A BILL FOR AN ACT

CONCERNING THE CONTINUATION OF THE REGULATORY FUNCTIONS OF THE STATE BOARD OF DENTAL EXAMINERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

(Drafting note: This bill includes some statutory sections that have been relocated and renumbered, either without change or with amendments. Existing material that has been relocated is printed in lower-case type with any amendments indicated by capital letters and cancelled letter type. Former section numbers are supplied in brackets for comparison purposes.)

Sunset Process - Senate Health, Environment, Welfare, and...
Institutions Committee. Extends the regulatory functions of the state board of dental examiners (the board) until 2012. Reorganizes provisions within the "Dental Practice Law of Colorado" for clarity and ease of usage.

Amends the definition of dentistry to conform with the American dental association's definition. Clarifies the practice of dentistry. Defines "accredited".

Increases the membership of the board by one member by adding a dentist who is a full-time academician from an accredited dental school that offers a doctorate of dental surgery or doctorate of dental medicine. Limits a member of the board to serving 2 consecutive 4-year terms. Redesigns the disciplinary procedures of the board. Creates a 2-panel system to address disciplinary investigations or actions of the board. Outlines procedures for the 2 panels. Allows for subcommittees of the board to perform licensing functions.

Requires dentists and dental hygienists from other states to participate in an accredited research or educational program. Exempts foreign-trained dentists who are teaching in an accredited dental school offering a doctorate of dental surgery or doctorate of dental medicine from licensure requirements and clarifies the licensure requirements for these dentists. Eliminates the position of secretary to the board. Requires the board to meet at least quarterly. Clarifies the requirements for members of the board. Allows the board to issue letters of admonition. Allows the board to issue subpoenas to obtain all documents relevant to a hearing or inquiry.

Clarifies the licensure application process and requirements for licensure of dentists and dental hygienists. Requires that the examination for knowledge portion of the licensure requirements be completed through a mail-in jurisprudence examination. Clarifies the grounds for discipline related to the prescription of habit-forming drugs, engaging in sexual activities with a patient, and failure to maintain financial responsibility for potential liability due to malpractice.

Requires the board to accept results of an examination administered by a regional testing body. Requires applicants who have not graduated from an accredited educational institution within the past 12 months and who have not engaged in an active clinical practice for 12 months immediately preceding the license application to demonstrate to the board professional ability and knowledge before a license may be granted.

Requires the professional review committee to provide copies to the board of its records concerning findings, recommendations, and actions.

Prohibits a person whose license is revoked from obtaining a license for at least 2 years. Extends immunity from civil or criminal liability for activities related to reviewing or supervising a licensee by an
office inspector or practice monitor.

Requires full-denture construction tasks and procedures performed by a dental assistant to be under the direct supervision of a licensed dentist.

Deletes obsolete and outdated provisions. Makes conforming amendments. Deletes obsolete provisions regarding records kept by the secretary of the board.

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

SECTION 1. Part 1 of article 35 of title 12, Colorado Revised Statutes, is amended, WITH THE RELOCATION OF PROVISIONS, to read:

12-35-101. Short title. This article shall be known and may be cited as the "Dental Practice Law of Colorado".

12-35-102. Legislative declaration. (1) The practice of dentistry and dental hygiene in this state is declared to affect the public health, safety, and welfare and to be subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the dental profession merit and receive the confidence of the public and that only qualified dentists and dental hygienists be permitted to practice dentistry or dental hygiene in this state. It is the purpose of this article to promote the public health, safety, and welfare by regulating the practice of dentistry and dental hygiene and to ensure that no one shall practice dentistry or dental hygiene without qualifying under this article. The provisions of this article relating to licensure by credentials are not intended to reduce competition or restrain trade with respect to the oral health needs of the public. All provisions of this article relating to the practice of dentistry and dental hygiene shall be liberally construed to carry out these objects and purposes.

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

12-35-103. Definitions. As used in this article, unless the context
otherwise requires:

(1) "ACREDITED" MEANS A PROGRAM THAT IS NATIONALLY
RECOGNIZED FOR SPECIALIZED ACCREDITING FOR DENTAL, DENTAL
HYGIENE, AND DENTAL AUXILIARY PROGRAMS BY THE UNITED STATES
DEPARTMENT OF EDUCATION.

(2) "Dental auxiliary ASSISTANT" means any person not a
dentist or dental hygienist licensed in Colorado who may be assigned or
delegated to perform dental tasks or procedures as authorized by this
article or by rules and regulations of the board.

(3) "DENTAL HYGIENE" MEANS THE DELIVERY OF PREVENTIVE,
EDUCATIONAL, AND CLINICAL SERVICES SUPPORTING TOTAL HEALTH FOR
THE CONTROL OF ORAL DISEASE AND THE PROMOTION OF ORAL HEALTH
PROVIDED BY A DENTAL HYGIENIST WITHIN THE SCOPE OF HIS OR HER
EDUCATION, TRAINING, AND EXPERIENCE AND IN ACCORDANCE WITH
APPLICABLE LAW.

(4) "DENTISTRY" MEANS THE EVALUATION, DIAGNOSIS,
PREVENTION, OR TREATMENT, INCLUDING NONSURGICAL, SURGICAL, OR
RELATED PROCEDURES, OF DISEASES, DISORDERS, OR CONDITIONS OF THE
ORAL CAVITY, MAXILLOFACIAL AREA, OR THE ADJACENT AND ASSOCIATED
STRUCTURES AND THE IMPACT OF THE DISEASE, DISORDER, OR CONDITION ON THE HUMAN BODY SO LONG AS A DENTIST IS PRACTICING WITHIN THE SCOPE OF HIS OR HER EDUCATION, TRAINING, AND EXPERIENCE AND IN ACCORDANCE WITH APPLICABLE LAW.

(5) (a) "DIRECT SUPERVISION" MEANS THE SUPERVISION OF THOSE TASKS OR PROCEDURES THAT DO NOT REQUIRE THE PRESENCE OF THE DENTIST IN THE ROOM WHERE PERFORMED BUT REQUIRE THE DENTIST'S PRESENCE ON THE PREMISES AND AVAILABILITY FOR PROMPT CONSULTATION AND TREATMENT.

(b) FOR PURPOSES OF THIS SUBSECTION (5) ONLY, "PREMISES" MEANS WITHIN THE SAME BUILDING, DENTAL OFFICE, OR TREATMENT FACILITY AND WITHIN CLOSE ENOUGH PROXIMITY TO RESPOND IN A TIMELY MANNER TO AN EMERGENCY OR THE NEED FOR ASSISTANCE.

(1.3) (b) "Examination proctor" means a licensed dentist or dental hygienist, who shall have five years clinical experience and who is appointed by the board to supervise and administer written and clinical examinations in the field in which the dentist OR DENTAL HYGIENIST is licensed to practice under this article.

(1.5) (b) "Independent advertising or marketing agent" means a person, firm, association, or corporation which performs advertising or other marketing services on behalf of licensed dentists, including referrals of patients to licensees resulting from patient-initiated responses to such advertising or marketing services.

(9) (a) "INDIRECT SUPERVISION" MEANS THE SUPERVISION OF THOSE TASKS OR PROCEDURES THAT DO NOT REQUIRE THE PRESENCE OF
THE DENTIST IN THE OFFICE OR ON THE PREMISES AT THE TIME SUCH TASKS OR PROCEDURES ARE BEING PERFORMED BUT REQUIRE THE TASKS BE PERFORMED WITH THE PRIOR KNOWLEDGE AND CONSENT OF THE DENTIST.

(b) FOR PURPOSES OF THIS SUBSECTION (9) ONLY, "PREMISES" MEANS WITHIN THE SAME BUILDING, DENTAL OFFICE, OR TREATMENT FACILITY AND WITHIN CLOSE ENOUGH PROXIMITY TO RESPOND IN A TIMELY MANNER TO AN EMERGENCY OR THE NEED FOR ASSISTANCE.

(10) "Laboratory work order" means the written instructions of a dentist licensed in Colorado authorizing another person to construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth, function in the oral cavity, maxillofacial area, or adjacent and associated regions.

(11) "License" means the grant of authority by the board to any person to engage in the practice of dentistry or dental hygiene. Such license shall be a privilege personal to the licensee and may be revoked, suspended, or subjected to disciplinary conditions by the board for violation of any of the provisions of this article and shall be null and void upon the failure of the licensee to file an application for renewal and to pay the fee as required by section 12-35-116 or 12-35-117 for dentists and section 12-35-127 for dental hygienists 12-35-121.

(12) "License certificate" means the documentary evidence under seal of the board that the board has granted authority to the licensee to practice dentistry or dental hygiene in this state.

(13) "Personal direction" means the orders of a dentist licensed in Colorado, which shall be classified as follows:

(a) "Direct supervision" means the supervision of those tasks or procedures that do not require the presence of the dentist in the room
where performed but require the dentist's presence on the premises and
availability for prompt consultation and treatment:

(b) "General supervision" means the supervision of those tasks or
procedures that do not require the presence of the dentist in the office or
on the premises at the time such tasks or procedures are being performed
but require the tasks be performed with the prior knowledge and consent
of the dentist.

(e) For purposes of this subsection (4) only, "premises" means
within the same building, dental office, or treatment facility and within
close enough proximity to respond in a timely manner to an emergency
or the need for assistance:

(5) "Proprietor" includes any person who:

(a) Employs dentists, dental hygienists, or dental auxiliaries
ASSISTANTS in the operation of a dental office, except as provided in
sections 12-35-110 12-35-113 and 12-35-125 12-35-128;

(b) Places in possession of a dentist, dental hygienist, or dental
auxiliary ASSISTANT, or other agent such dental material or equipment as
may be necessary for the management of a dental office on the basis of
a lease or any other agreement for compensation for the use of such
material, equipment, or offices; or

(c) Retains the ownership or control of dental equipment or
material or office and makes the same available in any manner for the use
by dentists, dental hygienists, or dental auxiliaries ASSISTANTS, or other
agents; except that nothing in this paragraph (c) shall apply to bona fide
sales of dental equipment or material secured by a chattel mortgage or
retain-title agreement or to the loan of articulators.

(6) "Renewal certificate" means the documentary evidence
that the board has renewed the authority of the licensee to practice
dentistry or dental hygiene in this state.

(7) Repealed.

12-35-104. State board of dental examiners - subject to
termination - immunity - repeal of article. (1) The state board of
dental examiners, referred to in this article as the "board", in existence on
July 1, 1986, is continued as the agency of this state for the regulation of
the practice of dentistry in this state and to carry out the purposes of this
article. The board shall be under the supervision and control of the
division of registrations as provided by section 24-34-102, C.R.S. The
board shall consist of five seven dentist members, two three dental
hygienist members, and three members from the public at large, each
member to be appointed by the governor for a term of four years and to
have the qualifications provided in this article. except that the dentist
member first appointed on or after July 1, 1986, shall serve for a term
ending January 1, 1989. Of the two new public members appointed on
July 1, 1986, one member shall serve a term ending January 1, 1989, and
one member shall serve a term ending January 1, 1990. No member
shall serve more than two consecutive terms of four years. Due
consideration shall be given to having a geographical, political, and
urban/rural urban, and rural balance among the board members.
Should a vacancy occur in any board membership before the expiration
of the term thereof, the governor shall fill such vacancy by appointment
for the remainder of such term in the same manner as in the case of
original appointments. The terms of existing board members serving on
the board as of July 1, 1986, shall not be disturbed by the provisions of
this subsection (1), except as necessary to comply with the requirements
governing composition of the board. Any member of the board may be removed by the governor for misconduct, incompetence, or neglect of duty.

(2) The board shall organize annually by electing one of its members as chairperson and one as vice-chairperson. It may adopt such rules for its government as it may deem proper. The board shall meet at least once a year QUARTERLY, and more often if necessary, at such times and places as it may from time to time designate.

(3) The board may employ examination proctors when necessary.

(4) Repealed.

(5) (a) The provisions of section 24-34-104, C.R.S., concerning the termination schedule for regulatory bodies of the state unless extended as provided in that section, are applicable to the state board of dental examiners created by this section. At the time of SUNSET review by the joint APPROPRIATE legislative sunrise and sunset review committee, all functions, including the issuing of permits for administering anesthesia and the regulation of such administration of anesthesia, shall be reviewed.

(b) This article is repealed, effective July 1, 2003 2012.

(6) (a) Members of the board shall be immune from suit in any civil action based on any disciplinary proceedings or other official acts performed in good faith as members of such board.

(b) A LICENSEE WHO PARTICIPATES AS AN OFFICE INSPECTOR PURSUANT TO SECTION 12-35-107 (1) (h) SHALL BE IMMUNE FROM ANY LIABILITY THAT MAY RESULT BY REASON OF SUCH ACTIONS PERFORMED IN GOOD FAITH.
12-35-105. Qualifications of board members. (1) A person shall be qualified to be appointed to the board if such person is:
   (a) A legal resident of Colorado;
   (b) Currently licensed as a dentist or dental hygienist, if fulfilling that position on the board; and
   (c) Has been actively engaged in a clinical practice in this state for at least five years immediately preceding the appointment, if fulfilling the position of dentist or dental hygienist on the board.

(2) Notwithstanding subsection (1) of this section, a person convicted of a felony in Colorado or any other state of violating this article or any law governing the practice of dentistry shall not be appointed to or serve on the board.

12-35-106. Quorum of board - panel. A majority of the members of the board shall constitute a quorum for the transaction of business, but if less than a quorum is present on the day appointed for a meeting, those present may adjourn until a quorum is present. Any action taken by a quorum of the assigned panel shall constitute action by the board; except that, for disciplinary matters concerning a dentist, a majority of dentist members is required for a quorum.

12-35-107. Powers and duties of board. (1) The board shall exercise, subject to the provisions of this article, the following powers and duties:
   (a) Conduct examinations to ascertain the qualifications and fitness of applicants for licensure to practice dentistry and dental hygiene. To assist with such examinations:
      (I) Only proctors or licensed dentists may participate in the
examination of candidates for dental licensure;

(II) Licensed dentists, licensed dental hygienists, or proctors may participate in the examination of candidates for dental hygiene licensure.

(b) Make, publish, declare, and periodically review such reasonable rules as may be necessary to carry out and make effective the powers and duties of the board as vested in it by this article. Rules of the board may include but shall not be limited to:

(I) The examination of applicants for licensing as dentists and dental hygienists;

(II) The practices of dentistry and dental hygiene;

(III) The tasks and procedures which may be assigned to dental auxiliaries and dental hygienists;

(IV) The specification of essential instructions to be included in a laboratory work order.

(c) Conduct hearings to revoke, suspend, or deny the issuance of a license certificate, or renewal certificate granted under the authority of this article or of previous laws, issue a confidential letter of concern, ISSUE A LETTER OF ADMONITION, or reprimand, censure, or place on probation a licensee when evidence has been presented showing violation of any of the provisions of this article by a holder of or an applicant for a license. The board may elect to hear the matter itself PURSUANT TO THE PROVISIONS OF SECTION 12-35-129, or it may elect to hear the matter with the assistance of an administrative law judge or an advisory attorney from the office of the attorney general, and, in such case, the advisor or administrative law judge shall advise the board on legal and procedural matters and rule on evidence and otherwise conduct the course of the hearing.
(d) Conduct investigations and inspections for compliance with
the provisions of this article;

(e) Grant and issue licenses and renewal certificates in conformity
with this article to such applicants as have been found qualified. The
board may also grant and issue temporary licenses. The board shall
promulgate rules concerning the granting of temporary licenses, which
RULES shall include, but not be limited to, restrictions with respect to
effective dates, areas of practice that may be performed, and licensing
fees that may be charged to the applicant.

(f) Make such reasonable rules and regulations as may be
necessary to carry out and make effective the powers and duties of the
board as vested in it by the provisions of this article; except that all rules
adopted or amended by the board on or after July 1, 1979, shall be
subject to sections 24-4-103 (8) (c) and (8) (d) and 24-34-104 (9) (b) (II),
C.R.S. Such rules and regulations may include, but shall not be limited
to, minimum training and equipment requirements for the administration
of local anesthetics, general anesthesia, conscious sedation, and nitrous
oxide/oxygen inhalation sedation, including procedures that may be used
by and minimum training requirements for dentists and dental hygienists.
The general assembly declares that rules relating to anesthesia are not
intended to permit administration of local anesthetics, general anesthesia,
conscious sedation, or nitrous oxide/oxygen inhalation sedation by dental
auxiliaries ASSISTANTS nor to reduce competition or restrain trade with
respect to dentistry needs of the public.

(g) Through the department of regulatory agencies and subject to
appropriations made to the department of regulatory agencies, employ
hearing or law officers OR ADMINISTRATIVE LAW JUDGES on a full-time or
part-time basis to conduct any hearings required by this article. The hearing or law officers AND ADMINISTRATIVE LAW JUDGES shall be appointed pursuant to part 10 of article 30 of title 24, C.R.S.

(h) (I) Issue anesthesia permits to licensed dentists, that which PERMITS shall be valid for a period of five years and that SHALL allow permit-holding licensees to administer deep conscious sedation or both general anesthesia and deep conscious sedation;

(II) Set and collect a fee for the issuance of an anesthesia permit;

(i) Develop criteria and procedures for an office inspection program including, but not limited to:

(I) Designating qualified inspectors who are experts in dental outpatient general anesthesia and deep conscious sedation;

(II) Requiring each licensee inspected to bear the cost of inspection by allowing designated inspectors to charge a reasonable fee as established by the board;

(III) Requiring an inspector to notify the board in writing of the results of an inspection.

(j) APPROVE THE LIMITED PRACTICE OF DENTISTRY OR DENTAL HYGIENE BY A DENTIST OR A DENTAL HYGIENIST OF ANOTHER STATE WHO HAS A LICENSE FROM SUCH STATE IN GOOD STANDING FOR THE PURPOSE OF PROVIDING EDUCATIONAL SERVICES OR DENTAL SERVICES ON A LIMITED BASIS IN AN EDUCATIONAL PROGRAM TO PATIENTS IN THE PRESENCE OF A DENTIST OR A DENTAL HYGIENIST LICENSED IN THIS STATE WHEN SUCH DENTIST OR DENTAL HYGIENIST HAS BEEN INVITED BY A GROUP OF DENTISTS OR DENTAL HYGIENISTS LICENSED IN THIS STATE WHO ARE IN GOOD STANDING;

(k) RECOGNIZE THOSE DENTAL SPECIALTIES DEFINED BY THE
AMERICAN DENTAL ASSOCIATION OR ANY OTHER NATIONAL ORGANIZATION AS RECOGNIZED BY THE BOARD.

(2) Repealed.

To facilitate the licensure of qualified applicants, the board may, in its discretion, establish a subcommittee of at least six board members to perform licensing functions in accordance with this article. Four subcommittee members shall constitute a quorum of the subcommittee. The chairperson of the board may serve on a subcommittee as deemed necessary by the chairperson. Any action taken by a quorum of the subcommittee shall constitute action by the board.

12-35-108. [Formerly section 12-35-107.5.] Limitation on authority. The authority granted the board under the provisions of this article shall not be construed to authorize the board to arbitrate or adjudicate fee disputes between licensees or between a licensee and any other party.

12-35-109. [Formerly section 12-35-108.] Power of board to administer oaths - issue subpoenas - service - penalty for refusing to obey subpoena. (1) (a) The president and, in the president's absence, the vice-president, and, in the latter's absence, the secretary, vice-chairperson or an administrative law judge, shall have the power to administer oaths, take affirmations of witnesses, and issue subpoenas to compel the attendance of witnesses and the production of all necessary relevant papers, books, records, documentary evidence, and materials in any hearing, investigation, accusation, or other matter coming before the board. The board may appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., to take evidence and to make findings and report them to
the board. The sheriffs of the several counties of the state or other
officers authorized to serve process shall serve any subpoena or other
order issued by such officer or officers of said board and shall receive for
such services the fees provided for like service to be paid on certification
of such officer from any funds in the hands of the board.

(b) In addition, the program administrator shall have the power to
administer oaths and take affirmations of witnesses.

(2) Upon failure of any witness to comply with such subpoena or
process, the board may petition the district court in the county in which
the proceeding is pending setting forth that due notice has been given of
the time and place of attendance of the witness and the service of the
subpoena, in which event, the district court, after hearing evidence in
support of or contrary to the petition, may enter an order as in other civil
actions compelling the witness to attend and testify or produce books,
records, or other evidence.

12-35-110. [Formerly section 12-35-121.] Disposition of fees.
(1) The board shall not have the power to create any indebtedness on
behalf of the state. All examination and other fees under this article shall
be collected by the board and transmitted to the state treasurer, who shall
credit the same pursuant to section 24-34-105, C.R.S., and the general
assembly shall make annual appropriations pursuant to said section for
the uses and purposes of this article. Expenditures from such
appropriations shall be made upon vouchers and warrants drawn pursuant
to law.

(2) Appropriations made to the board shall be applied only to the
payment of the necessary traveling, hotel, and clerical expenses of the
members of the board in the performance of their duties; the payment of
dues for membership in the American association of dental examiners and
the expense of sending delegates to the convention of such association;
and the payment of all such other expenditures as may be necessary or
proper to carry out and execute the powers and duties of the board and
the provisions of this article.

(3) Repealed.

(4) (3) Publications of the board circulated in quantity outside the
executive branch shall be issued in accordance with the provisions of
section 24-1-136, C.R.S.

12-35-111. [Formerly section 12-35-119.] Change of address
- duplicate licenses and certificates. (1) Every person licensed under
this article, upon changing the licensee's place of business, shall furnish
the secretary of TO the board the licensee's new mailing address within
thirty days.

(2) The board may issue a duplicate of any license certificate
upon satisfactory proof ATTESTATION BY THE LICENSEE of loss or
destruction and shall charge a fee established pursuant to section
24-34-105, C.R.S., for a duplicate. of any certificate.

12-35-112. [Formerly section 12-35-109.] Persons entitled to
practice dentistry or dental hygiene. (1) It is unlawful for any person
to practice dentistry or dental hygiene in this state except those:

(a) and (b) (Deleted by amendment, L. 96, p. 1399, § 6, effective
July 1, 1996.)

(c) (a) Who are duly licensed as dentists or dental hygienists
pursuant to this article.

(d) (b) Who are designated by this article as dental auxiliaries
ASSISTANTS, but only to the extent of the procedures authorized by this
12-35-113. [Formerly section 12-35-110.] What constitutes practicing dentistry. (1) A person shall be deemed to be practicing dentistry if in the course of legitimate professional practice, such person:

(a) Performs, or attempts or professes to perform, any dental operation, or oral surgery, or dental diagnostic or therapeutic services of any kind. Nothing in this paragraph (a) shall be construed as prohibiting a dental hygienist or dental auxiliary assistant from providing preventive dental or nutritional counseling, education, or instruction services.

(b) Is a proprietor of a place where dental operation, oral surgery, or dental diagnostic or therapeutic services are performed; except that nothing in this section shall be construed as prohibiting a dental hygienist or dental auxiliary assistant from performing those tasks and procedures consistent with section 12-35-125 12-35-128;

(c) Directly or indirectly, by any means or method, takes impression of the human tooth, teeth, or jaws, or maxillofacial area, or adjacent and associated structures, performs any phase of any operation incident to the replacement of a part of a tooth, or supplies artificial substitutes for the natural teeth, jaws, or adjacent and associated structures; except that nothing in this section shall prohibit or be construed as prohibiting a dental hygienist or dental auxiliary assistant from performing tasks and procedures consistent with sections 12-35-122.5 (1) (d), 12-35-122.6 (1) (d), and 12-35-125 (4) (a) (I) 12-35-124 (1) (d), 12-35-125 (1) (d), and 12-35-128 (3) (a) (I);

(d) (I) Furnishes, supplies, constructs, reproduces, or repairs any prosthetic denture, bridge, appliance, or other structure to be worn in the
human mouth OR UPON THE JAWS, MAXILLOFACIAL AREA, OR ADJACENT
AND ASSOCIATED STRUCTURES other than on the written laboratory work
order of a duly licensed and practicing dentist; or

(II) Places such appliance or structure in the human mouth; or

(III) Adjusts, or attempts, or professes to adjust the same; or

(IV) Delivers the same to any person other than the dentist upon
whose laboratory work order the work was performed;

(e) Professes to the public by any method to furnish, supply,
construct, reproduce, or repair any prosthetic denture, bridge, appliance,
or other structure to be worn in the human mouth OR UPON THE JAWS,
MAXILLOFACIAL AREA, OR ADJACENT AND ASSOCIATED STRUCTURES;

(f) Examines, diagnoses, plans treatment, or treats natural or
artificial structures or conditions associated with, adjacent to, or
functionally related to the oral cavity, OR JAWS, the maxillofacial area or
ADJACENT AND ASSOCIATED STRUCTURES AND THEIR IMPACT ON THE
HUMAN BODY;

(g) Extracts, or attempts to extract, human teeth, or corrects, or
attempts to correct, malformations of teeth or of the jaws;

(h) Repairs or fills cavities in the human teeth;

(i) Prescribes ionizing radiation or the use of an X-ray for the
purpose of taking dental X-rays or roentgenograms. These procedures
may be delegated to appropriately trained personnel.

(j) Gives, or professes to give, interpretations or readings of dental
X-rays or roentgenograms, CT SCANS, OR OTHER DIAGNOSTIC
METHODOLOGIES; except that nothing in this section shall prohibit or be
construed as prohibiting a dental hygienist from performing tasks and
procedures consistent with sections 12-35-122.5 and 12-35-122.6
12-35-124 AND 12-35-125;

(k) Represents himself or herself to an individual or the general public as practicing dentistry, by using the words "dentist" or "dental surgeon", or by using the letters "D.D.S.", "D.M.D.", "D.D.S./M.D.", or "D.M.D./M.D.". Nothing in this paragraph (k) shall prohibit or be construed as prohibiting a dental hygienist or dental auxiliary from performing tasks and procedures consistent with section 12-35-125 (2) (a) or (4) (a) 12-35-128 (2) OR (3) (a).

(l) States, permits to be stated, or professes by any means or method whatsoever that he or she can perform or will attempt to perform dental operations or render a diagnosis connected therewith;

(m) Prescribes such drugs or medications and administers such general or local anesthetics, anesthesia, or analgesia as may be necessary for the proper practice of dentistry; except that nothing in this section shall prohibit or be construed as prohibiting a dental hygienist from performing those tasks and procedures consistent with sections 12-35-122.5 (1) (e), 12-35-122.6 (1) (e) and (1) (f), and 12-35-125 12-35-124 (1) (e), 12-35-125 (1) (e) AND (1) (f), AND 12-35-128, and in accordance with rules promulgated by the board;

(n) Prescribes, induces, and sets dosage levels for inhalation analgesia. Monitoring and administration may be delegated to appropriately trained personnel.

(o) Gives or professes to give interpretations or readings of dental charts or records or gives treatment plans or interpretations of treatment plans derived from examinations, patient records, dental X-rays, or roentgenograms; except that nothing in this section shall prohibit or be construed as prohibiting a dental hygienist or dental auxiliary ASSISTANT
from performing tasks and procedures consistent with sections 12-35-125 (2) and (4), 12-35-122.5, and 12-35-122.6. 12-35-128 (2) and (3), 12-35-124, and 12-35-125.

12-35-114.  [Formerly section 12-35-122.] Dentists may prescribe drugs, etc. A LICENSED dentist has the right to prescribe such drugs or medicine, perform such surgical operations, administer such general or local anesthetics, and use such appliances as may be necessary to the proper practice of dentistry. A dentist shall not prescribe, distribute, or give to a family member or ANY PERSON, INCLUDING himself or herself, any habit-forming drug, as defined in section 12-22-102 (13), or any controlled substance, as defined in part 2 of article 18 of title 18, C.R.S., or as contained in schedule II of 21 U.S.C. sec. 812, other than in the course of legitimate dental practice and pursuant to the rules promulgated by the board regarding controlled substance record-keeping.

12-35-115. [Formerly section 12-35-111.] Persons exempt from operations of this article. (1) Nothing in this article shall apply to the following practices, acts, and operations:

(a) Practice of his or her profession by a physician or surgeon licensed as such under the laws of this state unless the physician or surgeon practices dentistry as a specialty;

(b) The giving OF AN ANESTHETIC by a qualified anesthetist or registered nurse of an anesthetic for a dental operation under the direct supervision of a licensed dentist;

(c) The practice of dentistry or dental hygiene in the discharge of their official duties by graduate dentists or dental surgeons or dental hygienists in the United States armed forces, public health service, coast guard, or veterans administration;
(d) Dental interns regularly employed by a private hospital or by a city, county, city and county, or state hospital under an internship approved by the council on dental education of the American dental association APPROVED and registered as such by the board;

(e) The practice of dentistry or dental hygiene by instructors and students in schools or colleges of dentistry or schools of dental hygiene or schools of dental auxiliary assistant education accredited by the American dental association while SUCH INSTRUCTORS AND STUDENTS ARE participating in programs of such schools or colleges;

(f) The practice of dentistry or dental hygiene by dentists or dental hygienists of other states or countries while appearing in ACCREDITED programs of dental education or research OR SUCH PROGRAMS APPROVED BY THE BOARD at the invitation of any group of licensed dentists or dental hygienists in this state who are in good standing;

(g) The filling of laboratory work orders of a licensed dentist, as provided by section 12-35-130 12-35-133, by any person, association, corporation, or other entity for the construction, reproduction, or repair of prosthetic dentures, bridges, plates, or appliances to be used or worn as substitutes for natural teeth or for REGISTRATION, RESTORATION of natural teeth, OR REPLACEMENT OF STRUCTURES RELATING TO THE JAWS, MAXILLOFACIAL AREA, OR ADJACENT AND ASSOCIATED STRUCTURES;

(h) The performance of acts by a person under the personal direction DIRECT OR INDIRECT SUPERVISION of a dentist licensed in Colorado when authorized pursuant to the rules and regulations of the board or when authorized under other provisions of this article; or

(i) The practicing of dentistry or dental hygiene by an examiner representing a testing agency approved by the board, during the
administration of an examination; OR

(j) The practice of dentistry by foreign-trained dentists who are licensed or otherwise authorized in another country and employed as teachers at an accredited dental school in Colorado that offers a doctorate in dental surgery or a doctorate in dental medicine when such practice is expressly limited to patients in the dental school clinic or facility.

12-35-116. [Formerly section 12-35-112.] Names and status under which dental practice may be conducted. (1) The conduct of the practice of dentistry or dental hygiene in a corporate capacity is prohibited, but such prohibition shall not be construed to prevent the practice of dentistry or dental hygiene by a professional service corporation of licensees so constituted that they may be treated under the federal internal revenue laws as a corporation for tax purposes only. Any such professional service corporation may exercise such powers and shall be subject to such limitations and requirements, insofar as applicable, as are provided in section 12-36-134, relating to professional service corporations for the practice of medicine.

(2) The group practice of dentistry or dental hygiene is permitted.

(3) The practice of dentistry or dental hygiene by a limited liability company of licensees or by a limited liability partnership of licensees is permitted subject to the limitations and requirements, insofar as are applicable, set forth in section 12-36-134, relating to a limited liability company or limited liability partnership for the practice of medicine.

12-35-117. [Formerly section 12-35-113.] Application for license - fee. (1) Every person not currently holding a license to practice
dentistry in this state who desires to practice dentistry in this state shall file with the secretary of the board an application for a license on a form to be provided by the board, verified by the oath of the applicant, and accompanied by a fee required by section 12-35-123.5 or established pursuant to section 24-34-105, C.R.S., in which application it shall appear that the applicant:

(a) Has attained the age of twenty-one years;

(b) Is a graduate of a dental school or college which at the time of the applicant's graduation was accredited by the council on dental education of the American dental association. It shall be sufficient for the applicant to attach to the applicant's application a certified photostatic copy of a transcript of credits prepared by the dental college or school attended by the applicant. An official transcript prepared by the dental college or school attended shall be submitted to the board.

(c) Has listed any act, the commission of which would be grounds for disciplinary action under section 12-35-118 against a licensed dentist, along with an explanation of the circumstances of such act;

(d) Repealed.

(e) (d) Has verification of licensure from other jurisdictions where the applicant holds a current dental or other health care license.

(2) Repealed.

(3) (2) Such other pertinent information shall appear on the application as the board may deem necessary to process the application.

(4) An applicant for licensure who has not graduated from an accredited dental school or college within the twelve months immediately
preceding the application, or who has not engaged in the active clinical
practice of dentistry, in teaching dentistry in an accredited program, or in
service as a dentist in the military, for at least one year of the five years
immediately preceding the application, shall demonstrate to the board that
the applicant has maintained the professional ability and knowledge
required by this article.

12-35-118. [Formerly section 12-35-113.5.] Graduates of
foreign dental schools. (1) An applicant for a license to practice
dentistry who is a graduate of a foreign nonaccredited dental school must:

(a) Present evidence of having completed a program in clinical
dentistry and having obtained a doctorate of dental surgery or a doctorate
of dental medicine at an accredited dental school; accredited by a
nationwide recognized accrediting agency;

(b) Pass the examination administered by the joint commission on
national dental examinations;

(c) Pass an examination designed to test the applicant's clinical
skills and knowledge. Such examination may be administered by a
REGIONAL testing agency of which the board is a participating member
COMPOSED OF AT LEAST FOUR STATES OR A BOARD APPROVED
EXAMINATION OF ANOTHER STATE, TERRITORY, PROVINCE, OR COUNTRY

(d) (Deleted by amendment, L. 96, p. 1402, § 11, effective July 1, 1996.)

12-35-119. [Formerly section 12-35-114.] Examinations - how
classified - certificates issued to successful applicants - conditions on
reexamination. (1) Applicants for dental licensure shall submit to the
board proof of having successfully passed the following:
(a) The examination administered by the joint commission on national dental examinations;

(b) An examination on the provisions of this article THAT SHALL BE ACCOMPLISHED BY THE USE OF A MAIL-IN JURISPRUDENCE EXAMINATION ADMINISTERED BY THE BOARD;

(c) An examination designed to test the applicant’s clinical skills and knowledge. Such examination may be administered by a REGIONAL testing agency of which the board is a participating member COMPOSED OF AT LEAST FOUR STATES OR A BOARD APPROVED EXAMINATION OF ANOTHER STATE, TERRITORY, PROVINCE, OR COUNTRY THAT IS NOT A MEMBER OF A REGIONAL TESTING AGENCY.

(2) and (3) (Deleted by amendment, L. 96, p. 1403, § 12, effective July 1, 1996.)

(4) (2) All examination results required by the board shall be filed with the board and kept for reference for a period of not less than two years. Should the applicant successfully complete such examinations and be otherwise qualified, the applicant shall be granted a license by the board and shall be issued a license certificate signed by the officers of the board.

(5) Repealed.

(6) (3) The board shall adopt rules to establish:

(a) The maximum number of times and maximum time period within which an applicant will be allowed to retake only the failed parts of the examination designed to test clinical skills and knowledge; and

(b) The maximum number of times an applicant may fail to successfully complete the examination designed to test clinical skills and knowledge before the board requires such applicant to take specified
remedial measures as a prerequisite to retaking the examination.

(4) AN APPLICANT FOR LICENSURE WHO HAS NOT GRADUATED FROM AN ACCREDITED DENTAL SCHOOL OR COLLEGE WITHIN THE TWELVE MONTHS IMMEDIATELY PRECEDING THE APPLICATION, AND WHO HAS NOT ENGAGED IN THE ACTIVE CLINICAL PRACTICE OF DENTISTRY, IN TEACHING DENTISTRY IN AN ACCREDITED PROGRAM, OR IN SERVICE AS A DENTIST IN THE MILITARY FOR AT LEAST ONE YEAR OF THE FIVE YEARS IMMEDIATELY PRECEDING THE APPLICATION, SHALL DEMONSTRATE TO THE BOARD THAT THE APPLICANT HAS MAINTAINED THE PROFESSIONAL ABILITY AND KNOWLEDGE REQUIRED BY THIS ARTICLE.

12-35-120. [Formerly section 12-35-114.5.] Licensure by credentials. (1) The board shall provide for licensure upon application of any person licensed in good standing to practice dentistry in another state or territory of the United States who provides the credentials and meets the qualifications set forth in this section in the manner prescribed by the board.

(2) The board shall issue a license to an applicant licensed as a dentist in another state or territory of the United States if said applicant has submitted credentials and qualifications for licensure that include:

(a) Proof of graduation from an ACCREDITED dental school; accredited by the American dental association commission on dental education;

(b) Proof the applicant is currently licensed in another state or United States territory;

(c) Proof the applicant has been in practice or teaching DENTISTRY WHICH INVOLVES PERSONALLY PROVIDING CARE TO PATIENTS FOR NOT LESS THAN THREE HUNDRED HOURS ANNUALLY IN AN ACCREDITED
DENTAL SCHOOL for a minimum of five years OUT OF THE SEVEN YEARS immediately prior to applying for licensure;

(d) Proof the applicant has not been subject to final or pending disciplinary action by any state in which the applicant is or has been previously licensed; however, if the applicant has been subject to disciplinary action, the board may review such disciplinary action to determine if it warrants grounds for refusal to issue a license;

(e) Proof the applicant has not failed the clinical examination accepted by the board in the last three years;

(f) (e) Proof the applicant has passed an examination on the provisions of this article;

(ε) (f) Proof the applicant has passed an entry level examination acceptable to the board; and

(ό) (g) Proof the applicant has met any more stringent criteria established by the board.


(1) A PERSON LICENSED TO PRACTICE DENTISTRY OR DENTAL HYGIENE IN THIS STATE WHO IS ELIGIBLE TO HAVE HIS OR HER LICENSE RENEWED MAY RECEIVE A RENEWAL LICENSE UPON:

(a) TIMELY SUBMISSION OF A RENEWAL APPLICATION ON A FORM PRESCRIBED BY THE BOARD; AND

(b) PAYMENT OF A RENEWAL FEE ESTABLISHED BY THE BOARD PURSUANT TO SECTIONS 24-34-102 (8) AND 24-34-105, C.R.S.

(2) IF A LICENSEE FAILS TO RENEW HIS OR HER LICENSE PRIOR TO ITS EXPIRATION, SUCH LICENSE SHALL AUTOMATICALLY EXPIRE. A DENTIST OR DENTAL HYGIENIST WHOSE LICENSE HAS EXPIRED MAY
REINSTATE HIS OR HER LICENSE PURSUANT TO RULES ESTABLISHED BY THE BOARD.

(3) A RENEWAL FEE PAID PURSUANT TO THIS SECTION IS NONREFUNDABLE.

(4) ANY DENTIST OR DENTAL HYGIENIST WHOSE APPLICATION FOR RENEWAL IS RECEIVED BY THE BOARD AFTER THE DEADLINE FOR RENEWAL SHALL SUBMIT TO THE BOARD, IN ADDITION TO THE RENEWAL FEE, A LATE FEE DETERMINED AND COLLECTED PURSUANT TO SECTION 24-34-105, C.R.S.

(5) (a) IN ORDER TO OBTAIN LICENSE RENEWAL, EACH LICENSEE, EXCEPT AS OTHERWISE PROVIDED, SHALL BE REQUIRED TO COMPLETE A DENTAL OR DENTAL HYGIENE CONTINUING EDUCATIONAL PROGRAM. A DENTIST SHALL COMPLETE AT LEAST THIRTY HOURS OF CONTINUING EDUCATION EVERY TWO YEARS. A DENTAL HYGIENIST SHALL COMPLETE AT LEAST TWENTY-FOUR HOURS EVERY TWO YEARS. THE BOARD MAY, FOR GOOD CAUSE SHOWN, PRESCRIBE THE TYPE AND CHARACTER OF CONTINUING EDUCATION COURSES TO BE TAKEN BY ANY DENTIST OR DENTAL HYGIENIST IN ORDER TO COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE. THE AREAS OF STUDY FOR CONTINUING EDUCATION FOR DENTISTS AND DENTAL HYGIENISTS SHALL INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

(I) RECENT DEVELOPMENTS IN APPLIED SCIENCE, TECHNOLOGY, AND DELIVERY OF ORAL HEALTH CARE, THAT MAY INCLUDE, BUT ARE NOT LIMITED TO;

(A) MATERIALS AND PROCEDURES; AND

(B) TREATMENT MODALITIES OF HUMAN DISEASE;

(II) CHANGES IN STATE AND FEDERAL LAW RELATED TO HEALTH
CARE;

(III) Practice management issues, that may include, but are not limited to, risk management training; and

(IV) Any other topic as approved by the board.

(b) The board shall have the authority to excuse licensees, as groups or individuals, from biennially continuing educational requirements for a good and sufficient reason.

(c) (I) As a condition of licensure in this state, every applicant shall pay a fee, in an amount determined by the board, to an administering entity that has been selected by the board. This fee paid by applicants shall reimburse the administering entity for monitoring compliance with continuing education requirements and approving continuing education programs pursuant to this section.

(II) The board shall select an administering entity to monitor compliance with continuing education requirements in a manner acceptable to the board. The administering entity shall provide an annual accounting to the board of all amounts collected, expenses incurred, and amounts disbursed.

(III) The administering entity may be a professional association of:

(A) Dentists for continuing education for dentists; and

(B) Dental hygienists for continuing education for dental hygienists.

(d) The administering entity shall not charge a different rate for nonmembers than for members of the dental or dental hygienist association for services provided pursuant to this section.
SUBSECTION (5).  

12-35-122. [Formerly section 12-35-135.] Inactive dental license. (1) Any person licensed to practice dentistry pursuant to this article may apply to the board to be transferred to an inactive status. Such application shall be in the form and manner designated by the board. The board may grant such status by issuing an inactive license, or it may deny the application for any of the causes set forth in section 12-35-118.

(2) Any person applying for a license under this section shall:
   (a) Provide an affidavit to the board that the applicant, after a date certain, shall not practice dentistry in this state unless said applicant is issued a license to practice dentistry pursuant to subsection (5) of this section;
   (b) Pay the license fee as authorized pursuant to section 24-34-105, C.R.S.; and
   (c) Comply with any financial responsibility standards promulgated by the board pursuant to section 13-64-301 (1), C.R.S.

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

(4) The board is authorized to conduct disciplinary proceedings as set forth in section 12-35-117 or 12-35-118 against any person licensed under this section for any act committed while the person was licensed pursuant to this article.

(5) Any person licensed under this section who wishes to resume the practice of dentistry shall file an application in the form and manner the board shall designate, pay the license fee promulgated by the board pursuant to section 24-34-105, C.R.S., and meet the financial
responsibility requirements promulgated by the board pursuant to section 13-64-301 (1), C.R.S. The board may approve such application and issue a license to practice dentistry or may deny the application for any of the causes set forth in section 12-35-129.

12-35-123. [Formerly section 12-35-136.] Retired dental and dental hygienist licenses. (1) Any person licensed to practice dentistry or dental hygiene pursuant to this article may apply to the board for retired licensure status. Any such application shall be in the form and manner designated by the board. The board may grant such status by issuing a retired license, or it may deny the application if the licensee has been disciplined for any of the causes set forth in section 12-35-129.

(2) Any person applying for a license under this section shall:
(a) Provide an affidavit to the board stating that, after a date certain, the applicant shall not practice dentistry or dental hygiene, shall no longer earn income as a dentist or dental hygiene administrator or consultant, or shall not perform any activity that constitutes practicing dentistry or dental hygiene pursuant to sections 12-35-110, 12-35-122.5, and 12-35-122.6 12-35-113, 12-35-124, AND 12-35-125, unless said applicant is issued a license to practice dentistry or dental hygiene pursuant to subsection (5) of this section;
(b) Pay the license fee authorized by section 24-34-105, C.R.S., which fee shall not exceed fifty dollars.
(3) The retired status of a licensee shall be plainly indicated on the face of any retired license certificate issued under this section.
(4) The board is authorized to conduct disciplinary proceedings pursuant to section 12-35-117 or 12-35-118 12-35-129 against any person
licensed under this section for an act committed while such person was
licensed pursuant to this article.

(5) Any person licensed under this section may apply to the board
for a return to active licensure status by filing an application in the form
and manner the board shall designate pursuant to section 12-35-113
12-35-117, paying the appropriate license fee established pursuant to
section 24-34-105, C.R.S., and meeting the financial responsibility
requirements issued by the board pursuant to section 13-64-301 (1),
C.R.S. The board may approve such application and issue a license to
practice dentistry or dental hygiene or may deny the application if the
licensee has been disciplined for any of the causes set forth in section
12-35-129.

(6) A dentist in retired status may provide dental services on a
voluntary basis to the indigent, if such services are provided on a limited
basis and no fee is charged. Such a dentist shall have immunity for
voluntary care provided pursuant to this subsection (6).

12-35-124. [Formerly section 12-35-122.5.] What constitutes
practicing unsupervised dental hygiene. (1) Unless licensed to practice
dentistry, any person shall be deemed to be practicing unsupervised
dental hygiene who:

(a) Removes deposits, accretions, and stains by scaling with hand,
ultrasonic, or other devices from all surfaces of the tooth and smooths and
polishes natural and restored tooth surfaces;

(b) Removes granulation and degenerated tissue from the gingival
wall of the periodontal pocket through the process of gingival curettage;

(c) Provides preventive measures including the application of
fluorides and other recognized topical agents for the prevention of oral
(d) Gathers and assembles information including, but not limited to, fact-finding and patient history, oral inspection, and dental and periodontal charting;

(e) Administers a topical anesthetic to a patient in the course of providing dental care.

(2) Unsupervised dental hygiene may be performed by licensed dentists and licensed dental hygienists without the supervision of a licensed dentist.

(3) Notwithstanding the provisions of section 12-35-103 (5) or 12-35-113 (1) (b), a dental hygienist may be the proprietor of a place where supervised or unsupervised dental hygiene is performed and may purchase, own, or lease equipment necessary to perform supervised or unsupervised dental hygiene.

12-35-125. [Formerly section 12-35-122.6.] What constitutes practicing supervised dental hygiene. (1) Unless licensed to practice dentistry, any person shall be deemed to be practicing supervised dental hygiene who:

(a) Removes deposits, accretions, and stains by scaling with hand, ultrasonic, or other devices from all surfaces of the tooth and smooths and polishes natural and restored tooth surfaces, including root planing;

(b) Removes granulation and degenerated tissue from the gingival wall of the periodontal pocket through the process of gingival curettage. Such curettage may include the incidental removal of live epithelial tissue and is to be performed under the general supervision of a licensed dentist.

(c) Provides preventive measures including, but not limited to, the application of fluorides and other recognized topical agents for the
prevention of oral disease;

(d) Gathers and assembles information including, but not limited to, fact-finding and patient history, radiographic and X-ray survey, preparation of study casts, oral inspection, and dental and periodontal charting;

(e) Administers a topical anesthetic to a patient in the course of providing dental care;

(f) Administers local anesthetic under the direct supervision of a licensed dentist pursuant to rules and regulations of the board, which rules shall include minimum education requirements and procedures for such administration.

(2) Supervised dental hygiene may be performed by licensed dentists and, except for the administration of local anesthetic performed under paragraph (f) of subsection (1) of this section, by licensed dental hygienists under the general supervision of a licensed dentist in accordance with rules and regulations adopted by the board.

(3) A person practicing dental hygiene under the indirect supervision of a dentist not in the regularly announced office location of the supervising dentist shall identify to the patient or guardian of the patient, in writing, the name and business location of the hygienist’s supervising dentist.

12-35-126. [Formerly section 12-35-123] Application for dental hygienist license - fee. (1) Every person who desires to qualify for practice as a dental hygienist within this state shall file with the secretary of the board:

(a) A written application for a license, on which application such applicant shall list:
(I) Any act, the commission of which would be grounds for
disciplinary action under section 12-35-118 12-35-129 against a licensed
dental hygienist; along with AND

(II) An explanation of the circumstances of such act; and shall
furnish.

(b) (I) Satisfactory proof of graduation from a AN ACCREDITED
school of dental hygiene which at the time of the applicant's graduation
was accredited; by a nationally recognized accrediting agency AND

(II) THE PROGRAM OFFERED BY THE ACCREDITED SCHOOL OF
DENTAL HYGIENE WAS AT LEAST TWO ACADEMIC YEARS.

(c) Such application must be on the form prescribed and furnished
by the board, verified by the oath of the applicant, and accompanied by
a fee established pursuant to section 24-34-105, C.R.S.

(2) An applicant for licensure who has not graduated from an
accredited school or program of dental hygiene within the twelve months
immediately preceding application, or who has not engaged either in the
active clinical practice of dental hygiene or in teaching dental hygiene in
an accredited program for at least one year during the five years
immediately preceding the application, shall demonstrate to the board that
the applicant has maintained the professional ability and knowledge
required by this article.

12-35-127. [Formerly section 12-35-124.] Dental hygienist
examinations - license - endorsement. (1) Every applicant for dental
hygiene licensure shall submit to the board proof of having successfully
completed the following:

(a) An examination administered by the joint commission on
national dental examinations;
(b) An examination designed to test the applicant's clinical skills and knowledge, which **may** be administered by a **REGIONAL testing agency of which the board is a participating member** **COMPOSED OF AT LEAST FOUR STATES OR A BOARD APPROVED EXAMINATION OF ANOTHER STATE, TERRITORY, PROVINCE, OR COUNTRY THAT IS NOT A MEMBER OF A REGIONAL TESTING AGENCY**; **SHALL**

(c) An examination on the provisions of this article.

(2) All examination results required by the board shall be filed with the board and kept for reference for a period of not less than two years. Should an applicant successfully complete such examinations and be otherwise qualified, such applicant shall be granted a license by the board and shall be issued a license certificate signed by the officers of the board.

(3) Repealed.

(4) (3) (a) The board shall provide for licensure upon application of any person licensed in good standing to practice dental hygiene in another state or territory of the United States who has met the requirements of section 12-35-123 and subsections (1), (2), and (4) (b) of this section 12-35-126, **SUBSECTIONS (1) AND (2) OF THIS SECTION, AND PARAGRAPH (b) OF THIS SUBSECTION (3) and provides the credentials and meets the qualifications set forth in subsection (4) (b) of this section PARAGRAPH (b) OF THIS SUBSECTION (3) in the manner prescribed by the board. The examination for knowledge of the provisions of this article shall be accomplished by the use of a mail-in jurisprudence examination administered by the board.

(b) The board shall issue a license to an applicant duly licensed as a dental hygienist in another state or territory of the United States who
has submitted credentials and qualifications for licensure in Colorado. Such credentials and qualifications shall include:

(I) Verification of licensure from any other jurisdiction where the applicant has held a dental hygiene or other health care license;

(II) Evidence of the applicant's successful completion of the national board dental hygiene examination;

(III) Verification that the applicant has been engaged either in clinical practice or in teaching dental hygiene or dentistry in an accredited program for at least one year during the three years immediately preceding the application;

(IV) A report of any pending or final disciplinary actions against any health care license held by the applicant at any time; and

(V) A report of any pending or final malpractice actions against the applicant.

(4) A PERSON LICENSED AS A DENTAL HYGIENIST WHO PRACTICES DENTAL HYGIENE SHALL MEET THE FINANCIAL RESPONSIBILITY REQUIREMENTS PURSUANT TO SECTION 13-64-301 (1), C.R.S.

(5) (Deleted by amendment, L. 96, p. 1410, § 22, effective July 1, 1996.)

12-35-128. [Formerly section 12-35-125.] Tasks authorized to be performed by dental assistants or dental hygienists. (1) The responsibility for diagnosis, treatment planning, or the prescription of therapeutic measures in the practice of dentistry shall remain with a licensed dentist and may not be assigned to any dental hygienist. No dental procedure that will contribute to or result in an irremediable alteration of the oral anatomy may be assigned to anyone other than a licensed dentist.
(2) (a) Except as provided in subsection (1) of this section, a
dental hygienist may perform any dental task or procedure assigned to the
hygienist by a licensed dentist that does not require the professional skill
of a licensed dentist but only under the general supervision of a licensed
dentist on the premises, or as provided elsewhere in this section.

(b) and (c) Repealed.

(3) (Deleted by amendment, L. 96, p. 1411, § 23, effective July
1, 1996.)

(4) (3) (a) A dental auxiliary ASSISTANT shall not perform the
following tasks:

(I) Diagnosis;

(II) Treatment planning;

(III) Prescription of therapeutic measures;

(IV) Any procedure that contributes to or results in an
irremediable alteration of the oral anatomy;

(V) Administration of local anesthesia;

(VI) Scaling (supra and sub-gingival), as it pertains to the practice
of dental hygiene;

(VII) Root planing;

(VIII) Soft tissue curettage;

(IX) Periodontal probing.

(b) An auxiliary A DENTAL ASSISTANT may perform the following
tasks under the personal direction DIRECT OR INDIRECT SUPERVISION of a
licensed dentist:

(I) Smoothing and polishing natural and restored tooth surfaces;

(II) Provision of preventive measures including the application of
fluorides and other recognized topical agents for the prevention of oral
(III) Gathering and assembling information including, but not limited to, fact-finding and patient history, oral inspection, and dental and periodontal charting;

(IV) Administering topical anesthetic to a patient in the course of providing dental care;

(V) Any other task or procedure that does not require the professional skill of a licensed dentist.

(c) An auxiliary DENTAL ASSISTANT may, under the direct supervision of a licensed dentist in accordance with rules promulgated by the board, administer and monitor the use of nitrous oxide on a patient.

(d) (I) A dental auxiliary ASSISTANT may perform intraoral and extraoral tasks and procedures necessary for the construction FABRICATION of a full COMPLETE OR PARTIAL denture under the general DIRECT supervision of a licensed dentist. These tasks and procedures shall include:

(A) Taking MAKING of preliminary and final impressions;

(B) Bite-registration JAW RELATION RECORDS and determination of vertical dimensions;

(C) Tooth selection;

(D) A preliminary try-in of the wax-up trial denture prior to and subject to a try-in and approval in writing of the wax-up trial denture by the licensed dentist;

(E) Denture adjustments that involve the periphery, occlusal, or tissue-bearing surfaces of the denture prior to the final examination of the denture. pursuant to subsection (5) of this section;

(II) The tasks and procedures in subparagraph (I) of this paragraph
(d) shall be performed in the regularly announced office location of a licensed practicing dentist, and the dentist shall be personally liable for all treatment rendered to the patient. *No licensed dentist may maintain or utilize more than two announced office locations in which auxiliary personnel are utilized to perform tasks and procedures authorized in subparagraph (I) of this paragraph (d).* A dental auxiliary ASSISTANT performing these tasks and procedures shall be properly identified as a dental auxiliary ASSISTANT. No dentist shall utilize more than the number of dental auxiliaries ASSISTANTS the dentist can reasonably supervise.

(III) Prior to any work being performed pursuant to subparagraph (I) of this paragraph (d), the patient shall first be examined by the treating dentist licensed to practice in this state who shall certify that the patient has no pathologic condition that requires surgical correction or other treatment prior to complete denture service.

(5) At the time of a preliminary try-in of a wax-up trial denture as provided by sub-subparagraph (D) of subparagraph (I) of paragraph (d) of subsection (4) of this section, the dental auxiliary shall advise the patient that the dentist will examine the wax-up trial denture and make a vertical and occlusal check and that, within one month after delivery of the denture, the patient shall be examined by the licensed dentist for a certification in the patient chart that the denture is satisfactory.

(6) In addition to the procedure authorized in this section, a dental auxiliary ASSISTANT may make repairs and relines of dentures pursuant to a dental laboratory work order signed by a licensed dentist.

(7) The board may make such reasonable rules as may be necessary to implement and enforce the provisions of this section.

12-35-129. [Formerly section 12-35-118.] Causes for denial of
issuance or renewal - suspension or revocation of licenses - other
disciplinary action - unprofessional conduct defined - disciplinary
panels. (1) The board may deny the issuance or renewal of, suspend for
a specified time period, or revoke any license provided for by this article
or may reprimand, censure, or place on probation any licensed dentist or
dental hygienist after notice and hearing, which may be conducted by an
administrative law judge, pursuant to the provisions of article 4 of title
24, C.R.S., or it may issue a letter of admonition without a hearing
(except that any licensed dentist or dental hygienist to whom such a letter
of admonition is sent may, within thirty days after the date of the mailing
of such letter by the board, request in writing to the board a formal
hearing thereon, and the letter of admonition shall be deemed vacated,
and the board shall, upon such request, hold such a hearing) for any of
the following causes:

(a) Resorting to fraud, misrepresentation, or deception in applying
for, securing, renewing, or seeking reinstatement of a license to practice
dentistry or dental hygiene in this state, in applying for professional
liability coverage required pursuant to section 13-64-301, C.R.S., or in
taking the examinations provided for in this article;

(b) Any conviction of a felony or any crime that would constitute
a violation of this article. For purposes of this paragraph (b), conviction
includes the entry of a plea of guilty or nolo contendere or a deferred
sentence.

(c) Administering, dispensing, or prescribing any habit-forming
drug, as defined in section 12-22-102 (13), or any controlled substance,
as defined in section 12-22-303 (7) 18-18-102 (5), C.R.S., TO ANY
PERSON, INCLUDING HIMSELF OR HERSELF other than in the course of
legitimate professional practice; administering, dispensing, using, or
prescribing to himself or herself except on an emergency basis any
controlled substance as defined in part 2 of article 18 of title 18, C.R.S.,
or as contained in schedule II of 21 U.S.C. sec. 812, other than in the
course of legitimate professional practice;

(d) Conviction of violation of any federal or state law regulating
the possession, distribution, or use of any controlled substance, as defined
in section 12-22-303 (7) 18-18-102 (5), C.R.S., and, in determining if a
license should be denied, revoked, or suspended or if the licensee should
be placed on probation, the board shall be governed by the provisions of
section 24-5-101, C.R.S.;

(e) Habitual intemperance or excessive use of any habit-forming
drug, as defined in section 12-22-102 (13), or any controlled substance,
as defined in section 12-22-303 (7) 18-18-102 (5), C.R.S.;

(f) The aiding or abetting, in the practice of dentistry or dental
hygiene, of any person not licensed to practice dentistry or dental hygiene
as defined under this article or of any person whose license to practice
dentistry or dental hygiene is suspended;

(g) Except as otherwise provided in section 25-3-103.7, C.R.S.,
practicing dentistry or dental hygiene as a partner, agent, or employee of
or in joint venture with any person who does not hold a license to practice
dentistry or dental hygiene within this state or practicing dentistry or
dental hygiene as an employee of or in joint venture with any partnership,
association, or corporation except as provided in section 12-35-116. Any licensee holding a license to practice dentistry or dental
hygiene in this state may accept employment from any person,
partnership, association, or corporation to examine, prescribe, and treat
the employees of such person, partnership, association, or corporation.

(h) Violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this article or lawful rule or order of the board;

(i) Such physical or mental disability as to render the licensee unable to perform dental or dental hygiene services with reasonable skill and with safety to the patient;

(j) An act or omission constituting grossly negligent dental or dental hygiene practice or which fails to meet generally accepted standards of dental or dental hygiene practice;

(k) Advertising which is misleading, deceptive, or false;

(l) Engaging in a sexual act with a patient during the course of patient care or within six months immediately following the termination of the licensee’s professional relationship with the patient. "Sexual act", as used in this paragraph (l), means sexual contact, sexual intrusion, or sexual penetration as defined in section 18-3-401, C.R.S.

(m) Refusing to make patient records available to a patient pursuant to a written authorization-request under section 25-1-802, C.R.S.;

(n) False billing in the delivery of dental or dental hygiene services, including, but not limited to, performing one service and billing for another and billing for any service not rendered and committing a fraudulent insurance act, as defined in section 10-1-127, C.R.S.;

(o) Abuse of health insurance pursuant to section 18-13-119, C.R.S.;

(p) Failure of any person licensed by the board to notify the
board, in writing, of the entry of a final judgment by a court of competent
jurisdiction in favor of any party and against the licensee involving
negligent malpractice of dentistry or dental hygiene. Such notice shall be
given within ninety days of AFTER the entry of such judgment and shall
contain the name of the court, the case number, and the names of all
parties to the action.

(q) Failure to report a dental or dental hygiene malpractice
judgment or settlement to the board by the licensee within ninety days;

(r) The Failure to furnish unlicensed persons with laboratory work
orders pursuant to section 12-35-130 12-35-133;

(s) Employing a solicitor or other agent to obtain patronage,
except as provided in section 12-35-134 12-35-137;

(t) Willfully deceiving or attempting to deceive the board or its
agents with reference to any matter relating to the provisions of this
article;

(u) Sharing any professional fees with anyone except those with
whom the dentist or dental hygienist is lawfully associated in the practice
of dentistry or dental hygiene; except that it shall not be considered a
violation of this paragraph (u) if a licensed dentist or dental hygienist
pays to an independent advertising or marketing agent compensation for
the advertising or marketing services rendered on the licensed dentist's or
dental hygienist's behalf by such agent, including compensation which
THAT is paid for the results or performance of such services on a per
patient basis;

(v) The abandonment of a patient by failure to provide reasonably
necessary referral of the patient to other licensed dentists or licensed
health care professionals for consultation or treatment when such failure
to provide referral does not meet generally accepted standards of dental care;

(w) Failure of a dental hygienist to recommend to any patient that such patient be examined by a dentist or failure of a dental hygienist to refer a patient to a dentist when the dental hygienist detects a condition which requires care beyond the scope of practicing supervised or unsupervised dental hygiene;

(x) Engaging in any of the following activities and practices:

(I) Willful and repeated ordering or performance, without clinical justification, of demonstrably unnecessary laboratory tests or studies;

(II) The administration, without clinical justification, of treatment which is demonstrably unnecessary;

(III) In addition to the provisions of paragraph (w) of this subsection (1), the failure to obtain consultations or perform referrals when failing to do so is not consistent with the standard of care for the profession; or

(IV) Ordering or performing, without clinical justification, any service, X-ray, or treatment which is contrary to recognized standards of the practice of dentistry or dental hygiene as interpreted by the board;

(y) Falsifying or repeatedly making incorrect essential entries or repeatedly failing to make essential entries on patient records;

(z) Violating the provisions of section 8-42-101 (3.6), C.R.S.;

(aa) Any violation of the provisions of section 12-35-202 or any rule or regulation of the board adopted pursuant to said section;

(bb) Administering general anesthesia or deep conscious sedation without obtaining a permit from the board in accordance with section
(1) (h); (cc) **Failing** to report to the board the surrender of a license to, or adverse action taken against a license by, a licensing agency in another state, territory, or country, a governmental agency, a law enforcement agency, or a court for an act or conduct that would constitute grounds for discipline pursuant to this article;

(dd) **Failing** to provide adequate or proper supervision when employing unlicensed persons in a dental or dental hygiene practice;

(ee) Engaging in any conduct that constitutes a crime as defined in title 18, C.R.S., which conduct relates to the licensee’s practice as a dentist or dental hygienist;

(ff) Practicing outside the scope of dental or dental hygiene practice;

(gg) **Failure to establish and continuously maintain financial responsibility as required by Section 13-64-301, C.R.S.**

(hh) **Advertising or otherwise holding oneself out to the public as practicing a dental specialty:**

(I) That has not been recognized by the board; or

(II) In which the dentist has not successfully completed the education specified by the appropriate national board of that specialty.

(ii) **Failure to complete a required continuing education course pursuant to Section 12-35-121(5).**

(2) Any person whose license to practice is revoked is rendered ineligible to apply for any license under this article for at least two years after the date of revocation or
SURRENDER OF THE LICENSE. ANY SUBSEQUENT APPLICATION FOR LICENSURE SHALL BE TREATED AS AN APPLICATION FOR A NEW LICENSE.

(1.3) (3) Any person participating in good faith in the making of a complaint or report or participating in any investigative or administrative proceeding OR REVIEWING OR SUPERVISING A LICENSEE’S PRACTICE pursuant to this section shall be immune from any civil liability civil or criminal that otherwise might result by reason of such action.

(1.5) (4) The discipline of a license to practice dentistry in another state, territory, or country shall be deemed to be unprofessional conduct; except that this subsection (1.5) (4) shall apply only to discipline that is based upon an act or omission in such other state, territory, or country that is defined substantially the same as unprofessional conduct pursuant to this article.

(1.7) (5) (a) Nothing in this section shall be construed to deprive any dental patient of the right to choose or replace any professionally recognized restorative material, nor to permit disciplinary action against a dentist solely for removing or placing any professionally recognized restorative material.

(b) Nothing in paragraph (a) of this subsection (1.7) (5) shall be construed to prevent disciplinary action against a dentist for practicing dentistry in violation of this article.

(2) Repealed.

(3) (6) Complaints relating to the conduct of any dentist or dental hygienist shall be in writing and may be made by any person and, if so made, shall be signed by such person or may be initiated by the board on its own motion. The dentist or dental hygienist complained of shall be
given notice of such complaint.

(4) Repealed.

(5) (a) If the board has reasonable cause to believe that a person licensed to practice dentistry or dental hygiene in this state is unable to practice dentistry or dental hygiene with reasonable skill and safety to patients, because of a physical or mental disability or because of excessive use of any habit-forming drug or substance, as defined in section 12-22-102 (13), the board may require such licensed dentist or dental hygienist to submit to mental or physical examinations by a qualified professional designated by the board.

(b) Upon the failure of such licensed dentist or dental hygienist to submit to such mental or physical examinations, unless due to circumstances beyond the dentist's or dental hygienist's control, the board may suspend such dentist's or dental hygienist's license to practice dentistry or dental hygiene in this state until such time as the dentist or dental hygienist submits to the examinations.

(c) Every person licensed to practice dentistry or dental hygiene in this state shall be deemed, by so practicing or by applying for a renewal of the person's license to practice dentistry or dental hygiene in this state, to have given consent to submit to mental or physical examinations when directed in writing by the board, and further to have waived all objections to the admissibility of the examining qualified professional's testimony or examination reports on the ground of privileged communication.

(d) The results of any mental or physical examination ordered by the board shall not be used as evidence in any proceeding other than before the board.
(e) Investigations, examinations, hearings, meetings, or any other proceedings of the board conducted pursuant to the provisions of this section shall be exempt from the provisions of any law requiring that proceedings of the board be conducted publicly or that the minutes or records of the board with respect to action of the board taken pursuant to the provisions of this section are open to public inspection; except that the final action of the board taken pursuant to the provisions of this section shall be open to the public.

(f) If an investigation discloses an instance of conduct which THAT, in the opinion of the board, does not warrant formal board action and should be dismissed, but in which the board has noticed indications of possible errant conduct that could lead to serious consequences if not corrected, a confidential letter of concern shall be sent to the licensee against whom the complaint was made.

(g) The board may include in any disciplinary order that allows the dentist or dental hygienist to continue to practice such conditions as the board may deem appropriate to assure that the dentist or dental hygienist is physically, mentally, and otherwise qualified to practice dentistry or dental hygiene in accordance with generally accepted professional standards of practice. Such an order may include any or all of the following:

(I) Submission by the licensee to such examinations as the board may order to determine the licensee's physical or mental condition or professional qualifications;

(II) The taking by the licensee of such therapy, courses of training, or education as may be needed to correct deficiencies found by the board or by such examinations;
(III) The review or supervision of the licensee's practice as may be necessary to determine its quality and to correct any deficiencies;

(IV) The imposition of restrictions on the licensee's practice to assure that such practice does not exceed the limits of the licensee's capabilities.

(6) (8) (a) If a professional review committee is established pursuant to this section to investigate the quality of care being given by a person licensed to practice dentistry pursuant to this article, it shall include in its membership at least three persons licensed to practice dentistry under this article, but such committee may be authorized to act only by:

(I) The board; or

(II) A society or an association of persons licensed to practice dentistry pursuant to this article whose membership includes not less than one-third of the persons licensed to practice dentistry pursuant to this article residing in this state if the licensee whose services are the subject of review is a member of such society or association.

(b) Any member of the board or a professional review committee authorized by the board and any witness or consultant appearing before the board or such professional review committee shall be immune from suit in any civil action brought by a licensee who is the subject of a professional review proceeding if such member, witness, or consultant acts in good faith within the scope of the function of the board or such committee, has made a reasonable effort to obtain the facts of the matter as to which such member, witness, or consultant acts, and acts in the reasonable belief that the action taken by such member, witness, or consultant is warranted by the facts. The immunity provided by this
paragraph (b) shall extend to the members of an authorized professional
review committee of a society or an association of persons licensed
pursuant to this article and witnesses or consultants appearing before such
committee if such committee is authorized to act as provided in
subparagraph (II) of paragraph (a) of this subsection (6) (8).

(c) A PROFESSIONAL REVIEW COMMITTEE OF A SOCIETY OR AN
ASSOCIATION OF PERSONS LICENSED PURSUANT TO THIS ARTICLE SHALL
ONLY NOTIFY THE BOARD OF ANY ACTION TAKEN BY THE REVIEW
COMMITTEE WHEN IT FINDS THAT A DENTIST HAS PROVIDED CARE THAT
DOES NOT MEET ACCEPTED PROFESSIONAL STANDARDS OR HAS OTHERWISE
VIOLATED THIS ARTICLE AND SUCH DENTIST MAY BE SUBJECT TO
DISCIPLINARY ACTION BY THE BOARD.

(7) (9) The proceedings and records of a review committee shall
be held in confidence and shall not be subject to discovery or introduction
into evidence in any civil action against a dentist arising out of the
matters which are the subject of evaluation and review by such
committee. However, records of closed proceedings and investigations
shall be available to the particular licensee under review and the
complainant involved in the proceedings. No person who was in
attendance at a meeting of such committee shall be permitted or required
to testify in any such civil action as to any evidence or other matters
produced or presented during the proceedings of such committee or as to
any findings, recommendations, evaluations, opinions, or other actions of
such committee or any members thereof. However, information,
documents, or records otherwise available from original sources are not
to be construed as immune from discovery or use in any such civil action
merely because they were presented during proceedings of such committee, and any documents or records which have been presented to the review committee by any witness shall be returned to the witness, if requested by the witness or if ordered to be produced by a court in any action, with copies thereof to be retained by the committee at its discretion. Any person who testifies before such committee or who is a member of such committee shall not be prevented from testifying as to matters within such person's knowledge, but the said witness cannot be asked about the witness' testimony before such a committee or opinions formed by the witness as a result of said committee hearings.

(8) (10) If the board finds the charges proven and orders that discipline be imposed, it may also order the licensee to take such courses of training or education as may be needed to correct deficiencies found in the hearing.

(11) (a) On and after January 1, 2004, the chairperson of the board may divide those members of the board other than the chairperson into two panels of six members each.

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

(c) All matters referred to one panel for investigation shall be heard, if referred for formal hearing, by the other panel or a committee of such panel. However, in its discretion,
EITHER INQUIRY PANEL MAY ELECT TO REFER A CASE FOR FORMAL
HEARING TO A QUALIFIED ADMINISTRATIVE LAW JUDGE IN LIEU OF A
HEARING PANEL OF THE BOARD FOR AN INITIAL DECISION PURSUANT TO
SECTION 24-4-105, C.R.S.

(d) THE INITIAL DECISION OF AN ADMINISTRATIVE LAW JUDGE MAY
BE REVIEWED PURSUANT TO SECTION 24-4-105 (14) AND (15), C.R.S., BY
THE FILING OF EXCEPTION TO THE INITIAL DECISION WITH THE HEARING
PANEL THAT WOULD HAVE HEARD THE CASE IF IT HAD NOT BEEN REFERRED
TO AN ADMINISTRATIVE LAW JUDGE OR BY REVIEW UPON THE MOTION OF
SUCH HEARING PANEL. THE RESPONDENT OR THE BOARD’S COUNSEL SHALL
FILE SUCH EXCEPTION.

(e) AN INVESTIGATION SHALL BE UNDER THE SUPERVISION OF THE
PANEL TO WHICH THE INVESTIGATION IS ASSIGNED. THE PERSON MAKING
SUCH INVESTIGATION SHALL REPORT THE RESULTS OF THE INVESTIGATION
TO THE ASSIGNING PANEL FOR APPROPRIATE ACTION.

12-35-130. [Formerly section 12-35-115.] Review of board
action. (1) Any final action of the board undertaken to deny the issuance
or renewal of, or to suspend, or to revoke a license to practice dentistry
or dental hygiene or to censure, to reprimand, or to place on probation a
licensee of dentistry or dental hygiene may be reviewed by The court of
appeals, by appropriate proceedings under section 24-4-106 (11), C.R.S.,
MAY REVIEW ANY FINAL ACTION OF THE BOARD TO:

(a) DENY TO ISSUE OR RENEW A LICENSE;
(b) SUSPEND A LICENSE;
(c) REVOKE A LICENSE;
(d) CENSURE A LICENSEE;
(e) ISSUE A LETTER OF ADMONITION TO A LICENSEE;
(f) **PLACE A LICENSEE ON PROBATION; OR**

(g) **REPRIMAND.**

(2) **THE PROVISIONS OF THIS SECTION APPLY TO A LICENSE ISSUED TO A DENTIST OR DENTAL HYGIENIST.**

12-35-131. **[Formerly section 12-35-128.] Use of forged or invalid diploma or certificate.** It is unlawful for any person to use or attempt to use as his or her own a diploma of a dental college or school, or a license or license renewal certificate, of any other person, or to use or attempt to use a forged diploma, license, license renewal certificate, or identification. It is also unlawful for any person to file with the board a forged document, which document has been required or requested by the board for use in assessing an applicant's qualifications for licensure.

12-35-132. **[Formerly section 12-35-129.] Sale of forged or invalid diploma or license certificate.** It is unlawful to sell or offer to sell a diploma conferring a dental or dental hygiene degree or a license or license renewal certificate granted pursuant to this article or prior dental practice laws or to procure such diploma or license or license renewal certificate with intent that it shall be used as evidence of the right to practice dentistry or dental hygiene by a person other than the one upon whom it was conferred, or to whom such license or license renewal certificate was granted, or with fraudulent intent to alter a diploma or license or license renewal certificate or to use or attempt to use it when it is so altered.

12-35-133. **[Formerly section 12-35-130.] Employment of unlicensed person by dentist - penalty.** (1) Every duly licensed dentist who uses the services of any unlicensed person for the purpose of constructing, altering, repairing, or duplicating any denture, plate, partial
plate, bridge, splint, or orthodontic or prosthetic appliance shall be required to furnish such unlicensed person with a written laboratory work order in such form as shall be approved by the board, which form shall be dated and signed by such dentist for each separate and individual piece of work. Said laboratory work order shall be made in duplicate form, the duplicate copy to be retained by the dentist in a permanent file for a period of two years and the original copy to be retained in a permanent file for a period of two years by the unlicensed person to whom it was furnished, and both of such permanent files shall be open to inspection at any reasonable time by the board or its duly constituted agent.

(2) Failure of the dentist to keep such permanent records of laboratory work orders shall subject such dentist to disciplinary action as deemed appropriate by the board.

(3) Failure of any such unlicensed person to have in the person's possession a laboratory work order signed by a licensed dentist, or a written work order signed by the initial recipient of the laboratory work order which that is identifiable with each denture, plate, partial plate, bridge, splint, or orthodontic or prosthetic appliance in the possession of such unlicensed person, shall be prima facie evidence of a violation of this section.

12-35-134. [Formerly section 12-35-131.] Soliciting or advertisements by unlicensed persons. It is unlawful for any unlicensed person, corporation, entity, partnership, or group of persons to solicit or advertise to the general public to construct, reproduce, or repair prosthetic dentures, bridges, plates, or other appliances to be used or worn as substitutes for natural teeth.

12-35-135. [Formerly section 12-35-132.] Penalty for violation
- injunction.  (1) Any person who violates any of the provisions of this article commits a class 3 misdemeanor and shall be liable to prosecution by the attorney general or the district attorney of the district in which the violation is alleged to have occurred and shall be punished as provided in section 18-1.3-501, C.R.S.

(2) If the board has reasonable cause to believe that any person is violating any provisions of this article, or any lawful rule or regulation issued under this article, in addition to all other actions provided for in this article and without prejudice thereto, it may enter an order requiring such person to cease and desist from violating this article, or such rule, or regulation, and, in addition, may request that an action be brought on relation of the people of the state of Colorado by the attorney general or by the district attorney of the district in which the violation is alleged to have occurred, to enjoin such person from engaging in or continuing such violation or from doing any act in furtherance thereof. In any such action, an order or judgment may be entered awarding such preliminary or final injunction as may be deemed proper.

12-35-136. [Formerly section 12-35-133.] Attorney general shall represent board and members. The attorney general of the state of Colorado shall counsel with and advise the board in connection with its duties and responsibilities under this article. In the event litigation is brought against the board or any of its individual members in connection with actions taken by it or them under the provisions of this article and such actions are free of malice, fraud, or willful neglect of duty, the attorney general shall defend without cost to the board or to any individual member thereof.

12-35-137. [Formerly section 12-35-134.] Independent
advertising or marketing agent - injunctive proceedings.

(1) Notwithstanding the provisions of section 12-35-118 12-35-129 (1)
(s), a licensed dentist or dental hygienist may employ an independent
advertising or marketing agent to provide advertising or marketing
services on the dentist's or dental hygienist's behalf, and the same shall
not be considered unprofessional conduct.

(2) The board shall not have the authority to regulate, directly or
indirectly, advertising or marketing activities of independent advertising
or marketing agents except as provided in this section. The board may,
in the name of the people of the state of Colorado, apply for an injunction
in the district court to enjoin any independent advertising or marketing
agent from the use of advertising or marketing which the court finds
on the basis of the evidence presented by the board to be misleading,
deceptive, or false; except that a licensed dentist or dental hygienist shall
not be subject to discipline by the board, injunction, or prosecution in the
courts under this article or any other law for advertising or marketing by
an independent advertising or marketing agent if the factual information
which the licensed dentist or dental hygienist provides to the
independent advertising or marketing agent is accurate and not
misleading, deceptive, or false.

12-35-138. [Formerly section 12-35-123.5.] Dentist peer health
assistance fund.

(1) (a) Repealed:

(b) Prior to June 30, 1994, the board shall transfer the balance in
the fund, if any, to the administering entity chosen by the board pursuant
to paragraphs (d) and (e) of subsection (2) of this section, and the board
shall perform the duties and responsibilities of the rehabilitation
evaluation committee, as described in paragraph (b) of subsection (6) of this section, as said provision existed prior to July 1, 1994.

(2) (a) (1) Repealed:

(b) (a) Effective July 1, 1994, as a condition of licensure in this state, every applicant shall pay to the administering entity that has been selected by the board pursuant to the provisions of paragraph (e) (b) of this subsection (2) (1) an amount not to exceed twenty-eight FIFTY-NINE dollars per year, which MAXIMUM amount MAY BE ADJUSTED ON JANUARY 1, 2004, AND ANNUALLY THEREAFTER BY THE BOARD TO REFLECT CHANGES IN THE UNITED STATES BUREAU OF STATISTICS CONSUMER PRICE INDEX FOR THE DENVER-BOULDER CONSOLIDATED METROPOLITAN STATISTICAL AREA FOR ALL URBAN CONSUMERS, ALL GOODS, OR ITS SUCCESSOR INDEX. SUCH FEE shall be used to support designated providers that have been selected by the board to provide assistance to dentists needing help in dealing with physical, emotional, or psychological problems which may be detrimental to their ability to practice dentistry.

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

(I) Provide for the education of dentists with respect to the recognition and prevention of physical, emotional, and psychological problems and provide for intervention when necessary or under circumstances which may be established by rules promulgated by the board;

(II) Offer assistance to a dentist in identifying physical, emotional, or psychological problems;
(III) Evaluate the extent of physical, emotional, or psychological problems and refer the dentist for appropriate treatment;

(IV) Monitor the status of a dentist who has been referred for treatment;

(V) Provide counseling and support for the dentist and for the family of any dentist referred for treatment;

(VI) Agree to receive referrals from the board;

(VII) Agree to make their ITS services available to all licensed Colorado dentists.

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

(d) The responsibilities of the administering entity shall be to:

(I) Collect the required annual payments;

(II) Verify to the board, in a manner acceptable to the board, the names of all dentist applicants who have paid the fee set by the board;

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

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

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

(3) and (4) Repealed.

(5) (2) (a) Any dentist who is a referred participant in a peer health assistance program shall enter into a written agreement with the board prior to such dentist becoming a participant in such program. Such agreement shall contain specific requirements and goals to be met by the participant, including the conditions under which the program will be successfully completed or terminated, and a provision that a failure to comply with such requirements and goals shall be promptly reported to the board and the committee and that such failure shall result in disciplinary action by the board.

(b) Notwithstanding the provisions of section 12-35-118 and section 24-4-104, C.R.S., the board may immediately suspend the license of any dentist who is referred to a peer health assistance program by the board and who fails to attend or to complete such program. If such dentist objects to such suspension, he or she may submit a written request to the board for a formal hearing on such suspension within ten days after receiving notice of such suspension, and the board shall grant such request. In such hearing the dentist shall bear the burden of proving that his or her license should not be suspended.

(c) Any dentist who is accepted into a peer health assistance program in lieu of disciplinary action by the board shall affirm that, to the best of his or her knowledge, information, and belief, he or she knows of no instance in which he or she has violated this article or the rules and regulations of the board, except in those instances affected by the dentist's physical, emotional, or psychological problems.
(6) Repealed.

(7) (3) Nothing in this section shall be construed to create any liability on behalf of the board or the state of Colorado for the actions of the board or the committee members in making grants to peer assistance programs, and no civil action may be brought or maintained against the board or the committee members, or the state for an injury alleged to have been the result of the activities of any state-funded peer assistance program or the result of an act or omission of a dentist participating in or referred by a state-funded peer assistance program. However, the state shall remain liable under the provisions of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S., if an injury alleged to have been the result of an act or omission of a dentist participating in or referred by a state-funded peer assistance program occurred while such dentist was performing duties as an employee of the state.

(8) (4) The board is authorized to promulgate rules and regulations necessary to implement the provisions of this section.

(9) Repealed.

SECTION 2. 13-4-102 (2) (g), Colorado Revised Statutes, is amended to read:

13-4-102. Jurisdiction. (2) The court of appeals shall have initial jurisdiction to:

(g) Review actions of the board of dental examiners in refusing to issue or renew or in suspending or revoking a license to practice dentistry or dental hygiene, as provided in section 12-35-115, 12-35-130, C.R.S.;

SECTION 3. 25-1-1202 (1) (k), Colorado Revised Statutes, is amended to read:
25-1-1202. Index of statutory sections regarding medical record confidentiality and health information. (1) Statutory provisions concerning policies, procedures, and references to the release, sharing, and use of medical records and health information include the following:

(k) Section 12-35-118, 12-35-129, C.R.S., concerning disciplinary actions against dentists and dental hygienists;

SECTION 4. 26-4-414.3 (1), Colorado Revised Statutes, is amended to read:

26-4-414.3. Authorization of services provided by dental hygienists. (1) When dental hygiene services are provided to children by a licensed dental hygienist who is providing dental hygiene services pursuant to section 12-35-122.5 12-35-124, C.R.S., without the supervision of a licensed dentist, the executive director of the state department shall authorize reimbursement for said services, subject to the requirements of this section. Payment for such services shall be made directly to the licensed dental hygienist, if requested by the licensed dental hygienist; except that this section shall not apply to licensed dental hygienists when acting within the scope of their employment as salaried employees of public or private institutions, physicians, or dentists.

SECTION 5. 13-64-301 (1) (a), (2), and (4), Colorado Revised Statutes, are amended to read:

13-64-301. Financial responsibility. (1) Every physician, or dentist, OR DENTAL HYGIENIST and every health care institution as defined in section 13-64-202, except as provided in section 13-64-303.5, which provide health care services shall establish financial responsibility, as follows:

(a) If a physician, or dentist, OR DENTAL HYGIENIST by
maintaining, no later than January 1, 1990, as a condition of active licensure or authority to practice in this state, commercial professional liability insurance coverage with an insurance company authorized to do business in this state in a minimum indemnity amount of five hundred thousand dollars per incident and one million five hundred thousand dollars annual aggregate per year; except that this requirement is not applicable to a health care professional who is a public employee under the "Colorado Governmental Immunity Act". The board of medical examiners and the board of dental examiners may by rule exempt from or establish lesser financial responsibility standards than those prescribed in this section for classes of license holders who perform medical or dental services as employees of the United States government; who render limited or occasional medical or dental services; who perform less than full-time active medical or dental services because of administrative or other nonclinical duties or partial or complete retirement; or who provide uncompensated health care to patients but do not otherwise provide any compensated health care to patients; or for other reasons that render the limits provided in this paragraph (a) unreasonable or unattainable, but nothing in this paragraph (a) shall preclude or otherwise prohibit a licensed physician, or dentist, or DENTAL HYGIENIST from rendering appropriate patient care on an occasional basis when the circumstances surrounding the need for care so warrant.

(2) Each such physician, or dentist, or DENTAL HYGIENIST as a condition of receiving and maintaining an active or inactive license or other authority to provide health care services and each health care institution, as a condition of receiving and maintaining an active license, certification, or other authority to provide health care services in this
state, shall furnish the appropriate authority which issues and administers
such license, certification, or other authority with evidence of compliance
with subsection (1) of this section. No such license, certification, or other
authority shall be issued or renewed unless such evidence of compliance
has been furnished.

(4) Each physician, dentist, DENTAL HYGIENIST, or health care
institution, subject to the provisions of this section, shall pay, in addition
to any license fee, certification fee, or fee for such other authority, an
additional fee in an amount to be determined by the appropriate authority
which issues or administers such license, certification, or other authority,
not to exceed fifteen dollars. Such fee shall be transmitted to the state
treasurer, who shall credit the same to the division of registrations cash
fund, which moneys shall be used exclusively for the purposes of this
article as annually appropriated by the general assembly.

SECTION 6. 24-34-104 (32.5) (b), Colorado Revised Statutes,
is amended, and the said 24-34-104 is further amended BY THE
ADDITION OF A NEW SUBSECTION, to read:

24-34-104. General assembly review of regulatory agencies and
functions for termination, continuation, or reestabishment.
(32.5) The following agencies, functions, or both, shall terminate on July
1, 2003:

(b) The state board of dental examiners, created by article 35 of
title 12, C.R.S.;

(43) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL
TERMINATE ON JULY 1, 2012: THE STATE BOARD OF DENTAL EXAMINERS,
CREATED BY ARTICLE 35 OF TITLE 12, C.R.S.

SECTION 7. Repeal of provisions being relocated in this act.
12-35-116, 12-35-117, 12-35-120, and 12-35-127, Colorado Revised Statutes, are repealed.

SECTION 8. Effective date - applicability. This act shall take effect July 1, 2003, and shall apply to licenses and registrations related to the practice of dentistry issued or renewed on or after said date.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.