

**SENATE JOURNAL**  
Sixty-eighth General Assembly  
**STATE OF COLORADO**  
First Regular Session

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38th Legislative Day

Friday, February 18, 2011

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Prayer	By the chaplain, Reverend Bo Sosa, New Life Worship Center, Federal Heights.	1
Call to Order	By the President at 9:00 a.m.	2
Pledge	By Senator Grantham.	3
Roll Call	Present--35	4
Quorum	The President announced a quorum present.	5
Reading of Journal	On motion of Senator Morse, reading of the Journal of Thursday, February 17, 2011, was dispensed with and the Journal was approved as corrected by the Secretary.	6

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**MESSAGE FROM THE HOUSE**

February 17, 2011  
Mr. President:

The House has passed on Third Reading and returns herewith SB11-163, 135, 140, 143, 145, 146, 147, 148, 149, 151, 152, 153, 154, 155, 157, 160,161.

The House has passed on Third Reading and transmitted to the Revisor of Statutes;  
SB11-159, amended as printed in House Journal, February 16, page 295.  
SB11-164, amended as printed in House Journal, February 16, page 296.  
SB11-144, amended as printed in House Journal, February 16, page 295.  
SB11-137, amended as printed in House Journal, February 16, pages 294-295.  
SB11-141, amended as printed in House Journal, February 16, pages 293-294.  
SB11-136, amended as printed in House Journal, February 16, pages 292-293.  
SB11-156, amended as printed in House Journal, February 16, page 296.  
SB11-138, amended as printed in House Journal, February 16, pages 288-289.  
SB11-139, amended as printed in House Journal, February 16, pages 289-290.  
SB11-150, amended as printed in House Journal, February 16, page 291.  
SB11-142, amended as printed in House Journal, February 16, page 293.

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**MESSAGE FROM THE REVISOR OF STATUTES**

February 17, 2011

To: Senate

Message From Revisor of Statutes

We herewith transmit:

Without comment, as amended, SB11-136, 137, 138, 139, 141, 142, 144, 150, 156, 159, and 164.

SENATE SERVICES REPORT

Correctly Engrossed: SB11-096.
Correctly Reengrossed: SB11-087.
Correctly Revised: HB11-1050.

On motion of Senator Morse, and with a two-thirds majority of those elected to the Senate having voted in the affirmative, SCR11-001 was made Special Orders at 9:15 a.m.

THIRD READING OF BILLS -- FINAL PASSAGE --
CONSENT CALENDAR

On third reading, the titles of the following bills were publicly read, the reading at length having been dispensed with by unanimous consent:

HB11-1050 by Representative(s) Soper; also Senator(s) Tochtrop--Concerning boiler inspection regulation by the division of oil and public safety.

The question being "Shall the bill pass?", the roll call was taken with the following result:

Table with 8 columns: YES, NO, EXCUSED, ABSENT and corresponding counts. Rows list names of senators and representatives and their votes.

A majority of all members elected to the Senate having voted in the affirmative, the bill was passed.

SB11-096 by Senator(s) Steadman, Bacon, Carroll, Giron, Guzman, Hodge, Hudak, Jahn, King K., King S., Mitchell, Morse, Newell, Nicholson, Roberts; also Representative(s) McCann, DelGrosso, Ferrandino, Levy, Nikkel--Concerning excluding a class 6 felony drug possession conviction as a qualifying offense for the habitual criminal statute.

The question being "Shall the bill pass?", the roll call was taken with the following result:

Table with 8 columns: YES, NO, EXCUSED, ABSENT and corresponding counts. Rows list names of senators and representatives and their votes.

A majority of all members elected to the Senate having voted in the affirmative, the bill was passed.

Co-sponsors added: Boyd and Tochtrop.

Committee of the Whole

The hour of 9:15 a.m. having arrived, Senator Schwartz moved that the Senate resolve itself into the Committee of the Whole for consideration of Special Orders -- Second Reading of Bills and Senator Schwartz was called to the Chair to act as Chairman.

**SPECIAL ORDERS -- SECOND READING OF BILLS**

The Committee of the Whole having risen, the Chairman reported that the following bills, reading at length having been dispensed with by unanimous consent, had been considered and action taken thereon as follows:

**SCR11-001**

by Senator(s) Shaffer B. and Spence, Kopp, Brophy, Heath, Jahn, King S., Morse, Roberts, Schwartz, Steadman, Tochtrop, White; also Representative(s) Murray and Court, McNulty, Acree, Barker, Baumgardner, Becker, Brown, Casso, Conti, Coram, Duran, Ferrandino, Fields, Fischer, Gardner D., Hamner, Hullinghorst, Kagan, Kefalas, Kerr A., Labuda, Lee, Levy, Liston, Massey, McCann, McKinley, Miklosi, Pace, Peniston, Priola, Riesberg, Ryden, Schafer S., Scott, Solano, Sonnenberg, Soper, Summers, Swerdfeger, Todd, Tyler, Vigil, Williams A., Wilson--Submitting to the registered electors of the state of Colorado an amendment to the Colorado constitution concerning ballot measures, and, in connection therewith, increasing the number of votes needed to pass a constitutional amendment from a majority to at least sixty percent of the votes cast; allowing a constitutional amendment passed prior to 2013 to be repealed by a majority of the votes cast; adding a requirement that a minimum number of petition signatures for a citizen-initiated constitutional amendment be gathered from voters who reside in each Colorado congressional district; and increasing the requirement from a majority to a two-thirds vote of the state legislature to change, repeal, or supersede a citizen-initiated law for three years after it becomes effective.

Ordered engrossed and placed on the calendar for third reading and final passage.

**ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE**

On motion of Senator Schwartz, the report of the Committee of the Whole was **adopted** on the following roll call vote:

YES	27	NO	8	EXCUSED	0	ABSENT	0
Aguilar	Y	Guzman	Y	Kopp	Y	Scheffel	Y
Bacon	Y	Harvey	N	Lambert	N	Schwartz	Y
Boyd	Y	Heath	Y	Lundberg	N	Spence	Y
Brophy	Y	Hodge	Y	Mitchell	N	Steadman	Y
Cadman	N	Hudak	Y	Morse	Y	Tochtrop	Y
Carroll	Y	Jahn	Y	Newell	Y	White	Y
Foster	Y	Johnston	Y	Nicholson	Y	Williams S.	Y
Giron	Y	King K.	N	Renfroe	N	President	Y
Grantham	N	King S.	Y	Roberts	Y		

The Committee of the Whole took the following action:

Passed on second reading: SCR11-001.

Committee of the Whole

On motion of Senator Steadman, the Senate resolved itself into the Committee of the Whole for consideration of General Orders--Second Reading of Bills and Senator Steadman was called to the chair to act as Chairman.

**GENERAL ORDERS -- SECOND READING OF BILLS**

The Committee of the Whole having risen, the Chairman reported that the following bills, reading at length having been dispensed with by unanimous consent, had been considered and action taken thereon as follows:

**SB11-013**

by Senator(s) Newell; also Representative(s) Lee--Concerning the use of alternative dispute resolution practices.

Laid over until Monday, February 21, retaining its place on the calendar.

**SB11-010** by Senator(s) Tochtrop; also Representative(s) Priola--Concerning the trade readjustment allowance program.

Ordered engrossed and placed on the calendar for third reading and final passage.

**SB11-039** by Senator(s) Tochtrop; also Representative(s) Massey--Concerning the consequences of default in payments due for storage of personal property in a self-storage facility.

Amendment No. 1, Business, Labor & Technology Committee Amendment.  
(Printed in Senate Journal, February 2, page 98 and placed in members' bill files.)

As amended, ordered engrossed and placed on the calendar for third reading and final passage.

**SB11-012** by Senator(s) Brophy; also Representative(s) Massey--Concerning a public school student's authority to possess prescription medications at school.

Amendment No. 1, Education Committee Amendment.  
(Printed in Senate Journal, February 4, pages 102-103 and placed in members' bill files.)

Amendment No. 2(L.012), by Senator Brophy.

Amend the Senate Education Committee Report dated February 3, 2011, page 2, strike line 24 and substitute:

"(I) REQUIRE A PROCESS BY WHICH THE ADMINISTRATORS OF A STUDENT'S SCHOOL MAKE".

Amendment No. 3(L.013), by Senator Hudak.

Amend the Senate Education Committee Report, dated February 3, 2011, page 2, line 11, strike "PHYSICIAN" and substitute "PHYSICIAN, DENTIST, OR ADVANCED PRACTICE NURSE".

Page 2, line 22, strike "PHYSICIAN" and substitute "PHYSICIAN, DENTIST, OR ADVANCED PRACTICE NURSE".

As amended, ordered engrossed and placed on the calendar for third reading and final passage.

**SB11-019** by Senator(s) King K.; also Representative(s) Stephens--Concerning payment of the costs of health insurance coverage to employees of small employers.

Laid over until Monday, February 21, retaining its place on the calendar.

**SB11-034** by Senator(s) Nicholson; also Representative(s) Summers--Concerning requiring an educator who provides services through the women, infants, and children program to report child abuse or neglect.

Amendment No. 1, Health & Human Services Committee Amendment.  
(Printed in Senate Journal, February 4, pages 104-105 and placed in members' bill files.)

As amended, ordered engrossed and placed on the calendar for third reading and final passage.

**SB11-043** by Senator(s) Steadman; --Concerning a requirement that pharmaceutical manufacturers develop plans for the safe disposal of sharps intended for home use.

Amendment No. 1, Health & Human Services Committee Amendment.  
(Printed in Senate Journal, February 4, page 105 and placed in members' bill files.)

Amendment No. 2(L.004), by Senator Steadman.

Amend the Senate Health and Human Services Committee Report, dated February 3, 2011, page 1, strike line 7 and substitute:

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"Page 2 of printed bill, strike lines 15 through 22 and substitute:

"(b) A MANUFACTURER SUBJECT TO THIS SECTION SHALL POST TO ITS WEB SITE THE MOST CURRENT VERSION OF THE PLAN REQUIRED UNDER PARAGRAPH (a) OF THIS SUBSECTION (1)."

Page 3 of the bill, strike lines 1 through 4."

Page 1 of the report, after line 9 insert:

"Page 3 of the bill, strike lines 16 through 21 and substitute:

"(III) EDUCATE MEDICAL PERSONNEL AND OTHER STAFF MEMBERS WHO ANSWER THE MANUFACTURER'S TOLL-FREE NUMBER, AND HEALTH CARE PROFESSIONALS WHO INTERACT WITH PATIENTS WHO USE SHARPS AT HOME, REGARDING SAFE SHARPS DISPOSAL METHODS AVAILABLE TO CONSUMERS IN COLORADO; AND".

Page 1 of the report, line 10, strike "3." and substitute "3 and substitute:

"(3) A MANUFACTURER SHALL NOT PASS ON TO CONSUMERS OR RETAILERS THE COSTS OF CREATING OR POSTING THE PLAN REQUIRED UNDER THIS SECTION.".

Page 1 of the report, strike line 11.

Page 2 of the report, line 1, strike ""(4)" and substitute ""(5) (a)".

Page 2 of the report, strike line 7 and substitute "APPROPRIATIONS.

(b) THE DEPARTMENT IS ENCOURAGED TO PROVIDE LINKS ON ITS WEB SITE TO THE PLANS POSTED BY MANUFACTURERS PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION."

As amended, ordered engrossed and placed on the calendar for third reading and final passage.

(For further action, see amendments to the report of the Committee of the Whole.)

**SB11-009** by Senator(s) Steadman, Guzman; also Representative(s) Fischer, Gardner B.--Concerning procedural requirements for payment of costs related to impounded animals.

Laid over until Monday, February 21, retaining its place on the calendar.

**SB11-007** by Senator(s) Grantham; also Representative(s) Becker--Concerning the responsibility for the prosecution of a person who is charged with failure to register as a sex offender.

Amendment No. 1, Judiciary Committee Amendment.  
(Printed in Senate Journal, February 2, page 93 and placed in members' bill files.)

Amendment No. 2(L.003), by Senator Grantham.

Amend Senate Judiciary Committee Report, dated January 31, 2011, page 1, strike lines 1 through 7 and substitute:

"Amend printed bill, page 2, strike line 9 and substitute "resides, IN THE COUNTY IN WHICH THE".

Page 1, strike lines 11 through 14 and substitute "apprehended.".

As amended, **lost** on second reading.

(For further action, see amendments to the report of the Committee of the Whole.)

**SB11-016** by Senator(s) Grantham; --Concerning increases in the amounts allocated to certain family members during the administration of a decedent's estate.

Amendment No. 1, Judiciary Committee Amendment.  
(Printed in Senate Journal, February 2, page 93 and placed in members' bill files.)

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Amendment No. 2(L.002), by Senator Steadman.

Amend printed bill, page 2, line 21, strike "SEVENTY-EIGHT" and substitute "THIRTY".

Page 5, line 5, strike "SEVENTY-TWO" and substitute "THIRTY".

Page 5, line 6, strike "SIX THOUSAND" and substitute "TWO THOUSAND FIVE HUNDRED".

As amended, **lost** on second reading.

(For further action, see amendments to the report of the Committee of the Whole.)

**SB11-055** by Senator(s) Lundberg, Lambert, Kopp, Renfroe; also Representative(s) Joshi, Holbert, Nikkel, Scott--Concerning notices required prior to the use of security scanning systems in the state.

Laid over until Monday, February 21, retaining its place on the calendar.

**SB11-110** by Senator(s) Nicholson; also Representative(s) Coram--Concerning a requirement that certain boards of county commissioners develop an open burning permit system for the purpose of safely disposing of slash.

Amendment No. 1, Local Government Committee Amendment.

(Printed in Senate Journal, February 9, page 125 and placed in members' bill files.)

Amendment No. 2(L.003), by Senator Nicholson.

Amend printed bill, page 4, strike line 4 and substitute "IS ENCOURAGED TO CONSULT WITH THE COLORADO STATE FOREST SERVICE ESTABLISHED IN SECTION 23-31-302, C.R.S., AND SHALL:".

Page 5, line 16, strike "A SUBSTANTIAL FORESTED AREA" and substitute "AT LEAST FORTY-FOUR PERCENT FOREST COVER".

As amended, ordered engrossed and placed on the calendar for third reading and final passage.

**SB11-008** by Senator(s) Boyd; also Representative(s) Gerou--Concerning aligning medicaid eligibility for children.

Amendment No. 1, Health & Human Services Committee Amendment.

(Printed in Senate Journal, February 10, pages 138-139 and placed in members' bill files.)

As amended, ordered engrossed and placed on the calendar for third reading and final passage.

**SB11-107** by Senator(s) Morse; also Representative(s) Barker--Concerning the recovery of noneconomic damages in a civil action concerning damages resulting from a DUI incident.

Laid over until Monday, February 21, retaining its place on the calendar.

**SB11-040** by Senator(s) Spence and Newell; also Representative(s) Summers and Todd--Concerning the requirement that a coach of an organized youth athletic activity follow concussion guidelines, and, in connection therewith, creating the "Jake Snakenberg Youth Concussion Act".

Laid over until Monday, February 21, retaining its place on the calendar.

**SB11-124** by Senator(s) Hodge, Lambert, Steadman; also Representative(s) Gerou, Ferrandino--Concerning the transfer of unspent county TANF reserves to a county.

A majority of all members elected to the Senate having voted in the affirmative, the bill was referred to the Committee on Appropriations.

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**SB11-068** by Senator(s) Carroll; also Representative(s) Solano--Concerning an increase in consumer protection under the "Colorado Consumer Protection Act".

Laid over until Monday, February 21, retaining its place on the calendar.

**AMENDMENTS TO THE REPORT OF THE COMMITTEE OF THE WHOLE**

**SB11-043** by Senator(s) Steadman; --Concerning a requirement that pharmaceutical manufacturers develop plans for the safe disposal of sharps intended for home use.

Senator Renfroe moved to amend the Report of the Committee of the Whole to show that the following amendment to SB 11-043 did pass.

Amend the Steadman floor amendment (SB043\_L.004), page 1, strike lines 15 through 19.

Less than a majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **lost** on the following roll call vote:

YES	16	NO	18	EXCUSED	1	ABSENT	0
Aguilar	N	Guzman	N	Kopp	Y	Scheffel	Y
Bacon	N	Harvey	Y	Lambert	Y	Schwartz	Y
Boyd	N	Heath	N	Lundberg	Y	Spence	Y
Brophy	Y	Hodge	N	Mitchell	Y	Steadman	N
Cadman	Y	Hudak	N	Morse	N	Tochtrop	N
Carroll	N	Jahn	N	Newell	N	White	Y
Foster	N	Johnston	N	Nicholson	N	Williams S.	E
Giron	N	King K.	Y	Renfroe	Y	President	N
Grantham	Y	King S.	Y	Roberts	Y		

**SB11-007** by Senator(s) Grantham; also Representative(s) Becker--Concerning the responsibility for the prosecution of a person who is charged with failure to register as a sex offender.

Senator Grantham moved to amend the Report of the Committee of the Whole to show that SB 11-007, as amended, did pass.

A majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **passed** on the following roll call vote:

YES	34	NO	0	EXCUSED	1	ABSENT	0
Aguilar	Y	Guzman	Y	Kopp	Y	Scheffel	Y
Bacon	Y	Harvey	Y	Lambert	Y	Schwartz	Y
Boyd	Y	Heath	Y	Lundberg	Y	Spence	Y
Brophy	Y	Hodge	Y	Mitchell	Y	Steadman	Y
Cadman	Y	Hudak	Y	Morse	Y	Tochtrop	Y
Carroll	Y	Jahn	Y	Newell	Y	White	Y
Foster	Y	Johnston	Y	Nicholson	Y	Williams S.	E
Giron	Y	King K.	Y	Renfroe	Y	President	Y
Grantham	Y	King S.	Y	Roberts	Y		

**SB11-016** by Senator(s) Grantham; --Concerning increases in the amounts allocated to certain family members during the administration of a decedent's estate.

Senator Grantham moved to amend the Report of the Committee of the Whole to show that SB 11-016, as amended, did pass.

A majority of all members elected to the Senate having voted in the affirmative, the amendment to the report of the Committee of the Whole was **passed** on the following roll call vote:

YES	32	NO	2	EXCUSED	1	ABSENT	0
Aguilar	Y	Guzman	Y	Kopp	Y	Scheffel	Y
Bacon	Y	Harvey	Y	Lambert	Y	Schwartz	Y
Boyd	Y	Heath	Y	Lundberg	Y	Spence	Y
Brophy	Y	Hodge	Y	Mitchell	Y	Steadman	Y
Cadman	Y	Hudak	N	Morse	Y	Tochtrop	N
Carroll	Y	Jahn	Y	Newell	Y	White	Y
Foster	Y	Johnston	Y	Nicholson	Y	Williams S.	E
Giron	Y	King K.	Y	Renfroe	Y	President	Y
Grantham	Y	King S.	Y	Roberts	Y		

**ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE**

On motion of Senator Steadman, the report of the Committee of the Whole was **adopted** on the following roll call vote:

YES	34	NO	0	EXCUSED	1	ABSENT	0
Aguilar	Y	Guzman	Y	Kopp	Y	Scheffel	Y
Bacon	Y	Harvey	Y	Lambert	Y	Schwartz	Y
Boyd	Y	Heath	Y	Lundberg	Y	Spence	Y
Brophy	Y	Hodge	Y	Mitchell	Y	Steadman	Y
Cadman	Y	Hudak	Y	Morse	Y	Tochtrop	Y
Carroll	Y	Jahn	Y	Newell	Y	White	Y
Foster	Y	Johnston	Y	Nicholson	Y	Williams S.	E
Giron	Y	King K.	Y	Renfroe	Y	President	Y
Grantham	Y	King S.	Y	Roberts	Y		

The Committee of the Whole took the following action:

Passed on second reading: SB11-010, SB11-039 as amended, SB11-012 as amended, SB11-034 as amended, SB11-043 as amended, SB11-007 as amended, SB11-016 as amended, SB11-110 as amended, SB11-008 as amended.  
 Laid over until Monday, February 21: SB11-013, SB11-019, SB11-009, SB11-055, SB11-107, SB11-025, SB11-040, SB11-068, HB11-1028, SB11-082, SB11-115.  
 Referred to Committee on Appropriations: SB11-124.

On motion of Senator Morse, and with a majority of those elected to the Senate having voted in the affirmative, the balance of the calendar of Friday, February 18 was laid over until Monday, February 21 retaining its place on the calendar.

General Orders -- Second Reading of Bills: SB11-025, SB11-1028, SB11-082, SB11-115.

Consideration of Resolutions: SJR11-005.

Consideration of Governor's Appointments:

Executive Director of the Department of Local Affairs

**MESSAGE FROM THE GOVERNOR**

Appointment Letters of designation and appointment from Governor John Hickenlooper were read and assigned to committees as follows:

February 18, 2011

To the Honorable  
 Colorado Senate  
 Colorado General Assembly  
 State Capitol Building

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Denver, CO 80203

Ladies and Gentlemen:

Pursuant to the powers conferred upon me by the Constitution and Laws of the State of Colorado, I have the honor to designate, appoint, and submit to your consideration, the following:

BOARD OF PINNACOL ASSURANCE

for a term expiring January 1, 2013:

John N. Cevette of Platteville, Colorado, an employee of an employer whose liability is insured by Pinnacol, to fill the vacancy occasioned by the resignation of Holman F. Carter of Boulder, Colorado, appointed;

for a term expiring January 1, 2016:

John C. Plotkin of Lakewood, Colorado, an employer whose liability is insured by Pinnacol, appointed.

I urge your immediate confirmation of these appointments in addition to the confirmation of appointee Blair Richardson.

Sincerely,  
(signed)  
John W. Hickenlooper  
Governor  
Rec'd: 2/18/2011  
Cindi Markwell, Secretary of the Senate

Committee on Business, Labor, & Technology

\*Note: Appointments to the Board of Pinnacol Assurance were assigned to committee on Monday, February 21.

**COMMITTEE OF REFERENCE REPORTS**

- Education After consideration on the merits, the Committee recommends that **HB11-1077** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the Consent Calendar.  
Amend reengrossed bill, page 3, line 11, after "AND" insert "MAY SERVE".  
Page 12, line 12, after "AND" insert "MAY SERVE".
- Finance After consideration on the merits, the Committee recommends that **SB11-004** be referred to the Committee on Appropriations with favorable recommendation.
- Finance After consideration on the merits, the Committee recommends that **SB11-102** be referred to the Committee on Appropriations with favorable recommendation.
- Finance After consideration on the merits, the Committee recommends that **SB11-026** be postponed indefinitely.
- Local Government After consideration on the merits, the Committee recommends that **SB11-117** be postponed indefinitely.
- Local Government After consideration on the merits, the Committee recommends that **SB11-015** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

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Amend printed bill, page 4, line 10, after "policies" insert "issued or renewed".

Page 4, strike line 11 and substitute "or after January 1, 2012."

Agriculture,  
Natural  
Resources,  
and Energy

After consideration on the merits, the Committee recommends that **SB11-090** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 2, strike lines 11 through 20.

Renumber succeeding sections accordingly.

Page 2, strike lines 21 and 22 and substitute:

**"SECTION 2. Repeal.** 36-20-127, Colorado Revised Statutes, is repealed as follows:

**36-20-127. Repeal of article.** ~~This article is repealed, effective July 1, 2011. Prior to such repeal, the function of the issuance of permits for specific weather modifications operations through the director shall be reviewed as provided for in section 24-34-104, C.R.S."~~

Page 3, strike lines 1 through 5.

Page 1, line 103, strike "THE" and substitute "A".

Page 1, line 104, strike "RECOMMENDATIONS" and substitute "RECOMMENDATION".

Page 1, strike line 105 and substitute "AGENCIES AND CONTINUING INDEFINITELY THE "WEATHER MODIFICATION ACT OF 1972"."

Agriculture,  
Natural  
Resources,  
and Energy

After consideration on the merits, the Committee recommends that **SB11-050** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, strike lines 2 through 11 and substitute:

**"SECTION 1.** Article 30.5 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**38-30.5-107.1. Condemnation.** IF ALL OR A PORTION OF THE PROPERTY SUBJECT TO A CONSERVATION EASEMENT IS CONDEMNED, THE JUST COMPENSATION TO BE PAID FOR THE TAKING OF THE PORTION OF THE PROPERTY OR PROPERTY INTEREST CONDEMNED SHALL BE DETERMINES AS THOUGH THE PROPERTY CONDEMNED IS UNENCUMBERED BY THE CONSERVATION EASEMENT. THE JUST COMPENSATION AWARD SHALL THEREAFTER BE APPORTIONED AS PROVIDED IN SECTION 38-1-105 (3). AS BETWEEN THE INTERESTS OF THE GRANTOR AND GRANTEE OF THE CONSERVATION EASEMENT, THE PROCEEDS SHALL BE APPORTIONED AS SPECIFIED BY THE TERMS OF THE CONSERVATION EASEMENT OR, IF NOT SPECIFIED IN THE CONSERVATION EASEMENT, IN ACCORDANCE WITH 26 CFR 1.170A-14 (g) (6) (ii)."

Agriculture,  
Natural  
Resources,  
and Energy

After consideration on the merits, the Committee recommends that **SB11-091** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 4, line 2, after "(f)," insert "(1) (j)".

Page 4, line 4, strike "A" and substitute "THE FOLLOWING" and strike

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"PARAGRAPH," and substitute "PARAGRAPHS,".

Page 4, line 15, strike "on-the-premises" and substitute "~~on-the-premises~~ DIRECT".

Page 5, after line 3 insert:

"(j) Any person from performing duties other than diagnosis, prescription, surgery, or initiating treatment under the direction and ~~on-the-premises~~ supervision of a licensed veterinarian who shall be responsible for such person's performance;".

Page 5, line 23, strike "(4)." and substitute "(4);".

Page 5, after line 23 insert:

"(r) ANY PERSON FROM ASSISTING IN A SURGICAL PROCEDURE UNDER THE IMMEDIATE SUPERVISION OF A LICENSED VETERINARIAN, WHO IS RESPONSIBLE FOR THE PERSON'S PERFORMANCE.".

Page 8, strike lines 18 through 27.

Strike pages 9 through 11.

Page 12, strike lines 1 through 4 and substitute:

**"12-64-122. Corporate structure for the practice of veterinary medicine - definitions.** (1) A LICENSED VETERINARIAN SHALL NOT PRACTICE VETERINARY MEDICINE IN OR THROUGH A CORPORATION EXCEPT IN ACCORDANCE WITH THIS SECTION.

(2) ONE OR MORE PERSONS MAY FORM OR OWN SHARES IN A CORPORATION FOR THE PRACTICE OF VETERINARY MEDICINE IF THE CORPORATION IS ORGANIZED AND OPERATED IN ACCORDANCE WITH THIS SECTION. A CORPORATION FORMED PURSUANT TO THIS SECTION MAY EXERCISE THE POWERS AND PRIVILEGES CONFERRED UPON CORPORATIONS BY THE LAWS OF COLORADO.

(3) THE PRACTICE OF VETERINARY MEDICINE BY A CORPORATION PURSUANT TO THIS SECTION MUST BE PERFORMED BY OR UNDER THE SUPERVISION OF A LICENSED VETERINARIAN. LAY DIRECTORS, OFFICERS, AND SHAREHOLDERS OF THE CORPORATION SHALL NOT EXERCISE ANY AUTHORITY WHATSOEVER OVER THE INDEPENDENT MEDICAL JUDGMENT OF LICENSED VETERINARIANS PERFORMING OR SUPERVISING THE PRACTICE OF VETERINARY MEDICINE BY OR ON BEHALF OF THE CORPORATION.".

Re-number succeeding subsections accordingly.

Page 12, strike lines 21 through 27.

Page 13, strike lines 1 through 3.

Re-number succeeding subsection accordingly.

Page 13, strike lines 6 through 14 and substitute:

"(a) "CORPORATION" MEANS A DOMESTIC ENTITY, AS DEFINED IN SECTION 7-90-102 (13), C.R.S., A FOREIGN ENTITY, AS DEFINED IN SECTION 7-90-102 (23), C.R.S., REGISTERED TO DO BUSINESS IN COLORADO, OR A SOLE PROPRIETORSHIP.".

Re-letter succeeding paragraphs accordingly.

Page 13, strike lines 18 through 26.

Re-letter succeeding paragraph accordingly.

Page 14, line 5, strike "PREMISES," and substitute "PREMISES, REGARDLESS OF WHETHER THE PREMISES IS OWNED OR OPERATED BY A LICENSED VETERINARIAN OR BY A CORPORATION OPERATING PURSUANT TO SECTION 12-64-122,".

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Page 14, line 6, strike "SCHEDULED" and substitute "DESIGNATED AS RESPONSIBLE FOR THE VETERINARY PREMISES".

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Page 14, line 7, strike "CARE." and substitute "CARE PROVIDED TO ANIMALS ON THE VETERINARY PREMISES.".

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Page 14, line 23, strike "PROBLEMS" and substitute "CONDITIONS".

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Page 15, line 4, strike "PROBLEMS" and substitute "CONDITIONS".

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Page 15, line 8, strike "PROBLEMS;" and substitute "CONDITIONS;".

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Page 15, line 10, strike "PROBLEMS" and substitute "CONDITIONS".

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Page 17, line 21, strike "PROBLEMS." and substitute "CONDITIONS.".

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Page 20, line 22, strike "revoke, or suspend, OR REFUSE TO" and substitute "revoke or suspend".

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Page 20, line 23, strike "RENEW".

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Page 22, line 7, before "(7)," insert "(5)," and after "(c)," insert "(17)".

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Page 22, line 8, strike "amended" and substitute "amended, and the said 12-64-103 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS,".

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Page 22, after line 10 insert:

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"(4.3) "CLIENT" MEANS THE PATIENT'S OWNER, THE OWNER'S AGENT, OR A PERSON RESPONSIBLE FOR THE PATIENT.

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(4.5) "COMPLAINANT" MEANS THE BOARD OR ANY OTHER PERSON WHO INITIATES A PROCEEDING.

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(5) ~~"Complainant" means the board or any other person who initiates a proceeding.~~ "DIRECT SUPERVISION" MEANS THE SUPERVISING LICENSED VETERINARIAN IS READILY AVAILABLE ON THE PREMISES WHERE THE PATIENT IS BEING TREATED.

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(6.5) "IMMEDIATE SUPERVISION" MEANS THE SUPERVISING LICENSED VETERINARIAN AND ANY PERSON BEING SUPERVISED ARE IN DIRECT CONTACT WITH THE PATIENT.".

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Page 22, line 12, strike "board." and substitute "board TO A PERSON TO ENGAGE IN THE PRACTICE OF VETERINARY MEDICINE.".

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Page 22, after line 18 insert:

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"(9.7) "PATIENT" MEANS AN ANIMAL THAT IS EXAMINED OR TREATED BY A LICENSED VETERINARIAN AND INCLUDES HERDS, FLOCKS, LITTERS, AND OTHER GROUPS OF ANIMALS.".

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Page 22, after line 24 insert:

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"(17) "Veterinary premises" or "premises" means any veterinary office, hospital, clinic, or temporary location in which veterinary medicine is being practiced by or under the direct OR IMMEDIATE supervision of a licensed veterinarian.".

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Page 23, line 4, strike "THE FOLLOWING NEW SUBSECTIONS" and substitute "A NEW SUBSECTION".

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Page 23, strike lines 6 through 11 and substitute:

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**"12-64-111. Discipline of licensees.** (11) THE BOARD MAY SUSPEND THE LICENSE OF A VETERINARIAN".

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Page 23, after line 14 insert:

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**"SECTION 13.** 12-64-113, Colorado Revised Statutes, is amended to read:

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**12-64-113. Revocation.** Any person whose license is suspended or revoked may, at the discretion of the board, be reinstated or relicensed at any time without an examination by majority vote of the board upon written application made to the board justifying relicensing or reinstatement IS INELIGIBLE TO APPLY FOR A LICENSE UNDER THIS ARTICLE FOR AT LEAST TWO YEARS AFTER THE DATE OF REVOCATION OF THE LICENSE. THE BOARD SHALL TREAT A SUBSEQUENT APPLICATION FOR LICENSURE FROM A PERSON WHOSE LICENSE WAS REVOKED AS AN APPLICATION FOR A NEW LICENSE UNDER THIS ARTICLE."

Renumber succeeding sections accordingly.

Page 24, line 4, strike "12-64-107 (5)," and substitute "12-64-107,".

Page 24, line 6, strike "(5) The" and substitute "(1) Any person twenty-one years of age or older desiring a license to practice veterinary medicine in this state shall make written application to the board on forms provided by the board. The application shall be accompanied by a fee in an amount established and published APPLY FOR THE LICENSE IN A MANNER APPROVED by the board.

(2) (Deleted by amendment, L. 91, p. 1470, § 5, effective July 1, 1991.)

(3) IN the application to take the national examination FOR LICENSURE, THE APPLICANT shall show DEMONSTRATE that the applicant is HE OR SHE HAS:

(a) (I) A graduate of GRADUATED FROM an approved ACCREDITED school of veterinary medicine; or

(II) GRADUATED FROM A NONACCREDITED SCHOOL OF VETERINARY MEDICINE AND RECEIVED A CERTIFICATE FROM A NATIONAL PROGRAM APPROVED BY THE BOARD THAT ASSESSES EDUCATIONAL EQUIVALENCY OF GRADUATES FROM NONACCREDITED SCHOOLS OF VETERINARY MEDICINE; AND

(b) A senior student of an approved school of veterinary medicine; or PASSED AN EXAMINATION APPROVED BY THE BOARD.

(c) A graduate of a nonapproved foreign school of veterinary medicine if such school substantially meets the academic requirements of approved schools of veterinary medicine or if the applicant presents proof satisfactory to the board that the applicant possesses credentials and qualifications substantially equivalent to requirements in Colorado for licensure by examination. The board may specify by rule and regulation what shall constitute substantially equivalent credentials and qualifications. In making such determination of the academic requirements of a nonapproved school or the qualifications of an applicant, the board may consider the relevant reports, requirements, or recommendations of any recognized credentialing organization.

(4) Before taking the national exam, student applicants subject to the provisions of paragraph (b) of subsection (3) of this section shall show proof that graduation will be accomplished within one hundred eighty days following such examination. THE BOARD MAY DENY A LICENSE OR MAY GRANT A LICENSE SUBJECT TO TERMS OF PROBATION IF THE BOARD DETERMINES THAT AN APPLICANT FOR A LICENSE:

(a) DOES NOT POSSESS THE QUALIFICATIONS REQUIRED BY THIS ARTICLE;

(b) HAS ENGAGED IN CONDUCT THAT CONSTITUTES GROUNDS FOR DISCIPLINE PURSUANT TO SECTION 12-64-111 (1);

(c) HAS BEEN DISCIPLINED IN ANOTHER STATE OR JURISDICTION WITH RESPECT TO HIS OR HER LICENSE TO PRACTICE VETERINARY MEDICINE IN THAT STATE OR JURISDICTION; OR

(d) HAS NOT ACTIVELY PRACTICED VETERINARY MEDICINE FOR THE TWO-YEAR PERIOD IMMEDIATELY PRECEDING THE DATE OF APPLICATION OR HAS NOT OTHERWISE MAINTAINED CONTINUED COMPETENCE DURING THAT PERIOD, AS DETERMINED BY THE BOARD.

(5) If the board may deny licensure DENIES A LICENSE to any AN applicant if any of his actions would be grounds for disciplinary action under the provisions of section 12-64-111 OR GRANTS A LICENSE SUBJECT TO TERMS OF PROBATION, THE APPLICANT MAY SEEK REVIEW OF THE BOARD'S DECISION PURSUANT TO SECTION 24-4-104 (9), C.R.S.; EXCEPT THAT, BY ACCEPTING A LICENSE THAT IS SUBJECT TO PROBATIONARY TERMS, THE APPLICANT WAIVES ANY REMEDIES AVAILABLE PURSUANT TO

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SECTION 24-4-104 (9), C.R.S."

Page 24, strike lines 7 through 9.

Page 27, after line 1 insert:

"SECTION 20. 12-64-110.5, Colorado Revised Statutes, is amended to read:

**12-64-110.5. Inactive license.** (1) UPON NOTICE TO THE BOARD, a person licensed to practice veterinary medicine upon written notice to the board by first-class mail, shall have his or her name LICENSE transferred to an inactive list. Each such inactive licensee shall continue to meet the registration requirements of section 12-64-110. Such inactive status shall be noted on the face of any license issued thereafter while the licensee remains inactive. Should such STATUS. IF A person wish WHOSE LICENSE IS ON INACTIVE STATUS WISHES to resume the practice of veterinary medicine, within a three-year period after being placed on an inactive list, he or she shall file a proper application therefor, pay the registration renewal fee, and meet the cumulative annual continuing education requirements set forth in section 12-64-110 (4) (a) APPLY TO THE BOARD IN A MANNER APPROVED BY THE BOARD AND SHALL DEMONSTRATE, TO THE SATISFACTION OF THE BOARD, CONTINUED COMPETENCY TO PRACTICE VETERINARY MEDICINE. THE BOARD MAY APPROVE THE APPLICATION AND ISSUE A LICENSE OR MAY DENY THE APPLICATION PURSUANT TO SECTION 12-64-107 (4).

(2) If a licensee who remains on inactive status for a period longer than three years wishes to resume the practice of veterinary medicine, such licensee shall be required to file a proper application, pay the examination fee, and retake the national exam THE BOARD MAY PURSUE DISCIPLINARY PROCEEDINGS PURSUANT TO SECTION 12-64-111 AGAINST A VETERINARIAN WHOSE LICENSE IS ON INACTIVE STATUS PURSUANT TO THIS SECTION FOR CONDUCT THAT VIOLATES THIS ARTICLE THAT THE PERSON ENGAGES IN WHILE ON INACTIVE STATUS.

(3) A licensee who has maintained an active license in good standing in another state during the period said licensee's Colorado license is inactive shall not be required to retake the national exam. For purposes of this article, "in good standing" means no disciplinary actions are pending or have been invoked against the licensee."

Renumber succeeding sections accordingly.

Page 28, line 2, strike "on-the-premises" and substitute "on-the-premises DIRECT".

Page 28, line 7, strike "direct, on-the-premises" and substitute " direct on-the-premises".

Page 28, line 10, strike "direct," and substitute "direct".

Page 28, line 11, strike "on-the-premises personal" and substitute "on-the-premises personal".

Page 28, strike lines 20 and 21 and substitute "ESTABLISHMENT UNLESS THE VETERINARY STUDENT IS UNDER THE DIRECT SUPERVISION OF A LICENSED VETERINARIAN."

Page 30, line 13, after "(f)" insert "(I)".

Page 30, line 15, strike "(I)" and substitute "(A)".

Page 30, line 17, strike "(II)" and substitute "(B)".

Page 30, after line 23 insert:

"(II) AS USED IN THIS PARAGRAPH (f), "ANIMAL MASSAGE" MEANS A METHOD OF TREATING THE BODY OF AN ANIMAL FOR REMEDIAL OR HYGIENIC PURPOSES THROUGH TECHNIQUES THAT INCLUDE RUBBING, STROKING, KNEADING, OR TAPPING WITH THE HAND OR AN INSTRUMENT OR BOTH, WHICH TECHNIQUES MAY BE APPLIED WITH OR WITHOUT THE AID

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OF A MESSAGE DEVICE THAT MIMICS THE ACTIONS POSSIBLE USING HUMAN HANDS."

Education After consideration on the merits, the Committee recommends that **SB11-126** be referred to the Committee on Finance with favorable recommendation.

Education After consideration on the merits, the Committee recommends that **SB11-111** be amended as follows, and as so amended, be referred to the Legislative Council Committee with favorable recommendation.

Amend printed bill, page 6, line 21, strike "STATE;" and substitute "STATE, INCLUDING PARENTS WHO SERVE ON THE COLORADO STATE ADVISORY COUNCIL FOR PARENT INVOLVEMENT IN EDUCATION CREATED IN SECTION 22-7-303;"

Page 6, strike line 25 and substitute:

"(V) PERSONS WHO ASSIST STUDENTS, INCLUDING STUDENTS WITH DISABILITIES, IN PLANNING FOR POSTSECONDARY EDUCATION, WHICH PERSONS MAY INCLUDE BUT NEED NOT BE LIMITED TO A PERSON FROM THE DEPARTMENT OF EDUCATION WHO SPECIALIZES IN PROGRAMS AND SERVICES FOR EXCEPTIONAL STUDENTS; PERSONS WITH EXPERTISE IN CREATING AND MAINTAINING INDIVIDUAL CAREER AND ACADEMIC PLANS; HIGH SCHOOL COUNSELORS; REPRESENTATIVES FROM PRECOLLEGIATE PREPARATION PROGRAMS; ADMISSIONS OFFICERS FOR POSTSECONDARY INSTITUTIONS; AND DISABILITY COORDINATORS FOR POSTSECONDARY INSTITUTIONS;"

Reorder succeeding subparagraph accordingly.

Page 6, line 27, strike "TWO-YEAR INSTITUTIONS" and substitute "AREA VOCATIONAL SCHOOLS, JUNIOR COLLEGES, TWO-YEAR INSTITUTIONS, FOUR-YEAR INSTITUTIONS, AND THE RESEARCH UNIVERSITIES;"

Page 7, strike line 1 and substitute:

"(VII) MEMBERS OF THE BUSINESS COMMUNITY; AND  
(VIII) REPRESENTATIVES FROM BIPARTISAN OR NONPARTISAN NONPROFIT ORGANIZATIONS THAT STUDY OR ADVOCATE IN EDUCATION ISSUES."

Page 7, line 13, strike "OCTOBER" and substitute "AUGUST".

Page 7, strike line 16 and substitute:

"(b) IN APPOINTING MEMBERS OF THE TASK FORCE, THE STATE BOARD AND THE COMMISSION MAY APPOINT INDIVIDUAL PERSONS TO SATISFY THE CRITERIA IN MORE THAN ONE OF SUBPARAGRAPHS (I) TO (VIII) OF PARAGRAPH (a). THE MEMBERS OF THE TASK FORCE SHALL SERVE AT THE"

Page 7, strike lines 18 through 23 and substitute:

"(c) THE STATE BOARD AND THE COMMISSION SHALL JOINTLY APPOINT UP TO THREE MEMBERS OF THE TASK FORCE TO SERVE AS CHAIR OR CO-CHAIRS OF THE TASK FORCE. IF THE STATE BOARD AND THE COMMISSION APPOINT CO-CHAIRS, THE PERSONS APPOINTED SHALL BE REPRESENTATIVE OF THE VARIOUS INTERESTS SERVING ON THE TASK FORCE. THE TASK FORCE SHALL HOLD ITS FIRST MEETING NO LATER THAN SEPTEMBER 1, 2011, AND SHALL SUBSEQUENTLY MEET AT THE CALL OF THE CHAIR OR CO-CHAIRS AS OFTEN AS NECESSARY TO CARRY OUT ITS DUTIES.

(d) THE CHAIR OR CO-CHAIRS OF THE TASK FORCE MAY APPOINT SUBCOMMITTEES OF THE TASK FORCE AS NECESSARY TO COMPLETE THE DUTIES OF THE TASK FORCE. IN ADDITION TO TASK FORCE MEMBERS, A SUBCOMMITTEE MAY INCLUDE PERSONS SELECTED BY THE CHAIR OR

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CO-CHAIRS BUT WHO ARE NOT APPOINTED MEMBERS OF THE TASK FORCE."

Page 10, line 7, strike "MARCH 1," and substitute "JANUARY 31,".

Page 10, line 8, strike "MARCH 1," and substitute "JANUARY 31,".

Health &  
Human  
Services

After consideration on the merits, the Committee recommends that **SB11-169** be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation.

Amend printed bill, page 4, strike lines 8 through 10 and substitute:

**"SECTION 4.** 12-41-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:".

Page 4, strike lines 15 through 17.

Page 13, line 27, strike "**Using**" and substitute "**Supervising**".

Page 14, strike lines 6 through 12 and substitute: "~~therapist~~ A PHYSICAL THERAPIST MAY SUPERVISE UP TO FOUR INDIVIDUALS AT ONE TIME WHO ARE NOT PHYSICAL THERAPISTS, INCLUDING CERTIFIED NURSE AIDES, TO ASSIST IN THE THERAPIST'S CLINICAL PRACTICE; EXCEPT THAT THIS LIMIT DOES NOT INCLUDE STUDENT PHYSICAL THERAPISTS AND STUDENT PHYSICAL THERAPIST ASSISTANTS SUPERVISED BY A PHYSICAL THERAPIST FOR EDUCATIONAL PURPOSES. THE BOARD SHALL PROMULGATE RULES GOVERNING THE REQUIRED SUPERVISION. THIS SUBSECTION (1) DOES NOT AFFECT OR LIMIT THE INDEPENDENT PRACTICE OR JUDGEMENT OF OTHER PROFESSIONS REGULATED UNDER THIS TITLE."

Page 15, line 11, strike "six" and substitute "~~six~~ SIXTEEN".

Page 16, line 4, strike "CLAIMS." and substitute "CLAIMS UNLESS THE CORPORATION THAT EMPLOYS THE PHYSICAL THERAPIST MAINTAINS THE INSURANCE REQUIRED BY SECTION 12-41-124."

Page 18, line 6, after "12-41-115" insert "(1) (c), (1) (d),".

Page 18, after line 12 insert:

"(c) Failed to refer a patient to the appropriate licensed health care ~~practitioner~~ PROFESSIONAL when the services required by the patient are beyond the level of competence of the physical therapist or beyond the scope of physical therapy practice;

(d) Abandoned a patient by any means, including ~~but not limited to~~ failure to provide a referral to another physical therapist or to ~~other~~ ANOTHER appropriate health care ~~practitioners~~ PROFESSIONAL when the ~~provision of such~~ referral was necessary to meet generally accepted standards of physical therapy care;"

Page 20, line 19, strike "PART 1." and substitute "PART 1;".

Page 20, after line 19 insert:

"(y) FAILED TO EITHER:

(I) CONFIRM THAT A PATIENT IS UNDER THE CARE OF A PHYSICIAN OR OTHER HEALTH CARE PROFESSIONAL FOR THE UNDERLYING MEDICAL CONDITION WHEN PROVIDING GENERAL WOUND CARE WITHIN THE SCOPE OF THE PHYSICAL THERAPIST'S PRACTICE; OR

(II) REFER THE PATIENT TO A PHYSICIAN OR OTHER APPROPRIATE HEALTH CARE PROFESSIONAL FOR THE TREATMENT OF THE UNDERLYING MEDICAL CONDITION WHEN PROVIDING GENERAL WOUND CARE WITHIN THE SCOPE OF THE PHYSICAL THERAPIST'S PRACTICE.

**SECTION 19.** Article 41 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**12-41-115.5. Protection of medical records - licensee's obligations - verification of compliance - noncompliance grounds for discipline - rules.** (1) EACH LICENSED PHYSICAL THERAPIST SHALL DEVELOP A WRITTEN PLAN TO ENSURE THE SECURITY OF PATIENT MEDICAL

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RECORDS. THE PLAN MUST ADDRESS AT LEAST THE FOLLOWING:

(a) THE STORAGE AND PROPER DISPOSAL OF PATIENT MEDICAL RECORDS;

(b) THE DISPOSITION OF PATIENT MEDICAL RECORDS IN THE EVENT THE LICENSEE DIES, RETIRES, OR OTHERWISE CEASES TO PRACTICE OR PROVIDE PHYSICAL THERAPY CARE TO PATIENTS; AND

(c) THE METHOD BY WHICH PATIENTS MAY ACCESS OR OBTAIN THEIR MEDICAL RECORDS PROMPTLY IF ANY OF THE EVENTS DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (1) OCCURS.

(2) UPON INITIAL LICENSURE UNDER THIS PART 1 AND UPON RENEWAL OF A LICENSE, THE APPLICANT OR LICENSEE SHALL ATTEST TO THE BOARD THAT HE OR SHE HAS DEVELOPED A PLAN IN COMPLIANCE WITH THIS SECTION.

(3) A LICENSEE SHALL INFORM EACH PATIENT IN WRITING OF THE METHOD BY WHICH THE PATIENT MAY ACCESS OR OBTAIN HIS OR HER MEDICAL RECORDS IF AN EVENT DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION OCCURS.

(4) THE BOARD MAY ADOPT RULES REASONABLY NECESSARY TO IMPLEMENT THIS SECTION."

Renumber succeeding sections accordingly.

Page 35, line 7, after the period add "AN HEIR WHO IS NOT LICENSED UNDER THIS ARTICLE SHALL NOT EXERCISE ANY AUTHORITY OVER PROFESSIONAL OR CLINICAL MATTERS."

Page 35, line 15, after "MAINTAINS" insert "OR THE SHAREHOLDERS MAINTAIN".

Page 39, strike lines 8 through 27 and substitute:

**"12-41-201. Additional board authority - rules.** (1) IN ADDITION TO ALL OTHER POWERS AND DUTIES GIVEN TO THE BOARD BY LAW, THE BOARD MAY:

(a) CERTIFY PHYSICAL THERAPIST ASSISTANTS TO PRACTICE;

(b) EVALUATE THE QUALIFICATIONS OF APPLICANTS FOR CERTIFICATION, ISSUE AND RENEW THE CERTIFICATIONS AUTHORIZED UNDER THIS PART 2, AND TAKE THE DISCIPLINARY ACTIONS AUTHORIZED UNDER THIS PART 2;

(c) CONDUCT HEARINGS UPON CHARGES FOR DISCIPLINE OF A CERTIFIED PHYSICAL THERAPIST ASSISTANT AND CAUSE THE PROSECUTION AND ENJOINER OF ALL PERSONS VIOLATING THIS PART 2;

(d) ADMINISTER OATHS, TAKE AFFIRMATIONS OF WITNESSES, AND ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF ALL RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY EVIDENCE, AND MATERIALS IN ANY HEARING, INVESTIGATION, ACCUSATION, OR OTHER MATTER COMING BEFORE THE BOARD;

(e) 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;

(f) MAINTAIN A REGISTER LISTING THE NAME, ADDRESS, LAST-KNOWN PLACE OF RESIDENCE, AND CERTIFICATION NUMBER OF EACH CERTIFIED PHYSICAL THERAPIST ASSISTANT;

(g) ESTABLISH FINES UNDER SECTION 12-41-122; AND

(h) PROMOTE CONSUMER PROTECTION AND CONSUMER EDUCATION BY SUCH MEANS AS THE BOARD FINDS APPROPRIATE.

(2) UPON FAILURE OF A WITNESS TO COMPLY WITH A SUBPOENA OR PROCESS, THE DISTRICT COURT OF THE COUNTY IN WHICH THE SUBPOENAED PERSON RESIDES OR CONDUCTS BUSINESS, UPON APPLICATION BY THE BOARD WITH NOTICE TO THE SUBPOENAED PERSON, MAY ISSUE TO THE PERSON AN ORDER REQUIRING THAT PERSON TO APPEAR BEFORE THE BOARD; TO PRODUCE THE RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY EVIDENCE, OR MATERIALS IF SO ORDERED; OR TO GIVE EVIDENCE TOUCHING THE MATTER UNDER INVESTIGATION OR IN QUESTION. THE COURT MAY PUNISH A FAILURE TO OBEY ITS ORDER AS A CONTEMPT OF COURT.

(3) THE BOARD MAY PROMULGATE RULES NECESSARY TO IMPLEMENT, ADMINISTER, AND ENFORCE THIS PART 2.

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**12-41-202. Use of titles restricted.** A PERSON CERTIFIED AS A PHYSICAL THERAPIST ASSISTANT MAY USE THE TITLE "PHYSICAL THERAPIST ASSISTANT" OR THE LETTERS "P.T.A." OR ANY OTHER GENERALLY ACCEPTED TERMS, LETTERS, OR FIGURES THAT INDICATE THAT THE PERSON IS A PHYSICAL THERAPIST ASSISTANT. NO OTHER PERSON SHALL USE THE TERMS "PHYSICAL THERAPIST ASSISTANT", "CERTIFIED PHYSICAL THERAPIST ASSISTANT", OR ANY LETTERS OR WORDS THAT INDICATE THAT THE PERSON IS A PHYSICAL THERAPIST ASSISTANT.

**12-41-203. Limitations on authority.** (1) NOTHING IN THIS PART 2 AUTHORIZES A PHYSICAL THERAPIST ASSISTANT TO PERFORM ANY OF THE FOLLOWING ACTS:

(a) PRACTICE OF MEDICINE, SURGERY, OR ANY OTHER FORM OF HEALING EXCEPT AS AUTHORIZED BY THIS PART 2; OR

(b) USE OF ROENTGEN RAYS AND RADIOACTIVE MATERIALS FOR THERAPEUTIC PURPOSES, USE OF ELECTRICITY FOR SURGICAL PURPOSES, OR DIAGNOSIS OF DISEASE.

(2) A PHYSICAL THERAPIST ASSISTANT SHALL NOT ASSIST A PHYSICAL THERAPIST IN THE CLINICAL PRACTICE OF PHYSICAL THERAPY UNLESS THE ASSISTANT WORKS UNDER THE SUPERVISION OF A LICENSED PHYSICAL THERAPIST.

**12-41-204. Certification required.** (1) EXCEPT AS OTHERWISE PROVIDED BY THIS PART 2, A PERSON WHO PRACTICES AS A PHYSICAL THERAPIST ASSISTANT OR WHO REPRESENTS ONESELF AS BEING ABLE TO PRACTICE AS A PHYSICAL THERAPIST ASSISTANT IN THIS STATE MUST POSSESS A VALID CERTIFICATION ISSUED BY THE BOARD UNDER THIS PART 2 AND RULES ADOPTED UNDER THIS PART 2.

(2) A CERTIFIED NURSE AIDE NEED NOT BE CERTIFIED UNDER THIS PART 2 TO ASSIST A PHYSICAL THERAPIST IN THE CLINICAL PRACTICE OF PHYSICAL THERAPY.

**12-41-205. Certification by examination.** (1) EVERY APPLICANT FOR A CERTIFICATION BY EXAMINATION SHALL:

(a) QUALIFY AS A PHYSICAL THERAPIST ASSISTANT UNDER SUBSECTION (2) OF THIS SECTION;

(b) PASS A WRITTEN EXAMINATION THAT IS:

(I) APPROVED BY THE BOARD; AND

(II) A NATIONAL EXAMINATION ACCREDITED BY A NATIONALLY RECOGNIZED ACCREDITING AGENCY;

(c) SUBMIT AN APPLICATION IN THE FORM AND MANNER DESIGNATED BY THE DIRECTOR; AND

(d) PAY A FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR.

(2) TO QUALIFY AS A PHYSICAL THERAPIST ASSISTANT, A PERSON MUST HAVE:

(a) (I) PASSED AN EXAMINATION FOR PHYSICAL THERAPIST ASSISTANTS ADMINISTERED BY A NATIONAL ORGANIZATION CONCERNING THE REGULATION OF PHYSICAL THERAPY; AND

(II) COMPLETED A PHYSICAL THERAPIST ASSISTANT PROGRAM ACCREDITED BY THE COMMISSION ON ACCREDITATION IN PHYSICAL THERAPY EDUCATION OR ANY COMPARABLE ORGANIZATION AS DETERMINED BY THE BOARD; OR

(b) QUALIFIED TO TAKE THE PHYSICAL THERAPY EXAMINATION ESTABLISHED UNDER SECTION 12-41-107.

(3) THE BOARD MAY REFUSE TO PERMIT AN APPLICANT TO TAKE THE EXAMINATION IF THE APPLICATION IS INCOMPLETE OR INDICATES THAT THE APPLICANT IS NOT QUALIFIED TO SIT FOR THE EXAMINATION, OR IF THE APPLICANT HAS COMMITTED ANY ACT THAT IS GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-41-210.

(4) WHEN THE APPLICANT HAS FULFILLED ALL THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, THE BOARD SHALL ISSUE A CERTIFICATION TO THE APPLICANT; EXCEPT THAT THE BOARD MAY DENY CERTIFICATION IF THE APPLICANT HAS COMMITTED AN ACT THAT IS GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-41-210.

**12-41-206. Certification by endorsement.** (1) AN APPLICANT FOR CERTIFICATION BY ENDORSEMENT SHALL:

(a) POSSESS A VALID LICENSE, CERTIFICATION, OR REGISTRATION IN GOOD STANDING FROM ANOTHER STATE OR TERRITORY OF THE UNITED STATES;

(b) SUBMIT AN APPLICATION IN THE FORM AND MANNER DESIGNATED BY THE DIRECTOR; AND

(c) PAY A FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR.

(2) UPON RECEIPT OF ALL DOCUMENTS REQUIRED BY SUBSECTION (1) OF THIS SECTION, THE DIRECTOR SHALL REVIEW THE APPLICATION AND MAKE A DETERMINATION OF THE APPLICANT'S QUALIFICATION TO BE CERTIFIED BY ENDORSEMENT.

(3) THE BOARD SHALL ISSUE A CERTIFICATION IF THE APPLICANT FULFILLS THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION AND MEETS ANY ONE OF THE FOLLOWING QUALIFYING STANDARDS:

(a) THE APPLICANT GRADUATED FROM AN ACCREDITED PROGRAM WITHIN THE PAST TWO YEARS AND PASSED AN EXAMINATION SUBSTANTIALLY EQUIVALENT TO THE EXAMINATION SPECIFIED IN SECTION 12-41-205 (1) (b);

(b) THE APPLICANT HAS PRACTICED AS A LICENSED, CERTIFIED, OR REGISTERED PHYSICAL THERAPIST ASSISTANT FOR AT LEAST TWO OF THE FIVE YEARS IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION; OR

(c) THE APPLICANT HAS NOT MET THE REQUIREMENTS OF PARAGRAPH (b) OF THIS SUBSECTION (3), BUT HAS PASSED AN EXAMINATION IN ANOTHER JURISDICTION THAT IS SUBSTANTIALLY EQUIVALENT TO THE EXAMINATION SPECIFIED IN SECTION 12-41-205 (1) (b), AND HAS DEMONSTRATED COMPETENCY THROUGH SUCCESSFUL COMPLETION OF AN INTERNSHIP OR DEMONSTRATED COMPETENCY AS A PHYSICAL THERAPIST ASSISTANT BY FULFILLING THE REQUIREMENTS ESTABLISHED BY RULES OF THE BOARD.

(4) THE BOARD SHALL NOTIFY THE APPLICANT, IN WRITING, OF THE DENIAL OR APPROVAL OF THE APPLICATION.

(5) THE BOARD MAY DENY SUCH CERTIFICATION IF THE APPLICANT HAS COMMITTED AN ACT THAT IS GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-41-210.

**12-41-207. Certification of foreign-trained applicants.**

(1) EVERY FOREIGN-TRAINED APPLICANT FOR CERTIFICATION BY EXAMINATION SHALL:

(a) HAVE RECEIVED EDUCATION AND TRAINING AS A PHYSICAL THERAPIST ASSISTANT THAT IS SUBSTANTIALLY EQUIVALENT TO THE EDUCATION AND TRAINING REQUIRED BY ACCREDITED PHYSICAL THERAPIST ASSISTANT PROGRAMS IN THE UNITED STATES;

(b) POSSESS AN ACTIVE, VALID LICENSE, CERTIFICATION, OR REGISTRATION IN GOOD STANDING OR OTHER AUTHORIZATION TO PRACTICE AS A PHYSICAL THERAPIST ASSISTANT FROM AN APPROPRIATE AUTHORITY IN THE COUNTRY WHERE THE FOREIGN-TRAINED APPLICANT IS PRACTICING OR HAS PRACTICED;

(c) PASS A WRITTEN EXAMINATION APPROVED BY THE BOARD IN ACCORDANCE WITH SECTION 12-41-205 (1) (b);

(d) SUBMIT AN APPLICATION IN THE FORM AND MANNER DESIGNATED BY THE DIRECTOR; AND

(e) PAY AN APPLICATION FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR.

(2) UPON RECEIPT OF ALL DOCUMENTS AND THE FEE REQUIRED BY SUBSECTION (1) OF THIS SECTION, THE DIRECTOR SHALL REVIEW THE APPLICATION AND DETERMINE IF THE APPLICANT IS QUALIFIED TO BE CERTIFIED BY ENDORSEMENT.

(3) WHEN THE APPLICANT HAS FULFILLED ALL THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, THE BOARD SHALL ISSUE A CERTIFICATION TO THE APPLICANT; EXCEPT THAT THE BOARD MAY DENY THE APPLICATION IF THE APPLICANT HAS COMMITTED AN ACT THAT IS GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-41-210.

**12-41-208. Expiration and renewal of certification.** AN APPLICANT FOR CERTIFICATION SHALL PAY CERTIFICATION, RENEWAL, AND REINSTATEMENT FEES ESTABLISHED BY THE DIRECTOR IN THE SAME MANNER AS IS AUTHORIZED IN SECTION 24-34-105, C.R.S. A CERTIFIED PHYSICAL THERAPIST ASSISTANT SHALL RENEW A CERTIFICATION IN ACCORDANCE WITH A SCHEDULE ESTABLISHED BY THE DIRECTOR PURSUANT TO SECTION 24-34-102 (8), C.R.S. THE DIRECTOR MAY ESTABLISH RENEWAL FEES AND DELINQUENCY FEES FOR REINSTATEMENT UNDER SECTION 24-34-105, C.R.S. IF A PERSON FAILS TO RENEW A CERTIFICATION PURSUANT TO THE SCHEDULE ESTABLISHED BY THE DIRECTOR, THE CERTIFICATION EXPIRES. A PERSON WHOSE CERTIFICATION HAS EXPIRED IS SUBJECT TO THE PENALTIES PROVIDED IN THIS PART 2 AND SECTION 24-34-102 (8), C.R.S.

**12-41-209. Scope of part 2 - exclusions.** (1) THIS PART 2 DOES NOT PROHIBIT:

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(a) PRACTICE AS A PHYSICAL THERAPIST ASSISTANT IN THIS STATE BY A LEGALLY QUALIFIED PHYSICAL THERAPIST ASSISTANT FROM ANOTHER STATE OR COUNTRY WHOSE EMPLOYMENT REQUIRES THE PHYSICAL THERAPIST ASSISTANT TO ACCOMPANY AND CARE FOR A PATIENT TEMPORARILY RESIDING IN THIS STATE, BUT THE PHYSICAL THERAPIST ASSISTANT SHALL NOT PROVIDE PHYSICAL THERAPY SERVICES FOR ANOTHER INDIVIDUAL NOR SHALL THE PERSON REPRESENT OR HOLD HIMSELF OR HERSELF OUT AS A PHYSICAL THERAPIST ASSISTANT CERTIFIED TO PRACTICE IN THIS STATE;

(b) THE ADMINISTRATION OF MASSAGE, EXTERNAL BATHS, OR EXERCISE THAT IS NOT A PART OF A PHYSICAL THERAPY REGIMEN;

(c) A PERSON REGISTERED, CERTIFIED, OR LICENSED IN THIS STATE UNDER ANY OTHER LAW FROM ENGAGING IN THE PRACTICE FOR WHICH THE PERSON IS REGISTERED, CERTIFIED, OR LICENSED;

(d) PRACTICE AS A PHYSICAL THERAPIST ASSISTANT IN THIS STATE BY A LEGALLY QUALIFIED PHYSICAL THERAPIST ASSISTANT FROM ANOTHER STATE OR COUNTRY FOR THE PURPOSE OF PARTICIPATING IN AN EDUCATIONAL PROGRAM OF NOT MORE THAN SIX WEEKS' DURATION; OR

(e) THE PRACTICE OF A PHYSICAL THERAPIST ASSISTANT LICENSED, CERTIFIED, OR REGISTERED IN THIS OR ANY OTHER STATE OR TERRITORY OF THE UNITED STATES WHO IS EMPLOYED BY THE UNITED STATES GOVERNMENT OR A BUREAU, DIVISION, OR AGENCY THEREOF WHILE WITHIN THE COURSE AND SCOPE OF THE PHYSICAL THERAPIST ASSISTANT'S DUTIES.

(2) THIS PART 2 DOES NOT APPLY TO:

(a) THE GRATUITOUS CARE OF FRIENDS OR FAMILY MEMBERS;

(b) NURSING ASSISTANCE IN THE CASE OF AN EMERGENCY;

(c) A PERSON LICENSED, CERTIFIED, OR REGISTERED BY THE STATE OF COLORADO WHO IS ACTING WITHIN THE SCOPE OF HIS OR HER LICENSE, CERTIFICATE, OR REGISTRATION; OR

(d) ANY PERSON PERFORMING SERVICES PURSUANT TO SECTION 12-38-132 OR 27-10.5-103 (2) (k), C.R.S., OR PART 3 OF ARTICLE 1.5 OF TITLE 25, C.R.S.

**12-41-210. Grounds for disciplinary action.** (1) THE BOARD MAY TAKE DISCIPLINARY ACTION IN ACCORDANCE WITH SECTION 12-41-211 AGAINST A PERSON WHO HAS:

(a) COMMITTED AN ACT THAT DOES NOT MEET GENERALLY ACCEPTED STANDARDS OF PHYSICAL THERAPIST ASSISTANT PRACTICE OR FAILED TO PERFORM AN ACT NECESSARY TO MEET GENERALLY ACCEPTED STANDARDS OF PHYSICAL THERAPIST ASSISTANT PRACTICE;

(b) ENGAGED IN SEXUAL CONTACT, SEXUAL INTRUSION, OR SEXUAL PENETRATION AS DEFINED IN SECTION 18-3-401, C.R.S., WITH A PATIENT WHILE DURING THE PERIOD OF TIME BEGINNING WITH THE INITIAL EVALUATION THROUGH THE TERMINATION OF TREATMENT;

(c) ABANDONED A PATIENT BY ANY MEANS;

(d) FAILED TO MAKE ESSENTIAL ENTRIES ON PATIENT RECORDS OR FALSIFIED OR MADE INCORRECT ENTRIES OF AN ESSENTIAL NATURE ON PATIENT RECORDS;

(e) (I) COMMITTED ABUSE OF HEALTH INSURANCE AS SET FORTH IN SECTION 18-13-119, C.R.S.; OR

(II) ADVERTISED THROUGH NEWSPAPERS, MAGAZINES, CIRCULARS, DIRECT MAIL, DIRECTORIES, RADIO, TELEVISION, OR OTHERWISE THAT THE CERTIFIED PHYSICAL THERAPIST ASSISTANT WILL PERFORM AN ACT PROHIBITED BY SECTION 18-13-119, C.R.S.;

(f) COMMITTED A FRAUDULENT INSURANCE ACT, AS DEFINED IN SECTION 10-1-128, C.R.S.;

(g) FALSIFIED INFORMATION IN ANY APPLICATION OR ATTEMPTED TO OBTAIN OR OBTAINED A CERTIFICATION BY FRAUD, DECEPTION, OR MISREPRESENTATION;

(h) ENGAGED IN THE HABITUAL OR EXCESSIVE USE OR ABUSE OF ALCOHOL, A HABIT-FORMING DRUG, OR A CONTROLLED SUBSTANCE AS DEFINED IN SECTION 12-22-303;

(i) (I) FAILED TO NOTIFY THE BOARD, AS REQUIRED BY SECTION 12-41-214, OF A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT IMPACTS THE CERTIFIED PHYSICAL THERAPIST ASSISTANT'S ABILITY TO PERFORM PHYSICAL THERAPY WITH REASONABLE SKILL AND SAFETY TO PATIENTS;

(II) FAILED TO ACT WITHIN THE LIMITATIONS CREATED BY A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE

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CERTIFIED PHYSICAL THERAPIST ASSISTANT UNABLE TO PERFORM PHYSICAL THERAPY WITH REASONABLE SKILL AND SAFETY TO THE PATIENT; OR

(III) FAILED TO COMPLY WITH THE LIMITATIONS AGREED TO UNDER A CONFIDENTIAL AGREEMENT ENTERED INTO UNDER SECTION 12-41-214;

(j) REFUSED TO SUBMIT TO A PHYSICAL OR MENTAL EXAMINATION WHEN SO ORDERED BY THE BOARD UNDER SECTION 12-41-213;

(k) FAILED TO NOTIFY THE BOARD IN WRITING OF THE ENTRY OF A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION AGAINST THE CERTIFIED PHYSICAL THERAPIST ASSISTANT FOR MALPRACTICE OR A SETTLEMENT BY THE CERTIFIED PHYSICAL THERAPIST ASSISTANT IN RESPONSE TO CHARGES OR ALLEGATIONS OF MALPRACTICE, WHICH NOTICE MUST BE GIVEN WITHIN NINETY DAYS AFTER THE ENTRY OF JUDGMENT OR SETTLEMENT AND, IN THE CASE OF A JUDGMENT, MUST CONTAIN THE NAME OF THE COURT, THE CASE NUMBER, AND THE NAMES OF ALL PARTIES TO THE ACTION;

(l) VIOLATED OR AIDED OR ABETTED A VIOLATION OF THIS PART 2, A RULE ADOPTED UNDER THIS PART 2, OR A LAWFUL ORDER OF THE BOARD;

(m) BEEN CONVICTED OF, PLED GUILTY, OR PLED NOLO CONTENDERE TO A CRIME RELATED TO THE CERTIFIED PHYSICAL THERAPIST ASSISTANT'S PRACTICE OR A FELONY OR COMMITTED AN ACT SPECIFIED IN SECTION 12-41-216. A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF COMPETENT JURISDICTION OF THE CONVICTION OR PLEA IS CONCLUSIVE EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE DISCIPLINARY ACTION, THE BOARD IS GOVERNED BY SECTION 24-5-101, C.R.S.

(n) FRAUDULENTLY OBTAINED, FURNISHED, OR SOLD A PHYSICAL THERAPIST ASSISTANT DIPLOMA, CERTIFICATE, RENEWAL OF CERTIFICATE, OR RECORD, OR AIDED OR ABETTED ANY SUCH ACT;

(o) REPRESENTED, OR HELD HIMSELF OR HERSELF OUT AS, IN ANY MANNER, A PHYSICAL THERAPIST ASSISTANT OR PRACTICED AS A PHYSICAL THERAPIST ASSISTANT WITHOUT A CERTIFICATION, UNLESS OTHERWISE AUTHORIZED UNDER THIS PART 2;

(p) USED IN CONNECTION WITH THE PERSON'S NAME A DESIGNATION IMPLYING THAT THE PERSON IS A PHYSICAL THERAPIST ASSISTANT WITHOUT BEING CERTIFIED UNDER THIS PART 2;

(q) PRACTICED AS A PHYSICAL THERAPIST ASSISTANT DURING THE TIME THE PERSON'S CERTIFICATION WAS EXPIRED, SUSPENDED, OR REVOKED; OR

(r) FAILED TO RESPOND IN AN HONEST, MATERIALLY RESPONSIVE, AND TIMELY MANNER TO A COMPLAINT ISSUED UNDER THIS PART 2.

**12-41-211. Disciplinary actions.** (1) (a) THE BOARD, IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., MAY ISSUE LETTERS OF ADMONITION; DENY, REFUSE TO RENEW, SUSPEND, OR REVOKE A CERTIFICATION; PLACE A CERTIFIED PHYSICAL THERAPIST ASSISTANT ON PROBATION; OR IMPOSE PUBLIC CENSURE OR A FINE, IF THE BOARD OR THE BOARD'S DESIGNEE DETERMINES AFTER NOTICE AND THE OPPORTUNITY FOR A HEARING THAT THE CERTIFIED PHYSICAL THERAPIST ASSISTANT HAS COMMITTED AN ACT SPECIFIED IN SECTION 12-41-210.

(b) IN THE CASE OF A DELIBERATE AND WILLFUL VIOLATION OF THIS PART 2 OR IF THE PUBLIC HEALTH, SAFETY, AND WELFARE REQUIRE EMERGENCY ACTION, THE BOARD MAY TAKE DISCIPLINARY ACTION ON AN EMERGENCY BASIS UNDER SECTIONS 24-4-104 AND 24-4-105, C.R.S.

(2) (a) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE BOARD, DOES NOT WARRANT FORMAL ACTION BUT SHOULD NOT BE DISMISSED AS BEING WITHOUT MERIT, THE BOARD MAY SEND A LETTER OF ADMONITION TO THE CERTIFIED PHYSICAL THERAPIST ASSISTANT.

(b) WHEN THE BOARD SENDS A LETTER OF ADMONITION TO A CERTIFIED PHYSICAL THERAPIST ASSISTANT, THE BOARD SHALL NOTIFY THE CERTIFIED PHYSICAL THERAPIST ASSISTANT OF HIS OR HER RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER RECEIPT OF THE LETTER, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED TO ADJUDICATE THE PROPRIETY OF THE CONDUCT DESCRIBED IN THE LETTER OF ADMONITION.

(c) IF THE REQUEST FOR ADJUDICATION IS TIMELY MADE, THE LETTER OF ADMONITION IS VACATED AND THE MATTER MUST BE

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PROCESSED BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

(3) IN A DISCIPLINARY ORDER THAT ALLOWS A CERTIFIED PHYSICAL THERAPIST ASSISTANT TO CONTINUE TO PRACTICE, THE BOARD MAY IMPOSE UPON THE CERTIFIED PHYSICAL THERAPIST ASSISTANT CONDITIONS THAT THE BOARD DEEMS APPROPRIATE TO ENSURE THAT THE CERTIFIED PHYSICAL THERAPIST ASSISTANT IS PHYSICALLY, MENTALLY, AND PROFESSIONALLY QUALIFIED TO PRACTICE IN ACCORDANCE WITH GENERALLY ACCEPTED PROFESSIONAL STANDARDS. THE CONDITIONS MAY INCLUDE THE FOLLOWING:

(a) EXAMINATION OF THE CERTIFIED PHYSICAL THERAPIST ASSISTANT TO DETERMINE HIS OR HER MENTAL OR PHYSICAL CONDITION, AS PROVIDED IN SECTION 12-41-213, OR TO DETERMINE PROFESSIONAL QUALIFICATIONS;

(b) ANY THERAPY, TRAINING, OR EDUCATION THAT THE BOARD BELIEVES NECESSARY TO CORRECT DEFICIENCIES FOUND EITHER IN A PROCEEDING IN COMPLIANCE WITH SECTION 24-34-106, C.R.S., OR THROUGH AN EXAMINATION UNDER PARAGRAPH (a) OF THIS SUBSECTION (3);

(c) A REVIEW OR SUPERVISION OF A CERTIFIED PHYSICAL THERAPIST ASSISTANT'S PRACTICE THAT THE BOARD FINDS NECESSARY TO IDENTIFY AND CORRECT DEFICIENCIES THEREIN; OR

(d) RESTRICTIONS UPON THE NATURE AND SCOPE OF PRACTICE TO ENSURE THAT THE CERTIFIED PHYSICAL THERAPIST ASSISTANT DOES NOT PRACTICE BEYOND THE LIMITS OF THE CERTIFIED PHYSICAL THERAPIST ASSISTANT'S CAPABILITIES.

(4) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL ACTION BY THE BOARD AND, IN THE OPINION OF THE BOARD, THE COMPLAINT SHOULD BE DISMISSED, BUT THE BOARD HAS NOTICED INDICATIONS OF POSSIBLE ERRANT CONDUCT BY THE CERTIFIED PHYSICAL THERAPIST ASSISTANT THAT COULD LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED, THE BOARD MAY SEND A CONFIDENTIAL LETTER OF CONCERN TO THE CERTIFIED PHYSICAL THERAPIST ASSISTANT.

(5) THE BOARD MAY TAKE DISCIPLINARY ACTION AGAINST A CERTIFIED PHYSICAL THERAPIST ASSISTANT FOR FAILURE TO COMPLY WITH ANY OF THE CONDITIONS IMPOSED BY THE BOARD UNDER SUBSECTION (3) OF THIS SECTION.

(6) A PERSON WHOSE CERTIFICATION HAS EXPIRED IS SUBJECT TO THE FEES PROVIDED IN THIS PART 2 AND SECTION 24-34-102 (8), C.R.S.

(7) A PHYSICAL THERAPY ASSISTANT WHOSE CERTIFICATION IS REVOKED OR WHO SURRENDERS HIS OR HER CERTIFICATION TO AVOID DISCIPLINE IS NOT ELIGIBLE TO APPLY FOR A CERTIFICATION FOR TWO YEARS AFTER THE CERTIFICATION IS REVOKED OR SURRENDERED. THE TWO-YEAR WAITING PERIOD APPLIES TO A PERSON WHOSE CERTIFICATION AS A PHYSICAL THERAPY ASSISTANT IS REVOKED BY ANY OTHER LEGALLY QUALIFIED BOARD OR REGULATORY ENTITY.

**12-41-212. Disciplinary proceedings - investigations - judicial review.**

(1) THE BOARD MAY COMMENCE A PROCEEDING FOR THE DISCIPLINE OF A PHYSICAL THERAPIST ASSISTANT WHEN THE BOARD HAS REASONABLE GROUNDS TO BELIEVE THAT A PHYSICAL THERAPIST ASSISTANT HAS COMMITTED AN ACT ENUMERATED IN SECTION 12-41-210.

(2) IN A PROCEEDING HELD UNDER THIS SECTION, THE BOARD MAY ACCEPT AS PRIMA FACIE EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION ANY DISCIPLINARY ACTION TAKEN AGAINST A PHYSICAL THERAPIST ASSISTANT FROM ANOTHER JURISDICTION IF THE VIOLATION THAT PROMPTED THE DISCIPLINARY ACTION IN THAT JURISDICTION WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS PART 2.

(3) (a) THE BOARD MAY INVESTIGATE POTENTIAL GROUNDS FOR DISCIPLINARY ACTION UPON ITS OWN MOTION OR WHEN THE BOARD IS INFORMED OF DISMISSAL OF A PERSON CERTIFIED UNDER THIS PART 2 IF THE DISMISSAL WAS FOR A MATTER CONSTITUTING A VIOLATION OF THIS PART 2.

(b) A PERSON WHO SUPERVISES A PHYSICAL THERAPIST ASSISTANT SHALL REPORT TO THE BOARD WHEN THE PHYSICAL THERAPIST ASSISTANT HAS BEEN DISMISSED BECAUSE OF INCOMPETENCE OR FAILURE TO COMPLY WITH THIS PART 2. A CERTIFIED PHYSICAL THERAPIST ASSISTANT WHO IS AWARE THAT ANOTHER PERSON IS VIOLATING THIS PART 2 SHALL REPORT THE VIOLATION TO THE BOARD.

(4) (a) THE BOARD OR AN ADMINISTRATIVE LAW JUDGE MAY

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ADMINISTER OATHS, TAKE AFFIRMATIONS OF WITNESSES, AND ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF ALL RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY EVIDENCE, AND MATERIALS IN ANY HEARING, INVESTIGATION, ACCUSATION, OR OTHER MATTER COMING BEFORE THE BOARD UNDER THIS PART 2. 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.

(b) UPON FAILURE OF A WITNESS TO COMPLY WITH A SUBPOENA OR PROCESS, THE DISTRICT COURT OF THE COUNTY IN WHICH THE SUBPOENAED PERSON OR CERTIFIED PHYSICAL THERAPIST ASSISTANT RESIDES OR CONDUCTS BUSINESS, UPON APPLICATION BY THE BOARD WITH NOTICE TO THE SUBPOENAED PERSON OR CERTIFIED PHYSICAL THERAPIST ASSISTANT, MAY ISSUE AN ORDER REQUIRING THAT PERSON OR CERTIFIED PHYSICAL THERAPIST ASSISTANT TO APPEAR BEFORE THE BOARD; TO PRODUCE THE RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY EVIDENCE, OR MATERIALS IF SO ORDERED; OR TO GIVE EVIDENCE TOUCHING THE MATTER UNDER INVESTIGATION OR IN QUESTION. FAILURE TO OBEY THE ORDER OF THE COURT MAY BE PUNISHED BY THE COURT AS A CONTEMPT OF COURT.

(5) THE BOARD MAY KEEP ANY INVESTIGATION AUTHORIZED UNDER THIS PART 2 CLOSED UNTIL THE RESULTS OF THE INVESTIGATION ARE KNOWN AND EITHER THE COMPLAINT IS DISMISSED OR NOTICE OF HEARING AND CHARGES ARE SERVED UPON THE CERTIFIED PHYSICAL THERAPIST ASSISTANT.

(6) (a) THE BOARD, THE DIRECTOR'S STAFF, A WITNESS OR CONSULTANT TO THE BOARD, A WITNESS TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS PART 2, OR A PERSON WHO LODGES A COMPLAINT UNDER THIS PART 2 IS IMMUNE FROM LIABILITY IN A CIVIL ACTION BROUGHT AGAINST HIM OR HER FOR ACTS OCCURRING WHILE ACTING IN HIS OR HER CAPACITY AS A BOARD MEMBER, STAFF MEMBER, CONSULTANT, WITNESS, OR COMPLAINANT IF THE INDIVIDUAL WAS ACTING IN GOOD FAITH WITHIN THE SCOPE OF HIS OR HER RESPECTIVE CAPACITY, MADE A REASONABLE EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO WHICH HE OR SHE ACTED, AND ACTED WITH THE REASONABLE BELIEF THAT THE ACTION TAKEN WAS WARRANTED BY THE FACTS.

(b) A PERSON MAKING A COMPLAINT OR REPORT IN GOOD FAITH OR PARTICIPATING IN ANY INVESTIGATIVE OR ADMINISTRATIVE PROCEEDING PURSUANT TO THIS SECTION IS IMMUNE FROM ANY LIABILITY, CIVIL OR CRIMINAL, THAT OTHERWISE MIGHT RESULT BY REASON OF THE PARTICIPATION.

(7) THE BOARD, THROUGH THE DEPARTMENT OF REGULATORY AGENCIES, MAY EMPLOY ADMINISTRATIVE LAW JUDGES APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., ON A FULL-TIME OR PART-TIME BASIS, TO CONDUCT HEARINGS UNDER THIS PART 2 OR ON ANY MATTER WITHIN THE BOARD'S JURISDICTION UPON THE CONDITIONS AND TERMS AS THE BOARD MAY DETERMINE.

(8) FINAL ACTION OF THE BOARD MAY BE JUDICIALLY REVIEWED BY THE COURT OF APPEALS BY APPROPRIATE PROCEEDINGS UNDER SECTION 24-4-106 (11), C.R.S., AND JUDICIAL PROCEEDINGS FOR THE ENFORCEMENT OF AN ORDER OF THE BOARD MAY BE INSTITUTED IN ACCORDANCE WITH SECTION 24-4-106, C.R.S.

(9) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE BOARD, WARRANTS FORMAL ACTION, THE BOARD SHALL NOT RESOLVE THE COMPLAINT BY A DEFERRED SETTLEMENT, ACTION, JUDGMENT, OR PROSECUTION.

(10) (a) IF IT APPEARS TO THE BOARD, BASED UPON CREDIBLE EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT, THAT A CERTIFIED PHYSICAL THERAPIST ASSISTANT IS ACTING IN A MANNER THAT IS AN IMMINENT THREAT TO THE HEALTH AND SAFETY OF THE PUBLIC, OR A PERSON IS ACTING OR HAS ACTED WITHOUT THE REQUIRED CERTIFICATION, THE BOARD MAY ISSUE AN ORDER TO CEASE AND DESIST THE ACTIVITY. THE ORDER MUST SET FORTH THE STATUTES AND RULES ALLEGED TO HAVE BEEN VIOLATED, THE FACTS ALLEGED TO HAVE CONSTITUTED THE VIOLATION, AND THE REQUIREMENT THAT ALL UNLAWFUL ACTS OR UNCERTIFIED PRACTICES IMMEDIATELY CEASE.

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(b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND DESIST UNDER PARAGRAPH (a) OF THIS SUBSECTION (10), THE RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER ACTS OR PRACTICES IN VIOLATION OF THIS PART 2 HAVE OCCURRED. THE HEARING SHALL BE CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND 24-4-105, C.R.S.

(11) (a) IF IT APPEARS TO THE BOARD, BASED UPON CREDIBLE EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT, THAT A PERSON HAS VIOLATED THIS PART 2, THEN, IN ADDITION TO ANY SPECIFIC POWERS GRANTED UNDER THIS PART 2, THE BOARD MAY ISSUE TO THE PERSON AN ORDER TO SHOW CAUSE AS TO WHY THE BOARD SHOULD NOT ISSUE A FINAL ORDER DIRECTING THE PERSON TO CEASE AND DESIST FROM THE UNLAWFUL ACT OR UNCERTIFIED PRACTICE.

(b) THE BOARD SHALL PROMPTLY NOTIFY A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS BEEN ISSUED UNDER PARAGRAPH (a) OF THIS SUBSECTION (11) OF THE ISSUANCE OF THE ORDER, ALONG WITH A COPY OF THE ORDER, THE FACTUAL AND LEGAL BASIS FOR THE ORDER, AND THE DATE SET BY THE BOARD FOR A HEARING ON THE ORDER. THE BOARD MAY SERVE THE NOTICE BY PERSONAL SERVICE, BY FIRST-CLASS UNITED STATES MAIL, POSTAGE PREPAID, OR AS MAY BE PRACTICABLE UPON THE PERSON AGAINST WHOM THE ORDER IS ISSUED. PERSONAL SERVICE OR MAILING OF AN ORDER OR DOCUMENT PURSUANT TO THIS SUBSECTION (11) CONSTITUTES NOTICE THEREOF TO THE PERSON.

(c) (I) THE BOARD SHALL COMMENCE A HEARING ON AN ORDER TO SHOW CAUSE NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE NOTIFICATION BY THE BOARD AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (11). THE HEARING MAY BE CONTINUED BY AGREEMENT OF ALL PARTIES BASED UPON THE COMPLEXITY OF THE MATTER, NUMBER OF PARTIES TO THE MATTER, AND LEGAL ISSUES PRESENTED IN THE MATTER, BUT IN NO EVENT IS THE HEARING TO COMMENCE LATER THAN SIXTY CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE NOTIFICATION.

(II) IF A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS BEEN ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (11) DOES NOT APPEAR AT THE HEARING, THE BOARD MAY PRESENT EVIDENCE THAT NOTIFICATION WAS PROPERLY SENT OR SERVED UPON THE PERSON UNDER PARAGRAPH (b) OF THIS SUBSECTION (11) AND SUCH OTHER EVIDENCE RELATED TO THE MATTER AS THE BOARD DEEMS APPROPRIATE. THE BOARD SHALL ISSUE THE ORDER WITHIN TEN DAYS AFTER THE BOARD'S DETERMINATION RELATED TO REASONABLE ATTEMPTS TO NOTIFY THE RESPONDENT, AND THE ORDER BECOMES FINAL AS TO THAT PERSON BY OPERATION OF LAW. THE BOARD SHALL CONDUCT THE HEARING IN ACCORDANCE WITH SECTIONS 24-4-104 AND 24-4-105, C.R.S.

(III) IF THE BOARD REASONABLY FINDS THAT THE PERSON AGAINST WHOM THE ORDER TO SHOW CAUSE WAS ISSUED IS ACTING OR HAS ACTED WITHOUT THE REQUIRED CERTIFICATION, OR HAS OR IS ABOUT TO ENGAGE IN ACTS OR PRACTICES CONSTITUTING VIOLATIONS OF THIS PART 2, THE BOARD MAY ISSUE A FINAL CEASE-AND-DESIST ORDER, DIRECTING THE PERSON TO CEASE AND DESIST FROM FURTHER UNLAWFUL ACTS OR UNCERTIFIED PRACTICES.

(IV) THE BOARD SHALL PROVIDE NOTICE, IN THE MANNER SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (11), OF THE FINAL CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE HEARING CONDUCTED PURSUANT TO THIS PARAGRAPH (c) TO EACH PERSON AGAINST WHOM THE FINAL ORDER HAS BEEN ISSUED. THE FINAL ORDER ISSUED UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) IS EFFECTIVE WHEN ISSUED AND IS A FINAL ORDER FOR PURPOSES OF JUDICIAL REVIEW.

(12) IF IT APPEARS TO THE BOARD, BASED UPON CREDIBLE EVIDENCE PRESENTED TO THE BOARD, THAT A PERSON HAS ENGAGED IN OR IS ABOUT TO ENGAGE IN ANY UNCERTIFIED ACT OR PRACTICE, ANY ACT OR PRACTICE CONSTITUTING A VIOLATION OF THIS PART 2, A RULE PROMULGATED UNDER THIS PART 2, AN ORDER ISSUED UNDER THIS PART 2, OR AN ACT OR PRACTICE CONSTITUTING GROUNDS FOR ADMINISTRATIVE SANCTION UNDER THIS PART 2, THE BOARD MAY ENTER INTO A STIPULATION WITH THE PERSON.

(13) IF A PERSON FAILS TO COMPLY WITH A FINAL CEASE-AND-DESIST ORDER OR A STIPULATION, THE BOARD MAY REQUEST

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THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE JUDICIAL DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING SUIT FOR A TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER. UPON RECEIVING THE REQUEST, THE ATTORNEY GENERAL OR DISTRICT ATTORNEY SHALL BRING THE SUIT AS REQUESTED.

**12-41-213. Mental and physical examination of certified physical therapist assistants.** (1) IF THE BOARD HAS REASONABLE CAUSE TO BELIEVE THAT A CERTIFIED PHYSICAL THERAPIST ASSISTANT IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY, THE BOARD MAY REQUIRE THE CERTIFIED PHYSICAL THERAPIST ASSISTANT TO TAKE A MENTAL OR PHYSICAL EXAMINATION BY A HEALTH CARE PROVIDER DESIGNATED BY THE BOARD. IF THE CERTIFIED PHYSICAL THERAPIST ASSISTANT REFUSES TO UNDERGO THE MENTAL OR PHYSICAL EXAMINATION, UNLESS DUE TO CIRCUMSTANCES BEYOND THE CERTIFIED PHYSICAL THERAPIST ASSISTANT'S CONTROL, THE BOARD MAY SUSPEND THE CERTIFIED PHYSICAL THERAPIST ASSISTANT'S CERTIFICATION UNTIL THE RESULTS OF THE EXAMINATION ARE KNOWN AND THE BOARD HAS MADE A DETERMINATION OF THE CERTIFIED PHYSICAL THERAPIST ASSISTANT'S FITNESS TO PRACTICE. THE BOARD SHALL PROCEED WITH AN ORDER FOR EXAMINATION AND DETERMINATION IN A TIMELY MANNER.

(2) AN ORDER ISSUED TO A CERTIFIED PHYSICAL THERAPIST ASSISTANT UNDER SUBSECTION (1) OF THIS SECTION TO UNDERGO A MENTAL OR PHYSICAL EXAMINATION MUST CONTAIN THE BASIS OF THE BOARD'S REASONABLE CAUSE TO BELIEVE THAT THE CERTIFIED PHYSICAL THERAPIST ASSISTANT IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY. FOR THE PURPOSES OF A DISCIPLINARY PROCEEDING AUTHORIZED BY THIS PART 2, THE CERTIFIED PHYSICAL THERAPIST ASSISTANT IS DEEMED TO HAVE WAIVED ALL OBJECTIONS TO THE ADMISSIBILITY OF THE EXAMINING HEALTH CARE PROVIDER'S TESTIMONY OR EXAMINATION REPORTS ON THE GROUND THAT THEY ARE PRIVILEGED COMMUNICATIONS.

(3) THE CERTIFIED PHYSICAL THERAPIST ASSISTANT MAY SUBMIT TO THE BOARD TESTIMONY OR EXAMINATION REPORTS FROM A HEALTH CARE PROVIDER CHOSEN BY THE CERTIFIED PHYSICAL THERAPIST ASSISTANT PERTAINING TO THE CONDITION THAT THE BOARD HAS ALLEGED MAY PRECLUDE THE CERTIFIED PHYSICAL THERAPIST ASSISTANT FROM PRACTICING WITH REASONABLE SKILL AND SAFETY. THE BOARD MAY CONSIDER SUCH TESTIMONY OR EXAMINATION REPORTS IN CONJUNCTION WITH, BUT NOT IN LIEU OF, TESTIMONY AND EXAMINATION REPORTS OF THE HEALTH CARE PROVIDER DESIGNATED BY THE BOARD.

(4) A PERSON SHALL NOT USE THE RESULTS OF ANY MENTAL OR PHYSICAL EXAMINATION ORDERED BY THE BOARD AS EVIDENCE IN ANY PROCEEDING OTHER THAN ONE BEFORE THE BOARD. THE EXAMINATION RESULTS ARE NOT PUBLIC RECORDS AND ARE NOT AVAILABLE TO THE PUBLIC.

**12-41-214. Examinations - notice - confidential agreements.**

(1) IF A CERTIFIED PHYSICAL THERAPIST ASSISTANT SUFFERS FROM A PHYSICAL OR MENTAL ILLNESS OR CONDITION RENDERING THE CERTIFIED PHYSICAL THERAPIST ASSISTANT UNABLE TO PRACTICE WITH REASONABLE SKILL AND PATIENT SAFETY, THE CERTIFIED PHYSICAL THERAPIST ASSISTANT SHALL NOTIFY THE BOARD OF THE ILLNESS OR CONDITION IN A MANNER AND WITHIN A PERIOD OF TIME DETERMINED BY THE BOARD. THE BOARD MAY REQUIRE THE CERTIFIED PHYSICAL THERAPIST ASSISTANT TO SUBMIT TO AN EXAMINATION, OR THE BOARD MAY EVALUATE THE EXTENT OF THE ILLNESS OR CONDITION AND ITS IMPACT ON THE CERTIFIED PHYSICAL THERAPIST ASSISTANT'S ABILITY TO PRACTICE WITH REASONABLE SKILL AND SAFETY TO PATIENTS.

(2) (a) UPON DETERMINING THAT A CERTIFIED PHYSICAL THERAPIST ASSISTANT WITH A PHYSICAL OR MENTAL ILLNESS OR CONDITION IS ABLE TO RENDER LIMITED PHYSICAL THERAPY WITH REASONABLE SKILL AND PATIENT SAFETY, THE BOARD MAY ENTER INTO A CONFIDENTIAL AGREEMENT WITH THE CERTIFIED PHYSICAL THERAPIST ASSISTANT IN WHICH THE CERTIFIED PHYSICAL THERAPIST ASSISTANT AGREES TO LIMIT HIS OR HER PRACTICE BASED ON THE RESTRICTIONS IMPOSED BY THE ILLNESS OR CONDITION, AS DETERMINED BY THE BOARD.

(b) THE AGREEMENT MUST SPECIFY THAT THE CERTIFIED PHYSICAL THERAPIST ASSISTANT IS SUBJECT TO PERIODIC REEVALUATIONS OR MONITORING AS DETERMINED APPROPRIATE BY THE BOARD.

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(c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR OF MONITORING.

(d) BY ENTERING INTO AN AGREEMENT WITH THE BOARD UNDER THIS SUBSECTION (2) TO LIMIT HIS OR HER PRACTICE, THE CERTIFIED PHYSICAL THERAPIST ASSISTANT IS NOT ENGAGING IN UNPROFESSIONAL CONDUCT. THE AGREEMENT IS AN ADMINISTRATIVE ACTION AND DOES NOT CONSTITUTE A RESTRICTION OR DISCIPLINE BY THE BOARD. HOWEVER, IF THE CERTIFIED PHYSICAL THERAPIST ASSISTANT FAILS TO COMPLY WITH THE TERMS OF AN AGREEMENT ENTERED INTO PURSUANT TO THIS SUBSECTION (2), THE FAILURE CONSTITUTES GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-41-210 (1) (i) AND THE CERTIFIED PHYSICAL THERAPIST ASSISTANT IS SUBJECT TO DISCIPLINE IN ACCORDANCE WITH SECTION 12-41-211.

(3) THIS SECTION DOES NOT APPLY TO A PHYSICAL THERAPIST ASSISTANT SUBJECT TO DISCIPLINE UNDER SECTION 12-41-210 (1) (h).

**12-41-215. Reports by insurance companies.** (1) (a) EACH INSURANCE COMPANY LICENSED TO DO BUSINESS IN THIS STATE AND ENGAGED IN THE WRITING OF MALPRACTICE INSURANCE FOR PHYSICAL THERAPIST ASSISTANTS SHALL SEND TO THE BOARD INFORMATION ABOUT ANY MALPRACTICE CLAIM THAT INVOLVES A PHYSICAL THERAPIST ASSISTANT AND IS SETTLED OR IN WHICH JUDGMENT IS RENDERED AGAINST THE INSURED.

(b) IN ADDITION, THE INSURANCE COMPANY SHALL SUBMIT SUPPLEMENTARY REPORTS CONTAINING THE DISPOSITION OF THE CLAIM TO THE BOARD WITHIN NINETY DAYS AFTER SETTLEMENT OR JUDGMENT.

(2) REGARDLESS OF THE DISPOSITION OF ANY CLAIM, THE INSURANCE COMPANY SHALL PROVIDE SUCH INFORMATION AS THE BOARD FINDS REASONABLY NECESSARY TO CONDUCT ITS OWN INVESTIGATION AND HEARING.

**12-41-216. Unauthorized practice - penalties.** ANY PERSON WHO VIOLATES SECTION 12-41-202 OR 12-41-203 WITHOUT AN ACTIVE CERTIFICATION ISSUED UNDER THIS PART 2 COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

**12-41-217. Violation - fines.** (1) NOTWITHSTANDING SECTION 12-41-216, THE BOARD MAY ASSESS A FINE FOR A VIOLATION OF THIS PART 2 OR A RULE ADOPTED UNDER THIS PART 2.

(2) THE FINE SHALL NOT BE GREATER THAN ONE THOUSAND DOLLARS AND SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE GENERAL FUND.

(3) ALL FINES MUST BE IMPOSED AT A HEARING HELD IN ACCORDANCE WITH SECTION 24-4-105, C.R.S., BUT ARE NOT A SUBSTITUTE OR WAIVER OF A CRIMINAL PENALTY.

**12-41-218. Injunctive proceedings.** THE BOARD MAY, IN THE NAME OF THE PEOPLE OF THE STATE OF COLORADO, THROUGH THE ATTORNEY GENERAL OF COLORADO, APPLY FOR AN INJUNCTION TO A COURT TO ENJOIN A PERSON FROM COMMITTING AN ACT DECLARED TO BE A MISDEMEANOR BY THIS PART 2. IF IT IS ESTABLISHED THAT THE DEFENDANT HAS BEEN OR IS COMMITTING AN ACT DECLARED TO BE A MISDEMEANOR BY THIS PART 2, THE COURT SHALL ENTER A DECREE PERPETUALLY ENJOINING THE DEFENDANT FROM FURTHER COMMITTING THE ACT. IF A PERSON VIOLATES AN INJUNCTION ISSUED UNDER THIS SECTION, THE COURT MAY TRY AND PUNISH THE OFFENDER FOR CONTEMPT OF COURT. AN INJUNCTION PROCEEDING IS IN ADDITION TO, AND NOT IN LIEU OF, ALL PENALTIES AND OTHER REMEDIES PROVIDED IN THIS PART 2.

**12-41-219. Limitation on authority.** THE AUTHORITY GRANTED TO THE BOARD BY THIS PART 2 DOES NOT AUTHORIZE THE BOARD TO ARBITRATE OR ADJUDICATE FEE DISPUTES BETWEEN PHYSICAL THERAPIST ASSISTANTS OR BETWEEN A PHYSICAL THERAPIST ASSISTANT AND ANOTHER PARTY.

**12-41-220. Fees and expenses.** ALL FEES COLLECTED UNDER THIS PART 2 SHALL BE DETERMINED, COLLECTED, AND APPROPRIATED IN THE SAME MANNER AS SET FORTH IN SECTION 24-34-105, C.R.S."

Strike pages 40 through 54.

Page 55, strike lines 1 through 24.

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Page 55, line 25, strike "12-41-216." and substitute "12-41-221."

Health & Human Services

After consideration on the merits, the Committee recommends that **SB11-120** be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation.

Amend printed bill, page 2, line 9, strike "FOLLOWING RIGHTS:" and substitute "FOLLOWING:".

Page 3, strike lines 20 through 23.

Reletter succeeding paragraphs accordingly.

Page 5, after line 23 insert:

"(y) TO BE INVOLVED IN MEETINGS AT WHICH DECISIONS ABOUT HIS OR HER FUTURE ARE BEING MADE, AND TO HAVE THE CHILD WELFARE AGENCY BRING TOGETHER THE YOUTH'S FAMILY GROUP AND OTHER SUPPORTERS TO DECISION-MAKING MEETINGS AT WHICH THE GROUP CREATES A PLAN FOR THE YOUTH'S FUTURE;"

Reletter succeeding paragraphs accordingly.

Page 6, line 1, strike "PLACEMENT" and substitute "LIVE WITH OR BE VISITED BY HIS OR HER SIBLINGS AND TO BE PLACED".

Page 7, line 17, after "CHECKS" insert "FOR ENTITIES PROVIDING EXTRACURRICULAR ACTIVITIES".

Health & Human Services

After consideration on the merits, the Committee recommends that **SB11-094** be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation.

Amend printed bill, page 12, line 6, after "APPLICABLE" insert "FEDERAL AND COLORADO".

Page 12, line 16, strike "AND".

Page 12, line 18, strike "DRUGS." and substitute "DRUGS;

- (V) EPILATION;
- (VI) DILATION AND IRRIGATION OF THE LACRIMAL SYSTEM;
- (VII) PUNCTAL PLUG INSERTION AND REMOVAL;
- (VIII) ANTERIOR CORNEAL PUNCTURE;
- (IX) CORNEAL SCRAPING FOR CULTURES;
- (X) DEBRIDEMENT OF CORNEAL EPITHELIUM; AND
- (XI) REMOVAL OF CORNEAL EPITHELIUM."

Page 12, line 27, strike "INCLUDE" and substitute "INCLUDE:

(I) SURGERY OF OR INJECTIONS INTO THE GLOBE, ORBIT, EYELIDS, OR OCULAR ADNEXA. "SURGERY" MEANS ANY PROCEDURE IN WHICH HUMAN TISSUE IS CUT, ALTERED, OR OTHERWISE INFILTRATED BY MECHANICAL OR LASER MEANS.

- (II) THE USE OF SCHEDULE I OR II NARCOTICS;
- (III) TREATMENT OF POSTERIOR UVEITIS; OR
- (IV) THE USE OF INJECTABLE DRUGS, EXCEPT FOR THE USE OF AN EPINEPHRINE AUTO-INJECTOR TO COUNTERACT ANAPHYLACTIC REACTION."

Page 13, strike lines 1 through 3.

Health & Human Services

After consideration on the merits, the Committee recommends that **SB11-088** be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation.

Amend printed bill, page 5, line 13, strike "USE OR".

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Page 5, strike line 14 and substitute "OBTAIN AND ADMINISTER."

Page 7, strike line 24 and substitute "amended, and the said 12-37-104 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:"

Page 8, after line 11 insert:

"(g) A STATEMENT INDICATING WHETHER OR NOT THE DIRECT-ENTRY MIDWIFE WILL ADMINISTER VITAMIN K TO THE CLIENT'S NEWBORN INFANT AND, IF NOT, A LIST OF QUALIFIED HEALTH CARE PRACTITIONERS WHO CAN PROVIDE THAT SERVICE;

(h) A STATEMENT INDICATING WHETHER OR NOT THE DIRECT-ENTRY MIDWIFE WILL ADMINISTER RHO(D) IMMUNE GLOBULIN TO THE CLIENT IF SHE IS DETERMINED TO BE RH-NEGATIVE AND, IF NOT, A LIST OF QUALIFIED HEALTH CARE PRACTITIONERS WHO CAN PROVIDE THAT SERVICE; AND

(i) A STATEMENT INDICATING WHETHER OR NOT THE DIRECT-ENTRY MIDWIFE WILL PERFORM SUTURING OF PERINEAL TEARS AND, IF SO, WHAT TRAINING THE DIRECT-ENTRY MIDWIFE HAS HAD IN PERFORMING THE SERVICE, THE NUMBER OF CLIENTS FOR WHOM HE OR SHE HAS DONE SO, AND THE RISKS OF HAVING PERINEAL TEARS SUTURED OUTSIDE OF A HOSPITAL OR OTHER MEDICAL FACILITY."

Page 8, line 17, before "(5) (a) (III) (D)," insert "(5) (a) (III) (C),"

Page 8, line 18, after "(6)," insert "(7),"

Page 9, after line 7 insert:

"(C) A DESCRIPTION OF the available alternatives to direct-entry midwifery care, INCLUDING A STATEMENT THAT THE CLIENT UNDERSTANDS SHE IS NOT RETAINING A CERTIFIED NURSE MIDWIFE OR A NURSE MIDWIFE;"

Page 10, after line 5 insert:

"(7) A direct-entry midwife shall prepare and transmit appropriate specimens for newborn screening in accordance with section 25-4-1004, C.R.S., AND SHALL REFER EVERY NEWBORN CHILD FOR EVALUATION, WITHIN SEVEN DAYS AFTER BIRTH, TO A LICENSED HEALTH CARE PROVIDER WITH EXPERTISE IN PEDIATRIC CARE."

Page 11, strike lines 2 through 27.

Page 12, strike lines 1 through 8 and substitute:

**"12-37-105.5. Limited use of certain medications - limited use of sutures - limited administration of intravenous fluids - emergency medical procedures - legislative declaration - rules.** (1) A REGISTRANT MAY OBTAIN PRESCRIPTION MEDICATIONS TO TREAT CONDITIONS SPECIFIED IN THIS SECTION FROM A REGISTERED PRESCRIPTION DRUG OUTLET, REGISTERED MANUFACTURER, OR REGISTERED WHOLESALER. AN ENTITY THAT PROVIDES A PRESCRIPTION MEDICATION TO A REGISTRANT IN ACCORDANCE WITH THIS SECTION, AND WHO RELIES IN GOOD FAITH UPON THE REGISTRATION INFORMATION PROVIDED BY THE REGISTRANT, IS NOT SUBJECT TO LIABILITY FOR PROVIDING THE MEDICATION.

(2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS SECTION, A REGISTRANT MAY OBTAIN AND ADMINISTER:

(a) VITAMIN K TO NEWBORNS BY INTRAMUSCULAR INJECTION;  
(b) RHO(D) IMMUNE GLOBULIN TO RH-NEGATIVE MOTHERS BY INTRAMUSCULAR INJECTION;

(c) POSTPARTUM ANTIHEMORRHAGIC DRUGS TO MOTHERS;  
(d) EYE PROPHYLAXIS, APPROVED PURSUANT TO SECTION 25-4-303, C.R.S., TO NEWBORNS; AND

(e) SUTURING MATERIALS AND LOCAL ANESTHETIC FOR MINOR SUTURING IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION.

(3) (a) IF A CLIENT REFUSES A MEDICATION LISTED IN PARAGRAPH

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(a) OR (b) OF SUBSECTION (2) OF THIS SECTION, THE REGISTRANT SHALL PROVIDE THE CLIENT WITH AN INFORMED CONSENT FORM CONTAINING A DETAILED STATEMENT OF THE BENEFITS OF THE MEDICATION AND THE RISKS OF REFUSAL, AND SHALL RETAIN A COPY OF THE FORM ACKNOWLEDGED AND SIGNED BY THE CLIENT.

(b) IF A CLIENT EXPERIENCES UNCONTROLLABLE POSTPARTUM HEMORRHAGE AND REFUSES TREATMENT WITH ANTIHEMORRHAGIC DRUGS, THE REGISTRANT SHALL IMMEDIATELY INITIATE THE TRANSPORTATION OF THE CLIENT IN ACCORDANCE WITH THE EMERGENCY PLAN.

(4) A REGISTRANT MAY EMPLOY SUTURES FOR THE LIMITED PURPOSE OF REPAIRING PERINEAL TEARS AND MAY ADMINISTER LOCAL ANESTHETIC IN CONNECTION WITH THE PROCEDURE.

(5) A REGISTRANT SHALL, AS PART OF THE EMERGENCY MEDICAL PLAN REQUIRED BY SECTION 12-37-105 (6), INFORM THE CLIENT THAT:

(a) IF SHE EXPERIENCES UNCONTROLLABLE POSTPARTUM HEMORRHAGE, THE REGISTRANT IS REQUIRED BY COLORADO LAW TO INITIATE EMERGENCY MEDICAL TREATMENT, WHICH MAY INCLUDE THE ADMINISTRATION OF AN ANTIHEMORRHAGIC DRUG BY THE REGISTRANT TO MITIGATE THE POSTPARTUM HEMORRHAGING WHILE INITIATING THE IMMEDIATE TRANSPORTATION OF THE CLIENT IN ACCORDANCE WITH THE EMERGENCY PLAN.

(b) IF SHE EXPERIENCES POSTPARTUM HEMORRHAGE, THE REGISTRANT IS PREPARED AND EQUIPPED TO ADMINISTER INTRAVENOUS FLUIDS TO RESTORE VOLUME LOST DUE TO EXCESSIVE BLEEDING.

(c) IF SHE EXPERIENCES PERINEAL TEARING, THE REGISTRANT IS PREPARED AND EQUIPPED TO EMPLOY SUTURES AND ADMINISTER LOCAL ANESTHETIC TO REPAIR THE TEARS OR, UNDER CIRCUMSTANCES TO BE DETERMINED BY THE CLIENT IN ADVANCE, WILL INITIATE THE TRANSPORTATION OF THE CLIENT TO A HOSPITAL OR OTHER MEDICAL FACILITY FOR SUTURING.

(6) THE DIRECTOR SHALL PROMULGATE RULES TO IMPLEMENT THIS SECTION. IN PROMULGATING SUCH RULES, THE DIRECTOR SHALL SEEK THE ADVICE OF KNOWLEDGEABLE MEDICAL PROFESSIONALS TO SET STANDARDS FOR EDUCATION, TRAINING, AND ADMINISTRATION THAT REFLECT CURRENT GENERALLY ACCEPTED PROFESSIONAL STANDARDS FOR THE SAFE AND EFFECTIVE USE OF THE MEDICATIONS, METHODS OF ADMINISTRATION, AND PROCEDURES DESCRIBED IN THIS SECTION. THE DIRECTOR SHALL ESTABLISH A PREFERRED DRUG LIST THAT DISPLAYS THE MEDICATIONS THAT A REGISTRANT CAN OBTAIN."

Page 17, line 20, strike "12-37-109 (1) (a) and (3)," and substitute "12-37-109,".

Page 17, line 21, strike "are" and substitute "is".

Page 17, strike lines 22 through 27.

Page 18, strike lines 1 through 18 and substitute:

**"12-37-109. Assumption of risk - no vicarious liability - legislative declaration.** (1) (a) ~~The general assembly hereby finds, determines, and declares that the authority granted in this article for the provision of unlicensed midwifery services does not constitute an endorsement of such practices, and that it is incumbent upon the individual seeking such services to ascertain the qualifications of the registrant direct-entry midwife.~~ It is the policy of this state that registrants shall be liable for their acts or omissions in the performance of the services that they provide, and that no licensed physician, nurse, prehospital emergency medical personnel, or health care institution shall be liable for any act or omission resulting from the administration of services by any registrant. ~~The provisions of This subsection (1) shall~~ DOES not relieve any physician, nurse, prehospital emergency personnel, or health care institution from liability for any willful and wanton act or omission or any act or omission constituting gross negligence, or under circumstances where a registrant has a business or supervised relationship with any such physician, nurse, prehospital emergency personnel, or health care institution. A physician, nurse, prehospital emergency personnel, or health care institution may provide consultation or education to the registrant without establishing a business or supervisory

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relationship, AND IS ENCOURAGED TO ACCEPT REFERRALS FROM REGISTRANTS PURSUANT TO THIS ARTICLE.

~~(b) The general assembly further finds, determines, and declares that the limitation on liability provided in section 13-64-302, C.R.S., is predicated upon full licensure, discipline, and regulatory oversight and that the practice of unlicensed midwifery by registrants pursuant to this article is authorized as an alternative to such full licensure, discipline, and regulatory oversight and is therefore not subject to the limitations provided in section 13-64-302, C.R.S.~~

~~(2) Nothing in this article shall be construed to indicate or imply that a registrant providing services under this article is a licensed health care provider for the purposes of reimbursement by any health insurer, third party payer, or governmental health care program."~~

Page 19, strike lines 13 through 20 and substitute:

**"SECTION 15. Effective date.** This act shall take effect July 1, 2011.

**SECTION 16. 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."



On motion of Senator Morse, the Senate adjourned until 10:00 a.m., Monday, February 21, 2011.

Approved:

Brandon C. Shaffer  
President of the Senate

Attest:

Cindi L. Markwell  
Secretary of the Senate

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