

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

**INTRODUCED**

LLS NO. 12-0234.02 Christy Chase x2008

**HOUSE BILL 12-1311**

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**HOUSE SPONSORSHIP**

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

**SENATE SPONSORSHIP**

**Boyd,**

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**House Committees**  
Health and Environment

**Senate Committees**

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**A BILL FOR AN ACT**

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

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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>.)*

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.*

**Sunset Process - House Health and Environment Committee.**

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

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

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

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

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

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

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

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

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

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

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

allowing the hospital satellite pharmacy to obtain its own registration from the DEA.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The bill, in C.R.S. section 12-42.5-119 (13), permits interns to practice pharmacy under the direct and immediate supervision of a registered manufacturer or regulated health care-related professional, as determined pursuant to board rule.

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

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

The bill takes effect July 1, 2012.

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

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

4 **ARTICLE 42.5**

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

7 **PART 1**

8 **GENERAL PROVISIONS**

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

20 **12-42.5-102. [Formerly 12-22-102] Definitions.** As used in this

1 ~~part 1~~ ARTICLE, unless the context otherwise requires OR THE TERM IS  
2 OTHERWISE DEFINED IN ANOTHER PART OF THIS ARTICLE:

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

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

8 ~~(2.5)~~ (3) "Anabolic steroid" has the same meaning as ~~that~~ set forth  
9 in section 18-18-102 (3), C.R.S.

10 ~~(3) Repealed.~~

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

12 (5) **[Formerly 12-22-303 (6)]** "Bureau" means the drug  
13 enforcement administration, or its successor agency, of the United States  
14 department of justice.

15 ~~(5)~~ (6) "Casual sale" means a transfer, delivery, or distribution to  
16 a corporation, individual, or other entity, other than a consumer, entitled  
17 to possess prescription drugs; except that the amount of drugs transferred,  
18 delivered, or distributed in such manner by any registered prescription  
19 drug outlet or hospital other outlet shall not exceed ten percent of the total  
20 number of dosage units of drugs dispensed and distributed on an annual  
21 basis by such outlet.

22 ~~(6)~~ (7) (a) "Compounding" means the preparation, mixing,  
23 assembling, packaging, or labeling of a drug or device:

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

27 (II) For the purpose of, or as an incident to, research, teaching, or

1 chemical analysis and not for sale or dispensing.

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

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

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

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

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

21 (10) (12) "Distribution" means the transfer of a drug or device  
22 other than by administering or dispensing.

23 (11) (13) (a) "Drug" means:

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

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

3 (III) Substances, other than food, intended to affect the structure  
4 or any function of the body of individuals or animals; and

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

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

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

14 ~~(13) (Deleted by amendment, L. 2003, p. 944, § 1, effective July~~  
15 ~~1, 2003.)~~

16 ~~(14)~~ (15) "Hospital" means a general hospital or specialty hospital  
17 having a license or certificate of compliance issued by the department of  
18 public health and environment.

19 (16) "INPATIENT HOSPITAL SATELLITE PHARMACY" MEANS A  
20 SATELLITE THAT IS ELIGIBLE TO REGISTER PURSUANT TO SECTION  
21 12-42.5-118 (10).

22 ~~(15)~~ (17) "Intern" means a person who is attending, or who is in  
23 good standing with, an accredited school of pharmacy, who has graduated  
24 from an accredited school of pharmacy and is completing an internship  
25 to satisfy board requirements for licensure, or who is licensed and in good  
26 standing and making the clinical rotations of the nontraditional pharmacy  
27 program at the university of Colorado or a substantially equivalent



1 program as determined by the board.

2 ~~(16)~~ (18) "Labeling" means the process of preparing and affixing  
3 a label to any drug container, exclusive, however, of the labeling by a  
4 manufacturer, packer, or distributor of a nonprescription drug or  
5 commercially packaged legend drug or device. Any such label shall  
6 include all information required by federal and state law or regulation.

7 ~~(16.5)~~ (19) "Location" means the physical confines of an  
8 individual building or at the same address.

9 ~~(17)~~ (20) "Manufacture" means to cultivate, grow, or prepare by  
10 other process drugs for sale to wholesalers or other persons entitled to  
11 purchase drugs other than the ultimate user, but "manufacture" does not  
12 include the compounding and dispensing of a prescription drug pursuant  
13 to a prescription order.

14 ~~(18) and (19) Repealed.~~

15 ~~(20)~~ (21) "Nonprescription drug" means a drug that may be sold  
16 without a prescription and that is labeled for use by the consumer in  
17 accordance with the requirements of the law and rules of this state and the  
18 federal government.

19 ~~(21)~~ (22) "Nuclear pharmacy" means a specialized pharmacy  
20 ~~which~~ THAT deals with the preparation and delivery of radioactive  
21 material as defined in section 25-11-101, C.R.S.

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

25 ~~(22.5)~~ (24) "Order" means:

26 (a) A prescription order ~~which~~ THAT is any order, other than a  
27 chart order, authorizing the dispensing of a single drug or device that is

1 written, mechanically produced, computer generated and signed by the  
2 practitioner, transmitted electronically or by facsimile, or produced by  
3 other means of communication by a practitioner to a licensed pharmacy  
4 or pharmacist and that includes the name or identification of the patient,  
5 the date, the symptom or purpose for which the drug is being prescribed,  
6 if included by the practitioner at the patient's authorization, and sufficient  
7 information for compounding, dispensing, and labeling; or

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

16 ~~(23)~~ (25) "Other outlet" means: ~~any~~

17 (a) A hospital that does not operate a registered pharmacy; ~~and~~  
18 ~~any~~

19 (b) A rural health clinic, family planning clinic, school, jail,  
20 county or district public health agency, community health clinic,  
21 university, ~~or~~ college, AMBULATORY SURGICAL CENTER LICENSED  
22 PURSUANT TO PART 1 OF ARTICLE 3 OF TITLE 25, C.R.S., MEDICAL CLINIC  
23 OPERATED BY A HOSPITAL, OR LONG-TERM CARE FACILITY, AS DEFINED IN  
24 SECTION 25-3-103.7 (1) (f.3) (I), C.R.S., that:

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

26 (II) ~~that~~ Engages in the compounding, dispensing, and delivery of  
27 drugs or devices.

1           ~~(23.5)~~ (26) "Patient counseling" means the oral communication by  
2 a pharmacist or intern of information to the patient or caregiver in order  
3 to improve therapy by ensuring proper use of drugs and devices.

4           ~~(23.6)~~ (27) "Pharmaceutical care" means the provision of drug  
5 therapy and other pharmaceutical patient care services by a pharmacist  
6 intended to achieve outcomes related to the cure or prevention of a  
7 disease, elimination or reduction of a patient's symptoms, or arresting or  
8 slowing of a disease process. In addition to the preparation, dispensing,  
9 and distribution of medications, "pharmaceutical care" may include  
10 assessment and evaluation of the patient's medication-related needs and  
11 development and communication of a therapeutic plan with defined  
12 outcomes in consultation with the patient and the patient's other health  
13 care professionals to attain the desired outcome. This function includes  
14 efforts to prevent, detect, and resolve medication-related problems for  
15 individual patients. "Pharmaceutical care" does not include prescriptive  
16 authority; except that a pharmacist may prescribe only over-the-counter  
17 medications to a recipient under the "Colorado Medical Assistance Act"  
18 as authorized pursuant to section 25.5-5-322, C.R.S.

19           ~~(24)~~ (28) "Pharmacist" means an individual licensed by this state  
20 to engage in the practice of pharmacy.

21           ~~(24.1)~~ (29) "Pharmacist manager" means an individual, licensed  
22 in this state as a pharmacist, who has direct control of the pharmaceutical  
23 affairs of a prescription drug outlet, and who is not the manager of any  
24 other prescription drug outlet.

25           ~~(24.2)~~ (30) "Pharmacy technician" means an unlicensed person  
26 who performs those functions set forth in paragraph (b) of subsection ~~(26)~~  
27 (31) of this section under the supervision of a pharmacist.

1           ~~(24.5) and (25) Repealed.~~

2           ~~(26)~~ (31) "Practice of pharmacy" means:

3           (a) The interpretation, evaluation, implementation, and dispensing  
4 of orders; participation in drug and device selection, drug administration,  
5 drug regimen reviews, and drug or drug-related research; provision of  
6 patient counseling; and the provision of those acts or services necessary  
7 to provide pharmaceutical care in all areas of patient care; and

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

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

11           (III) The maintenance of proper records for such drugs and  
12 devices.

13           ~~(c) (Deleted by amendment, L. 81, p. 696, § 1, effective July 1,~~  
14 ~~1981.)~~

15           ~~(27)~~ (32) "Practitioner" means a person authorized by law to  
16 prescribe any drug or device, acting within the scope of such authority.

17           ~~(28) Repealed.~~

18           ~~(29)~~ (33) "Prescription" means the finished product of the  
19 dispensing of a prescription order in an appropriately labeled and suitable  
20 container.

21           ~~(30)~~ (34) "Prescription drug" means a drug that, prior to being  
22 dispensed or delivered, is required to be labeled with the following  
23 statement: "Caution: Federal law prohibits dispensing without a  
24 prescription.", "Rx only", or "Caution: Federal law restricts this drug to  
25 use by or on the order of a licensed veterinarian."

26           ~~(30.2)~~ (35) "Prescription drug outlet" OR "PHARMACY" means any  
27 pharmacy outlet registered pursuant to this article where prescriptions are

1 compounded and dispensed. "Prescription drug outlet" includes, without  
2 limitation, a compounding prescription drug outlet registered pursuant to  
3 section ~~12-22-120 (9)~~ 12-42.5-118 (9).

4 ~~(30.3)~~ (36) "Refill" means the compounding and dispensing of any  
5 drug pursuant to a previously executed order.

6 ~~(31) Repealed.~~

7 ~~(32)~~ (37) "Sample" means any prescription drug given free of  
8 charge to any practitioner for any reason except for a bona fide research  
9 program.

10 ~~(32.5)~~ (38) "Satellite" means an area outside the prescription drug  
11 outlet where pharmaceutical care and services are provided and that is in  
12 the same location.

13 ~~(32.6)~~ (39) "Supervision" means that a licensed pharmacist is on  
14 the location and readily available to consult with and assist unlicensed  
15 personnel performing tasks described in paragraph (b) of subsection ~~(26)~~  
16 (31) of this section.

17 ~~(33)~~ (40) "Therapeutically equivalent" or "equivalent" means  
18 those compounds containing the identical active chemical ingredients of  
19 identical strength, quantity, and dosage form and of the same generic drug  
20 type, which, when administered in the same amounts, will provide the  
21 same therapeutic effect as evidenced by the control of a symptom or  
22 disease.

23 ~~(33.5) Repealed.~~

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

1 member of his OR HER household.

2 (34) (42) "Wholesaler" means a corporation, individual, or other  
3 entity with facilities in this state that buys drugs or devices for resale or  
4 distributes drugs or devices to corporations, individuals, or entities  
5 entitled to possess such drugs or devices, other than consumers.

6 **12-42.5-103. [Formerly 12-22-103] State board of pharmacy**  
7 **- creation - subject to termination - repeal of parts.** (1) The  
8 responsibility for enforcement of ~~the provisions of this part 1~~ is vested in  
9 the state board of pharmacy, which is hereby created. The board ~~shall~~  
10 ~~have~~ HAS all of the duties, powers, and authority specifically granted by  
11 and necessary to the enforcement of this part 1, as well as ~~such~~ other  
12 duties, powers, and authority as may be granted by statute from time to  
13 time. Except as otherwise provided to the contrary, the board shall  
14 exercise all its duties, powers, and authority in accordance with the "State  
15 Administrative Procedure Act", article 4 of title 24, C.R.S.

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

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

26 (b) PARTS 1 TO 3 OF this article ~~is~~ ARE repealed, effective ~~July 1,~~  
27 ~~2012~~ SEPTEMBER 1, 2021. PRIOR TO THE REPEAL, THE DEPARTMENT OF

1 REGULATORY AGENCIES SHALL REVIEW THE BOARD AND THE REGULATION  
2 OF THE PRACTICE OF PHARMACY PURSUANT TO PARTS 1 TO 3 OF THIS  
3 ARTICLE AS PROVIDED IN SECTION 24-34-104, C.R.S.

4 **12-42.5-104. [Formerly 12-22-104] Membership of board -**  
5 **removal - compensation - meetings.** (1) (a) The board ~~shall be~~ IS  
6 composed of five licensed pharmacists, each having at least five years'  
7 experience in this state and actively engaged in the practice of pharmacy  
8 in this state, and two nonpharmacists who have no financial interest in the  
9 practice of pharmacy.

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

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

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

15 ~~(H)~~ (A) An urban or rural location; and

16 ~~(H)~~ (B) An area already represented geographically by another  
17 appointee on the board; and

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

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

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

24 ~~(c)~~ (III) No member of the board may serve more than two  
25 consecutive full terms.

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

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

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

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

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

20           **12-42.5-105. [Formerly 12-22-108] Rules.** The board shall make,  
21   adopt, amend, or repeal ~~such rules and regulations as may be deemed~~ IN  
22   ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., THAT THE BOARD  
23   DEEMS necessary ~~by the board~~ for the proper administration and  
24   enforcement of the responsibilities and duties delegated to the board by  
25   this article, including those relating to ~~prescription drug outlets dealing~~  
26   ~~with the prescription and delivering of radioactive materials, as defined~~  
27   ~~in section 25-11-101, C.R.S. All rules adopted or amended by the board~~



1 ~~on or after July 1, 1979, shall be subject to sections 24-4-103 (8) (c) and~~  
2 ~~(8) (d) and 24-34-104 (9) (b) (H), C.R.S. NUCLEAR PHARMACIES.~~

3 **12-42.5-106. [Formerly 12-22-110] Powers and duties.** (1) The  
4 board shall:

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

7 (b) Prescribe forms and receive applications for licensure and  
8 registration and grant and renew licenses and registrations;

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

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

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

16 (f) Keep a record of:

17 (I) All licenses, registrations, and license and registration renewals  
18 for a reasonable period;

19 (II) All suspensions, revocations, and any other disciplinary  
20 actions; and

21 (III) Its own proceedings;

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

23 (h) Fine registrants when consistent with the provisions of this  
24 article and the rules adopted pursuant to this article;

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

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

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

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

20           (j) REVIEW AND APPROVE OR REJECT APPLICATIONS FOR  
21 PARTICIPATION IN THE PHARMACY PEER HEALTH ASSISTANCE DIVERSION  
22 PROGRAM PURSUANT TO PART 2 OF THIS ARTICLE AND PERFORM ANY  
23 OTHER FUNCTIONS THAT WERE PERFORMED BY THE REHABILITATION  
24 EVALUATION COMMITTEE PRIOR TO ITS REPEAL.

25           (2) The board ~~shall have such~~ HAS other duties, powers, and  
26 authority as may be necessary to ~~the enforcement of~~ ENFORCE this part 1  
27 ARTICLE and ~~to the enforcement of~~ THE rules and regulations made

1 ~~pursuant thereto~~ ADOPTED PURSUANT TO THIS ARTICLE.

2 (3) The board may:

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

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

7 (I) Training and qualifications;

8 (II) Quality control;

9 (III) Internal operating procedures;

10 (IV) Procurement of compounding materials;

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

12 (VI) Equipment standards;

13 (VII) Facility standards; and

14 (VIII) A recall system.

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

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

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

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

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

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

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

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

24           (II) When THE OWNER CAN CORRECT the adulteration or  
25 misbranding ~~can be corrected~~ by proper labeling or processing of the  
26 article, ~~the court~~, after entry of the decree and after ~~such~~ THE OWNER HAS  
27 PAID THE costs, fees, and expenses ~~have been paid by the owner of such~~

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

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

19           **12-42.5-107. [Formerly 12-22-111] Internship.** (1) (a) All  
20    applicants for licensure by examination shall obtain practical experience  
21    in the practice of pharmacy. The board shall establish standards necessary  
22    to qualify an applicant for the licensure examination and shall determine  
23    the necessary qualifications for a preceptor.

24           (b) (I) For purposes of this section, "practice of pharmacy" ~~as~~  
25    ~~defined in section 12-22-102 (26),~~ may include up to thirty percent of the  
26    required hours of practical experience with a drug manufacturer under the  
27    supervision of ~~such~~ THE manufacturer or with a school of pharmacy in

1 drug or drug-related research activities.

2 (II) The board shall promulgate rules to implement this paragraph  
3 (b).

4 (2) The board shall develop a manual for use by interns and  
5 preceptors for the purpose of establishing criteria for the intern program  
6 and its evaluation. The criteria ~~shall~~ MUST be related to the practical  
7 experience necessary for a competent pharmacist to practice in a manner  
8 consistent with the health and safety of the public ~~Such criteria shall~~  
9 ~~include~~ AND MUST REQUIRE THE INTERN TO GAIN training in at least the  
10 following areas ~~to be gained by the intern~~ prior to becoming a licensed  
11 pharmacist:

12 (a) Knowledge of the legend and controlled substances  
13 distribution cycles, from ordering by the ~~prescriber~~ PRACTITIONER to  
14 administration by the patient, including receiving prescription orders,  
15 reading prescriptions, analyzing legality and safety of prescription orders,  
16 filling and filing orders, packaging, storing, and labeling prescription  
17 medications, and utilizing professional judgment in advising customers  
18 about medications;

19 (b) Knowledge and skills in monitoring drug utilization and  
20 detecting drug interactions through a review of patient profiles, records,  
21 charts, histories, and other relevant information;

22 (c) Knowledge and skills necessary for the safe and accurate  
23 preparation of products requiring compounding; and

24 (d) Knowledge of the various legal requirements and procedures  
25 applicable to different pharmacy settings, such as hospitals, nursing  
26 homes, or other types of practice settings.

27 (3) The board shall require any licensed pharmacist who applies

1 to be a preceptor to list those areas in which he OR SHE will provide  
2 training to interns. The board shall require each intern to evaluate the  
3 areas of training and quality of training provided by ~~his~~ THE INTERN'S  
4 preceptor and ~~it~~ shall remove the approval of any preceptor ~~if~~ THE BOARD  
5 deems to be providing inadequate training experience or who does not  
6 comply with evaluation requirements of the board. The board shall not  
7 prohibit an otherwise qualified pharmacist licensed in another jurisdiction  
8 from becoming a preceptor. The evaluation by the intern ~~shall~~ IS not ~~be~~  
9 subject to ~~the provisions of~~ article 72 of title 24, C.R.S.

10 (4) The board shall require each preceptor to complete an  
11 evaluation of each intern to evaluate the areas of training and  
12 performance of the intern. The evaluation of the performance of the intern  
13 ~~shall~~ IS TO be used solely to assist the intern and ~~shall~~ IS not ~~be~~ subject to  
14 ~~the provisions of~~ article 72 of title 24, C.R.S.

15 (5) ~~Repealed.~~

16 **12-42.5-108. [Formerly 12-22-112] Drugs, devices, and other**  
17 **materials.** (1) The board ~~shall be~~ IS responsible for the control and  
18 regulation of drugs, including the following:

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

20 (b) The specification of minimum professional and technical  
21 equipment, environment, supplies, and procedures for the compounding  
22 or dispensing of medications and drugs;

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

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

26 **12-42.5-109. [Formerly 12-22-113] Publications.** THE BOARD  
27 SHALL ISSUE ITS publications ~~of the board~~ THAT ARE circulated in quantity

1 outside the executive branch ~~shall be issued~~ in accordance with the  
2 ~~provisions of~~ section 24-1-136, C.R.S. THE BOARD SHALL CIRCULATE ITS  
3 publications ~~of the board shall be circulated~~ to all registered prescription  
4 drug outlets ~~which~~ THAT will be directly affected by the publications.

5 **12-42.5-110. [Formerly 12-22-113.5] Reporting - malpractice**  
6 **claims.** (1) Each insurance company licensed to do business in this state  
7 and engaged in the writing of malpractice insurance for licensed  
8 pharmacists, and each pharmacist or pharmacy that self-insures, shall  
9 send to the board, in the form prescribed by the board, information  
10 relating to each malpractice claim against a licensed pharmacist ~~which~~  
11 THAT is settled or in which judgment is rendered against the insured.

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

16 (3) Information relating to each malpractice claim provided by  
17 insurance companies or self-insured pharmacists or pharmacies ~~shall be~~  
18 IS exempt from the provisions of any law requiring that the proceedings  
19 of the board be conducted publicly or that the minutes or records of the  
20 board be open to public inspection unless ~~there is~~ THE BOARD TAKES final  
21 disciplinary action. ~~taken.~~ The board may use ~~such~~ THE information in any  
22 formal hearing involving a licensee OR REGISTRANT.

23 **12-42.5-111. [Formerly 12-22-114] Fees.** (1) THE DIRECTOR OF  
24 THE DIVISION OF REGISTRATIONS SHALL DETERMINE, AND THE BOARD  
25 SHALL COLLECT, fees ~~shall be determined and collected~~ pursuant to  
26 section 24-34-105, C.R.S., for the following licenses and registrations:

27 (a) For certifying to another state the grades of a person who has



1 taken the pharmacist examination in this state;

2 ~~(b) Repealed.~~

3 ~~(c)~~ (b) For the initial licensure, upon examination, as a pharmacist,

4 as provided in section ~~12-22-116(3.3)~~ 12-42.5-113 (4);

5 ~~(d)~~ (c) For the initial licensure, without examination and upon

6 presentation of evidence of licensure in another state, as a pharmacist, as

7 provided in section ~~12-22-116(7)~~ 12-42.5-113 (8);

8 ~~(e)~~ (d) For the renewal of a license as a licensed pharmacist, as

9 provided in section ~~12-22-118(2)~~ 12-42.5-115 (1);

10 ~~(f)~~ (e) For reinstatement as a licensed pharmacist, as provided in

11 section ~~12-22-118(2)~~ 12-42.5-115 (2);

12 ~~(g)~~ (f) For the transfer of a prescription drug outlet registration to

13 a new owner, as provided in section ~~12-22-119(2)~~ 12-42.5-117 (2);

14 ~~(h)~~ (g) For the transfer of a manager's name, as provided in

15 section ~~12-22-119(1)~~ 12-42.5-117 (1);

16 ~~(i)~~ (h) For the issuance of a duplicate certificate to a licensed

17 pharmacist;

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

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

20 ~~(l) Repealed.~~

21 ~~(m)~~ (k) For the transfer of a prescription drug outlet registration

22 to a new location, as provided in section ~~12-22-119(2)~~ 12-42.5-117 (2);

23 ~~(n)~~ (l) For reissuing a prescription drug outlet registration in a new

24 store name, without change of owner or manager, as provided in section

25 ~~12-22-119(2)~~ 12-42.5-117 (2);

26 ~~(o)~~ (m) For the initial registration or the renewal of the registration

27 of a prescription drug outlet, as provided in section ~~12-22-119(2)~~

1 12-42.5-117 (2);

2 ~~(p)~~ (n) For the initial certificate evidencing licensure for all  
3 pharmacists;

4 ~~(q)~~ (o) For the initial and renewal registration of all other outlets  
5 under section ~~12-22-120~~ 12-42.5-118 not covered in this section;

6 ~~(r)~~ (p) For the initial and renewal registration of all nonresident  
7 prescription drug outlets under section ~~12-22-130~~ 12-42.5-131;

8 (q) FOR THE INITIAL AND RENEWAL REGISTRATION OF HUMANE  
9 SOCIETIES AND ANIMAL CONTROL AGENCIES PURSUANT TO SECTION  
10 12-42.5-118 (11).

11 (2) Any ~~licensed~~ pharmacist licensed in Colorado for fifty years  
12 or more as a ~~licensed~~ pharmacist ~~shall be~~ IS exempt from the payment of  
13 fees under this part 1 ~~but shall be~~ AND IS allowed to practice as a licensed  
14 pharmacist.

15 **12-42.5-112. [Formerly 12-22-115] Approval of schools.** (1) A  
16 school or college of pharmacy ~~which~~ THAT is approved by the board as a  
17 school or college of pharmacy from which graduation is required in order  
18 for the graduate ~~thereof~~ OF THE SCHOOL OR COLLEGE OF PHARMACY to ~~be~~  
19 ~~an applicant for licensure~~ APPLY FOR A LICENSE as a pharmacist ~~shall~~  
20 MUST meet the requirements set forth by the board.

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

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

26 **12-42.5-113. [Formerly 12-22-116] Licensure or registrations**  
27 **- applicability - applications - licensure requirements.** (1) The

1 ~~provisions of~~ This part 1 ~~shall apply~~ APPLIES to all persons in this state  
2 engaged in the practice of pharmacy and to all outlets in this state  
3 engaged in the manufacture, production, sale, and distribution of drugs,  
4 devices, and other materials used in the treatment of injury, illness, and  
5 disease.

6 (2) (a) Every applicant for a license under this part 1 ~~shall be able~~  
7 ~~to~~ MUST read and write the English language, or IF THE APPLICANT IS A  
8 partnership, each of whose members meet said qualifications, or MEMBER  
9 OF THE PARTNERSHIP MUST READ AND WRITE THE ENGLISH LANGUAGE. IF  
10 THE APPLICANT IS a Colorado corporation, THE CORPORATION MUST BE in  
11 good standing, ~~or~~ AND IF THE APPLICANT IS a foreign corporation, IT MUST  
12 BE qualified to do business in this state.

13 (b) **[Formerly 12-22-305 (1)]** The ~~department or the board as~~  
14 ~~provided in section 12-22-304 (1) or (2)~~ shall issue the appropriate license  
15 REGISTRATION to each manufacturer distributor, researcher, and addiction  
16 ~~program meeting all~~ WHOLESALER THAT MEETS the requirements of this  
17 part 3 1 unless ~~it~~ THE BOARD determines that the issuance of the license  
18 REGISTRATION would be inconsistent with the public interest. In  
19 determining the public interest, the ~~department or the board~~ shall consider  
20 the following factors:

21 (a) (I) Maintenance of effective controls against diversion of  
22 controlled substances into illegitimate medical, scientific, or industrial  
23 channels;

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

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

27 (d) (IV) Past experience in the manufacture or distribution of

1 controlled substances and the existence in the applicant's establishment  
2 of effective controls against diversion;

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

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

8 ~~(g)~~ (VII) Any other factors relevant to and consistent with the  
9 public peace, health, and safety.

10 (3) Every applicant for a license or registration under this part 1  
11 shall make written application in the manner and form prescribed by the  
12 board, setting forth the applicant's name and address, the applicant's  
13 qualifications for ~~said~~ THE license or registration, and other information  
14 required by the board. ~~Every~~ THE APPLICANT SHALL SUBMIT WITH THE  
15 application ~~shall be accompanied by~~ the REQUIRED fee, ~~specified~~, and, if  
16 the applicant is required to take an examination, ~~such~~ THE applicant shall  
17 appear for examination at the time and place fixed by the board.

18 ~~(3.3)~~ (4) (a) (I) An applicant who has graduated from a school or  
19 college of pharmacy approved by the board may take an examination  
20 before the board.

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

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

27 (b) A person who produces evidence satisfactory to the board that

1 ~~such~~ THE person has graduated and obtained a degree from a school of  
2 pharmacy outside the United States and has passed a foreign graduate  
3 equivalency test given or approved by the board may apply to take the  
4 examination set forth in paragraph (a) of this subsection ~~(3.3)~~ (4).

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

9 ~~(4) Repealed.~~

10 ~~(5)~~ (6) No applicant shall exercise the privileges of licensure or  
11 ~~registrations~~ REGISTRATION until the BOARD GRANTS THE license or  
12 registration. ~~has been granted by the board.~~

13 ~~(6)~~ (7) The board may require any applicant for licensure to  
14 display written or oral competency in English. The board may utilize a  
15 standardized test to determine language proficiency.

16 ~~(7)~~ (8) A person licensed by examination and in good standing in  
17 another state may apply for A license transfer. The board shall designate  
18 a clearinghouse for license transfer applicants, and ~~such individuals~~ A  
19 PERSON APPLYING FOR A LICENSE TRANSFER shall apply for license  
20 transfer through the clearinghouse designated by the board.

21 ~~(8)~~ (9) The board shall adopt ~~such rules and regulations~~ as may be  
22 ~~deemed~~ necessary ~~by the board~~ to ensure that any person who  
23 manufactures drugs, as defined in section ~~12-22-102~~ ~~(17)~~ 12-42.5-102  
24 (20), and any wholesaler of drugs, as defined in section ~~12-22-102~~ ~~(34)~~  
25 12-42.5-102 (42), possesses the minimum qualifications required for  
26 wholesale drug distributors pursuant to the federal "Prescription Drug  
27 Marketing Act of 1987", 21 U.S.C. sec. 353, as amended.

1           ~~(9)~~ (10) ~~No individual~~ A PERSON whose license has been revoked  
2       shall NOT reapply for licensure earlier than two years after the effective  
3       date of the revocation.

4           (11) **[Formerly 12-22-305 (2)]** Issuance of a license OR  
5       REGISTRATION under ~~subsection (1) of~~ this section AND SECTION  
6       12-42.5-118 does not entitle a licensee OR REGISTERED FACILITY OR  
7       OUTLET to wholesale, manufacture, distribute, DISPENSE, or professionally  
8       use controlled substances beyond the scope of his OR HER federal  
9       registration.

10           **12-42.5-114. [Formerly 12-22-116.5] Exemptions from**  
11       **licensure - hospital residency programs - home renal dialysis -**  
12       **research companies.** (1) The board ~~shall have the authority~~ IS  
13       AUTHORIZED to approve hospital residency programs in the practice of  
14       pharmacy. Persons accepted into an approved hospital residency program  
15       who are licensed to practice pharmacy in another state ~~shall be~~ ARE  
16       exempt from the licensing requirements of this part 1 so long as their  
17       practice is limited to participation in the residency program.

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

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

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

26           (c) The solution is sold or delivered in original packages, properly  
27       labeled, and unadulterated in accordance with the requirements of the

1 "Colorado Food and Drug Act", part 4 of article 5 of title 25, C.R.S., and  
2 the "Federal Food, Drug, and Cosmetic Act".

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

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

17 (a) to (d) ~~(Deleted by amendment, L. 92, p. 387, § 6, effective July~~  
18 ~~1, 1992.)~~

19 (e) ~~Employees of facilities~~ AN EMPLOYEE OF A FACILITY, as  
20 defined in section 25-1.5-301, C.R.S., who ~~are~~ IS administering and  
21 monitoring medications to persons under the care or jurisdiction of ~~such~~  
22 ~~facilities~~ THE FACILITY pursuant to part 3 of article 1.5 of title 25, C.R.S.,  
23 NEED NOT BE LICENSED BY THE BOARD TO LAWFULLY POSSESS  
24 CONTROLLED SUBSTANCES UNDER THIS PART 1.

25 **12-42.5-115. [Formerly 12-22-118] Expiration and renewal of**  
26 **licenses or registrations.** (1) All licenses ~~shall~~ AND REGISTRATIONS  
27 expire pursuant to a schedule established by the director of the division

1 of registrations within the department of regulatory agencies and ~~shall~~  
2 MUST be renewed or reinstated pursuant to section 24-34-102 (8), C.R.S.  
3 The director of the division of registrations ~~within the department of~~  
4 ~~regulatory agencies~~ may establish renewal fees and delinquency fees for  
5 reinstatement pursuant to section 24-34-105, C.R.S. If a person fails to  
6 renew his or her license OR REGISTRATION pursuant to the schedule  
7 established by the director of the division of registrations, ~~such~~ THE  
8 license ~~shall expire~~ OR REGISTRATION EXPIRES. Any person whose license  
9 ~~has expired shall be~~ OR REGISTRATION EXPIRES IS subject to the penalties  
10 provided in this article or section 24-34-102 (8), C.R.S.

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

13 (c) (2) ~~Any~~ A pharmacist ~~failing~~ WHO FAILS to renew ~~such~~  
14 ~~pharmacist's~~ HIS OR HER license on or before the applicable renewal time  
15 may ~~be~~ HAVE HIS OR HER LICENSE reinstated for the remainder of the  
16 current renewal period by filing a proper application, satisfying the board  
17 that ~~such~~ THE pharmacist is fully qualified to practice, and paying the  
18 reinstatement fee as provided in section ~~12-22-114 (1) (f)~~ 12-42.5-111 (1)  
19 (e) and all delinquent fees.

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

24 **12-42.5-116. [Formerly 12-22-118.5] Continuing education.**

25 (1) Except as permitted in subsections (2) and (3) of this section, the  
26 board ~~may~~ SHALL not renew or reactivate the license of any pharmacist  
27 until the pharmacist presents evidence ~~of having~~ THAT HE OR SHE HAS



1 completed twenty-four hours of approved continuing pharmaceutical  
2 education within the preceding two years. Subject to subsection (9) of this  
3 section, ~~such~~ THE evidence may be provided by checking a sign-off box  
4 on the license renewal application.

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

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

10 ~~(c) With regard to license renewals occurring prior to July 1,~~  
11 ~~2002, the board shall require pharmacists to present evidence of having~~  
12 ~~completed only twelve hours of approved continuing pharmaceutical~~  
13 ~~education.~~

14 (3) The board may renew the license for the first renewal period  
15 following the issuance of the original license without requiring a  
16 pharmacist to complete any continuing pharmaceutical education if the  
17 pharmacist obtains a license within one year after the completion of the  
18 pharmacist's pharmaceutical education.

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

23 (5) Each program of continuing pharmaceutical education ~~shall~~  
24 MUST consist of at least one continuing education unit, which is one hour  
25 of participation in an organized continuing educational experience,  
26 including postgraduate studies, institutes, seminars, lectures, conferences,  
27 workshops, correspondence courses, cassette programs, programmed

1 learning courses, audiovisual programs, internet programs, and any other  
2 form of presentation that is accredited.

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

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

10 (a) A definite stated objective;

11 (b) Presentation in an organized manner; and

12 (c) A method of program evaluation that is suitable to the type of  
13 program being presented.

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

16 (9) The board may annually audit up to five percent of the  
17 pharmacists licensed and residing in Colorado to determine compliance  
18 with this section.

19 (10) ~~Failure~~ IF A LICENSED PHARMACIST FAILS to obtain the  
20 twenty-four hours of approved continuing pharmaceutical education, ~~shall~~  
21 ~~result in~~ the PHARMACIST'S license ~~becoming~~ BECOMES inactive. AN  
22 inactive ~~licensees shall~~ LICENSEE IS not ~~be~~ required to comply with any  
23 continuing pharmaceutical education requirement so long as ~~such~~  
24 ~~licensees remain~~ THE LICENSEE REMAINS inactive, but ~~shall~~ THE LICENSEE  
25 MUST continue ~~to be required~~ to pay applicable fees, including renewal  
26 fees. ~~Inactive status shall be noted~~ THE BOARD SHALL NOTE "INACTIVE  
27 STATUS" on the face of any license ~~issued~~ IT ISSUES TO A LICENSEE while

1 the licensee remains inactive. Should an inactive pharmacist wish to  
2 resume the practice of pharmacy after being placed on an inactive list, the  
3 pharmacist shall file an application ~~therefor~~ TO ACTIVATE HIS OR HER  
4 LICENSE, pay the ~~registration~~ LICENSE renewal fee, and, subject to  
5 subsections (2) and (3) of this section, meet the twenty-four-hour  
6 continuing education requirement. ~~Engaging~~ IF A LICENSED PHARMACIST  
7 ENGAGES in the practice of pharmacy while on inactive status, ~~pursuant~~  
8 ~~to this article~~ THAT CONDUCT may be grounds for license revocation  
9 UNDER THIS ARTICLE.

10 **12-42.5-117. [Formerly 12-22-119] Prescription drug outlet**  
11 **under charge of pharmacist.** (1) (a) A prescription drug outlet ~~shall~~  
12 MUST be under the direct charge of a pharmacist manager. A proprietor  
13 who is not a pharmacist shall comply with this requirement and shall  
14 provide a manager who is a pharmacist.

15 (b) The registration of any prescription drug outlet ~~shall become~~  
16 BECOMES void if the pharmacist manager in whose name the prescription  
17 drug outlet registration was issued ceases to be engaged as the manager.  
18 ~~and~~ The owner shall close the prescription drug outlet unless ~~such~~ THE  
19 owner:

20 (I) ~~has employed~~ EMPLOYS a NEW pharmacist manager; and

21 (II) Within ~~fourteen~~ THIRTY days after termination of the former  
22 manager's employment: ~~has made application~~

23 (A) APPLIES to transfer the registration to the new pharmacist  
24 manager; and

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

26 (c) AT THE TIME the pharmacist manager in whose name the  
27 registration was obtained ~~at the time such pharmacist manager~~ ceases to

1 be employed as ~~such~~ THE PHARMACIST MANAGER, HE OR SHE shall  
2 immediately report to the board the fact that he or she is no longer  
3 manager of the prescription drug outlet. ~~Such~~ THE pharmacist manager  
4 ~~shall be held~~ IS responsible as the manager until the cessation of  
5 employment is reported. The proprietor of the prescription drug outlet  
6 shall also notify the board of the termination of managership.

7 (2) ~~No~~ A prescription drug outlet shall NOT commence business  
8 until it ~~has made application~~ APPLIES TO THE BOARD for a registration and  
9 ~~has received~~ RECEIVES from the board a registration showing the name of  
10 the proprietor and the name of the manager. Upon transfer of the  
11 ownership of a prescription drug outlet, THE NEW PROPRIETOR SHALL  
12 SUBMIT TO THE BOARD an application to transfer the registration of ~~said~~  
13 THE prescription drug outlet, ~~shall be submitted~~, and, upon approval of the  
14 transfer by the board, the BOARD SHALL TRANSFER THE registration ~~shall~~  
15 ~~be transferred~~ to the new proprietor. Upon the change of name or location  
16 of a prescription drug outlet, the registrant shall submit an application to  
17 change the name or location AND THE APPLICABLE FEE, and, upon  
18 approval of the ~~same and the payment of the fee therefor~~ APPLICATION,  
19 THE BOARD SHALL ISSUE a new registration showing the new name or new  
20 location. ~~shall be issued~~.

21 (3) (a) A prescription drug outlet operated by the state of Colorado  
22 or any political subdivision ~~thereof~~, OF THE STATE is not required to be  
23 registered but, in lieu ~~thereof~~, ~~shall~~ OF A REGISTRATION, MUST apply to the  
24 board, on a form approved by the board, for a certificate of compliance.  
25 The board shall determine whether ~~said~~ THE prescription drug outlet is  
26 operated in accordance with the laws of this state and the rules ~~and~~  
27 ~~regulations~~ of the board. ~~and~~, If it THE BOARD determines that the

1 prescription drug outlet is ~~so~~ operated IN ACCORDANCE WITH STATE LAWS  
2 AND BOARD RULES, except for the holding of a prescription drug outlet  
3 registration, ~~it~~ THE BOARD shall issue a certificate of compliance, which  
4 ~~shall expire~~ CERTIFICATE EXPIRES and may be renewed in accordance with  
5 ~~the provisions of~~ section 24-34-102 (8), C.R.S. ~~and, thereafter, said~~ ONCE  
6 THE BOARD ISSUES THE CERTIFICATE OF COMPLIANCE, THE prescription  
7 drug outlet ~~shall have~~ HAS the rights and privileges of, and ~~shall be~~ IS  
8 treated in all respects as, a registered prescription drug outlet. The  
9 provisions of this part 1 with respect to the denial, suspension, or  
10 revocation of a prescription drug outlet registration ~~shall~~ apply to a  
11 certificate of compliance.

12 (b) An outlet as recognized in section ~~12-22-120 (1) (e)~~  
13 12-42.5-118 (1) (d) need not be under the direct charge of a pharmacist,  
14 but a licensed pharmacist shall either initially interpret all prescription  
15 orders compounded or dispensed from ~~such~~ THE outlet or provide written  
16 protocols for ~~such~~ compounding and dispensing by unlicensed persons.  
17 An outlet qualifying for registration under this paragraph (b) may also  
18 apply to the board for a waiver of ~~such~~ THE requirements concerning  
19 physical space, equipment, inventory, or business hours as ~~may be~~  
20 necessary and consistent with the outlet's limited public welfare purpose.  
21 In determining the ~~grant~~ GRANTING or denial of ~~such~~ A waiver  
22 application, the board shall ensure that the public interest criteria set forth  
23 in section ~~12-22-101~~ 12-42.5-101 are satisfied. All other provisions of  
24 this part 1, except as specifically waived by the board, ~~shall~~ apply to ~~such~~  
25 THE outlet.

26 (4) ~~The registration of~~ Every outlet and ~~the license of~~ every  
27 pharmacist and pharmacy intern regularly practicing shall ~~be~~

1 conspicuously ~~displayed~~ DISPLAY THE REGISTRATION AND LICENSE,  
2 RESPECTIVELY, within the premises of the place of practice or outlet.

3 ~~(5)(a) Repealed.~~

4 ~~(b)(1)~~ (5) The pharmacist responsible for the prescription order  
5 or chart order may delegate certain specific tasks ~~as provided~~ DESCRIBED  
6 in section ~~12-22-102(26)(b)~~, 12-42.5-102 (31) (b) to a person who is not  
7 a pharmacist or pharmacy intern but who is an unlicensed assistant under  
8 ~~such~~ THE pharmacist's supervision if, in the pharmacist's professional  
9 judgment, ~~such~~ THE delegation is appropriate; except that ~~no such~~ THE  
10 PHARMACIST SHALL NOT MAKE THE delegation ~~may be made~~ if the  
11 delegation jeopardizes the public health, safety, or welfare, is prohibited  
12 by rule ~~or regulation~~ of the board, or violates ~~the provisions of~~ section  
13 ~~12-22-126(1)~~ 12-42.5-127 (1).

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

15 **12-42.5-118. [Formerly 12-22-120] Registration of facilities -**  
16 **rules.** (1) All outlets with facilities in this state shall register with the  
17 board in one of the following classifications:

18 (a) Prescription drug outlet;

19 (b) Wholesale drug outlet;

20 (c) Manufacturing drug outlet;

21 ~~(d) Repealed.~~

22 ~~(e)~~ (d) Any other outlet, as may be authorized by this article or  
23 that meets the definition of outlet as set forth in section ~~12-22-102(23)~~  
24 12-42.5-102 (25).

25 (2) The board shall establish, by rule, ~~or regulation~~ criteria,  
26 consistent with section ~~12-22-116~~ 12-42.5-113 and with the public  
27 interest as set forth in section ~~12-22-101, which~~ 12-42.5-101, THAT an

1 outlet that has employees or personnel engaged in the practice of  
2 pharmacy must meet to qualify for registration in each classification.

3 (3) The board shall specify by rule ~~or regulation~~ the registration  
4 procedures ~~to be followed~~ APPLICANTS MUST FOLLOW, including ~~but not~~  
5 ~~limited to~~, the specification of forms for use in applying for registration  
6 and the information needed.

7 (4) Registrations issued by the board pursuant to this section are  
8 transferable or assignable only pursuant to this article and rules  
9 established by the board.

10 (5) It ~~shall be~~ IS lawful for a person to sell and distribute  
11 nonprescription drugs. Any person engaged in the sale and distribution of  
12 ~~such~~ NONPRESCRIPTION drugs ~~shall~~ IS not ~~be deemed to be~~ improperly  
13 engaged in the practice of pharmacy, ~~nor~~ AND THE BOARD shall ~~the board~~  
14 NOT promulgate any rule ~~or regulation~~ pursuant to this part 1 ~~which~~ THAT  
15 permits the sale of nonprescription drugs only by a licensed pharmacist  
16 or only under the supervision of a licensed pharmacist or ~~which~~ THAT  
17 would otherwise apply to or interfere with the sale and distribution of  
18 nonprescription drugs.

19 (6) The board shall accept the licensure or certification of nursing  
20 care facilities and intermediate care facilities required by the department  
21 of public health and environment as sufficient registration under this  
22 section.

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

27 (8) No hospital outlet filling inpatient chart orders shall sell or

1 otherwise transfer any portion of its prescription drug inventory to  
2 another registered outlet for sale or dispensing at retail. This subsection  
3 (8) ~~shall not be construed to~~ DOES NOT limit any transfer of prescription  
4 drugs for the hospital's own use or ~~to~~ limit the ability of a hospital outlet  
5 to engage in a casual sale. ~~as defined in section 12-22-102 (5).~~

6 (9) (a) Subject to paragraph (b) of this subsection (9), a  
7 prescription drug outlet may register as a compounding prescription drug  
8 outlet.

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

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

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

15 (c) To be approved by the board to accredit a compounding  
16 prescription drug outlet, a compounding accreditation entity shall be, at  
17 a minimum, a scientific organization with expertise in compounding  
18 medications.

19 (10) (a) ON OR AFTER JANUARY 1, 2013, A SATELLITE SHALL  
20 REGISTER AS AN INPATIENT HOSPITAL SATELLITE PHARMACY IF THE  
21 SATELLITE:

22 (I) IS LOCATED IN A BUILDING THAT IS UNDER THE SAME  
23 OWNERSHIP AND CONTROL AS THE BUILDING OR SITE WHERE THE  
24 PRESCRIPTION DRUG OUTLET IS LOCATED; AND

25 (II) HAS A DIFFERENT ADDRESS THAN THE PRESCRIPTION DRUG  
26 OUTLET.

27 (b) THE BOARD SHALL ADOPT RULES AS NECESSARY TO IMPLEMENT



1 THIS SUBSECTION (10). AT A MINIMUM, THE RULES MUST SET FORTH THE  
2 MANNER IN WHICH A SATELLITE IS TO APPLY FOR AN INPATIENT HOSPITAL  
3 SATELLITE PHARMACY REGISTRATION AND THE LIMITS ON THE DISTANCE  
4 OF SATELLITES FROM THE MAIN PRESCRIPTION DRUG OUTLET.

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

14 (b) ~~A humane society that is duly registered with the secretary of~~  
15 ~~state and has been in existence and in business for at least five years in~~  
16 ~~this state as a nonprofit corporation, or an animal control agency that is~~  
17 ~~operated by a unit of government, may apply to the board for a license for~~  
18 ~~the purposes of being authorized to purchase, possess, and administer~~  
19 ~~sodium pentobarbital, or sodium pentobarbital in combination with other~~  
20 ~~prescription drugs that are medically recognized for euthanasia, to~~  
21 ~~euthanize injured, sick, homeless, or unwanted pets and animals and to~~  
22 ~~purchase, possess, and administer drugs commonly used for the chemical~~  
23 ~~capture of animals for control purposes or to sedate or immobilize pet~~  
24 ~~animals immediately prior to euthanasia. Any society or agency so~~  
25 ~~licensed shall not permit a person to administer scheduled controlled~~  
26 ~~substances, sodium pentobarbital, or sodium pentobarbital in combination~~  
27 ~~with other noncontrolled prescription drugs that are medically recognized~~

1 for euthanasia unless such person has demonstrated adequate knowledge  
2 of the potential hazards and proper techniques to be used in administering  
3 such drug or combination of drugs. The board may issue a limited license  
4 to carry out the provisions of this subsection (3) A HUMANE SOCIETY OR  
5 ANIMAL CONTROL AGENCY TO PERFORM THE ACTIVITIES DESCRIBED IN  
6 SECTION 12-42.5-119 (17).

7 (c) The board shall ~~issue such~~ ADOPT rules as it ~~deems~~ necessary  
8 to ensure strict compliance with ~~the provisions of this subsection (3)~~ (11)  
9 AND SECTION 12-42.5-119 (17) and, ~~shall~~, in conjunction with the state  
10 board of veterinary medicine, SHALL develop criteria for training  
11 individuals in the administration of ~~such~~ THE drug or combination of  
12 drugs. ~~The board may suspend or revoke the license upon determination~~  
13 ~~that the person administering such drug or combination of drugs has not~~  
14 ~~demonstrated adequate knowledge required by this subsection (3).~~

15 (d) Nothing in this subsection (3) ~~shall be construed to apply~~ (11)  
16 APPLIES to a licensed veterinarian.

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

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

1                   **12-42.5-119. [Formerly 12-22-121] Compounding - dispensing**

2                   **- sale of drugs and devices - rules.** (1) Except as otherwise provided in  
3                   this section ~~and part 3 of this article~~ OR PART 2 OF ARTICLE 80 OF TITLE 27,  
4                   C.R.S., no drug, controlled substance, ~~as defined in section 12-22-303 (7),~~  
5                   or device shall be sold, compounded, dispensed, given, received, or held  
6                   in possession unless it is sold, compounded, dispensed, given, or received  
7                   in accordance with this section.

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

- 10                   (a) Any wholesaler of drugs;  
11                   (b) A licensed hospital;  
12                   (c) An other outlet; ~~as defined in section 12-22-102 (23);~~  
13                   (d) A registered prescription drug outlet; or  
14                   (e) Any practitioner authorized by law to prescribe the drugs.

15                   (3) (a) A wholesaler may sell or give any drug or device to:

- 16                   (I) Another wholesaler of drugs or devices;  
17                   (II) Any licensed hospital;  
18                   (III) A registered prescription drug outlet;  
19                   (IV) An other outlet; ~~as defined in section 12-22-102 (23);~~ or  
20                   (V) Any practitioner authorized by law to prescribe the drugs or  
21                   devices.

22                   (b) A wholesaler may sell or deliver to a person responsible for  
23                   the control of an animal a drug intended for veterinary use for that animal  
24                   only if a licensed veterinarian has issued, prior to such sale or delivery,  
25                   a written OR AN ORAL prescription order for the drug in the course of an  
26                   existing, valid veterinarian-client-patient relationship as defined in  
27                   section 12-64-103 (15.5). IF THE LICENSED VETERINARIAN ISSUES AN ORAL

1       PRESCRIPTION ORDER, THE LICENSED VETERINARIAN SHALL PROVIDE A  
2       WRITTEN PRESCRIPTION TO THE WHOLESALER WITHIN SEVENTY-TWO  
3       HOURS AFTER ISSUING THE ORAL ORDER.

4           (4) ~~An order shall be compounded~~ ONLY A REGISTERED  
5       PRESCRIPTION DRUG OUTLET OR OTHER OUTLET REGISTERED PURSUANT TO  
6       SECTION 12-42.5-118 (1) (d) MAY COMPOUND or DISPENSE a prescription.  
7       ~~dispensed only from a registered prescription drug outlet or other outlet~~  
8       ~~registered pursuant to section 12-22-120 (1) (e).~~

9           (5) (a) A registered prescription drug or licensed hospital other  
10      outlet may:

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

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

15           (III) Supply an emergency kit to:

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

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

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

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

27           (I) The drug is sold in the original sealed container in which it was

1 originally received from the wholesaler;

2 (II) ~~No such~~ A casual sale is NOT made to ~~any~~ A registered other  
3 outlet that is not owned or operated by that county or district public health  
4 agency; and

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

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

15 (6) (a) A practitioner may personally compound and dispense for  
16 any patient under the practitioner's care any drug that the practitioner is  
17 authorized to prescribe and that the practitioner deems desirable or  
18 necessary in the treatment of any condition being treated by the  
19 practitioner, and ~~such~~ THE practitioner ~~shall be~~ IS exempt from all  
20 provisions of this part 1 except ~~for the provisions of section 12-22-126~~  
21 12-42.5-127.

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

27 (c) Nothing in this section ~~shall prohibit~~ PROHIBITS an optometrist

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

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

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

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

22 ~~(10) (Deleted by amendment, L. 96, p. 1424, § 12, effective July~~  
23 ~~1, 1996.)~~

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

1           ~~(12)~~ (11) The original, duplicate, or electronic or mechanical  
2       facsimile of a chart order by the physician or lawfully designated agent  
3       ~~shall constitute~~ CONSTITUTES a valid authorization to a pharmacist or  
4       pharmacy intern to dispense to a hospitalized patient for administration  
5       ~~such~~ THE amounts of ~~such~~ THE drugs as will enable an authorized person  
6       to administer to ~~such~~ THE patient the drug ordered by the practitioner. ~~It~~  
7       ~~shall be the responsibility of the practitioner to verify for~~ THE  
8       PRACTITIONER IS RESPONSIBLE FOR VERIFYING THE accuracy OF any chart  
9       order HE OR SHE transmitted to anyone other than a pharmacist or  
10      pharmacist intern within forty-eight hours of ~~such~~ THE transmittal.

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

16           ~~(14) Repealed.~~

17           ~~(15)~~ (13) ~~Interns~~ AN INTERN under the direct and immediate  
18      supervision of a pharmacist, A MANUFACTURER REGISTERED PURSUANT TO  
19      SECTION 12-42.5-113, OR A REGULATED HEALTH CARE-RELATED  
20      PROFESSIONAL, AS DETERMINED PURSUANT TO RULES ADOPTED BY THE  
21      BOARD, may engage in the practice of pharmacy.

22           ~~(16)~~ (14) ~~No~~ A manufacturer or wholesaler of prescription drugs  
23      shall NOT sell or give any prescription drug, as provided in subsections (2)  
24      and (3) of this section, to a licensed hospital or registered outlet or to any  
25      practitioner unless the prescription drug stock container bears a label  
26      containing the name and place of business of the manufacturer of the  
27      finished dosage form of the drug and, if different from the manufacturer,

1 the name and place of business of the packer or distributor.

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

4 ~~(18)~~ (15) (a) A compounding prescription drug outlet registered  
5 pursuant to section ~~12-22-120~~ (9) 12-42.5-118 (9) may dispense and  
6 distribute compounded drugs without limitation to practitioners or to  
7 prescription drug outlets under common ownership with the pharmacist  
8 who owns the compounding prescription drug outlet.

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

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

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

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

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



1           ~~(19)~~ (16) A prescription drug outlet may allow a licensed  
2 pharmacist to remove immunizations and vaccines from the prescription  
3 drug outlet for the purpose of administration by a licensed pharmacist, or  
4 an intern under the supervision of a pharmacist certified in immunization,  
5 pursuant to rules promulgated by the board. The board shall promulgate  
6 rules regarding the storage, transportation, and record-keeping of  
7 immunizations and vaccines that are administered off-site.

8           (17) **[Formerly 12-22-304 (3) (b)]** (a) A humane society OR  
9 ANIMAL CONTROL AGENCY that is ~~duly~~ registered with ~~the secretary of~~  
10 ~~state and has been in existence and in business for at least five years in~~  
11 ~~this state as a nonprofit corporation, or an animal control agency that is~~  
12 ~~operated by a unit of government, may apply to the board for a license for~~  
13 ~~the purposes of being authorized~~ PURSUANT TO SECTION 12-42.5-118 (11)  
14 IS AUTHORIZED to:

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

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

22           (b) ~~Any~~ A society or agency ~~so licensed~~ REGISTERED PURSUANT  
23 TO SECTION 12-42.5-118 (11) shall not permit a person to administer  
24 scheduled controlled substances, sodium pentobarbital, or sodium  
25 pentobarbital in combination with other noncontrolled prescription drugs  
26 that are medically recognized for euthanasia unless ~~such~~ THE person has  
27 demonstrated adequate knowledge of the potential hazards and proper

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

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

19 **12-42.5-120. [Formerly 12-22-121.7] Limited authority to**  
20 **delegate activities constituting practice of pharmacy to pharmacy**  
21 **interns or pharmacy technicians.**

22 (1) ~~Repealed.~~

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

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

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

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

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

16 **12-42.5-121. [Formerly 12-22-122] Prescription required -**  
17 **exception.** (1) Except as provided in section 18-18-414, C.R.S., and  
18 subsection (2) of this section, an order is required prior to dispensing any  
19 prescription drug. Orders shall be readily retrievable within the  
20 appropriate statute of limitations.

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

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

9 **12-42.5-122. [Formerly 12-22-123] Labeling.** (1) A prescription  
10 drug dispensed pursuant to an order must be labeled as follows:

11 ~~(a) Repealed.~~

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

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

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

1 is for an anabolic steroid.

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

11 **12-42.5-123. [Formerly 12-22-124] Substitution of prescribed**  
12 **drugs authorized - when - conditions.** (1) A pharmacist filling a  
13 prescription order for a specific drug by brand or proprietary name may  
14 substitute an equivalent drug product if the substituted drug product is the  
15 same generic drug type ~~as defined in section 12-22-102 (12)~~ and, in the  
16 pharmacist's professional judgment, the substituted drug product is  
17 therapeutically equivalent, ~~as defined in section 12-22-102 (33)~~, is  
18 interchangeable with the prescribed drug, and is permitted to be moved  
19 in interstate commerce. A pharmacist making a substitution shall assume  
20 the same responsibility for selecting the dispensed drug product as he OR  
21 SHE would incur in filling a prescription for a drug product prescribed by  
22 a generic name; except that ~~he shall be~~ THE PHARMACIST IS charged with  
23 notice and knowledge of the federal food and drug administration list of  
24 approved drug substances and manufacturers ~~as may be~~ THAT IS published  
25 ~~from time to time~~ PERIODICALLY.

26 (2) (a) If, in the opinion of the practitioner, it is in the best interest  
27 of ~~his~~ THE patient that THE PHARMACIST NOT SUBSTITUTE an equivalent

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

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

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

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

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

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

27 (4) Except as provided in subsection (5) of this section, ~~in no case~~

1 ~~shall~~ the pharmacist SHALL NOT substitute a drug product as provided in  
2 this section unless the drug product substituted costs the purchaser less  
3 than the drug product prescribed. The prescription shall be priced as if it  
4 had been prescribed generically.

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

11 **12-42.5-124. [Formerly 12-22-125] Unprofessional conduct -**  
12 **grounds for discipline.** (1) The board may suspend, revoke, refuse to  
13 renew, or otherwise discipline any license or registration issued by it,  
14 after a hearing held in accordance with the provisions of this section,  
15 upon proof that the licensee or registrant:

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

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

21 (c) Has violated:

22 (I) Any of the provisions of this part 1, including ~~but not limited~~  
23 ~~to any acts~~ COMMISSION OF AN ACT DECLARED UNLAWFUL in section  
24 ~~12-22-126~~ 12-42.5-127;

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

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

27 (d) Is unfit or incompetent by reason of negligence OR habits, ~~or~~

1 ~~physical or mental illness~~, or for any other cause, to practice as such  
2 PHARMACY;

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

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

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

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

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

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

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

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

23 (m) Has violated any lawful board order;

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

26 (o) Has willfully deceived or attempted to deceive the board or its  
27 agents with regard to any matter under investigation by the board;



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

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

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

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

15 (III) HAS FAILED TO COMPLY WITH THE LIMITATIONS AGREED TO  
16 UNDER A CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION  
17 12-42.5-135;

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

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

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

25 **12-42.5-125. [Formerly 12-22-125.2] Disciplinary actions.**

26 (1) (a) The board may deny or discipline an applicant, licensee, or  
27 registrant when the board determines that ~~such~~ THE applicant, licensee, or

1       registrant has engaged in activities that are grounds for discipline.

2               (b) THE BOARD MAY SUSPEND OR REVOKE A REGISTRATION ISSUED  
3       PURSUANT TO SECTION 12-42.5-118 (11) UPON DETERMINATION THAT THE  
4       PERSON ADMINISTERING A DRUG OR COMBINATION OF DRUGS TO AN  
5       ANIMAL HAS NOT DEMONSTRATED ADEQUATE KNOWLEDGE REQUIRED BY  
6       SECTIONS 12-42.5-118 (11) AND 12-42.5-119 (17).

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

15              (b) Upon ~~the finding of the existence of~~ THAT grounds for  
16      discipline ~~of any person holding or seeking a license or registration or the~~  
17      ~~renewal thereof under the provisions of~~ PURSUANT TO section ~~12-22-125~~  
18      12-42.5-124 EXIST, the board may impose one or more of the following  
19      penalties ON A PERSON WHO HOLDS OR IS SEEKING A NEW OR RENEWAL  
20      LICENSE OR REGISTRATION:

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

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

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

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

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

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

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

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

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

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

1 professional standards of practice, including any or all of the following:

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

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

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

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

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

22 (5) In addition to any other penalty ~~that~~ THE BOARD may ~~be~~  
23 ~~imposed~~ IMPOSE pursuant to this section, THE BOARD MAY FINE any  
24 registrant violating ~~any provision of~~ this article or any rules promulgated  
25 pursuant to this article ~~may be fined~~ not less than five hundred dollars and  
26 not more than five thousand dollars for each ~~such~~ violation. THE BOARD  
27 SHALL TRANSMIT any moneys collected as administrative fines pursuant

1 to this subsection (5) ~~shall be transmitted~~ to the state treasurer ~~who shall~~  
2 FOR credit ~~such moneys~~ to the general fund.

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

11 (b) When THE BOARD SENDS a letter of admonition ~~is sent by~~  
12 ~~certified mail by the board~~ to a licensee OR REGISTRANT complained  
13 against, ~~such~~ THE BOARD SHALL INCLUDE IN THE LETTER A STATEMENT  
14 ADVISING THE licensee ~~shall be advised~~ OR REGISTRANT that ~~he or she~~ THE  
15 LICENSEE OR REGISTRANT has the right to request in writing, within  
16 twenty days after receipt of the letter, that THE BOARD INITIATE formal  
17 disciplinary proceedings ~~be initiated~~ to adjudicate the propriety of the  
18 conduct upon which the letter of admonition is based.

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

23 (7) (a) When a complaint or an investigation discloses an instance  
24 of conduct that does not warrant formal action by the board but the board  
25 determines that ~~continuation of such~~ THE conduct could warrant action if  
26 continued, THE BOARD MAY SEND a confidential letter of concern ~~may be~~  
27 ~~sent by certified mail~~ to the licensee or registrant against whom the

1 complaint was made or who was the subject of investigation. If a  
2 complaint precipitated the investigation, THE BOARD SHALL SEND a  
3 response ~~shall be sent~~ to the person making the complaint.

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

6 ~~(c) (b) A confidential letter of concern shall not be construed as~~  
7 ~~IS NOT discipline.~~

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

12 (9) (a) If it appears to the board, based upon credible evidence as  
13 presented in a written complaint by any person, that a licensee or  
14 registrant is acting in a manner that is an imminent threat to the health and  
15 safety of the public or a person is acting or has acted without the required  
16 license or registration, the board may issue an order to cease and desist  
17 ~~such~~ THE activity. The ~~order~~ BOARD shall set forth IN THE ORDER the  
18 statutes and rules alleged to have been violated, the facts alleged to have  
19 constituted the violation, and the requirement that all unlawful acts or  
20 unlicensed or unregistered practices immediately cease.

21 (b) Within ten days after service of the order to cease and desist  
22 pursuant to paragraph (a) of this subsection (9), the respondent may  
23 request a hearing on the question of whether acts or practices in violation  
24 of this ~~part 1~~ ARTICLE have occurred. ~~Such~~ THE BOARD SHALL CONDUCT  
25 THE hearing ~~shall be conducted~~ pursuant to sections 24-4-104 and  
26 24-4-105, C.R.S.

27 (10) (a) If it appears to the board, based upon credible evidence

1 as presented in a written complaint by any person, that a person has  
2 violated any other portion of this ~~part~~ ARTICLE, then, in addition to any  
3 specific powers granted pursuant to this ~~part~~ ARTICLE, the board may  
4 issue to ~~such~~ THE person an order to show cause as to why the board  
5 should not issue a final order directing ~~such~~ THE person to cease and  
6 desist from the unlawful act or unlicensed or unregistered practice.

7 (b) THE BOARD SHALL PROMPTLY NOTIFY a person against whom  
8 THE BOARD HAS ISSUED an order to show cause ~~has been issued~~ pursuant  
9 to paragraph (a) of this subsection (10) ~~shall be promptly notified by the~~  
10 ~~board~~ of the issuance of the order ~~along with~~ AND SHALL INCLUDE IN THE  
11 NOTICE a copy of the order, the factual and legal basis for the order, and  
12 the date set by the board for a hearing on the order. ~~Such~~ THE BOARD MAY  
13 SERVE THE notice ~~may be served~~ UPON THE PERSON AGAINST WHOM THE  
14 ORDER IS ISSUED by personal service, by first-class United States mail,  
15 postage prepaid, or as may be practicable. ~~upon any person against whom~~  
16 ~~such order is issued.~~ Personal service or mailing of an order or document  
17 pursuant to this subsection (10) ~~shall constitute~~ CONSTITUTES notice  
18 ~~thereof~~ to the person.

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

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

11           (III) If the board reasonably finds that the person against whom  
12 the order to show cause was issued is acting or has acted without the  
13 required license or registration or has or is about to engage in acts or  
14 practices constituting violations of this ~~part~~ ARTICLE, THE BOARD MAY  
15 ISSUE a final cease-and-desist order ~~may be issued~~ directing ~~such~~ THE  
16 person to cease and desist from further unlawful acts or unlicensed or  
17 unregistered practices.

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

25           (11) If it appears to the board, based upon credible evidence  
26 presented to the board, that a person has engaged in or is about to engage  
27 in any unlicensed or unregistered act or practice, any act or practice



1 constituting a violation of this ~~part~~ ARTICLE, any rule promulgated  
2 pursuant to this ~~part~~ ARTICLE, OR any order issued pursuant to this ~~part~~  
3 ARTICLE, or any act or practice constituting grounds for administrative  
4 sanction pursuant to this ~~part~~ ARTICLE, the board may enter into a  
5 stipulation with ~~such~~ THE person.

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

12 (13) A person aggrieved by the final cease-and-desist order may  
13 seek judicial review of the board's determination or of the board's final  
14 order as provided in section ~~12-22-125.5~~ 12-42.5-126.

15 **12-42.5-126. [Formerly 12-22-125.5] Judicial review.** The court  
16 of appeals ~~shall have~~ HAS initial jurisdiction to review all final actions and  
17 orders that are subject to judicial review of the board ~~Such~~ AND SHALL  
18 CONDUCT THE JUDICIAL REVIEW proceedings ~~shall be conducted~~ in  
19 accordance with section 24-4-106 (11), C.R.S.

20 **12-42.5-127. [Formerly 12-22-126] Unlawful acts.** (1) It is  
21 unlawful:

22 (a) To practice pharmacy without a license;

23 (b) To obtain or dispense or to procure the administration of a  
24 drug by fraud, deceit, misrepresentation, or subterfuge, ~~or~~ by the forgery  
25 or alteration of an order, or by the use of a false name or the giving of a  
26 false address;

27 (c) To willfully make a false statement in any order, report,

1 application, or record required by this ~~part~~ ARTICLE;

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

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

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

7 ~~(g) Repealed.~~

8 ~~(h)~~ (g) To sell, compound, dispense, give, receive, or possess any  
9 drug or device unless it was sold, compounded, dispensed, given, or  
10 received in accordance with sections ~~12-22-121 to 12-22-124~~ 12-42.5-119  
11 TO 12-42.5-123;

12 ~~(i)~~ (h) Except as provided in section ~~12-22-124~~ 12-42.5-123, to  
13 dispense a different drug or brand of drug in place of the drug or brand  
14 ordered or prescribed without the oral or written permission of the  
15 practitioner ordering or prescribing the drug;

16 ~~(j)~~ (i) To manufacture, process, pack, distribute, sell, dispense, or  
17 give a drug, ~~which~~, or the container or labeling of ~~which~~ THE DRUG, THAT,  
18 without authorization, bears the trademark, trade name, or other  
19 identifying mark, imprint, or device, or any likeness thereof, of a drug  
20 manufacturer, processor, packer, or distributor other than the person who  
21 in fact manufactured, processed, packed, or distributed such drug,  
22 CONTAINER, OR LABEL and ~~which~~ THAT thereby falsely purports or is  
23 represented to be the product of or to have been packed or distributed by  
24 such other drug manufacturer, processor, packer, or distributor;

25 ~~(k)~~ (j) For an employer or an employer's agent or employee to  
26 coerce a pharmacist to dispense a prescription drug against the  
27 professional judgment of the pharmacist;

1           (†) (k) For an employer, ~~or~~ an employer's agent or employee, or a  
2 pharmacist to use or coerce to be used ~~a~~ nonpharmacist personnel in any  
3 position or task ~~which~~ THAT would require the nonpharmacist to practice  
4 pharmacy or to make a judgmental decision using pharmaceutical  
5 knowledge or in violation of the delegatory restrictions enumerated in  
6 section ~~12-22-119 (5)~~ 12-42.5-117 (5);

7           ~~(m)~~ (l) To dispense any drug without complying with the labeling,  
8 drug identification, and container requirements imposed by law.

9           **12-42.5-128. [Formerly 12-22-127] Unauthorized practice -**  
10 **penalties.** Any person who practices or offers or attempts to practice  
11 pharmacy without an active license issued under this article commits a  
12 class 2 misdemeanor and shall be punished as provided in section  
13 18-1.3-501, C.R.S., for the first offense, and any person committing a  
14 second or subsequent offense commits a class 6 felony and shall be  
15 punished as provided in section 18-1.3-401, C.R.S.

16           **12-42.5-129. [Formerly 12-22-128] New drugs - when sales**  
17 **permissible.** (1) No person shall sell, deliver, offer for sale, hold for sale,  
18 or give away any new drug not authorized to move in interstate commerce  
19 under appropriate federal law.

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

24           **12-42.5-130. [Formerly 12-22-129] Advertising of prescription**  
25 **drug prices.** A prescription drug outlet may advertise its prices for  
26 prescription drugs. If the drug is advertised by its brand or proprietary  
27 name, THE PRESCRIPTION DRUG OUTLET SHALL ALSO INCLUDE its generic

1 name ~~shall also be included~~ in the advertisement.

2 **12-42.5-131. [Formerly 12-22-130] Nonresident prescription**  
3 **drug outlet - registration.** (1) Any prescription drug outlet located  
4 outside this state that ships, mails, or delivers, in any manner, drugs or  
5 devices into this state ~~shall be considered~~ IS a nonresident prescription  
6 drug outlet AND shall ~~be registered~~ REGISTER with the board and shall  
7 disclose to the board the following:

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

14 (b) A VERIFICATION that it complies with all lawful directions and  
15 requests for information from the regulatory or licensing agency of the  
16 state in which it is licensed as well as with all requests for information  
17 made by the board pursuant to this section. The nonresident prescription  
18 drug outlet shall maintain at all times a valid, unexpired license, permit,  
19 or registration to conduct the prescription drug outlet in compliance with  
20 the laws of the state in which it is a resident. As a prerequisite to  
21 registering with the board, the nonresident prescription drug outlet shall  
22 submit a copy of the most recent inspection report resulting from an  
23 inspection conducted by the regulatory or licensing agency of the state in  
24 which it is located.

25 (2) The registration requirements of this section ~~shall~~ apply only  
26 to a nonresident prescription drug outlet ~~which~~ THAT only ships, mails, or  
27 delivers, IN ANY MANNER, drugs ~~in any manner~~, and devices into this state

1 pursuant to a prescription order.

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

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

14 (b) The board may deny, revoke, or suspend a nonresident  
15 prescription drug outlet registration if ~~such~~ THE NONRESIDENT  
16 prescription drug outlet's license or registration has been revoked or not  
17 renewed for noncompliance with the laws of the state in which it is a  
18 resident.

19 **12-42.5-132. [Formerly 12-22-131] Records.** (1) (a) All  
20 PERSONS LICENSED OR REGISTERED UNDER THIS PART 1 SHALL KEEP AND  
21 MAINTAIN records of THE receipt, distribution, or other disposal of  
22 prescription drugs or controlled substances, ~~shall be~~ MAKE THE RECORDS  
23 available to the board upon request for inspection, copying, verification,  
24 or any other purpose, ~~Such records shall be retained~~ AND SHALL RETAIN  
25 THE RECORDS for two years OR FOR A PERIOD OTHERWISE REQUIRED BY  
26 LAW.

27 (b) The board may permit a wholesaler to maintain a portion of its

1 records at a central location that is different from the storage facility of  
2 the wholesaler. If ~~such~~ THE BOARD GRANTS THE permission, ~~has been~~  
3 ~~granted~~, the wholesaler shall make available all relevant records within  
4 forty-eight hours after a request for inspection, copying, verification, or  
5 any other purpose by the board. THE WHOLESALER SHALL MAKE all other  
6 records that are available for immediate access ~~shall be~~ readily available  
7 to the board.

8 (2) A ~~wholesale distributor~~ WHOLESALER shall establish and  
9 maintain inventories and records of all transactions regarding the receipt  
10 and distribution of prescription drugs. ~~Availability of~~ A WHOLESALER  
11 SHALL MAKE ITS records ~~maintained by a wholesale distributor shall be~~  
12 AVAILABLE TO THE BOARD in accordance with ~~the provisions of~~  
13 subsection (1) of this section. ~~Such records~~ A WHOLESALER shall include  
14 the following information IN ITS RECORDS:

15 (a) The source of the prescription drugs, including the name and  
16 principal address of the seller or transferor of the prescription drugs and  
17 the address of the location from which the prescription drugs were  
18 shipped;

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

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

23 (3) **[Formerly 12-22-318 (2)]** The record of any controlled  
24 substance distributed, administered, dispensed, or otherwise used ~~shall~~  
25 MUST show the date ~~the name and address of person to whom, for whose~~  
26 ~~use~~, the controlled substance was distributed, administered, dispensed,  
27 used, or otherwise disposed of, THE NAME AND ADDRESS OF THE PERSON

1 TO WHOM OR FOR WHOSE USE THE CONTROLLED SUBSTANCE WAS  
2 DISTRIBUTED, ADMINISTERED, DISPENSED, USED, OR OTHERWISE DISPOSED  
3 OF, and the kind and quantity of ~~such~~ THE controlled substance.

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

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

13 (6) **[Formerly 12-22-318 (5)]** A PERSON REQUIRED TO MAINTAIN  
14 RECORDS PURSUANT TO THIS SECTION SHALL KEEP A record ~~shall also be~~  
15 ~~kept~~ of any controlled substance lost, destroyed, or stolen, the kind and  
16 quantity of ~~such~~ THE controlled substance, and the date of ~~such~~ THE loss,  
17 destruction, or theft.

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

22 (8) **[Formerly 12-22-318 (6)]** A PERSON LICENSED, REGISTERED,  
23 OR OTHERWISE AUTHORIZED UNDER THIS PART 1 OR OTHER LAWS OF THIS  
24 STATE SHALL DISTRIBUTE, ADMINISTER, DISPENSE, USE, OR OTHERWISE  
25 DISPOSE OF controlled substances listed in schedule I or II of part 2 of  
26 article 18 of title 18, C.R.S., ~~shall be distributed by persons licensed or~~  
27 ~~otherwise authorized under this part 3 or other laws of this state only~~

1 pursuant to an order form. Compliance with the provisions of federal law  
2 respecting order forms ~~shall be~~ IS deemed compliance with this section.

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

14 **12-42.5-133. [Formerly 12-22-132] Immunity.** Any member of  
15 the board, any member of the board's staff, any person acting as a witness  
16 or consultant to the board, any witness testifying in a proceeding  
17 authorized under this part 1, and any person who lodges a complaint  
18 pursuant to this part 1 ~~shall be~~ IS immune from liability in any civil action  
19 brought against him or her for acts occurring while acting in his or her  
20 capacity as board member, staff, consultant, or witness, respectively, if  
21 ~~such~~ THE individual was acting in good faith within the scope of his or  
22 her respective capacity, made a reasonable effort to obtain the facts of the  
23 matter as to which he or she acted, and acted in the reasonable belief that  
24 the action taken by him or her was warranted by the facts. Any person  
25 participating in good faith in lodging a complaint or participating in any  
26 investigative or administrative proceeding pursuant to this part 1 ~~shall be~~  
27 IS immune from any civil or criminal liability that may result from ~~such~~



1 participation.

2 **12-42.5-134. [Formerly 12-22-133] Unused medication -**  
3 **licensed facilities - reuse - rules.** (1) As used in this section, ~~and section~~  
4 ~~12-22-134~~, unless the context otherwise requires:

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

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

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

15 (d) "Medication" means a prescription that is not a controlled  
16 substance.

17 (2) (a) (I) If donated by the patient, resident, or the patient's or  
18 resident's next of kin, a licensed facility may return unused medications,  
19 medical supplies, and medical devices to a pharmacist within the licensed  
20 facility or a prescription drug outlet in order for the medication to be  
21 redispensed to another patient or donated to a nonprofit entity that has the  
22 legal authority to possess the medication or to a practitioner authorized by  
23 law to prescribe the medication.

24 (II) (A) A licensed facility may donate unused medications to a  
25 person legally authorized to dispense the medications on behalf of a  
26 nonprofit entity that has the express purpose of providing medications,  
27 medical devices, or medical supplies for the relief of victims who are in

1 urgent need as a result of natural or other types of disasters. A LICENSED  
2 PHARMACIST SHALL REVIEW the process of donating the unused  
3 medications to the nonprofit entity. ~~shall be reviewed by a licensed~~  
4 ~~pharmacist.~~

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

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

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

15 (II) Individually packaged and the packaging has not been  
16 damaged; or

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

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

20 (I) Medications packaged in traditional brown or amber pill  
21 bottles;

22 (II) Controlled substances;

23 (III) Medications that require refrigeration, freezing, or special  
24 storage;

25 (IV) Medications that require special registration with the  
26 manufacturer; or

27 (V) Medications that are adulterated or misbranded, as determined

1 by a person legally authorized to dispense the medications on behalf of  
2 the nonprofit entity.

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

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

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

16 **12-42.5-135. Confidential agreement to limit practice -**  
17 **violation - grounds for discipline.** (1) IF A PHARMACIST OR INTERN HAS  
18 A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE  
19 PERSON UNABLE TO PRACTICE PHARMACY WITH REASONABLE SKILL AND  
20 SAFETY TO CLIENTS, THE PHARMACIST OR INTERN SHALL NOTIFY THE  
21 BOARD OF THE ILLNESS OR CONDITION IN A MANNER AND WITHIN A PERIOD  
22 DETERMINED BY THE BOARD. THE BOARD MAY REQUIRE THE PHARMACIST  
23 OR INTERN TO SUBMIT TO AN EXAMINATION OR REFER THE PHARMACIST OR  
24 INTERN TO THE PHARMACY PEER HEALTH ASSISTANCE DIVERSION  
25 PROGRAM ESTABLISHED IN PART 2 OF THIS ARTICLE TO EVALUATE THE  
26 EXTENT OF THE ILLNESS OR CONDITION AND ITS IMPACT ON THE  
27 PHARMACIST'S OR INTERN'S ABILITY TO PRACTICE PHARMACY WITH

1 REASONABLE SKILL AND SAFETY TO CLIENTS.

2 (2) (a) UPON DETERMINING THAT A PHARMACIST OR INTERN WITH  
3 A PHYSICAL OR MENTAL ILLNESS OR CONDITION IS ABLE TO RENDER  
4 LIMITED SERVICES WITH REASONABLE SKILL AND SAFETY TO CLIENTS, THE  
5 BOARD MAY ENTER INTO A CONFIDENTIAL AGREEMENT WITH THE  
6 PHARMACIST OR INTERN IN WHICH THE PHARMACIST OR INTERN AGREES TO  
7 LIMIT HIS OR HER PRACTICE BASED ON THE RESTRICTIONS IMPOSED BY THE  
8 ILLNESS OR CONDITION, AS DETERMINED BY THE BOARD.

9 (b) AS PART OF THE AGREEMENT, THE PHARMACIST OR INTERN IS  
10 SUBJECT TO PERIODIC REEVALUATIONS OR MONITORING AS DETERMINED  
11 APPROPRIATE BY THE BOARD. THE BOARD MAY REFER THE PHARMACIST OR  
12 INTERN TO THE PHARMACY PEER HEALTH ASSISTANCE DIVERSION  
13 PROGRAM FOR REEVALUATION OR MONITORING.

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

17 (3) BY ENTERING INTO AN AGREEMENT WITH THE BOARD  
18 PURSUANT TO THIS SECTION TO LIMIT HIS OR HER PRACTICE, A PHARMACIST  
19 OR INTERN IS NOT ENGAGING IN ACTIVITIES PROHIBITED PURSUANT TO  
20 SECTION 12-42.5-124. THE AGREEMENT DOES NOT CONSTITUTE A  
21 RESTRICTION OR DISCIPLINE BY THE BOARD. HOWEVER, IF THE  
22 PHARMACIST OR INTERN FAILS TO COMPLY WITH THE TERMS OF AN  
23 AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION, THE FAILURE  
24 CONSTITUTES A PROHIBITED ACTIVITY PURSUANT TO SECTION 12-42.5-124  
25 (1) (r), AND THE PHARMACIST OR INTERN IS SUBJECT TO DISCIPLINE IN  
26 ACCORDANCE WITH SECTION 12-42.5-125.

27 (4) THIS SECTION DOES NOT APPLY TO A PHARMACIST OR INTERN

SUBJECT TO DISCIPLINE FOR PROHIBITED ACTIVITIES AS DESCRIBED IN  
SECTION 12-42.5-124 (1) (e).

## PART 2

## PHARMACY PEER HEALTH ASSISTANCE

## DIVERSION PROGRAM

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

(1) The general assembly hereby finds, determines, and declares that the creation of a pharmacy peer health assistance diversion program for those persons subject to the jurisdiction of the ~~state board of pharmacy~~ will serve to safeguard the life, health, property, and public welfare of the people of this state. ~~Such~~ A pharmacy peer health assistance diversion program will help practitioners experiencing impaired practice due to psychiatric, psychological, or emotional problems or excessive alcohol or drug use or addiction. The general assembly further declares that ~~such~~ A pharmacy peer health assistance diversion program will protect the privacy and welfare of those persons who provide services and at the same time assist the board in carrying out its duties and responsibilities to ensure that only qualified persons are allowed to engage in providing those services ~~which~~ THAT are under the jurisdiction of the board.

(2) It is the intent of the general assembly that the pharmacy peer health assistance diversion program and its related procedures ~~shall~~ be utilized by the ~~state board of pharmacy~~ in conjunction with, or as an alternative to, the use of disciplinary proceedings by the board, which proceedings are by their nature time-consuming and costly to the people of this state. The pharmacy peer health assistance diversion program is hereby established to alleviate the need for ~~such~~ disciplinary proceedings, while at the same time providing safeguards that protect the public health,

1 safety, and welfare. The general assembly further declares that it ~~is its~~  
2 ~~intent~~ INTENDS that the ~~state~~ board of pharmacy will act to implement the  
3 provisions of this article.

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

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

14 ~~(1) "Board" shall have the same meaning as set forth in section~~  
15 ~~12-22-102 (4).~~

16 ~~(1.5) "Committee" means the rehabilitation evaluation committee~~  
17 ~~which is appointed by the board to carry out specified duties pursuant to~~  
18 ~~section 12-22-606.~~

19 ~~(2)~~ (1) "Impaired practice" means a licensee's inability to meet the  
20 requirements of the laws of this state and the rules ~~and regulations~~ of the  
21 board governing his or her practice when the licensee's cognitive,  
22 interpersonal, or psychomotor skills are affected by psychiatric,  
23 psychological, or emotional problems or excessive alcohol or drug use or  
24 addiction.

25 ~~(3)~~ (2) "Licensee" means any pharmacist or intern who is licensed  
26 by the board.

27 ~~(4)~~ (3) "Peer health assistance organization" means an

1 organization ~~which~~ THAT provides a formal, structured program that  
2 meets the requirements specified in this part 6. ~~Such program~~ 2 AND is  
3 administered by appropriate professionals for the purpose of assisting  
4 licensees experiencing impaired practice to obtain evaluation, treatment,  
5 short-term counseling, monitoring of progress, and ongoing support for  
6 the purpose of arresting and treating the licensee's psychiatric,  
7 psychological, or emotional problems or excessive alcohol or drug use or  
8 addiction.

9 **12-42.5-203. [Formerly 12-22-603] Pharmacy peer health**  
10 **assistance fund.** (1) ~~(a)~~ There is hereby created in the state treasury the  
11 pharmacy peer health assistance fund. The fund ~~shall consist~~ CONSISTS of  
12 moneys collected by the board and ~~required to be~~ credited to the fund  
13 pursuant to subsection ~~(3)~~ (2) of this section. Any interest earned on the  
14 investment of moneys in the fund ~~shall~~ MUST be credited at least annually  
15 to ~~said~~ THE fund.

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

19 ~~(2) Repealed.~~

20 ~~(3)(a) Repealed.~~

21 ~~(b) (2) (a) Effective July 1, 2003,~~ As a condition of licensure and  
22 licensure renewal in this state, every applicant shall pay to the  
23 administering entity that has been selected by the board pursuant to ~~the~~  
24 ~~provisions of paragraphs (d) and (e)~~ (c) AND (d) of this subsection ~~(3)~~ (2)  
25 an amount set by the board not to exceed fifty-six dollars biennially,  
26 which amount shall be used to support designated providers that have  
27 been selected by the board to provide assistance to pharmacists AND

1     INTERNS needing help in dealing with physical, emotional, psychiatric,  
2     psychological, drug abuse, or alcohol abuse problems that may be  
3     detrimental to their ability to practice. ON AND AFTER THE EFFECTIVE  
4     DATE OF THIS PARAGRAPH (a), AS AMENDED, THE BOARD MAY ANNUALLY  
5     ADJUST THE MAXIMUM AMOUNT OF THE FEE ASSESSED PURSUANT TO THIS  
6     PARAGRAPH (a) TO REFLECT CHANGES IN THE UNITED STATES BUREAU OF  
7     STATISTICS CONSUMER PRICE INDEX FOR THE DENVER-BOULDER  
8     CONSOLIDATED METROPOLITAN STATISTICAL AREA FOR ALL URBAN  
9     CONSUMERS OR GOODS, OR ITS SUCCESSOR INDEX.

10           ~~(c)~~ (b) The board shall select one or more peer health assistance  
11     organizations as designated providers. To be eligible for designation by  
12     the board a peer health assistance DIVERSION program shall:

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

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

20           (III) Evaluate the extent of physical, emotional, or psychological  
21     problems and refer the pharmacist OR INTERN for appropriate treatment;

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

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

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

27           (VII) Agree to make their services available to all licensed



1 Colorado pharmacists AND INTERNS.

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

9 ~~(e)~~ (d) The responsibilities of the administering entity ~~shall be~~  
10 ARE:

11 (I) To collect the required annual payments, directly or through  
12 the board;

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

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

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

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

26 ~~(f)~~ (e) The board, at its discretion, may collect the required annual  
27 payments payable to the administering entity for the benefit of the

1 administering entity and shall transfer all such payments to the  
2 administering entity. All required annual payments collected or due to the  
3 board for each fiscal year ~~shall be deemed~~ ARE custodial funds that are  
4 not subject to appropriation by the general assembly, and ~~such~~ THE funds  
5 ~~shall~~ DO not constitute state fiscal year spending for purposes of section  
6 20 of article X of the state constitution.

7 **12-42.5-204. [Formerly 12-22-605] Eligibility - participants.**

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

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

12 (a) Acknowledge the existence OR THE POTENTIAL EXISTENCE of  
13 a psychiatric, psychological, or emotional problem or excessive alcohol  
14 or drug use or addiction;

15 (b) After a full explanation of the operation ~~of~~ and ~~the~~  
16 requirements of the peer health assistance DIVERSION program, agree to  
17 voluntarily participate in ~~such~~ THE program and agree in writing to  
18 participate in the program of the peer health assistance organization  
19 designated by the board.

20 (3) Notwithstanding the provisions of this section, the board may  
21 summarily suspend the license of any licensee who is referred to a peer  
22 health assistance DIVERSION program by the board and who fails to attend  
23 or to complete ~~such~~ THE program. IF THE BOARD SUMMARILY SUSPENDS  
24 THE LICENSE, the board shall ~~thereupon~~ schedule a hearing on ~~such~~ THE  
25 suspension, which shall be conducted in accordance with section  
26 24-4-105, C.R.S.

27 **12-42.5-205. [Formerly 12-22-607] Liability.** Nothing in this

1 ~~section shall be construed to create~~ PART 2 CREATES any liability of the  
2 board, members of the board, ~~a committee, the members of a committee,~~  
3 or the state of Colorado for the actions of the board in making awards to  
4 pharmacy peer health assistance organizations or in designating licensees  
5 to participate in the programs of ~~such~~ PHARMACY PEER HEALTH  
6 ASSISTANCE organizations. No civil action may be brought or maintained  
7 against the board, its members, ~~a committee, the members of a committee,~~  
8 or the state for an injury alleged to have been the result of an act or  
9 omission of a licensee participating in or referred to a state-funded  
10 program provided by a pharmacy peer health assistance organization.  
11 However, the state ~~shall remain~~ REMAINS liable under the ~~provisions of~~  
12 ~~the~~ "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.,  
13 if an injury alleged to have been the result of an act or omission of a  
14 licensee participating in or referred to a state-funded peer health  
15 assistance diversion program occurred while ~~such~~ THE licensee was  
16 performing duties as an employee of the state.

17 **12-42.5-206. [Formerly 12-22-608] Immunity.** Any member of  
18 the board ~~or any member of a rehabilitation evaluation committee~~ acting  
19 pursuant to ~~the provisions of this part 6 shall be 2~~ IS immune from suit in  
20 any civil action if ~~such~~ THE member acted in good faith within the scope  
21 of the function of ~~such~~ THE board, ~~or committee,~~ made a reasonable effort  
22 to obtain the facts of the matter as to which the member acted, and acted  
23 in the reasonable belief that the action taken by the member was  
24 warranted by the facts.

### 25 PART 3

### 26 WHOLESALERS

27 **12-42.5-301. [Formerly 12-22-801 (1) and (2)] Definitions.**

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

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

5             ~~(b)~~ (2) "Authorized distributor of record" means a wholesaler with  
6     whom a manufacturer has established an ongoing relationship to  
7     distribute the manufacturer's prescription drug. FOR PURPOSES OF THIS  
8     SUBSECTION (2), an ongoing relationship is deemed to exist between a  
9     wholesaler and a manufacturer when the wholesaler, including any  
10    affiliated group of the wholesaler as defined in section 1504 of the federal  
11    "Internal Revenue Code of 1986", complies with the following:

12            ~~(1)~~ (a) The wholesaler has a written agreement currently in effect  
13    with the manufacturer evidencing such ongoing relationship; and

14            ~~(2)~~ (b) The wholesaler is listed on the manufacturer's current list  
15    of authorized distributors of record, which list is updated by the  
16    manufacturer on no less than a monthly basis.

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

18            ~~(c.5)~~ (3) "Board-registered outlet" means a prescription drug  
19    outlet, ~~an entity licensed pursuant to section 12-22-304~~, an other outlet,  
20    a nonresident prescription drug outlet, a wholesaler, or a manufacturer.

21            ~~(d)~~ (4) "Chain pharmacy warehouse" means a physical location for  
22    prescription drugs that ~~acts~~ SERVES as a central warehouse and performs  
23    intracompany sales or transfers of ~~such~~ PRESCRIPTION drugs to a group of  
24    chain pharmacies or other chain pharmacy warehouses that are under  
25    common ownership or control. Notwithstanding any other provision of  
26    this part 8 3, a chain pharmacy warehouse receiving distributions on  
27    behalf of, or making distributions to, an intracompany pharmacy ~~is not~~

1 ~~required to~~ NEED NOT be an authorized distributor of record to be  
2 ~~considered~~ part of the normal distribution channel.

3 (e) (5) "Designated representative" means a person authorized by  
4 a licensed wholesaler to act as a representative for the wholesaler.

5 (f) (6) "Drop shipment" means the sale by a manufacturer of the  
6 manufacturer's prescription drug, that manufacturer's third-party logistics  
7 provider, or that manufacturer's exclusive distributor to a wholesaler  
8 whereby the wholesaler takes title to, but not possession of, ~~such~~ THE  
9 prescription drug and the wholesaler invoices the board-registered outlet  
10 or practitioner authorized by law to prescribe the prescription drug and  
11 the board-registered outlet or the practitioner authorized by law to  
12 prescribe the prescription drug receives delivery of the prescription drug  
13 directly from the manufacturer of such drug, that manufacturer's  
14 third-party logistics provider, or that manufacturer's exclusive distributor.

15 (g) (7) "Facility" means a facility of a wholesaler where  
16 prescription drugs are stored, handled, repackaged, or offered for sale.

17 (h) (8) "Manufacturer's exclusive distributor" means ~~anyone~~ A  
18 PERSON who contracts with a manufacturer to provide or coordinate  
19 warehousing, distribution, or other services on behalf of a manufacturer  
20 and who takes title to the manufacturer's prescription drug but who does  
21 not have general responsibility to direct the sale or disposition of the  
22 manufacturer's prescription drug. ~~Such manufacturer's exclusive~~  
23 ~~distributor shall be licensed as a wholesaler under this part 8 and;~~ To be  
24 considered part of the normal distribution channel, A MANUFACTURER'S  
25 EXCLUSIVE DISTRIBUTOR shall ~~also~~ be an authorized distributor of record.

26 (i) (9) "Normal distribution channel" means a chain of custody for  
27 a prescription drug that goes directly or by drop shipment from a

1 manufacturer of the prescription drug to:

2 ~~(H)~~ (a) (I) A wholesaler to a pharmacy to a patient or other  
3 designated persons authorized by law to dispense or administer ~~such~~ A  
4 PRESCRIPTION drug to a patient;

5 (II) A wholesaler to a chain pharmacy warehouse to their  
6 intracompany pharmacies to a patient;

7 (III) A chain pharmacy warehouse to ~~their~~ ITS intracompany  
8 pharmacies to a patient; or

9 (IV) A pharmacy to a patient; or

10 ~~(H)~~ (b) A manufacturer's colicensed partner, third-party logistics  
11 provider, or exclusive distributor to a wholesaler to a pharmacy to a  
12 patient or other designated persons authorized by law to dispense or  
13 administer such drug to a patient; or

14 ~~(H)~~ (c) A manufacturer's colicensed partner, or that  
15 manufacturer's third-party logistics provider, or exclusive distributor to  
16 a wholesaler to a chain pharmacy warehouse to that chain pharmacy  
17 warehouse's intracompany pharmacy to a patient or other designated  
18 persons authorized by law to dispense or administer such drug to a  
19 patient; or

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

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

26 ~~(j)~~ (10) "Pedigree" means a document or electronic file containing  
27 information that records each distribution of any given prescription drug

1 that leaves the normal distribution channel.

2 ~~(k)~~ (11) "Pharmacy buying cooperative warehouse" means a  
3 permanent physical location that acts as a central warehouse for  
4 prescription drugs and from which sales of ~~such~~ PRESCRIPTION drugs are  
5 made to an exclusive group of pharmacies that are members or member  
6 owners of the buying cooperative operating the warehouse. ~~that shall be~~  
7 ~~licensed as a wholesaler.~~

8 ~~(h)~~ (12) "Prescription drug" means any drug, including any  
9 biological product, except for blood and blood components, including  
10 factor, intended for transfusion or biological products that are also  
11 medical devices, required by federal law or regulation to be dispensed  
12 only by a prescription, including finished dosage forms and bulk drug  
13 substances subject to section 503(b) of the "Federal Food, Drug, and  
14 Cosmetic Act".

15 ~~(m)~~ (13) "Repackage" means repackaging or otherwise changing  
16 the container, wrapper, or labeling to further the distribution of a  
17 prescription drug, excluding ~~that~~ REPACKAGING OR LABELING completed  
18 by the pharmacist responsible for dispensing product to the patient.

19 ~~(n)~~ (14) "Repackager" means a person who repackages  
20 prescription drugs.

21 ~~(o)~~ "Specialty wholesaler" means a person who exclusively  
22 distributes a prescription drug to a specific group of specialty pharmacies  
23 or licensed practitioners and who has certified to the board that the  
24 distribution of such products will only occur in the limited situations  
25 described in this paragraph (o). Such specialty wholesale distributors shall  
26 be separately licensed and designated as specialty wholesale distributors  
27 by the board.

1           ~~(p)~~ (15) "Third-party logistics provider" means anyone who  
2 contracts with a manufacturer to provide or coordinate warehousing,  
3 distribution, or other services on behalf of a manufacturer but does not  
4 take title to a prescription drug or have general responsibility to direct the  
5 prescription drug's sale or disposition. ~~A third-party logistics provider~~  
6 ~~shall be licensed as a wholesale distributor under this part 8.~~

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

16           ~~(2)~~ (16) ~~For the purposes of this part 8,~~ "Wholesale distribution"  
17 means distribution of prescription drugs to persons or entities other than  
18 a consumer or patient. "Wholesale distribution" does not include:

19           (a) Intracompany sales or transfers of prescription drugs,  
20 including a transaction or transfer between a division, subsidiary, parent,  
21 or affiliated or related company under common ownership or control of  
22 an entity;

23           (b) The sale, purchase, distribution, trade, or transfer of a  
24 prescription drug or offer to sell, purchase, distribute, trade, or transfer a  
25 prescription drug for emergency medical reasons or during a state or  
26 national declaration of emergency;

27           (c) The sale or transfer of a drug for medical reasons by a retail



1 pharmacy to another retail pharmacy to alleviate a temporary shortage  
2 pursuant to Colorado law;

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

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

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

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

11 (h) The sale, transfer, merger, or consolidation of all or part of the  
12 business of a pharmacy or pharmacies from or with another pharmacy or  
13 pharmacies, whether accomplished as a purchase and sale of stock or  
14 business assets;

15 (i) The direct sale, purchase, distribution, trade, or transfer of a  
16 prescription drug from a manufacturer to an authorized distributor of  
17 record to one additional authorized distributor of record but only if an  
18 authorized distributor of record that purchases a prescription drug from  
19 an authorized distributor of record that purchased the prescription drug  
20 directly from the manufacturer:

21 (I) Provides the supplying authorized distributor of record with a  
22 verifiable statement that the product is unavailable from the  
23 manufacturer; and

24 (II) Receives a verifiable statement from the supplying authorized  
25 distributor of record that the product was purchased directly from the  
26 manufacturer;

27 ~~(j) (Deleted by amendment, L. 2007, p. 1246, § 1, effective~~

1 ~~August 3, 2007.)~~

2 ~~(k)~~ (j) The delivery of, or offer to deliver, a prescription drug by  
3 a common carrier solely in the common carrier's usual course of business  
4 of transporting prescription drugs where the common carrier does not  
5 store, warehouse, or take legal ownership of the prescription drug;

6 ~~(h)~~ (k) The sale or transfer from a retail pharmacy or chain  
7 pharmacy warehouse of expired, damaged, returned, or recalled  
8 prescription drugs to the original manufacturer or to a third-party returns  
9 processor;

10 ~~(m)~~ (l) The sale or transfer of compounded drugs compounded by  
11 a retail pharmacy, as defined in section ~~12-22-102 (6)~~ 12-42.5-102 (7),  
12 and as authorized by section ~~12-22-121 (6) (b)~~ 12-42.5-119 (6) (b);

13 ~~(n)~~ (m) The transfer of prescription drugs within Colorado  
14 purchased with public funds by the department of public health and  
15 environment, created in section 25-1-102, C.R.S., or a district or county  
16 public health agency, created pursuant to section 25-1-506, C.R.S., and  
17 procured by a physician licensed in Colorado who is either the executive  
18 director or the chief medical officer appointed pursuant to section  
19 25-1-105, C.R.S., or a public health director or medical officer of a  
20 county or district public health agency selected pursuant to section  
21 25-1-508 (5) (c) (I), C.R.S. The transfers may only be made to the  
22 department of public health and environment pursuant to the Colorado  
23 medical license of the executive director or chief medical officer, a  
24 district or county public health agency pursuant to the Colorado medical  
25 license of the public health director or medical officer, or a physician  
26 licensed in Colorado.

27 (17) "WHOLESALE" MEANS ANY PERSON ENGAGED IN THE

1 WHOLESale DISTRIBUTION OF PRESCRIPTION DRUGS, INCLUDING, BUT NOT  
2 LIMITED TO, REPACKAGERS; OWN-LABEL DISTRIBUTORS; PRIVATE-LABEL  
3 DISTRIBUTORS; JOBBERS; BROKERS; WAREHOUSES, INCLUDING  
4 MANUFACTURERS' AND DISTRIBUTORS' WAREHOUSES; MANUFACTURERS'  
5 EXCLUSIVE DISTRIBUTORS; AUTHORIZED DISTRIBUTORS OF RECORD; DRUG  
6 WHOLESALERS OR DISTRIBUTORS; INDEPENDENT WHOLESALE DRUG  
7 TRADERS; PHARMACY BUYING COOPERATIVE WAREHOUSES; RETAIL  
8 PHARMACIES THAT CONDUCT WHOLESALE DISTRIBUTION; AND CHAIN  
9 PHARMACY WAREHOUSES THAT CONDUCT WHOLESALE DISTRIBUTION.

10 **12-42.5-302. [Formerly 12-22-801 (3)] Exemption for**  
11 **pharmacy benefits entity.** ~~(3) (1) (a) The board shall have the authority~~  
12 ~~to~~ MAY exempt a pharmacy benefits entity from the requirements of  
13 sections ~~12-22-802 and 12-22-803~~ 12-42.5-303 AND 12-42.5-304 if ~~such~~  
14 THE entity's purchases are solely from a manufacturer or a wholesale  
15 distributor in the normal distribution channel, and any subsequent sales  
16 or further distributions are to entities other than a wholesaler within the  
17 normal distribution channel.

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

24 ~~(b) (2) The board shall have the authority to~~ MAY exempt a  
25 wholesaler from any ~~of the requirements~~ REQUIREMENT of this part 8 3 if  
26 the wholesaler exclusively distributes animal health medicines. THE  
27 BOARD MAY EXEMPT A WHOLESALER THAT DISTRIBUTES ANIMAL HEALTH

1 MEDICINES FROM THE REQUIREMENTS OF SECTION 12-42.5-306.

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

4 (a) A licensed wholesaler operated by a nonprofit organization  
5 exempt from taxation under section 501 (c) (3) of the federal "Internal  
6 Revenue Code of 1986", as amended, that engages only in intracompany  
7 sales or transfers of prescription drugs to licensed other outlets or  
8 pharmacies that are controlled by, or under common ownership or control  
9 with, the wholesaler and that purchase drugs directly from the  
10 manufacturer or the manufacturer's authorized distributor of record for  
11 distribution or transfer to the wholesaler's licensed other outlets,  
12 pharmacies, or other areas authorized by state law; ~~The board shall~~  
13 exempt

14 (b) A licensed wholesaler operated by a hospital, a state agency,  
15 or a political subdivision ~~from the requirements of sections 12-22-802 and~~  
16 ~~12-22-803~~ if ~~such~~ THE entity purchases drugs directly from a  
17 manufacturer or a manufacturer's authorized distributor of record and if  
18 any further distribution is to authorized licensed entities within its own  
19 network.

20 **12-42.5-303. [Formerly 12-22-802] Wholesaler license**  
21 **requirements.** (1) (a) A wholesaler that resides in this state ~~shall~~ MUST  
22 be licensed by the board. A wholesaler that does not reside in this state  
23 ~~shall~~ MUST be licensed in this state prior to engaging in the wholesale  
24 distribution of prescription drugs in this state. The board shall exempt a  
25 manufacturer and that manufacturer's third-party logistics providers to the  
26 extent involving that manufacturer's drugs under contract from any  
27 licensing qualifications and other requirements, including the

1 requirements in subparagraphs (VI) and (VII) of paragraph (a) of  
2 subsection (3) of this section, subsections (4) to (6) of this section, and  
3 section ~~12-22-803~~ 12-42.5-304, to the extent the requirements are not  
4 required by federal law or regulation, unless the particular requirements  
5 are deemed necessary and appropriate following rule-making by the  
6 board.

7 (b) A MANUFACTURER'S EXCLUSIVE DISTRIBUTOR AND PHARMACY  
8 BUYING COOPERATIVE WAREHOUSE MUST BE LICENSED BY THE BOARD AS  
9 A WHOLESALER PURSUANT TO THIS PART 3. A THIRD-PARTY LOGISTICS  
10 PROVIDER MUST BE LICENSED BY THE BOARD AS A WHOLESALE  
11 DISTRIBUTOR PURSUANT TO THIS PART 3.

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

18 (b) An applicant for a license shall pay any ~~reasonable~~ fee  
19 required by the accreditation body or the board and comply with any rules  
20 promulgated by the board.

21 (c) The board shall not issue or renew a license to a wholesaler  
22 who does not comply with this part & 3.

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

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

- 1 (II) The trade and business names used by the applicant;
- 2 (III) The addresses, telephone numbers, and ~~the~~ names of the
- 3 contact persons for all facilities used by the applicant for the storage,
- 4 handling, and distribution of prescription drugs;
- 5 (IV) The type of ownership or operation of the applicant;
- 6 (V) The names of the owner and the operator of the applicant,
- 7 including:
- 8 (A) The name of each partner if the applicant is a partnership;
- 9 (B) The name and title of each officer and director, the name of
- 10 the corporation, and the state of incorporation, if the applicant is a
- 11 corporation;
- 12 (C) The name of the limited liability company, if the applicant is
- 13 a limited liability company, and the name of the parent company, if any,
- 14 and the state of incorporation OR FORMATION of both; ~~and~~ OR
- 15 (D) The name of the sole proprietor and the business entity if the
- 16 applicant is a sole proprietorship;
- 17 (VI) A list of the licenses and permits issued to the applicant by
- 18 any other state that authorizes the applicant to purchase or possess
- 19 prescription drugs; and
- 20 (VII) The name of the applicant's designated representative for the
- 21 facility, the fingerprints of the designated representative, and a personal
- 22 information statement for the designated representative that includes
- 23 information as required by the board, including but not limited to the
- 24 information in subsection (5) of this section.
- 25 (b) A licensee shall complete and return a form approved by the
- 26 board at each renewal period. The board may suspend or revoke the
- 27 license of a wholesaler if the board determines that the wholesaler no

1 longer qualifies for a license.

2 (4) Prior to issuing a wholesaler license to an applicant, the board,  
3 ~~state board of pharmacy~~ THE REGULATORY OVERSIGHT BODY FROM  
4 ANOTHER STATE, or board-approved accreditation body may conduct a  
5 physical inspection of the facility at the business address provided by the  
6 applicant. Nothing in this subsection (4) shall preclude the board from  
7 inspecting a wholesaler.

8 (5) The designated representative of an applicant for a wholesaler  
9 license shall:

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

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

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

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

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

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

27 (g) Not have any convictions under federal, state, or local law

1 relating to wholesale or retail prescription drug distribution or a  
2 controlled substance, AS DEFINED IN SECTION 18-18-102 (5), C.R.S.;

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

5 (i) Update all of the information required in this part 8 3 whenever  
6 changes occur.

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

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

21 **12-42.5-305. [Formerly 12-22-804] Restrictions on**  
22 **transactions.** (1) A wholesaler shall ~~receive~~ ACCEPT prescription drug  
23 returns or exchanges from a pharmacy or a chain pharmacy warehouse  
24 pursuant to the terms and conditions of the agreement between the  
25 wholesale distributor and the pharmacy or chain pharmacy warehouse.  
26 The RECEIVING WHOLESALE DISTRIBUTOR SHALL DISTRIBUTE returns or  
27 exchanges of expired, damaged, recalled, or otherwise unsaleable



1 pharmaceutical product ~~shall be distributed by the receiving wholesale~~  
2 ~~distributor~~ only to either the original manufacturer or to a third-party  
3 returns processor. The returns or exchanges of prescription drugs,  
4 saleable or unsaleable, including any redistribution by a receiving  
5 wholesaler, ~~shall~~ ARE not be subject to the pedigree requirements of  
6 section ~~12-22-805~~ 12-42.5-306, so long as the drugs are exempt from the  
7 pedigree requirement of the federal food and drug administration's  
8 currently applicable "Prescription Drug Marketing Act of 1987" guidance.  
9 The pharmacies, chain pharmacy warehouses, and ~~cooperative~~ pharmacy  
10 BUYING COOPERATIVE warehouses ~~shall be~~ ARE responsible for ensuring  
11 that the prescription drugs returned are what they purport to be and shall  
12 ensure that those returned prescription drugs were stored under proper  
13 conditions since their receipt. Wholesalers ~~shall be held accountable~~ ARE  
14 RESPONSIBLE for policing their returns process and helping to ensure that  
15 their operations are secure and do not permit the entry of adulterated or  
16 counterfeit product. A pharmacist shall not knowingly return a medication  
17 that is not what it purports to be.

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

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

26 (4) (3) A MANUFACTURER OR WHOLESALER MAY FURNISH  
27 prescription drugs ~~may be furnished~~ to a hospital pharmacy receiving area

1 if a pharmacist or authorized receiving agent signs, at the time of  
2 delivery, a receipt showing the type and quantity of the prescription drug  
3 received. THE PHARMACIST OR AUTHORIZED RECEIVING AGENT SHALL  
4 REPORT any discrepancy between the receipt and the type and quantity of  
5 the prescription drug actually received ~~shall be reported~~ to the delivering  
6 manufacturer or wholesaler by the next business day after the delivery to  
7 the pharmacy receiving area.

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

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

24 ~~(2) On or before June 1, 2007, the board shall determine and~~  
25 ~~establish an implementation date for the use of electronic pedigrees. The~~  
26 ~~implementation date shall be on or after December 31, 2007. In making~~  
27 ~~its determination, the board shall consult with manufacturers,~~

1 ~~wholesalers, and pharmacies responsible for the sale and distribution of~~  
2 ~~prescription drugs in this state.~~

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

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

12       (a) The name, address, telephone number, and, if available, the  
13 electronic mail address of each owner of the prescription drug and each  
14 wholesaler of the drug;

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

17       (c) The transaction dates;

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

19       (e) The name of the prescription drug;

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

21       (g) The size and number of containers;

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

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

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

1 or an authorized agent of the board.

2 ~~(6)~~ (5) This section ~~shall~~ DOES not apply to a retail pharmacy or  
3 chain pharmacy warehouse if the retail pharmacy or chain pharmacy  
4 warehouse does not engage in the wholesale distribution of prescription  
5 drugs.

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

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

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

#### 14 PART 4

#### 15 ELECTRONIC MONITORING OF 16 PRESCRIPTION DRUGS

17 **12-42.5-401. [Formerly 12-22-701] Legislative declaration.**

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

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

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

26 (c) Electronic monitoring of prescriptions for controlled  
27 substances ~~would provide~~ PROVIDES a mechanism whereby ~~prescribers~~

1 ~~could~~ PRACTITIONERS CAN discover the extent of each patient's requests  
2 for drugs and whether other providers have prescribed similar substances  
3 during a similar period of time;

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

8 **12-42.5-402. [Formerly 12-22-702] Definitions.** As used in this  
9 part 7 4, unless the context otherwise requires:

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

11 ~~(2) Repealed.~~

12 ~~(3)~~ (1) "Controlled substance" means any schedule II, III, IV, or  
13 V drug as listed in sections 18-18-204, 18-18-205, 18-18-206, and  
14 18-18-207, C.R.S.

15 ~~(4)~~ (2) "Division" means the division of registrations in the  
16 department of regulatory agencies.

17 ~~(5)~~ (3) "Drug abuse" or "abuse" means utilization of a controlled  
18 substance for nonmedical purposes or in a manner that does not meet  
19 generally accepted standards of medical practice.

20 ~~(6) "Practitioner" shall have the same meaning as in section~~  
21 ~~18-18-102 (29), C.R.S.~~

22 ~~(7)~~ (4) "Prescription drug outlet" OR "PHARMACY" means any  
23 resident or nonresident pharmacy outlet registered or licensed pursuant to  
24 this article where prescriptions are compounded and dispensed.

25 ~~(8)~~ (5) "Program" means the electronic prescription drug  
26 monitoring program developed or procured by the board in accordance  
27 with section ~~12-22-704~~ 12-42.5-403.

1           **12-42.5-403. [Formerly 12-22-704] Prescription drug use**

2           **monitoring program.** (1) The board shall develop or procure a  
3           prescription controlled substance electronic program to track  
4           INFORMATION REGARDING prescriptions for controlled substances  
5           dispensed in Colorado, ~~The program shall track information regarding~~  
6           ~~controlled substance prescriptions that includes, but is not limited to,~~  
7           INCLUDING the following INFORMATION:

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

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

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

25           ~~(3)~~ (4) The division may contract with any individual or public or  
26           private agency or organization in carrying out the data collection and  
27           processing duties required by this part ~~7~~ 4.

1                   **12-42.5-404. [Formerly 12-22-705] Program operation - access**

2   **- rules.** (1) The board shall operate and maintain the program.

3                   (2) The board shall adopt all rules necessary to implement the  
4   program.

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

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

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

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

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

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

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

26                  (g) State regulatory boards within the division and the director of  
27   the division so long as the information released is specific to an

1 individual ~~prescriber~~ PRACTITIONER and is part of a bona fide  
2 investigation, and the request for information is accompanied by an  
3 official court order or subpoena; and

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

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

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

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

23 **12-42.5-405. [Formerly 12-22-706] Prescription drug**  
24 **monitoring fund - creation - gifts, grants, and donations - fee.** (1) The  
25 board ~~is authorized to~~ MAY seek and accept funds from any public or  
26 private entity for the purposes of implementing and maintaining the  
27 program. THE BOARD SHALL TRANSMIT any ~~such funds collected shall be~~



1 ~~transmitted~~ IT RECEIVES to the state treasurer, who shall credit the same  
2 to the prescription drug monitoring fund, which fund is hereby created.  
3 The moneys in the fund ~~shall be~~ ARE subject to annual appropriation by  
4 the general assembly for the sole purpose of implementing and  
5 maintaining the program. The moneys in the fund ~~shall~~ MUST not be  
6 transferred to or revert to the general fund at the end of any fiscal year.

7 ~~(2) (Deleted by amendment, L. 2007, p. 1039, § 1, effective May~~  
8 ~~22, 2007.)~~

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

16 ~~(4) (Deleted by amendment, L. 2007, p. 1039, § 1, effective May~~  
17 ~~22, 2007.)~~

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

1 with the license renewal fees collected pursuant to section 24-34-105,  
2 C.R.S. Moneys collected pursuant to this subsection ~~(5) shall be~~ (3) ARE  
3 credited to the prescription drug monitoring fund created in subsection (1)  
4 of this section.

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

11 **12-42.5-407. [Formerly 12-22-708] Prescription drug outlets**  
12 **- prescribers - responsibilities - liability.** (1) A prescription drug outlet  
13 shall submit information in the manner required by the board.

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

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

1 ~~12-22-116~~ 12-42.5-113 shall comply with the provisions of this part 7 4  
2 for controlled substances dispensed for outpatient care that have more  
3 than a twenty-four-hour supply.

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

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

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

16 **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **amend**  
17 (43) introductory portion, (45) introductory portion, (45) (e), (52)  
18 introductory portion, (52) (b), and (52.5) introductory portion; **repeal**  
19 (25.7) (a) and (43) (a); and **add** (52.5) (b) as follows:

20 **24-34-104. General assembly review of regulatory agencies**  
21 **and functions for termination, continuation, or reestablishment.**  
22 (25.7) The following agencies, functions, or both, shall terminate on July  
23 1, 1996:

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

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

3 (a) ~~The state board of pharmacy and regulation of the practice of~~  
4 ~~pharmacy by the department of regulatory agencies through the division~~  
5 ~~of registrations;~~

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

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

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

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

16 (52.5) The following agencies, functions, or both, ~~shall~~ terminate  
17 on September 1, 2021:

18 (b) THE STATE BOARD OF PHARMACY AND THE REGULATION OF THE  
19 PRACTICE OF PHARMACY BY THE DEPARTMENT OF REGULATORY AGENCIES  
20 THROUGH THE DIVISION OF REGISTRATIONS IN ACCORDANCE WITH PARTS  
21 1 TO 3 OF ARTICLE 42.5 OF TITLE 12, C.R.S.

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

24 **12-64-111. Discipline of licensees.** (1) Upon receipt of a signed  
25 complaint by a complainant or upon its own motion, the board may  
26 proceed to a hearing in conformity with section 12-64-112. After a  
27 hearing, and by a concurrence of a majority of members, the board may

1 deny a license to an applicant or revoke or suspend the license of, place  
2 on probation, or otherwise discipline or fine, a licensed veterinarian for  
3 any of the following reasons:

4 (v) Habitual or excessive use or abuse of alcohol beverages, a  
5 habit-forming drug, or a controlled substance as defined in section  
6 ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.;

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

8 (hh) FAILURE TO PROVIDE A WRITTEN PRESCRIPTION TO A  
9 WHOLESALER WITHIN SEVENTY-TWO HOURS AFTER ISSUING AN ORAL  
10 PRESCRIPTION ORDER, AS REQUIRED BY SECTION 12-42.5-119 (3) (b).

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

13 **PART 2**

14 **CONTROLLED SUBSTANCES**

15 **27-80-201. [Formerly 12-22-301] Short title.** This part ~~3~~ 2 shall  
16 be known and may be cited as the "Colorado Licensing of Controlled  
17 Substances Act".

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

24 **27-80-203. [Formerly 12-22-303] Definitions.** As used in this  
25 part ~~3~~ 2, unless the context otherwise requires:

26 (1) "Addict" means a person who has a physical or psychological  
27 dependence on a controlled substance, which dependence develops

1 following the use of the controlled substance on a periodic or continuing  
2 basis and is demonstrated by appropriate observation and tests by a  
3 person licensed to practice medicine pursuant to article 36 of this title 12,  
4 C.R.S.

5 (2) "Addiction program" means a program licensed under this part  
6 3, 2 for the detoxification, withdrawal, or maintenance treatment of  
7 addicts.

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

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

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

16 ~~(6)~~ (5) "Bureau" means the drug enforcement administration, or  
17 its successor agency, of the United States department of justice.

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

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

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

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

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

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

11 ~~(7.5) (a) "Controlled substance analog" means a substance the~~  
12 ~~chemical structure of which is substantially similar to the chemical~~  
13 ~~structure of a controlled substance in schedule I or II and:~~

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

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

23 (b) ~~"Controlled substance analog" does not include:~~

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

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

27 ~~(III) With respect to a particular person, any substance, if an~~

1 ~~exemption is in effect for investigational use, for that person, under~~  
2 ~~section 505 of the "Federal Food, Drug, and Cosmetic Act", 21 U.S.C.~~  
3 ~~sec. 355, as amended, to the extent that conduct with respect to the~~  
4 ~~substance is pursuant to the exemption; or~~

5 ~~(IV) Any substance to the extent not intended for human~~  
6 ~~consumption before such an exemption takes effect with respect to the~~  
7 ~~substance.~~

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

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

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

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

25 (11) "Dispense" ~~shall have the same meaning as set forth in~~  
26 ~~section 12-22-102 (9)~~ MEANS TO INTERPRET, EVALUATE, AND IMPLEMENT  
27 A PRESCRIPTION DRUG OR CONTROLLED SUBSTANCES ORDER OR CHART



1 ORDER, INCLUDING THE PREPARATION OF A DRUG OR DEVICE FOR A  
2 PATIENT OR PATIENT'S AGENT IN A SUITABLE CONTAINER APPROPRIATELY  
3 LABELED FOR SUBSEQUENT ADMINISTRATION TO OR USE BY A PATIENT.

4 (12) "Distribute" means to deliver a controlled substance other  
5 than by administering or dispensing.

6 ~~(12.5) "Distributor" has the same meaning as that set forth in~~  
7 ~~section 18-18-102 (12), C.R.S.~~

8 (13) (a) "Drug" means any of the substances:

9 (I) Recognized as drugs in the official United States  
10 pharmacopoeia, national formulary, or the official homeopathic  
11 pharmacopoeia of the United States, or a supplement thereof;

12 (II) Intended for use in the diagnosis, cure, mitigation, treatment,  
13 or prevention of disease in individuals or animals;

14 (III) Other than food, intended to affect the structure or any  
15 function of the body of individuals or animals; or

16 (IV) Intended for use as a component of any substance specified  
17 in subparagraph (I), (II), or (III) of this paragraph (a).

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

20 ~~(13.5) Repealed.~~

21 ~~(14) "Immediate precursor" means a substance which is a~~  
22 ~~principal compound commonly used or produced primarily for use, and~~  
23 ~~which is an immediate chemical intermediary used or likely to be used,~~  
24 ~~in the manufacture of a controlled substance, the control of which is~~  
25 ~~necessary to prevent, curtail, or limit manufacture.~~

26 ~~(15)~~ (14) "Maintenance treatment" means a program of more than  
27 six months' duration for the administering or dispensing of a controlled

1 substance, approved for such use by federal law or regulation, to an addict  
2 for the purpose of continuing his OR HER dependence upon a controlled  
3 substance in the course of conducting an authorized rehabilitation  
4 program for addicts, with a long-term goal of decreasing the addict's  
5 controlled substance dependency and leading to his OR HER possible  
6 withdrawal.

7 ~~(16) "Manufacturer" means a person who is licensed by this part~~  
8 ~~3 and who, by compounding, mixing, cultivating, planting, growing, or~~  
9 ~~other process, produces or prepares a controlled substance, but the term~~  
10 ~~does not include a pharmacist who compounds controlled substances to~~  
11 ~~be dispensed pursuant to a prescription, a practitioner who compounds~~  
12 ~~controlled substances for dispensing in the course of his professional~~  
13 ~~practice, or a researcher acting within the provisions of this part 3.~~

14 ~~(17)~~ (15) "Marihuana" or "Marijuana" means all parts of the plant  
15 cannabis sativa L., whether growing or not, the seeds thereof, the resin  
16 extracted from any part of the plant, and every compound, manufacture,  
17 salt, derivative, mixture, or preparation of the plant, its seeds, or its resin.  
18 It does not include fiber produced from the stalks, oil or cake made from  
19 the seeds of the plant, or sterilized seed of the plant ~~which~~ THAT is  
20 incapable of germination, if these items exist apart from any other item  
21 defined as ~~"marihuana"~~ "MARIJUANA" in this subsection ~~(17)~~.  
22 ~~"Marihuana"~~ (15). "MARIJUANA" does not include ~~marihuana~~ MARIJUANA  
23 concentrate as defined in subsection ~~(18)~~ (16) of this section.

24 ~~(18)~~ (16) "Marijuana concentrate" means hashish,  
25 tetrahydrocannabinols, or any alkaloid, salt, derivative, preparation,  
26 compound, or mixture, whether natural or synthesized, of  
27 tetrahydrocannabinols.

1           ~~(19) "Narcotic controlled substance" means any of the following,~~  
2           ~~whether produced directly or indirectly by extraction from substances of~~  
3           ~~vegetable origin, or independently by means of chemical synthesis, or by~~  
4           ~~a combination of extraction and chemical synthesis:~~

5           ~~(a) Opium or any opiate or any salt, compound, derivative, or~~  
6           ~~preparation of opium or any opiate;~~

7           ~~(b) Any salt, compound, isomer, derivative, or preparation thereof~~  
8           ~~which is chemically equivalent to or identical with any of the substances~~  
9           ~~referred to in paragraph (a) of this subsection (19) but not including the~~  
10           ~~isoquinoline alkaloids of opium;~~

11           ~~(c) Any opium poppy or poppy straw.~~

12           ~~(20) "Opiate" means any substance having an addiction-forming~~  
13           ~~or addiction-sustaining liability similar to morphine or being capable of~~  
14           ~~conversion into a drug having an addiction-forming or~~  
15           ~~addiction-sustaining liability. "Opiate" does not include, unless~~  
16           ~~specifically designated as controlled under this part 3, the dextrorotatory~~  
17           ~~isomer of 3-methoxy-n-methyl-morphinan and its salts~~  
18           ~~(dextromethorphan). The term does include its racemic and levorotatory~~  
19           ~~forms.~~

20           ~~(21) "Opium poppy" means the plant of the species papaver~~  
21           ~~somniferum L., except its seeds.~~

22           ~~(22) (17) "Peace officer" shall have the same meaning as set forth~~  
23           ~~in section 16-2.5-101, C.R.S.~~

24           ~~(23) (18) "Person" means any individual, government,~~  
25           ~~governmental subdivision, agency, business trust, estate, trust,~~  
26           ~~partnership, corporation, association, institution, or other legal entity.~~

27           ~~(24) (19) "Peyote" means all parts of the plant presently classified~~

1 botanically as lophophora williamsii lemaire, whether growing or not, the  
2 seeds thereof, any extraction from any part of such plant, and every  
3 compound, manufacture, salt, derivative, mixture, or preparation of such  
4 plant or its seeds or extracts.

5 ~~(25) "Pharmacist" means an individual licensed pursuant to part~~  
6 ~~1 of this article to engage in the practice of pharmacy, as defined in~~  
7 ~~section 12-22-102 (26).~~

8 ~~(26) "Pharmacy" or "prescription drug outlet" shall have the same~~  
9 ~~meaning as set forth in section 12-22-102 (30.2).~~

10 ~~(27) "Poppy straw" means all parts, except the seeds, of the opium~~  
11 ~~poppy, after mowing.~~

12 ~~(28) (20) "Practitioner" shall have the same meaning as set forth~~  
13 ~~in section 12-22-102 (27) MEANS A PERSON AUTHORIZED BY LAW TO~~  
14 ~~PRESCRIBE ANY DRUG OR DEVICE, ACTING WITHIN THE SCOPE OF SUCH~~  
15 ~~AUTHORITY.~~

16 (21) **[Formerly 12-22-102 (30)]** "Prescription drug" means a drug  
17 that, prior to being dispensed or delivered, is required to be labeled with  
18 the following statement: "Caution: Federal law prohibits dispensing  
19 without a prescription.", "Rx only", or "Caution: Federal law restricts this  
20 drug to use by or on the order of a licensed veterinarian."

21 ~~(29) (22) "Production" or "produces" means the manufacturing,~~  
22 ~~planting, cultivating, growing, or harvesting of a controlled substance.~~

23 ~~(30) "Remuneration" means anything of value, including money,~~  
24 ~~real property, tangible and intangible personal property, contract rights,~~  
25 ~~choses in action, services, and any rights of use or employment or~~  
26 ~~promises or agreements connected therewith.~~

27 ~~(31) (23)~~ "Researcher" means any person licensed by the

1 department pursuant to this part 3 2 to experiment with, study, or test any  
2 controlled substance within this state and includes analytical laboratories.

3 ~~(32)~~ (24) (a) "Tetrahydrocannabinols" means synthetic equivalents  
4 of the substances contained in the plant, or in the resinous extractives of,  
5 cannabis, sp., or synthetic substances, derivatives, and their isomers with  
6 similar chemical structure and pharmacological activity, such as the  
7 following:

- 8 (I) <sup>1</sup>cis or trans tetrahydrocannabinol, and their optical isomers;  
9 (II) <sup>6</sup>cis or trans tetrahydrocannabinol, and their optical isomers;  
10 (III) <sup>3,4</sup>cis or trans tetrahydrocannabinol, and their optical isomers.

11 (b) Since the nomenclature of the substances listed in paragraph  
12 (a) of this subsection ~~(32)~~ (24) is not internationally standardized,  
13 compounds of these structures, regardless of the numerical designation of  
14 atomic positions, are included in this definition.

15 ~~(33) "Ultimate user" means a person who lawfully possesses a~~  
16 ~~controlled substance for his own use, for the use of a member of his~~  
17 ~~household, or for use in administering to an animal owned by him or a~~  
18 ~~member of his household.~~

19 ~~(34) (Deleted by amendment, L. 92, p. 386, § 5, effective July 1,~~  
20 ~~1992.)~~

21 ~~(35)~~ (25) "Withdrawal treatment" means a program for an  
22 intermediate term, of more than three weeks but less than six months, for  
23 the administering or dispensing, in decreasing doses, of a controlled  
24 substance, approved for such use by federal law or regulation, to an addict  
25 while receiving rehabilitative measures as indicated, with the immediate  
26 goal being to render the addict no longer dependent on the intake of any  
27 amount of a controlled substance.

1           **27-80-204. [Formerly 12-22-304] License required - controlled**

2           **substances - repeal.** (1) (a) In accordance with part 3 of article 18 of  
3 title 18, C.R.S., AN ADDICTION PROGRAM THAT COMPOUNDS,  
4 ADMINISTERS, OR DISPENSES A CONTROLLED SUBSTANCE SHALL ANNUALLY  
5 OBTAIN a license issued by the department ~~shall be obtained annually~~ for  
6 each place of business or professional practice located in this state. ~~by:~~

7           ~~(a) Repealed.~~

8           ~~(b) (I) Every addiction program which compounds, administers,~~  
9 ~~or dispenses a controlled substance.~~

10           ~~(H) (A)~~ (b) (I) This ~~paragraph (b)~~ SUBSECTION (1) is repealed,  
11 effective July 1, 2014.

12           ~~(B)~~ (II) Prior to ~~such~~ THE repeal, the DEPARTMENT OF  
13 REGULATORY AGENCIES SHALL REVIEW THE licensing functions of the  
14 department ~~shall be reviewed~~ as provided in section 24-34-104, C.R.S. IN  
15 CONDUCTING the review, THE DEPARTMENT OF REGULATORY AGENCIES  
16 shall ~~also~~ consider whether the licensing pursuant to this ~~paragraph (b)~~  
17 SUBSECTION (1) should be combined with the licensing of any other drug  
18 and alcohol addiction treatment programs by the department.

19           ~~(2) In accordance with part 3 of article 18 of title 18, C.R.S., a~~  
20 ~~license issued by the board shall be obtained annually or biannually, if~~  
21 ~~applicable, for:~~

22           ~~(a) Every manufacturer in this state who manufactures or~~  
23 ~~distributes a controlled substance;~~

24           ~~(b) Every distributor who distributes a controlled substance in this~~  
25 ~~state or who is doing business in this state.~~

26           ~~(2.5) Repealed.~~

27           ~~(3) (a) A license issued by the board shall be obtained annually by~~

1 a humane society as provided in this subsection (3). The board shall, as  
2 provided in section 24-34-105, C.R.S., collect a fee and issue a license to  
3 a humane society as provided in this subsection (3).

4 (b) A humane society that is duly registered with the secretary of  
5 state and has been in existence and in business for at least five years in  
6 this state as a nonprofit corporation, or an animal control agency that is  
7 operated by a unit of government, may apply to the board for a license for  
8 the purposes of being authorized to purchase, possess, and administer  
9 sodium pentobarbital, or sodium pentobarbital in combination with other  
10 prescription drugs that are medically recognized for euthanasia, to  
11 euthanize injured, sick, homeless, or unwanted pets and animals and to  
12 purchase, possess, and administer drugs commonly used for the chemical  
13 capture of animals for control purposes or to sedate or immobilize pet  
14 animals immediately prior to euthanasia. Any society or agency so  
15 licensed shall not permit a person to administer scheduled controlled  
16 substances, sodium pentobarbital, or sodium pentobarbital in combination  
17 with other noncontrolled prescription drugs that are medically recognized  
18 for euthanasia unless such person has demonstrated adequate knowledge  
19 of the potential hazards and proper techniques to be used in administering  
20 such drug or combination of drugs. The board may issue a limited license  
21 to carry out the provisions of this subsection (3). The board shall issue  
22 such rules as it deems necessary to ensure strict compliance with the  
23 provisions of this subsection (3) and shall, in conjunction with the state  
24 board of veterinary medicine, develop criteria for training individuals in  
25 the administration of such drug or combination of drugs. The board may  
26 suspend or revoke the license upon determination that the person  
27 administering such drug or combination of drugs has not demonstrated

1 adequate knowledge required by this subsection (3). Nothing in this  
2 subsection (3) shall be construed to apply to a licensed veterinarian.

3 ~~(4)~~ (2) Persons licensed as required under this part 3 2, or  
4 otherwise licensed as required by federal law, may possess, manufacture,  
5 distribute, dispense, administer, or conduct or do research with controlled  
6 substances only to the extent authorized by their licenses and in  
7 conformity with the provisions of this part 3 2 and with article 18 of title  
8 18, C.R.S.

9 ~~(5)~~ (3) The following persons need not be licensed by the  
10 department or by the board to lawfully possess controlled substances  
11 under this part 3:

12 ~~(a) to (d) (Deleted by amendment, L. 92, p. 387, § 6, effective July~~  
13 ~~1, 1992.)~~

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

20 ~~(5.5) and (5.6) Repealed.~~

21 ~~(6)~~ (4) ~~Any~~ A person who is required to be BUT IS NOT YET  
22 licensed ~~and who is not so licensed~~ may apply for a license at any time.  
23 ~~No~~ A person WHO IS required to be licensed UNDER THIS PART 2 shall NOT  
24 engage in any activity for which a license is required until ~~his~~ THE  
25 DEPARTMENT GRANTS THE PERSON'S application ~~is granted~~ and ISSUES a  
26 license ~~is issued~~ to him ~~by the department or the board~~ OR HER.

27 ~~(7)~~ (5) ~~No~~ THE DEPARTMENT SHALL NOT ISSUE A license ~~shall be~~



1 issued under this part 3 2 to a researcher ~~manufacturer, or distributor~~ of  
2 marijuana or marijuana concentrate.

3 **27-80-205. [Formerly 12-22-305] Issuance of license - fees.**

4 (1) The department, ~~or the board~~ as provided in section ~~12-22-304 (1) or~~  
5 ~~(2)~~ 27-80-204 (1), shall issue the appropriate license to each  
6 ~~manufacturer, distributor,~~ researcher and addiction program meeting all  
7 the requirements of this part 3 2 unless it determines that the issuance of  
8 the license would be inconsistent with the public interest. In determining  
9 the public interest, the department ~~or the board~~ shall consider the  
10 following factors:

11 (a) Maintenance of effective controls against diversion of  
12 controlled substances into illegitimate medical, scientific, or industrial  
13 channels;

14 (b) Compliance with applicable state and local laws;

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

17 (d) Past experience in the manufacture or distribution of  
18 controlled substances and the existence in the applicant's establishment  
19 of effective controls against diversion;

20 (e) Any false or fraudulent information in an application filed  
21 under this part 3 2;

22 (f) Suspension or revocation of the applicant's federal registration  
23 to manufacture, distribute, or dispense a controlled substance as  
24 authorized by federal law; and

25 (g) Any other factors relevant to and consistent with the public  
26 peace, health, and safety.

27 ~~(1.5) Repealed.~~

1           (2) Issuance of a license under subsection (1) of this section does  
2 not entitle a licensee to ~~wholesale, manufacture,~~ distribute or  
3 professionally use controlled substances beyond the scope of ~~his~~ THE  
4 LICENSEE'S federal registration.

5           (3) (a) The initial and annual license fees are as follows:

6           (I) Addiction program ..... \$ 75.00

7           (II) Researchers ..... \$ 25.00

8           (b) ~~Notwithstanding the provisions of paragraph (a) of this~~  
9 ~~subsection (3), the fees collected by the board under this article shall be~~  
10 ~~determined, collected, and appropriated pursuant to section 24-34-105,~~  
11 ~~C.R.S.~~ THE DEPARTMENT SHALL TRANSMIT THE FEES COLLECTED  
12 PURSUANT TO THIS SECTION TO THE STATE TREASURER FOR DEPOSIT IN THE  
13 CONTROLLED SUBSTANCES PROGRAM FUND CREATED IN SECTION  
14 27-80-206.

15           (4) Any person who is licensed may apply for license renewal not  
16 more than sixty days before the expiration date of ~~his~~ THE license.

17           (5) ~~Neither~~ The United States, ~~nor~~ the state of Colorado, or any of  
18 its political ~~subdivisions shall~~ SUBDIVISION OF THE STATE IS NOT  
19 REQUIRED TO pay any license fee required by this part 3 2.

20           **27-80-206. [Formerly 12-22-306] Controlled substances**  
21 **program fund - disposition of fees.** There is hereby created in the state  
22 treasury the controlled substances program fund. THE DEPARTMENT SHALL  
23 TRANSMIT all moneys ~~collected by the department shall be transmitted~~ IT  
24 COLLECTS PURSUANT TO THIS PART 2 to the state treasurer, who shall  
25 credit the ~~same~~ MONEYS to the controlled substances program fund. The  
26 general assembly shall make annual appropriations from the controlled  
27 substances program fund to the department for the purposes authorized

1 by this part 3 2. All moneys credited to the controlled substances program  
2 fund and any interest earned on ~~such~~ THE fund ~~shall~~ remain in the fund  
3 and ~~shall~~ DO not revert to the general fund or any other fund at the end of  
4 any fiscal year.

5 **27-80-207. [Formerly 12-22-307] Qualifications for license.**

6 (1) An applicant for a license under this part 3 ~~must~~ 2 SHALL have  
7 adequate and proper facilities for the handling and storage of controlled  
8 substances and SHALL maintain proper control over ~~such~~ THE controlled  
9 substances to ~~insure against their being~~ ENSURE THE CONTROLLED  
10 SUBSTANCES ARE NOT illegally dispensed or distributed.

11 (2) Any person registered as a researcher by the federal  
12 government ~~shall be~~ IS presumed to possess the qualifications described  
13 in this section ~~so~~ AS long as his OR HER federal registration is valid.

14 (3) ~~No~~ THE DEPARTMENT SHALL NOT GRANT A license ~~shall be~~  
15 ~~granted to any~~ A person who has been convicted within the last two years  
16 of a willful violation of this part 3 2 or any other state or federal law  
17 regulating controlled substances.

18 (4) Except for fees, compliance by a registrant with the provisions  
19 of the federal law respecting registration entitles the registrant to be  
20 licensed under this part 3 2.

21 **27-80-208. [Formerly 12-22-308] Denial, revocation, or**

22 **suspension of license.** (1) THE DEPARTMENT MAY DENY, SUSPEND, OR  
23 REVOKE a license issued under this ~~part 3 may be denied, suspended, or~~  
24 ~~revoked by the department or by the board~~ PART 2 pursuant to article 4 of  
25 title 24, C.R.S., upon a finding that the licensee:

26 (a) Has furnished false or fraudulent information in an application  
27 filed under this part 3 2;

1 (b) Has been convicted of, or has had accepted by a court a plea  
2 of guilty or nolo contendere to, a felony under any state or federal law  
3 relating to a controlled substance;

4 (c) Has had his or her federal registration to manufacture, conduct  
5 research on, distribute, or dispense a controlled substance suspended or  
6 revoked; or

7 (d) Has violated any provision of this part 3 2 or the rules ~~or~~  
8 ~~regulations~~ of the department or of the STATE board OF HUMAN SERVICES  
9 CREATED IN SECTION 26-1-107, C.R.S.

10 (2) The department ~~or the board~~ may limit revocation or  
11 suspension of a license to the particular controlled substance ~~which~~ THAT  
12 was the basis for revocation or suspension.

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

23 (4) The department ~~or the board~~ shall promptly notify the bureau  
24 and the appropriate professional licensing agency, if any, of all charges  
25 and the final disposition ~~thereof~~ OF THE CHARGES, and of all forfeitures  
26 of a controlled substance.

27 **27-80-209. [Formerly 12-22-317] Exemptions.** (1) The

1 provisions of section 18-18-414, C.R.S., ~~shall~~ DO not apply to:

2 (a) Agents of persons licensed under this part 3 2 or under part 3  
3 of article 18 of title 18, C.R.S., acting within the provisions of their  
4 licenses; or

5 (b) Officers or employees of appropriate agencies of federal, state,  
6 or local governments acting pursuant to their official duties.

7 (2) All combination drugs that are exempted by regulation of the  
8 attorney general of the United States department of justice, pursuant to  
9 section 1006 (b) of Public Law 91-513 (84 Stat. 1236), known as the  
10 "Comprehensive Drug Abuse Prevention and Control Act of 1970", on or  
11 after July 1, 1981, are ~~exempted~~ EXEMPT from ~~the provisions of this part~~  
12 3 2 and ~~from the provisions of part 3 of article 18 of title 18, C.R.S.~~

13 (3) ~~The provisions of This part 3 do 2~~ DOES not apply to peyote if  
14 ~~said controlled substance~~ IT is used in religious ceremonies of any bona  
15 fide religious organization.

16 (4) ~~The provisions of Section 12-22-318 shall~~ 27-80-210 DOES not  
17 apply to a practitioner authorized to prescribe ~~with respect to~~ any  
18 controlled substance ~~which~~ THAT is listed in schedules III, IV, or V of  
19 part 2 of article 18 of title 18, C.R.S., and ~~which~~ THAT is manufactured,  
20 received, or dispensed by ~~him~~ THE PRACTITIONER in the course of his OR  
21 HER professional practice, unless: ~~he~~

22 (a) THE PRACTITIONER dispenses, other than by direct  
23 administration, ~~any such~~ A SCHEDULE III, IV, OR V controlled substance  
24 to his OR HER patients, and ~~they are charged therefor~~ THE PRACTITIONER  
25 CHARGES THE PATIENTS either separately or together with charges for  
26 other professional services; or ~~unless he~~

27 (b) THE PRACTITIONER regularly engages in dispensing ~~any such~~

1 A SCHEDULE III, IV, OR V controlled substance to his OR HER patients.

2 (5) The exemptions set forth in this section ~~shall be~~ ARE available  
3 as a defense to any person accused of violating ~~the provisions of~~ section  
4 18-18-414, C.R.S.

5 (6) ~~It shall not be necessary for~~ The state IS NOT REQUIRED to  
6 negate any exemption or exception in this part 3 2 or in part 3 or 4 of  
7 article 18 of title 18, C.R.S., in any complaint, information, indictment,  
8 or other pleading or in any trial, hearing, or other proceeding under this  
9 part 3 2 or under part 4 of article 18 of title 18, C.R.S. The burden of  
10 ~~proof of any such~~ PROVING AN exemption or exception is upon the person  
11 claiming ~~it~~ THE EXEMPTION OR EXCEPTION.

12 **27-80-210. [Formerly 12-22-318] Records to be kept - order**  
13 **forms.** (1) ~~(a)~~ Each person licensed or otherwise authorized under this  
14 part 3 2 or other laws of this state to manufacture, purchase, distribute,  
15 dispense, administer, store, or otherwise handle controlled substances  
16 shall keep and maintain separate detailed and accurate records and  
17 inventories relating to controlled substances and retain ~~all such~~ THE  
18 records and inventories for a period of two years after the respective dates  
19 of ~~such~~ THE transactions as shown on ~~such~~ THE records and inventories.

20 ~~(b) Repealed.~~

21 (2) The record of any controlled substance distributed,  
22 administered, dispensed, or otherwise used ~~shall~~ MUST show the date ~~the~~  
23 ~~name and address of person to whom, for whose use,~~ the controlled  
24 substance was distributed, administered, dispensed, used, or otherwise  
25 disposed of, THE NAME AND ADDRESS OF THE PERSON TO WHOM OR FOR  
26 WHOSE USE THE CONTROLLED SUBSTANCE WAS DISTRIBUTED,  
27 ADMINISTERED, DISPENSED, USED, OR OTHERWISE DISPOSED OF, and the

1 kind and quantity of ~~such~~ THE controlled substance.

2 ~~(3) Manufacturing records of controlled substances shall include~~  
3 ~~the kind and quantity of controlled substances produced or removed from~~  
4 ~~process of manufacture and the dates of such production or removal from~~  
5 ~~process of manufacture.~~

6 ~~(4) (3) The keeping of~~ A PERSON WHO MAINTAINS a record  
7 required by federal law ~~containing~~ THAT CONTAINS substantially the same  
8 information as set forth in subsections (1) ~~to (3)~~ AND (2) of this section  
9 ~~shall constitute compliance~~ IS DEEMED TO COMPLY with the  
10 record-keeping requirements of this part 3 2.

11 ~~(5) (4) A PERSON REQUIRED TO MAINTAIN RECORDS PURSUANT TO~~  
12 ~~THIS SECTION SHALL KEEP A record~~ ~~shall also be kept~~ of any controlled  
13 substance lost, destroyed, or stolen, the kind and quantity of ~~such~~ THE  
14 controlled substance, and the date of ~~such~~ THE loss, destruction, or theft.

15 ~~(5.5) Prescription drug outlets shall report thefts of controlled~~  
16 ~~substances to the proper law enforcement agencies and to the board~~  
17 ~~within thirty days after the occurrence of such thefts.~~

18 ~~(6) (5) A PERSON LICENSED OR OTHERWISE AUTHORIZED UNDER~~  
19 ~~THIS PART 2 OR OTHER LAWS OF THIS STATE SHALL DISTRIBUTE,~~  
20 ~~ADMINISTER, DISPENSE, USE, OR OTHERWISE DISPOSE OF controlled~~  
21 ~~substances listed in schedule I or II of part 2 of article 18 of title 18,~~  
22 ~~C.R.S., shall be distributed by persons licensed or otherwise authorized~~  
23 ~~under this part 3 or other laws of this state only pursuant to an order form.~~  
24 Compliance with the provisions of federal law respecting order forms  
25 ~~shall be~~ IS deemed compliance with this section.

26 ~~(7) to (11) Repealed.~~

27 **27-80-211. [Formerly 12-22-319] Enforcement and**

1     **cooperation.** (1) Each peace officer and district attorney in this state  
2     shall enforce ~~all the provisions of this part 3~~ 2 and shall cooperate with  
3     all agencies charged with the enforcement of the laws of this state, all  
4     other states, and the United States relating to controlled substances.

5             (2) ~~The board shall make any inspections, investigations, and~~  
6     ~~reports that may be necessary to determine compliance with the~~  
7     ~~provisions of this part 3 as they pertain to pharmacies, pharmacists, and~~  
8     ~~manufacturers and distributors of controlled substances.~~ The department  
9     shall cooperate with all agencies charged with the enforcement of the  
10    laws of this state, all other states, and the United States relating to  
11    controlled substances. TO THIS END, THE DEPARTMENT SHALL:

12            (3) ~~The department of human services shall cooperate with all~~  
13    ~~agencies charged with the enforcement of the laws of this state, all other~~  
14    ~~states, and the United States relating to controlled substances. To this end,~~  
15    ~~the department shall:~~

16            (a) Arrange for the exchange of information among governmental  
17    officials concerning the use and abuse of controlled substances;

18            (b) Cooperate with the bureau and with local, state, and other  
19    federal agencies by maintaining a centralized unit to accept, catalogue,  
20    file, and collect statistics, including records of dependent and other  
21    controlled substance law offenders within the state, and make the  
22    information available for federal, state, and local law enforcement or  
23    regulatory purposes. ~~It~~ THE DEPARTMENT shall not furnish the name or  
24    identity of a patient or research subject whose identity could not be  
25    obtained under section ~~12-22-320~~ 27-80-212.

26            (c) Respond to referrals, complaints, or other information received  
27    regarding possible violations and, upon notification of the appropriate



1     licensing authority, if applicable, and upon a written finding by the  
2     executive director of the department that probable cause exists to believe  
3     that there is illegal distribution or dispensing of controlled substances, to  
4     make any inspections, investigations, and reports that may be necessary  
5     to determine compliance with ~~the provisions of~~ this part 3 2 by all  
6     licensed or otherwise authorized individuals who handle controlled  
7     substances;

8             (d) Cooperate with and make information available to appropriate  
9     state licensing and registration boards regarding any violations of this part  
10    3 2 by persons licensed or registered by ~~such~~ THE boards;

11            (e) Enter into contracts and encourage and conduct educational  
12    and research activities designed to prevent and determine misuse and  
13    abuse of controlled substances.

14            **27-80-212. [Formerly 12-22-320] Records confidential.**  
15    Prescriptions, orders, and records required by this part 3 2 and stocks of  
16    controlled substances ~~shall be~~ ARE open for inspection only to federal,  
17    state, county, and municipal officers whose duty it is to enforce the laws  
18    of this state or of the United States relating to controlled substances or the  
19    regulation of practitioners. No officer having knowledge, by virtue of his  
20    OR HER office, of ~~any such~~ A prescription, order, or record shall divulge  
21    ~~such~~ HIS OR HER knowledge, except in connection with a prosecution or  
22    proceeding in court or before a licensing or registration board or officer  
23    to which prosecution or proceeding the person to whom ~~such~~ THE  
24    prescriptions, orders, or records relate is a party.

25            **27-80-213. Rules.** (1) **[Formerly 12-22-321]** ~~By September 1,~~  
26    ~~2007,~~ The department of ~~human services~~ shall update rules ~~existing on~~  
27    ~~July 1, 2007,~~ and promulgate new rules, as necessary AND PURSUANT TO

1 ARTICLE 4 OF TITLE 24, C.R.S., to implement ~~the provisions of this part 3~~  
2 ~~pursuant to the procedures of article 4 of title 24, C.R.S.~~ PART 2. The  
3 department shall make the rules available to the public on its web site.

4 (2) (a) ~~Repealed.~~

5 (b) ~~(Deleted by amendment, L. 93, p. 1121, § 35, effective July 1,~~  
6 ~~1994.)~~

7 (2) **[Formerly 12-22-322]** The department of ~~human services~~  
8 shall promulgate rules, ~~and regulations~~ IN ACCORDANCE WITH ARTICLE 4  
9 OF TITLE 24, C.R.S., for research programs and for the conduct of  
10 detoxification treatment, maintenance treatment, and withdrawal  
11 treatment programs for controlled substance addiction. ~~Such rules and~~  
12 ~~regulations shall be promulgated in accordance with the provisions of~~  
13 ~~article 4 of title 24, C.R.S.~~

14 **27-80-214. [Formerly 12-22-324] Defenses.** The common law  
15 defense known as the "procuring agent defense" is not a defense to any  
16 crime in this ~~article~~ PART 2 or in title 18, C.R.S.

17 **SECTION 6.** In Colorado Revised Statutes, 8-2-111.6, **amend** (5)  
18 as follows:

19 **8-2-111.6. Health care employers - immunity from civil**  
20 **liability - requirements - exception to blacklisting prohibition -**  
21 **legislative declaration.** (5) For the purposes of this section, "health care  
22 worker" means any person registered, certified, or licensed pursuant to  
23 ~~article 22 of title 12, C.R.S.,~~ articles 29.5 to 43.2 of title 12, C.R.S., ~~and~~  
24 ~~OR~~ article 3.5 of title 25, C.R.S., or any person who interacts directly with  
25 a patient or assists with the patient care process, who is currently  
26 employed by, or is a prospective employee of, the employer making the  
27 inquiry.

1           **SECTION 7.** In Colorado Revised Statutes, 8-42-112.5, **amend**  
2     (1) as follows:

3           **8-42-112.5. Limitation on payments - use of controlled**  
4     **substances.** (1) Nonmedical benefits otherwise payable to an injured  
5     worker ~~shall be~~ ARE reduced fifty percent where THE injury results from  
6     the presence in the worker's system, during working hours, of ~~not~~  
7     ~~medically prescribed~~ controlled substances, as defined in section  
8     ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., THAT ARE NOT MEDICALLY  
9     PRESCRIBED or of a blood alcohol level at or above 0.10 percent, or at or  
10    above an applicable lower level as set forth by federal statute or  
11    regulation, as evidenced by a forensic drug or alcohol test conducted by  
12    a medical facility or laboratory licensed or certified to conduct such tests.  
13    A duplicate sample from any test conducted ~~shall~~ MUST be preserved and  
14    made available to the worker for purposes of a second test to be  
15    conducted at the worker's expense. If the test indicates the presence of  
16    such substances or of alcohol at such level, it ~~shall be~~ IS presumed that the  
17    employee was intoxicated and that the injury was due to ~~such~~ THE  
18    intoxication. This presumption may be overcome by clear and convincing  
19    evidence.

20           **SECTION 8.** In Colorado Revised Statutes, 8-73-108, **amend** (4)  
21    (b) (IV) introductory portion, (5) (e) (VIII), (5) (e) (IX), and (5) (e) (IX.5)  
22    as follows:

23           **8-73-108. Benefit awards - repeal.** (4) **Full award.** An  
24    individual separated from a job shall be given a full award of benefits if  
25    any of the following reasons and pertinent conditions related thereto are  
26    determined by the division to have existed. The determination of whether  
27    or not the separation from employment shall result in a full award of

1 benefits shall be the responsibility of the division. The following reasons  
2 shall be considered, along with any other factors that may be pertinent to  
3 such determination:

4 (b) (IV) The off-the-job or on-the-job use of not medically  
5 prescribed intoxicating beverages or controlled substances, as defined in  
6 section ~~12-22-303(7)~~ 18-18-102 (5), C.R.S., may be reason for a  
7 determination for a full award pursuant to this paragraph (b), but only if:

8 (5) **Disqualification.** (e) Subject to the maximum reduction  
9 consistent with federal law, and insofar as consistent with interstate  
10 agreements, if a separation from employment occurs for any of the  
11 following reasons, the employer from whom such separation occurred  
12 shall not be charged for benefits which are attributable to such  
13 employment and, because any payment of benefits which are attributable  
14 to such employment out of the fund as defined in section 8-70-103 (13)  
15 shall be deemed to have an adverse effect on such employer's account in  
16 such fund, no payment of such benefits shall be made from such fund:

17 (VIII) Off-the-job use of not medically prescribed intoxicating  
18 beverages or controlled substances, as defined in section ~~12-22-303(7)~~  
19 18-18-102 (5), C.R.S., to a degree resulting in interference with job  
20 performance;

21 (IX) On-the-job use of or distribution of not medically prescribed  
22 intoxicating beverages or controlled substances, as defined in section  
23 ~~12-22-303(7)~~ 18-18-102 (5), C.R.S.;

24 (IX.5) The presence in an individual's system, during working  
25 hours, of not medically prescribed controlled substances, as defined in  
26 section ~~12-22-303(7)~~ 18-18-102 (5), C.R.S., or of a blood alcohol level  
27 at or above 0.04 percent, or at or above an applicable lower level as set

1     forth by federal statute or regulation, as evidenced by a drug or alcohol  
2     test administered pursuant to a statutory or regulatory requirement or a  
3     previously established, written drug or alcohol policy of the employer and  
4     conducted by a medical facility or laboratory licensed or certified to  
5     conduct such tests;

6             **SECTION 9.** In Colorado Revised Statutes, 12-2-123, **amend** (1)  
7     (p) as follows:

8             **12-2-123. Grounds for disciplinary action - administrative**  
9     **penalties.** (1) After notice and hearing as provided in section 12-2-125,  
10    the board may deny the issuance of, refuse to renew, revoke, or suspend  
11    any certificate of a certified public accountant issued under this article or  
12    any prior law of this state or may fine, issue a letter of admonition to, or  
13    place on probation the holder of any certificate and impose other  
14    conditions or limitations for any of the following causes:

15            (p) Habitual intemperance with respect to or excessive use of a  
16    habit-forming drug, controlled substance as defined in section ~~12-22-303~~  
17    ~~(7)~~ 18-18-102 (5), C.R.S., or alcoholic beverage that renders the certified  
18    public accountant unfit to practice public accounting;

19            **SECTION 10.** In Colorado Revised Statutes, 12-10-107.1,  
20    **amend** (1) (d) as follows:

21            **12-10-107.1. Grounds for discipline.** (1) The director may deny,  
22    suspend, revoke, place on probation, or issue a letter of admonition  
23    against a license or an application for a license if the applicant or  
24    licensee:

25            (d) Is addicted to or dependent upon alcohol or any controlled  
26    substance, ~~within the meaning of part 3 of article 22 of this title~~ AS  
27    DEFINED IN SECTION 18-18-102 (5), C.R.S., or is a habitual user of said

1 controlled substance, if the use, addiction, or dependency is a danger to  
2 other participants or officials;

3 **SECTION 11.** In Colorado Revised Statutes, 12-25-308, **amend**  
4 (1) (i) as follows:

5 **12-25-308. Disciplinary actions - grounds for discipline.**

6 (1) The board may deny, suspend, revoke, or refuse to renew the license  
7 of, place on probation, or limit the scope of practice of a licensee for the  
8 following:

9 (i) Habitual intemperance with respect to, or excessive use of, any  
10 habit-forming drug, any controlled substance as defined in section  
11 ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or any alcoholic beverage, any of  
12 which renders him or her unfit to practice architecture;

13 **SECTION 12.** In Colorado Revised Statutes, 12-29.5-106,  
14 **amend** (1) (m) as follows:

15 **12-29.5-106. Grounds for disciplinary action.** (1) The director  
16 may deny licensure to or take disciplinary action against an acupuncturist  
17 pursuant to section 24-4-105, C.R.S., if the director finds that the  
18 acupuncturist has committed any of the following acts:

19 (m) Continued in the practice of acupuncture while addicted to or  
20 dependent upon alcohol or upon any habit-forming drug or while abusing  
21 or habitually or excessively using any such habit-forming drug or any  
22 controlled substance as defined in section ~~12-22-303 (7)~~ 18-18-102 (5),  
23 C.R.S.;

24 **SECTION 13.** In Colorado Revised Statutes, 12-32-107, **amend**  
25 (3) (n) and (3) (o) as follows:

26 **12-32-107. Issuance, revocation, or suspension of license -**  
27 **probation - immunity in professional review.** (3) "Unprofessional

1     conduct" as used in this article means:

2             (n) Administering, dispensing, or prescribing any habit-forming  
3     drug or any controlled substance, as defined in section ~~12-22-303 (7)~~  
4     18-18-102 (5), C.R.S., other than in the course of legitimate professional  
5     practice, which includes only prescriptions related to the scope of  
6     podiatric medicine as defined in section 12-32-101 (3) (a);

7             (o) Conviction of violation of any federal or state law regulating  
8     the possession, distribution, or use of any controlled substance, as defined  
9     in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., and, for the purposes of  
10    this paragraph (o), a plea of guilty or a plea of nolo contendere accepted  
11    by the court shall be considered as a conviction;

12            **SECTION 14.** In Colorado Revised Statutes, 12-32-109.3,  
13    **amend** (1) as follows:

14            **12-32-109.3. Use of physician assistants.** (1) A person licensed  
15    under the laws of this state to practice podiatry may delegate to a  
16    physician assistant licensed by the Colorado medical board pursuant to  
17    section 12-36-107.4 the authority to perform acts that constitute the  
18    practice of podiatry to the extent and in the manner authorized by rules  
19    promulgated by the Colorado podiatry board. Such acts shall be consistent  
20    with sound practices of podiatry. Each prescription issued by a physician  
21    assistant shall have the name of his or her supervising podiatrist printed  
22    on the prescription. Nothing in this section shall limit the ability of  
23    otherwise licensed health personnel to perform delegated acts. The  
24    dispensing of prescription medication by a physician assistant shall be  
25    subject to section ~~12-22-121 (6)~~ 12-42.5-119 (6).

26            **SECTION 15.** In Colorado Revised Statutes, 12-36-106, **amend**  
27    (5) (a) as follows:

1           **12-36-106. Practice of medicine defined - exemptions from**  
2           **licensing requirements - unauthorized practice by physician**  
3           **assistants - penalties - rules.** (5) (a) A person licensed under the laws  
4           of this state to practice medicine may delegate to a physician assistant  
5           licensed by the board pursuant to section 12-36-107.4 the authority to  
6           perform acts that constitute the practice of medicine to the extent and in  
7           the manner authorized by rules promulgated by the board, including the  
8           authority to prescribe medication, including controlled substances, and  
9           dispense only such drugs as designated by the board. Such acts shall be  
10          consistent with sound medical practice. Each prescription issued by a  
11          physician assistant licensed by the board shall be imprinted with the name  
12          of his or her supervising physician. Nothing in this subsection (5) shall  
13          limit the ability of otherwise licensed health personnel to perform  
14          delegated acts. The dispensing of prescription medication by a physician  
15          assistant shall be subject to the provisions of section ~~12-22-121 (6)~~  
16          12-42.5-119 (6).

17           **SECTION 16.** In Colorado Revised Statutes, 12-36-117, **amend**  
18          (1) (g), (1) (h), and (1) (i) as follows:

19           **12-36-117. Unprofessional conduct.** (1) "Unprofessional  
20          conduct" as used in this article means:

21           (g) Administering, dispensing, or prescribing any habit-forming  
22          drug or any controlled substance as defined in section ~~12-22-303 (7)~~  
23          18-18-102 (5), C.R.S., other than in the course of legitimate professional  
24          practice;

25           (h) Any conviction of violation of any federal or state law  
26          regulating the possession, distribution, or use of any controlled substance,  
27          as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., and, in



1 determining if a license should be denied, revoked, or suspended, or if the  
2 licensee should be placed on probation, the board shall be governed by  
3 section 24-5-101, C.R.S. For purposes of this paragraph (h), "conviction"  
4 includes the entry of a plea of guilty or nolo contendere or the imposition  
5 of a deferred sentence.

6 (i) Habitual or excessive use or abuse of alcohol, a habit-forming  
7 drug, or a controlled substance as defined in section ~~12-22-303 (7)~~  
8 18-18-102 (5), C.R.S.;

9 **SECTION 17.** In Colorado Revised Statutes, 12-37-107, **amend**  
10 (3) (f) as follows:

11 **12-37-107. Disciplinary action authorized - grounds for**  
12 **discipline - injunctions - rules.** (3) The director may deny, revoke, or  
13 suspend a registration or issue a letter of admonition or place a registrant  
14 on probation for any of the following acts or omissions:

15 (f) Abuse or habitual or excessive use of a habit-forming drug, a  
16 controlled substance as defined in section ~~12-22-303 (7)~~ 18-18-102 (5),  
17 C.R.S., or alcohol;

18 **SECTION 18.** In Colorado Revised Statutes, 12-38-111.6,  
19 **amend** (1), (9), and (10) as follows:

20 **12-38-111.6. Prescriptive authority - advanced practice nurses**  
21 **- rules.** (1) THE BOARD MAY AUTHORIZE an advanced practice nurse who  
22 is listed on the advanced practice registry, has a license in good standing  
23 without disciplinary sanctions issued pursuant to section 12-38-111, and  
24 has fulfilled requirements established by the board pursuant to this section  
25 ~~may be authorized by the board~~ to prescribe controlled substances or  
26 prescription drugs as defined in PART 1 OF article ~~22~~ 42.5 of this title.

27 (9) All prescriptions ~~shall be in compliance~~ MUST COMPLY with

1 applicable federal and state laws, including article ~~22~~ 42.5 of this title and  
2 part 2 of article 18 of title 18, C.R.S.

3 (10) Nothing in this section shall be construed to permit  
4 dispensing or distribution, as defined in section ~~12-22-102~~ 12-42.5-102  
5 (11) AND (12), by an advanced practice nurse, except for samples, under  
6 article ~~22~~ 42.5 of this title and the federal "Prescription Drug Marketing  
7 Act of 1987".

8 **SECTION 19.** In Colorado Revised Statutes, 12-38-117, **amend**  
9 (1) (i), (1) (q), (1) (r), and (1) (s) as follows:

10 **12-38-117. Grounds for discipline.** (1) "Grounds for discipline",  
11 as used in this article, means any action by any person who:

12 (i) Excessively uses or abuses alcohol, habit-forming drugs,  
13 controlled substances, as defined in section ~~12-22-303~~ 18-18-102 (5),  
14 C.R.S., or other drugs having similar effects, or is diverting controlled  
15 substances, as defined in section ~~12-22-303~~ 18-18-102 (5), C.R.S., or  
16 other drugs having similar effects from the licensee's place of  
17 employment; except that the board has the discretion not to discipline the  
18 licensee if such licensee is participating in good faith in a program  
19 approved by the board designed to end such excessive use or abuse;

20 (q) Has dispensed, injected, or prescribed an anabolic steroid, as  
21 defined in section ~~12-22-102 (2.5)~~ 18-18-102 (3), C.R.S., for the purpose  
22 of hormonal manipulation that is intended to increase muscle mass,  
23 strength, or weight without a medical necessity to do so or for the  
24 intended purpose of improving performance in any form of exercise,  
25 sport, or game;

26 (r) Has dispensed or injected an anabolic steroid, as defined in  
27 section ~~12-22-102 (2.5)~~ 18-18-102 (3), C.R.S., unless such anabolic

1 steroid is dispensed from a pharmacy pursuant to a written prescription  
2 or is dispensed by any person licensed to practice medicine in the course  
3 of such person's professional practice;

4 (s) Has administered, dispensed, or prescribed any habit-forming  
5 drug or any controlled substance as defined in section ~~12-22-303 (7)~~  
6 18-18-102 (5), C.R.S., other than in the course of legitimate professional  
7 practice;

8 **SECTION 20.** In Colorado Revised Statutes, 12-38.1-111,  
9 **amend** (1) (i) as follows:

10 **12-38.1-111. Grounds for discipline.** (1) The board may  
11 suspend, revoke, or deny any person's certification to practice as a nurse  
12 aide or authority to practice as a medication aide, or may issue to the  
13 person a letter of admonition, upon proof that such person:

14 (i) Has habitual intemperance or excessively uses any  
15 habit-forming drug or any controlled substance as defined in section  
16 ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or other drugs having similar  
17 effects, or is diverting controlled substances, as defined in section  
18 18-18-102 (5), C.R.S., or other drugs having similar effects from the  
19 person's place of employment;

20 **SECTION 21.** In Colorado Revised Statutes, 12-39-111, **amend**  
21 (1) (g) as follows:

22 **12-39-111. Grounds for discipline.** (1) The board has the power  
23 to revoke, suspend, withhold, or refuse to renew any license, to place on  
24 probation a licensee or temporary license holder, or to issue a letter of  
25 admonition to a licensee in accordance with the procedures set forth in  
26 subsection (3) of this section, upon proof that such person:

27 (g) Is addicted to or dependent on alcohol or habit-forming drugs,

1 abuses or engages in the habitual or excessive use of any such  
2 habit-forming drug or any controlled substance as defined in section  
3 ~~12-22-303 (7)~~ or 18-18-102 (5), C.R.S., or participates in the unlawful  
4 use of controlled substances as specified in section 18-18-404, C.R.S.;  
5 except that the board has the discretion not to discipline the licensee if  
6 such person is participating, in good faith, in a program approved by the  
7 board designed to end such addiction or dependency;

8 **SECTION 22.** In Colorado Revised Statutes, 12-40-108, **amend**  
9 (1) (d) as follows:

10 **12-40-108. Application for license - licensure by endorsement.**

11 (1) A person who desires to practice optometry in the state may file with  
12 the board an application for a license, giving the information required in  
13 a form and manner approved by the board. The applicant shall  
14 demonstrate that he or she possesses the following qualifications:

15 (d) The applicant is not addicted to or dependent on, and has not  
16 habitually or excessively used or abused, intoxicating liquors,  
17 habit-forming drugs, or controlled substances as defined in section  
18 ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.

19 **SECTION 23.** In Colorado Revised Statutes, 12-40-109.5,  
20 **amend** (1) and (1.5) as follows:

21 **12-40-109.5. Use of prescription and nonprescription drugs.**

22 (1) Notwithstanding section ~~12-22-121~~ 12-42.5-119, a licensed  
23 optometrist may purchase, possess, and administer prescription or  
24 nonprescription drugs for examination purposes only if, after July 1,  
25 1983, the optometrist has complied with the following minimum  
26 requirements: Successful completion, by attendance and examination, of  
27 at least fifty-five classroom hours of study in general, ocular, and clinical

1 pharmacology which must have been completed within twenty-four  
2 months preceding the application for certification; except that, in the  
3 event that such classroom hours have been completed since 1976, only six  
4 of such classroom hours must have been completed within twenty-four  
5 months preceding the application for certification. The courses shall be  
6 offered by an institution that is accredited by a regional or professional  
7 accreditation organization recognized or approved by the council on  
8 postsecondary education or the United States department of education or  
9 their successors.

10 (1.5) Notwithstanding section ~~12-22-121~~ 12-42.5-119, a licensed  
11 optometrist may purchase, possess, administer, and prescribe prescription  
12 or nonprescription drugs for treatment on and after July 1, 1988, only if  
13 the optometrist has complied with the following minimum requirements  
14 within twenty-four months preceding the application for certification:  
15 Successful completion, by attendance and examination, of at least sixty  
16 classroom hours of study in ocular pharmacology, clinical pharmacology,  
17 therapeutics, and anterior segment disease; and successful completion by  
18 attendance and examination of at least sixty hours of approved supervised  
19 clinical training in the examination, diagnosis, and treatment of  
20 conditions of the human eye and its appendages. The courses shall be  
21 offered by an institution that is accredited by a regional or professional  
22 accreditation organization recognized or approved by the council of  
23 postsecondary education or the United States department of education or  
24 their successors.

25 **SECTION 24.** In Colorado Revised Statutes, 12-40-118, **amend**  
26 (1) (e), (1) (bb), and (1) (cc) as follows:

27 **12-40-118. Unprofessional conduct defined.** (1) The term

1 "unprofessional conduct", as used in this article, means:

2 (e) The habitual or excessive use or abuse of alcohol, a  
3 habit-forming drug, or any controlled substance as defined in section  
4 ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.;

5 (bb) Administering, dispensing, or prescribing any prescription  
6 drug, as defined in section ~~12-22-102 (30)~~ 12-42.5-102 (34), or any  
7 controlled substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5),  
8 C.R.S., other than in the course of legitimate professional practice;

9 (cc) Dispensing for a fee any prescription drug, as defined in  
10 section ~~12-22-102~~ 12-42.5-102 (34), or any controlled substance, as  
11 defined in section ~~12-22-303~~ 18-18-102 (5), C.R.S., except as permitted  
12 in sections ~~12-22-121 (6) (c)~~ 12-42.5-119 (6) (c) and 12-40-102 (5) (b);

13 **SECTION 25.** In Colorado Revised Statutes, 12-40-118.5,  
14 **amend** (5) (e) as follows:

15 **12-40-118.5. Mental and physical examination of licensees.**

16 (5) (e) For purposes of this subsection (5), "physical or mental illness or  
17 condition" does not include the habitual or excessive use or abuse of  
18 alcohol, a habit-forming drug, or any controlled substance as defined in  
19 section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.

20 **SECTION 26.** In Colorado Revised Statutes, 12-41-115, **amend**  
21 (1) (l) as follows:

22 **12-41-115. Grounds for disciplinary action.** (1) The board may  
23 take disciplinary action in accordance with section 12-41-116 against a  
24 person who has:

25 (l) Engaged in the habitual or excessive use or abuse of alcohol,  
26 a habit-forming drug, or a controlled substance as defined in section  
27 ~~12-22-303~~ 18-18-102 (5), C.R.S.;

1           **SECTION 27.** In Colorado Revised Statutes, 12-41-210, **amend**  
2       (1) (h) as follows:

3           **12-41-210. Grounds for disciplinary action.** (1) The board may  
4       take disciplinary action in accordance with section 12-41-211 against a  
5       person who has:

6           (h) Engaged in the habitual or excessive use or abuse of alcohol,  
7       a habit-forming drug, or a controlled substance as defined in section  
8       ~~12-22-303~~ 18-18-102 (5), C.R.S.;

9           **SECTION 28.** In Colorado Revised Statutes, 12-41.5-109,  
10      **amend** (2) (h) as follows:

11          **12-41.5-109. Grounds for action - disciplinary proceedings.**

12       (2) The director has the power to revoke, suspend, deny, or refuse to  
13       renew a license, place on probation a licensee, or issue a letter of  
14       admonition to a licensee in accordance with subsections (3), (4), (5), and  
15       (6) of this section upon proof that such person:

16           (h) Is an excessive or habitual user or abuser of alcohol or  
17       habit-forming drugs or is a habitual user of a controlled substance, as  
18       defined in section ~~12-22-303~~ (7) 18-18-102 (5), C.R.S., or other drugs  
19       having similar effects; except that the director has the discretion not to  
20       discipline the license holder if he or she is participating in good faith in  
21       a program approved by the director designed to end such use or abuse;

22          **SECTION 29.** In Colorado Revised Statutes, 12-42-113, **amend**  
23       (1) (i) as follows:

24          **12-42-113. Grounds for discipline.** (1) "Grounds for discipline",  
25       as used in this article, means any action by any person who:

26           (i) Is addicted to or dependent on alcohol or habit-forming drugs,  
27       is a habitual user of controlled substances, as defined in section

1     ~~12-22-303(7)~~ 18-18-102 (5), C.R.S., or other drugs having similar  
2     effects, or is diverting controlled substances, as defined in section  
3     ~~12-22-303(7)~~ 18-18-102 (5), C.R.S., or other drugs having similar effects  
4     from the licensee's place of employment; except that the board has the  
5     discretion not to discipline the licensee if such licensee is participating in  
6     good faith in a program approved by the board designed to end such  
7     addiction or dependency;

8             **SECTION 30.** In Colorado Revised Statutes, 12-43-222, **amend**  
9     (1) (e) as follows:

10            **12-43-222. Prohibited activities - related provisions.** (1) A  
11     person licensed, registered, or certified under this article violates this  
12     article if the person:

13            (e) Habitually or excessively uses or abuses alcohol, a  
14     habit-forming drug, or a controlled substance, as defined in section  
15     ~~12-22-303~~ 18-18-102 (5), C.R.S.;

16            **SECTION 31.** In Colorado Revised Statutes, 12-43.3-104,  
17     **amend** (7) as follows:

18            **12-43.3-104. Definitions.** As used in this article, unless the  
19     context otherwise requires:

20            (7) "Medical marijuana" means marijuana that is grown and sold  
21     pursuant to the provisions of this article and for a purpose authorized by  
22     section 14 of article XVIII of the state constitution but shall not be  
23     considered a nonprescription drug for purposes of section ~~12-22-102(20)~~  
24     12-42.5-102 (21) or ~~section~~ 39-26-717, C.R.S., or an over-the-counter  
25     medication for purposes of section 25.5-5-322, C.R.S.

26            **SECTION 32.** In Colorado Revised Statutes, 12-58-110, **amend**  
27     (1) (l) as follows:



1           **12-58-110. Disciplinary action by board - licenses or**  
2           **registrations denied, suspended, or revoked - cease-and-desist orders.**

3           (1) The board may deny, suspend, revoke, or refuse to renew any license  
4           or registration issued or applied for under the provisions of this article or  
5           place a licensee or a registrant on probation for any of the following  
6           reasons:

7                 (l) Habitual intemperance with respect to or excessive use of any  
8                 habit-forming drug, any controlled substance as defined in section  
9                 ~~12-22-303~~ (7) 18-18-102 (5), C.R.S., or any alcoholic beverage;

10           **SECTION 33.** In Colorado Revised Statutes, 13-4-102, **amend**  
11           (2) (k) as follows:

12                 **13-4-102. Jurisdiction.** (2) The court of appeals has initial  
13                 jurisdiction to:

14                 (k) Review all final actions and orders appropriate for judicial  
15                 review of the state board of pharmacy, as provided in section ~~12-22-125.5~~  
16                 12-42.5-126, C.R.S.;

17           **SECTION 34.** In Colorado Revised Statutes, 13-21-115.5,  
18           **amend** (3) (c) (II) (Q) as follows:

19                 **13-21-115.5. Volunteer service act - immunity - exception for**  
20                 **operation of motor vehicles.** (3) As used in this section, unless the  
21                 context otherwise requires:

22                 (c) (II) "Volunteer" includes:

23                 (Q) A licensed pharmacist governed by ~~the provisions of article~~  
24                 ~~22~~ 42.5 of title 12, C.R.S., performing the practice of pharmacy, as  
25                 defined in section ~~12-22-102~~ (26) 12-42.5-102 (31), C.R.S., as a volunteer  
26                 for a nonprofit organization, a nonprofit corporation, a governmental  
27                 entity, or a hospital;

1           **SECTION 35.** In Colorado Revised Statutes, 16-15-102, **amend**  
2       (1) (a) (VI) as follows:

3           **16-15-102. Ex parte order authorizing the interception of wire,**  
4       **oral, or electronic communications.** (1) (a) An ex parte order  
5       authorizing or approving the interception of any wire, oral, or electronic  
6       communication may be issued by any judge of competent jurisdiction of  
7       the state of Colorado upon application of the attorney general or a district  
8       attorney, or his or her designee if the attorney general or district attorney  
9       is absent from his or her jurisdiction, showing by affidavit that there is  
10      probable cause to believe that evidence will be obtained of the  
11      commission of any one of the crimes enumerated in this subsection (1) or  
12      that one of said enumerated crimes will be committed:

13           (VI) Dealing in controlled substances as covered by part 3 1 of  
14      article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE 27,  
15      C.R.S., as such offenses are subject to prosecution as felonies;

16           **SECTION 36.** In Colorado Revised Statutes, 17-2-201, **amend**  
17      (5.5) (b) as follows:

18           **17-2-201. State board of parole.** (5.5) (b) For purposes of this  
19      subsection (5.5), "drug" means:

20           (I) Any "controlled substance" as defined in section ~~12-22-303 (7)~~  
21      18-18-102 (5), C.R.S.; and

22           (II) Any "drug" as defined in section ~~12-22-303 (13)~~ 27-80-203  
23      (13), C.R.S., if chemical testing conducted pursuant to paragraph (a) of  
24      this subsection (5.5) reveals such drug is present at such a level as to be  
25      considered abusive pursuant to regulations established by the board in  
26      consultation with the department of human services.

27           **SECTION 37.** In Colorado Revised Statutes, 18-1.3-204, **amend**

1 (2) (a) (VIII) as follows:

2 **18-1.3-204. Conditions of probation.** (2) (a) When granting  
3 probation, the court may, as a condition of probation, require that the  
4 defendant:

5 (VIII) Refrain from excessive use of alcohol or any unlawful use  
6 of controlled substances, as defined in section ~~12-22-303 (7), C.R.S.~~  
7 18-18-102 (5), or of any other dangerous or abusable drug without a  
8 prescription;

9 **SECTION 38.** In Colorado Revised Statutes, 18-3-106, **amend**  
10 (1) (b) (II) as follows:

11 **18-3-106. Vehicular homicide.** (1) (b) (II) For the purposes of  
12 this subsection (1), one or more drugs shall mean all substances defined  
13 as a drug in section ~~12-22-303 (13)~~ 27-80-203 (13), C.R.S., and all  
14 controlled substances defined in section ~~12-22-303 (7), C.R.S.~~ 18-18-102  
15 (5), and glue-sniffing, aerosol inhalation, or the inhalation of any other  
16 toxic vapor or vapors as defined in section 18-18-412.

17 **SECTION 39.** In Colorado Revised Statutes, 18-3-205, **amend**  
18 (1) (b) (II) as follows:

19 **18-3-205. Vehicular assault.** (1) (b) (II) For the purposes of this  
20 subsection (1), one or more drugs shall mean all substances defined as a  
21 drug in section ~~12-22-303 (13)~~ 27-80-203 (13), C.R.S., and all controlled  
22 substances defined in section ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5), and  
23 glue-sniffing, aerosol inhalation, or the inhalation of any other toxic vapor  
24 or vapors as defined in section 18-18-412.

25 **SECTION 40.** In Colorado Revised Statutes, 18-4-202, **amend**  
26 (3) as follows:

27 **18-4-202. First degree burglary.** (3) If under the circumstances

1     stated in subsection (1) of this section the property involved is a  
2     controlled substance, as defined in section ~~12-22-303 (7), C.R.S.~~  
3     18-18-102 (5), within a pharmacy or other place having lawful possession  
4     thereof, such person commits first degree burglary of controlled  
5     substances, which is a class 2 felony.

6             **SECTION 41.** In Colorado Revised Statutes, 18-4-203, **amend**  
7     (2) (b) as follows:

8             **18-4-203. Second degree burglary.** (2) Second degree burglary  
9     is a class 4 felony, but it is a class 3 felony if:

10            (b) It is a burglary, the objective of which is the theft of a  
11     controlled substance, as defined in section ~~12-22-303 (7), C.R.S.~~  
12     18-18-102 (5), lawfully kept within any building or occupied structure.

13            **SECTION 42.** In Colorado Revised Statutes, 18-4-204, **amend**  
14     (2) as follows:

15            **18-4-204. Third degree burglary.** (2) Third degree burglary is  
16     a class 5 felony, but it is a class 4 felony if it is a burglary, the objective  
17     of which is the theft of a controlled substance, as defined in section  
18     ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5), lawfully kept in or upon the  
19     property burglarized.

20            **SECTION 43.** In Colorado Revised Statutes, 18-4-303, **amend**  
21     (1) as follows:

22            **18-4-303. Aggravated robbery of controlled substances.** (1) A  
23     person who takes any controlled substance, as defined in section  
24     ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5), from any pharmacy or other place  
25     having lawful possession thereof or from any pharmacist or other person  
26     having lawful possession thereof under the aggravating circumstances  
27     defined in section 18-4-302 is guilty of aggravated robbery of controlled

1 substances.

2 **SECTION 44.** In Colorado Revised Statutes, 18-4-412, **amend**  
3 (2) (a) as follows:

4 **18-4-412. Theft of medical records or medical information -**  
5 **penalty.** (2) As used in this section:

6 (a) "Medical record" means the written or graphic documentation,  
7 sound recording, or computer record pertaining to medical, mental health,  
8 and health care services, including medical marijuana services, that are  
9 performed at the direction of a physician or other licensed health care  
10 provider on behalf of a patient by physicians, dentists, nurses, technicians,  
11 emergency medical technicians, mental health professionals, prehospital  
12 providers, or other health care personnel. "Medical record" includes such  
13 diagnostic documentation as X rays, electrocardiograms,  
14 electroencephalograms, and other test results. "Medical record" includes  
15 data entered into the prescription drug monitoring program pursuant to  
16 section ~~12-22-704~~ 12-42.5-403, C.R.S.

17 **SECTION 45.** In Colorado Revised Statutes, 18-5-116, **amend**  
18 (1) as follows:

19 **18-5-116. Controlled substances - inducing consumption by**  
20 **fraudulent means.** (1) It is unlawful for any person, surreptitiously or  
21 by means of fraud, misrepresentation, suppression of truth, deception, or  
22 subterfuge, to cause any other person to unknowingly consume or receive  
23 the direct administration of any controlled substance, as defined in section  
24 ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5); except that nothing in this section  
25 shall diminish the scope of health care authorized by law.

26 **SECTION 46.** In Colorado Revised Statutes, 18-8-203, **amend**  
27 (1) (a) as follows:

1           **18-8-203. Introducing contraband in the first degree.** (1) A  
2 person commits introducing contraband in the first degree if he or she  
3 knowingly and unlawfully:

4           (a) Introduces or attempts to introduce a dangerous instrument,  
5 malt, vinous, or spirituous liquor, as defined in section 12-47-103, C.R.S.,  
6 fermented malt beverage, as defined in section 12-46-103, C.R.S.,  
7 controlled substance, as defined in section 18-18-102 (5), or marijuana or  
8 marijuana concentrate, as defined in section ~~12-22-303 (17) and (18)~~  
9 27-80-203 (15) AND (16), C.R.S., into a detention facility or at any  
10 location where an inmate is or is likely to be located, while the inmate is  
11 in the custody and under the jurisdiction of a political subdivision of the  
12 state of Colorado or the department of corrections, but not on parole; or

13           **SECTION 47.** In Colorado Revised Statutes, 18-8-204, **amend**  
14 (2) (g) as follows:

15           **18-8-204. Introducing contraband in the second degree.**  
16 (2) "Contraband" as used in this section means any of the following, but  
17 does not include any article or thing referred to in section 18-8-203:

18           (g) Any drug, other than a controlled substance as defined in  
19 section ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5), in quantities other than those  
20 authorized by a physician;

21           **SECTION 48.** In Colorado Revised Statutes, 18-12-106, **amend**  
22 (1) (d) as follows:

23           **18-12-106. Prohibited use of weapons.** (1) A person commits  
24 a class 2 misdemeanor if:

25           (d) The person has in his or her possession a firearm while the  
26 person is under the influence of intoxicating liquor or of a controlled  
27 substance, as defined in section ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5).

1 Possession of a permit issued under section 18-12-105.1, as it existed  
2 prior to its repeal, or possession of a permit or a temporary emergency  
3 permit issued pursuant to part 2 of this article is no defense to a violation  
4 of this subsection (1).

5 **SECTION 49.** In Colorado Revised Statutes, 18-13-123, **amend**  
6 (4) (b) as follows:

7 **18-13-123. Unlawful administration of gamma**  
8 **hydroxybutyrate (GHB) or ketamine.** (4) (b) It shall not be a violation  
9 of this section if ketamine is distributed or dispensed by or under the  
10 direction of such authorized person for use by a humane society that is  
11 duly registered with the secretary of state and has been in existence and  
12 in business for at least five years in this state as a nonprofit corporation,  
13 or by an animal control agency that is operated by a unit of government  
14 to control animals and to euthanize injured, sick, homeless, or unwanted  
15 pets or animals, if ~~such~~ THE humane society or animal control agency is  
16 ~~licensed~~ REGISTERED pursuant to section ~~12-22-304~~ 12-42.5-118 (11),  
17 C.R.S.

18 **SECTION 50.** In Colorado Revised Statutes, 18-17-103, **amend**  
19 (5) (b) (XIV) as follows:

20 **18-17-103. Definitions.** As used in this article, unless the context  
21 otherwise requires:

22 (5) "Racketeering activity" means to commit, to attempt to  
23 commit, to conspire to commit, or to solicit, coerce, or intimidate another  
24 person to commit:

25 (b) Any violation of the following provisions of the Colorado  
26 statutes or any criminal act committed in any jurisdiction of the United  
27 States which, if committed in this state, would be a crime under the

1 following provisions of the Colorado statutes:

2 (XIV) Offenses relating to controlled substances (part 3 1 of  
3 article 22 42.5 of title 12, C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27,  
4 C.R.S., and article 18 of this title);

5 **SECTION 51.** In Colorado Revised Statutes, 18-18-102, **amend**  
6 (2) and (27) as follows:

7 **18-18-102. Definitions.** As used in this article:

8 (2) "Agent" means an authorized person who acts on behalf of or  
9 at the direction of a person licensed or otherwise authorized under this  
10 article or under part 3 2 of article 22 80 of title 12 27, C.R.S. "Agent"  
11 does not include a common or contract carrier, a public warehouseman,  
12 or an employee of a carrier or warehouseman.

13 (27) "Pharmacy" means a prescription drug outlet as defined in  
14 section ~~12-22-102 (30.2)~~ 12-42.5-102 (35), C.R.S.

15 **SECTION 52.** In Colorado Revised Statutes, 18-18-302, **amend**  
16 (1) and (2) as follows:

17 **18-18-302. Registration requirements.** (1) Every person who  
18 manufactures, distributes, or dispenses any controlled substance within  
19 this state, or who proposes to engage in the manufacture, distribution, or  
20 dispensing of any controlled substance within this state, shall obtain  
21 annually or biannually, if applicable, a registration, issued by the  
22 respective licensing board or the department in accordance with rules  
23 adopted by such board or by the department. For purposes of this section  
24 and this article, "registration" or "registered" means the ~~licensing~~  
25 REGISTERING of manufacturers, pharmacists, pharmacies, and humane  
26 societies located in this state, and distributors located in or doing business  
27 in this state, by the state board of pharmacy as set forth in ~~parts~~ PART 1



1 ~~and 3~~ of article ~~22~~ 42.5 of title 12, C.R.S., the licensing of physicians by  
2 the Colorado medical board, as set forth in article 36 of title 12, C.R.S.,  
3 the licensing of podiatrists by the Colorado podiatry board, as set forth in  
4 article 32 of title 12, C.R.S., the licensing of dentists by the state board of  
5 dental examiners, as set forth in article 35 of title 12, C.R.S., the licensing  
6 of optometrists by the state board of optometry, as set forth in article 40  
7 of title 12, C.R.S., the licensing of veterinarians by the state board of  
8 veterinary medicine, as set forth in article 64 of title 12, C.R.S., and the  
9 licensing of researchers and addiction programs by the department of  
10 human services, as set forth in part 3 2 of article ~~22~~ 80 of title ~~12~~ 27,  
11 C.R.S.

12 (2) A person registered by the board or the department under this  
13 part 3 to manufacture, distribute, dispense, or conduct research with  
14 controlled substances may possess, manufacture, distribute, dispense, or  
15 conduct research with those substances to the extent authorized by the  
16 registration and in conformity with this article and with article ~~22~~ 42.5 of  
17 title 12, C.R.S.

18 **SECTION 53.** In Colorado Revised Statutes, 18-18-303, **amend**  
19 (5) as follows:

20 **18-18-303. Registration.** (5) Persons licensed OR REGISTERED  
21 under ~~the provisions of~~ part 1 of article ~~22~~ 42.5 of title 12, C.R.S., or  
22 article 32, 35, 36, 40, or 64 of title 12, C.R.S., need not be licensed  
23 separately to distribute or dispense controlled substances to the extent  
24 provided under law if they are registered or are exempt from registration  
25 by the federal drug enforcement administration, provided that such  
26 persons indicate on any initial application or renewal application the  
27 schedules of controlled substances ~~which such~~ THAT THE persons are

1 authorized to use under Public Law 91-513, known as the federal  
2 "Comprehensive Drug Abuse Prevention and Control Act of 1970".

3 **SECTION 54.** In Colorado Revised Statutes, 18-18-403.5,  
4 **amend** (1) as follows:

5 **18-18-403.5. Unlawful possession of a controlled substance.**

6 (1) Except as authorized by part ~~3~~ 1 OR 3 of article ~~22~~ 42.5 of title 12,  
7 C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., or ~~by~~ part 2 or 3 of this  
8 article, it is unlawful for any person knowingly to possess a controlled  
9 substance.

10 **SECTION 55.** In Colorado Revised Statutes, 18-18-405, **amend**  
11 (1) as follows:

12 **18-18-405. Unlawful distribution, manufacturing, dispensing,**

13 **or sale.** (1) (a) Except as authorized by part ~~3~~ 1 of article ~~22~~ 42.5 of title  
14 12, C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., or ~~by~~ part 2 or 3 of  
15 this article, it is unlawful for any person knowingly to manufacture,  
16 dispense, sell, or distribute, or to possess with intent to manufacture,  
17 dispense, sell, or distribute, a controlled substance; or induce, attempt to  
18 induce, or conspire with one or more other persons, to manufacture,  
19 dispense, sell, distribute, or possess with intent to manufacture, dispense,  
20 sell, or distribute, a controlled substance; or possess one or more  
21 chemicals or supplies or equipment with intent to manufacture a  
22 controlled substance.

23 (b) As used in this subsection (1), "dispense" does not include  
24 labeling, as defined in section ~~12-22-102~~ ~~(16)~~ 12-42.5-102 (18), C.R.S.

25 **SECTION 56.** In Colorado Revised Statutes, 18-18-406, **amend**  
26 (6) (a) (I), (6) (b) (I), (6) (b) (II), and (11) as follows:

27 **18-18-406. Offenses relating to marijuana and marijuana**

1 **concentrate.** (6) (a) (I) A person shall not knowingly process or  
2 manufacture any marijuana or marijuana concentrate or knowingly allow  
3 to be processed or manufactured on land owned, occupied, or controlled  
4 by him or her any marijuana or marijuana concentrate except as  
5 authorized pursuant to part 3 1 of article 22 42.5 of title 12, C.R.S., OR  
6 PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S.

7 (b) (I) Except as is otherwise provided in subsection (7) of this  
8 section and except as authorized by part 3 1 of article 22 42.5 of title 12,  
9 C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., or ~~by~~ part 2 or 3 of this  
10 article, it is unlawful for any person knowingly to dispense, sell,  
11 distribute, or possess with intent to manufacture, dispense, sell, or  
12 distribute marijuana or marijuana concentrate; or attempt, induce, attempt  
13 to induce, or conspire with one or more other persons, to dispense, sell,  
14 distribute, or possess with intent to manufacture, dispense, sell, or  
15 distribute marijuana or marijuana concentrate.

16 (II) As used in subparagraph (I) of this paragraph (b), "dispense"  
17 does not include labeling, as defined in section ~~12-22-102 (16)~~  
18 12-42.5-102 (18), C.R.S.

19 (11) The provisions of this section shall not apply to any person  
20 who possesses, uses, prescribes, dispenses, or administers dronabinol  
21 (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a  
22 federal food and drug administration approved drug product, pursuant to  
23 part 3 1 of article 22 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF  
24 TITLE 27, C.R.S.

25 **SECTION 57.** In Colorado Revised Statutes, 18-18-406.2,  
26 **amend** (4) as follows:

27 **18-18-406.2. Unlawful distribution, manufacturing,**

1     **dispensing, sale, or cultivation of synthetic cannabinoids or salvia**  
2     **divinorum.** (4) As used in this section, "dispense" does not include  
3     labeling, as defined in section ~~12-22-102~~(16) 12-42.5-102 (18), C.R.S.

4             **SECTION 58.** In Colorado Revised Statutes, 18-18-414, **amend**  
5     (1) introductory portion, (1) (f), (1) (g), (1) (h), (1) (i), (1) (j), (1) (r), and  
6     (1) (t) as follows:

7             **18-18-414. Unlawful acts - licenses - penalties.** (1) Except as  
8     otherwise provided in this article or in article ~~22~~ 42.5 of title 12, C.R.S.,  
9     the following acts are unlawful:

10            (f) The failure of a pharmacy to file and retain the prescription as  
11     required in section ~~12-22-318~~ 12-42.5-132, C.R.S.;

12            (g) The failure of a hospital to record and maintain a record of  
13     such dispensing as provided in section ~~12-22-318~~ 12-42.5-132 OR  
14     27-80-210, C.R.S.;

15            (h) The refusal to make available for inspection and to accord full  
16     opportunity to check any record or file as required by this article, ~~or part~~  
17     3 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE  
18     27, C.R.S.;

19            (i) The failure to keep records as required by this article, ~~or part~~  
20     3 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE  
21     27, C.R.S.;

22            (j) The failure to obtain a license OR REGISTRATION as required by  
23     this article, ~~or part~~ 3 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF  
24     ARTICLE 80 OF TITLE 27, C.R.S.;

25            (r) Knowingly furnishing false or fraudulent material information  
26     in, or omitting any material information from, any application, report, or  
27     other document required to be kept or filed under this article, ~~or under~~

1 part 3 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF  
2 TITLE 27, C.R.S., or any record required to be kept by this article, ~~or under~~  
3 part 3 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF  
4 TITLE 27, C.R.S.;

5 (t) The refusal of entry into any premises for any inspection  
6 authorized by this article, ~~or~~ part 3 1 of article ~~22~~ 42.5 of title 12, C.R.S.,  
7 OR PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S.

8 **SECTION 59.** In Colorado Revised Statutes, 18-18-418, **amend**  
9 (1) (a), (2), (4), and (6) as follows:

10 **18-18-418. Exemptions.** (1) The provisions of section 18-18-414  
11 shall not apply to:

12 (a) Agents of persons licensed under part 3 2 of article ~~22~~ 80 of  
13 title ~~12~~ 27, C.R.S., or under part 3 of this article, acting within the  
14 provisions of their licenses; or

15 (2) All combination drugs that are exempted by regulation of the  
16 attorney general of the United States department of justice, pursuant to  
17 section 1006 (b) of Public Law 91-513 (84 Stat. 1236), known as the  
18 "Comprehensive Drug Abuse Prevention and Control Act of 1970", on or  
19 after July 1, 1981, are exempted from the provisions of part 3 1 of article  
20 ~~22~~ 42.5 of title 12, C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., and  
21 ~~from the provisions of~~ part 3 of this article.

22 (4) The provisions of section ~~12-22-318~~ 12-42.5-132 AND  
23 27-80-210, C.R.S., shall not apply to a practitioner authorized to prescribe  
24 with respect to any controlled substance ~~which~~ THAT is listed in schedule  
25 III, IV, or V of part 2 of this article and ~~which~~ THAT is manufactured,  
26 received, or dispensed by ~~him~~ THE PRACTITIONER in the course of his OR  
27 HER professional practice unless he OR SHE dispenses, other than by direct

1 administration, any such controlled substance to his patients and they are  
2 charged therefor either separately or together with charges for other  
3 professional services or unless he THE PRACTITIONER regularly engages  
4 in dispensing any such controlled substance to his OR HER patients.

5 (6) It shall not be necessary for the state to negate any exemption  
6 or exception in this part 4, ~~or in~~ part 3 1 of article 22 42.5 of title 12,  
7 C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., or ~~in~~ part 3 of this  
8 article in any complaint, information, indictment, or other pleading or in  
9 any trial, hearing, or other proceeding under this part 4. The burden of  
10 proof of any such exemption or exception is upon the person claiming it.

11 **SECTION 60.** In Colorado Revised Statutes, **amend** 18-18-602  
12 as follows:

13 **18-18-602. Continuation of rules - application to existing**  
14 **relationships.** Any orders and rules adopted under any law affected by  
15 this article and in effect on July 1, 1992, and not in conflict with this  
16 article continue in effect until modified, superseded, or repealed. Rights  
17 and duties that matured, penalties that were incurred, and proceedings that  
18 were begun prior to July 1, 1992, are not affected by the enactment of the  
19 "Uniform Controlled Substances Act of 1992" or the corresponding  
20 repeal of provisions in article 22 42.5 of title 12, C.R.S., and part 6 of  
21 article 5 of this title.

22 **SECTION 61.** In Colorado Revised Statutes, 19-3-604, **amend**  
23 (2) (e) as follows:

24 **19-3-604. Criteria for termination.** (2) In determining unfitness,  
25 conduct, or condition for purposes of paragraph (c) of subsection (1) of  
26 this section, the court shall find that continuation of the legal relationship  
27 between parent and child is likely to result in grave risk of death or

1 serious bodily injury to the child or that the conduct or condition of the  
2 parent or parents renders the parent or parents unable or unwilling to give  
3 the child reasonable parental care to include, at a minimum, nurturing and  
4 safe parenting sufficiently adequate to meet the child's physical,  
5 emotional, and mental health needs and conditions. In making such  
6 determinations, the court shall consider, but not be limited to, the  
7 following:

8 (e) Excessive use of intoxicating liquors or controlled substances,  
9 as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., which affects  
10 the ability to care and provide for the child;

11 **SECTION 62.** In Colorado Revised Statutes, 19-5-105, **amend**  
12 (3.1) (a) (V) as follows:

13 **19-5-105. Proceeding to terminate parent-child legal**  
14 **relationship.** (3.1) The court may order the termination of the other birth  
15 parent's parental rights upon a finding that termination is in the best  
16 interests of the child and that there is clear and convincing evidence of  
17 one or more of the following:

18 (a) That the parent is unfit. In considering the fitness of the child's  
19 parent, the court shall consider, but shall not be limited to, the following:

20 (V) Excessive use of intoxicating liquors or use of controlled  
21 substances, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.,  
22 that affects the ability of the individual to care and provide for the child;

23 **SECTION 63.** In Colorado Revised Statutes, **amend** 22-1-110 as  
24 follows:

25 **22-1-110. Effect of use of alcohol and controlled substances to**  
26 **be taught.** The nature of alcoholic drinks and controlled substances, as  
27 defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., and special

1 instruction as to their effects upon the human system in connection with  
2 the several divisions of the subject of physiology and hygiene, as to the  
3 physical, emotional, psychological, and social dangers of their use with  
4 an emphasis upon the nonuse of such substances by school-age children,  
5 and as to the illegal aspects of their use shall be included in the branches  
6 of study taught to school-age children during grades kindergarten through  
7 ~~grade~~ twelve in the public schools of the state. They shall be studied and  
8 taught, as thoroughly and in the same manner as other like required  
9 branches are taught in said schools, by the use of instructional materials  
10 and strategies designated by the board of directors of the respective  
11 school districts.

12 **SECTION 64.** In Colorado Revised Statutes, **amend** 22-1-119 as  
13 follows:

14 **22-1-119. Students - dispensing of drugs to - liability.** Any  
15 school employee who dispenses any drug, as such term is defined in  
16 section ~~12-22-102 (11)~~ 12-42.5-102 (13), C.R.S., to a student in  
17 accordance with written instructions from a parent or legal guardian shall  
18 not be liable for damages in any civil action or subject to prosecution in  
19 any criminal proceedings for an adverse drug reaction suffered by the  
20 student as a result of dispensing such drug.

21 **SECTION 65.** In Colorado Revised Statutes, 22-33-106, **amend**  
22 (1) (d) (I) as follows:

23 **22-33-106. Grounds for suspension, expulsion, and denial of**  
24 **admission.** (1) The following shall be grounds for suspension or  
25 expulsion of a child from a public school during a school year:

26 (d) (I) Serious violations in a school building or in or on school  
27 property, which suspension or expulsion shall be mandatory; except that



1 expulsion shall be mandatory for the following violations: Carrying,  
2 bringing, using, or possessing a dangerous weapon without the  
3 authorization of the school or the school district; the sale of a drug or  
4 controlled substance as defined in section ~~12-22-303~~ 18-18-102 (5),  
5 C.R.S.; or the commission of an act ~~which~~ THAT, if committed by an  
6 adult, would be robbery pursuant to part 3 of article 4 of title 18, C.R.S.,  
7 or assault pursuant to part 2 of article 3 of title 18, C.R.S., other than the  
8 commission of an act that would be third degree assault under section  
9 18-3-204, C.R.S., if committed by an adult.

10 **SECTION 66.** In Colorado Revised Statutes, 22-60.5-107,  
11 **amend** (2) (c) as follows:

12 **22-60.5-107. Grounds for denying, annulling, suspending, or**  
13 **revoking license, certificate, endorsement, or authorization.** (2) Any  
14 license, certificate, endorsement, or authorization may be denied,  
15 annulled, suspended, or revoked in the manner prescribed in section  
16 22-60.5-108, notwithstanding the provisions of subsection (1) of this  
17 section:

18 (c) When the applicant or holder is found guilty of or upon the  
19 court's acceptance of a guilty plea or a plea of nolo contendere to a  
20 misdemeanor violation of any law of this state or another state, any  
21 municipality of this state or another state, or the United States or any  
22 territory subject to the jurisdiction of the United States involving the  
23 illegal sale of controlled substances, as defined in section ~~12-22-303~~ (7)  
24 18-18-102 (5), C.R.S.;

25 **SECTION 67.** In Colorado Revised Statutes, 22-63-302, **amend**  
26 (11) (a) (II) as follows:

27 **22-63-302. Procedure for dismissal - judicial review.**

1 (11) (a) The board of a school district may take immediate action to  
2 dismiss a teacher, without a hearing, notwithstanding subsections (2) to  
3 (10) of this section, pending the final outcome of judicial review or when  
4 the time for seeking review has elapsed, when the teacher is convicted,  
5 pleads nolo contendere, or receives a deferred sentence for:

6 (II) A violation of any law of this state, any municipality of this  
7 state, or the United States involving the illegal sale of controlled  
8 substances, as defined in section ~~12-22-303~~ (7) 18-18-102 (5), C.R.S.

9 **SECTION 68.** In Colorado Revised Statutes, 24-1-122, **amend**  
10 (3) (r) as follows:

11 **24-1-122. Department of regulatory agencies - creation.**

12 (3) The following boards and agencies are transferred by a **type 1**  
13 transfer to the department of regulatory agencies and allocated to the  
14 division of registrations:

15 (r) State board of pharmacy, created by part 1 of article ~~22~~ 42.5 of  
16 title 12, C.R.S.;

17 **SECTION 69.** In Colorado Revised Statutes, 25-1-1202, **amend**  
18 (1) (nnn) as follows:

19 **25-1-1202. Index of statutory sections regarding medical**  
20 **record confidentiality and health information.** (1) Statutory provisions  
21 concerning policies, procedures, and references to the release, sharing,  
22 and use of medical records and health information include the following:

23 (nnn) Section ~~12-22-707~~ 12-42.5-406, C.R.S., concerning  
24 information entered into the prescription drug monitoring program  
25 database.

26 **SECTION 70.** In Colorado Revised Statutes, 25-1.5-301, **amend**  
27 (4) (b) as follows:

1           **25-1.5-301. Definitions.** As used in this part 3, unless the context  
2 otherwise requires:

3           (4) "Qualified manager" means a person who:

4           (b) Has completed training in the administration of medications  
5 pursuant to section 25-1.5-303 or is a licensed nurse pursuant to article 38  
6 of title 12, C.R.S., a licensed physician pursuant to article 36 of title 12,  
7 C.R.S., or a licensed pharmacist pursuant to article ~~22~~ 42.5 of title 12,  
8 C.R.S. Every unlicensed person who is a "qualified manager" within the  
9 meaning of this subsection (4) shall, every four years, successfully  
10 complete a test approved by the department pertaining to the  
11 administration of medications.

12           **SECTION 71.** In Colorado Revised Statutes, 25-1.5-302, **amend**  
13 (1) (b) as follows:

14           **25-1.5-302. Administration of medications - powers and duties**  
15 **of department - criminal history record checks.** (1) The department  
16 has, in addition to all other powers and duties imposed upon it by law, the  
17 power and duty to establish and maintain by rule and regulation a  
18 program for the administration of medications in facilities, which  
19 program shall be developed and conducted by the department of human  
20 services and the department of corrections, as provided in this part 3,  
21 within the following guidelines:

22           (b) Any individual who is not otherwise authorized by law to  
23 administer medication in a facility shall be allowed to perform such duties  
24 only after passing a competency evaluation. An individual who  
25 administers medications in facilities in compliance with the provisions of  
26 this part 3 shall be exempt from the licensing requirements of the  
27 "Colorado Medical Practice Act", the "Nurse Practice Act", and the laws

1 of this state pertaining to possession of controlled substances as contained  
2 in part 1 of article ~~22~~ 42.5 of title 12, C.R.S., PART 2 OF ARTICLE 80 OF  
3 TITLE 27, C.R.S., or the "Uniform Controlled Substances Act of 1992",  
4 article 18 of title 18, C.R.S.

5 **SECTION 72.** In Colorado Revised Statutes, 25-1.5-303, **amend**  
6 (1) as follows:

7 **25-1.5-303. Medication reminder boxes or systems -**  
8 **medication cash fund.** (1) Medication reminder boxes or systems may  
9 be used if such containers have been filled and properly labeled by a  
10 pharmacist licensed pursuant to article ~~22~~ 42.5 of title 12, C.R.S., a nurse  
11 licensed pursuant to article 38 of title 12, C.R.S., an unlicensed person  
12 trained pursuant to this section, or filled and properly labeled through the  
13 gratuitous care by members of one's family or friends. Nothing in this  
14 section authorizes or shall be construed to authorize the practice of  
15 pharmacy, as defined in section ~~12-22-102 (26)~~ 12-42.5-102 (31), C.R.S.  
16 No unlicensed person shall fill and label medication reminder boxes  
17 pursuant to this section until such person has completed appropriate  
18 training approved by the department, and no facility shall use an  
19 unlicensed person to perform such services unless such facility has a  
20 qualified manager to oversee the work of such unlicensed person or  
21 persons. Every unlicensed person and qualified manager described in this  
22 section shall sign a disclosure statement under penalty of perjury stating  
23 that he or she never had a professional license to practice nursing,  
24 medicine, or pharmacy revoked in this or any other state for reasons  
25 directly related to the administration of medications.

26 **SECTION 73.** In Colorado Revised Statutes, 25-35-102, **amend**  
27 (3) and (8) as follows:

1           **25-35-102. Definitions.** As used in this article, unless the context  
2 otherwise requires:

3           (3) "Dispense" shall have the same meaning as set forth in section  
4 ~~12-22-102 (9)~~ 12-42.5-102 (11), C.R.S.

5           (8) "Pharmacist" means an individual licensed by this state  
6 pursuant to ~~the provisions of~~ article ~~22~~ 42.5 of title 12, C.R.S., to engage  
7 in the practice of pharmacy.

8           **SECTION 74.** In Colorado Revised Statutes, 25-35-103, **amend**  
9 (3) (d) as follows:

10           **25-35-103. Cancer drug repository - administration - donation**  
11 **- dispensing - cancer drugs - medical devices.** (3) A pharmacist may  
12 accept and dispense cancer drugs and medical devices donated under the  
13 program to eligible patients if all of the following requirements are met:

14           (d) The cancer drug or medical device is prescribed by a  
15 practitioner, as defined in section ~~12-22-102 (27)~~ 12-42.5-102 (32),  
16 C.R.S., for use by an eligible patient and is dispensed by a pharmacist.

17           **SECTION 75.** In Colorado Revised Statutes, 25.5-5-322, **amend**  
18 (2) (a) as follows:

19           **25.5-5-322. Over-the-counter medications - rules.** (2) (a) The  
20 state board, in consultation with the state board of pharmacy created  
21 pursuant to section ~~12-22-103~~ 12-42.5-103, C.R.S., shall establish by rule  
22 standards for when a licensed pharmacist may prescribe over-the-counter  
23 medications as provided under this section for purposes of receiving  
24 reimbursement under the medical assistance program.

25           **SECTION 76.** In Colorado Revised Statutes, 25.5-5-502, **amend**  
26 (2) introductory portion as follows:

27           **25.5-5-502. Unused medications - reuse - rules.** (2) A

1 pharmacist participating in the medical assistance program may accept  
2 unused medication from a licensed facility, as defined in section  
3 ~~12-22-133~~ 12-42.5-134 (1) (a), C.R.S., or a licensed health care provider  
4 for the purpose of dispensing the medication to another person. A  
5 pharmacist shall reimburse the state department for the cost of  
6 medications that the state department has paid to the pharmacist if  
7 medications are returned to a pharmacist and the medications are  
8 available to be dispensed to another person. Medications shall only be  
9 available to be dispensed to another person under this section if the  
10 medications are:

11 **SECTION 77.** In Colorado Revised Statutes, 26-1-111, **amend**  
12 (5) as follows:

13 **26-1-111. Activities of the state department under the**  
14 **supervision of the executive director - cash fund - report - rules -**  
15 **statewide adoption resource registry.** (5) The state department, through  
16 the unit in the state department that administers behavioral health  
17 programs and services, including those related to mental health and  
18 substance abuse, shall administer alcohol and drug abuse programs set  
19 forth in articles 80, 81, and 82 of title 27, C.R.S. ~~and applicable~~  
20 ~~provisions of article 22 of title 12, C.R.S.~~

21 **SECTION 78.** In Colorado Revised Statutes, 26-6-108, **amend**  
22 (2) (c) as follows:

23 **26-6-108. Denial of license - suspension - revocation -**  
24 **probation - refusal to renew license - fines.** (2) The department may  
25 deny an application, or suspend, revoke, or make probationary the license  
26 of any facility regulated and licensed under this part 1 or assess a fine  
27 against the licensee pursuant to section 26-6-114 should the licensee, an

1 affiliate of the licensee, a person employed by the licensee, or a person  
2 who resides with the licensee at the facility:

3 (c) Use any controlled substance, as defined in section ~~12-22-303~~  
4 ~~(7)~~ 18-18-102 (5), C.R.S., or consume any alcoholic beverage during the  
5 operating hours of the facility or be under the influence of a controlled  
6 substance or alcoholic beverage during the operating hours of the facility;  
7 or

8 **SECTION 79.** In Colorado Revised Statutes, 27-82-102, **amend**  
9 (7) as follows:

10 **27-82-102. Definitions.** As used in this article, unless the context  
11 otherwise requires:

12 (7) "Drug" means a controlled substance as defined in section  
13 ~~12-22-303~~ ~~(7)~~ 18-18-102 (5), C.R.S., and toxic vapors.

14 **SECTION 80.** In Colorado Revised Statutes, 31-31-803, **amend**  
15 (3) (b) as follows:

16 **31-31-803. Retirement for disability.** (3) (b) For the purposes  
17 of this subsection (3), the terms "addiction" and "controlled substance"  
18 shall have the same meanings as such terms have in part 3 2 of article 22  
19 80 of title ~~12~~ 27, C.R.S.

20 **SECTION 81.** In Colorado Revised Statutes, **amend** 33-6-123 as  
21 follows:

22 **33-6-123. Hunting under the influence.** It is unlawful for any  
23 person who is under the influence of alcohol or any controlled substance,  
24 as defined in section ~~12-22-303~~ ~~(7)~~ 18-18-102 (5), C.R.S., or any other  
25 drug to a degree ~~which~~ THAT renders such person incapable of safely  
26 operating a firearm or bow and arrow to hunt or take any wildlife in this  
27 state. The fact that any person charged with a violation of this section is

1 or has been entitled to use such controlled substance or drug under the  
2 laws of this state shall not constitute a defense against any charge of  
3 violating this section. For the purposes of this section, being under the  
4 influence of any drug shall include the use of glue-sniffing, aerosol  
5 inhalation, or the inhalation of any other toxic vapor. Any person who  
6 violates this section is guilty of a misdemeanor and, upon conviction  
7 thereof, shall be punished by a fine of not less than one hundred dollars  
8 nor more than one thousand dollars or by imprisonment in the county jail  
9 for not more than one year, or by both such fine and imprisonment, and  
10 an assessment of twenty license suspension points.

11 **SECTION 82.** In Colorado Revised Statutes, 33-13-108.1,  
12 **amend** (1) (a) (III) and (1) (a) (IV) as follows:

13 **33-13-108.1. Operating a vessel while under the influence.**

14 (1) (a) It is a misdemeanor for any person to operate or be in actual  
15 physical control of a vessel in this state while:

16 (III) Under the influence of any controlled substance as defined  
17 in section ~~12-22-303~~ 18-18-102 (5), C.R.S., or any other drug that renders  
18 the person incapable of safely operating a vessel;

19 (IV) Under the influence of any combination of alcohol and any  
20 controlled substance as defined in section ~~12-22-303~~ 18-18-102 (5),  
21 C.R.S., or any other drug, when the combination of alcohol and controlled  
22 substance or any other drug renders the person incapable of safely  
23 operating a vessel.

24 **SECTION 83.** In Colorado Revised Statutes, 33-13-110, **amend**  
25 (3) (a) as follows:

26 **33-13-110. Water skis, aquaplanes, surfboards, inner tubes,**  
27 **and similar devices.** (3) (a) No person shall operate, manipulate, or ride



1 water skis, an aquaplane, a surfboard, an inner tube, or any similar device  
2 while under the influence of alcohol, a controlled substance as defined in  
3 section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or any other drug, or any  
4 combination thereof, which renders ~~him~~ THE PERSON incapable of the safe  
5 operation of such device.

6 **SECTION 84.** In Colorado Revised Statutes, 33-14-116, **amend**  
7 (3) as follows:

8 **33-14-116. Other operating restrictions.** (3) No person shall  
9 operate a snowmobile while under the influence of alcohol, a controlled  
10 substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or  
11 any other drug, or any combination thereof, which renders ~~him~~ THE  
12 PERSON incapable of the safe operation of a snowmobile.

13 **SECTION 85.** In Colorado Revised Statutes, 33-44-109, **amend**  
14 (9) as follows:

15 **33-44-109. Duties of skiers - penalties.** (9) No person shall  
16 move uphill on any passenger tramway or use any ski slope or trail while  
17 such person's ability to do so is impaired by the consumption of alcohol  
18 or by the use of any controlled substance, as defined in section ~~12-22-303~~  
19 ~~(7)~~ 18-18-102 (5), C.R.S., or other drug or while such person is under the  
20 influence of alcohol or any controlled substance, as defined in section  
21 ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or other drug.

22 **SECTION 86.** In Colorado Revised Statutes, 41-2-102, **amend**  
23 (1) (b) and (1) (c) as follows:

24 **41-2-102. Operating an aircraft under the influence -**  
25 **operating an aircraft with excessive alcohol content - tests - penalties**  
26 **- useful public service program.** (1) (b) It is a misdemeanor for any  
27 person who is an habitual user of any controlled substance, as defined in

1 section ~~12-22-303(7)~~ 18-18-102(5), C.R.S., to operate any aircraft in this  
2 state.

3 (c) For the purposes of this subsection (1), "one or more drugs"  
4 shall mean all substances defined as a drug in section ~~12-22-303(13)~~  
5 27-80-203 (13), C.R.S., and all controlled substances, as defined in  
6 section ~~12-22-303(7)~~ 18-18-102 (5), C.R.S.

7 **SECTION 87.** In Colorado Revised Statutes, 42-2-104, **amend**  
8 (2) (c) as follows:

9 **42-2-104. Licenses issued - denied.** (2) Except as otherwise  
10 provided in this article, a person shall not be licensed by the department  
11 to operate any motor vehicle in this state:

12 (c) Who has been adjudged or determined by a court of competent  
13 jurisdiction to be an habitual drunkard or addicted to the use of a  
14 controlled substance, as defined in section ~~12-22-303(7)~~ 18-18-102 (5),  
15 C.R.S.

16 **SECTION 88.** In Colorado Revised Statutes, 42-2-125, **amend**  
17 (1) (b) as follows:

18 **42-2-125. Mandatory revocation of license and permit.** (1) The  
19 department shall immediately revoke the license or permit of any driver  
20 or minor driver upon receiving a record showing that such driver has:

21 (b) Been convicted of driving a motor vehicle while under the  
22 influence of a controlled substance, as defined in section ~~12-22-303(7)~~  
23 18-18-102 (5), C.R.S., or while an habitual user of such a controlled  
24 substance;

25 **SECTION 89.** In Colorado Revised Statutes, 42-4-110, **amend**  
26 (1) (d) as follows:

27 **42-4-110. Provisions uniform throughout state.** (1) The

1 provisions of this article shall be applicable and uniform throughout this  
2 state and in all political subdivisions and municipalities therein. Cities  
3 and counties, incorporated cities and towns, and counties shall regulate  
4 and enforce all traffic and parking restrictions on streets which are state  
5 highways as provided in section 43-2-135 (1) (g), C.R.S., and all local  
6 authorities may enact and enforce traffic regulations on other roads and  
7 streets within their respective jurisdictions. All such regulations shall be  
8 subject to the following conditions and limitations:

9 (d) In no event shall local authorities have the power to enact by  
10 ordinance regulations governing the driving of vehicles by persons under  
11 the influence of alcohol or of a controlled substance, as defined in section  
12 ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or under the influence of any other  
13 drug to a degree ~~which~~ THAT renders any such person incapable of safely  
14 operating a vehicle, or whose ability to operate a vehicle is impaired by  
15 the consumption of alcohol or by the use of a controlled substance, as  
16 defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or any other drug,  
17 the registration of vehicles and the licensing of drivers, the duties and  
18 obligations of persons involved in traffic accidents, and vehicle  
19 equipment requirements in conflict with the provisions of this article; but  
20 said local authorities within their respective jurisdictions shall enforce the  
21 state laws pertaining to these subjects, and in every charge of violation  
22 the complaint shall specify the section of state law under which the  
23 charge is made and the state court having jurisdiction.

24 **SECTION 90.** In Colorado Revised Statutes, 42-4-805, **amend**  
25 (3) as follows:

26 **42-4-805. Pedestrians walking or traveling in a wheelchair on**  
27 **highways.** (3) It is unlawful for any person who is under the influence

1 of alcohol or of any controlled substance, as defined in section ~~12-22-303~~  
2 ~~(7)~~ 18-18-102 (5), C.R.S., or of any stupefying drug to walk or be upon  
3 that portion of any highway normally used by moving motor vehicle  
4 traffic.

5 **SECTION 91.** In Colorado Revised Statutes, 42-4-1301, **amend**  
6 (1) (c) and (1) (d) as follows:

7 **42-4-1301. Driving under the influence - driving while**  
8 **impaired - driving with excessive alcoholic content - definitions -**  
9 **penalties.** (1) (c) It is a misdemeanor for any person who is an habitual  
10 user of any controlled substance defined in section ~~12-22-303~~ ~~(7)~~  
11 18-18-102 (5), C.R.S., to drive a motor vehicle, vehicle, or low-power  
12 scooter in this state.

13 (d) For the purposes of this subsection (1), one or more drugs shall  
14 mean all substances defined as a drug in section ~~12-22-303~~ ~~(13)~~  
15 27-80-203 (13), C.R.S., and all controlled substances defined in section  
16 ~~12-22-303~~ ~~(7)~~ 18-18-102 (5), C.R.S., and glue-sniffing, aerosol  
17 inhalation, and the inhalation of any other toxic vapor or vapors.

18 **SECTION 92. Effective date.** This act takes effect July 1, 2012.

19 **SECTION 93. Safety clause.** The general assembly hereby finds,  
20 determines, and declares that this act is necessary for the immediate  
21 preservation of the public peace, health, and safety.