

**Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0356.01 Duane Gall x4335

**HOUSE BILL 12-1300**

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**HOUSE SPONSORSHIP**

**Gardner B.**, Barker, Ryden, Waller

**SENATE SPONSORSHIP**

**Aguilar,**

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**House Committees**  
Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

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

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**Bill Summary**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21           The general assembly further finds, determines, and declares that:

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

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

1 from the unauthorized practice of medicine and from unprofessional  
2 conduct by persons licensed to practice medicine PROVIDE HEALTH CARE  
3 under ~~article 36~~ ARTICLES 36 AND 38 of this title.

4 (2) The general assembly recognizes that:

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

9 (b) Many patients lack the knowledge, experience, or education  
10 to properly evaluate the quality of medical OR NURSING practice or the  
11 professional conduct of those licensed to practice medicine, LICENSED TO  
12 ACT AS PHYSICIAN ASSISTANTS, AND LICENSED TO PRACTICE NURSING AND  
13 GRANTED AN AUTHORITY AS ADVANCED PRACTICE NURSES; and

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

17 (3) The general assembly recognizes that, in the proper exercise  
18 of ~~its~~ THEIR authority and responsibilities under this article, the Colorado  
19 medical board AND THE STATE BOARD OF NURSING must, to some extent,  
20 replace competition with regulation, and that ~~such~~ THE replacement of  
21 competition by regulation, particularly with regard to physicians PERSONS  
22 LICENSED UNDER ARTICLE 36 OF THIS TITLE OR LICENSED UNDER ARTICLE  
23 38 OF THIS TITLE AND GRANTED AN AUTHORITY AS ADVANCED PRACTICE  
24 NURSES, is related to a legitimate state interest in the protection of the  
25 health, safety, and welfare of the people of this state.

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

1           **12-36.5-102. Definitions.** As used in this article, unless the  
2 context otherwise requires:

3           (1) ~~"Medical board" means the Colorado medical board created~~  
4 ~~pursuant to section 12-36-103.~~ "AUTHORIZED ENTITY" MEANS A  
5 CORPORATION, ORGANIZATION, OR ENTITY THAT IS AUTHORIZED TO  
6 ESTABLISH A PROFESSIONAL REVIEW COMMITTEE UNDER SECTION  
7 12-36.5-104 (3) OR (4) OR UNDER RULES OF THE MEDICAL BOARD OR  
8 NURSING BOARD ADOPTED PURSUANT TO SECTION 12-36.5-104 (5).

9           (2) "CMS" MEANS THE FEDERAL CENTERS FOR MEDICARE AND  
10 MEDICAID SERVICES.

11           ~~(2)~~ (3) "Governing board" means ~~any~~ A board, board of trustees,  
12 governing board, or other body, or duly authorized subcommittee thereof,  
13 ~~of any organization of health care providers~~ AN AUTHORIZED ENTITY,  
14 which board or body has final authority pursuant to ~~such organization's~~  
15 THE ENTITY'S written bylaws, policies, or procedures to take final action  
16 regarding the recommendations of ~~any authorized~~ A professional review  
17 committee.

18           (4) "JOINT COMMISSION" MEANS THE JOINT COMMISSION ON THE  
19 ACCREDITATION OF HEALTHCARE ORGANIZATIONS OR ITS SUCCESSOR  
20 ENTITY.

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

23           ~~(3)~~ (6) "Professional review committee" means any committee  
24 authorized under ~~the provisions of~~ this article to review and evaluate the  
25 QUALIFICATIONS, COMPETENCE, AND professional conduct of, and the  
26 quality and appropriateness of patient care provided by, any ~~physician~~  
27 PERSON licensed under article 36 of this title OR LICENSED UNDER ARTICLE

1 38 OF THIS TITLE AND GRANTED AN AUTHORITY AS AN ADVANCED  
2 PRACTICE NURSE. "PROFESSIONAL REVIEW COMMITTEE" INCLUDES A  
3 GOVERNING BOARD, A HEARING PANEL APPOINTED BY A GOVERNING BODY  
4 TO CONDUCT A HEARING UNDER SECTION 12-36.5-104 (7) (a), AND AN  
5 INDEPENDENT THIRD PARTY DESIGNATED BY A GOVERNING BOARD UNDER  
6 SECTION 12-36.5-104 (8) (b).

7 (4) (7) (a) "Records" means any and all written, ELECTRONIC, or  
8 ~~verbal~~ ORAL communications by any person ~~any member of an~~  
9 ~~investigative body, or any professional review committee or governing~~  
10 ~~board, or the staff thereof~~ arising from any activities of a professional  
11 review committee, INCLUDING A GOVERNING BOARD, ESTABLISHED BY AN  
12 authorized by ENTITY UNDER this article OR BY THE AGENT OR STAFF  
13 THEREOF, including the ANY:

- 14 (I) REFERENCE;
- 15 (II) Complaint, response, OR correspondence related ~~thereto~~ TO  
16 THE COMPLAINT OR RESPONSE;
- 17 (III) INTERVIEWS OR STATEMENTS, REPORTS, MEMORANDA,  
18 ASSESSMENTS, AND PROGRESS REPORTS DEVELOPED TO ASSIST IN  
19 PROFESSIONAL REVIEW ACTIVITIES;
- 20 (IV) ASSESSMENTS AND PROGRESS REPORTS TO ASSIST IN  
21 PROFESSIONAL REVIEW ACTIVITIES, INCLUDING REPORTS AND  
22 ASSESSMENTS DEVELOPED BY INDEPENDENT CONSULTANTS IN  
23 CONNECTION WITH PROFESSIONAL REVIEW ACTIVITIES; AND
- 24 (V) Recordings or transcripts of proceedings, minutes, formal  
25 recommendations, decisions, exhibits, and other similar items or  
26 documents RELATED TO PROFESSIONAL REVIEW ACTIVITIES AND typically  
27 constituting the records of administrative proceedings.

1 (b) "RECORDS" DOES NOT INCLUDE ANY WRITTEN, ELECTRONIC, OR  
2 ORAL COMMUNICATIONS BY ANY PERSON THAT ARE OTHERWISE  
3 AVAILABLE FROM AN ORIGINAL SOURCE OUTSIDE THE SCOPE OF  
4 PROFESSIONAL REVIEW ACTIVITIES, INCLUDING MEDICAL RECORDS AND  
5 OTHER HEALTH INFORMATION.

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

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

10 **12-36.5-103. Use of professional review committees.**

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

12 (I) The medical board AND THE NURSING BOARD, while assuming  
13 and retaining ultimate authority for licensure and discipline in accordance  
14 with ~~article~~ ARTICLES 36 AND 38 of this title, RESPECTIVELY, and in  
15 accordance with this article, cannot practically and economically assume  
16 responsibility over every single allegation or instance of purported  
17 deviation from the standards of quality for the practice of medicine OR  
18 NURSING, from the standards of professional conduct, or from the  
19 standards of appropriate care; and ~~that~~

20 (II) An attempt to exercise such oversight would result in  
21 extraordinary delays in the determination of the legitimacy of ~~such~~ THE  
22 allegations and would result in the inappropriate and unequal exercise of  
23 ~~its~~ THEIR authority to license and discipline ~~physicians~~ PERSONS LICENSED  
24 UNDER ARTICLE 36 OF THIS TITLE OR LICENSED UNDER ARTICLE 38 OF THIS  
25 TITLE AND GRANTED AUTHORITY AS ADVANCED PRACTICE NURSES.

26 (b) It is therefore the intent of the general assembly that the  
27 medical board AND THE NURSING BOARD utilize and allow professional

1 review committees and governing boards to assist ~~it~~ THEM in meeting ~~its~~  
2 THEIR responsibilities under ~~article~~ ARTICLES 36 AND 38 of this title,  
3 RESPECTIVELY, and under this article.

4 (2) All ~~physicians~~ PERSONS LICENSED UNDER ARTICLE 36 OF THIS  
5 TITLE OR LICENSED UNDER ARTICLE 38 OF THIS TITLE AND GRANTED  
6 AUTHORITY AS ADVANCED PRACTICE NURSES are encouraged to serve  
7 upon ~~such~~ professional review committees when called to do so and to  
8 study and review in ~~good faith~~ AN OBJECTIVELY REASONABLE MANNER the  
9 professional conduct of ~~physicians~~ PERSONS LICENSED UNDER ARTICLE 36  
10 OF THIS TITLE OR LICENSED UNDER ARTICLE 38 OF THIS TITLE AND  
11 GRANTED AUTHORITY AS ADVANCED PRACTICE NURSES, including the  
12 QUALIFICATIONS, COMPETENCE, AND PROFESSIONAL CONDUCT OF, AND  
13 THE quality and appropriateness of patient care PROVIDED BY, THOSE  
14 PERSONS.

15 (3) (a) The use of professional review committees is ~~declared to~~  
16 ~~be~~ an extension of the authority of the medical board AND NURSING  
17 BOARD. However, except as otherwise provided in this article, nothing in  
18 this article ~~shall limit~~ LIMITS the authority of professional review  
19 committees properly constituted under this article.

20 (b) Professional review committees, the members who constitute  
21 ~~such~~ THE committees, governing boards, AUTHORIZED ENTITIES, and  
22 persons who participate directly or indirectly in professional review  
23 ~~proceedings~~ ACTIVITIES are granted certain immunities from SUIT AND  
24 liability FOR DAMAGES arising from actions ~~which~~ THAT are within the  
25 scope of their activities ~~and taken in good faith~~ as provided in section  
26 12-36.5-105. ~~Such~~ THESE grants of immunity from SUIT AND liability FOR  
27 DAMAGES are ~~declared to be~~ necessary to ensure that professional review



1 committees and governing boards can exercise their professional  
2 knowledge and judgment.

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

5 **12-36.5-104. Establishment of professional review committees**

6 **- function - rules.** (1) A professional review committee may be  
7 established pursuant to this section to review and evaluate the  
8 QUALIFICATIONS AND COMPETENCE OF, THE quality and appropriateness  
9 of patient care provided by, and the professional conduct of, any  
10 ~~physician licensed under article 36 of this title~~ PERSON LICENSED UNDER  
11 ARTICLE 36 OF THIS TITLE OR LICENSED UNDER ARTICLE 38 OF THIS TITLE  
12 AND GRANTED AN AUTHORITY AS AN ADVANCED PRACTICE NURSE.

13 (2) ~~Persons Licensed to practice medicine under article 36 of this~~  
14 ~~title~~ PHYSICIANS who are actively engaged in the practice of medicine in  
15 this state ~~shall~~ MUST constitute a majority of THE VOTING MEMBERS OF any  
16 professional review committee established pursuant to this section FOR  
17 PHYSICIANS AND PHYSICIAN ASSISTANTS; ~~except for those boards THAT~~  
18 PHYSICIANS NEED NOT CONSTITUTE THE MAJORITY OF THE VOTING  
19 MEMBERS OF A BOARD authorized by paragraph (g) of subsection (4) of  
20 this section OR AN INDEPENDENT THIRD PARTY DESIGNATED BY A  
21 GOVERNING BOARD UNDER PARAGRAPH (b) OF SUBSECTION (8) OF THIS  
22 SECTION.

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

27 (4) ~~Any~~ A professional review committee established by any of

1 the following ~~organizations, entities, or professional societies shall be~~  
2 AUTHORIZED ENTITIES IS an approved professional review committee  
3 under this article if it operates ~~pursuant to~~ IN SUBSTANTIAL COMPLIANCE  
4 WITH written bylaws, policies, or procedures that are in compliance with  
5 this article and that have been approved by ~~its~~ THE AUTHORIZED ENTITY'S  
6 governing board:

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

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

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

20 (d) A society or association of physicians licensed to practice and  
21 residing in this state and specializing in a specific discipline of medicine,  
22 whose society or association has been designated by the medical board as  
23 ~~the~~ A specialty society or association representative of physicians  
24 practicing ~~such~~ THE specific discipline of medicine, if the physician  
25 whose services are the subject of the review is a member of ~~such~~ THE  
26 specialty society or association;

27 (e) An individual practice association or a preferred provider

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

11 (f) A corporation authorized to insure ~~physicians~~ PERSONS  
12 LICENSED UNDER ARTICLE 36 OF THIS TITLE OR LICENSED UNDER ARTICLE  
13 38 OF THIS TITLE AND GRANTED AUTHORITY AS ADVANCED PRACTICE  
14 NURSES pursuant to article 3 of title 10, C.R.S., or any other ~~corporation~~  
15 ORGANIZATION authorized to insure ~~such physicians~~ PERSONS in this state  
16 when designated by the medical board OR NURSING BOARD under  
17 subsection (5) of this section;

18 (g) THE governing ~~boards~~ BOARD of any AUTHORIZED entity ~~which~~  
19 THAT has a professional review committee established pursuant to article  
20 36 OR ARTICLE 38 of this title;

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

25 (i) (I) A nonprofit corporation or association ~~comprised~~  
26 CONSISTING of representatives from a statewide ~~medical~~ PROFESSIONAL  
27 society and a statewide hospital association. ~~Such~~ THE association ~~shall~~

1 ~~be comprised~~ MUST CONSIST OF ~~physicians~~ PERSONS LICENSED UNDER  
2 ARTICLE 36 OF THIS TITLE OR LICENSED UNDER ARTICLE 38 OF THIS TITLE  
3 AND GRANTED AUTHORITY AS ADVANCED PRACTICE NURSES, hospital  
4 administrators, and hospital trustees, with a majority of ~~such~~ THE  
5 representatives being ~~physicians~~ PERSONS LICENSED UNDER ARTICLE 36 OF  
6 THIS TITLE OR LICENSED UNDER ARTICLE 38 OF THIS TITLE AND GRANTED  
7 AUTHORITY AS ADVANCED PRACTICE NURSES. The association may  
8 establish, or contract for, one or more ~~peer~~ PROFESSIONAL review  
9 committees to review the care by hospital staff ~~physicians~~ HEALTH CARE  
10 PROVIDERS, with priority given to small rural ~~medical~~ HOSPITAL staffs.  
11 ~~Such peer~~ THESE PROFESSIONAL review services ~~shall~~ MUST be available  
12 statewide on a fee-for-service basis to licensed or certified hospitals at the  
13 joint request of the governing ~~body~~ BOARD and the medical OR NURSING  
14 staff of the hospital or at the sole request of the governing ~~body~~ BOARD  
15 of the hospital. If a ~~physician~~ MEMBER being reviewed specializes in a  
16 generally recognized specialty of medicine OR NURSING, at least one of  
17 the ~~physicians~~ HEALTH CARE PROVIDERS on the ~~peer~~ PROFESSIONAL  
18 review committee ~~shall~~ MUST be a ~~physician practicing~~ PERSON LICENSED  
19 UNDER ARTICLE 36 OF THIS TITLE, OR LICENSED UNDER ARTICLE 38 OF THIS  
20 TITLE AND GRANTED AUTHORITY AS AN ADVANCED PRACTICE NURSE, WHO  
21 PRACTICES such specialty.

22 (II) For purposes of the introductory portion to this subsection (4)  
23 AND THIS PARAGRAPH (i), the bylaws, policies, ~~and~~ OR procedures ~~shall~~  
24 MUST be in SUBSTANTIAL compliance with this article and ~~be~~ approved by  
25 the nonprofit corporation or association.

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

1 (k) A PROFESSIONAL SERVICES ENTITY ORGANIZED PURSUANT TO  
2 SECTION 12-36-134;

3 (l) A PROVIDER NETWORK THAT INCLUDES HEALTH CARE  
4 PROVIDERS ORGANIZED PURSUANT TO PART 3 OF ARTICLE 18 OF TITLE 6,  
5 C.R.S.;

6 (m) A HEALTH SYSTEM THAT INCLUDES TWO OR MORE  
7 AUTHORIZED ENTITIES WITH A COMMON GOVERNING BOARD;

8 (n) A TRUST ORGANIZATION ESTABLISHED UNDER ARTICLE 70 OF  
9 TITLE 11, C.R.S.;

10 (o) AN ENTITY LICENSED PURSUANT TO PARTS 1 AND 4 OF ARTICLE  
11 16 OF TITLE 10, C.R.S.; AND

12 (p) AN ACCOUNTABLE CARE ORGANIZATION ESTABLISHED UNDER  
13 THE FEDERAL "PATIENT PROTECTION AND AFFORDABLE CARE ACT",  
14 PUB.L. 111-148, OR OTHER ORGANIZATION WITH A SIMILAR FUNCTION.

15 (5) The medical board AND THE NURSING BOARD, WITH RESPECT  
16 TO THE LICENSEES SUBJECT TO THEIR JURISDICTION, may establish by rule  
17 procedures necessary to authorize other health care or physician  
18 organizations or professional societies to AS AUTHORIZED ENTITIES THAT  
19 MAY establish professional review committees.

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

22 (I) The qualifications AND COMPETENCE of any ~~physician licensed~~  
23 ~~under article 36 of this title~~ PERSON LICENSED UNDER ARTICLE 36 OF THIS  
24 TITLE OR LICENSED UNDER ARTICLE 38 OF THIS TITLE AND GRANTED  
25 AUTHORITY AS AN ADVANCED PRACTICE NURSE who seeks to subject  
26 himself or herself to the authority of any ~~organization, entity, or~~  
27 ~~professional society listed in subsection (4) of this section or any~~

1 ~~organization or professional society that has been authorized by the~~  
2 ~~medical board to establish a professional review committee pursuant to~~  
3 ~~subsection (5) of this section~~ AUTHORIZED ENTITY; or

4 (II) The quality or appropriateness of patient care rendered by, or  
5 the professional conduct of, any ~~physician licensed under article 36 of this~~  
6 ~~title~~ PERSON LICENSED UNDER ARTICLE 36 OF THIS TITLE OR LICENSED  
7 UNDER ARTICLE 38 OF THIS TITLE AND GRANTED AUTHORITY AS AN  
8 ADVANCED-PRACTICE NURSE who is subject to the authority of ~~such~~  
9 ~~organization, entity, or professional society~~ THE AUTHORIZED ENTITY.

10 (b) ~~Such~~ THE PROFESSIONAL REVIEW COMMITTEE SHALL CONDUCT  
11 THE investigation ~~shall be conducted~~ in SUBSTANTIAL conformity with  
12 written bylaws, policies, or procedures adopted by ~~such organization,~~  
13 ~~entity, or professional society~~ THE AUTHORIZED ENTITY'S GOVERNING  
14 BOARD.

15 (7) The written bylaws, policies, or procedures of any professional  
16 review committee ~~shall~~ FOR LICENSED PHYSICIANS AND PHYSICIAN  
17 ASSISTANTS MUST provide for at least the following:

18 (a) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
19 PARAGRAPH (a), if the findings of any investigation indicate that the  
20 LICENSED physician OR PHYSICIAN ASSISTANT who is the subject of the  
21 investigation is lacking in qualifications OR COMPETENCY, has provided  
22 substandard or inappropriate patient care, or has exhibited inappropriate  
23 professional conduct AND THE PROFESSIONAL REVIEW COMMITTEE TAKES  
24 OR RECOMMENDS AN ACTION TO ADVERSELY AFFECT THE PHYSICIAN'S OR  
25 PHYSICIAN ASSISTANT'S MEMBERSHIP, AFFILIATION, OR PRIVILEGES WITH  
26 THE AUTHORIZED ENTITY, the professional review committee shall hold  
27 a hearing ~~unless the physician waives his right to a hearing,~~ to consider

1 the findings ~~except that~~, AND RECOMMENDATIONS UNLESS THE PHYSICIAN  
2 OR PHYSICIAN ASSISTANT WAIVES, IN WRITING, THE RIGHT TO A HEARING.

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

7 (b) ~~Any~~ A person who has participated in the course of ~~any~~ AN  
8 investigation ~~shall be~~ IS disqualified as a member of the PROFESSIONAL  
9 REVIEW committee ~~at any~~ THAT CONDUCTS A hearing ~~held~~ pursuant to  
10 paragraph (a) of this subsection (7), but ~~such~~ THE person may participate  
11 as a witness in ~~such~~ THE hearing.

12 (c) The ~~physician~~ AUTHORIZED ENTITY SHALL GIVE REASONABLE  
13 NOTICE OF THE HEARING, AND OF ANY FINDING OR RECOMMENDATION  
14 THAT WOULD ADVERSELY AFFECT THE PHYSICIAN'S OR PHYSICIAN  
15 ASSISTANT'S MEMBERSHIP, AFFILIATION, OR PRIVILEGES WITH THE  
16 AUTHORIZED ENTITY TO THE PHYSICIAN OR PHYSICIAN ASSISTANT who is  
17 the subject of ~~any~~ AN investigation, ~~shall be given reasonable notice of~~  
18 ~~such hearing~~ and ~~shall have~~ THE PHYSICIAN OR PHYSICIAN ASSISTANT HAS  
19 a right to be present, to be represented by legal counsel at ~~such~~ THE  
20 hearing, and to offer evidence in his OR HER own behalf.

21 (d) After ~~such~~ THE hearing, the professional review committee  
22 THAT CONDUCTED THE HEARING shall make any recommendations it  
23 deems necessary to the governing board, unless OTHERWISE provided by  
24 federal law or regulation.

25 (e) THE PROFESSIONAL REVIEW COMMITTEE SHALL GIVE a copy of  
26 ~~such~~ THE recommendations ~~shall be given~~ to the subject physician OR  
27 PHYSICIAN ASSISTANT, who then ~~shall have~~ HAS the right to appeal the

1 ~~findings and recommendations of the professional review committee to~~  
2 ~~the governing board to which the recommendations are made WITH~~  
3 ~~REGARD TO ANY FINDING OR RECOMMENDATION THAT WOULD ADVERSELY~~  
4 ~~AFFECT THE PHYSICIAN'S OR PHYSICIAN ASSISTANT'S MEMBERSHIP,~~  
5 ~~AFFILIATION, OR PRIVILEGES WITH THE AUTHORIZED ENTITY.~~

6 (f) THE PROFESSIONAL REVIEW COMMITTEE SHALL FORWARD a  
7 copy of any recommendations made pursuant to paragraph (d) of this  
8 subsection (7) ~~shall be promptly forwarded~~ to the medical board.

9 (8) (a) All governing boards shall adopt written bylaws, policies,  
10 or procedures UNDER which ~~provide that~~ a physician OR PHYSICIAN  
11 ASSISTANT who is the subject of an adverse recommendation by a  
12 professional review committee may appeal to the governing board ~~Such~~  
13 FOLLOWING A HEARING IN ACCORDANCE WITH SUBSECTION (7) OF THIS  
14 SECTION. THE bylaws, policies, or procedures ~~shall~~ MUST provide that the  
15 physician OR PHYSICIAN ASSISTANT ~~shall~~ be given reasonable notice of his  
16 OR HER right to appeal and, unless waived by the physician ~~shall have~~ OR  
17 PHYSICIAN ASSISTANT, HAS the right to appear before the governing board,  
18 to be represented by legal counsel, and to offer ~~such~~ THE argument on the  
19 record as he OR SHE deems appropriate.

20 (b) The bylaws may provide that a committee of not fewer than  
21 three members of the governing board may hear the appeal. ~~such~~ ALSO,  
22 THE bylaws may ~~also~~ allow for an appeal to be heard by an independent  
23 third party designated by ~~the~~ A GOVERNING board UNDER THIS PARAGRAPH  
24 (b).

25 (9) THE WRITTEN BYLAWS, POLICIES, OR PROCEDURES OF ANY  
26 PROFESSIONAL REVIEW COMMITTEE FOR ADVANCED PRACTICE NURSES  
27 MUST PROVIDE FOR AT LEAST THE FOLLOWING:



1 (a) ONE OR MORE LICENSED NURSES WHO ARE REGISTERED AS  
2 ADVANCED PRACTICE NURSES WHO ARE ACTIVELY ENGAGED IN THE  
3 PRACTICE OF NURSING IN THIS STATE MUST BE MEMBERS OF THE  
4 PROFESSIONAL REVIEW COMMITTEE ESTABLISHED PURSUANT TO THIS  
5 SECTION FOR ADVANCED PRACTICE NURSES, EXCEPT THAT ADVANCED  
6 PRACTICE NURSES NEED NOT BE MEMBERS OF A GOVERNING BOARD OR AN  
7 INDEPENDENT THIRD PARTY DESIGNATED BY A GOVERNING BOARD, IF  
8 APPLICABLE TO THE PROFESSIONAL REVIEW PROCESS.

9 (b) THE PROFESSIONAL REVIEW PROCESS FOR ADVANCED PRACTICE  
10 NURSES CONDUCTED BY AUTHORIZED ENTITIES THAT ARE NOT LICENSED  
11 HEALTH FACILITIES MAY BE SUBSTANTIALLY SIMILAR TO THE PROCESS  
12 UNDER SUBSECTIONS (7) AND (8) OF THIS SECTION FOR PHYSICIANS AND  
13 PHYSICIAN ASSISTANTS, EXCEPT THAT ADVANCED PRACTICE NURSES WILL  
14 SUBSTITUTE FOR PHYSICIAN ASSISTANTS. THE PROFESSIONAL REVIEW  
15 COMMITTEE SHALL FORWARD A COPY OF ANY RECOMMENDATIONS TO THE  
16 NURSING BOARD.

17 (c) THE PROFESSIONAL REVIEW PROCESS FOR ADVANCED PRACTICE  
18 NURSES CONDUCTED BY AUTHORIZED ENTITIES THAT ARE LICENSED  
19 HEALTH FACILITIES AND THAT PARTICIPATE IN ANY FEDERAL HEALTH CARE  
20 PROGRAM, INCLUDING THE FEDERAL MEDICARE AND MEDICAID PROGRAMS,  
21 MAY BE ESTABLISHED IN A MANNER TO COMPLY WITH THE APPLICABLE  
22 HEALTH FACILITY LICENSING REQUIREMENTS UNDER TITLE 25, C.R.S., AND  
23 ASSOCIATED REGULATIONS, THE FEDERAL "SOCIAL SECURITY ACT", AND  
24 THE CONDITIONS FOR COVERAGE OR CONDITIONS OF PARTICIPATION  
25 PROMULGATED BY THE CMS, AS APPLICABLE TO THE TYPE OF HEALTH  
26 FACILITY. THE PROFESSIONAL REVIEW COMMITTEE SHALL FORWARD A  
27 COPY OF ANY RECOMMENDATIONS TO THE NURSING BOARD.

1           ~~(9)~~ (10) All governing boards that are required to report their final  
2 actions to the medical board OR THE NURSING BOARD, AS APPROPRIATE,  
3 are not otherwise relieved of ~~such~~ THEIR obligations by virtue of ~~any~~  
4 ~~provision~~ of this article.

5           ~~(10)~~ (11) (a) EXCEPT AS SPECIFIED IN PARAGRAPH (b) OF THIS  
6 SUBSECTION (11), the records of ~~a~~ AN AUTHORIZED ENTITY AND ITS  
7 professional review committee, ~~a~~ ITS governing board, or the committee  
8 on anticompetitive conduct ~~shall~~ ARE not ~~be~~ subject to subpoena or  
9 discovery and ~~shall~~ ARE not ~~be~~ admissible in any civil suit. ~~brought~~  
10 ~~against a physician who is the subject of such records.~~

11           (b) ~~Notwithstanding the provisions of paragraph (a) of this~~  
12 ~~subsection (10), such~~ SUBJECT TO SUBSECTION (14) OF THIS SECTION, THE  
13 records ~~shall be~~ ARE subject to subpoena and available for use:

14           (I) By the committee on anticompetitive conduct;

15           (II) By either party in ~~any~~ AN appeal or de novo proceeding  
16 brought pursuant to this part 1;

17           (III) By a ~~physician~~ PERSON LICENSED UNDER ARTICLE 36 OF THIS  
18 TITLE, OR LICENSED UNDER ARTICLE 38 OF THIS TITLE AND GRANTED  
19 AUTHORITY AS AN ADVANCED PRACTICE NURSE, in a suit seeking judicial  
20 review of ~~any~~ AN action by the governing board;

21           (IV) BY THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND  
22 ENVIRONMENT IN ACCORDANCE WITH ITS AUTHORITY TO ISSUE OR  
23 CONTINUE A HEALTH FACILITY LICENSE OR CERTIFICATION FOR AN  
24 AUTHORIZED ENTITY;

25           (V) BY THE CMS IN ACCORDANCE WITH ITS EVALUATION PROCESS  
26 FOR FEDERAL HEALTH CARE PROGRAM PARTICIPATION BY AN AUTHORIZED  
27 ENTITY;

1           ~~(IV)~~ (VI) By a governing board seeking judicial review;

2           (VII) BY THE MEDICAL BOARD WITHIN THE SCOPE OF ITS

3 AUTHORITY OVER LICENSED PHYSICIANS AND PHYSICIAN ASSISTANTS; AND

4           (VIII) BY THE NURSING BOARD WITHIN THE SCOPE OF ITS

5 AUTHORITY OVER ADVANCED PRACTICE NURSES.

6           (12) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS

7 SUBSECTION (12), THE RECORDS OF AN AUTHORIZED ENTITY OR ITS

8 PROFESSIONAL REVIEW COMMITTEE MAY BE DISCLOSED TO:

9           (I) THE MEDICAL BOARD, AS REQUESTED BY THE MEDICAL BOARD

10 ACTING WITHIN THE SCOPE OF ITS AUTHORITY OR AS REQUIRED OR

11 APPROPRIATE UNDER THIS ARTICLE OR ARTICLE 36 OF THIS TITLE;

12           (II) THE NURSING BOARD, AS REQUESTED BY THE NURSING BOARD

13 ACTING WITHIN THE SCOPE OF ITS AUTHORITY OR AS REQUIRED OR

14 APPROPRIATE UNDER THIS ARTICLE OR ARTICLE 38 OF THIS TITLE;

15           (III) THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND

16 ENVIRONMENT ACTING WITHIN THE SCOPE OF ITS HEALTH FACILITY

17 LICENSING AUTHORITY OR AS THE AGENT OF CMS;

18           (IV) CMS, IN CONNECTION WITH THE SURVEY AND CERTIFICATION

19 PROCESSES FOR FEDERAL HEALTH CARE PROGRAM PARTICIPATION BY AN

20 AUTHORIZED ENTITY; AND

21           (V) THE JOINT COMMISSION OR OTHER ENTITY GRANTED DEEMING

22 AUTHORITY BY CMS, IN CONNECTION WITH A SURVEY OR REVIEW FOR

23 ACCREDITATION.

24           (b) THE MEDICAL BOARD, NURSING BOARD, AND COLORADO

25 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL NOT MAKE

26 FURTHER DISCLOSURES OF ANY RECORDS DISCLOSED BY AN AUTHORIZED

27 ENTITY OR ITS PROFESSIONAL REVIEW COMMITTEE UNDER THIS SECTION.

1           (13) THE RECORDS OF AN AUTHORIZED ENTITY OR ITS  
2 PROFESSIONAL REVIEW COMMITTEE OR GOVERNING BOARD MAY BE  
3 SHARED BY AND AMONG AUTHORIZED ENTITIES AND THEIR PROFESSIONAL  
4 REVIEW COMMITTEES AND GOVERNING BOARDS CONCERNING THE  
5 QUALIFICATIONS, COMPETENCE, AND PROFESSIONAL CONDUCT OF, AND  
6 QUALITY AND APPROPRIATENESS OF PATIENT CARE PROVIDED BY, A  
7 HEALTH CARE PROVIDER WHO SEEKS TO SUBJECT HIMSELF OR HERSELF TO,  
8 OR IS CURRENTLY SUBJECT TO, THE AUTHORITY OF THE AUTHORIZED  
9 ENTITY.

10           (14) RESPONDING TO A SUBPOENA OR DISCLOSING OR SHARING OF  
11 OTHERWISE PRIVILEGED RECORDS AND INFORMATION PURSUANT TO  
12 SUBSECTION (11), (12), OR (13) OF THIS SECTION DOES NOT CONSTITUTE A  
13 WAIVER OF THE PRIVILEGE SPECIFIED IN PARAGRAPH (a) OF SUBSECTION  
14 (11) OF THIS SECTION OR A VIOLATION OF THE CONFIDENTIALITY  
15 REQUIREMENTS OF SUBSECTION (15) OF THIS SECTION. RECORDS PROVIDED  
16 TO ANY GOVERNMENTAL AGENCY, INCLUDING THE DEPARTMENT OF PUBLIC  
17 HEALTH AND ENVIRONMENT, THE MEDICAL BOARD, AND THE NURSING  
18 BOARD PURSUANT TO SUBSECTION (11) OR (12) OF THIS SECTION ARE NOT  
19 PUBLIC RECORDS SUBJECT TO THE "COLORADO OPEN RECORDS ACT", PART  
20 2 OF ARTICLE 72 OF TITLE 24, C.R.S. A PERSON PROVIDING THE RECORDS  
21 TO AN AUTHORIZED ENTITY OR ITS PROFESSIONAL REVIEW COMMITTEE OR  
22 GOVERNING BOARD, THE DEPARTMENT OF PUBLIC HEALTH AND  
23 ENVIRONMENT, THE MEDICAL BOARD, THE NURSING BOARD, CMS, THE  
24 JOINT COMMISSION, OR OTHER GOVERNMENTAL AGENCY IS ENTITLED TO  
25 THE SAME IMMUNITY FROM SUIT AND LIABILITY FOR DAMAGES AS  
26 PROVIDED UNDER SECTION 12-36.5-105 FOR THE DISCLOSURE OF THE  
27 RECORDS.

1           ~~(11)~~ At the request of the medical board, a governing board shall  
2 provide the medical board with the complete record of all professional  
3 review proceedings, including, but not limited to, the findings,  
4 recommendations, and actions taken.

5           ~~(12)~~ (15) Investigations, examinations, hearings, meetings, ~~or any~~  
6 AND other proceedings of a professional review committee or governing  
7 board conducted pursuant to ~~the provisions of this part 1 shall be~~ ARE  
8 exempt from ~~the provisions of~~ any law requiring that proceedings be  
9 conducted publicly or that the ~~minutes or~~ records, INCLUDING ANY  
10 MINUTES, be open to public inspection.

11           ~~(13)~~ (16) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (11),  
12 (12), OR (13) OF THIS SECTION, all proceedings, recommendations, records,  
13 and reports involving professional review committees or governing  
14 boards ~~shall be~~ ARE confidential.

15           ~~(14)~~ (17) A professional review committee or governing board  
16 ~~which~~ THAT is constituted and conducts its reviews and activities pursuant  
17 ~~to the provisions of~~ SUBSTANTIALLY IN ACCORDANCE WITH this part 1 is  
18 ~~declared not to be~~ an unlawful conspiracy in violation of section 6-4-104  
19 or 6-4-105, C.R.S.

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

22           **12-36.5-104.4. Hospital professional review committees.**

23 (1) The quality and appropriateness of patient care rendered by  
24 ~~physicians~~ PERSONS LICENSED UNDER ARTICLE 36 OF THIS TITLE, LICENSED  
25 UNDER ARTICLE 38 OF THIS TITLE AND GRANTED AUTHORITY AS  
26 ADVANCED PRACTICE NURSES, and other licensed health care professionals  
27 so influence the total quality of patient care that a review of care provided

1 in a hospital is ineffective without concomitantly reviewing THE overall  
2 QUALIFICATIONS, COMPETENCE, AND PROFESSIONAL CONDUCT OF, AND  
3 THE quality and appropriateness of care rendered by, ~~physicians and other~~  
4 ~~licensed health care professionals~~ SUCH PERSONS.

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

7 **12-36.5-104.6. Governing boards to register with medical**  
8 **board - annual reports - aggregation and publication of data - rules.**

9 (1) EACH GOVERNING BOARD THAT ESTABLISHES OR USES ONE OR MORE  
10 PROFESSIONAL REVIEW COMMITTEES TO REVIEW THE PRACTICE OF  
11 PHYSICIANS OR PHYSICIAN ASSISTANTS SHALL:

12 (a) REGISTER WITH THE MEDICAL BOARD IN A FORMS SATISFACTORY  
13 TO THE MEDICAL BOARD ON OR BEFORE JULY 1, 2013, IF THE GOVERNING  
14 BOARD HAS EXISTING PROFESSIONAL REVIEW COMMITTEES, OR, IF THE  
15 GOVERNING BOARD ESTABLISHES A PROFESSIONAL REVIEW COMMITTEE ON  
16 OR AFTER JULY 1, 2013, WITHIN THIRTY DAYS AFTER APPROVING THE  
17 WRITTEN BYLAWS, POLICIES, OR PROCEDURES FOR THE PROFESSIONAL  
18 REVIEW COMMITTEE; AND

19 (b) REPORT ON ITS PROFESSIONAL REVIEW ACTIVITIES DURING THE  
20 IMMEDIATELY PRECEDING CALENDAR YEAR IN A FORM SATISFACTORY TO  
21 THE MEDICAL BOARD. THESE REPORTS MUST INCLUDE THE NUMBER AND  
22 TYPE OF CASES REVIEWED AND THE RESULTS OF SUCH REVIEWS, IN  
23 AGGREGATE FORM AND WITHOUT INDIVIDUALLY IDENTIFIABLE  
24 INFORMATION CONCERNING THE SUBJECT PHYSICIANS OR PHYSICIAN  
25 ASSISTANTS.

26 (2) THE MEDICAL BOARD SHALL PUBLISH THE DATA PROVIDED  
27 PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION IN

1 AGGREGATE FORM AND WITHOUT INDIVIDUALLY IDENTIFIABLE  
2 INFORMATION CONCERNING THE SUBJECT PHYSICIANS OR PHYSICIAN  
3 ASSISTANTS OR THE AUTHORIZED ENTITY.

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

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

10 **12-36.5-104.8. Governing boards to register with nursing**  
11 **board - annual reports - aggregation and publication of data - rules.**

12 (1) EACH GOVERNING BOARD THAT ESTABLISHES OR USES ONE OR MORE  
13 PROFESSIONAL REVIEW COMMITTEES TO REVIEW THE PRACTICE OF  
14 ADVANCED PRACTICE NURSES SHALL:

15 (a) REGISTER WITH THE NURSING BOARD IN A FORM SATISFACTORY  
16 TO THE NURSING BOARD ON OR BEFORE JULY 1, 2013, IF THE GOVERNING  
17 BOARD HAS EXISTING PROFESSIONAL REVIEW COMMITTEES, OR, IF THE  
18 GOVERNING BOARD ESTABLISHES A PROFESSIONAL REVIEW COMMITTEE ON  
19 OR AFTER JULY 1, 2013, WITHIN THIRTY DAYS AFTER APPROVING THE  
20 WRITTEN BYLAWS, POLICIES, OR PROCEDURES FOR THE PROFESSIONAL  
21 REVIEW COMMITTEE; AND

22 (b) REPORT ON ITS PROFESSIONAL REVIEW ACTIVITIES DURING THE  
23 IMMEDIATELY PRECEDING CALENDAR YEAR IN A FORM SATISFACTORY TO  
24 THE NURSING BOARD. THESE REPORTS MUST INCLUDE THE NUMBER AND  
25 TYPE OF CASES REVIEWED AND THE RESULTS OF SUCH REVIEWS, IN  
26 AGGREGATE FORM AND WITHOUT INDIVIDUALLY IDENTIFIABLE  
27 INFORMATION CONCERNING THE SUBJECT ADVANCED PRACTICE NURSES.

1 (2) THE NURSING BOARD SHALL PUBLISH THE DATA PROVIDED  
2 PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION IN  
3 AGGREGATE FORM AND WITHOUT INDIVIDUALLY IDENTIFIABLE  
4 INFORMATION CONCERNING THE SUBJECT ADVANCED PRACTICE NURSES OR  
5 THE AUTHORIZED ENTITY.

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

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

12 **12-36.5-105. Immunity from suit and liability.** (1) A member  
13 of a professional review committee, GOVERNING BOARD, HEARING PANEL,  
14 OR INDEPENDENT THIRD PARTY DESIGNATED BY A GOVERNING BOARD  
15 UNDER SECTION 12-36.5-104 (8) (b); A PERSON SERVING ON THE STAFF OF  
16 THAT COMMITTEE, BOARD, PANEL, OR THIRD PARTY; a witness OR  
17 CONSULTANT before a professional review committee; ~~or~~ AND any person  
18 who files a complaint or otherwise participates in the professional review  
19 process ~~shall be~~ IS immune from suit in any civil or criminal action,  
20 including antitrust actions, ~~brought by a physician who is the subject of~~  
21 ~~the review by such professional review committee, if such member made~~  
22 ~~a reasonable effort to obtain the facts of the matter as to which he acted,~~  
23 ~~acted in the reasonable belief that the action taken by him was warranted~~  
24 ~~by the facts, and otherwise acted in good faith within the scope of such~~  
25 ~~professional review committee process and if such witness or participant~~  
26 ~~acted in good faith within the scope of such professional review~~  
27 ~~committee process~~ AND IS IMMUNE FROM LIABILITY FOR DAMAGES UNLESS,



1 IN CONNECTION WITH THE PROFESSIONAL REVIEW PROCESS, THE PERSON  
2 PROVIDED FALSE INFORMATION AND KNEW THAT THE INFORMATION WAS  
3 FALSE.

4 (2) The governing board ~~the individual members of such board~~  
5 and the AUTHORIZED entity that has established a peer PROFESSIONAL  
6 review committee pursuant to section 12-36.5-104 ~~the board's staff, any~~  
7 ~~person acting as a witness or consultant to the board, any witness~~  
8 ~~testifying in a proceeding authorized under this article, and any person~~  
9 ~~who lodges a complaint pursuant to this article shall be immune from~~  
10 ~~liability in any civil action brought against him or her for acts occurring~~  
11 ~~while acting in his or her capacity as board member, staff, consultant, or~~  
12 ~~witness, respectively, if such individual was acting in good faith within~~  
13 ~~the scope of his or her respective capacity, made a reasonable effort to~~  
14 ~~obtain the facts of the matter as to which he or she acted, and acted in the~~  
15 ~~reasonable belief that the action taken by him or her was warranted by the~~  
16 ~~facts. Any person participating in good faith in lodging a complaint or~~  
17 ~~participating in any investigative or administrative proceeding pursuant~~  
18 ~~to this article shall be immune from any civil or criminal liability that may~~  
19 ~~result from such participation~~ IS IMMUNE FROM SUIT IN ANY CIVIL OR  
20 CRIMINAL ACTION, INCLUDING ANTITRUST ACTIONS, AND IS IMMUNE FROM  
21 LIABILITY FOR DAMAGES IF THE PROFESSIONAL REVIEW ACTION WAS  
22 TAKEN WITHIN THE SCOPE OF THE PROFESSIONAL REVIEW PROCESS AND  
23 WAS TAKEN:

24 (a) IN THE OBJECTIVELY REASONABLE BELIEF THAT THE ACTION  
25 WAS IN THE FURTHERANCE OF QUALITY HEALTH CARE;

26 (b) AFTER AN OBJECTIVELY REASONABLE EFFORT TO OBTAIN THE  
27 FACTS OF THE MATTER;

1 (c) IN THE OBJECTIVELY REASONABLE BELIEF THAT THE ACTION  
2 TAKEN WAS WARRANTED BY THE FACTS; AND

3 (d) IN ACCORDANCE WITH PROCEDURES THAT, UNDER THE  
4 CIRCUMSTANCES, WERE FAIR TO THE PERSON LICENSED UNDER ARTICLE 36  
5 OF THIS TITLE OR LICENSED UNDER ARTICLE 38 OF THIS TITLE AND  
6 GRANTED AN AUTHORITY AS AN ADVANCED PRACTICE NURSE.

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

10 **12-36.5-106. Committee on anticompetitive conduct - rules.**

11 (2) The committee ~~shall be composed~~ CONSISTS of five persons, none of  
12 whom ~~shall be~~ IS a member of the medical board, APPOINTED AS  
13 FOLLOWS:

14 (a) THE MEDICAL BOARD SHALL APPOINT four members of the  
15 committee, ~~shall~~ WHO MUST be licensed to ~~practice medicine~~ PROVIDE  
16 HEALTH CARE and actively engaged in the practice of medicine in this  
17 state. ~~and shall be appointed by the medical board. No~~ A member  
18 APPOINTED PURSUANT TO THIS PARAGRAPH (a) shall NOT practice in the  
19 same medical subspecialty as any other member ~~nor~~ AND SHALL NOT  
20 conduct his or her primary practice in the same county as any other  
21 member.

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

26 (5) The committee shall annually elect a ~~chairman~~ CHAIR from  
27 among its members. Any three members of the committee ~~shall~~ constitute

1 a quorum. Any action of a majority of those present comprising ~~such~~ THE  
2 quorum ~~shall be~~ IS the action of the committee. Committee members ~~shall~~  
3 ~~be~~ ARE compensated as provided in section 24-34-102 (13), C.R.S. The  
4 committee may ~~in its discretion~~, utilize the expertise of consultants,  
5 including ~~but not limited to~~, legal, medical, and business specialists. THE  
6 COMMITTEE SHALL ASSESS AND COLLECT costs of ~~such~~ THE consultants  
7 ~~shall be assessed and collected~~ as provided in subsection (11) of this  
8 section.

9 (7) ~~Any physician~~ A HEALTH CARE PROVIDER who is the subject  
10 of a final action by a governing board, which action results in the denial,  
11 termination, or restriction of privileges at or membership ~~in~~ or  
12 participation in an organization, and who believes that ~~such~~ THE action  
13 resulted from unreasonable anticompetitive conduct ~~shall have, as his sole~~  
14 ~~and exclusive remedy~~, MAY SEEK direct review of the record by the  
15 committee. ~~such~~ THE review, ~~shall be~~ WHICH IS THE HEALTH CARE  
16 PROVIDER'S EXCLUSIVE REMEDY, IS limited to the sole issue of whether  
17 ~~such~~ THE final board action resulted from unreasonable anticompetitive  
18 conduct. Failure to exhaust this administrative remedy before the  
19 committee ~~shall preclude~~ PRECLUDES the right of de novo review on the  
20 merits of the issue of unreasonable anticompetitive conduct.

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

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

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

9           (b) The committee shall mail a copy of ~~such~~ THE complaint to the  
10 governing board and the professional review committee by certified mail,  
11 return receipt requested, within five days ~~of~~ AFTER the receipt of ~~such~~ THE  
12 complaint by the committee, advising them of their right to file a verified  
13 answer to the allegations stated ~~therein~~ Receipt of such complaint by mail  
14 ~~shall make~~ IN THE COMPLAINT. The recipients ~~thereof~~ OF THE COMPLAINT  
15 BECOME a party to these proceedings UPON RECEIPT OF THE COMPLAINT.

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

19           (f) If the committee finds ~~such~~ THAT probable cause exists, it shall  
20 schedule a hearing. At ~~such~~ THE hearing, the committee shall review the  
21 record below on the sole issue of whether the final action of the  
22 governing board resulted from unreasonable anticompetitive conduct and  
23 shall take evidence only with regard to the additional facts specifically  
24 alleged in the complaint or answer regarding unreasonable  
25 anticompetitive conduct, except when, in the discretion of the committee,  
26 the interests of a fair hearing demand otherwise.

27           (k) If the committee finds by a preponderance of evidence that the

1 final action of the governing board resulted from unreasonable  
2 anticompetitive conduct, it shall issue its final order disapproving and  
3 setting aside ~~such~~ THE action or modifying the action taken by the  
4 governing board in whole or in part, which final order ~~shall be~~ IS binding  
5 on the parties. THE COMMITTEE SHALL MAIL a copy of ~~such~~ THE order  
6 ~~shall be mailed~~ by certified mail, return receipt requested, to the parties.

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

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

16 (b) Following final administrative action by the committee, ~~any~~  
17 A party aggrieved by the final action of a governing board who wishes to  
18 challenge the action of ~~such~~ THE governing board, rather than the  
19 committee's review of ~~such~~ THE action, ~~shall have~~ HAS the right to seek  
20 de novo review on the merits in a district court in Colorado. In no event  
21 shall the medical board, NURSING BOARD, or the committee be made  
22 parties to ~~such a~~ THE district court action.

23 (c) As a condition of filing a complaint under paragraph (a) of  
24 subsection (9) of this section, the complainant shall post a cash bond or  
25 equivalent liquid security of three thousand dollars to cover anticipated  
26 costs ~~which~~ THAT may be assessed against him OR HER. Within thirty days  
27 of AFTER receipt of service of a complaint on a governing board, or

1 concurrently with the filing of an answer, whichever is earlier, the  
2 governing board shall post a cash bond or equivalent liquid security of  
3 three thousand dollars to cover anticipated costs ~~which~~ THAT may be  
4 assessed against it as a party. The committee may enforce this latter  
5 requirement through the district court.

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

10 (13) ~~Any~~ A member of the committee, ~~any~~ A member of the  
11 committee's staff, ~~any~~ A person acting as a witness or consultant to the  
12 committee, ~~any~~ A witness testifying in a proceeding authorized under this  
13 article, and ~~any~~ A person who lodges a complaint pursuant to this article  
14 ~~shall be~~ ARE immune from liability in any civil action brought against him  
15 or her for acts occurring while acting in his or her capacity as committee  
16 member, staff, consultant, or witness, respectively, if ~~such~~ THE individual  
17 was acting in ~~good faith~~ AN OBJECTIVELY REASONABLE MANNER within  
18 the scope of his or her respective capacity, made a reasonable effort to  
19 obtain the facts of the matter as to which he or she acted, and acted in the  
20 reasonable belief that the action taken by him or her was warranted by the  
21 facts. Any person participating in good faith in lodging a complaint or  
22 participating in any investigative or administrative proceeding pursuant  
23 to this article ~~shall be~~ IS immune from any civil or criminal liability that  
24 may result from ~~such~~ THE participation.

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

27 **12-36.5-202. Rules - compliance with reporting requirements**

1 ~~of federal act. Upon implementation of~~ THE MEDICAL BOARD MAY  
2 PROMULGATE RULES TO COMPLY WITH THE REPORTING REQUIREMENTS OF  
3 the federal "Health Care Quality Improvement Act of 1986", as amended,  
4 42 U.S.C. secs. 11101 through 11152, and ~~upon implementation of~~ TO  
5 PARTICIPATE IN the federal data bank. ~~the medical board shall promulgate~~  
6 ~~rules to comply with such act which rules are consistent with the~~  
7 ~~standards and the reporting requirements of such act.~~

8 **SECTION 13.** In Colorado Revised Statutes, **amend** 12-36.5-203  
9 as follows:

10 **12-36.5-203. Limitations on liability relating to professional**  
11 **review actions.** (1) The following persons ~~shall~~ ARE IMMUNE FROM SUIT  
12 AND not be liable for damages in ~~any~~ A civil action with respect to their  
13 participation in, assistance to, or reporting of information to a  
14 professional review ~~body~~ COMMITTEE in connection with a professional  
15 review action in this state, and ~~such~~ THE persons ~~shall~~ ARE IMMUNE FROM  
16 SUIT AND not be liable for damages in ~~any~~ A civil action with respect to  
17 their participation in, assistance to, or reporting of information to a  
18 professional review ~~body~~ ~~which~~ COMMITTEE THAT meets the standards of  
19 and is in conformity with ~~the provisions of~~ the federal "Health Care  
20 Quality Improvement Act of 1986", as amended, 42 U.S.C. secs. 11101  
21 through 11152: ~~upon implementation of such act by the federal~~  
22 ~~government:~~

23 (a) ~~The~~ AN AUTHORIZED ENTITY, professional review ~~body~~  
24 COMMITTEE, OR GOVERNING BOARD;

25 (b) Any person acting as a member of or staff to the AUTHORIZED  
26 ENTITY, professional review ~~body~~ COMMITTEE, OR GOVERNING BOARD;

27 (c) ~~Any person under a contract or other formal agreement with~~

1 ~~the professional review body~~ A WITNESS, CONSULTANT, OR OTHER PERSON  
2 WHO PROVIDED INFORMATION TO THE AUTHORIZED ENTITY, PROFESSIONAL  
3 REVIEW COMMITTEE, OR GOVERNING BOARD; AND

4 (d) Any person who participates with or assists the professional  
5 review ~~body~~ COMMITTEE OR GOVERNING BOARD with respect to the  
6 professional review ~~action~~ ACTIVITIES.

7 (2) ~~Notwithstanding any other provision of law, no person,~~  
8 ~~whether as a witness or otherwise, who provides information to a~~  
9 ~~professional review body regarding the competence or professional~~  
10 ~~conduct of a physician shall be held, by reason of having provided such~~  
11 ~~information, liable in damages in any civil action unless such information~~  
12 ~~is false and the person providing it knew that such information was false.~~

13 (3) For the purposes of this section, unless the context otherwise  
14 requires:

15 (a) "Professional review action" means an action or  
16 recommendation of a professional review ~~body~~ ~~which~~ COMMITTEE,  
17 INCLUDING A GOVERNING BOARD, THAT is taken or made in the conduct  
18 of professional review activity and ~~which~~ THAT is based on the QUALITY  
19 AND APPROPRIATENESS OF PATIENT CARE PROVIDED BY, AND THE  
20 QUALIFICATIONS, competence, or professional conduct of, an individual  
21 ~~physician~~ PERSON LICENSED UNDER ARTICLE 36 OF THIS TITLE OR  
22 LICENSED UNDER ARTICLE 38 OF THIS TITLE AND GRANTED AN AUTHORITY  
23 AS AN ADVANCED PRACTICE NURSE, ~~which~~ ~~conduct~~ ACTION affects or may  
24 affect adversely the PERSON'S clinical privileges of or membership in a  
25 ~~professional society of the physician~~ AN AUTHORIZED ENTITY.

26 "Professional review action" includes a formal decision by the  
27 professional review ~~body~~ COMMITTEE, INCLUDING A GOVERNING BOARD,



1 not to take an action or make a recommendation as provided in this  
2 paragraph (a) and also includes professional review activities relating to  
3 a professional review action. An action ~~shall~~ IS not ~~be considered to be~~  
4 based upon the competence or professional conduct of a ~~physician~~  
5 HEALTH CARE PROVIDER if the action is primarily based on:

6 (I) The ~~physician's~~ PERSON'S association or lack of association  
7 with a professional society or association;

8 (II) The ~~physician's~~ PERSON'S fees or his OR HER advertising or  
9 engaging in other competitive acts intended to solicit or retain business;

10 (III) The ~~physician's~~ PERSON'S association with, supervision of,  
11 delegation of authority to, support for, training of, or participation in a  
12 private group practice with a member or members of a particular class of  
13 health care practitioners or professionals;

14 (IV) The ~~physician's~~ PERSON'S participation in prepaid group  
15 health plans, salaried employment, or any other manner of delivering  
16 health services whether on a fee-for-service basis or other basis;

17 (V) Any other matter that does not relate to the QUALITY AND  
18 APPROPRIATENESS OF PATIENT CARE PROVIDED BY, OR THE  
19 QUALIFICATIONS, competence, or professional conduct of, a ~~physician~~  
20 PERSON LICENSED UNDER ARTICLE 36 OF THIS TITLE OR LICENSED UNDER  
21 ARTICLE 38 OF THIS TITLE AND GRANTED AN AUTHORITY AS AN ADVANCED  
22 PRACTICE NURSE.

23 (b) ~~"Professional review body" means a health care entity and the~~  
24 ~~governing body or any committee of a health care entity which conducts~~  
25 ~~professional review actions and includes any committee of the medical~~  
26 ~~staff of such an entity when assisting the governing body in a professional~~  
27 ~~review activity.~~

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

3           **12-36-118. Disciplinary action by board - immunity - rules.**  
4           (10) (b) For purposes of the records related to a complaint filed pursuant  
5           to this section against a licensee, the board ~~shall be considered~~ **IS** a  
6           professional review committee, the records related to the complaint ~~shall~~  
7           include all records described in section 12-36.5-102 ~~(4)~~ (7), and section  
8           12-36.5-104 ~~(10)~~ ~~shall apply~~ (11) **APPLIES** to those records.

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

11          (2) Section 11 of this act takes effect only if House Bill 12-1297  
12          does not become law.

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