be practicable. ~~upon any person against whom~~
2 ~~such order is issued.~~ Personal service or mailing of an order or document
3 pursuant to this subsection (10) ~~shall constitute~~ CONSTITUTES notice
4 ~~thereof~~ to the person.

5 (c) (I) The BOARD SHALL COMMENCE THE hearing on an order to
6 show cause ~~shall be commenced~~ no sooner than ten and no later than
7 forty-five calendar days after the date of transmission or service of the
8 notification by the board as provided in paragraph (b) of this subsection
9 (10). The BOARD MAY CONTINUE THE hearing ~~may be continued~~ by
10 agreement of all parties based upon the complexity of the matter, number
11 of parties to the matter, and legal issues presented in the matter, but in no
12 event shall THE BOARD COMMENCE the hearing ~~commence~~ later than sixty
13 calendar days after the date of transmission or service of the notification.

14 (II) If a person against whom an order to show cause has been
15 issued pursuant to paragraph (a) of this subsection (10) does not appear
16 at the hearing, the board may present evidence that notification was
17 properly sent or served upon ~~such~~ THE person pursuant to paragraph (b)
18 of this subsection (10) and such other evidence related to the matter as the
19 board deems appropriate. The board shall issue the order within ten days
20 after the board's determination related to reasonable attempts to notify the
21 respondent, and the order ~~shall become~~ BECOMES final as to that person
22 by operation of law. ~~Such~~ THE hearing ~~shall~~ MUST be conducted pursuant
23 to sections 24-4-104 and 24-4-105, C.R.S.

24 (III) If the board reasonably finds that the person against whom
25 the order to show cause was issued is acting or has acted without the
26 required license or registration or has or is about to engage in acts or
27 practices constituting violations of this ~~part~~ ARTICLE, THE BOARD MAY

1 ISSUE a final cease-and-desist order ~~may be issued~~ directing ~~such~~ THE
2 person to cease and desist from further unlawful acts or unlicensed or
3 unregistered practices.

4 (IV) The board shall provide notice, in the manner set forth in
5 paragraph (b) of this subsection (10), of the final cease-and-desist order
6 within ten calendar days after the hearing conducted pursuant to this
7 paragraph (c) to each person against whom the final order has been
8 issued. The final order issued pursuant to subparagraph (III) of this
9 paragraph (c) ~~shall be~~ IS effective when issued and ~~shall be~~ IS a final order
10 for purposes of judicial review.

11 (11) If it appears to the board, based upon credible evidence
12 presented to the board, that a person has engaged in or is about to engage
13 in any unlicensed or unregistered act or practice, any act or practice
14 constituting a violation of this ~~part~~ ARTICLE, any rule promulgated
15 pursuant to this ~~part~~ ARTICLE, OR any order issued pursuant to this ~~part~~
16 ARTICLE, or any act or practice constituting grounds for administrative
17 sanction pursuant to this ~~part~~ ARTICLE, the board may enter into a
18 stipulation with ~~such~~ THE person.

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

25 (13) A person aggrieved by the final cease-and-desist order may
26 seek judicial review of the board's determination or of the board's final
27 order as provided in section ~~12-22-125.5~~ 12-42.5-125.

1 **12-42.5-125. [Formerly 12-22-125.5] Judicial review.** The court
2 of appeals ~~shall have~~ HAS initial jurisdiction to review all final actions and
3 orders that are subject to judicial review of the board ~~Such~~ AND SHALL
4 CONDUCT THE JUDICIAL REVIEW proceedings ~~shall be conducted~~ in
5 accordance with section 24-4-106 (11), C.R.S.

6 **12-42.5-126. [Formerly 12-22-126] Unlawful acts.** (1) It is
7 unlawful:

8 (a) To practice pharmacy without a license;

9 (b) To obtain or dispense or to procure the administration of a
10 drug by fraud, deceit, misrepresentation, or subterfuge, ~~or~~ by the forgery
11 or alteration of an order, or by the use of a false name or the giving of a
12 false address;

13 (c) To willfully make a false statement in any order, report,
14 application, or record required by this ~~part~~ ARTICLE;

15 (d) To falsely assume the title of or ~~to~~ falsely represent that one
16 is a pharmacist, practitioner, or registered outlet;

17 (e) To make or utter a false or forged order;

18 (f) To affix a false or forged label to a package or receptacle
19 containing drugs;

20 ~~(g) Repealed.~~

21 ~~(h)~~ (g) To sell, compound, dispense, give, receive, or possess any
22 drug or device unless it was sold, compounded, dispensed, given, or
23 received in accordance with sections ~~12-22-121 to 12-22-124~~ 12-42.5-118
24 TO 12-42.5-122;

25 ~~(i)~~ (h) Except as provided in section ~~12-22-124~~ 12-42.5-122, to
26 dispense a different drug or brand of drug in place of the drug or brand
27 ordered or prescribed without the oral or written permission of the

1 practitioner ordering or prescribing the drug;

2 (†) (i) To manufacture, process, pack, distribute, sell, dispense, or
3 give a drug, ~~which~~, or the container or labeling of ~~which~~ THE DRUG, THAT,
4 without authorization, bears the trademark, trade name, or other
5 identifying mark, imprint, or device, or any likeness thereof, of a drug
6 manufacturer, processor, packer, or distributor other than the person who
7 in fact manufactured, processed, packed, or distributed such drug,
8 CONTAINER, OR LABEL and ~~which~~ THAT thereby falsely purports or is
9 represented to be the product of or to have been packed or distributed by
10 such other drug manufacturer, processor, packer, or distributor;

11 (‡) (j) For an employer or an employer's agent or employee to
12 coerce a pharmacist to dispense a prescription drug against the
13 professional judgment of the pharmacist;

14 (†) (k) For an employer, ~~or~~ an employer's agent or employee, or a
15 pharmacist to use or coerce to be used a nonpharmacist personnel in any
16 position or task ~~which~~ THAT would require the nonpharmacist to practice
17 pharmacy or to make a judgmental decision using pharmaceutical
18 knowledge or in violation of the delegatory restrictions enumerated in
19 section ~~12-22-119 (5)~~ 12-42.5-116 (5);

20 (‡) (l) To dispense any drug without complying with the labeling,
21 drug identification, and container requirements imposed by law.

22 **12-42.5-127. [Formerly 12-22-127] Unauthorized practice -**
23 **penalties.** Any person who practices or offers or attempts to practice
24 pharmacy without an active license issued under this article commits a
25 class 2 misdemeanor and shall be punished as provided in section
26 18-1.3-501, C.R.S., for the first offense, and any person committing a
27 second or subsequent offense commits a class 6 felony and shall be

1 punished as provided in section 18-1.3-401, C.R.S.

2 **12-42.5-128. [Formerly 12-22-128] New drugs - when sales**
3 **permissible.** (1) No person shall sell, deliver, offer for sale, hold for sale,
4 or give away any new drug not authorized to move in interstate commerce
5 under appropriate federal law.

6 (2) This section ~~shall~~ DOES not apply to a drug intended solely for
7 investigational use by experts qualified by scientific training and
8 experience to investigate the safety and effectiveness of drugs if the drug
9 is plainly labeled to be for investigational use only.

10 **12-42.5-129. [Formerly 12-22-129] Advertising of prescription**
11 **drug prices.** A prescription drug outlet may advertise its prices for
12 prescription drugs. If the drug is advertised by its brand or proprietary
13 name, THE PRESCRIPTION DRUG OUTLET SHALL ALSO INCLUDE its generic
14 name ~~shall also be included~~ in the advertisement.

15 **12-42.5-130. [Formerly 12-22-130] Nonresident prescription**
16 **drug outlet - registration.** (1) Any prescription drug outlet located
17 outside this state that ships, mails, or delivers, in any manner, drugs or
18 devices into this state ~~shall be considered~~ IS a nonresident prescription
19 drug outlet AND shall ~~be registered~~ REGISTER with the board and ~~shall~~
20 disclose to the board the following:

21 (a) The location, names, and titles of all principal entity officers
22 and all pharmacists who are dispensing drugs or devices to the residents
23 of this state. THE NONRESIDENT PRESCRIPTION DRUG OUTLET SHALL
24 SUBMIT a report containing this information ~~shall be made~~ TO THE BOARD
25 on an annual basis and within thirty days after any change of office,
26 officer, or pharmacist.

27 (b) A VERIFICATION that it complies with all lawful directions and

1 requests for information from the regulatory or licensing agency of the
2 state in which it is licensed as well as with all requests for information
3 made by the board pursuant to this section. The nonresident prescription
4 drug outlet shall maintain at all times a valid, unexpired license, permit,
5 or registration to conduct the prescription drug outlet in compliance with
6 the laws of the state in which it is a resident. As a prerequisite to
7 registering with the board, the nonresident prescription drug outlet shall
8 submit a copy of the most recent inspection report resulting from an
9 inspection conducted by the regulatory or licensing agency of the state in
10 which it is located.

11 (2) The registration requirements of this section ~~shall~~ apply only
12 to a nonresident prescription drug outlet ~~which~~ THAT only ships, mails, or
13 delivers, IN ANY MANNER, drugs ~~in any manner~~, and devices into this state
14 pursuant to a prescription order.

15 (3) A nonresident prescription drug outlet doing business in this
16 state that has not obtained a registration shall not conduct the business of
17 selling or distributing drugs in this state without first registering as a
18 nonresident prescription drug outlet. ~~Applications~~ A NONRESIDENT
19 PRESCRIPTION DRUG OUTLET SHALL MAKE APPLICATION for A nonresident
20 prescription drug outlet registration ~~shall be made~~ on a form furnished by
21 the board. The board may require such information as it deems necessary
22 to carry out the purpose of this section.

23 (4) (a) The board may deny, revoke, or suspend a nonresident
24 prescription drug outlet registration for failure to comply with ~~any~~
25 ~~provision~~ of this section or with any ~~reasonable~~ rule promulgated by the
26 board.

27 (b) The board may deny, revoke, or suspend a nonresident

1 prescription drug outlet registration if ~~such~~ THE NONRESIDENT
2 prescription drug outlet's license or registration has been revoked or not
3 renewed for noncompliance with the laws of the state in which it is a
4 resident.

5 **12-42.5-131. [Formerly 12-22-131] Records.** (1) (a) All
6 PERSONS LICENSED OR REGISTERED UNDER THIS ARTICLE SHALL KEEP AND
7 MAINTAIN records of THE receipt, distribution, or other disposal of
8 prescription drugs or controlled substances, shall ~~be~~ MAKE THE RECORDS
9 available to the board upon request for inspection, copying, verification,
10 or any other purpose, ~~Such records shall be retained~~ AND SHALL RETAIN
11 THE RECORDS for two years OR FOR A PERIOD OTHERWISE REQUIRED BY
12 LAW.

13 (b) The board may permit a wholesaler to maintain a portion of its
14 records at a central location that is different from the storage facility of
15 the wholesaler. If ~~such~~ THE BOARD GRANTS THE permission, ~~has been~~
16 ~~granted~~, the wholesaler shall make available all relevant records within
17 forty-eight hours after a request for inspection, copying, verification, or
18 any other purpose by the board. THE WHOLESALER SHALL MAKE all other
19 records that are available for immediate access ~~shall be~~ readily available
20 to the board.

21 (2) A ~~wholesale distributor~~ WHOLESALER shall establish and
22 maintain inventories and records of all transactions regarding the receipt
23 and distribution of prescription drugs. ~~Availability of~~ A WHOLESALER
24 SHALL MAKE ITS records ~~maintained by a wholesale distributor shall be~~
25 AVAILABLE TO THE BOARD in accordance with ~~the provisions of~~
26 subsection (1) of this section. ~~Such records~~ A WHOLESALER shall include
27 the following information IN ITS RECORDS:

1 (a) The source of the prescription drugs, including the name and
2 principal address of the seller or transferor of the prescription drugs and
3 the address of the location from which the prescription drugs were
4 shipped;

5 (b) The identity and quantity of the drugs received, distributed, or
6 disposed of by the wholesale distributor; and

7 (c) The dates of receipt, distribution, or other disposition of the
8 prescription drugs.

9 (3) **[Formerly 12-22-318 (2)]** The record of any controlled
10 substance distributed, administered, dispensed, or otherwise used ~~shall~~
11 MUST show the date ~~the name and address of person to whom, for whose~~
12 ~~use,~~ the controlled substance was distributed, administered, dispensed,
13 used, or otherwise disposed of, THE NAME AND ADDRESS OF THE PERSON
14 TO WHOM OR FOR WHOSE USE THE CONTROLLED SUBSTANCE WAS
15 DISTRIBUTED, ADMINISTERED, DISPENSED, USED, OR OTHERWISE DISPOSED
16 OF, and the kind and quantity of ~~such~~ THE controlled substance.

17 (4) **[Formerly 12-22-318 (3)]** Manufacturing records of
18 controlled substances ~~shall~~ MUST include the kind and quantity of
19 controlled substances produced or removed from process of manufacture
20 and the dates of ~~such~~ production or removal from process of manufacture.

21 (5) **[Formerly 12-22-318 (4)]** ~~The keeping of~~ A PERSON WHO
22 MAINTAINS a record required by federal law ~~containing~~ THAT CONTAINS
23 substantially the same information as set forth in subsections (1) to ~~(3)~~ (4)
24 of this section ~~shall constitute compliance~~ IS DEEMED TO COMPLY with the
25 record-keeping requirements of this ~~part 3~~ SECTION.

26 (6) **[Formerly 12-22-318 (5)]** A PERSON REQUIRED TO MAINTAIN
27 RECORDS PURSUANT TO THIS SECTION SHALL KEEP A record ~~shall also be~~

1 ~~kept~~ of any controlled substance lost, destroyed, or stolen, the kind and
2 quantity of ~~such~~ THE controlled substance, and the date of ~~such~~ THE loss,
3 destruction, or theft.

4 (7) **[Formerly 12-22-318 (5.5)]** Prescription drug outlets shall
5 report thefts of controlled substances to the proper law enforcement
6 agencies and to the board within thirty days after the occurrence of ~~such~~
7 THE thefts.

8 (8) **[Formerly 12-22-318 (6)]** A PERSON LICENSED, REGISTERED,
9 OR OTHERWISE AUTHORIZED UNDER THIS ARTICLE OR OTHER LAWS OF THIS
10 STATE SHALL DISTRIBUTE, ADMINISTER, DISPENSE, USE, OR OTHERWISE
11 DISPOSE OF controlled substances listed in schedule I or II of part 2 of
12 article 18 of title 18, C.R.S., ~~shall be distributed by persons licensed or~~
13 ~~otherwise authorized under this part 3 or other laws of this state~~ only
14 pursuant to an order form. Compliance with the provisions of federal law
15 respecting order forms ~~shall be~~ IS deemed compliance with this section.

16 (9) **[Formerly 12-22-320]** Prescriptions, orders, and records
17 required by this part 3 1 and stocks of controlled substances ~~shall be~~ ARE
18 open for inspection only to federal, state, county, and municipal officers
19 whose duty it is to enforce the laws of this state or of the United States
20 relating to controlled substances or the regulation of practitioners. No
21 officer having knowledge by virtue of his OR HER office, of ~~any such~~ A
22 prescription, order, or record shall divulge ~~such~~ HIS OR HER knowledge,
23 except in connection with a prosecution or proceeding in court or before
24 a licensing or registration board or officer to which prosecution or
25 proceeding the person to whom ~~such~~ THE prescriptions, orders, or records
26 relate is a party.

27 **12-42.5-132. [Formerly 12-22-132] Immunity.** Any member of

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

15 **12-42.5-133. [Formerly 12-22-133] Unused medication -**
16 **licensed facilities - reuse - rules.** (1) As used in this section, ~~and section~~
17 ~~12-22-134~~, unless the context otherwise requires:

18 (a) "Licensed facility" means a hospital, hospital unit, community
19 mental health center, acute treatment unit, hospice, nursing care facility,
20 or assisted living residence that is required to be licensed pursuant to
21 section 25-3-101, C.R.S., or a licensed long-term care facility as defined
22 in section 25-1-124 (2.5) (b), C.R.S.

23 (b) "Medical device" means an instrument, apparatus, implement,
24 machine, contrivance, implant, or similar or related article that is required
25 to be labeled pursuant to 21 CFR part 801.

26 (c) "Medical supply" means a consumable supply item that is
27 disposable and not intended for reuse.

1 (d) "Medication" means a prescription that is not a controlled
2 substance.

3 (2) (a) (I) If donated by the patient, resident, or the patient's or
4 resident's next of kin, a licensed facility may return unused medications,
5 medical supplies, and medical devices to a pharmacist within the licensed
6 facility or a prescription drug outlet in order for the medication to be
7 redispensed to another patient or donated to a nonprofit entity that has the
8 legal authority to possess the medication or to a practitioner authorized by
9 law to prescribe the medication.

10 (II) (A) A licensed facility may donate unused medications to a
11 person legally authorized to dispense the medications on behalf of a
12 nonprofit entity that has the express purpose of providing medications,
13 medical devices, or medical supplies for the relief of victims who are in
14 urgent need as a result of natural or other types of disasters. A LICENSED
15 PHARMACIST SHALL REVIEW the process of donating the unused
16 medications to the nonprofit entity. ~~shall be reviewed by a licensed~~
17 ~~pharmacist.~~

18 (B) Nothing in this subparagraph (II): ~~shall be construed to create~~
19 ~~CREATES or abrogate~~ ABROGATES any liability on behalf of a prescription
20 drug manufacturer for the storage, donation, acceptance, or dispensing of
21 a medication or product; or ~~to create~~ CREATES any civil cause of action
22 against a prescription drug manufacturer in addition to that which is
23 available under applicable law.

24 (b) Medications ~~shall~~ ARE only ~~be~~ available to be dispensed to
25 another person or donated to a nonprofit entity under this section if the
26 medications are:

27 (I) Liquid and the vial is still sealed and properly stored;

1 (II) Individually packaged and the packaging has not been
2 damaged; or

3 (III) In the original, unopened, sealed, and tamper-evident unit
4 dose packaging.

5 (c) The following medications may not be donated:

6 (I) Medications packaged in traditional brown or amber pill
7 bottles;

8 (II) Controlled substances;

9 (III) Medications that require refrigeration, freezing, or special
10 storage;

11 (IV) Medications that require special registration with the
12 manufacturer; or

13 (V) Medications that are adulterated or misbranded, as determined
14 by a person legally authorized to dispense the medications on behalf of
15 the nonprofit entity.

16 (3) Medication dispensed or donated pursuant to this section ~~shall~~
17 MUST bear an expiration date that is later than six months after the date
18 the drug was donated.

19 (4) The board shall adopt rules that allow a pharmacist to
20 redispense medication pursuant to this section and section 25.5-5-502,
21 C.R.S., and to donate medication pursuant to this section.

22 (5) **[Formerly 12-22-134]** Nothing in THIS section ~~12-22-133~~ or
23 SECTION 25.5-5-502, C.R.S., ~~shall be construed to create~~ CREATES or
24 ~~abrogate~~ ABROGATES any liability on behalf of a prescription drug
25 manufacturer for the storage, donation, acceptance, or dispensing of an
26 unused donated medication or ~~to create~~ CREATES any civil cause of action
27 against a prescription drug manufacturer in addition to that which is

1 available under applicable law.

2 **12-42.5-134. Confidential agreement to limit practice -**
3 **violation - grounds for discipline.** (1) IF A PHARMACIST OR INTERN HAS
4 A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE
5 PERSON UNABLE TO PRACTICE PHARMACY WITH REASONABLE SKILL AND
6 SAFETY TO CLIENTS, THE PHARMACIST OR INTERN SHALL NOTIFY THE
7 BOARD OF THE ILLNESS OR CONDITION IN A MANNER AND WITHIN A PERIOD
8 DETERMINED BY THE BOARD. THE BOARD MAY REQUIRE THE PHARMACIST
9 OR INTERN TO SUBMIT TO AN EXAMINATION OR REFER THE PHARMACIST OR
10 INTERN TO THE PHARMACY PEER HEALTH ASSISTANCE DIVERSION
11 PROGRAM ESTABLISHED IN PART 2 OF THIS ARTICLE TO EVALUATE THE
12 EXTENT OF THE ILLNESS OR CONDITION AND ITS IMPACT ON THE
13 PHARMACIST'S OR INTERN'S ABILITY TO PRACTICE PHARMACY WITH
14 REASONABLE SKILL AND SAFETY TO CLIENTS.

15 (2) (a) UPON DETERMINING THAT A PHARMACIST OR INTERN WITH
16 A PHYSICAL OR MENTAL ILLNESS OR CONDITION IS ABLE TO RENDER
17 LIMITED SERVICES WITH REASONABLE SKILL AND SAFETY TO CLIENTS, THE
18 BOARD MAY ENTER INTO A CONFIDENTIAL AGREEMENT WITH THE
19 PHARMACIST OR INTERN IN WHICH THE PHARMACIST OR INTERN AGREES TO
20 LIMIT HIS OR HER PRACTICE BASED ON THE RESTRICTIONS IMPOSED BY THE
21 ILLNESS OR CONDITION, AS DETERMINED BY THE BOARD.

22 (b) AS PART OF THE AGREEMENT, THE PHARMACIST OR INTERN IS
23 SUBJECT TO PERIODIC REEVALUATIONS OR MONITORING AS DETERMINED
24 APPROPRIATE BY THE BOARD. THE BOARD MAY REFER THE PHARMACIST OR
25 INTERN TO THE PHARMACY PEER HEALTH ASSISTANCE DIVERSION
26 PROGRAM FOR REEVALUATION OR MONITORING.

27 (c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS

1 NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR OF
2 MONITORING.

3 (3) BY ENTERING INTO AN AGREEMENT WITH THE BOARD
4 PURSUANT TO THIS SECTION TO LIMIT HIS OR HER PRACTICE, A PHARMACIST
5 OR INTERN IS NOT ENGAGING IN ACTIVITIES PROHIBITED PURSUANT TO
6 SECTION 12-42.5-123. THE AGREEMENT DOES NOT CONSTITUTE A
7 RESTRICTION OR DISCIPLINE BY THE BOARD. HOWEVER, IF THE
8 PHARMACIST OR INTERN FAILS TO COMPLY WITH THE TERMS OF AN
9 AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION, THE FAILURE
10 CONSTITUTES A PROHIBITED ACTIVITY PURSUANT TO SECTION 12-42.5-123
11 (1) (r), AND THE PHARMACIST OR INTERN IS SUBJECT TO DISCIPLINE IN
12 ACCORDANCE WITH SECTION 12-42.5-124.

13 (4) THIS SECTION DOES NOT APPLY TO A PHARMACIST OR INTERN
14 SUBJECT TO DISCIPLINE FOR PROHIBITED ACTIVITIES AS DESCRIBED IN
15 SECTION 12-42.5-123 (1) (e).

16 PART 2

17 PHARMACY PEER HEALTH ASSISTANCE

18 DIVERSION PROGRAM

19 **12-42.5-201. [Formerly 12-22-601] Legislative declaration.**

20 (1) The general assembly hereby finds, determines, and declares that the
21 creation of a pharmacy peer health assistance diversion program for those
22 persons subject to the jurisdiction of the ~~state board of pharmacy~~ will
23 serve to safeguard the life, health, property, and public welfare of the
24 people of this state. ~~Such~~ A pharmacy peer health assistance diversion
25 program will help practitioners experiencing impaired practice due to
26 psychiatric, psychological, or emotional problems or excessive alcohol or
27 drug use or addiction. The general assembly further declares that ~~such~~ A

1 pharmacy peer health assistance diversion program will protect the
2 privacy and welfare of those persons who provide services and at the
3 same time assist the board in carrying out its duties and responsibilities
4 to ensure that only qualified persons are allowed to engage in providing
5 those services ~~which~~ THAT are under the jurisdiction of the board.

6 (2) It is the intent of the general assembly that the pharmacy peer
7 health assistance diversion program and its related procedures shall be
8 utilized by the ~~state~~ board of ~~pharmacy~~ in conjunction with, or as an
9 alternative to, the use of disciplinary proceedings by the board, which
10 proceedings are by their nature time-consuming and costly to the people
11 of this state. The pharmacy peer health assistance diversion program is
12 hereby established to alleviate the need for ~~such~~ disciplinary proceedings,
13 while at the same time providing safeguards that protect the public health,
14 safety, and welfare. The general assembly further declares that it ~~is its~~
15 ~~intent~~ INTENDS that the ~~state~~ board of ~~pharmacy~~ will act to implement the
16 provisions of this article.

17 ~~(3) The general assembly further finds, determines, and declares~~
18 ~~that effective July 1, 1994, the pharmacy peer health assistance fund shall~~
19 ~~be terminated, the balance of moneys in the fund shall be transferred prior~~
20 ~~to June 30, 1994, to an administering entity selected by the board, which~~
21 ~~entity shall administer the programs of board selected designated~~
22 ~~providers, and that the fiscal year beginning July 1, 1993, shall be used~~
23 ~~by the department of regulatory agencies as a transition year to plan for~~
24 ~~the transfer of responsibilities for such programs.~~

25 **12-42.5-202. [Formerly 12-22-602] Definitions.** As used in this
26 part 6 2, unless the context otherwise requires:

27 (1) ~~"Board" shall have the same meaning as set forth in section~~

1 ~~12-22-102 (4).~~

2 ~~(1.5) "Committee" means the rehabilitation evaluation committee~~
3 ~~which is appointed by the board to carry out specified duties pursuant to~~
4 ~~section 12-22-606.~~

5 ~~(2)~~ (1) "Impaired practice" means a licensee's inability to meet the
6 requirements of the laws of this state and the rules ~~and regulations~~ of the
7 board governing his or her practice when the licensee's cognitive,
8 interpersonal, or psychomotor skills are affected by psychiatric,
9 psychological, or emotional problems or excessive alcohol or drug use or
10 addiction.

11 ~~(3)~~ (2) "Licensee" means any pharmacist or intern who is licensed
12 by the board.

13 ~~(4)~~ (3) "Peer health assistance organization" means an
14 organization ~~which~~ THAT provides a formal, structured program that
15 meets the requirements specified in this part ~~6. Such program~~ 2 AND is
16 administered by appropriate professionals for the purpose of assisting
17 licensees experiencing impaired practice to obtain evaluation, treatment,
18 short-term counseling, monitoring of progress, and ongoing support for
19 the purpose of arresting and treating the licensee's psychiatric,
20 psychological, or emotional problems or excessive alcohol or drug use or
21 addiction.

22 **12-42.5-203. [Formerly 12-22-603] Pharmacy peer health**
23 **assistance fund.** (1) ~~(a)~~ There is hereby created in the state treasury the
24 pharmacy peer health assistance fund. The fund ~~shall consist~~ CONSISTS of
25 moneys collected by the board and ~~required to be~~ credited to the fund
26 pursuant to subsection ~~(3)~~ (2) of this section. Any interest earned on the
27 investment of moneys in the fund ~~shall~~ MUST be credited at least annually

1 to ~~said~~ THE fund.

2 (b) ~~Prior to June 30, 1994, the board shall transfer the balance in~~
3 ~~the fund, if any, to the administering entity chosen by the board pursuant~~
4 ~~to paragraphs (d) and (e) of subsection (3) of this section.~~

5 (2) ~~Repealed.~~

6 (3)(a) ~~Repealed.~~

7 (b) (2) (a) ~~Effective July 1, 2003,~~ As a condition of licensure and
8 licensure renewal in this state, every applicant shall pay to the
9 administering entity that has been selected by the board pursuant to ~~the~~
10 ~~provisions of paragraphs (d) and (e) (c) AND (d) of this subsection (3) (2)~~
11 an amount set by the board not to exceed fifty-six dollars biennially,
12 which amount shall be used to support designated providers that have
13 been selected by the board to provide assistance to pharmacists AND
14 INTERNS needing help in dealing with physical, emotional, psychiatric,
15 psychological, drug abuse, or alcohol abuse problems that may be
16 detrimental to their ability to practice. ■ ■ ■

17 (e) (b) The board shall select one or more peer health assistance
18 organizations as designated providers. To be eligible for designation by
19 the board a peer health assistance DIVERSION program shall:

20 (I) Provide for the education of pharmacists AND INTERNS with
21 respect to the recognition and prevention of physical, emotional, and
22 psychological problems and provide for intervention when necessary or
23 under circumstances ~~which~~ THAT may be established by rules
24 promulgated by the board;

25 (II) Offer assistance to a pharmacist OR INTERN in identifying
26 physical, emotional, or psychological problems;

27 (III) Evaluate the extent of physical, emotional, or psychological

1 problems and refer the pharmacist OR INTERN for appropriate treatment;

2 (IV) Monitor the status of a pharmacist OR INTERN who has been
3 referred for treatment;

4 (V) Provide counseling and support for the pharmacist OR INTERN
5 and for the family of any pharmacist OR INTERN referred for treatment;

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

7 (VII) Agree to make their services available to all licensed
8 Colorado pharmacists AND INTERNS.

9 ~~(d)~~ (c) The administering entity ~~shall~~ MUST be a qualified,
10 nonprofit, private foundation that is qualified under section 501 (c) (3) of
11 the federal "Internal Revenue Code of 1986", as amended, and ~~shall~~ MUST
12 be dedicated to providing support for charitable, benevolent, educational,
13 and scientific purposes that are related to pharmaceutical education,
14 pharmaceutical research and science, and other pharmaceutical charitable
15 purposes.

16 ~~(e)~~ (d) The responsibilities of the administering entity ~~shall be~~
17 ARE:

18 (I) To collect the required annual payments, directly or through
19 the board;

20 (II) To verify to the board, in a manner acceptable to the board,
21 the names of all pharmacist AND INTERN applicants who have paid the fee
22 set by the board;

23 (III) To distribute the moneys collected, less expenses, to the
24 designated provider, as directed by the board; ~~and to members of the~~
25 ~~rehabilitation evaluation committee, pursuant to section 12-22-606 (3);~~

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

1 (V) To post a surety performance bond in an amount specified by
2 the board to secure performance under the requirements of this section.
3 The administering entity may recover the actual administrative costs
4 incurred in performing its duties under this section in an amount not to
5 exceed ten percent of the total amount collected.

6 (f) (e) The board, at its discretion, may collect the required annual
7 payments payable to the administering entity for the benefit of the
8 administering entity and shall transfer all such payments to the
9 administering entity. All required annual payments collected or due to the
10 board for each fiscal year ~~shall be deemed~~ ARE custodial funds that are
11 not subject to appropriation by the general assembly, and ~~such~~ THE funds
12 ~~shall~~ DO not constitute state fiscal year spending for purposes of section
13 20 of article X of the state constitution.

14 **12-42.5-204. [Formerly 12-22-605] Eligibility - participants.**

15 (1) Any licensee ~~who is experiencing impaired practice~~ may apply to the
16 board for participation in a qualified peer health assistance DIVERSION
17 program.

18 (2) In order to be eligible for participation, a licensee shall:

19 (a) Acknowledge the existence OR THE POTENTIAL EXISTENCE of
20 a psychiatric, psychological, or emotional problem or excessive alcohol
21 or drug use or addiction;

22 (b) After a full explanation of the operation ~~of~~ and ~~the~~
23 requirements of the peer health assistance DIVERSION program, agree to
24 voluntarily participate in ~~such~~ THE program and agree in writing to
25 participate in the program of the peer health assistance organization
26 designated by the board.

27 (3) Notwithstanding the provisions of this section, the board may

1 summarily suspend the license of any licensee who is referred to a peer
2 health assistance DIVERSION program by the board and who fails to attend
3 or to complete ~~such~~ THE program. IF THE BOARD SUMMARILY SUSPENDS
4 THE LICENSE, the board shall ~~thereupon~~ schedule a hearing on ~~such~~ THE
5 suspension, which shall be conducted in accordance with section
6 24-4-105, C.R.S.

7 **12-42.5-205. [Formerly 12-22-607] Liability.** Nothing in this
8 ~~section shall be construed to create~~ PART 2 CREATES any liability of the
9 board, members of the board, ~~a committee, the members of a committee,~~
10 or the state of Colorado for the actions of the board in making awards to
11 pharmacy peer health assistance organizations or in designating licensees
12 to participate in the programs of ~~such~~ PHARMACY PEER HEALTH
13 ASSISTANCE organizations. No civil action may be brought or maintained
14 against the board, its members, ~~a committee, the members of a committee,~~
15 or the state for an injury alleged to have been the result of an act or
16 omission of a licensee participating in or referred to a state-funded
17 program provided by a pharmacy peer health assistance organization.
18 However, the state ~~shall remain~~ REMAINS liable under the ~~provisions of~~
19 ~~the~~ "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.,
20 if an injury alleged to have been the result of an act or omission of a
21 licensee participating in or referred to a state-funded peer health
22 assistance diversion program occurred while ~~such~~ THE licensee was
23 performing duties as an employee of the state.

24 **12-42.5-206. [Formerly 12-22-608] Immunity.** Any member of
25 the board ~~or any member of a rehabilitation evaluation committee~~ acting
26 pursuant to ~~the provisions of this part 6 shall be~~ 2 IS immune from suit in
27 any civil action if ~~such~~ THE member acted in good faith within the scope

1 of the function of ~~such~~ THE board, ~~or committee~~, made a reasonable effort
2 to obtain the facts of the matter as to which the member acted, and acted
3 in the reasonable belief that the action taken by the member was
4 warranted by the facts.

5 PART 3

6 WHOLESALERS

7 **12-42.5-301. [Formerly 12-22-801 (1) and (2)] Definitions.**

8 ~~(1)~~ As used in this ~~section~~ PART 3, unless the context otherwise requires:

9 (a) (1) "Authentication" means the process of affirmatively
10 verifying that each transaction listed on a pedigree has occurred before
11 any wholesale distribution of a prescription drug occurs.

12 ~~(b) "Authorized distributor of record" means a wholesaler with~~
13 ~~whom a manufacturer has established an ongoing relationship to~~
14 ~~distribute the manufacturer's prescription drug. An ongoing relationship~~
15 ~~is deemed to exist between a wholesaler and a manufacturer when the~~
16 ~~wholesaler, including any affiliated group of the wholesaler as defined in~~
17 ~~section 1504 of the federal "Internal Revenue Code of 1986", complies~~
18 ~~with the following:~~

19 ~~(I) The wholesaler has a written agreement currently in effect with~~
20 ~~the manufacturer evidencing such ongoing relationship; and~~

21 ~~(II) The wholesaler is listed on the manufacturer's current list of~~
22 ~~authorized distributors of record, which list is updated by the~~
23 ~~manufacturer on no less than a monthly basis.~~

24 (c) "Board" means the state board of pharmacy.

25 ~~(c.5)~~ (2) "Board-registered outlet" means a prescription drug
26 outlet, ~~an entity licensed pursuant to section 12-22-304~~, an other outlet,
27 a nonresident prescription drug outlet, a wholesaler, or a manufacturer.

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~~(d) "Chain pharmacy warehouse" means a physical location for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of such drugs to a group of chain pharmacies or other chain pharmacy warehouses that are under common ownership or control. Notwithstanding any other provision of this part 8, a chain pharmacy warehouse receiving distributions on behalf of, or making distributions to, an intracompany pharmacy is not required to be an authorized distributor of record to be considered part of the normal distribution channel.~~

~~(e) (3) "Designated representative" means a person authorized by a licensed wholesaler to act as a representative for the wholesaler.~~

~~(f) (4) "Drop shipment" means the sale by a manufacturer of the manufacturer's prescription drug, that manufacturer's third-party logistics provider, or that manufacturer's exclusive distributor to a wholesaler whereby the wholesaler takes title to, but not possession of, such THE prescription drug and the wholesaler invoices the board-registered outlet or practitioner authorized by law to prescribe the prescription drug and the board-registered outlet or the practitioner authorized by law to prescribe the prescription drug receives delivery of the prescription drug directly from the manufacturer of such drug, that manufacturer's third-party logistics provider, or that manufacturer's exclusive distributor.~~

~~(g) (5) "Facility" means a facility of a wholesaler where prescription drugs are stored, handled, repackaged, or offered for sale.~~

~~(h) "Manufacturer's exclusive distributor" means anyone who contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer and who takes~~

1 ~~title to the manufacturer's prescription drug but who does not have~~
2 ~~general responsibility to direct the sale or disposition of the~~
3 ~~manufacturer's prescription drug. Such manufacturer's exclusive~~
4 ~~distributor shall be licensed as a wholesaler under this part 8 and, to be~~
5 ~~considered part of the normal distribution channel, shall also be an~~
6 ~~authorized distributor of record.~~

7 (i) (6) "Normal distribution channel" means a chain of custody for
8 a prescription drug that goes directly or by drop shipment from a
9 manufacturer of the prescription drug to:

10 (H) (a) (I) A wholesaler to a pharmacy to a patient or other
11 designated persons authorized by law to dispense or administer such A
12 PRESCRIPTION drug to a patient;

13 (II) A wholesaler to a chain pharmacy warehouse to their
14 intracompany pharmacies to a patient;

15 (III) A chain pharmacy warehouse to their ITS intracompany
16 pharmacies to a patient; or

17 (IV) A pharmacy to a patient; or

18 (H) (b) A manufacturer's colicensed partner, third-party logistics
19 provider, or exclusive distributor to a wholesaler to a pharmacy to a
20 patient or other designated persons authorized by law to dispense or
21 administer such drug to a patient; or

22 (HH) (c) A manufacturer's colicensed partner, or that
23 manufacturer's third-party logistics provider, or exclusive distributor to
24 a wholesaler to a chain pharmacy warehouse to that chain pharmacy
25 warehouse's intracompany pharmacy to a patient or other designated
26 persons authorized by law to dispense or administer such drug to a
27 patient; or

1 ~~(IV) A specialty wholesaler to a pharmacy, physician, or hospital;~~

2 or

3 ~~(V) (d) A wholesaler to a pharmacy buying cooperative warehouse~~
4 to a pharmacy that is a member or member owner of such THE
5 cooperative to a patient or other designated person authorized by law to
6 dispense or administer the prescription drug to a patient.

7 ~~(j) (7) "Pedigree" means a document or electronic file containing~~
8 information that records each distribution of any given prescription drug
9 that leaves the normal distribution channel.

10 ~~(k) "Pharmacy buying cooperative warehouse" means a permanent~~
11 physical location that acts as a central warehouse for prescription drugs
12 and from which sales of such drugs are made to an exclusive group of
13 pharmacies that are members or member owners of the buying
14 cooperative operating the warehouse that shall be licensed as a
15 wholesaler.

16 ~~(l) "Prescription drug" means any drug, including any biological~~
17 product, except for blood and blood components, including factor,
18 intended for transfusion or biological products that are also medical
19 devices, required by federal law or regulation to be dispensed only by a
20 prescription, including finished dosage forms and bulk drug substances
21 subject to section 503(b) of the "Federal Food, Drug, and Cosmetic Act".

22 ~~(m) "Repackage" means repackaging or otherwise changing the~~
23 container, wrapper, or labeling to further the distribution of a prescription
24 drug, excluding that completed by the pharmacist responsible for
25 dispensing product to the patient.

26 ~~(n) "Repackager" means a person who repackages prescription~~
27 drugs.

1 ~~(o) "Specialty wholesaler" means a person who exclusively~~
2 ~~distributes a prescription drug to a specific group of specialty pharmacies~~
3 ~~or licensed practitioners and who has certified to the board that the~~
4 ~~distribution of such products will only occur in the limited situations~~
5 ~~described in this paragraph (o). Such specialty wholesale distributors shall~~
6 ~~be separately licensed and designated as specialty wholesale distributors~~
7 ~~by the board.~~

8 ~~(p) (8) "Third-party logistics provider" means anyone who~~
9 ~~contracts with a manufacturer to provide or coordinate warehousing,~~
10 ~~distribution, or other services on behalf of a manufacturer but does not~~
11 ~~take title to a prescription drug or have general responsibility to direct the~~
12 ~~prescription drug's sale or disposition. A third-party logistics provider~~
13 ~~shall be licensed as a wholesale distributor under this part 8.~~

14 ~~(q) "Wholesaler" means any person engaged in the wholesale~~
15 ~~distribution of prescription drugs, including, but not limited to,~~
16 ~~repackagers; own-label distributors; private-label distributors; jobbers;~~
17 ~~brokers; warehouses, including manufacturers' and distributors'~~
18 ~~warehouses; manufacturers' exclusive distributors; authorized distributors~~
19 ~~of record; drug wholesalers or distributors; independent wholesale drug~~
20 ~~traders; specialty wholesale distributors; pharmacy buying cooperative~~
21 ~~warehouses; retail pharmacies that conduct wholesale distribution; and~~
22 ~~chain pharmacy warehouses that conduct wholesale distribution.~~

23

24 ~~(2) For the purposes of this part 8, "wholesale distribution" means~~
25 ~~distribution of prescription drugs to persons or entities other than a~~
26 ~~consumer or patient. "Wholesale distribution" does not include:~~

27 ~~(a) Intracompany sales or transfers of prescription drugs,~~

1 including a transaction or transfer between a division, subsidiary, parent,
2 or affiliated or related company under common ownership or control of
3 an entity;

4 (b) The sale, purchase, distribution, trade, or transfer of a
5 prescription drug or offer to sell, purchase, distribute, trade, or transfer a
6 prescription drug for emergency medical reasons or during a state or
7 national declaration of emergency;

8 (c) The sale or transfer of a drug for medical reasons by a retail
9 pharmacy to another retail pharmacy to alleviate a temporary shortage
10 pursuant to Colorado law;

11 (d) The distribution of prescription drug samples by a
12 manufacturer's representative;

13 (e) Drug returns, when conducted by a hospital, health care entity,
14 or charitable institution in accordance with 21 CFR 203.23;

15 (f) The sale of minimal quantities of prescription drugs by retail
16 pharmacies to licensed practitioners for office use;

17 (g) A retail pharmacy's delivery of prescription drugs to a patient
18 or patient's agent pursuant to the lawful order of a licensed practitioner;

19 (h) The sale, transfer, merger, or consolidation of all or part of the
20 business of a pharmacy or pharmacies from or with another pharmacy or
21 pharmacies, whether accomplished as a purchase and sale of stock or
22 business assets;

23 (i) The direct sale, purchase, distribution, trade, or transfer of a
24 prescription drug from a manufacturer to an authorized distributor of
25 record to one additional authorized distributor of record but only if an
26 authorized distributor of record that purchases a prescription drug from
27 an authorized distributor of record that purchased the prescription drug

1 directly from the manufacturer:

2 (I) Provides the supplying authorized distributor of record with a
3 verifiable statement that the product is unavailable from the
4 manufacturer; and

5 (II) Receives a verifiable statement from the supplying authorized
6 distributor of record that the product was purchased directly from the
7 manufacturer;

8 (j) (Deleted by amendment, L. 2007, p. 1246, § 1, effective
9 August 3, 2007.)

10 (k) The delivery of, or offer to deliver, a prescription drug by a
11 common carrier solely in the common carrier's usual course of business
12 of transporting prescription drugs where the common carrier does not
13 store, warehouse, or take legal ownership of the prescription drug;

14 (l) The sale or transfer from a retail pharmacy or chain pharmacy
15 warehouse of expired, damaged, returned, or recalled prescription drugs
16 to the original manufacturer or to a third-party returns processor;

17 (m) The sale or transfer of compounded drugs compounded by a
18 retail pharmacy as defined in section 12-22-102 (6) and as authorized by
19 section 12-22-121 (6) (b);

20 (n) The transfer of prescription drugs within Colorado purchased
21 with public funds by the department of public health and environment,
22 created in section 25-1-102, C.R.S., or a district or county public health
23 agency, created pursuant to section 25-1-506, C.R.S., and procured by a
24 physician licensed in Colorado who is either the executive director or the
25 chief medical officer appointed pursuant to section 25-1-105, C.R.S., or
26 a public health director or medical officer of a county or district public
27 health agency selected pursuant to section 25-1-508 (5) (c) (I), C.R.S. The

1 ~~transfers may only be made to the department of public health and~~
2 ~~environment pursuant to the Colorado medical license of the executive~~
3 ~~director or chief medical officer, a district or county public health agency~~
4 ~~pursuant to the Colorado medical license of the public health director or~~
5 ~~medical officer, or a physician licensed in Colorado.~~

6 **12-42.5-302. [Formerly 12-22-801 (3)] Exemptions.**

7 ~~(3)~~ (1) (a) The board shall have the authority to MAY exempt a pharmacy
8 benefits entity from the requirements of sections ~~12-22-802 and~~
9 ~~12-22-803~~ 12-42.5-303 AND 12-42.5-304 if ~~such~~ THE entity's purchases
10 are solely from a manufacturer or a wholesale distributor in the normal
11 distribution channel, and any subsequent sales or further distributions are
12 to entities other than a wholesaler within the normal distribution channel.

13 (b) For the purposes of this ~~subsection (3)~~ SECTION, "pharmacy
14 benefits entity" means an entity that is not engaged in the activities
15 ~~described in paragraph (d) of subsection (1) of this section~~ OF A CHAIN
16 PHARMACY WAREHOUSE but that assists in the administration of pharmacy
17 benefits under contracts with insurers or to a company under common
18 ownership with that entity.

19 ~~(b)~~ (2) The board shall have the authority to MAY exempt a
20 wholesaler from any ~~of the requirements~~ REQUIREMENT of this part 8 3
21 if the wholesaler exclusively distributes animal health medicines. THE
22 BOARD MAY EXEMPT A WHOLESALER THAT DISTRIBUTES ANIMAL HEALTH
23 MEDICINES FROM THE REQUIREMENTS OF SECTION 12-42.5-306.

24 ~~(c)~~ (3) The board shall exempt from the requirements of sections
25 ~~12-22-802 and 12-22-803~~ 12-42.5-303 AND 12-42.5-304:

26 (a) A licensed wholesaler operated by a nonprofit organization
27 exempt from taxation under section 501 (c) (3) of the federal "Internal

1 Revenue Code of 1986", as amended, that engages only in intracompany
2 sales or transfers of prescription drugs to licensed other outlets or
3 pharmacies that are controlled by, or under common ownership or control
4 with, the wholesaler and that purchase drugs directly from the
5 manufacturer or the manufacturer's authorized distributor of record for
6 distribution or transfer to the wholesaler's licensed other outlets,
7 pharmacies, or other areas authorized by state law; ~~The board shall~~
8 exempt

9 (b) A licensed wholesaler operated by a hospital, a state agency,
10 or a political subdivision ~~from the requirements of sections 12-22-802~~
11 ~~and 12-22-803~~ if such THE entity purchases drugs directly from a
12 manufacturer or a manufacturer's authorized distributor of record and if
13 any further distribution is to authorized licensed entities within its own
14 network.

15 **12-42.5-303. [Formerly 12-22-802] Wholesaler license**
16 **requirements.** (1) (a) A wholesaler that resides in this state ~~shall~~ MUST
17 be licensed by the board. A wholesaler that does not reside in this state
18 ~~shall~~ MUST be licensed in this state prior to engaging in the wholesale
19 distribution of prescription drugs in this state. The board shall exempt a
20 manufacturer and that manufacturer's third-party logistics providers to the
21 extent involving that manufacturer's drugs under contract from any
22 licensing qualifications and other requirements, including the
23 requirements in subparagraphs (VI) and (VII) of paragraph (a) of
24 subsection (3) of this section, subsections (4) to (6) of this section, and
25 section ~~12-22-803~~ 12-42.5-304, to the extent the requirements are not
26 required by federal law or regulation, unless the particular requirements
27 are deemed necessary and appropriate following rule-making by the

1 board.

2 (b) A MANUFACTURER'S EXCLUSIVE DISTRIBUTOR AND PHARMACY
3 BUYING COOPERATIVE WAREHOUSE MUST BE LICENSED BY THE BOARD AS
4 A WHOLESALER PURSUANT TO THIS PART 3. A THIRD-PARTY LOGISTICS
5 PROVIDER MUST BE LICENSED BY THE BOARD AS A WHOLESALE
6 DISTRIBUTOR PURSUANT TO THIS PART 3.

7 (2) (a) The board may adopt rules to approve an accreditation
8 body to evaluate a wholesaler's operations to determine compliance with
9 professional standards and any other applicable laws and to perform
10 inspections of each facility and location where THE WHOLESALER
11 CONDUCTS wholesale distribution operations. ~~are conducted by the~~
12 ~~wholesaler.~~

13 (b) An applicant for a license shall pay any reasonable fee
14 required by the accreditation body or the board and comply with any rules
15 promulgated by the board.

16 (c) The board shall not issue or renew a license to a wholesaler
17 who does not comply with this part § 3.

18 (3) (a) An applicant for a wholesaler license shall provide to the
19 board the following information, and any other information deemed
20 appropriate by the board on a form provided by the board:

21 (I) The name, full business address, and telephone number of the
22 applicant;

23 (II) The trade and business names used by the applicant;

24 (III) The addresses, telephone numbers, and ~~the~~ names of the
25 contact persons for all facilities used by the applicant for the storage,
26 handling, and distribution of prescription drugs;

27 (IV) The type of ownership or operation of the applicant;

1 (V) The names of the owner and the operator of the applicant,
2 including:

3 (A) The name of each partner if the applicant is a partnership;

4 (B) The name and title of each officer and director, the name of
5 the corporation, and the state of incorporation, if the applicant is a
6 corporation;

7 (C) The name of the limited liability company, if the applicant is
8 a limited liability company, and the name of the parent company, if any,
9 and the state of incorporation OR FORMATION of both; ~~and~~ OR

10 (D) The name of the sole proprietor and the business entity if the
11 applicant is a sole proprietorship;

12 (VI) A list of the licenses and permits issued to the applicant by
13 any other state that authorizes the applicant to purchase or possess
14 prescription drugs; and

15 (VII) The name of the applicant's designated representative for
16 the facility, the fingerprints of the designated representative, and a
17 personal information statement for the designated representative that
18 includes information as required by the board, including but not limited
19 to the information in subsection (5) of this section.

20 (b) A licensee shall complete and return a form approved by the
21 board at each renewal period. The board may suspend or revoke the
22 license of a wholesaler if the board determines that the wholesaler no
23 longer qualifies for a license.

24 (4) Prior to issuing a wholesaler license to an applicant, the board,
25 ~~state board of pharmacy~~ THE REGULATORY OVERSIGHT BODY FROM
26 ANOTHER STATE, or board-approved accreditation body may conduct a
27 physical inspection of the facility at the business address provided by the

1 applicant. Nothing in this subsection (4) shall preclude the board from
2 inspecting a wholesaler.

3 (5) The designated representative of an applicant for a wholesaler
4 license shall:

5 (a) Be at least twenty-one years of age;

6 (b) Have at least three years of full-time employment history with
7 a pharmacy or a wholesaler in a capacity related to the dispensing and
8 distribution of and the record-keeping related to prescription drugs;

9 (c) Be employed by the applicant in a full-time managerial
10 position;

11 (d) Be actively involved in and aware of the actual daily operation
12 of the wholesaler;

13 (e) Be physically present at the facility of the applicant during
14 regular business hours, except when the absence of the designated
15 representative is authorized, including, but not limited to, sick leave and
16 vacation leave;

17 (f) Serve in the capacity of a designated representative for only
18 one applicant or wholesaler at a time, except where more than one
19 licensed wholesaler is co-located in the same facility and the wholesalers
20 are members of an affiliated group as defined by section 1504 of the
21 federal "Internal Revenue Code of 1986";

22 (g) Not have any convictions under federal, state, or local law
23 relating to wholesale or retail prescription drug distribution or a
24 controlled substance, AS DEFINED IN SECTION 18-18-102 (5), C.R.S.;

25 (h) Not have any felony convictions pursuant to federal, state, or
26 local law; and

27 (i) Update all of the information required in this part 8 3

1 whenever changes occur.

2 (6) A wholesaler shall obtain a license for each facility it uses for
3 the distribution of prescription drugs.

4 **12-42.5-304. [Formerly 12-22-803] Criminal history record**
5 **check.** Prior to submission of an application, each designated
6 representative shall have his or her fingerprints taken by a local law
7 enforcement agency for the purpose of obtaining a fingerprint-based
8 criminal history record check. The designated representative ~~is required~~
9 ~~to~~ SHALL submit payment by certified check or money order for the
10 fingerprints and for the actual costs of ~~said~~ THE record check at the time
11 the fingerprints are submitted to the Colorado bureau of investigation.
12 Upon receipt of fingerprints and receipt of the payment for costs, the
13 Colorado bureau of investigation shall conduct a state and national
14 fingerprint-based criminal history record check utilizing records of the
15 Colorado bureau of investigation and the federal bureau of investigation.

16 **12-42.5-305. [Formerly 12-22-804] Restrictions on**
17 **transactions.** (1) A wholesaler shall ~~receive~~ ACCEPT prescription drug
18 returns or exchanges from a pharmacy or a chain pharmacy warehouse
19 pursuant to the terms and conditions of the agreement between the
20 wholesale distributor and the pharmacy or chain pharmacy warehouse.
21 The RECEIVING WHOLESALER SHALL DISTRIBUTE returns or
22 exchanges of expired, damaged, recalled, or otherwise unsaleable
23 pharmaceutical product ~~shall be distributed by the receiving wholesale~~
24 ~~distributor~~ only to ~~either~~ the original manufacturer or to a third-party
25 returns processor. The returns or exchanges of prescription drugs,
26 saleable or unsaleable, including any redistribution by a receiving
27 wholesaler, ~~shall~~ ARE not ~~be~~ subject to the pedigree requirements of

1 section ~~12-22-805~~ 12-42.5-306, so long as the drugs are exempt from the
2 pedigree requirement of the federal food and drug administration's
3 currently applicable "Prescription Drug Marketing Act of 1987"
4 guidance. The pharmacies, chain pharmacy warehouses, and ~~cooperative~~
5 pharmacy BUYING COOPERATIVE warehouses ~~shall be~~ ARE responsible for
6 ensuring that the prescription drugs returned are what they purport to be
7 and shall ensure that those returned prescription drugs were stored under
8 proper conditions since their receipt. Wholesalers ~~shall be held~~
9 ~~accountable~~ ARE RESPONSIBLE for policing their returns process and
10 helping to ensure that their operations are secure and do not permit the
11 entry of adulterated or counterfeit product. A pharmacist shall not
12 knowingly return a medication that is not what it purports to be.

13 (2) A manufacturer or wholesaler shall furnish prescription drugs
14 only to a board-registered outlet or practitioner authorized by law to
15 prescribe the drugs. Before furnishing prescription drugs to a person or
16 entity not known to the manufacturer or wholesaler, the manufacturer or
17 wholesaler shall affirmatively verify that the person or entity is legally
18 authorized to receive the prescription drugs by contacting the board.

19 (3) ~~(Deleted by amendment, L. 2007, p. 1249, § 4, effective~~
20 ~~August 3, 2007.)~~

21 (4) (3) A MANUFACTURER OR WHOLESALER MAY FURNISH
22 prescription drugs ~~may be furnished~~ to a hospital pharmacy receiving
23 area if a pharmacist or authorized receiving agent signs, at the time of
24 delivery, a receipt showing the type and quantity of the prescription drug
25 received. THE PHARMACIST OR AUTHORIZED RECEIVING AGENT SHALL
26 REPORT any discrepancy between the receipt and the type and quantity of
27 the prescription drug actually received ~~shall be reported~~ to the delivering

1 manufacturer or wholesaler by the next business day after the delivery to
2 the pharmacy receiving area.

3 ~~(5)~~ (4) A manufacturer or wholesaler shall not accept payment
4 for, or allow the use of, a person's or entity's credit to establish an account
5 for the purchase of prescription drugs from any person other than the
6 owner of record, the chief executive officer, or the chief financial officer
7 listed on the license of a person or entity legally authorized to receive
8 prescription drugs. An account established for the purchase of
9 prescription drugs must bear the name of the licensee. This subsection ~~(5)~~
10 ~~shall~~ (4) DOES not apply to standard ordering and purchasing business
11 practices between a chain pharmacy warehouse, a wholesaler, and a
12 manufacturer.

13 **12-42.5-306. [Formerly 12-22-805] Records - study -**
14 **authentication - pedigree.** (1) A wholesaler shall establish and maintain
15 inventories and records of all transactions regarding the receipt and
16 distribution or other disposition of prescription drugs. The records ~~shall~~
17 MUST include the pedigree for each wholesale distribution of a
18 prescription drug that occurs outside the normal distribution channel.

19 ~~(2) On or before June 1, 2007, the board shall determine and~~
20 ~~establish an implementation date for the use of electronic pedigrees. The~~
21 ~~implementation date shall be on or after December 31, 2007. In making~~
22 ~~its determination, the board shall consult with manufacturers,~~
23 ~~wholesalers, and pharmacies responsible for the sale and distribution of~~
24 ~~prescription drugs in this state.~~

25 ~~(3)~~ (2) A wholesaler in the possession of a pedigree for a
26 prescription drug shall verify that each transaction on the pedigree has
27 occurred prior to distributing the prescription drug.

1 ~~(4)~~ (3) A pedigree shall include all necessary identifying
2 information concerning each sale in the chain of distribution of the
3 product from the manufacturer or the first authorized distributor of record
4 through the acquisition and sale by a wholesaler until final sale to a
5 pharmacy or other person dispensing or administering the prescription
6 drug. The pedigree shall include, at a minimum:

7 (a) The name, address, telephone number, and, if available, the
8 electronic mail address of each owner of the prescription drug and each
9 wholesaler of the drug;

10 (b) The name and address of each location from which the
11 prescription drug was shipped, if different from that of the owner;

12 (c) The transaction dates;

13 (d) Certification that each recipient has authenticated the
14 pedigree;

15 (e) The name of the prescription drug;

16 (f) The dosage form and strength of the prescription drug;

17 (g) The size and number of containers;

18 (h) The lot number of the prescription drug; and

19 (i) The name of the manufacturer of the finished dosage form.

20 ~~(5)~~(4) A purchaser or wholesaler shall maintain each pedigree for
21 three years after the date of the sale or transfer of the prescription drug
22 and shall make the pedigree available for inspection or use within five
23 business days upon the request of an authorized law enforcement officer
24 or an authorized agent of the board.

25 ~~(6)~~ (5) This section ~~shall~~ DOES not apply to a retail pharmacy or
26 chain pharmacy warehouse if the retail pharmacy or chain pharmacy
27 warehouse does not engage in the wholesale distribution of prescription

1 drugs.

2 ~~(7)~~ (6) The board shall adopt rules as necessary for the
3 implementation of this part 8 3.

4 **12-42.5-307. [Formerly 12-22-806] Penalty.** (1) A person who
5 engages in the wholesale distribution of prescription drugs in violation
6 of this part 8 ~~shall be~~ 3 IS subject to a penalty of up to fifty thousand
7 dollars.

8 (2) A person who knowingly engages in the wholesale
9 distribution of prescription drugs in violation of this part 8 ~~shall be~~ 3 IS
10 subject to a penalty of up to five hundred thousand dollars.

11 PART 4

12 ELECTRONIC MONITORING OF
13 PRESCRIPTION DRUGS

14 **12-42.5-401. [Formerly 12-22-701] Legislative declaration.**

15 (1) The general assembly finds, determines, and declares that:

16 (a) Prescription drug abuse occurs in this country to an extent that
17 exceeds or rivals the abuse of illicit drugs;

18 (b) Prescription drug abuse occurs at times due to the deception
19 of the authorized ~~prescribers~~ PRACTITIONERS where patients seek
20 controlled substances for treatment and the ~~prescriber~~ PRACTITIONER is
21 ~~without knowledge~~ UNAWARE of the patient's other medical providers and
22 treatments;

23 (c) Electronic monitoring of prescriptions for controlled
24 substances ~~would provide~~ PROVIDES a mechanism whereby ~~prescribers~~
25 ~~could~~ PRACTITIONERS CAN discover the extent of each patient's requests
26 for drugs and whether other providers have prescribed similar substances
27 during a similar period of time;

1 (d) Electronic monitoring of prescriptions for controlled
2 substances provides a mechanism for law enforcement officials and
3 regulatory boards to efficiently investigate ~~prescriber~~ PRACTITIONER
4 behavior that is potentially harmful to the public.

5 **12-42.5-402. [Formerly 12-22-702] Definitions.** As used in this
6 part 7 4, unless the context otherwise requires:

7 ~~(1) "Board" means the state board of pharmacy.~~

8 ~~(2) Repealed.~~

9 ~~(3)~~ (1) "Controlled substance" means any schedule II, III, IV, or
10 V drug as listed in sections 18-18-204, 18-18-205, 18-18-206, and
11 18-18-207, C.R.S.

12 ~~(4)~~ (2) "Division" means the division of registrations in the
13 department of regulatory agencies.

14 ~~(5)~~ (3) "Drug abuse" or "abuse" means utilization of a controlled
15 substance for nonmedical purposes or in a manner that does not meet
16 generally accepted standards of medical practice.

17 ~~(6) "Practitioner" shall have the same meaning as in section~~
18 ~~18-18-102 (29), C.R.S.~~

19 ~~(7)~~ (4) "Prescription drug outlet" OR "PHARMACY" means any
20 resident or nonresident pharmacy outlet registered or licensed pursuant
21 to this article where prescriptions are compounded and dispensed.

22 ~~(8)~~ (5) "Program" means the electronic prescription drug
23 monitoring program developed or procured by the board in accordance
24 with section ~~12-22-704~~ 12-42.5-403.

25 **12-42.5-403. [Formerly 12-22-704] Prescription drug use**
26 **monitoring program.** (1) The board shall develop or procure a
27 prescription controlled substance electronic program to track

1 INFORMATION REGARDING prescriptions for controlled substances
2 dispensed in Colorado, ~~The program shall track information regarding~~
3 ~~controlled substance prescriptions that includes, but is not limited to,~~
4 INCLUDING the following INFORMATION:

- 5 (a) The date the prescription was dispensed;
- 6 (b) The name of the patient and the ~~prescriber~~ PRACTITIONER;
- 7 (c) The name and amount of the controlled substance;
- 8 (d) The method of payment;
- 9 (e) The name of the dispensing pharmacy; and
- 10 (f) Any other data elements necessary to determine whether a
11 patient is visiting multiple ~~prescribers~~ PRACTITIONERS or pharmacies, or
12 both, to receive the same or similar medication.

13 ~~(1.5)~~ (2) Each ~~prescriber~~ PRACTITIONER and each dispensing
14 pharmacy shall disclose to a patient receiving a controlled substance that
15 his or her identifying prescription information will be entered into the
16 program database and may be accessed for limited purposes by specified
17 individuals.

18 ~~(2)~~ (3) The board shall establish a method and format for
19 prescription drug outlets to convey the necessary information to the board
20 or its designee. The method ~~shall~~ MUST not require more than a one-time
21 entry of data per patient per prescription by a prescription drug outlet.

22 ~~(3)~~ (4) The division may contract with any individual or public or
23 private agency or organization in carrying out the data collection and
24 processing duties required by this part 7 4.

25 **12-42.5-404. [Formerly 12-22-705] Program operation - access**
26 **- rules.** (1) The board shall operate and maintain the program.

27 (2) The board shall adopt all rules necessary to implement the

1 program.

2 (3) The program is available for query only to the following
3 persons or groups of persons:

4 (a) Board staff responsible for administering the program;

5 (b) Any ~~licensed~~ practitioner with the statutory authority to
6 prescribe controlled substances to the extent the query relates to a current
7 patient of the practitioner to whom the practitioner is prescribing or
8 considering prescribing any controlled substance;

9 (c) Practitioners engaged in a legitimate program to monitor a
10 patient's ~~controlled substance~~ DRUG abuse;

11 (d) ~~Licensed Pharmacists, with statutory authority to dispense~~
12 ~~controlled substances~~ to the extent the information requested relates
13 specifically to a current patient to whom the pharmacist is dispensing or
14 considering dispensing a controlled substance or to whom the pharmacist
15 is providing clinical patient care services;

16 (e) Law enforcement officials so long as the information released
17 is specific to an individual patient or ~~prescriber~~ PRACTITIONER and is part
18 of a bona fide investigation, and the request for information is
19 accompanied by an official court order or subpoena;

20 (f) The individual who is the recipient of a controlled substance
21 prescription so long as the information released is specific to ~~such~~ THE
22 individual;

23 (g) State regulatory boards within the division and the director of
24 the division so long as the information released is specific to an
25 individual ~~prescriber~~ PRACTITIONER and is part of a bona fide
26 investigation, and the request for information is accompanied by an
27 official court order or subpoena; and

1 (h) A resident physician with an active physician training license
2 issued by the Colorado medical board pursuant to section 12-36-122 and
3 under the supervision of a licensed physician.

4 (4) THE BOARD SHALL NOT CHARGE a ~~licensed~~ practitioner or
5 ~~licensed pharmacist~~ PHARMACY who transmits data in compliance with
6 the operation and maintenance of the program ~~shall not be charged~~ a fee
7 for the transmission of ~~such~~ THE data.

8 (5) The ~~state~~ board, ~~of pharmacy may~~, pursuant to a written
9 agreement that ensures compliance with this part ~~7~~ 4, MAY provide data
10 to qualified personnel of a public or private entity for the purpose of bona
11 fide research or education so long as ~~such information~~ THE DATA does not
12 identify a recipient ~~prescriber~~ OF A PRACTITIONER WHO PRESCRIBED, or
13 ~~dispenser of~~ A PRESCRIPTION DRUG OUTLET THAT DISPENSED, a
14 prescription drug.

15 (6) The board shall provide a means of sharing information about
16 individuals whose information is recorded in the program with
17 out-of-state health care practitioners and law enforcement officials that
18 meet the requirements of paragraph (b), (c), or (e) of subsection (3) of
19 this section.

20 **12-42.5-405. [Formerly 12-22-706] Prescription drug**
21 **monitoring fund - creation - gifts, grants, and donations - fee.** (1) The
22 board ~~is authorized to~~ MAY seek and accept funds from any public or
23 private entity for the purposes of implementing and maintaining the
24 program. THE BOARD SHALL TRANSMIT any ~~such funds collected shall be~~
25 ~~transmitted~~ IT RECEIVES to the state treasurer, who shall credit the same
26 to the prescription drug monitoring fund, which fund is hereby created.
27 The moneys in the fund ~~shall be~~ ARE subject to annual appropriation by

1 the general assembly for the sole purpose of implementing and
2 maintaining the program. The moneys in the fund ~~shall~~ MUST not be
3 transferred to or revert to the general fund at the end of any fiscal year.

4 ~~(2) (Deleted by amendment, L. 2007, p. 1039, § 1, effective May~~
5 ~~22, 2007.)~~

6 ~~(3)~~(2) After implementing the program, the board shall seek gifts,
7 grants, and donations on an annual basis for the purpose of maintaining
8 the program. The board shall report annually to the health and human
9 services ~~committees~~ COMMITTEE of the senate and THE HEALTH AND
10 ENVIRONMENT COMMITTEE OF THE house of representatives, or any
11 successor committees, regarding the gifts, grants, and donations
12 requested, of whom they were requested, and the amounts received.

13 ~~(4) (Deleted by amendment, L. 2007, p. 1039, § 1, effective May~~
14 ~~22, 2007.)~~

15 ~~(5)~~(3) If, based upon the appropriations for the direct and indirect
16 costs of the program, there are insufficient funds to maintain the
17 program, the division may collect an annual fee of no more than
18 seventeen dollars and fifty cents for the fiscal years 2011-2012 and
19 2012-2013, twenty dollars for the fiscal years 2013-2014 and 2014-2015,
20 and twenty-five dollars for each fiscal year thereafter, from an individual
21 who holds a license from the division that authorizes him or her to
22 prescribe a controlled substance, as defined by IN section 18-18-102 (5),
23 C.R.S. The DIVISION SHALL SET THE fee ~~shall be established~~ pursuant to
24 section 24-34-105, C.R.S., and shall ~~be collected~~ COLLECT THE FEE in
25 conjunction with the license renewal fees collected pursuant to section
26 24-34-105, C.R.S. Moneys collected pursuant to this subsection ~~(5) shall~~
27 ~~be~~ (3) ARE credited to the prescription drug monitoring fund created in

1 subsection (1) of this section.

2 **12-42.5-406. [Formerly 12-22-707] Violations - penalties.** A
3 person who knowingly releases, obtains, or attempts to obtain
4 information from the program in violation of this part 7 4 shall be
5 punished by a civil fine of not less than one thousand dollars and not
6 more than ten thousand dollars for each violation. Fines paid shall be
7 deposited in the general fund.

8 **12-42.5-407. [Formerly 12-22-708] Prescription drug outlets**
9 **- prescribers - responsibilities - liability.** (1) A prescription drug outlet
10 shall submit information in the manner required by the board.

11 (2) A ~~prescriber~~, PRACTITIONER who has, in good faith, written a
12 prescription for a controlled substance to a patient ~~shall not be held~~ IS
13 NOT liable for information submitted to the program. A ~~prescriber~~
14 PRACTITIONER or prescription drug outlet who has, in good faith,
15 submitted the required information to the program ~~shall not be held~~ IS
16 NOT liable for participation in the program.

17 **12-42.5-408. [Formerly 12-22-709] Exemption - waiver.** (1) A
18 hospital licensed or certified pursuant to section 25-1.5-103, C.R.S., a
19 prescription drug outlet located within the hospital that is dispensing a
20 controlled substance for a chart order or dispensing less than or equal to
21 a twenty-four-hour supply of a controlled substance, and emergency
22 medical services personnel certified pursuant to section 25-3.5-203,
23 C.R.S., ~~shall be~~ ARE exempt from the reporting provisions of this part 7
24 4. A hospital prescription drug outlet licensed pursuant to section
25 ~~12-22-116~~ 12-42.5-112 shall comply with the provisions of this part 7 4
26 for controlled substances dispensed for outpatient care that have more
27 than a twenty-four-hour supply.

1 (2) A prescription drug outlet that does not report controlled
2 substance data to the program due to a lack of electronic automation of
3 the outlet's business may apply to the board for a waiver from the
4 reporting requirements.

5 **12-42.5-409. [Formerly 12-22-710] Repeal of part.** This part 7
6 4 is repealed, effective July 1, 2021. Prior to ~~such~~ ITS repeal, the
7 DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW THE functions OF
8 THE BOARD AND THE PROGRAM under this part 7 ~~shall be reviewed~~ 4 as
9 provided in section 24-34-104, C.R.S.

10 **SECTION 2. Repeal of relocated and nonrelocated provisions**
11 **in this act.** In Colorado Revised Statutes, **repeal** article 22 of title 12;
12 except that 12-22-111, 12-22-306.1, and 12-22-606 are not relocated.

13 **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **amend**
14 (43) introductory portion, (45) introductory portion, (45) (e), (52)
15 introductory portion, (52) (b), and (52.5) introductory portion; **repeal**
16 (25.7) (a) and (43) (a); and **add** (52.5) (b) as follows:

17 **24-34-104. General assembly review of regulatory agencies**
18 **and functions for termination, continuation, or reestablishment.**

19 (25.7) The following agencies, functions, or both, shall terminate on July
20 1, 1996:

21 (a) ~~The issuance of licenses relating to the manufacture or~~
22 ~~distribution of drug precursors through the department of public health~~
23 ~~and environment in accordance with part 3 of article 22 of title 12,~~
24 ~~C.R.S.;~~

25 (43) The following agencies, functions, or both, shall terminate
26 on July 1, 2012:

27 (a) ~~The state board of pharmacy and regulation of the practice of~~

1 ~~pharmacy by the department of regulatory agencies through the division~~
2 ~~of registrations;~~

3 (45) The following agencies, functions, or both, ~~shall~~ terminate on
4 July 1, 2014:

5 (e) The record-keeping and licensing functions of the department
6 of human services relating to addiction programs under which controlled
7 substances are compounded, administered, or dispensed in accordance
8 with part 3 2 of article 22 80 of title 12 27, C.R.S.;

9 (52) The following agencies, functions, or both, ~~shall~~ terminate
10 on July 1, 2021:

11 (b) The electronic prescription drug monitoring program created
12 in part 7 4 of article 22 42.5 of title 12, C.R.S.

13 (52.5) The following agencies, functions, or both, ~~shall~~ terminate
14 on September 1, 2021:

15 (b) THE STATE BOARD OF PHARMACY AND THE REGULATION OF
16 THE PRACTICE OF PHARMACY BY THE DEPARTMENT OF REGULATORY
17 AGENCIES THROUGH THE DIVISION OF REGISTRATIONS IN ACCORDANCE
18 WITH PARTS 1 TO 3 OF ARTICLE 42.5 OF TITLE 12, C.R.S.

19 **SECTION 4.** In Colorado Revised Statutes, 12-64-111, **amend**
20 (1) (v) and (1) (dd); and **add** (1) (hh) as follows:

21 **12-64-111. Discipline of licensees.** (1) Upon receipt of a signed
22 complaint by a complainant or upon its own motion, the board may
23 proceed to a hearing in conformity with section 12-64-112. After a
24 hearing, and by a concurrence of a majority of members, the board may
25 deny a license to an applicant or revoke or suspend the license of, place
26 on probation, or otherwise discipline or fine, a licensed veterinarian for
27 any of the following reasons:

1 (v) Habitual or excessive use or abuse of alcohol beverages, a
2 habit-forming drug, or a controlled substance as defined in section
3 ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.;

4 (dd) Engaging in any act prohibited in article ~~22~~ 42.5 of this title;

5 (hh) FAILURE TO PROVIDE A WRITTEN PRESCRIPTION TO A
6 WHOLESALER WITHIN **THREE BUSINESS DAYS** AFTER ISSUING AN ORAL
7 PRESCRIPTION ORDER, AS REQUIRED BY SECTION **12-42.5-118** (3) (b).

8 **SECTION 5.** In Colorado Revised Statutes, **add with amended**
9 **and relocated provisions** part 2 to article 80 of title 27 as follows:

10 PART 2

11 CONTROLLED SUBSTANCES

12 **27-80-201. [Formerly 12-22-301] Short title.** This part ~~3~~ 2 shall
13 be known and may be cited as the "Colorado Licensing of Controlled
14 Substances Act".

15 **27-80-202. [Formerly 12-22-302] Legislative declaration.** The
16 general assembly finds, determines, and declares that strict control of
17 controlled substances within this state is necessary for the immediate and
18 future preservation of the public peace, health, and safety and that the
19 licensing, record-keeping, penalty, and other provisions contained in this
20 part ~~3~~ 2 are necessary for the achievement of such control.

21 **27-80-203. [Formerly 12-22-303] Definitions.** As used in this
22 part ~~3~~ 2, unless the context otherwise requires:

23 (1) "Addict" means a person who has a physical or psychological
24 dependence on a controlled substance, which dependence develops
25 following the use of the controlled substance on a periodic or continuing
26 basis and is demonstrated by appropriate observation and tests by a
27 person licensed to practice medicine pursuant to article 36 of ~~this~~ title 12,

1 C.R.S.

2 (2) "Addiction program" means a program licensed under this part
3 3; 2 for the detoxification, withdrawal, or maintenance treatment of
4 addicts.

5 (3) "Administer" means to apply a controlled substance, whether
6 by injection, inhalation, ingestion, or any other means, directly to the
7 body of a patient or research subject.

8 (4) "Agent" means an authorized person who acts on behalf of or
9 at the direction of a person licensed or otherwise authorized under this
10 part 3 2. "Agent" does not include a common or contract carrier, a public
11 warehouseman, or an employee of a carrier or warehouseman.

12 ~~(5) "Board" means the state board of pharmacy.~~

13 ~~(6) (5) "Bureau" means the drug enforcement administration, or~~
14 ~~its successor agency, of the United States department of justice.~~

15 ~~(6.5) "Cocaine" means coca leaves, except coca leaves and~~
16 ~~extracts of coca leaves from which cocaine, ecgonine, and derivatives of~~
17 ~~ecgonine or their salts have been removed; cocaine, its salts, optical and~~
18 ~~geometric isomers, and salts of isomers; ecgonine, its derivatives, their~~
19 ~~salts, isomers, and salts of isomers; or any compound, mixture, or~~
20 ~~preparation which contains any quantity of any of the substances referred~~
21 ~~to in this subsection (6.5).~~

22 (6) **[Formerly 12-22-102 (6)]** (a) ~~"Compounding"~~ "COMPOUND"
23 means ~~the preparation, mixing, assembling, packaging, or labeling of~~ TO
24 PREPARE, MIX, ASSEMBLE, PACKAGE, OR LABEL a drug or device:

25 (I) As the result of a practitioner's prescription drug order, chart
26 order, or initiative, based on the relationship between the practitioner,
27 patient, and pharmacist in the course of professional practice; or

1 (II) For the purpose of, or as an incident to, research, teaching, or
2 chemical analysis and not for sale or dispensing.

3 (b) ~~"Compounding"~~ "COMPOUND" also includes the preparation of
4 drugs or devices in anticipation of prescription drug orders based on
5 routine, regularly observed prescribing patterns.

6 (7) "Controlled substance" shall have the same meaning as in
7 section 18-18-102 (5), C.R.S.

8 ~~(7.5) (a) "Controlled substance analog" means a substance the
9 chemical structure of which is substantially similar to the chemical
10 structure of a controlled substance in schedule I or II and:~~

11 ~~(I) Which has a stimulant, depressant, or hallucinogenic effect on
12 the central nervous system substantially similar to the stimulant,
13 depressant, or hallucinogenic effect on the central nervous system of a
14 controlled substance included in schedule I or II; or~~

15 ~~(II) With respect to a particular individual, which that individual
16 represents or intends to have a stimulant, depressant, or hallucinogenic
17 effect on the central nervous system substantially similar to the stimulant,
18 depressant, or hallucinogenic effect on the central nervous system of a
19 controlled substance included in schedule I or II.~~

20 (b) "Controlled substance analog" does not include:

21 ~~(I) A controlled substance;~~

22 ~~(II) Any substance for which there is an approved new drug
23 application;~~

24 ~~(III) With respect to a particular person, any substance, if an
25 exemption is in effect for investigational use, for that person, under
26 section 505 of the "Federal Food, Drug, and Cosmetic Act", 21 U.S.C.
27 sec. 355, as amended, to the extent that conduct with respect to the~~

1 substance is pursuant to the exemption; or

2 ~~(IV) Any substance to the extent not intended for human~~
3 ~~consumption before such an exemption takes effect with respect to the~~
4 ~~substance.~~

5 (8) "Deliver" or "delivery" means actual, constructive, or
6 attempted transfer of a controlled substance whether or not there is an
7 agency relationship.

8 ~~(9) "Department" means the department of human services.~~

9 ~~(10)~~ (9) "Detoxification treatment" means a program for a short
10 term of not more than three weeks for the administering or dispensing, in
11 decreasing doses, of a controlled substance to an addict while he OR SHE
12 is receiving appropriate supportive medical treatment, with the immediate
13 goal being to render the addict no longer dependent on the intake of any
14 amount of a controlled substance.

15 (10) [Formerly 12-22-102 (8)] "Device" means an instrument,
16 apparatus, implement, machine, contrivance, implant, or similar or
17 related article that is required under federal law to bear the label,
18 **"Caution: federal law requires dispensing by or on the order of a**
19 **physician."** "Device" also includes any component part of, or accessory
20 or attachment to, any such article, whether or not the component part,
21 accessory, or attachment is separately so labeled.

22 (11) "Dispense" ~~shall have the same meaning as set forth in~~
23 ~~section 12-22-102(9)~~ MEANS TO INTERPRET, EVALUATE, AND IMPLEMENT
24 A PRESCRIPTION DRUG OR CONTROLLED SUBSTANCES ORDER OR CHART
25 ORDER, INCLUDING THE PREPARATION OF A DRUG OR DEVICE FOR A
26 PATIENT OR PATIENT'S AGENT IN A SUITABLE CONTAINER APPROPRIATELY
27 LABELED FOR SUBSEQUENT ADMINISTRATION TO OR USE BY A PATIENT.

1 (12) "Distribute" means to deliver a controlled substance other
2 than by administering or dispensing.

3 ~~(12.5) "Distributor" has the same meaning as that set forth in~~
4 ~~section 18-18-102 (12), C.R.S.~~

5 (13) (a) "Drug" means any of the substances:

6 (I) Recognized as drugs in the official United States
7 pharmacopoeia, national formulary, or the official homeopathic
8 pharmacopoeia of the United States, or a supplement thereof;

9 (II) Intended for use in the diagnosis, cure, mitigation, treatment,
10 or prevention of disease in individuals or animals;

11 (III) Other than food, intended to affect the structure or any
12 function of the body of individuals or animals; or

13 (IV) Intended for use as a component of any substance specified
14 in subparagraph (I), (II), or (III) of this paragraph (a).

15 (b) "Drug" does not include devices or their components, parts,
16 or accessories.

17 ~~(13.5) Repealed.~~

18 ~~(14) "Immediate precursor" means a substance which is a~~
19 ~~principal compound commonly used or produced primarily for use, and~~
20 ~~which is an immediate chemical intermediary used or likely to be used,~~
21 ~~in the manufacture of a controlled substance, the control of which is~~
22 ~~necessary to prevent, curtail, or limit manufacture.~~

23 ~~(15)~~ (14) "Maintenance treatment" means a program of more than
24 six months' duration for the administering or dispensing of a controlled
25 substance, approved for such use by federal law or regulation, to an
26 addict for the purpose of continuing his OR HER dependence upon a
27 controlled substance in the course of conducting an authorized

1 rehabilitation program for addicts, with a long-term goal of decreasing
2 the addict's controlled substance dependency and leading to his OR HER
3 possible withdrawal.

4 ~~(16) "Manufacturer" means a person who is licensed by this part~~
5 ~~3 and who, by compounding, mixing, cultivating, planting, growing, or~~
6 ~~other process, produces or prepares a controlled substance, but the term~~
7 ~~does not include a pharmacist who compounds controlled substances to~~
8 ~~be dispensed pursuant to a prescription, a practitioner who compounds~~
9 ~~controlled substances for dispensing in the course of his professional~~
10 ~~practice, or a researcher acting within the provisions of this part 3.~~

11 ~~(17)~~ (15) "Marihuana" or "Marijuana" means all parts of the plant
12 cannabis sativa L., whether growing or not, the seeds thereof, the resin
13 extracted from any part of the plant, and every compound, manufacture,
14 salt, derivative, mixture, or preparation of the plant, its seeds, or its resin.
15 It does not include fiber produced from the stalks, oil or cake made from
16 the seeds of the plant, or sterilized seed of the plant ~~which~~ THAT is
17 incapable of germination, if these items exist apart from any other item
18 defined as "~~marihuana~~" "MARIJUANA" in this subsection ~~(17)~~:
19 "~~Marihuana~~" (15). "MARIJUANA" does not include ~~marihuana~~ MARIJUANA
20 concentrate as defined in subsection ~~(18)~~ (16) of this section.

21 ~~(18)~~ (16) "Marijuana concentrate" means hashish,
22 tetrahydrocannabinols, or any alkaloid, salt, derivative, preparation,
23 compound, or mixture, whether natural or synthesized, of
24 tetrahydrocannabinols.

25 ~~(19) "Narcotic controlled substance" means any of the following,~~
26 ~~whether produced directly or indirectly by extraction from substances of~~
27 ~~vegetable origin, or independently by means of chemical synthesis, or by~~

1 a combination of extraction and chemical synthesis:

2 (a) ~~Opium or any opiate or any salt, compound, derivative, or~~
3 ~~preparation of opium or any opiate;~~

4 (b) ~~Any salt, compound, isomer, derivative, or preparation thereof~~
5 ~~which is chemically equivalent to or identical with any of the substances~~
6 ~~referred to in paragraph (a) of this subsection (19) but not including the~~
7 ~~isoquinoline alkaloids of opium;~~

8 (c) ~~Any opium poppy or poppy straw.~~

9 (20) ~~"Opiate" means any substance having an addiction-forming~~
10 ~~or addiction-sustaining liability similar to morphine or being capable of~~
11 ~~conversion into a drug having an addiction-forming or~~
12 ~~addiction-sustaining liability. "Opiate" does not include, unless~~
13 ~~specifically designated as controlled under this part 3, the dextrorotatory~~
14 ~~isomer of 3-methoxy-n-methyl-morphinan and its salts~~
15 ~~(dextromethorphan). The term does include its racemic and levorotatory~~
16 ~~forms.~~

17 (21) ~~"Opium poppy" means the plant of the species papaver~~
18 ~~somniferum L., except its seeds.~~

19 (22) (17) "Peace officer" shall have the same meaning as set forth
20 in section 16-2.5-101, C.R.S.

21 (23) (18) "Person" means any individual, government,
22 governmental subdivision, agency, business trust, estate, trust,
23 partnership, corporation, association, institution, or other legal entity.

24 (24) (19) "Peyote" means all parts of the plant presently classified
25 botanically as *lophophora williamsii lemaire*, whether growing or not, the
26 seeds thereof, any extraction from any part of such plant, and every
27 compound, manufacture, salt, derivative, mixture, or preparation of such

1 plant or its seeds or extracts.

2 ~~(25) "Pharmacist" means an individual licensed pursuant to part~~
3 ~~1 of this article to engage in the practice of pharmacy, as defined in~~
4 ~~section 12-22-102 (26).~~

5 ~~(26) "Pharmacy" or "prescription drug outlet" shall have the same~~
6 ~~meaning as set forth in section 12-22-102 (30.2).~~

7 ~~(27) "Poppy straw" means all parts, except the seeds, of the opium~~
8 ~~poppy, after mowing.~~

9 ~~(28) (20) "Practitioner" shall have the same meaning as set forth~~
10 ~~in section 12-22-102 (27) MEANS A PERSON AUTHORIZED BY LAW TO~~
11 ~~PRESCRIBE ANY DRUG OR DEVICE, ACTING WITHIN THE SCOPE OF SUCH~~
12 ~~AUTHORITY.~~

13 (21) [**Formerly 12-22-102 (30)**] "Prescription drug" means a drug
14 that, prior to being dispensed or delivered, is required to be labeled with
15 the following statement: "Caution: Federal law prohibits dispensing
16 without a prescription.", "Rx only", or "Caution: Federal law restricts this
17 drug to use by or on the order of a licensed veterinarian."

18 ~~(29) (22) "Production" or "produces" means the manufacturing,~~
19 ~~planting, cultivating, growing, or harvesting of a controlled substance.~~

20 ~~(30) "Remuneration" means anything of value, including money,~~
21 ~~real property, tangible and intangible personal property, contract rights,~~
22 ~~choses in action, services, and any rights of use or employment or~~
23 ~~promises or agreements connected therewith.~~

24 ~~(31) (23) "Researcher" means any person licensed by the~~
25 ~~department pursuant to this part 3 2 to experiment with, study, or test any~~
26 ~~controlled substance within this state and includes analytical laboratories.~~

27 ~~(32) (24) (a) "Tetrahydrocannabinols" means synthetic~~

1 equivalents of the substances contained in the plant, or in the resinous
2 extractives of, cannabis, sp., or synthetic substances, derivatives, and
3 their isomers with similar chemical structure and pharmacological
4 activity, such as the following:

5 (I) ¹cis or trans tetrahydrocannabinol, and their optical isomers;

6 (II) ⁶cis or trans tetrahydrocannabinol, and their optical isomers;

7 (III) ^{3,4}cis or trans tetrahydrocannabinol, and their optical isomers.

8 (b) Since the nomenclature of the substances listed in paragraph
9 (a) of this subsection ~~(32)~~ (24) is not internationally standardized,
10 compounds of these structures, regardless of the numerical designation
11 of atomic positions, are included in this definition.

12 ~~(33) "Ultimate user" means a person who lawfully possesses a~~
13 ~~controlled substance for his own use, for the use of a member of his~~
14 ~~household, or for use in administering to an animal owned by him or a~~
15 ~~member of his household.~~

16 ~~(34) (Deleted by amendment, L. 92, p. 386, § 5, effective July 1,~~
17 ~~1992.)~~

18 ~~(35)~~ (25) "Withdrawal treatment" means a program for an
19 intermediate term, of more than three weeks but less than six months, for
20 the administering or dispensing, in decreasing doses, of a controlled
21 substance, approved for such use by federal law or regulation, to an
22 addict while receiving rehabilitative measures as indicated, with the
23 immediate goal being to render the addict no longer dependent on the
24 intake of any amount of a controlled substance.

25 **27-80-204. [Formerly 12-22-304] License required - controlled**
26 **substances - repeal.** (1) (a) In accordance with part 3 of article 18 of
27 title 18, C.R.S., AN ADDICTION PROGRAM THAT COMPOUNDS,

1 ADMINISTERS, OR DISPENSES A CONTROLLED SUBSTANCE SHALL
2 ANNUALLY OBTAIN a license issued by the department ~~shall be obtained~~
3 ~~annually~~ for each place of business or professional practice located in this
4 state. by:

5 (a) ~~Repealed.~~

6 (b) ~~(I) Every addiction program which compounds, administers,~~
7 ~~or dispenses a controlled substance.~~

8 ~~(H) (A)~~ (b) (I) This ~~paragraph (b)~~ SUBSECTION (1) is repealed,
9 effective July 1, 2014.

10 ~~(B)~~ (II) Prior to ~~such~~ THE repeal, the DEPARTMENT OF
11 REGULATORY AGENCIES SHALL REVIEW THE licensing functions of the
12 department ~~shall be reviewed~~ as provided in section 24-34-104, C.R.S.
13 IN CONDUCTING the review, THE DEPARTMENT OF REGULATORY AGENCIES
14 shall ~~also~~ consider whether the licensing pursuant to this ~~paragraph (b)~~
15 SUBSECTION (1) should be combined with the licensing of any other drug
16 and alcohol addiction treatment programs by the department.

17 (2) ~~In accordance with part 3 of article 18 of title 18, C.R.S., a~~
18 ~~license issued by the board shall be obtained annually or biannually, if~~
19 ~~applicable, for:~~

20 (a) ~~Every manufacturer in this state who manufactures or~~
21 ~~distributes a controlled substance;~~

22 (b) ~~Every distributor who distributes a controlled substance in this~~
23 ~~state or who is doing business in this state.~~

24 (2.5) ~~Repealed.~~

25 (3) (a) ~~A license issued by the board shall be obtained annually by~~
26 ~~a humane society as provided in this subsection (3). The board shall, as~~
27 ~~provided in section 24-34-105, C.R.S., collect a fee and issue a license~~

1 to a humane society as provided in this subsection (3):

2 (b) ~~A humane society that is duly registered with the secretary of~~
3 ~~state and has been in existence and in business for at least five years in~~
4 ~~this state as a nonprofit corporation, or an animal control agency that is~~
5 ~~operated by a unit of government, may apply to the board for a license for~~
6 ~~the purposes of being authorized to purchase, possess, and administer~~
7 ~~sodium pentobarbital, or sodium pentobarbital in combination with other~~
8 ~~prescription drugs that are medically recognized for euthanasia, to~~
9 ~~euthanize injured, sick, homeless, or unwanted pets and animals and to~~
10 ~~purchase, possess, and administer drugs commonly used for the chemical~~
11 ~~capture of animals for control purposes or to sedate or immobilize pet~~
12 ~~animals immediately prior to euthanasia. Any society or agency so~~
13 ~~licensed shall not permit a person to administer scheduled controlled~~
14 ~~substances, sodium pentobarbital, or sodium pentobarbital in combination~~
15 ~~with other noncontrolled prescription drugs that are medically recognized~~
16 ~~for euthanasia unless such person has demonstrated adequate knowledge~~
17 ~~of the potential hazards and proper techniques to be used in administering~~
18 ~~such drug or combination of drugs. The board may issue a limited license~~
19 ~~to carry out the provisions of this subsection (3). The board shall issue~~
20 ~~such rules as it deems necessary to ensure strict compliance with the~~
21 ~~provisions of this subsection (3) and shall, in conjunction with the state~~
22 ~~board of veterinary medicine, develop criteria for training individuals in~~
23 ~~the administration of such drug or combination of drugs. The board may~~
24 ~~suspend or revoke the license upon determination that the person~~
25 ~~administering such drug or combination of drugs has not demonstrated~~
26 ~~adequate knowledge required by this subsection (3). Nothing in this~~
27 ~~subsection (3) shall be construed to apply to a licensed veterinarian.~~

1 ~~(4)~~ (2) Persons licensed as required under this part 3 2, or
2 otherwise licensed as required by federal law, may possess, ~~manufacture,~~
3 distribute, dispense, administer, or conduct or do research with controlled
4 substances only to the extent authorized by their licenses and in
5 conformity with the provisions of this part 3 2 and with article 18 of title
6 18, C.R.S.

7 ~~(5)~~ (3) ~~The following persons need not be licensed by the~~
8 ~~department or by the board to lawfully possess controlled substances~~
9 ~~under this part 3:~~

10 ~~(a) to (d) (Deleted by amendment, L. 92, p. 387, § 6, effective~~
11 ~~July 1, 1992.)~~

12 ~~(e) Employees of facilities~~ AN EMPLOYEE OF A FACILITY, as
13 defined in section 25-1.5-301, C.R.S., who ~~are~~ IS administering and
14 monitoring medications to persons under the care or jurisdiction of ~~such~~
15 ~~facilities~~ THE FACILITY pursuant to part 3 of article 1.5 of title 25, C.R.S.,
16 NEED NOT BE LICENSED BY THE DEPARTMENT TO LAWFULLY POSSESS
17 CONTROLLED SUBSTANCES UNDER THIS PART 2.

18 ~~(5.5) and (5.6) Repealed.~~

19 ~~(6)~~ (4) ~~Any~~ A person who is required to be BUT IS NOT YET
20 licensed ~~and who is not so licensed~~ may apply for a license at any time.
21 ~~No~~ A person WHO IS required to be licensed UNDER THIS PART 2 shall NOT
22 engage in any activity for which a license is required until ~~his~~ THE
23 DEPARTMENT GRANTS THE PERSON'S application is ~~granted~~ and ISSUES a
24 license is issued to him by the department or the board OR HER.

25 ~~(7)~~ (5) ~~No~~ THE DEPARTMENT SHALL NOT ISSUE A license ~~shall be~~
26 issued under this part 3 2 to a researcher ~~manufacturer, or distributor~~ of
27 marijuana or marijuana concentrate.

1 **27-80-205. [Formerly 12-22-305] Issuance of license - fees.**

2 (1) The department, ~~or the board~~ as provided in section ~~12-22-304(1) or~~
3 ~~(2)~~ 27-80-204 (1), shall issue the appropriate license to each
4 ~~manufacturer, distributor,~~ researcher and addiction program meeting all
5 the requirements of this part ~~3~~ 2 unless it determines that the issuance of
6 the license would be inconsistent with the public interest. In determining
7 the public interest, the department ~~or the board~~ shall consider the
8 following factors:

9 (a) Maintenance of effective controls against diversion of
10 controlled substances into illegitimate medical, scientific, or industrial
11 channels;

12 (b) Compliance with applicable state and local laws;

13 (c) Any conviction of the applicant under any federal or state law
14 relating to a controlled substance;

15 (d) Past experience in the manufacture or distribution of
16 controlled substances and the existence in the applicant's establishment
17 of effective controls against diversion;

18 (e) Any false or fraudulent information in an application filed
19 under this part ~~3~~ 2;

20 (f) Suspension or revocation of the applicant's federal registration
21 to manufacture, distribute, or dispense a controlled substance as
22 authorized by federal law; and

23 (g) Any other factors relevant to and consistent with the public
24 peace, health, and safety.

25 ~~(1.5) Repealed.~~

26 (2) Issuance of a license under subsection (1) of this section does
27 not entitle a licensee to ~~wholesale, manufacture,~~ distribute or

1 professionally use controlled substances beyond the scope of ~~his~~ THE
2 LICENSEE'S federal registration.

3 (3) (a) The initial and annual license fees are as follows:

4 (I) Addiction program \$ 75.00

5 (II) Researchers \$ 25.00

6 (b) ~~Notwithstanding the provisions of paragraph (a) of this~~
7 ~~subsection (3), the fees collected by the board under this article shall be~~
8 ~~determined, collected, and appropriated pursuant to section 24-34-105,~~
9 ~~C.R.S.~~ THE DEPARTMENT SHALL TRANSMIT THE FEES COLLECTED
10 PURSUANT TO THIS SECTION TO THE STATE TREASURER FOR DEPOSIT IN
11 THE CONTROLLED SUBSTANCES PROGRAM FUND CREATED IN SECTION
12 27-80-206.

13 (4) Any person who is licensed may apply for license renewal not
14 more than sixty days before the expiration date of ~~his~~ THE license.

15 (5) ~~Neither~~ The United States, ~~nor~~ the state of Colorado, or any
16 ~~of its political subdivisions shall~~ SUBDIVISION OF THE STATE IS NOT
17 REQUIRED TO pay any license fee required by this part 3 2.

18 **27-80-206. [Formerly 12-22-306] Controlled substances**
19 **program fund - disposition of fees.** There is hereby created in the state
20 treasury the controlled substances program fund. THE DEPARTMENT
21 SHALL TRANSMIT all moneys ~~collected by the department shall be~~
22 ~~transmitted~~ IT COLLECTS PURSUANT TO THIS PART 2 to the state treasurer,
23 who shall credit the ~~same~~ MONEYS to the controlled substances program
24 fund. The general assembly shall make annual appropriations from the
25 controlled substances program fund to the department for the purposes
26 authorized by this part 3 2. All moneys credited to the controlled
27 substances program fund and any interest earned on ~~such~~ THE fund shall

1 remain in the fund and ~~shall~~ DO not revert to the general fund or any other
2 fund at the end of any fiscal year.

3 **27-80-207. [Formerly 12-22-307] Qualifications for license.**

4 (1) An applicant for a license under this part 3 ~~must~~ 2 SHALL have
5 adequate and proper facilities for the handling and storage of controlled
6 substances and SHALL maintain proper control over ~~such~~ THE controlled
7 substances to ~~insure against their being~~ ENSURE THE CONTROLLED
8 SUBSTANCES ARE NOT illegally dispensed or distributed.

9 (2) Any person registered as a researcher by the federal
10 government ~~shall be~~ IS presumed to possess the qualifications described
11 in this section ~~so~~ AS long as his OR HER federal registration is valid.

12 (3) ~~No~~ THE DEPARTMENT SHALL NOT GRANT A license ~~shall be~~
13 ~~granted~~ to ~~any~~ A person who has been convicted within the last two years
14 of a willful violation of this part 3 2 or any other state or federal law
15 regulating controlled substances.

16 (4) Except for fees, compliance by a registrant with the provisions
17 of the federal law respecting registration entitles the registrant to be
18 licensed under this part 3 2.

19 **27-80-208. [Formerly 12-22-308] Denial, revocation, or**

20 **suspension of license.** (1) THE DEPARTMENT MAY DENY, SUSPEND, OR
21 REVOKE a license issued under this ~~part 3 may be denied, suspended, or~~
22 ~~revoked by the department or by the board~~ PART 2 pursuant to article 4 of
23 title 24, C.R.S., upon a finding that the licensee:

24 (a) Has furnished false or fraudulent information in an application
25 filed under this part 3 2;

26 (b) Has been convicted of, or has had accepted by a court a plea
27 of guilty or nolo contendere to, a felony under any state or federal law

1 relating to a controlled substance;

2 (c) Has had his or her federal registration to manufacture, conduct
3 research on, distribute, or dispense a controlled substance suspended or
4 revoked; or

5 (d) Has violated any provision of this part 3 2 or the rules ~~or~~
6 ~~regulations~~ of the department or of the STATE board OF HUMAN SERVICES
7 CREATED IN SECTION 26-1-107, C.R.S.

8 (2) The department ~~or the board~~ may limit revocation or
9 suspension of a license to the particular controlled substance ~~which~~ THAT
10 was the basis for revocation or suspension.

11 (3) If the department ~~or the board~~ suspends or revokes a license,
12 THE DEPARTMENT MAY PLACE all controlled substances owned or
13 possessed by the licensee at the time of the suspension or on the effective
14 date of the revocation order ~~may be placed~~ under seal. ~~No disposition~~
15 THE DEPARTMENT ~~may be made~~ NOT DISPOSE of substances under seal
16 until the time for making an appeal has elapsed or until all appeals have
17 been concluded, unless a court orders otherwise or orders the sale of any
18 perishable controlled substances and the deposit of the proceeds with the
19 court. ~~Upon~~ WHEN a revocation order's becoming ORDER BECOMES final,
20 all controlled substances may be forfeited to the state.

21 (4) The department ~~or the board~~ shall promptly notify the bureau
22 and the appropriate professional licensing agency, if any, of all charges
23 and the final disposition ~~thereof~~ OF THE CHARGES, and of all forfeitures
24 of a controlled substance.

25 **27-80-209. [Formerly 12-22-317] Exemptions.** (1) The
26 provisions of section 18-18-414, C.R.S., ~~shall~~ DO not apply to:

27 (a) Agents of persons licensed under this part 3 2 or under part 3

1 of article 18 of title 18, C.R.S., acting within the provisions of their
2 licenses; or

3 (b) Officers or employees of appropriate agencies of federal,
4 state, or local governments acting pursuant to their official duties.

5 (2) All combination drugs that are exempted by regulation of the
6 attorney general of the United States department of justice, pursuant to
7 section 1006 (b) of Public Law 91-513 (84 Stat. 1236), known as the
8 "Comprehensive Drug Abuse Prevention and Control Act of 1970", on
9 or after July 1, 1981, are ~~exempted~~ EXEMPT from the provisions of this
10 part 3 2 and from the provisions of part 3 of article 18 of title 18, C.R.S.

11 (3) ~~The provisions of This part 3 do 2~~ DOES not apply to peyote
12 if ~~said controlled substance~~ IT is used in religious ceremonies of any bona
13 fide religious organization.

14 (4) ~~The provisions of Section 12-22-318 shall~~ 27-80-210 DOES not
15 apply to a practitioner authorized to prescribe ~~with respect to~~ any
16 controlled substance ~~which~~ THAT is listed in schedules III, IV, or V of
17 part 2 of article 18 of title 18, C.R.S., and ~~which~~ THAT is manufactured,
18 received, or dispensed by ~~him~~ THE PRACTITIONER in the course of his OR
19 HER professional practice, unless: ~~he~~

20 (a) THE PRACTITIONER dispenses, other than by direct
21 administration, ~~any such~~ A SCHEDULE III, IV, OR V controlled substance
22 to his OR HER patients, and ~~they are charged therefor~~ THE PRACTITIONER
23 CHARGES THE PATIENTS either separately or together with charges for
24 other professional services; or ~~unless he~~

25 (b) THE PRACTITIONER regularly engages in dispensing ~~any such~~
26 A SCHEDULE III, IV, OR V controlled substance to his OR HER patients.

27 (5) The exemptions set forth in this section ~~shall be~~ ARE available

1 as a defense to any person accused of violating ~~the provisions of section~~
2 18-18-414, C.R.S.

3 (6) ~~It shall not be necessary for~~ The state IS NOT REQUIRED to
4 negate any exemption or exception in this part 3 2 or in part 3 or 4 of
5 article 18 of title 18, C.R.S., in any complaint, information, indictment,
6 or other pleading or in any trial, hearing, or other proceeding under this
7 part 3 2 or under part 4 of article 18 of title 18, C.R.S. The burden of
8 ~~proof of any such~~ PROVING AN exemption or exception is upon the person
9 claiming ~~it~~ THE EXEMPTION OR EXCEPTION.

10 **27-80-210. [Formerly 12-22-318] Records to be kept - order**
11 **forms.** (1) ~~(a)~~ Each person licensed or otherwise authorized under this
12 part 3 2 or other laws of this state to manufacture, purchase, distribute,
13 dispense, administer, store, or otherwise handle controlled substances
14 shall keep and maintain separate detailed and accurate records and
15 inventories relating to controlled substances and retain ~~all such~~ THE
16 records and inventories for a period of two years after the respective
17 dates of ~~such~~ THE transactions as shown on ~~such~~ THE records and
18 inventories.

19 ~~(b) Repealed.~~

20 (2) The record of any controlled substance distributed,
21 administered, dispensed, or otherwise used ~~shall~~ MUST show the date ~~the~~
22 ~~name and address of person to whom, for whose use,~~ the controlled
23 substance was distributed, administered, dispensed, used, or otherwise
24 disposed of, THE NAME AND ADDRESS OF THE PERSON TO WHOM OR FOR
25 WHOSE USE THE CONTROLLED SUBSTANCE WAS DISTRIBUTED,
26 ADMINISTERED, DISPENSED, USED, OR OTHERWISE DISPOSED OF, and the
27 kind and quantity of ~~such~~ THE controlled substance.

1 ~~(3) Manufacturing records of controlled substances shall include~~
2 ~~the kind and quantity of controlled substances produced or removed from~~
3 ~~process of manufacture and the dates of such production or removal from~~
4 ~~process of manufacture.~~

5 ~~(4) (3) The keeping of~~ A PERSON WHO MAINTAINS a record
6 required by federal law ~~containing~~ THAT CONTAINS substantially the same
7 information as set forth in subsections (1) ~~to (3)~~ AND (2) of this section
8 ~~shall constitute compliance~~ IS DEEMED TO COMPLY with the
9 record-keeping requirements of this part 3 2.

10 ~~(5) (4) A PERSON REQUIRED TO MAINTAIN RECORDS PURSUANT TO~~
11 THIS SECTION SHALL KEEP A record ~~shall also be kept~~ of any controlled
12 substance lost, destroyed, or stolen, the kind and quantity of ~~such~~ THE
13 controlled substance, and the date of ~~such~~ THE loss, destruction, or theft.

14 ~~(5.5) Prescription drug outlets shall report thefts of controlled~~
15 ~~substances to the proper law enforcement agencies and to the board~~
16 ~~within thirty days after the occurrence of such thefts.~~

17 ~~(6) (5) A PERSON LICENSED OR OTHERWISE AUTHORIZED UNDER~~
18 THIS PART 2 OR OTHER LAWS OF THIS STATE SHALL DISTRIBUTE,
19 ADMINISTER, DISPENSE, USE, OR OTHERWISE DISPOSE OF controlled
20 substances listed in schedule I or II of part 2 of article 18 of title 18,
21 C.R.S., ~~shall be distributed by persons licensed or otherwise authorized~~
22 ~~under this part 3 or other laws of this state~~ only pursuant to an order
23 form. Compliance with the provisions of federal law respecting order
24 forms ~~shall be~~ IS deemed compliance with this section.

25 ~~(7) to (11) Repealed.~~

26 **27-80-211. [Formerly 12-22-319] Enforcement and**
27 **cooperation.** (1) Each peace officer and district attorney in this state

1 shall enforce ~~all the provisions of this part 3~~ 2 and shall cooperate with
2 all agencies charged with the enforcement of the laws of this state, all
3 other states, and the United States relating to controlled substances.

4 (2) ~~The board shall make any inspections, investigations, and~~
5 ~~reports that may be necessary to determine compliance with the~~
6 ~~provisions of this part 3 as they pertain to pharmacies, pharmacists, and~~
7 ~~manufacturers and distributors of controlled substances.~~ The department
8 shall cooperate with all agencies charged with the enforcement of the
9 laws of this state, all other states, and the United States relating to
10 controlled substances. TO THIS END, THE DEPARTMENT SHALL:

11 (3) ~~The department of human services shall cooperate with all~~
12 ~~agencies charged with the enforcement of the laws of this state, all other~~
13 ~~states, and the United States relating to controlled substances. To this~~
14 ~~end, the department shall:~~

15 (a) Arrange for the exchange of information among governmental
16 officials concerning the use and abuse of controlled substances;

17 (b) Cooperate with the bureau and with local, state, and other
18 federal agencies by maintaining a centralized unit to accept, catalogue,
19 file, and collect statistics, including records of dependent and other
20 controlled substance law offenders within the state, and make the
21 information available for federal, state, and local law enforcement or
22 regulatory purposes. ~~It~~ THE DEPARTMENT shall not furnish the name or
23 identity of a patient or research subject whose identity could not be
24 obtained under section ~~12-22-320~~ 27-80-212.

25 (c) Respond to referrals, complaints, or other information
26 received regarding possible violations and, upon notification of the
27 appropriate licensing authority, if applicable, and upon a written finding

1 by the executive director of the department that probable cause exists to
2 believe that there is illegal distribution or dispensing of controlled
3 substances, to make any inspections, investigations, and reports that may
4 be necessary to determine compliance with ~~the provisions of this part 3~~
5 2 by all licensed or otherwise authorized individuals who handle
6 controlled substances;

7 (d) Cooperate with and make information available to appropriate
8 state licensing and registration boards regarding any violations of this
9 part 3 2 by persons licensed or registered by ~~such~~ THE boards;

10 (e) Enter into contracts and encourage and conduct educational
11 and research activities designed to prevent and determine misuse and
12 abuse of controlled substances.

13 **27-80-212. [Formerly 12-22-320] Records confidential.**

14 Prescriptions, orders, and records required by this part 3 2 and stocks of
15 controlled substances ~~shall be~~ ARE open for inspection only to federal,
16 state, county, and municipal officers whose duty it is to enforce the laws
17 of this state or of the United States relating to controlled substances or
18 the regulation of practitioners. No officer having knowledge, by virtue of
19 his OR HER office, of ~~any such~~ A prescription, order, or record shall
20 divulge ~~such~~ HIS OR HER knowledge, except in connection with a
21 prosecution or proceeding in court or before a licensing or registration
22 board or officer to which prosecution or proceeding the person to whom
23 ~~such~~ THE prescriptions, orders, or records relate is a party.

24 **27-80-213. Rules.** (1) **[Formerly 12-22-321]** ~~By September 1,~~
25 ~~2007,~~ The department of ~~human services~~ shall update rules ~~existing on~~
26 ~~July 1, 2007,~~ and promulgate new rules, as necessary AND PURSUANT TO
27 ARTICLE 4 OF TITLE 24, C.R.S., to implement ~~the provisions of this part~~

1 ~~3 pursuant to the procedures of article 4 of title 24, C.R.S.~~ PART 2. The
2 department shall make the rules available to the public on its web site.

3 ~~(2)(a) Repealed.~~

4 ~~(b) (Deleted by amendment, L. 93, p. 1121, § 35, effective July~~
5 ~~1, 1994.)~~

6 (2) **[Formerly 12-22-322]** The department ~~of human services~~
7 shall promulgate rules, ~~and regulations~~ IN ACCORDANCE WITH ARTICLE 4
8 OF TITLE 24, C.R.S., for research programs and for the conduct of
9 detoxification treatment, maintenance treatment, and withdrawal
10 treatment programs for controlled substance addiction. ~~Such rules and~~
11 ~~regulations shall be promulgated in accordance with the provisions of~~
12 ~~article 4 of title 24, C.R.S.~~

13 **27-80-214. [Formerly 12-22-324] Defenses.** The common law
14 defense known as the "procuring agent defense" is not a defense to any
15 crime in this ~~article~~ PART 2 or in title 18, C.R.S.

16 **SECTION 6.** In Colorado Revised Statutes, 8-2-111.6, **amend**
17 (5) as follows:

18 **8-2-111.6. Health care employers - immunity from civil**
19 **liability - requirements - exception to blacklisting prohibition -**
20 **legislative declaration.** (5) For the purposes of this section, "health care
21 worker" means any person registered, certified, or licensed pursuant to
22 ~~article 22 of title 12, C.R.S.~~, articles 29.5 to 43.2 of title 12, C.R.S., ~~and~~
23 OR article 3.5 of title 25, C.R.S., or any person who interacts directly with
24 a patient or assists with the patient care process, who is currently
25 employed by, or is a prospective employee of, the employer making the
26 inquiry.

27 **SECTION 7.** In Colorado Revised Statutes, 8-42-112.5, **amend**

1 (1) as follows:

2 **8-42-112.5. Limitation on payments - use of controlled**
3 **substances.** (1) Nonmedical benefits otherwise payable to an injured
4 worker ~~shall be~~ ARE reduced fifty percent where THE injury results from
5 the presence in the worker's system, during working hours, of ~~not~~
6 ~~medically prescribed~~ controlled substances, as defined in section
7 ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., THAT ARE NOT MEDICALLY
8 PRESCRIBED or of a blood alcohol level at or above 0.10 percent, or at or
9 above an applicable lower level as set forth by federal statute or
10 regulation, as evidenced by a forensic drug or alcohol test conducted by
11 a medical facility or laboratory licensed or certified to conduct such tests.
12 A duplicate sample from any test conducted ~~shall~~ MUST be preserved and
13 made available to the worker for purposes of a second test to be
14 conducted at the worker's expense. If the test indicates the presence of
15 such substances or of alcohol at such level, it ~~shall be~~ IS presumed that
16 the employee was intoxicated and that the injury was due to ~~such~~ THE
17 intoxication. This presumption may be overcome by clear and convincing
18 evidence.

19 **SECTION 8.** In Colorado Revised Statutes, 8-73-108, **amend** (4)
20 (b) (IV) introductory portion, (5) (e) (VIII), (5) (e) (IX), and (5) (e) (IX.5)
21 as follows:

22 **8-73-108. Benefit awards - repeal.** (4) **Full award.** An
23 individual separated from a job shall be given a full award of benefits if
24 any of the following reasons and pertinent conditions related thereto are
25 determined by the division to have existed. The determination of whether
26 or not the separation from employment shall result in a full award of
27 benefits shall be the responsibility of the division. The following reasons

1 shall be considered, along with any other factors that may be pertinent to
2 such determination:

3 (b) (IV) The off-the-job or on-the-job use of not medically
4 prescribed intoxicating beverages or controlled substances, as defined in
5 section ~~12-22-303(7)~~ 18-18-102 (5), C.R.S., may be reason for a
6 determination for a full award pursuant to this paragraph (b), but only if:

7 (5) **Disqualification.** (e) Subject to the maximum reduction
8 consistent with federal law, and insofar as consistent with interstate
9 agreements, if a separation from employment occurs for any of the
10 following reasons, the employer from whom such separation occurred
11 shall not be charged for benefits which are attributable to such
12 employment and, because any payment of benefits which are attributable
13 to such employment out of the fund as defined in section 8-70-103 (13)
14 shall be deemed to have an adverse effect on such employer's account in
15 such fund, no payment of such benefits shall be made from such fund:

16 (VIII) Off-the-job use of not medically prescribed intoxicating
17 beverages or controlled substances, as defined in section ~~12-22-303(7)~~
18 18-18-102 (5), C.R.S., to a degree resulting in interference with job
19 performance;

20 (IX) On-the-job use of or distribution of not medically prescribed
21 intoxicating beverages or controlled substances, as defined in section
22 ~~12-22-303(7)~~ 18-18-102 (5), C.R.S.;

23 (IX.5) The presence in an individual's system, during working
24 hours, of not medically prescribed controlled substances, as defined in
25 section ~~12-22-303(7)~~ 18-18-102 (5), C.R.S., or of a blood alcohol level
26 at or above 0.04 percent, or at or above an applicable lower level as set
27 forth by federal statute or regulation, as evidenced by a drug or alcohol

1 test administered pursuant to a statutory or regulatory requirement or a
2 previously established, written drug or alcohol policy of the employer and
3 conducted by a medical facility or laboratory licensed or certified to
4 conduct such tests;

5 **SECTION 9.** In Colorado Revised Statutes, 12-2-123, **amend** (1)
6 (p) as follows:

7 **12-2-123. Grounds for disciplinary action - administrative**
8 **penalties.** (1) After notice and hearing as provided in section 12-2-125,
9 the board may deny the issuance of, refuse to renew, revoke, or suspend
10 any certificate of a certified public accountant issued under this article or
11 any prior law of this state or may fine, issue a letter of admonition to, or
12 place on probation the holder of any certificate and impose other
13 conditions or limitations for any of the following causes:

14 (p) Habitual intemperance with respect to or excessive use of a
15 habit-forming drug, controlled substance as defined in section ~~12-22-303~~
16 ~~(7)~~ 18-18-102 (5), C.R.S., or alcoholic beverage that renders the certified
17 public accountant unfit to practice public accounting;

18 **SECTION 10.** In Colorado Revised Statutes, 12-10-107.1,
19 **amend** (1) (d) as follows:

20 **12-10-107.1. Grounds for discipline.** (1) The director may deny,
21 suspend, revoke, place on probation, or issue a letter of admonition
22 against a license or an application for a license if the applicant or
23 licensee:

24 (d) Is addicted to or dependent upon alcohol or any controlled
25 substance, ~~within the meaning of part 3 of article 22 of this title~~ AS
26 DEFINED IN SECTION 18-18-102 (5), C.R.S., or is a habitual user of said
27 controlled substance, if the use, addiction, or dependency is a danger to

1 other participants or officials;

2 **SECTION 11.** In Colorado Revised Statutes, 12-25-308, **amend**

3 (1) (i) as follows:

4 **12-25-308. Disciplinary actions - grounds for discipline.**

5 (1) The board may deny, suspend, revoke, or refuse to renew the license
6 of, place on probation, or limit the scope of practice of a licensee for the
7 following:

8 (i) Habitual intemperance with respect to, or excessive use of, any
9 habit-forming drug, any controlled substance as defined in section
10 ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or any alcoholic beverage, any of
11 which renders him or her unfit to practice architecture;

12 **SECTION 12.** In Colorado Revised Statutes, 12-29.5-106,
13 **amend** (1) (m) as follows:

14 **12-29.5-106. Grounds for disciplinary action.** (1) The director
15 may deny licensure to or take disciplinary action against an acupuncturist
16 pursuant to section 24-4-105, C.R.S., if the director finds that the
17 acupuncturist has committed any of the following acts:

18 (m) Continued in the practice of acupuncture while addicted to or
19 dependent upon alcohol or upon any habit-forming drug or while abusing
20 or habitually or excessively using any such habit-forming drug or any
21 controlled substance as defined in section ~~12-22-303 (7)~~ 18-18-102 (5),
22 C.R.S.;

23 **SECTION 13.** In Colorado Revised Statutes, 12-32-107, **amend**
24 (3) (n) and (3) (o) as follows:

25 **12-32-107. Issuance, revocation, or suspension of license -**
26 **probation - immunity in professional review.** (3) "Unprofessional
27 conduct" as used in this article means:

1 (n) Administering, dispensing, or prescribing any habit-forming
2 drug or any controlled substance, as defined in section ~~12-22-303 (7)~~
3 18-18-102 (5), C.R.S., other than in the course of legitimate professional
4 practice, which includes only prescriptions related to the scope of
5 podiatric medicine as defined in section 12-32-101 (3) (a);

6 (o) Conviction of violation of any federal or state law regulating
7 the possession, distribution, or use of any controlled substance, as defined
8 in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., and, for the purposes of
9 this paragraph (o), a plea of guilty or a plea of nolo contendere accepted
10 by the court shall be considered as a conviction;

11 **SECTION 14.** In Colorado Revised Statutes, 12-32-109.3,
12 **amend** (1) as follows:

13 **12-32-109.3. Use of physician assistants.** (1) A person licensed
14 under the laws of this state to practice podiatry may delegate to a
15 physician assistant licensed by the Colorado medical board pursuant to
16 section 12-36-107.4 the authority to perform acts that constitute the
17 practice of podiatry to the extent and in the manner authorized by rules
18 promulgated by the Colorado podiatry board. Such acts shall be
19 consistent with sound practices of podiatry. Each prescription issued by
20 a physician assistant shall have the name of his or her supervising
21 podiatrist printed on the prescription. Nothing in this section shall limit
22 the ability of otherwise licensed health personnel to perform delegated
23 acts. The dispensing of prescription medication by a physician assistant
24 shall be subject to section ~~12-22-121 (6)~~ 12-42.5-118 (6).

25 **SECTION 15.** In Colorado Revised Statutes, 12-36-106, **amend**
26 (5) (a) as follows:

27 **12-36-106. Practice of medicine defined - exemptions from**

1 **licensing requirements - unauthorized practice by physician**
2 **assistants - penalties - rules.** (5) (a) A person licensed under the laws
3 of this state to practice medicine may delegate to a physician assistant
4 licensed by the board pursuant to section 12-36-107.4 the authority to
5 perform acts that constitute the practice of medicine to the extent and in
6 the manner authorized by rules promulgated by the board, including the
7 authority to prescribe medication, including controlled substances, and
8 dispense only such drugs as designated by the board. Such acts shall be
9 consistent with sound medical practice. Each prescription issued by a
10 physician assistant licensed by the board shall be imprinted with the name
11 of his or her supervising physician. Nothing in this subsection (5) shall
12 limit the ability of otherwise licensed health personnel to perform
13 delegated acts. The dispensing of prescription medication by a physician
14 assistant shall be subject to the provisions of section ~~12-22-121 (6)~~
15 **12-42.5-118 (6).**

16 **SECTION 16.** In Colorado Revised Statutes, 12-36-117, **amend**
17 (1) (g), (1) (h), and (1) (i) as follows:

18 **12-36-117. Unprofessional conduct.** (1) "Unprofessional
19 conduct" as used in this article means:

20 (g) Administering, dispensing, or prescribing any habit-forming
21 drug or any controlled substance as defined in section ~~12-22-303 (7)~~
22 18-18-102 (5), C.R.S., other than in the course of legitimate professional
23 practice;

24 (h) Any conviction of violation of any federal or state law
25 regulating the possession, distribution, or use of any controlled substance,
26 as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., and, in
27 determining if a license should be denied, revoked, or suspended, or if

1 the licensee should be placed on probation, the board shall be governed
2 by section 24-5-101, C.R.S. For purposes of this paragraph (h),
3 "conviction" includes the entry of a plea of guilty or nolo contendere or
4 the imposition of a deferred sentence.

5 (i) Habitual or excessive use or abuse of alcohol, a habit-forming
6 drug, or a controlled substance as defined in section ~~12-22-303 (7)~~
7 18-18-102 (5), C.R.S.;

8 **SECTION 17.** In Colorado Revised Statutes, 12-37-107, **amend**
9 (3) (f) as follows:

10 **12-37-107. Disciplinary action authorized - grounds for**
11 **discipline - injunctions - rules.** (3) The director may deny, revoke, or
12 suspend a registration or issue a letter of admonition or place a registrant
13 on probation for any of the following acts or omissions:

14 (f) Abuse or habitual or excessive use of a habit-forming drug, a
15 controlled substance as defined in section ~~12-22-303 (7)~~ 18-18-102 (5),
16 C.R.S., or alcohol;

17 **SECTION 18.** In Colorado Revised Statutes, 12-38-111.6,
18 **amend** (1), (9), and (10) as follows:

19 **12-38-111.6. Prescriptive authority - advanced practice nurses**
20 **- rules.** (1) THE BOARD MAY AUTHORIZE an advanced practice nurse who
21 is listed on the advanced practice registry, has a license in good standing
22 without disciplinary sanctions issued pursuant to section 12-38-111, and
23 has fulfilled requirements established by the board pursuant to this
24 section ~~may be authorized by the board~~ to prescribe controlled substances
25 or prescription drugs as defined in PART 1 OF article ~~22~~ 42.5 of this title.

26 (9) All prescriptions ~~shall be in compliance~~ MUST COMPLY with
27 applicable federal and state laws, including article ~~22~~ 42.5 of this title and

1 part 2 of article 18 of title 18, C.R.S.

2 (10) Nothing in this section shall be construed to permit
3 dispensing or distribution, as defined in section ~~12-22-102~~ 12-42.5-102
4 (11) AND (12), by an advanced practice nurse, except for samples, under
5 article ~~22~~ 42.5 of this title and the federal "Prescription Drug Marketing
6 Act of 1987".

7 **SECTION 19.** In Colorado Revised Statutes, 12-38-117, **amend**
8 (1) (i), (1) (q), (1) (r), and (1) (s) as follows:

9 **12-38-117. Grounds for discipline.** (1) "Grounds for discipline",
10 as used in this article, means any action by any person who:

11 (i) Excessively uses or abuses alcohol, habit-forming drugs,
12 controlled substances, as defined in section ~~12-22-303~~ 18-18-102 (5),
13 C.R.S., or other drugs having similar effects, or is diverting controlled
14 substances, as defined in section ~~12-22-303~~ 18-18-102 (5), C.R.S., or
15 other drugs having similar effects from the licensee's place of
16 employment; except that the board has the discretion not to discipline the
17 licensee if such licensee is participating in good faith in a program
18 approved by the board designed to end such excessive use or abuse;

19 (q) Has dispensed, injected, or prescribed an anabolic steroid, as
20 defined in section ~~12-22-102 (2.5)~~ 18-18-102 (3), C.R.S., for the purpose
21 of hormonal manipulation that is intended to increase muscle mass,
22 strength, or weight without a medical necessity to do so or for the
23 intended purpose of improving performance in any form of exercise,
24 sport, or game;

25 (r) Has dispensed or injected an anabolic steroid, as defined in
26 section ~~12-22-102 (2.5)~~ 18-18-102 (3), C.R.S., unless such anabolic
27 steroid is dispensed from a pharmacy pursuant to a written prescription

1 or is dispensed by any person licensed to practice medicine in the course
2 of such person's professional practice;

3 (s) Has administered, dispensed, or prescribed any habit-forming
4 drug or any controlled substance as defined in section ~~12-22-303(7)~~
5 18-18-102 (5), C.R.S., other than in the course of legitimate professional
6 practice;

7 **SECTION 20.** In Colorado Revised Statutes, 12-38.1-111,
8 **amend** (1) (i) as follows:

9 **12-38.1-111. Grounds for discipline.** (1) The board may
10 suspend, revoke, or deny any person's certification to practice as a nurse
11 aide or authority to practice as a medication aide, or may issue to the
12 person a letter of admonition, upon proof that such person:

13 (i) Has habitual intemperance or excessively uses any
14 habit-forming drug or any controlled substance as defined in section
15 ~~12-22-303(7)~~ 18-18-102 (5), C.R.S., or other drugs having similar
16 effects, or is diverting controlled substances, as defined in section
17 18-18-102 (5), C.R.S., or other drugs having similar effects from the
18 person's place of employment;

19 **SECTION 21.** In Colorado Revised Statutes, 12-39-111, **amend**
20 (1) (g) as follows:

21 **12-39-111. Grounds for discipline.** (1) The board has the power
22 to revoke, suspend, withhold, or refuse to renew any license, to place on
23 probation a licensee or temporary license holder, or to issue a letter of
24 admonition to a licensee in accordance with the procedures set forth in
25 subsection (3) of this section, upon proof that such person:

26 (g) Is addicted to or dependent on alcohol or habit-forming drugs,
27 abuses or engages in the habitual or excessive use of any such

1 habit-forming drug or any controlled substance as defined in section
2 ~~12-22-303 (7)~~ or 18-18-102 (5), C.R.S., or participates in the unlawful
3 use of controlled substances as specified in section 18-18-404, C.R.S.;
4 except that the board has the discretion not to discipline the licensee if
5 such person is participating, in good faith, in a program approved by the
6 board designed to end such addiction or dependency;

7 **SECTION 22.** In Colorado Revised Statutes, 12-40-108, **amend**
8 (1) (d) as follows:

9 **12-40-108. Application for license - licensure by endorsement.**

10 (1) A person who desires to practice optometry in the state may file with
11 the board an application for a license, giving the information required in
12 a form and manner approved by the board. The applicant shall
13 demonstrate that he or she possesses the following qualifications:

14 (d) The applicant is not addicted to or dependent on, and has not
15 habitually or excessively used or abused, intoxicating liquors,
16 habit-forming drugs, or controlled substances as defined in section
17 ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.

18 **SECTION 23.** In Colorado Revised Statutes, 12-40-109.5,
19 **amend** (1) and (1.5) as follows:

20 **12-40-109.5. Use of prescription and nonprescription drugs.**

21 (1) Notwithstanding section ~~12-22-121~~ 12-42.5-118, a licensed
22 optometrist may purchase, possess, and administer prescription or
23 nonprescription drugs for examination purposes only if, after July 1,
24 1983, the optometrist has complied with the following minimum
25 requirements: Successful completion, by attendance and examination, of
26 at least fifty-five classroom hours of study in general, ocular, and clinical
27 pharmacology which must have been completed within twenty-four

1 months preceding the application for certification; except that, in the
2 event that such classroom hours have been completed since 1976, only
3 six of such classroom hours must have been completed within
4 twenty-four months preceding the application for certification. The
5 courses shall be offered by an institution that is accredited by a regional
6 or professional accreditation organization recognized or approved by the
7 council on postsecondary education or the United States department of
8 education or their successors.

9 (1.5) Notwithstanding section ~~12-22-121~~ 12-42.5-118, a licensed
10 optometrist may purchase, possess, administer, and prescribe prescription
11 or nonprescription drugs for treatment on and after July 1, 1988, only if
12 the optometrist has complied with the following minimum requirements
13 within twenty-four months preceding the application for certification:
14 Successful completion, by attendance and examination, of at least sixty
15 classroom hours of study in ocular pharmacology, clinical pharmacology,
16 therapeutics, and anterior segment disease; and successful completion by
17 attendance and examination of at least sixty hours of approved supervised
18 clinical training in the examination, diagnosis, and treatment of
19 conditions of the human eye and its appendages. The courses shall be
20 offered by an institution that is accredited by a regional or professional
21 accreditation organization recognized or approved by the council of
22 postsecondary education or the United States department of education or
23 their successors.

24 **SECTION 24.** In Colorado Revised Statutes, 12-40-118, **amend**
25 (1) (e) and (1) (bb); and repeal (1) (cc) as follows:

26 **12-40-118. Unprofessional conduct defined.** (1) The term
27 "unprofessional conduct", as used in this article, means:

1 (e) The habitual or excessive use or abuse of alcohol, a
2 habit-forming drug, or any controlled substance as defined in section
3 ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.;

4 (bb) Administering, dispensing, or prescribing any prescription
5 drug, as defined in section ~~12-22-102 (30)~~ 12-42.5-102 (34), or any
6 controlled substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5),
7 C.R.S., other than in the course of legitimate professional practice;

8 (cc) Dispensing for a fee any prescription drug, as defined in
9 section 12-22-102, or any controlled substance, as defined in section
10 12-22-303, except as permitted in sections 12-22-121 (6) (c) and
11 12-40-102 (5) (b);

12 **SECTION 25.** In Colorado Revised Statutes, 12-40-118.5,
13 **amend** (5) (e) as follows:

14 **12-40-118.5. Mental and physical examination of licensees.**

15 (5) (e) For purposes of this subsection (5), "physical or mental illness or
16 condition" does not include the habitual or excessive use or abuse of
17 alcohol, a habit-forming drug, or any controlled substance as defined in
18 section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.

19 **SECTION 26.** In Colorado Revised Statutes, 12-41-115, **amend**
20 (1) (l) and (1) (m) (III) as follows:

21 **12-41-115. Grounds for disciplinary action.** (1) The board may
22 take disciplinary action in accordance with section 12-41-116 against a
23 person who has:

24 (l) Engaged in the habitual or excessive use or abuse of alcohol,
25 a habit-forming drug, or a controlled substance as defined in section
26 ~~12-22-303~~ 18-18-102 (5), C.R.S.;

27 (m) (III) Failed to comply with the limitations agreed to under a

1 confidential agreement entered pursuant to section ~~12-41-118~~
2 ~~12-41-118.5~~;

3 **SECTION 27.** In Colorado Revised Statutes, 12-41-210, **amend**
4 (1) (h) as follows:

5 **12-41-210. Grounds for disciplinary action.** (1) The board may
6 take disciplinary action in accordance with section 12-41-211 against a
7 person who has:

8 (h) Engaged in the habitual or excessive use or abuse of alcohol,
9 a habit-forming drug, or a controlled substance as defined in section
10 ~~12-22-303~~ 18-18-102 (5), C.R.S.;

11 **SECTION 28.** In Colorado Revised Statutes, 12-41.5-109,
12 **amend** (2) (h) as follows:

13 **12-41.5-109. Grounds for action - disciplinary proceedings.**

14 (2) The director has the power to revoke, suspend, deny, or refuse to
15 renew a license, place on probation a licensee, or issue a letter of
16 admonition to a licensee in accordance with subsections (3), (4), (5), and
17 (6) of this section upon proof that such person:

18 (h) Is an excessive or habitual user or abuser of alcohol or
19 habit-forming drugs or is a habitual user of a controlled substance, as
20 defined in section ~~12-22-303-(7)~~ 18-18-102 (5), C.R.S., or other drugs
21 having similar effects; except that the director has the discretion not to
22 discipline the license holder if he or she is participating in good faith in
23 a program approved by the director designed to end such use or abuse;

24 **SECTION 29.** In Colorado Revised Statutes, 12-42-113, **amend**
25 (1) (i) as follows:

26 **12-42-113. Grounds for discipline.** (1) "Grounds for discipline",
27 as used in this article, means any action by any person who:

1 (i) Is addicted to or dependent on alcohol or habit-forming drugs,
2 is a habitual user of controlled substances, as defined in section
3 ~~12-22-303(7)~~ 18-18-102 (5), C.R.S., or other drugs having similar
4 effects, or is diverting controlled substances, as defined in section
5 ~~12-22-303(7)~~ 18-18-102(5), C.R.S., or other drugs having similar effects
6 from the licensee's place of employment; except that the board has the
7 discretion not to discipline the licensee if such licensee is participating
8 in good faith in a program approved by the board designed to end such
9 addiction or dependency;

10 **SECTION 30.** In Colorado Revised Statutes, 12-43-222, **amend**
11 (1) (e) as follows:

12 **12-43-222. Prohibited activities - related provisions.** (1) A
13 person licensed, registered, or certified under this article violates this
14 article if the person:

15 (e) Habitually or excessively uses or abuses alcohol, a
16 habit-forming drug, or a controlled substance, as defined in section
17 ~~12-22-303~~ 18-18-102 (5), C.R.S.;

18 **SECTION 31.** In Colorado Revised Statutes, 12-43.3-104,
19 **amend** (7) as follows:

20 **12-43.3-104. Definitions.** As used in this article, unless the
21 context otherwise requires:

22 (7) "Medical marijuana" means marijuana that is grown and sold
23 pursuant to the provisions of this article and for a purpose authorized by
24 section 14 of article XVIII of the state constitution but shall not be
25 considered a nonprescription drug for purposes of section ~~12-22-102(20)~~
26 12-42.5-102 (21) or ~~section~~ 39-26-717, C.R.S., or an over-the-counter
27 medication for purposes of section 25.5-5-322, C.R.S.

1 **SECTION 32.** In Colorado Revised Statutes, 12-58-110, **amend**

2 (1) (l) as follows:

3 **12-58-110. Disciplinary action by board - licenses or**
4 **registrations denied, suspended, or revoked - cease-and-desist orders.**

5 (1) The board may deny, suspend, revoke, or refuse to renew any license
6 or registration issued or applied for under the provisions of this article or
7 place a licensee or a registrant on probation for any of the following
8 reasons:

9 (l) Habitual intemperance with respect to or excessive use of any
10 habit-forming drug, any controlled substance as defined in section
11 ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or any alcoholic beverage;

12 **SECTION 33.** In Colorado Revised Statutes, 13-4-102, **amend**

13 (2) (k) as follows:

14 **13-4-102. Jurisdiction.** (2) The court of appeals has initial
15 jurisdiction to:

16 (k) Review all final actions and orders appropriate for judicial
17 review of the state board of pharmacy, as provided in section ~~12-22-125.5~~
18 12-42.5-125, C.R.S.;

19 **SECTION 34.** In Colorado Revised Statutes, 13-21-115.5,

20 **amend** (3) (c) (II) (Q) as follows:

21 **13-21-115.5. Volunteer service act - immunity - exception for**
22 **operation of motor vehicles.** (3) As used in this section, unless the
23 context otherwise requires:

24 (c) (II) "Volunteer" includes:

25 (Q) A licensed pharmacist governed by ~~the provisions of~~ article
26 ~~22~~ 42.5 of title 12, C.R.S., performing the practice of pharmacy, as
27 defined in section ~~12-22-102 (26)~~ 12-42.5-102 (31), C.R.S., as a

1 volunteer for a nonprofit organization, a nonprofit corporation, a
2 governmental entity, or a hospital;

3 **SECTION 35.** In Colorado Revised Statutes, 16-15-102, **amend**
4 (1) (a) (VI) as follows:

5 **16-15-102. Ex parte order authorizing the interception of**
6 **wire, oral, or electronic communications.** (1) (a) An ex parte order
7 authorizing or approving the interception of any wire, oral, or electronic
8 communication may be issued by any judge of competent jurisdiction of
9 the state of Colorado upon application of the attorney general or a district
10 attorney, or his or her designee if the attorney general or district attorney
11 is absent from his or her jurisdiction, showing by affidavit that there is
12 probable cause to believe that evidence will be obtained of the
13 commission of any one of the crimes enumerated in this subsection (1)
14 or that one of said enumerated crimes will be committed:

15 (VI) Dealing in controlled substances as covered by part 3 1 of
16 article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE 27,
17 C.R.S., as such offenses are subject to prosecution as felonies;

18 **SECTION 36.** In Colorado Revised Statutes, 17-2-201, **amend**
19 (5.5) (b) as follows:

20 **17-2-201. State board of parole.** (5.5) (b) For purposes of this
21 subsection (5.5), "drug" means:

22 (I) Any "controlled substance" as defined in section ~~12-22-303~~ (7)
23 18-18-102 (5), C.R.S.; and

24 (II) Any "drug" as defined in section ~~12-22-303~~ (13) 27-80-203
25 (13), C.R.S., if chemical testing conducted pursuant to paragraph (a) of
26 this subsection (5.5) reveals such drug is present at such a level as to be
27 considered abusive pursuant to regulations established by the board in

1 consultation with the department of human services.

2 **SECTION 37.** In Colorado Revised Statutes, 18-1.3-204, **amend**

3 (2) (a) (VIII) as follows:

4 **18-1.3-204. Conditions of probation.** (2) (a) When granting
5 probation, the court may, as a condition of probation, require that the
6 defendant:

7 (VIII) Refrain from excessive use of alcohol or any unlawful use
8 of controlled substances, as defined in section ~~12-22-303 (7), C.R.S.~~
9 18-18-102 (5), or of any other dangerous or abusable drug without a
10 prescription;

11 **SECTION 38.** In Colorado Revised Statutes, 18-3-106, **amend**

12 (1) (b) (II) as follows:

13 **18-3-106. Vehicular homicide.** (1) (b) (II) For the purposes of
14 this subsection (1), one or more drugs shall mean all substances defined
15 as a drug in section ~~12-22-303 (13)~~ 27-80-203 (13), C.R.S., and all
16 controlled substances defined in section ~~12-22-303 (7), C.R.S.~~ 18-18-102
17 (5), and glue-sniffing, aerosol inhalation, or the inhalation of any other
18 toxic vapor or vapors as defined in section 18-18-412.

19 **SECTION 39.** In Colorado Revised Statutes, 18-3-205, **amend**

20 (1) (b) (II) as follows:

21 **18-3-205. Vehicular assault.** (1) (b) (II) For the purposes of this
22 subsection (1), one or more drugs shall mean all substances defined as a
23 drug in section ~~12-22-303 (13)~~ 27-80-203 (13), C.R.S., and all controlled
24 substances defined in section ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5), and
25 glue-sniffing, aerosol inhalation, or the inhalation of any other toxic
26 vapor or vapors as defined in section 18-18-412.

27 **SECTION 40.** In Colorado Revised Statutes, 18-4-202, **amend**

1 (3) as follows:

2 **18-4-202. First degree burglary.** (3) If under the circumstances
3 stated in subsection (1) of this section the property involved is a
4 controlled substance, as defined in section ~~12-22-303 (7), C.R.S.~~
5 18-18-102(5), within a pharmacy or other place having lawful possession
6 thereof, such person commits first degree burglary of controlled
7 substances, which is a class 2 felony.

8 **SECTION 41.** In Colorado Revised Statutes, 18-4-203, **amend**
9 (2) (b) as follows:

10 **18-4-203. Second degree burglary.** (2) Second degree burglary
11 is a class 4 felony, but it is a class 3 felony if:

12 (b) It is a burglary, the objective of which is the theft of a
13 controlled substance, as defined in section ~~12-22-303 (7), C.R.S.~~
14 18-18-102 (5), lawfully kept within any building or occupied structure.

15 **SECTION 42.** In Colorado Revised Statutes, 18-4-204, **amend**
16 (2) as follows:

17 **18-4-204. Third degree burglary.** (2) Third degree burglary is
18 a class 5 felony, but it is a class 4 felony if it is a burglary, the objective
19 of which is the theft of a controlled substance, as defined in section
20 ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5), lawfully kept in or upon the
21 property burglarized.

22 **SECTION 43.** In Colorado Revised Statutes, 18-4-303, **amend**
23 (1) as follows:

24 **18-4-303. Aggravated robbery of controlled substances.** (1) A
25 person who takes any controlled substance, as defined in section
26 ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5), from any pharmacy or other place
27 having lawful possession thereof or from any pharmacist or other person

1 having lawful possession thereof under the aggravating circumstances
2 defined in section 18-4-302 is guilty of aggravated robbery of controlled
3 substances.

4 **SECTION 44.** In Colorado Revised Statutes, 18-4-412, **amend**
5 (2) (a) as follows:

6 **18-4-412. Theft of medical records or medical information -**
7 **penalty.** (2) As used in this section:

8 (a) "Medical record" means the written or graphic documentation,
9 sound recording, or computer record pertaining to medical, mental health,
10 and health care services, including medical marijuana services, that are
11 performed at the direction of a physician or other licensed health care
12 provider on behalf of a patient by physicians, dentists, nurses,
13 technicians, emergency medical technicians, mental health professionals,
14 prehospital providers, or other health care personnel. "Medical record"
15 includes such diagnostic documentation as X rays, electrocardiograms,
16 electroencephalograms, and other test results. "Medical record" includes
17 data entered into the prescription drug monitoring program pursuant to
18 section ~~12-22-704~~ 12-42.5-403, C.R.S.

19 **SECTION 45.** In Colorado Revised Statutes, 18-5-116, **amend**
20 (1) as follows:

21 **18-5-116. Controlled substances - inducing consumption by**
22 **fraudulent means.** (1) It is unlawful for any person, surreptitiously or
23 by means of fraud, misrepresentation, suppression of truth, deception, or
24 subterfuge, to cause any other person to unknowingly consume or receive
25 the direct administration of any controlled substance, as defined in
26 section ~~12-22-303 (7)~~, C.R.S. 18-18-102 (5); except that nothing in this
27 section shall diminish the scope of health care authorized by law.

1 **SECTION 46.** In Colorado Revised Statutes, 18-8-203, **amend**
2 (1) (a) as follows:

3 **18-8-203. Introducing contraband in the first degree.** (1) A
4 person commits introducing contraband in the first degree if he or she
5 knowingly and unlawfully:

6 (a) Introduces or attempts to introduce a dangerous instrument,
7 malt, vinous, or spirituous liquor, as defined in section 12-47-103,
8 C.R.S., fermented malt beverage, as defined in section 12-46-103, C.R.S.,
9 controlled substance, as defined in section 18-18-102 (5), or marijuana
10 or marijuana concentrate, as defined in section ~~12-22-303 (17) and (18)~~
11 27-80-203 (15) AND (16), C.R.S., into a detention facility or at any
12 location where an inmate is or is likely to be located, while the inmate is
13 in the custody and under the jurisdiction of a political subdivision of the
14 state of Colorado or the department of corrections, but not on parole; or

15 **SECTION 47.** In Colorado Revised Statutes, 18-8-204, **amend**
16 (2) (g) as follows:

17 **18-8-204. Introducing contraband in the second degree.**
18 (2) "Contraband" as used in this section means any of the following, but
19 does not include any article or thing referred to in section 18-8-203:

20 (g) Any drug, other than a controlled substance as defined in
21 section ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5), in quantities other than
22 those authorized by a physician;

23 **SECTION 48.** In Colorado Revised Statutes, 18-12-106, **amend**
24 (1) (d) as follows:

25 **18-12-106. Prohibited use of weapons.** (1) A person commits
26 a class 2 misdemeanor if:

27 (d) The person has in his or her possession a firearm while the

1 person is under the influence of intoxicating liquor or of a controlled
2 substance, as defined in section ~~12-22-303 (7)~~, C.R.S. 18-18-102 (5).
3 Possession of a permit issued under section 18-12-105.1, as it existed
4 prior to its repeal, or possession of a permit or a temporary emergency
5 permit issued pursuant to part 2 of this article is no defense to a violation
6 of this subsection (1).

7 **SECTION 49.** In Colorado Revised Statutes, 18-13-123, **amend**
8 (4) (b) as follows:

9 **18-13-123. Unlawful administration of gamma**
10 **hydroxybutyrate (GHB) or ketamine.** (4) (b) It shall not be a violation
11 of this section if ketamine is distributed or dispensed by or under the
12 direction of such authorized person for use by a humane society that is
13 duly registered with the secretary of state and has been in existence and
14 in business for at least five years in this state as a nonprofit corporation,
15 or by an animal control agency that is operated by a unit of government
16 to control animals and to euthanize injured, sick, homeless, or unwanted
17 pets or animals, if ~~such~~ THE humane society or animal control agency is
18 ~~licensed~~ REGISTERED pursuant to section ~~12-22-304~~ 12-42.5-117 (12),
19 C.R.S.

20 **SECTION 50.** In Colorado Revised Statutes, 18-17-103, **amend**
21 (5) (b) (XIV) as follows:

22 **18-17-103. Definitions.** As used in this article, unless the context
23 otherwise requires:

24 (5) "Racketeering activity" means to commit, to attempt to
25 commit, to conspire to commit, or to solicit, coerce, or intimidate another
26 person to commit:

27 (b) Any violation of the following provisions of the Colorado

1 statutes or any criminal act committed in any jurisdiction of the United
2 States which, if committed in this state, would be a crime under the
3 following provisions of the Colorado statutes:

4 (XIV) Offenses relating to controlled substances (part 3 1 of
5 article ~~22~~ 42.5 of title 12, C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27,
6 C.R.S., and article 18 of this title);

7 **SECTION 51.** In Colorado Revised Statutes, 18-18-102, **amend**
8 (2) and (27) as follows:

9 **18-18-102. Definitions.** As used in this article:

10 (2) "Agent" means an authorized person who acts on behalf of or
11 at the direction of a person licensed or otherwise authorized under this
12 article or under part 3 2 of article ~~22~~ 80 of title ~~12~~ 27, C.R.S. "Agent"
13 does not include a common or contract carrier, a public warehouseman,
14 or an employee of a carrier or warehouseman.

15 (27) "Pharmacy" means a prescription drug outlet as defined in
16 section ~~12-22-102 (30.2)~~ 12-42.5-102 (35), C.R.S.

17 **SECTION 52.** In Colorado Revised Statutes, 18-18-302, **amend**
18 (1) and (2) as follows:

19 **18-18-302. Registration requirements.** (1) Every person who
20 manufactures, distributes, or dispenses any controlled substance within
21 this state, or who proposes to engage in the manufacture, distribution, or
22 dispensing of any controlled substance within this state, shall obtain
23 annually or biannually, if applicable, a registration, issued by the
24 respective licensing board or the department in accordance with rules
25 adopted by such board or by the department. For purposes of this section
26 and this article, "registration" or "registered" means the ~~licensing~~
27 REGISTERING of manufacturers, pharmacists, pharmacies, and humane

1 societies located in this state, and distributors located in or doing business
2 in this state, by the state board of pharmacy as set forth in ~~parts 1 and 3~~
3 ~~of~~ article ~~22~~ 42.5 of title 12, C.R.S., the licensing of physicians by the
4 Colorado medical board, as set forth in article 36 of title 12, C.R.S., the
5 licensing of podiatrists by the Colorado podiatry board, as set forth in
6 article 32 of title 12, C.R.S., the licensing of dentists by the state board
7 of dental examiners, as set forth in article 35 of title 12, C.R.S., the
8 licensing of optometrists by the state board of optometry, as set forth in
9 article 40 of title 12, C.R.S., the licensing of veterinarians by the state
10 board of veterinary medicine, as set forth in article 64 of title 12, C.R.S.,
11 and the licensing of researchers and addiction programs by the
12 department of human services, as set forth in part 3 2 of article ~~22~~ 80 of
13 title ~~12~~ 27, C.R.S.

14 (2) A person registered by the board or the department under this
15 part 3 to manufacture, distribute, dispense, or conduct research with
16 controlled substances may possess, manufacture, distribute, dispense, or
17 conduct research with those substances to the extent authorized by the
18 registration and in conformity with this article and with article ~~22~~ 42.5 of
19 title 12, C.R.S.

20 **SECTION 53.** In Colorado Revised Statutes, 18-18-303, **amend**
21 (5) as follows:

22 **18-18-303. Registration.** (5) Persons licensed OR REGISTERED
23 under the provisions of ~~part 1 of~~ article ~~22~~ 42.5 of title 12, C.R.S., or
24 article 32, 35, 36, 40, or 64 of title 12, C.R.S., need not be licensed
25 separately to distribute or dispense controlled substances to the extent
26 provided under law if they are registered or are exempt from registration
27 by the federal drug enforcement administration, provided that such

1 persons indicate on any initial application or renewal application the
2 schedules of controlled substances ~~which such~~ THAT THE persons are
3 authorized to use under Public Law 91-513, known as the federal
4 "Comprehensive Drug Abuse Prevention and Control Act of 1970".

5 **SECTION 54.** In Colorado Revised Statutes, 18-18-403.5,
6 **amend** (1) as follows:

7 **18-18-403.5. Unlawful possession of a controlled substance.**

8 (1) Except as authorized by part ~~3~~ 1 OR 3 of article ~~22~~ 42.5 of title 12,
9 C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., or ~~by~~ part 2 or 3 of this
10 article, it is unlawful for any person knowingly to possess a controlled
11 substance.

12 **SECTION 55.** In Colorado Revised Statutes, 18-18-405, **amend**
13 (1) as follows:

14 **18-18-405. Unlawful distribution, manufacturing, dispensing,**

15 **or sale.** (1) (a) Except as authorized by part ~~3~~ 1 of article ~~22~~ 42.5 of title
16 12, C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., or ~~by~~ part 2 or 3 of
17 this article, it is unlawful for any person knowingly to manufacture,
18 dispense, sell, or distribute, or to possess with intent to manufacture,
19 dispense, sell, or distribute, a controlled substance; or induce, attempt to
20 induce, or conspire with one or more other persons, to manufacture,
21 dispense, sell, distribute, or possess with intent to manufacture, dispense,
22 sell, or distribute, a controlled substance; or possess one or more
23 chemicals or supplies or equipment with intent to manufacture a
24 controlled substance.

25 (b) As used in this subsection (1), "dispense" does not include
26 labeling, as defined in section ~~12-22-102~~ (16) 12-42.5-102 (18), C.R.S.

27 **SECTION 56.** In Colorado Revised Statutes, 18-18-406, **amend**

1 (6) (a) (I), (6) (b) (I), (6) (b) (II), and (11) as follows:

2 **18-18-406. Offenses relating to marijuana and marijuana**
3 **concentrate.** (6) (a) (I) A person shall not knowingly process or
4 manufacture any marijuana or marijuana concentrate or knowingly allow
5 to be processed or manufactured on land owned, occupied, or controlled
6 by him or her any marijuana or marijuana concentrate except as
7 authorized pursuant to part 3 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR
8 PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S.

9 (b) (I) Except as is otherwise provided in subsection (7) of this
10 section and except as authorized by part 3 1 of article ~~22~~ 42.5 of title 12,
11 C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., or ~~by~~ part 2 or 3 of this
12 article, it is unlawful for any person knowingly to dispense, sell,
13 distribute, or possess with intent to manufacture, dispense, sell, or
14 distribute marijuana or marijuana concentrate; or attempt, induce, attempt
15 to induce, or conspire with one or more other persons, to dispense, sell,
16 distribute, or possess with intent to manufacture, dispense, sell, or
17 distribute marijuana or marijuana concentrate.

18 (II) As used in subparagraph (I) of this paragraph (b), "dispense"
19 does not include labeling, as defined in section ~~12-22-102 (16)~~
20 12-42.5-102 (18), C.R.S.

21 (11) The provisions of this section shall not apply to any person
22 who possesses, uses, prescribes, dispenses, or administers dronabinol
23 (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a
24 federal food and drug administration approved drug product, pursuant to
25 part 3 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF
26 TITLE 27, C.R.S.

27 **SECTION 57.** In Colorado Revised Statutes, 18-18-406.2,

1 **amend** (4) as follows:

2 **18-18-406.2. Unlawful distribution, manufacturing,**
3 **dispensing, sale, or cultivation of synthetic cannabinoids or salvia**

4 **divinorum.** (4) As used in this section, "dispense" does not include
5 labeling, as defined in section ~~12-22-102~~(16) 12-42.5-102 (18), C.R.S.

6 **SECTION 58.** In Colorado Revised Statutes, 18-18-414, **amend**
7 (1) introductory portion, (1) (f), (1) (g), (1) (h), (1) (i), (1) (j), (1) (r), and
8 (1) (t) as follows:

9 **18-18-414. Unlawful acts - licenses - penalties.** (1) Except as
10 otherwise provided in this article or in article ~~22~~ 42.5 of title 12, C.R.S.,
11 the following acts are unlawful:

12 (f) The failure of a pharmacy to file and retain the prescription as
13 required in section ~~12-22-318~~ 12-42.5-131, C.R.S.;

14 (g) The failure of a hospital to record and maintain a record of
15 such dispensing as provided in section ~~12-22-318~~ 12-42.5-131 OR
16 27-80-210, C.R.S.;

17 (h) The refusal to make available for inspection and to accord full
18 opportunity to check any record or file as required by this article, ~~or~~ part
19 ~~3~~ 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF
20 TITLE 27, C.R.S.;

21 (i) The failure to keep records as required by this article, ~~or~~ part
22 ~~3~~ 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF
23 TITLE 27, C.R.S.;

24 (j) The failure to obtain a license OR REGISTRATION as required by
25 this article, ~~or~~ part ~~3~~ 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF
26 ARTICLE 80 OF TITLE 27, C.R.S.;

27 (r) Knowingly furnishing false or fraudulent material information

1 in, or omitting any material information from, any application, report, or
2 other document required to be kept or filed under this article, ~~or under~~
3 part 3 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF
4 TITLE 27, C.R.S., or any record required to be kept by this article, ~~or~~
5 ~~under~~ part 3 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE
6 80 OF TITLE 27, C.R.S.;

7 (t) The refusal of entry into any premises for any inspection
8 authorized by this article, ~~or~~ part 3 1 of article ~~22~~ 42.5 of title 12, C.R.S.,
9 OR PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S.

10 **SECTION 59.** In Colorado Revised Statutes, 18-18-418, **amend**
11 (1) (a), (2), (4), and (6) as follows:

12 **18-18-418. Exemptions.** (1) The provisions of section 18-18-414
13 shall not apply to:

14 (a) Agents of persons licensed under part 3 2 of article ~~22~~ 80 of
15 title ~~12~~ 27, C.R.S., or under part 3 of this article, acting within the
16 provisions of their licenses; or

17 (2) All combination drugs that are exempted by regulation of the
18 attorney general of the United States department of justice, pursuant to
19 section 1006 (b) of Public Law 91-513 (84 Stat. 1236), known as the
20 "Comprehensive Drug Abuse Prevention and Control Act of 1970", on
21 or after July 1, 1981, are exempted from the provisions of part 3 1 of
22 article ~~22~~ 42.5 of title 12, C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27,
23 C.R.S., and ~~from the provisions of~~ part 3 of this article.

24 (4) The provisions of section ~~12-22-318~~ 12-42.5-131 AND
25 27-80-210, C.R.S., shall not apply to a practitioner authorized to
26 prescribe with respect to any controlled substance ~~which~~ THAT is listed
27 in schedule III, IV, or V of part 2 of this article and ~~which~~ THAT is

1 manufactured, received, or dispensed by ~~him~~ THE PRACTITIONER in the
2 course of his OR HER professional practice unless he OR SHE dispenses,
3 other than by direct administration, any such controlled substance to ~~his~~
4 patients and they are charged therefor either separately or together with
5 charges for other professional services or unless ~~he~~ THE PRACTITIONER
6 regularly engages in dispensing any such controlled substance to his OR
7 HER patients.

8 (6) It shall not be necessary for the state to negate any exemption
9 or exception in this part 4, ~~or in~~ part 3 1 of article ~~22~~ 42.5 of title 12,
10 C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., or ~~in~~ part 3 of this
11 article in any complaint, information, indictment, or other pleading or in
12 any trial, hearing, or other proceeding under this part 4. The burden of
13 proof of any such exemption or exception is upon the person claiming it.

14 **SECTION 60.** In Colorado Revised Statutes, **amend** 18-18-602
15 as follows:

16 **18-18-602. Continuation of rules - application to existing**
17 **relationships.** Any orders and rules adopted under any law affected by
18 this article and in effect on July 1, 1992, and not in conflict with this
19 article continue in effect until modified, superseded, or repealed. Rights
20 and duties that matured, penalties that were incurred, and proceedings
21 that were begun prior to July 1, 1992, are not affected by the enactment
22 of the "Uniform Controlled Substances Act of 1992" or the
23 corresponding repeal of provisions in article ~~22~~ 42.5 of title 12, C.R.S.,
24 and part 6 of article 5 of this title.

25 **SECTION 61.** In Colorado Revised Statutes, 19-3-604, **amend**
26 (2) (e) as follows:

27 **19-3-604. Criteria for termination.** (2) In determining

1 unfitness, conduct, or condition for purposes of paragraph (c) of
2 subsection (1) of this section, the court shall find that continuation of the
3 legal relationship between parent and child is likely to result in grave risk
4 of death or serious bodily injury to the child or that the conduct or
5 condition of the parent or parents renders the parent or parents unable or
6 unwilling to give the child reasonable parental care to include, at a
7 minimum, nurturing and safe parenting sufficiently adequate to meet the
8 child's physical, emotional, and mental health needs and conditions. In
9 making such determinations, the court shall consider, but not be limited
10 to, the following:

11 (e) Excessive use of intoxicating liquors or controlled substances,
12 as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., which affects
13 the ability to care and provide for the child;

14 **SECTION 62.** In Colorado Revised Statutes, 19-5-105, **amend**
15 (3.1) (a) (V) as follows:

16 **19-5-105. Proceeding to terminate parent-child legal**
17 **relationship.** (3.1) The court may order the termination of the other birth
18 parent's parental rights upon a finding that termination is in the best
19 interests of the child and that there is clear and convincing evidence of
20 one or more of the following:

21 (a) That the parent is unfit. In considering the fitness of the child's
22 parent, the court shall consider, but shall not be limited to, the following:

23 (V) Excessive use of intoxicating liquors or use of controlled
24 substances, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.,
25 that affects the ability of the individual to care and provide for the child;

26 **SECTION 63.** In Colorado Revised Statutes, **amend** 22-1-110
27 as follows:

1 **22-1-110. Effect of use of alcohol and controlled substances to**
2 **be taught.** The nature of alcoholic drinks and controlled substances, as
3 defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., and special
4 instruction as to their effects upon the human system in connection with
5 the several divisions of the subject of physiology and hygiene, as to the
6 physical, emotional, psychological, and social dangers of their use with
7 an emphasis upon the nonuse of such substances by school-age children,
8 and as to the illegal aspects of their use shall be included in the branches
9 of study taught to school-age children during grades kindergarten through
10 ~~grade~~ twelve in the public schools of the state. They shall be studied and
11 taught, as thoroughly and in the same manner as other like required
12 branches are taught in said schools, by the use of instructional materials
13 and strategies designated by the board of directors of the respective
14 school districts.

15 **SECTION 64.** In Colorado Revised Statutes, **amend** 22-1-119
16 as follows:

17 **22-1-119. Students - dispensing of drugs to - liability.** Any
18 school employee who dispenses any drug, as such term is defined in
19 section ~~12-22-102 (11)~~ 12-42.5-102 (13), C.R.S., to a student in
20 accordance with written instructions from a parent or legal guardian shall
21 not be liable for damages in any civil action or subject to prosecution in
22 any criminal proceedings for an adverse drug reaction suffered by the
23 student as a result of dispensing such drug.

24 **SECTION 65.** In Colorado Revised Statutes, 22-33-106, **amend**
25 (1) (d) (I) as follows:

26 **22-33-106. Grounds for suspension, expulsion, and denial of**
27 **admission.** (1) The following shall be grounds for suspension or

1 expulsion of a child from a public school during a school year:

2 (d) (I) Serious violations in a school building or in or on school
3 property, which suspension or expulsion shall be mandatory; except that
4 expulsion shall be mandatory for the following violations: Carrying,
5 bringing, using, or possessing a dangerous weapon without the
6 authorization of the school or the school district; the sale of a drug or
7 controlled substance as defined in section ~~12-22-303~~ 18-18-102 (5),
8 C.R.S.; or the commission of an act ~~which~~ THAT, if committed by an
9 adult, would be robbery pursuant to part 3 of article 4 of title 18, C.R.S.,
10 or assault pursuant to part 2 of article 3 of title 18, C.R.S., other than the
11 commission of an act that would be third degree assault under section
12 18-3-204, C.R.S., if committed by an adult.

13 **SECTION 66.** In Colorado Revised Statutes, 22-60.5-107,
14 **amend** (2) (c) as follows:

15 **22-60.5-107. Grounds for denying, annulling, suspending, or**
16 **revoking license, certificate, endorsement, or authorization.** (2) Any
17 license, certificate, endorsement, or authorization may be denied,
18 annulled, suspended, or revoked in the manner prescribed in section
19 22-60.5-108, notwithstanding the provisions of subsection (1) of this
20 section:

21 (c) When the applicant or holder is found guilty of or upon the
22 court's acceptance of a guilty plea or a plea of nolo contendere to a
23 misdemeanor violation of any law of this state or another state, any
24 municipality of this state or another state, or the United States or any
25 territory subject to the jurisdiction of the United States involving the
26 illegal sale of controlled substances, as defined in section ~~12-22-303~~ (7)
27 18-18-102 (5), C.R.S.;

1 **SECTION 67.** In Colorado Revised Statutes, 22-63-302, **amend**
2 (11) (a) (II) as follows:

3 **22-63-302. Procedure for dismissal - judicial review.**

4 (11) (a) The board of a school district may take immediate action to
5 dismiss a teacher, without a hearing, notwithstanding subsections (2) to
6 (10) of this section, pending the final outcome of judicial review or when
7 the time for seeking review has elapsed, when the teacher is convicted,
8 pleads nolo contendere, or receives a deferred sentence for:

9 (II) A violation of any law of this state, any municipality of this
10 state, or the United States involving the illegal sale of controlled
11 substances, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.

12 **SECTION 68.** In Colorado Revised Statutes, 24-1-122, **amend**
13 (3) (r) as follows:

14 **24-1-122. Department of regulatory agencies - creation.**

15 (3) The following boards and agencies are transferred by a **type 1**
16 transfer to the department of regulatory agencies and allocated to the
17 division of registrations:

18 (r) State board of pharmacy, created by part 1 of article ~~22~~ 42.5
19 of title 12, C.R.S.;

20 **SECTION 69.** In Colorado Revised Statutes, 25-1-1202, **amend**
21 (1) (nnn) as follows:

22 **25-1-1202. Index of statutory sections regarding medical**
23 **record confidentiality and health information.** (1) Statutory
24 provisions concerning policies, procedures, and references to the release,
25 sharing, and use of medical records and health information include the
26 following:

27 (nnn) Section ~~12-22-707~~ 12-42.5-406, C.R.S., concerning

1 information entered into the prescription drug monitoring program
2 database.

3 **SECTION 70.** In Colorado Revised Statutes, 25-1.5-301, **amend**
4 (4) (b) as follows:

5 **25-1.5-301. Definitions.** As used in this part 3, unless the context
6 otherwise requires:

7 (4) "Qualified manager" means a person who:

8 (b) Has completed training in the administration of medications
9 pursuant to section 25-1.5-303 or is a licensed nurse pursuant to article
10 38 of title 12, C.R.S., a licensed physician pursuant to article 36 of title
11 12, C.R.S., or a licensed pharmacist pursuant to article ~~22~~ 42.5 of title 12,
12 C.R.S. Every unlicensed person who is a "qualified manager" within the
13 meaning of this subsection (4) shall, every four years, successfully
14 complete a test approved by the department pertaining to the
15 administration of medications.

16 **SECTION 71.** In Colorado Revised Statutes, 25-1.5-302, **amend**
17 (1) (b) as follows:

18 **25-1.5-302. Administration of medications - powers and duties**
19 **of department - criminal history record checks.** (1) The department
20 has, in addition to all other powers and duties imposed upon it by law, the
21 power and duty to establish and maintain by rule and regulation a
22 program for the administration of medications in facilities, which
23 program shall be developed and conducted by the department of human
24 services and the department of corrections, as provided in this part 3,
25 within the following guidelines:

26 (b) Any individual who is not otherwise authorized by law to
27 administer medication in a facility shall be allowed to perform such

1 duties only after passing a competency evaluation. An individual who
2 administers medications in facilities in compliance with the provisions of
3 this part 3 shall be exempt from the licensing requirements of the
4 "Colorado Medical Practice Act", the "Nurse Practice Act", and the laws
5 of this state pertaining to possession of controlled substances as
6 contained in ~~part 1 of~~ article ~~22~~ 42.5 of title 12, C.R.S., PART 2 OF
7 ARTICLE 80 OF TITLE 27, C.R.S., or the "Uniform Controlled Substances
8 Act of 1992", article 18 of title 18, C.R.S.

9 **SECTION 72.** In Colorado Revised Statutes, 25-1.5-303, **amend**
10 (1) as follows:

11 **25-1.5-303. Medication reminder boxes or systems -**
12 **medication cash fund.** (1) Medication reminder boxes or systems may
13 be used if such containers have been filled and properly labeled by a
14 pharmacist licensed pursuant to article ~~22~~ 42.5 of title 12, C.R.S., a nurse
15 licensed pursuant to article 38 of title 12, C.R.S., an unlicensed person
16 trained pursuant to this section, or filled and properly labeled through the
17 gratuitous care by members of one's family or friends. Nothing in this
18 section authorizes or shall be construed to authorize the practice of
19 pharmacy, as defined in section ~~12-22-102 (26)~~ 12-42.5-102 (31), C.R.S.
20 No unlicensed person shall fill and label medication reminder boxes
21 pursuant to this section until such person has completed appropriate
22 training approved by the department, and no facility shall use an
23 unlicensed person to perform such services unless such facility has a
24 qualified manager to oversee the work of such unlicensed person or
25 persons. Every unlicensed person and qualified manager described in this
26 section shall sign a disclosure statement under penalty of perjury stating
27 that he or she never had a professional license to practice nursing,

1 medicine, or pharmacy revoked in this or any other state for reasons
2 directly related to the administration of medications.

3 **SECTION 73.** In Colorado Revised Statutes, 25-35-102, **amend**
4 (3) and (8) as follows:

5 **25-35-102. Definitions.** As used in this article, unless the context
6 otherwise requires:

7 (3) "Dispense" shall have the same meaning as set forth in section
8 ~~12-22-102 (9)~~ 12-42.5-102 (11), C.R.S.

9 (8) "Pharmacist" means an individual licensed by this state
10 pursuant to ~~the provisions of article 22~~ 42.5 of title 12, C.R.S., to engage
11 in the practice of pharmacy.

12 **SECTION 74.** In Colorado Revised Statutes, 25-35-103, **amend**
13 (3) (d) as follows:

14 **25-35-103. Cancer drug repository - administration - donation**
15 **- dispensing - cancer drugs - medical devices.** (3) A pharmacist may
16 accept and dispense cancer drugs and medical devices donated under the
17 program to eligible patients if all of the following requirements are met:

18 (d) The cancer drug or medical device is prescribed by a
19 practitioner, as defined in section ~~12-22-102 (27)~~ 12-42.5-102 (32),
20 C.R.S., for use by an eligible patient and is dispensed by a pharmacist.

21 **SECTION 75.** In Colorado Revised Statutes, 25.5-5-322, **amend**
22 (2) (a) as follows:

23 **25.5-5-322. Over-the-counter medications - rules.** (2) (a) The
24 state board, in consultation with the state board of pharmacy created
25 pursuant to section ~~12-22-103~~ 12-42.5-103, C.R.S., shall establish by rule
26 standards for when a licensed pharmacist may prescribe over-the-counter
27 medications as provided under this section for purposes of receiving

1 reimbursement under the medical assistance program.

2 **SECTION 76.** In Colorado Revised Statutes, 25.5-5-502, **amend**
3 (2) introductory portion as follows:

4 **25.5-5-502. Unused medications - reuse - rules.** (2) A
5 pharmacist participating in the medical assistance program may accept
6 unused medication from a licensed facility, as defined in section
7 ~~12-22-133~~ 12-42.5-133 (1) (a), C.R.S., or a licensed health care provider
8 for the purpose of dispensing the medication to another person. A
9 pharmacist shall reimburse the state department for the cost of
10 medications that the state department has paid to the pharmacist if
11 medications are returned to a pharmacist and the medications are
12 available to be dispensed to another person. Medications shall only be
13 available to be dispensed to another person under this section if the
14 medications are:

15 **SECTION 77.** In Colorado Revised Statutes, 26-1-111, **amend**
16 (5) as follows:

17 **26-1-111. Activities of the state department under the**
18 **supervision of the executive director - cash fund - report - rules -**
19 **statewide adoption resource registry.** (5) The state department,
20 through the unit in the state department that administers behavioral health
21 programs and services, including those related to mental health and
22 substance abuse, shall administer alcohol and drug abuse programs set
23 forth in articles 80, 81, and 82 of title 27, C.R.S. ~~and applicable~~
24 ~~provisions of article 22 of title 12, C.R.S.~~

25 **SECTION 78.** In Colorado Revised Statutes, 26-6-108, **amend**
26 (2) (c) as follows:

27 **26-6-108. Denial of license - suspension - revocation -**

1 **probation - refusal to renew license - fines.** (2) The department may
2 deny an application, or suspend, revoke, or make probationary the license
3 of any facility regulated and licensed under this part 1 or assess a fine
4 against the licensee pursuant to section 26-6-114 should the licensee, an
5 affiliate of the licensee, a person employed by the licensee, or a person
6 who resides with the licensee at the facility:

7 (c) Use any controlled substance, as defined in section ~~12-22-303~~
8 ~~(7)~~ 18-18-102 (5), C.R.S., or consume any alcoholic beverage during the
9 operating hours of the facility or be under the influence of a controlled
10 substance or alcoholic beverage during the operating hours of the facility;
11 or

12 **SECTION 79.** In Colorado Revised Statutes, 27-82-102, **amend**
13 (7) as follows:

14 **27-82-102. Definitions.** As used in this article, unless the context
15 otherwise requires:

16 (7) "Drug" means a controlled substance as defined in section
17 ~~12-22-303~~ ~~(7)~~ 18-18-102 (5), C.R.S., and toxic vapors.

18 **SECTION 80.** In Colorado Revised Statutes, 31-31-803, **amend**
19 (3) (b) as follows:

20 **31-31-803. Retirement for disability.** (3) (b) For the purposes
21 of this subsection (3), the terms "addiction" and "controlled substance"
22 shall have the same meanings as such terms have in part 3 2 of article 22
23 80 of title ~~12~~ 27, C.R.S.

24 **SECTION 81.** In Colorado Revised Statutes, **amend** 33-6-123
25 as follows:

26 **33-6-123. Hunting under the influence.** It is unlawful for any
27 person who is under the influence of alcohol or any controlled substance,

1 as defined in section ~~12-22-303~~(7) 18-18-102 (5), C.R.S., or any other
2 drug to a degree ~~which~~ THAT renders such person incapable of safely
3 operating a firearm or bow and arrow to hunt or take any wildlife in this
4 state. The fact that any person charged with a violation of this section is
5 or has been entitled to use such controlled substance or drug under the
6 laws of this state shall not constitute a defense against any charge of
7 violating this section. For the purposes of this section, being under the
8 influence of any drug shall include the use of glue-sniffing, aerosol
9 inhalation, or the inhalation of any other toxic vapor. Any person who
10 violates this section is guilty of a misdemeanor and, upon conviction
11 thereof, shall be punished by a fine of not less than one hundred dollars
12 nor more than one thousand dollars or by imprisonment in the county jail
13 for not more than one year, or by both such fine and imprisonment, and
14 an assessment of twenty license suspension points.

15 **SECTION 82.** In Colorado Revised Statutes, 33-13-108.1,
16 **amend** (1) (a) (III) and (1) (a) (IV) as follows:

17 **33-13-108.1. Operating a vessel while under the influence.**

18 (1) (a) It is a misdemeanor for any person to operate or be in actual
19 physical control of a vessel in this state while:

20 (III) Under the influence of any controlled substance as defined
21 in section ~~12-22-303~~ 18-18-102 (5), C.R.S., or any other drug that renders
22 the person incapable of safely operating a vessel;

23 (IV) Under the influence of any combination of alcohol and any
24 controlled substance as defined in section ~~12-22-303~~ 18-18-102 (5),
25 C.R.S., or any other drug, when the combination of alcohol and
26 controlled substance or any other drug renders the person incapable of
27 safely operating a vessel.

1 **SECTION 83.** In Colorado Revised Statutes, 33-13-110, **amend**
2 (3) (a) as follows:

3 **33-13-110. Water skis, aquaplanes, surfboards, inner tubes,**
4 **and similar devices.** (3) (a) No person shall operate, manipulate, or ride
5 water skis, an aquaplane, a surfboard, an inner tube, or any similar device
6 while under the influence of alcohol, a controlled substance as defined in
7 section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or any other drug, or any
8 combination thereof, which renders ~~him~~ THE PERSON incapable of the
9 safe operation of such device.

10 **SECTION 84.** In Colorado Revised Statutes, 33-14-116, **amend**
11 (3) as follows:

12 **33-14-116. Other operating restrictions.** (3) No person shall
13 operate a snowmobile while under the influence of alcohol, a controlled
14 substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or
15 any other drug, or any combination thereof, which renders ~~him~~ THE
16 PERSON incapable of the safe operation of a snowmobile.

17 **SECTION 85.** In Colorado Revised Statutes, 33-44-109, **amend**
18 (9) as follows:

19 **33-44-109. Duties of skiers - penalties.** (9) No person shall
20 move uphill on any passenger tramway or use any ski slope or trail while
21 such person's ability to do so is impaired by the consumption of alcohol
22 or by the use of any controlled substance, as defined in section ~~12-22-303~~
23 ~~(7)~~ 18-18-102 (5), C.R.S., or other drug or while such person is under the
24 influence of alcohol or any controlled substance, as defined in section
25 ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or other drug.

26 **SECTION 86.** In Colorado Revised Statutes, 41-2-102, **amend**
27 (1) (b) and (1) (c) as follows:

1 **41-2-102. Operating an aircraft under the influence -**
2 **operating an aircraft with excessive alcohol content - tests - penalties**
3 **- useful public service program.** (1) (b) It is a misdemeanor for any
4 person who is an habitual user of any controlled substance, as defined in
5 section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., to operate any aircraft in
6 this state.

7 (c) For the purposes of this subsection (1), "one or more drugs"
8 shall mean all substances defined as a drug in section ~~12-22-303 (13)~~
9 27-80-203 (13), C.R.S., and all controlled substances, as defined in
10 section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.

11 **SECTION 87.** In Colorado Revised Statutes, 42-2-104, **amend**
12 (2) (c) as follows:

13 **42-2-104. Licenses issued - denied.** (2) Except as otherwise
14 provided in this article, a person shall not be licensed by the department
15 to operate any motor vehicle in this state:

16 (c) Who has been adjudged or determined by a court of competent
17 jurisdiction to be an habitual drunkard or addicted to the use of a
18 controlled substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5),
19 C.R.S.

20 **SECTION 88.** In Colorado Revised Statutes, 42-2-125, **amend**
21 (1) (b) as follows:

22 **42-2-125. Mandatory revocation of license and permit.**
23 (1) The department shall immediately revoke the license or permit of any
24 driver or minor driver upon receiving a record showing that such driver
25 has:

26 (b) Been convicted of driving a motor vehicle while under the
27 influence of a controlled substance, as defined in section ~~12-22-303 (7)~~

1 18-18-102 (5), C.R.S., or while an habitual user of such a controlled
2 substance;

3 **SECTION 89.** In Colorado Revised Statutes, 42-4-110, **amend**
4 (1) (d) as follows:

5 **42-4-110. Provisions uniform throughout state.** (1) The
6 provisions of this article shall be applicable and uniform throughout this
7 state and in all political subdivisions and municipalities therein. Cities
8 and counties, incorporated cities and towns, and counties shall regulate
9 and enforce all traffic and parking restrictions on streets which are state
10 highways as provided in section 43-2-135 (1) (g), C.R.S., and all local
11 authorities may enact and enforce traffic regulations on other roads and
12 streets within their respective jurisdictions. All such regulations shall be
13 subject to the following conditions and limitations:

14 (d) In no event shall local authorities have the power to enact by
15 ordinance regulations governing the driving of vehicles by persons under
16 the influence of alcohol or of a controlled substance, as defined in section
17 ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or under the influence of any other
18 drug to a degree ~~which~~ THAT renders any such person incapable of safely
19 operating a vehicle, or whose ability to operate a vehicle is impaired by
20 the consumption of alcohol or by the use of a controlled substance, as
21 defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or any other drug,
22 the registration of vehicles and the licensing of drivers, the duties and
23 obligations of persons involved in traffic accidents, and vehicle
24 equipment requirements in conflict with the provisions of this article; but
25 said local authorities within their respective jurisdictions shall enforce the
26 state laws pertaining to these subjects, and in every charge of violation
27 the complaint shall specify the section of state law under which the

1 charge is made and the state court having jurisdiction.

2 **SECTION 90.** In Colorado Revised Statutes, 42-4-805, **amend**
3 (3) as follows:

4 **42-4-805. Pedestrians walking or traveling in a wheelchair on**
5 **highways.** (3) It is unlawful for any person who is under the influence
6 of alcohol or of any controlled substance, as defined in section ~~12-22-303~~
7 ~~(7)~~ 18-18-102 (5), C.R.S., or of any stupefying drug to walk or be upon
8 that portion of any highway normally used by moving motor vehicle
9 traffic.

10 **SECTION 91.** In Colorado Revised Statutes, 42-4-1301, **amend**
11 (1) (c) and (1) (d) as follows:

12 **42-4-1301. Driving under the influence - driving while**
13 **impaired - driving with excessive alcoholic content - definitions -**
14 **penalties.** (1) (c) It is a misdemeanor for any person who is an habitual
15 user of any controlled substance defined in section ~~12-22-303~~ ~~(7)~~
16 18-18-102 (5), C.R.S., to drive a motor vehicle, vehicle, or low-power
17 scooter in this state.

18 (d) For the purposes of this subsection (1), one or more drugs
19 shall mean all substances defined as a drug in section ~~12-22-303~~ ~~(13)~~
20 27-80-203 (13), C.R.S., and all controlled substances defined in section
21 ~~12-22-303~~ ~~(7)~~ 18-18-102 (5), C.R.S., and glue-sniffing, aerosol
22 inhalation, and the inhalation of any other toxic vapor or vapors.

23 **SECTION 92. Appropriation.** (1) In addition to any other
24 appropriation, there is hereby appropriated, out of any moneys in the
25 division of registrations cash fund created in section 24-34-105 (2) (b)
26 (I), Colorado Revised Statutes, not otherwise appropriated, to the
27 department of regulatory agencies, for the fiscal year beginning July 1,

1 2012, the sum of \$225,108 and 1.0 FTE, or so much thereof as may be
2 necessary, to be allocated for the implementation of this act as follows:

3 (a) \$181,055 and 1.0 FTE for personal services;

4 (b) \$6,110 for operating expenses;

5 (c) \$8,251 for travel;

6 (d) \$6,600 for board expenses; and

7 (e) \$23,092 for the purchase of legal services.

8 (2) In addition to any other appropriation, there is hereby
9 appropriated to the department of law, for the fiscal year beginning July
10 1, 2012, the sum of \$23,092, or so much thereof as may be necessary, for
11 the provision of legal services for the department of regulatory agencies
12 related to the implementation of this act. Said sum is from reappropriated
13 funds received from the department of regulatory agencies out of the
14 appropriation made in paragraph (e) of subsection (1) of this section.

15 **SECTION 93. Effective date.** This act takes effect July 1, 2012.

16 **SECTION 94. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.