

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 14-0261.01 Christy Chase x2008

HOUSE BILL 14-1227

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House Committees

Health, Insurance, & Environment
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A BILL FOR AN ACT

101 **CONCERNING THE SUNSET REVIEW OF THE STATE BOARD OF DENTAL**
102 **EXAMINERS, AND, IN CONNECTION THEREWITH, CONTINUING**
103 **THE BOARD, IMPLEMENTING THE RECOMMENDATIONS**
104 **CONTAINED IN THE SUNSET REPORT PREPARED BY THE**
105 **DEPARTMENT OF REGULATORY AGENCIES, AND MAKING AN**
106 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that 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.*

HOUSE
3rd Reading Unamended
March 19, 2014

HOUSE
Amended 2nd Reading
March 18, 2014

Sunset Process - House Health, Insurance, and Environment Committee. The bill amends the "Dental Practice Law of Colorado" to implement the recommendations contained in the sunset review and report of the state board of dental examiners, as modified by the house health, insurance, and environment committee (sunset committee) during the sunset hearing, as follows:

- ! **Sections 1 to 3** of the bill continue the state board of dental examiners until September 1, 2023, and rename the board as the Colorado dental board;
- ! Section 3 also clarifies that a board member who has completed his or her term of office may remain in the position until a replacement is appointed;
- ! **Sections 4 and 5** remove limitations on who must administer clinical competency examinations to dentist and dental hygienist applicants and authorize the board to accept alternative methods of evaluating a dentist applicant's clinical competency;
- ! Section 4 also repeals the requirement that the board adopt rules to limit the number of times a dentist may take a clinical examination for licensure;
- ! **Sections 4 to 6, 24, and 26** repeal the requirement that applicants for a dental or dental hygiene license pass a jurisprudence examination;
- ! **Section 8** modifies the requirement that an accredited dental hygiene program be at least 2 academic years to allow licensure of a hygienist who graduates from a program that is equivalent to 2 academic years;
- ! **Section 9** eliminates as a grounds for discipline the fact that a licensee has a physical or mental disability that limits one's ability to safely practice and instead makes failure to notify the board of a limiting physical or mental illness or condition and failure to act within the limitations created by the illness or condition grounds for discipline. Under **section 12**, the board is authorized to enter into a confidential agreement with the licensee under which the licensee agrees to limit his or her practice to accommodate the illness or condition, and the licensee may be disciplined for failing to comply with the agreement terms.
- ! Section 9 also adds the following as grounds for discipline by the board: Failing to follow generally accepted standards for infection control; failing to respond to a complaint in an honest, materially responsive, and timely manner; administering moderate sedation or deep sedation/general anesthesia without a licensed dentist or other qualified health care professional present in the operatory; and

failing to complete and maintain records of compliance with continuing education requirements;

- ! **Section 10** allows the board to suspend a dental or dental hygiene license if the licensee fails to comply with a board order. Section 10 also allows the board to impose a fine on a licensee, sets caps on the fines based on the number of violations committed, and requires the board to adopt rules establishing a uniform system and schedule of fines;
- ! Additionally, sections 9 and 10 repeal the requirement that the board send letters of admonition by certified mail;
- ! **Section 13** updates provisions governing ownership of dental or dental hygiene practices by recognizing and referencing a provision in provider network statutes that allows dentists and dental hygienists to own and conduct a practice collaboratively as a provider network;
- ! **Section 14** repeals the requirement that applicants for a dental license by examination submit verification of all other licenses issued by another jurisdiction;
- ! **Sections 15 and 16** create parity for dentists and dental hygienists by allowing dental hygienists to apply for an inactive status license and permitting retired dental hygienists to provide uncompensated care to low-income patients;
- ! **Section 17** eliminates the provision disqualifying board candidates who have a past felony conviction or have been disciplined by the board;
- ! **Sections 2 to 11, 14 to 16, and 18 to 31** make numerous technical changes to the "Dental Practice Law of Colorado", including: Renaming the law as the "Dental Practice Act"; repealing obsolete language; updating statutory citations; using consistent language when referring to anesthesia and sedation; dividing into multiple sections a lengthy section that addresses grounds for discipline, disciplinary procedures, disciplinary actions, cease-and-desist orders, panels for investigating and adjudicating complaints, and mental and physical evaluations of licensees; and making other nonsubstantive changes to update the act.

In addition to incorporating the recommendations in the sunset report, as modified by the sunset committee, the bill:

- ! Authorizes the board to adopt rules regarding the use of lasers; (**Section 19**)
- ! Specifies that licensed dentists may prescribe orders electronically; (**Section 20**)
- ! Allows a dental hygienist practicing unsupervised dental

hygiene to prescribe, administer, or dispense fluoride, fluoride varnish, and antimicrobial solutions for mouth rinsing and other nonsystemic antimicrobial agents in collaboration with a licensed dentist; (**Section 28**)

! Deletes obsolete references to certain dental devices and specifies the duties and responsibilities of licensed dentists and unlicensed technicians in connection with the construction of dental devices; (**Section 32**)

! Requires dentists and dental hygienists to obtain at least 30 hours of continuing education every 2 years; (**Section 33**) and

! Creates a new section regarding anesthesia and sedation permits that specifies what permits dentists and dental hygienists may obtain and what type or level of anesthesia or sedation a particular permit allows a dentist or dental hygienist to administer; creates a permit designation for dentists who administer anesthesia or sedation to pediatric patients; and requires the board to adopt rules to establish minimum training, experience, and equipment requirements for the administration of anesthesia and sedation and rules to establish criteria and procedures for an office inspection program. (**Section 33**)

Sections 34 to 44 contain conforming amendments to other provisions of law impacted by the changes to the act described above.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-104, **repeal**
3 (45) (c); and **add** (56) as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for termination, continuation, or reestablishment.**

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

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

10 (56) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, TERMINATE
11 ON SEPTEMBER 1, 2025:

1 (a) THE COLORADO DENTAL BOARD, CREATED IN ARTICLE 35 OF
2 TITLE 12, C.R.S.;

3 **SECTION 2.** In Colorado Revised Statutes, 12-35-103, **amend**
4 (2) and (12); and **repeal** (7), (8), (13), and (15) as follows:

5 **12-35-103. Definitions.** As used in this article, unless the context
6 otherwise requires:

7 (2) "Board" means the ~~state~~ COLORADO DENTAL board ~~of dental~~
8 ~~examiners~~, created in section 12-35-104.

9 (7) ~~"Examination proctor" means a licensed dentist or dental~~
10 ~~hygienist, who shall have at least five years' clinical experience and who~~
11 ~~is appointed by the board to supervise and administer written and clinical~~
12 ~~examinations in the field in which the dentist or dental hygienist is~~
13 ~~licensed to practice under this article.~~

14 (8) ~~"Inactive license" means a status granted to a person pursuant~~
15 ~~to section 12-35-122.~~

16 (12) "License" means the grant of authority by the board to any
17 person to engage in the practice of dentistry or dental hygiene. "License"
18 includes an academic license to practice dentistry pursuant to section
19 12-35-117.5. A license ~~shall be~~ IS a privilege personal to the licensee, and
20 THE BOARD may ~~be revoked, suspended, or subjected to~~ REVOKE,
21 SUSPEND, OR IMPOSE disciplinary conditions ~~by the board~~ ON THE LICENSE
22 for A violation of ~~any of the provisions of this article. and shall be null~~
23 ~~and void upon the failure of the licensee to file an application for renewal~~
24 ~~and to pay the fee as required by section 12-35-121.~~

25 (13) ~~"License certificate" means the documentary evidence that~~
26 ~~the board has granted authority to the licensee to practice dentistry or~~
27 ~~dental hygiene in this state.~~

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

4 **SECTION 3.** In Colorado Revised Statutes, 12-35-104, **amend**
5 (1) and (4); and **repeal** (3) as follows:

6 **12-35-104. Colorado dental board - subject to termination -**
7 **immunity - repeal of article.** (1) (a) (I) The ~~state~~ COLORADO DENTAL
8 board ~~of dental examiners~~ is hereby created as the agency of this state for
9 the regulation of the practice of dentistry in this state and to carry out the
10 purposes of this article. The board ~~shall be under~~ IS SUBJECT TO the
11 supervision and control of the division of professions and occupations as
12 provided by section 24-34-102, C.R.S.

13 (II) The board ~~shall consist~~ CONSISTS of ~~five~~ SEVEN dentist
14 members, ~~two~~ THREE dental hygienist members, and three members from
15 the public at large. THE GOVERNOR SHALL APPOINT each member ~~to be~~
16 appointed by the governor for a term of four years, and ~~to~~ EACH MEMBER
17 SHALL have the qualifications provided in this article. No member shall
18 serve more than two consecutive terms of four years. ~~Due consideration~~
19 ~~shall be given to having~~ a EACH BOARD MEMBER SHALL HOLD OFFICE
20 UNTIL HIS OR HER TERM EXPIRES OR UNTIL THE GOVERNOR APPOINTS A
21 SUCCESSOR.

22 (III) IN MAKING APPOINTMENTS TO THE BOARD, THE GOVERNOR
23 SHALL ATTEMPT TO CREATE geographical, political, urban, and rural
24 balance among the board members. ~~Should~~ IF a vacancy ~~occur~~ OCCURS in
25 any board membership before the expiration of the MEMBER'S term,
26 ~~thereof~~, the governor shall fill ~~such~~ THE vacancy by appointment for the
27 remainder of ~~such~~ THE term in the same manner as in the case of original

1 appointments.

2 (IV) THE GOVERNOR MAY REMOVE any member of the board ~~may~~
3 ~~be removed by the governor~~ for misconduct, incompetence, or neglect of
4 duty.

5 (b) ~~Notwithstanding the July 1, 2004, recreation and reenactment~~
6 ~~of this article, members of the board who were serving as of June 30,~~
7 ~~2004, shall continue to serve except as otherwise provided in this article,~~
8 ~~and their service shall be deemed to have been continuous. On and after~~
9 ~~January 1, 2005, the board shall consist of seven dentist members, three~~
10 ~~dental hygienist members, and three members from the public at large,~~
11 ~~each member to be appointed by the governor for a term of four years and~~
12 ~~to have the qualifications provided in this article.~~

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

14 (4) (a) ~~The provisions of Section 24-34-104, C.R.S., concerning~~
15 ~~the termination schedule for regulatory bodies of the state unless extended~~
16 ~~as provided in that section, are applicable~~ APPLIES to the board. ~~At the~~
17 ~~time of sunset review by the appropriate legislative committee, PRIOR TO~~
18 ~~THE REPEAL OF THIS ARTICLE, THE DEPARTMENT OF REGULATORY~~
19 ~~AGENCIES SHALL REVIEW all functions of the board including the issuing~~
20 ~~of permits for administering anesthesia and the regulation of such~~
21 ~~administration of anesthesia, shall be reviewed~~ AS PROVIDED IN SECTION
22 24-34-104, C.R.S.

23 (b) This article is repealed, effective ~~July 1, 2014~~ SEPTEMBER 1,
24 2025.

25 **SECTION 4.** In Colorado Revised Statutes, **amend** 12-35-119 as
26 follows:

27 **12-35-119. Examination - how conducted - license issued to**

1 **successful applicants.** (1) Applicants for dental licensure shall submit
2 to the board proof of having successfully passed the following:

3 (a) The examination administered by the joint commission on
4 national dental examinations; AND

5 (b) ~~A jurisprudence examination, approved by the board, designed~~
6 ~~to test the applicant's knowledge of the provisions of this article; and~~

7 (c) An examination OR OTHER METHODOLOGY, AS DETERMINED BY
8 THE BOARD, designed to test the applicant's clinical skills and knowledge,
9 ~~Such examination shall be administered by a regional testing agency~~
10 ~~composed of at least four states or an examination of another state WHICH~~
11 ~~MAY INCLUDE RESIDENCY AND PORTFOLIO MODELS.~~

12 (2) All examination results required by the board ~~shall~~ MUST be
13 filed with the board and kept for reference for a period of not less than
14 ~~two years. Should~~ ONE YEAR. If the applicant successfully ~~complete such~~
15 ~~COMPLETES~~ THE examinations and ~~be~~ IS otherwise qualified, the BOARD
16 SHALL GRANT A LICENSE TO THE applicant ~~shall be granted a license by the~~
17 ~~board~~ and shall ~~be issued~~ ISSUE a license certificate TO THE APPLICANT.

18 (3) ~~The board shall adopt rules to establish:~~

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

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

26 **SECTION 5.** In Colorado Revised Statutes, 12-35-127, **amend**
27 (1) and (2) as follows:

1 **12-35-127. Dental hygienist examinations - license.**

2 (1) Every applicant for dental hygiene licensure shall submit to the board
3 proof of having successfully completed the following:

4 (a) An examination administered by the joint commission on
5 national dental examinations; AND

6 (b) An examination designed to test the applicant's clinical skills
7 and knowledge, which shall MUST be administered by a regional testing
8 agency composed of at least four states or an examination of another
9 state, and OR A METHODOLOGY ADOPTED BY THE BOARD BY RULE THAT IS
10 DESIGNED TO TEST THE APPLICANT'S CLINICAL SKILLS AND KNOWLEDGE.

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

12 (2) All examination results required by the board shall MUST be
13 filed with the board and kept for reference for a period of not less than
14 two years. ~~Should ONE YEAR. If an applicant successfully complete such~~
15 ~~COMPLETES THE examinations and be IS otherwise qualified, the BOARD~~
16 ~~SHALL GRANT A LICENSE TO THE applicant shall be granted a license by the~~
17 ~~board and shall be issued ISSUE a license certificate signed by the officers~~
18 of the board.

19 **SECTION 6.** In Colorado Revised Statutes, **add with amended**
20 **and relocated provisions** 12-35-127.5 as follows:

21 **12-35-127.5. [Formerly 12-35-127 (3)] Dental hygienist -**
22 **licensure by endorsement.** ~~(a)~~ (1) The board shall provide for licensure
23 upon application of any person licensed in good standing to practice
24 dental hygiene in another state or territory of the United States who has
25 met the requirements of section 12-35-126, ~~subsections (1) and (2) of this~~
26 ~~section, and paragraph (b) of this subsection (3)~~ and provides the
27 credentials and meets the qualifications set forth in ~~paragraph (b) of this~~

1 ~~subsection (3)~~ SECTION in the manner prescribed by the board. ~~The~~
2 ~~examination for knowledge of the provisions of this article shall be~~
3 ~~accomplished by the use of a mail-in jurisprudence examination~~
4 ~~administered by the board.~~

5 (b) (2) The board shall issue a license to an applicant duly licensed
6 as a dental hygienist in another state or territory of the United States who
7 has submitted credentials and qualifications for licensure in Colorado
8 ~~Such credentials and qualifications shall~~ THAT include:

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

11 (H) (b) Evidence of the applicant's successful completion of the
12 national board dental examination administered by the joint commission
13 on national dental examinations;

14 (H) (A) (c) (I) Verification that the applicant has been engaged
15 either in clinical practice or in teaching dental hygiene or dentistry in an
16 accredited program for at least one year during the three years
17 immediately preceding the date of the receipt of the application; or

18 (B) (II) Evidence that the applicant has demonstrated competency
19 as a dental hygienist as determined by the board;

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

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

24 **SECTION 7. Repeal of relocated provisions in this act.** In
25 Colorado Revised Statutes, 12-35-127, **repeal** (3) and (4).

26 **SECTION 8.** In Colorado Revised Statutes, 12-35-126, **amend**
27 (1) (b); and **repeal** (4) as follows:

1 **12-35-126. Application for dental hygienist license - fee.**

2 (1) Every person who desires to qualify for practice as a dental hygienist
3 within this state shall file with the board:

4 (b) Satisfactory proof of graduation from a school of dental
5 hygiene that, at the time of the applicant's graduation, was accredited, and
6 proof that the program offered by the accredited school of dental hygiene
7 was at least two academic years OR THE EQUIVALENT OF TWO ACADEMIC
8 YEARS.

9 (4) ~~Licenses for dental hygienists shall be renewed or reinstated~~
10 ~~pursuant to a schedule established by the director of the division of~~
11 ~~professions and occupations within the department of regulatory agencies,~~
12 ~~referred to in this section as the director, and shall be renewed or~~
13 ~~reinstated pursuant to section 24-34-102 (8), C.R.S. The director may~~
14 ~~establish renewal fees and delinquency fees for reinstatement pursuant to~~
15 ~~section 24-34-105, C.R.S. If a person fails to renew his or her license~~
16 ~~pursuant to the schedule established by the director, such license shall~~
17 ~~expire. Any person whose license has expired shall be subject to the~~
18 ~~penalties provided in this article or section 24-34-102 (8), C.R.S.~~

19 **SECTION 9.** In Colorado Revised Statutes, 12-35-129, **amend**
20 (1) as follows:

21 **12-35-129. Grounds for disciplinary action.** (1) The board may
22 ~~deny the issuance or renewal of, suspend for a specified time period, or~~
23 ~~revoke any license provided for by this article or may reprimand, censure,~~
24 ~~or place on probation any licensed dentist or dental hygienist after notice~~
25 ~~and hearing, which may be conducted by an administrative law judge,~~
26 ~~pursuant to the provisions of article 4 of title 24, C.R.S., or it may issue~~
27 ~~a letter of admonition without a hearing by certified mail (except that any~~

1 ~~licensed dentist or dental hygienist to whom such a letter of admonition~~
2 ~~is sent may, within twenty days after receipt of the letter, request in~~
3 ~~writing to the board a formal hearing thereon, and the letter of admonition~~
4 ~~shall be deemed vacated, and the board shall, upon such request, hold~~
5 ~~such a hearing)~~ TAKE DISCIPLINARY ACTION AGAINST AN APPLICANT OR
6 LICENSEE IN ACCORDANCE WITH SECTION 12-35-129.1 for any of the
7 following causes:

8 (a) ~~Resorting to~~ ENGAGING IN fraud, misrepresentation, or
9 deception in applying for, securing, renewing, or seeking reinstatement
10 of a license to practice dentistry or dental hygiene in this state, in applying
11 for professional liability coverage required pursuant to ~~section 13-64-301,~~
12 **C.R.S. SECTION 12-35-141**, or in taking the examinations provided for in
13 this article;

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

18 (c) Administering, dispensing, or prescribing ~~any~~ A habit-forming
19 drug or ~~any~~ controlled substance, as defined in section 18-18-102 (5),
20 C.R.S., to ~~any~~ A person, including ~~himself or herself~~ THE APPLICANT OR
21 LICENSEE, other than in the course of legitimate professional practice;

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

1 (e) Habitually abusing or excessively using ~~any~~ ALCOHOL, A
2 habit-forming drug, or ~~any~~ A controlled substance, as defined in section
3 18-18-102 (5), C.R.S.; ~~or alcohol;~~

4 (f) Misusing ~~any~~ A drug or controlled substance, as defined in
5 section 18-18-102 (5), C.R.S.;

6 (g) Aiding or abetting, in the practice of dentistry or dental
7 hygiene, ~~any~~ A person WHO IS not licensed to practice dentistry or dental
8 hygiene ~~as defined under this article or of any person~~ whose license to
9 practice dentistry or dental hygiene is suspended;

10 (h) Except as otherwise provided in sections 25-3-103.7, C.R.S.,
11 12-35-116, and 12-35-124 (3), ~~C.R.S.~~, practicing dentistry or dental
12 hygiene as a partner, agent, or employee of or in joint venture with any
13 person who does not hold a license to practice dentistry or dental hygiene
14 within this state or practicing dentistry or dental hygiene as an employee
15 of or in joint venture with any partnership, association, or corporation. A
16 licensee holding a license to practice dentistry or dental hygiene in this
17 state may accept employment from any person, partnership, association,
18 or corporation to examine, prescribe, and treat the employees of ~~such~~ THE
19 person, partnership, association, or corporation.

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

23 (j) (I) ~~Such~~ FAILING TO NOTIFY THE BOARD OF A physical or mental
24 ~~disability as to render~~ ILLNESS OR CONDITION THAT RENDERS the licensee
25 unable, OR LIMITS THE LICENSEE'S ABILITY, to perform dental or dental
26 hygiene services with reasonable skill and with safety to the patient;

27 (II) FAILING TO ACT WITHIN THE LIMITATIONS CREATED BY A

1 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE
2 LICENSEE UNABLE TO PRACTICE DENTAL OR DENTAL HYGIENE SERVICES
3 WITH REASONABLE SKILL AND SAFETY OR THAT MAY ENDANGER THE
4 HEALTH OR SAFETY OF PERSONS UNDER HIS OR HER CARE; OR

5 (III) FAILING TO COMPLY WITH THE LIMITATIONS AGREED TO
6 UNDER A CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION
7 12-35-129.6;

8 (k) COMMITTING an act or omission ~~constituting~~ THAT
9 CONSTITUTES grossly negligent dental or dental hygiene practice or that
10 fails to meet generally accepted standards of dental or dental hygiene
11 practice;

12 (l) Advertising in a manner that is misleading, deceptive, or false;

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

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

21 (o) False billing in the delivery of dental or dental hygiene
22 services, including, but not limited to, performing one service and billing
23 for another, billing for any service not rendered, ~~and~~ OR committing a
24 fraudulent insurance act, as defined in section 10-1-128, C.R.S.;

25 (p) COMMITTING abuse of health insurance ~~pursuant to~~ IN
26 VIOLATION OF section 18-13-119, C.R.S.;

27 (q) Failing to notify the board, in writing AND WITHIN NINETY

1 DAYS AFTER A JUDGMENT IS ENTERED, of ~~the entry of~~ a final judgment by
2 a court of competent jurisdiction in favor of any party and against the
3 licensee involving negligent malpractice of dentistry or dental hygiene,
4 ~~Such WHICH notice shall be given within ninety days after the entry of~~
5 ~~such judgment and shall~~ MUST contain the name of the court, the case
6 number, and the names of all parties to the action;

7 (r) Failing to report a dental or dental hygiene malpractice
8 judgment or malpractice settlement to the board by the licensee within
9 ninety days;

10 (s) Failing to furnish unlicensed persons with laboratory work
11 orders pursuant to section 12-35-133;

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

14 (u) Willfully deceiving or attempting to deceive the board or its
15 agents with reference to any matter relating to ~~the provisions of this~~
16 article;

17 (v) Sharing any professional fees with anyone except those with
18 whom the dentist or dental hygienist is lawfully associated in the practice
19 of dentistry or dental hygiene; ~~except that it shall not be considered a~~
20 ~~violation of this paragraph (v) if~~ a licensed dentist or dental hygienist
21 ~~pays to~~ MAY PAY an independent advertising or marketing agent
22 compensation for advertising or marketing services rendered ~~on~~ BY THE
23 AGENT FOR THE BENEFIT OF the licensed ~~dentist's~~ DENTIST or dental
24 ~~hygienist's behalf by such agent~~ HYGIENIST, including compensation that
25 is ~~paid for~~ BASED ON the results or performance of ~~such~~ THE services on
26 a per-patient basis;

27 (w) ~~The abandonment of a patient by failure~~ FAILING to provide

1 reasonably necessary referral of ~~the~~ A patient to other licensed dentists or
2 licensed health care professionals for consultation or treatment when ~~such~~
3 THE failure to provide referral does not meet generally accepted standards
4 of dental care;

5 (x) Failure of a dental hygienist to recommend ~~to any patient that~~
6 ~~such~~ A patient be examined by a dentist, or ~~failure of a dental hygienist to~~
7 refer a patient to a dentist, when the dental hygienist detects a condition
8 that requires care beyond the scope of practicing supervised or
9 unsupervised dental hygiene;

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

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

13 (II) The administration, without clinical justification, of treatment
14 that is demonstrably unnecessary;

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

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

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

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

25 (bb) Violating ~~the provisions of~~ section 12-35-202 or any rule of
26 the board adopted pursuant to ~~said~~ THAT section;

27 (cc) Administering ~~general anesthesia or deep conscious sedation~~

1 LOCAL ANESTHESIA, MINIMAL SEDATION, MODERATE SEDATION, OR DEEP
2 SEDATION/GENERAL ANESTHESIA without obtaining a permit from the
3 board in accordance with section ~~12-35-107 (1) (h)~~ 12-35-140;

4 (dd) ~~Failure~~ FAILING to report TO THE BOARD, within ninety days
5 after final disposition, ~~to the board~~ the surrender of a license to, or
6 adverse action taken against a license by, a licensing agency in another
7 state, territory, or country, a governmental agency, a law enforcement
8 agency, or a court for an act or conduct that would constitute grounds for
9 discipline pursuant to this article;

10 (ee) ~~Failure~~ FAILING to provide adequate or proper supervision
11 when employing unlicensed persons in a dental or dental hygiene
12 practice;

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

16 (gg) Practicing outside the scope of dental or dental hygiene
17 practice;

18 (hh) Failing to establish and continuously maintain financial
19 responsibility OR PROFESSIONAL LIABILITY INSURANCE as required by
20 section ~~13-64-301~~, C.R.S. 12-35-141;

21 (ii) Advertising or otherwise holding oneself out to the public as
22 practicing a dental specialty in which the dentist has not successfully
23 completed the education specified for the dental specialty as defined by
24 the American dental association;

25 (jj) FAILING TO RESPOND IN AN HONEST, MATERIALLY RESPONSIVE,
26 AND TIMELY MANNER TO A COMPLAINT FILED AGAINST THE LICENSEE
27 PURSUANT TO THIS ARTICLE;

1 (kk) COMMITTING AN ACT OF OMISSION THAT FAILS TO MEET
2 GENERALLY ACCEPTED STANDARDS FOR INFECTION CONTROL;

3 (ll) ADMINISTERING MODERATE SEDATION OR DEEP
4 SEDATION/GENERAL ANESTHESIA WITHOUT A LICENSED DENTIST OR OTHER
5 LICENSED HEALTH CARE PROFESSIONAL QUALIFIED TO ADMINISTER THE
6 RELEVANT LEVEL OF SEDATION OR ANESTHESIA PRESENT IN THE
7 OPERATORY; OR

8 (mm) FAILING TO COMPLETE AND MAINTAIN RECORDS OF
9 COMPLETING CONTINUING EDUCATION AS REQUIRED BY SECTION
10 12-35-139.

11 **SECTION 10.** In Colorado Revised Statutes, **add with amended**
12 **and relocated provisions** 12-35-129.1, 12-35-129.2, 12-35-129.3,
13 12-35-129.4, and 12-35-129.5 as follows:

14 **12-35-129.1. Disciplinary actions.** (1) (a) IF, AFTER NOTICE AND
15 HEARING CONDUCTED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24,
16 C.R.S., THE BOARD DETERMINES THAT AN APPLICANT OR LICENSEE HAS
17 ENGAGED IN AN ACT SPECIFIED IN SECTION 12-35-129, THE BOARD MAY:

18 (I) DENY THE ISSUANCE OF, REFUSE TO RENEW, SUSPEND, OR
19 REVOKE ANY LICENSE PROVIDED FOR IN THIS ARTICLE;

20 (II) REPRIMAND, CENSURE, OR PLACE ON PROBATION ANY
21 LICENSED DENTIST OR DENTAL HYGIENIST;

22 (III) ISSUE A LETTER OF ADMONITION; OR

23 (IV) IMPOSE AN ADMINISTRATIVE FINE.

24 (b) HEARINGS UNDER THIS SECTION MUST BE CONDUCTED BY THE
25 BOARD OR BY AN ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO
26 PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S.

27 (2) (a) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN

1 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE BOARD, DOES
2 NOT WARRANT FORMAL ACTION BY THE BOARD BUT SHOULD NOT BE
3 DISMISSED AS BEING WITHOUT MERIT, THE BOARD MAY ISSUE AND SEND TO
4 THE LICENSEE A LETTER OF ADMONITION.

5 (b) WHEN THE BOARD SENDS A LETTER OF ADMONITION TO A
6 LICENSEE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), THE
7 BOARD SHALL ALSO ADVISE THE LICENSEE THAT HE OR SHE HAS THE RIGHT
8 TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER RECEIPT OF THE
9 LETTER, THAT THE BOARD INITIATE FORMAL DISCIPLINARY PROCEEDINGS
10 TO ADJUDICATE THE PROPRIETY OF THE CONDUCT UPON WHICH THE LETTER
11 OF ADMONITION IS BASED. IF THE LICENSEE MAKES THE REQUEST FOR
12 ADJUDICATION IN A TIMELY MANNER, THE BOARD SHALL VACATE THE
13 LETTER OF ADMONITION AND SHALL PROCESS THE MATTER BY MEANS OF
14 FORMAL DISCIPLINARY PROCEEDINGS.

15 (3) [Formerly 12-35-129 (7) (f)] If an investigation discloses an
16 instance of conduct that, in the opinion of the board, does not warrant
17 formal board action and should be dismissed, but in which the board has
18 noticed indications of possible errant conduct that could lead to serious
19 consequences if not corrected, THE BOARD SHALL SEND a confidential
20 letter of concern ~~shall be sent~~ to the licensee against whom the complaint
21 was made. The BOARD SHALL SEND THE person making the complaint
22 ~~shall be sent~~ a notice that THE BOARD HAS ISSUED a letter of concern ~~has~~
23 ~~been issued by the board~~ TO THE LICENSEE.

24 (4) [Formerly 12-35-129 (7) (g)] The board may include, in any
25 disciplinary order that allows ~~the~~ A dentist or dental hygienist to continue
26 to practice, ~~such conditions as the board may deem~~ DEEMS appropriate to
27 assure that the dentist or dental hygienist is physically, mentally, and

1 otherwise qualified to practice dentistry or dental hygiene in accordance
2 with generally accepted professional standards of practice. ~~Such an~~ THE
3 order may include any or all of the following:

4 ~~(I)~~ (a) ~~Submission by~~ A CONDITION THAT the licensee SUBMIT to
5 ~~such~~ examinations ~~as the board may order~~ to determine the licensee's
6 physical or mental condition or professional qualifications;

7 ~~(II)~~ (b) ~~The taking by~~ A CONDITION THAT the licensee ~~of such~~
8 TAKE therapy, courses of training, or education as ~~may be~~ needed to
9 correct deficiencies found by the board or by ~~such~~ examinations
10 REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4);

11 ~~(III)~~ (c) ~~The~~ Review or supervision of the licensee's practice as
12 ~~may be~~ necessary to determine ~~its~~ THE quality OF THE PRACTICE and to
13 correct any deficiencies;

14 ~~(IV)~~ (d) The imposition of restrictions on the licensee's practice
15 to assure that ~~such~~ THE practice does not exceed the limits of the
16 licensee's capabilities.

17 (5) THE BOARD MAY SUSPEND THE LICENSE OF A DENTIST OR
18 DENTAL HYGIENIST WHO FAILS TO COMPLY WITH AN ORDER OF THE BOARD
19 ISSUED IN ACCORDANCE WITH THIS SECTION. THE BOARD MAY IMPOSE THE
20 LICENSE SUSPENSION UNTIL THE LICENSEE COMPLIES WITH THE BOARD'S
21 ORDER.

22 (6) (a) IN ADDITION TO ANY OTHER PENALTY PERMITTED UNDER
23 THIS ARTICLE, WHEN A LICENSED DENTIST OR DENTAL HYGIENIST VIOLATES
24 A PROVISION OF THIS ARTICLE OR OF ANY RULE PROMULGATED PURSUANT
25 TO THIS ARTICLE, THE BOARD MAY IMPOSE A FINE ON THE LICENSEE. IF THE
26 LICENSEE IS A DENTIST, THE FINE MUST NOT EXCEED FIVE THOUSAND
27 DOLLARS. IF THE LICENSEE IS A DENTAL HYGIENIST, THE FINE MUST NOT

1 EXCEED THREE THOUSAND DOLLARS.

2 (b) THE BOARD SHALL ADOPT RULES ESTABLISHING A UNIFORM
3 SYSTEM AND SCHEDULE OF FINES THAT SET FORTH FINE TIERS BASED ON
4 THE SEVERITY OF THE VIOLATION, THE TYPE OF VIOLATION, AND WHETHER
5 THE LICENSEE REPEATEDLY VIOLATES THIS ARTICLE, BOARD RULES, OR
6 BOARD ORDERS.

7 (7) [Formerly 12-35-129 (11)] If the board finds the charges
8 proven and orders that discipline be imposed, it THE BOARD may also
9 order the licensee to take such courses of training or education as may be
10 needed THE BOARD DEEMS NECESSARY to correct deficiencies found as a
11 result of the hearing.

12 (8) [Formerly 12-35-129 (2)] Any person whose license to
13 practice is revoked is rendered ineligible to apply for any license under
14 this article for at least two years after the date of revocation or surrender
15 of the license. Any subsequent application for licensure shall be treated
16 as IS an application for a new license.

17 **12-35-129.2. Disciplinary proceedings.** (1) [Formerly
18 **12-35-129 (6)]** (a) ~~Complaints~~ ANY PERSON MAY SUBMIT A COMPLAINT
19 relating to the conduct of any A dentist or dental hygienist, shall WHICH
20 COMPLAINT MUST be in writing and may be made by any person and, if so
21 made, shall be signed by such THE person. or may be initiated by The
22 board, on its own motion, MAY INITIATE A COMPLAINT. The BOARD SHALL
23 NOTIFY THE dentist or dental hygienist complained of shall be given
24 notice of such THE complaint AGAINST HIM OR HER.

25 (b) (I) FOR COMPLAINTS RELATED TO THE STANDARD OF CARE
26 DELIVERED TO A PATIENT THAT ARE SUBMITTED BY A PERSON OTHER THAN
27 THE PATIENT, THE PERSON SUBMITTING THE COMPLAINT SHALL NOTIFY THE

1 PATIENT OF THE COMPLAINT BEFORE FILING THE COMPLAINT WITH THE
2 BOARD.

3 (II) THE REQUIREMENTS OF THIS PARAGRAPH (b) DO NOT APPLY
4 WHEN A COMPLAINT IS SUBMITTED TO THE BOARD BY A STATE
5 DEPARTMENT OR AGENCY.

6 (2) [Formerly 12-35-129 (7) (e)] (a) EXCEPT AS PROVIDED IN
7 PARAGRAPH (b) OF THIS SUBSECTION (2), investigations, examinations,
8 hearings, meetings, ~~or any~~ AND other proceedings of the board conducted
9 pursuant to this section ~~shall be~~ OR SECTION 12-35-129.1, 12-35-129.3,
10 12-35-129.4, OR 12-35-129.5 ARE exempt from the provisions of any law
11 requiring that proceedings of the board be conducted publicly or that the
12 minutes or records of the board with respect to action of the board taken
13 pursuant to this section are open to public inspection. ~~except that~~

14 (b) The final action of the board taken pursuant to this section
15 ~~shall be~~ IS open to the public.

16 (3) [Formerly 12-35-129 (13)] When a complaint or an
17 investigation discloses an instance of misconduct that, in the opinion of
18 the board, warrants formal action, the BOARD SHALL NOT RESOLVE THE
19 complaint ~~shall not be resolved~~ by a deferred settlement, action,
20 judgment, or prosecution.

21 (4) [Formerly 12-35-129 (3)] Any member of the board or
22 professional review committee authorized by the board, any member of
23 the board's or professional review committee's staff, any person acting as
24 a witness or consultant to the board or committee, any witness testifying
25 in a proceeding authorized under this article, and any person who lodges
26 a complaint pursuant to this article ~~shall be~~ IS immune from liability in
27 any civil action brought against him or her for acts occurring while acting

1 in his or her capacity as board or committee member, staff, consultant, or
2 witness, respectively, if ~~such~~ THE individual was acting in good faith
3 within the scope of his or her respective capacity, made a reasonable
4 effort to obtain the facts of the matter as to which he or she acted, and
5 acted in the reasonable belief that ~~the~~ HIS OR HER action ~~taken by him or~~
6 ~~her~~ was warranted by the facts. Any person participating in good faith in
7 lodging a complaint or participating in any investigative or administrative
8 proceeding pursuant to this article ~~shall be~~ IS immune from any civil or
9 criminal liability that may result from ~~such~~ THE participation.

10 (5) **[Formerly 12-35-129 (4)]** The discipline of a licensee by
11 another state, territory, or country ~~shall be~~ IS deemed the equivalent of
12 unprofessional conduct under this article; except that this subsection ~~(4)~~
13 ~~shall apply~~ (5) APPLIES only to discipline that is based upon an act or
14 omission in ~~such~~ THE other state, territory, or country that is defined
15 substantially the same as unprofessional conduct pursuant to this article.

16 (6) **[Formerly 12-35-129 (5)]** (a) Nothing in this section: ~~shall be~~
17 ~~construed to deprive any~~

18 (I) DEPRIVES a dental patient of the right to choose or replace any
19 professionally recognized restorative material; ~~nor to permit~~

20 (II) PERMITS disciplinary action against a dentist solely for
21 removing or placing any professionally recognized restorative material.

22 (b) Nothing in paragraph (a) of this subsection ~~(5) shall be~~
23 ~~construed to prevent~~ (6) PREVENTS disciplinary action against a dentist for
24 practicing dentistry in violation of this article.

25 (7) **[Formerly 12-35-129 (8)]** (a) If a professional review
26 committee is established pursuant to this section to investigate complaints
27 against a person licensed to practice dentistry under this article, the

1 committee ~~shall~~ MUST include in its membership at least three persons
2 licensed to practice dentistry under this article. ~~but such~~ THE committee
3 may be authorized to act only by:

4 (I) The board; or

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

10 (b) Any member of the board or a professional review committee
11 authorized by the board and any witness or consultant appearing before
12 the board or ~~such~~ professional review committee ~~shall be~~ IS immune from
13 suit in any civil action brought by a licensee who is the subject of a
14 professional review proceeding if ~~such~~ THE member, witness, or
15 consultant acts in good faith within the scope of the function of the board
16 or ~~such~~ committee, has made a reasonable effort to obtain the facts of the
17 matter as to which ~~such~~ THE member, witness, or consultant acts, and acts
18 in the reasonable belief that ~~the~~ HIS OR HER action ~~taken by such member,~~
19 ~~witness, or consultant~~ is warranted by the facts. The immunity provided
20 by this paragraph (b) ~~shall extend~~ EXTENDS to the members of an
21 authorized professional review committee of a society or an association
22 of persons licensed pursuant to this article and witnesses or consultants
23 appearing before ~~such~~ THE committee if ~~such~~ THE committee is authorized
24 to act as provided in subparagraph (II) of paragraph (a) of this subsection
25 ~~(8)~~ (7).

26 (c) **[Formerly 12-35-129 (9)]** A professional review committee
27 of a society or an association of persons licensed pursuant to this article

1 shall:

2 (a) (I) Notify the board within sixty days after the review
3 committee analyzes care provided by a licensee and determines that ~~such~~
4 THE care may not meet generally accepted standards or THAT THE
5 LICENSEE has otherwise violated any provision of this article. ~~Such care~~
6 THE LICENSEE may be subject to disciplinary action by the board.

7 (b) (II) Allow THE BOARD OR ITS DESIGNEE TO CONDUCT a periodic
8 audit of records of the review committee. ~~to be performed by the board~~
9 ~~or designee of the board who shall~~ A PERSON DESIGNATED BY THE BOARD
10 TO CONDUCT THE AUDIT MUST be a licensed or retired dentist from any
11 state. ~~Such~~ THE BOARD OR ITS DESIGNEE SHALL CONDUCT THE audit ~~shall~~
12 ~~be conducted~~ no more than twice annually. If any pattern of behavior of
13 a licensee is identified that may constitute reasonable grounds to believe
14 there has been a violation of this article, all relevant records of the review
15 committee ~~shall be~~ ARE subject to a subpoena issued by the board.

16 (d) [Formerly 12-35-129 (10)] (I) The proceedings and records
17 of a review committee ~~shall~~ MUST be held in confidence and ~~shall~~ ARE not
18 ~~be~~ subject to discovery or introduction into evidence in any civil action
19 against a dentist arising out of the matters that are the subject of
20 evaluation and review by ~~such~~ THE committee. However, records of
21 closed proceedings and investigations ~~shall be~~ ARE available to the
22 particular licensee under review and the complainant involved in the
23 proceedings.

24 (II) ~~No~~ A person who was in attendance at a meeting of ~~such~~ THE
25 committee shall NOT be permitted or required to testify in any ~~such~~ civil
26 action as to any evidence or other matters produced or presented during
27 the proceedings of ~~such~~ THE committee or as to any findings,

1 recommendations, evaluations, opinions, or other actions of ~~such~~ THE
2 committee or any members ~~thereof~~ OF THE COMMITTEE. However,
3 information, documents, or records otherwise available from original
4 sources are not ~~to be construed as immune~~ PROTECTED from discovery or
5 use in ~~any such~~ A civil action merely because they were presented during
6 proceedings of ~~such~~ THE committee, and any documents or records that
7 have been presented to the review committee by any witness ~~shall~~ MUST
8 be returned to the witness, if requested by the witness or if ordered to be
9 produced by a court in any action, with copies ~~thereof~~ to be retained by
10 the committee at its discretion.

11 (III) Any person who testifies before ~~such~~ THE committee or who
12 is a member of ~~such~~ THE committee ~~shall~~ IS not ~~be~~ prevented from
13 testifying as to matters within ~~such~~ THE person's knowledge, but the
14 person ~~shall~~ MAY not be asked about his or her testimony before ~~such a~~
15 THE committee or opinions he or she formed as a result of ~~said~~ THE
16 committee hearings.

17 **12-35-129.3. [Formerly 12-35-129 (12)] Board panels.**

18 (1) ~~(a) On and after January 1, 2005,~~ The chairperson of the board shall
19 divide ~~those~~ THE members of the board, other than the chairperson, into
20 two panels of six members each.

21 ~~(b)~~ (2) Each panel shall act as both an inquiry panel and a hearing
22 panel. THE CHAIRPERSON MAY REASSIGN members of the board ~~may be~~
23 ~~reassigned~~ from one panel to the other. ~~by the chairperson.~~ The
24 chairperson may be a member of both panels, but ~~in no event shall~~
25 NEITHER the chairperson ~~or~~ NOR any other member who has considered
26 a complaint as a member of a panel acting as an inquiry panel SHALL take
27 any part in the consideration of a formal complaint involving the same

1 matter.

2 (c) (3) ~~All matters referred to one panel for investigation shall be~~
3 ~~heard;~~ If referred THE INQUIRY PANEL REFERS A MATTER for formal
4 hearing, by the ~~other~~ HEARING panel or a committee of ~~such~~ THE HEARING
5 panel SHALL HEAR THE MATTER. However, in its discretion, either inquiry
6 panel may elect to refer a case for formal hearing to a qualified
7 administrative law judge in lieu of a hearing panel of the board for an
8 initial decision pursuant to section 24-4-105, C.R.S.

9 (d) (4) A LICENSEE WHO IS THE SUBJECT OF AN INITIAL DECISION
10 BY AN ADMINISTRATIVE LAW JUDGE, OR BY THE HEARING PANEL THAT
11 WOULD HAVE HEARD THE CASE UPON ITS OWN MOTION, MAY SEEK REVIEW
12 OF the initial decision of ~~an administrative law judge may be reviewed~~
13 pursuant to section 24-4-105 (14) and (15), C.R.S., by the filing of AN
14 exception to the initial decision with the hearing panel that would have
15 heard the case if it had not been referred to an administrative law judge.
16 ~~or by review upon the motion of such hearing panel.~~ The respondent or
17 the board's counsel shall MAY file ~~such~~ THE exception.

18 (e) (5) ~~An~~ THE INQUIRY PANEL TO WHOM AN INVESTIGATION IS
19 ASSIGNED SHALL SUPERVISE THE investigation, ~~shall be under the~~
20 ~~supervision of the panel to which the investigation is assigned~~ AND the
21 person ~~making such~~ CONDUCTING THE investigation shall report the
22 results of the investigation to the ~~assigning~~ panel for appropriate action.

23 **12-35-129.4. Cease-and-desist orders.** (1) [Formerly 12-35-129
24 (14)] (a) If it appears to the board, based upon credible evidence as
25 presented in a written complaint by any person, that a licensee is acting
26 in a manner that is an imminent threat to the health and safety of the
27 public or a person is acting or has acted without the required license, the

1 board may issue an order to cease and desist ~~such~~ THE activity. The ~~order~~
2 BOARD shall set forth IN THE ORDER the statutes and rules THE PERSON IS
3 alleged to have ~~been~~ violated, the facts alleged to ~~have constituted~~
4 CONSTITUTE the violation, and the requirement that all unlawful acts or
5 unlicensed practices immediately cease.

6 (b) Within ten days after service of the order to cease and desist
7 pursuant to paragraph (a) of this subsection ~~(14)~~ (1), the respondent may
8 request a hearing on the question of whether acts or practices in violation
9 of this part 1 have occurred. ~~Such~~ THE BOARD OR AN ADMINISTRATIVE
10 LAW JUDGE, AS APPLICABLE, SHALL CONDUCT THE hearing ~~shall be~~
11 ~~conducted pursuant to~~ IN ACCORDANCE WITH sections 24-4-104 and
12 24-4-105, C.R.S.

13 (2) [**Formerly 12-35-129 (15)**] (a) If it appears to the board,
14 based upon credible evidence as presented in a written complaint by any
15 person, that a person has violated any other portion of this part 1, then, in
16 addition to any specific powers granted pursuant to this part 1, the board
17 may issue to ~~such~~ THE person an order to show cause as to why the board
18 should not issue a final order directing ~~such~~ THE person to cease and
19 desist from the unlawful act or unlicensed practice.

20 (b) ~~A~~ THE BOARD SHALL PROMPTLY NOTIFY THE person against
21 whom IT ISSUES an order to show cause ~~has been issued~~ pursuant to
22 paragraph (a) of this subsection ~~(15)~~ ~~shall be promptly notified by the~~
23 ~~board~~ (2) of the issuance of the order ~~along with~~ AND SHALL INCLUDE IN
24 THE NOTICE a copy of the order, the factual and legal basis for the order,
25 and the date set by the board for a hearing on the order. ~~Such~~ THE BOARD
26 MAY SERVE THE notice ~~may be served~~ by personal service, by first-class
27 United States mail, postage prepaid, or BY OTHER MEANS as may be

1 practicable. ~~upon any person against whom such order is issued.~~ Personal
2 service or mailing of an order or document pursuant to this subsection
3 ~~(15) shall constitute~~ (2) CONSTITUTES notice thereof to the person.

4 (c) (I) The BOARD SHALL COMMENCE THE hearing on an order to
5 show cause ~~shall be commenced~~ no sooner than ten and no later than
6 forty-five calendar days after the date of transmission or service of the
7 notification ~~by the board~~ as provided in paragraph (b) of this subsection
8 ~~(15) (2).~~ The BOARD MAY CONTINUE THE hearing ~~may be continued~~ by
9 agreement of all parties based upon the complexity of the matter, number
10 of parties to the matter, and legal issues presented in the matter, but in no
11 event shall the BOARD COMMENCE THE hearing ~~commence~~ later than sixty
12 calendar days after the date of transmission or service of the notification.

13 (II) If ~~a~~ THE person against whom ~~an~~ THE BOARD HAS ISSUED THE
14 order to show cause ~~has been issued~~ pursuant to paragraph (a) of this
15 subsection ~~(15) (2)~~ does not appear at the hearing, the board may present
16 evidence that notification was properly sent or served upon ~~such~~ THE
17 person pursuant to paragraph (b) of this subsection ~~(15) (2)~~ and ~~such~~
18 other evidence related to the matter as the board deems appropriate. The
19 board shall issue the order within ten days after the board's determination
20 related to reasonable attempts to notify the respondent, and the order ~~shall~~
21 ~~become~~ BECOMES final as to that person by operation of law. ~~Such~~ THE
22 BOARD OR AN ADMINISTRATIVE LAW JUDGE, AS APPLICABLE, SHALL
23 CONDUCT THE hearing ~~shall be conducted pursuant to~~ IN ACCORDANCE
24 WITH sections 24-4-104 and 24-4-105, C.R.S.

25 (III) If the board reasonably finds that the person against whom
26 the order to show cause was issued is acting or has acted without the
27 required license or has or is about to engage in acts or practices

1 constituting violations of this part 1, THE BOARD MAY ISSUE a final
2 cease-and-desist order ~~may be issued~~ directing ~~such~~ THE person to cease
3 and desist from further unlawful acts or unlicensed practices.

4 (IV) The board shall provide notice, in the manner set forth in
5 paragraph (b) of this subsection ~~(15)~~ (2), of the final cease-and-desist
6 order within ten calendar days after the hearing conducted pursuant to this
7 paragraph (c) to each person against whom the final order ~~has been~~ IS
8 issued. The final order issued pursuant to subparagraph (III) of this
9 paragraph (c) ~~shall be~~ IS effective when issued and ~~shall be~~ IS a final order
10 for purposes of judicial review.

11 (3) [**Formerly 12-35-129 (16)**] If it appears to the board, based
12 upon credible evidence presented to the board, that a person has engaged
13 in or is about to engage in ~~any~~ AN unlicensed act or practice; ~~any~~ AN act
14 or practice constituting a violation of this part 1, ~~any~~ A rule promulgated
15 pursuant to this part 1, or ~~any~~ AN order issued pursuant to this part 1; or
16 ~~any~~ AN act or practice constituting grounds for administrative sanction
17 pursuant to this part 1, the board may enter into a stipulation with ~~such~~
18 THE person.

19 (4) [**Formerly 12-35-129 (17)**] If ~~any~~ A person fails to comply
20 with a final cease-and-desist order or a stipulation, the board may request
21 the attorney general or the district attorney for the judicial district in
22 which the alleged violation exists to bring, and if so requested ~~such~~ THE
23 attorney shall bring, suit for a temporary restraining order and for
24 injunctive relief to prevent any further or continued violation of the final
25 order.

26 (5) [**Formerly 12-35-129 (18)**] A person aggrieved by the final
27 cease-and-desist order may seek judicial review of the board's

1 determination or of the board's final order as provided in section
2 12-35-130.

3 **12-35-129.5. Mental and physical examinations.** (1) [Formerly
4 **12-35-129 (7) (a)**] (a) If the board has reasonable cause to believe that
5 a person licensed to practice dentistry or dental hygiene in this state is
6 unable to practice dentistry or dental hygiene with reasonable skill and
7 safety to patients because of a physical or mental disability or because of
8 excessive use of ~~any~~ ALCOHOL, A habit-forming drug or substance, or A
9 controlled substance, as defined in section 18-18-102 (5), C.R.S., the
10 board may require ~~such~~ THE licensed dentist or dental hygienist to submit
11 to A mental or physical ~~examinations~~ EXAMINATION by a qualified
12 professional designated by the board.

13 (b) [Formerly **12-35-129 (7) (b)**] Upon the failure of ~~such~~ THE
14 licensed dentist or dental hygienist to submit to ~~such~~ A mental or physical
15 ~~examinations~~ EXAMINATION REQUIRED BY THE BOARD, unless the failure
16 is due to circumstances beyond the dentist's or dental hygienist's control,
17 the board may suspend ~~such~~ THE dentist's or dental hygienist's license to
18 practice dentistry or dental hygiene in this state until ~~such time as~~ the
19 dentist or dental hygienist submits to the ~~examinations~~ EXAMINATION.

20 (c) [Formerly **12-35-129 (7) (c)**] Every person licensed to
21 practice dentistry or dental hygiene in this state ~~shall be~~ IS deemed, by so
22 practicing or by applying for a renewal of the person's license to practice
23 dentistry or dental hygiene in this state, to have:

24 (I) Given consent to submit to A mental or physical ~~examinations~~
25 EXAMINATION when directed in writing by the board; and ~~further to have~~

26 (II) Waived all objections to the admissibility of the examining
27 qualified professional's testimony or examination reports on the ground

1 of privileged communication.

2 (d) [Formerly 12-35-129 (7) (d)] The results of any mental or
3 physical examination ordered by the board shall not CANNOT be used as
4 evidence in any proceeding other than before the board.

5 **SECTION 11. Repeal of relocated provisions in this act.** In
6 Colorado Revised Statutes, **repeal** 12-35-129 (2), (3), (4), (5), (6), (7),
7 (8), (9), (10), (11), (12), (13), (14), (15) (16), (17), and (18).

8 **SECTION 12.** In Colorado Revised Statutes, **add** 12-35-129.6 as
9 follows:

10 **12-35-129.6. Confidential agreement to limit practice -**
11 **violation - grounds for discipline.** (1) IF A LICENSED DENTIST OR
12 DENTAL HYGIENIST HAS A PHYSICAL OR MENTAL ILLNESS OR CONDITION
13 THAT RENDERS HIM OR HER UNABLE TO PRACTICE DENTISTRY OR DENTAL
14 HYGIENE WITH REASONABLE SKILL AND SAFETY TO CLIENTS, THE DENTIST
15 OR DENTAL HYGIENIST SHALL NOTIFY THE BOARD OF THE ILLNESS OR
16 CONDITION IN A MANNER AND WITHIN A PERIOD DETERMINED BY THE
17 BOARD. THE BOARD MAY REQUIRE THE DENTIST OR DENTAL HYGIENIST TO
18 SUBMIT TO AN EXAMINATION TO EVALUATE THE EXTENT OF THE ILLNESS
19 OR CONDITION AND ITS IMPACT ON THE DENTIST'S OR DENTAL HYGIENIST'S
20 ABILITY TO PRACTICE DENTISTRY OR DENTAL HYGIENE WITH REASONABLE
21 SKILL AND SAFETY TO PATIENTS.

22 (2) (a) UPON DETERMINING THAT A DENTIST OR DENTAL HYGIENIST
23 WITH A PHYSICAL OR MENTAL ILLNESS OR CONDITION IS ABLE TO RENDER
24 LIMITED SERVICES WITH REASONABLE SKILL AND SAFETY TO PATIENTS,
25 THE BOARD MAY ENTER INTO A CONFIDENTIAL AGREEMENT WITH THE
26 DENTIST OR DENTAL HYGIENIST IN WHICH THE DENTIST OR DENTAL
27 HYGIENIST AGREES TO LIMIT HIS OR HER PRACTICE BASED ON THE

1 RESTRICTIONS IMPOSED BY THE ILLNESS OR CONDITION, AS DETERMINED
2 BY THE BOARD.

3 (b) AS PART OF THE AGREEMENT, THE DENTIST OR DENTAL
4 HYGIENIST IS SUBJECT TO PERIODIC REEVALUATIONS OR MONITORING AS
5 DETERMINED APPROPRIATE BY THE BOARD.

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

9 (3) BY ENTERING INTO AN AGREEMENT WITH THE BOARD
10 PURSUANT TO THIS SECTION TO LIMIT HIS OR HER PRACTICE, A DENTIST OR
11 DENTAL HYGIENIST IS NOT ENGAGING IN ACTIVITIES PROHIBITED PURSUANT
12 TO SECTION 12-35-129 (1). THE AGREEMENT DOES NOT CONSTITUTE A
13 RESTRICTION OR DISCIPLINE BY THE BOARD. HOWEVER, IF THE DENTIST OR
14 DENTAL HYGIENIST FAILS TO COMPLY WITH THE TERMS OF AN AGREEMENT
15 ENTERED INTO PURSUANT TO THIS SECTION, THE FAILURE CONSTITUTES A
16 PROHIBITED ACTIVITY PURSUANT TO SECTION 12-35-129 (1) (j), AND THE
17 DENTIST OR DENTAL HYGIENIST IS SUBJECT TO DISCIPLINE IN ACCORDANCE
18 WITH SECTION 12-35-129.

19 (4) THIS SECTION DOES NOT APPLY TO A DENTIST OR DENTAL
20 HYGIENIST SUBJECT TO DISCIPLINE FOR PROHIBITED ACTIVITIES AS
21 DESCRIBED IN SECTION 12-35-129 (1) (e).

22 **SECTION 13.** In Colorado Revised Statutes, 12-35-116.5,
23 **amend** (3) (a) introductory portion; and **add** (1) (d) as follows:

24 **12-35-116.5. Ownership of dental or dental hygiene practice**
25 **- information to be posted - heir to serve as temporary proprietor -**
26 **limitations.** (1) (d) (I) A DENTIST MAY CONDUCT A DENTAL OR DENTAL
27 HYGIENE BUSINESS COLLABORATIVELY AS A PROVIDER NETWORK IN

1 ACCORDANCE WITH PART 3 OF ARTICLE 18 OF TITLE 6, C.R.S.

2 (II) A DENTAL HYGIENIST MAY CONDUCT A DENTAL HYGIENE
3 BUSINESS COLLABORATIVELY AS A PROVIDER NETWORK IN ACCORDANCE
4 WITH PART 3 OF ARTICLE 18 OF TITLE 6, C.R.S.

5 (3) (a) Notwithstanding sections ~~12-35-125 and~~ 12-35-129 (1) (h)
6 ~~(14), and (15)~~ AND 12-35-129.4(1) AND (2), if a dentist or dental hygienist
7 who was the proprietor of a dental or dental hygiene practice and was
8 engaged in the active practice of dentistry or dental hygiene dies:

9 **SECTION 14.** In Colorado Revised Statutes, 12-35-117, **amend**
10 (1) introductory portion and (3); and **repeal** (1) (d) as follows:

11 **12-35-117. Application for license - fee.** (1) Every person not
12 currently holding a license to practice dentistry in this state who desires
13 to practice dentistry in this state shall file with the board an application
14 for a license on a form ~~to be~~ provided by the board, verified by the oath
15 of the applicant, and accompanied by a fee required by section 12-35-138
16 (1) (a) or established pursuant to section 24-34-105, C.R.S., ~~in which~~
17 ~~application it shall appear~~ INDICATING that the applicant:

18 (d) ~~Has verification of licensure from other jurisdictions where the~~
19 ~~applicant holds or has held a dental or other health care license;~~

20 (3) ~~Such~~ THE BOARD MAY REQUIRE other pertinent information
21 ~~shall appear~~ on the application as THAT the board ~~may deem~~ DEEMS
22 necessary to process the application, INCLUDING DEMONSTRATION OF
23 COMPLIANCE WITH THE FINANCIAL RESPONSIBILITY REQUIREMENTS SET
24 FORTH IN SECTION 13-64-301 (1) (a), C.R.S.

25 **SECTION 15.** In Colorado Revised Statutes, 12-35-122, **amend**
26 (1), (2) (a), (2) (c), and (5) as follows:

27 **12-35-122. Inactive dental or dental hygiene license.** (1) Any

1 person licensed to practice dentistry OR DENTAL HYGIENE pursuant to this
2 article may apply to the board to be transferred to an inactive status. ~~Such~~
3 THE LICENSEE SHALL SUBMIT AN application ~~shall be~~ in the form and
4 manner designated by the board. The board may grant ~~such~~ INACTIVE
5 status by issuing an inactive license or ~~it may~~ deny the application for any
6 of the causes set forth in section 12-35-129.

7 (2) Any person applying for a license under this section shall:

8 (a) Provide an affidavit to the board that the applicant, after a date
9 certain, ~~shall~~ WILL not practice dentistry OR DENTAL HYGIENE in this state
10 unless he or she is issued a license to practice dentistry OR DENTAL
11 HYGIENE pursuant to subsection (5) of this section;

12 (c) Comply with ~~any~~ THE financial responsibility standards
13 ~~promulgated by the board pursuant to section 13-64-301 (1), C.R.S. OR~~
14 PROFESSIONAL LIABILITY INSURANCE REQUIREMENTS SPECIFIED IN
15 SECTION 12-35-141, AS APPLICABLE.

16 (5) Any person licensed under this section who wishes to resume
17 the practice of dentistry OR DENTAL HYGIENE shall file an application in
18 the form and manner the board ~~shall designate~~ DESIGNATES, pay the
19 license fee promulgated by the board pursuant to section 24-34-105,
20 C.R.S., and meet the financial responsibility requirements ~~promulgated~~
21 ~~by the board pursuant to section 13-64-301 (1), C.R.S., OR THE~~
22 PROFESSIONAL LIABILITY INSURANCE REQUIREMENTS IN SECTION
23 12-35-141, AS APPLICABLE. The board may approve ~~such~~ THE application
24 and issue a license to practice dentistry OR DENTAL HYGIENE or may deny
25 the application for any of the causes set forth in section 12-35-129.

26 **SECTION 16.** In Colorado Revised Statutes, 12-35-123, **amend**
27 (4), (5), and (6) as follows:

1 **12-35-123. Retired dental and dental hygienist licenses.**

2 (4) The board ~~is authorized to conduct~~ MAY TAKE disciplinary
3 ~~proceedings~~ ACTION pursuant to ~~section 12-35-129~~ SECTIONS 12-35-129.1
4 TO 12-35-129.5 against any person licensed under this section for an act
5 committed while such person was licensed pursuant to this article.

6 (5) Any person licensed under this section may apply to the board
7 for a return to active licensure status by filing an application in the form
8 and manner the board ~~shall designate pursuant to section 12-35-117~~
9 DESIGNATES, paying the appropriate license fee established pursuant to
10 section 24-34-105, C.R.S., and meeting the financial responsibility
11 ~~requirements issued by the board pursuant to section 13-64-301 (1),~~
12 C.R.S., OR THE PROFESSIONAL LIABILITY INSURANCE REQUIREMENTS
13 IN SECTION 12-35-141, AS APPLICABLE. The board may approve ~~such~~ THE
14 application and issue a license to practice dentistry or dental hygiene or
15 may deny the application if the licensee has been disciplined for any of
16 the causes set forth in section 12-35-129.

17 (6) A dentist ~~in~~ OR DENTAL HYGIENIST ON retired status may
18 provide dental OR DENTAL HYGIENE services on a voluntary basis to the
19 indigent if ~~such~~ THE RETIRED DENTIST OR DENTAL HYGIENIST PROVIDES
20 THE services ~~are provided~~ on a limited basis and ~~no~~ DOES NOT CHARGE A
21 fee ~~is charged. Such a~~ FOR THE SERVICES. A RETIRED dentist ~~shall have~~
22 immunity ~~for~~ OR DENTAL HYGIENIST PROVIDING voluntary care ~~provided~~
23 pursuant to this subsection (6) IS IMMUNE FROM ANY LIABILITY RESULTING
24 FROM THE VOLUNTARY CARE HE OR SHE PROVIDED.

25 **SECTION 17.** In Colorado Revised Statutes, 12-35-105, **repeal**
26 (2) as follows:

27 **12-35-105. Qualifications of board members.**

1 ~~(2) Notwithstanding subsection (1) of this section or section 24-5-101,~~
2 ~~C.R.S., a person convicted of a felony in Colorado or any other state or~~
3 ~~of violating this article or any law governing the practice of dentistry shall~~
4 ~~not be appointed to or serve on the board.~~

5 **SECTION 18.** In Colorado Revised Statutes, **amend** 12-35-101
6 as follows:

7 **12-35-101. Short title.** This article shall be known and may be
8 cited as the "Dental Practice ~~Law of Colorado~~ ACT".

9 **SECTION 19.** In Colorado Revised Statutes, 12-35-107, **amend**
10 (1) introductory portion, (1) (b), (1) (c), and (1) (h); and **repeal** (1) (a), (1)
11 (f), and (1) (i) as follows:

12 **12-35-107. Powers and duties of board.** (1) The board shall
13 exercise, ~~subject to the provisions of~~ IN ACCORDANCE WITH this article,
14 the following powers and duties:

15 ~~(a) Conduct examinations to ascertain the qualifications and~~
16 ~~fitness of applicants for licensure to practice dentistry and dental hygiene.~~
17 ~~To assist with such examinations:~~

18 ~~(I) Only proctors or licensed dentists may participate in the~~
19 ~~examination of candidates for dental licensure; and~~

20 ~~(II) Only licensed dentists, licensed dental hygienists, or proctors~~
21 ~~may participate in the examination of candidates for dental hygiene~~
22 ~~licensure.~~

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

27 ~~(I) The examination of applicants for licensing as dentists and~~

1 ~~dental hygienists;~~ THE USE OF LASERS FOR DENTAL PURPOSES, INCLUDING
2 LIMITING THE USE OF LASERS BY DENTAL HYGIENISTS ONLY TO POCKET
3 DISINFECTION AT SETTINGS THAT PRECLUDE HARD AND SOFT TISSUE
4 REMOVAL;

5 (II) ~~The practices of dentistry and dental hygiene;~~ MINIMUM
6 TRAINING, EXPERIENCE, AND EQUIPMENT REQUIREMENTS TO OBTAIN AN
7 ANESTHESIA OR SEDATION PERMIT UNDER SECTION 12-35-140;

8 (III) ~~The tasks and procedures that may be assigned to dental~~
9 ~~assistants and dental hygienists; and~~ CRITERIA AND PROCEDURES
10 CONSISTENT WITH SECTION 12-35-140 FOR AN OFFICE INSPECTION
11 PROGRAM TO BE COMPLETED UPON APPLICATION AND RENEWAL OF
12 SEDATION AND ANESTHESIA PERMITS PURSUANT TO SECTION 12-35-140;

13 (IV) ~~The specification of essential instructions to be included in~~
14 ~~a laboratory work order~~ A UNIFORM SYSTEM AND SCHEDULE OF FINES
15 PURSUANT TO SECTION 12-35-129.1 (6) (b).

16 (c) Conduct hearings to revoke, suspend, or deny the issuance of
17 a license or renewal OF A license granted under the authority of this article
18 or of previous laws; issue a confidential letter of concern; issue a letter of
19 admonition; IMPOSE AN ADMINISTRATIVE FINE; or reprimand, censure, or
20 place on probation a licensee when evidence has been presented showing
21 violation of any of the provisions of this article by a holder of or an
22 applicant for a license. The board may elect to hear the matter itself
23 pursuant to the provisions of section ~~12-35-129~~ 12-35-129.1 (1), or it may
24 elect to hear the matter with the assistance of an administrative law judge
25 or an advisory attorney from the office of the attorney general, and, in
26 such case, the advisor or administrative law judge shall advise the board
27 on legal and procedural matters and rule on evidence and otherwise

1 conduct the course of the hearing.

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

16 (h) (I) IN ACCORDANCE WITH SECTION 12-35-140, issue anesthesia
17 AND SEDATION permits to licensed dentists AND DENTAL HYGIENISTS and
18 set and collect a fee for such FEES FOR PERMIT issuance; EXCEPT THAT THE
19 BOARD SHALL ONLY COLLECT FEES FOR LOCAL ANESTHESIA PERMITS
20 ISSUED TO DENTAL HYGIENISTS ON OR AFTER JULY 1, 2014.

21 (II) ~~Anesthesia permits shall be valid for a period of five years and~~
22 ~~shall allow permit-holding licensees to administer deep conscious~~
23 ~~sedation or both general anesthesia and deep conscious sedation.~~

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

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

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

4 ~~(HH) Requiring an inspector to notify the board in writing of the~~
5 ~~results of an inspection.~~

6 **SECTION 20.** In Colorado Revised Statutes, 12-35-110, **amend**
7 (2) as follows:

8 **12-35-110. Disposition of fees.** (2) Appropriations made to the
9 board ~~shall~~ MAY be applied only to the payment of:

10 (a) The necessary traveling, hotel, and clerical expenses of the
11 members of the board in the performance of their duties; ~~the payment of~~

12 (b) Dues for membership in the American association of dental
13 ~~examiners~~ BOARDS, OR ITS SUCCESSOR ASSOCIATION, and the expense of
14 sending delegates to the ASSOCIATION'S convention; ~~of such association;~~
15 and ~~the payment of all such~~

16 (c) Other expenditures ~~as may be~~ necessary or proper to carry out
17 and execute the powers and duties of the board and ~~the provisions of~~
18 IMPLEMENT this article.

19 **SECTION 21.** In Colorado Revised Statutes, 12-35-113, **amend**
20 (1) introductory portion, (1) (c), (1) (n), (1) (p), and (1) (q); and **add** (2)
21 as follows:

22 **12-35-113. What constitutes practicing dentistry - authority**
23 **to electronically prescribe.** (1) A person ~~shall be deemed to be~~ IS
24 practicing dentistry if ~~such~~ THE person:

25 (c) Directly or indirectly, by any means or method, takes
26 impression of the human tooth, teeth, jaws, maxillofacial area, or adjacent
27 and associated structures, performs any phase of any operation incident

1 to the replacement of a part of a tooth, or supplies artificial substitutes for
2 the natural teeth, jaws, or adjacent and associated structures; except that
3 nothing in this paragraph (c) ~~shall prohibit or be construed to prohibit~~
4 PROHIBITS a dental hygienist or dental assistant from performing tasks and
5 procedures consistent with sections 12-35-124 (1) (d) ~~12-35-125 (1) (d)~~,
6 and 12-35-128 ~~(3) (a) (I)~~ (3) (b) (III);

7 (n) Represents himself or herself to an individual or the general
8 public as practicing dentistry, by using the words "dentist" or "dental
9 surgeon", or by using the letters "D.D.S.", "D.M.D.", "D.D.S./M.D.", or
10 "D.M.D./M.D.". Nothing in this paragraph (n) ~~shall be construed to~~
11 ~~prohibit~~ PROHIBITS a dental hygienist or dental assistant from performing
12 tasks and procedures consistent with section 12-35-128 (2) or ~~(3) (a)~~ (3)
13 (b).

14 (p) Prescribes ~~such~~ drugs or medications and administers ~~such~~
15 ~~general or local anesthetics, anesthesia, or analgesia~~ LOCAL ANESTHESIA,
16 ANALGESIA INCLUDING NITROUS OXIDE/OXYGEN INHALATION, MEDICATION
17 PRESCRIBED OR ADMINISTERED FOR THE RELIEF OF ANXIETY OR
18 APPREHENSION, MINIMAL SEDATION, MODERATE SEDATION, DEEP
19 SEDATION, OR GENERAL ANESTHESIA as ~~may be~~ necessary for the proper
20 practice of dentistry; except that nothing in this paragraph (p) shall be
21 construed to prohibit a dental hygienist from performing those tasks and
22 procedures consistent with sections 12-35-124 (1) (e), AND (1) (g),
23 12-35-125 ~~(1) (e)~~ and (1) (f), and 12-35-128, and in accordance with rules
24 promulgated by the board;

25 (q) Prescribes, induces, and sets dosage levels for inhalation
26 ~~analgesia~~ ANESTHESIA; except that nothing in this paragraph (q) shall be
27 construed to prohibit the delegation of monitoring and administration to

1 appropriately trained personnel in accordance with this article and rules
2 of the board;

3 (2) A LICENSED DENTIST MAY PRESCRIBE ORDERS
4 ELECTRONICALLY.

5 **SECTION 22.** In Colorado Revised Statutes, **amend** 12-35-114
6 as follows:

7 **12-35-114. Dentists may prescribe drugs - surgical operations**
8 **- anesthesia.** A licensed dentist is authorized to prescribe ~~such~~ drugs or
9 medicine; perform ~~such~~ surgical operations; administer, ~~such general or~~
10 ~~local anesthetics~~ PURSUANT TO BOARD RULES, LOCAL ANESTHESIA,
11 ANALGESIA INCLUDING NITROUS OXIDE/OXYGEN INHALATION, MEDICATION
12 PRESCRIBED OR ADMINISTERED FOR THE RELIEF OF ANXIETY OR
13 APPREHENSION, MINIMAL SEDATION, MODERATE SEDATION, DEEP
14 SEDATION, OR GENERAL ANESTHESIA; and use ~~such~~ appliances as ~~may be~~
15 necessary to the proper practice of dentistry. A dentist shall not prescribe,
16 distribute, or give to any person, including himself or herself, any
17 habit-forming drug or any controlled substance, as defined in section
18 18-18-102 (5), C.R.S., or as contained in schedule II of 21 U.S.C. sec.
19 812, other than in the course of legitimate dental practice and pursuant to
20 the rules promulgated by the board regarding controlled substance
21 record-keeping.

22 **SECTION 23.** In Colorado Revised Statutes, 12-35-115, **amend**
23 (1) introductory portion, (1) (b), and (1) (d) as follows:

24 **12-35-115. Persons exempt from operation of this article.**

25 (1) ~~Nothing in~~ This article ~~shall apply~~ DOES NOT APPLY to the following
26 practices, acts, and operations:

27 (b) The ~~giving~~ ADMINISTRATION of an anesthetic by a qualified

1 anesthetist or registered nurse for a dental operation; ~~under the direct~~
2 ~~supervision of a licensed dentist;~~

3 (d) Students or residents regularly employed by a private hospital
4 or by a city, county, city and county, or state hospital under an advanced
5 dental education program accredited by the commission on dental
6 accreditation ~~of the American dental association~~ OR ITS SUCCESSOR
7 COMMISSION and approved and registered ~~as such~~ by the board;

8 **SECTION 24.** In Colorado Revised Statutes, 12-35-117.5,
9 **amend** (1) (a) and (2) as follows:

10 **12-35-117.5. Academic license.** (1) (a) A dentist who is
11 employed at an accredited school or college of dentistry in this state and
12 who practices dentistry in the course of his or her employment
13 responsibilities shall either make written application to the board for an
14 academic license in accordance with this section or shall otherwise
15 become licensed pursuant to sections 12-35-117 ~~12-35-118~~; and
16 12-35-119, as applicable.

17 (2) A person who applies for an academic license shall submit
18 proof to the board that he or she:

19 (a) Graduated from a school of dentistry located in the United
20 States or another country; AND

21 (b) Is employed by an accredited school or college of dentistry in
22 this state. ~~and~~

23 (c) ~~Successfully passed the jurisprudence examination described~~
24 ~~in section 12-35-119 (1) (b).~~

25 **SECTION 25.** In Colorado Revised Statutes, **repeal** 12-35-118
26 as follows:

27 **12-35-118. Graduates of foreign dental schools.** ~~(1) An~~

1 applicant for a license to practice dentistry who is a graduate of a foreign
2 nonaccredited dental school shall:

3 (a) ~~Present evidence of having completed a program in clinical~~
4 ~~dentistry and having obtained a doctorate of dental surgery or a doctorate~~
5 ~~of dental medicine at an accredited dental school;~~

6 (b) ~~Pass the examination administered by the joint commission on~~
7 ~~national dental examinations; and~~

8 (c) ~~Pass an examination designed to test the applicant's clinical~~
9 ~~skills and knowledge. Such examination shall be administered by a~~
10 ~~regional testing agency composed of at least four states or an examination~~
11 ~~of another state.~~

12 **SECTION 26.** In Colorado Revised Statutes, 12-35-120, **amend**
13 (2) introductory portion; and **repeal** (2) (e) as follows:

14 **12-35-120. Licensure by endorsement.** (2) The board shall issue
15 a license to an applicant licensed as a dentist in another state or territory
16 of the United States if ~~said~~ THE applicant has submitted credentials and
17 qualifications for licensure that include:

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

20 **SECTION 27.** In Colorado Revised Statutes, **amend** 12-35-121
21 as follows:

22 **12-35-121. Renewal of dental and dental hygienist licenses -**
23 **fees.** Licenses ~~shall~~ MUST be renewed or reinstated pursuant to a schedule
24 established by the director of the division of professions and occupations
25 within the department of regulatory agencies, referred to in this section
26 as the director, and ~~shall be renewed or reinstated~~ pursuant to section
27 24-34-102 (8), C.R.S. The director may establish renewal fees, ~~and~~

1 delinquency fees FOR LATE RENEWAL, AND FEES for reinstatement
2 pursuant to section 24-34-105, C.R.S. If a person fails to renew his or her
3 license pursuant to the schedule established by the director, ~~such~~ THE
4 license ~~shall expire~~ EXPIRES. Any person whose license ~~has expired~~ shall
5 ~~be~~ EXPIRES IS subject to the penalties provided in this article or section
6 24-34-102 (8), C.R.S.

7 **SECTION 28.** In Colorado Revised Statutes, 12-35-124, **amend**
8 (1) (b), (1) (f), (1) (g) and (2) as follows:

9 **12-35-124. What constitutes practicing unsupervised dental**
10 **hygiene.** (1) Unless licensed to practice dentistry, a person shall be
11 deemed to be practicing unsupervised dental hygiene who, within the
12 scope of the person's education, training, and experience:

13 (b) Removes granulation and degenerated tissue from the gingival
14 wall of the periodontal pocket ~~through the process of gingival curettage~~
15 INCIDENTAL TO ROOT PLANING;

16 (f) Performs dental hygiene assessment, dental hygiene diagnosis,
17 and dental hygiene treatment planning for dental hygiene services as
18 described in this section ~~and section 12-35-125~~ and identifies dental
19 abnormalities for immediate referral to a dentist; or

20 (g) (I) PRESCRIBES, administers, AND DISPENSES fluoride, fluoride
21 varnish, and antimicrobial solutions for mouth rinsing AND OTHER
22 NONSYSTEMIC ANTIMICROBIAL AGENTS IN COLLABORATION WITH A
23 LICENSED DENTIST. DENTAL HYGIENISTS SHALL MAINTAIN CLEAR
24 DOCUMENTATION IN THE PATIENT RECORD OF THE AGENT PRESCRIBED,
25 ADMINISTERED, OR DISPENSED; THE DATE OF THE ACTION; AND THE
26 RATIONALE FOR PRESCRIBING, ADMINISTERING, OR DISPENSING THE AGENT.

27 (II) A DENTAL HYGIENIST SHALL NOT PRESCRIBE, ADMINISTER, OR

1 DISPENSE THE FOLLOWING:

2 (A) DRUGS WHOSE PRIMARY EFFECT IS SYSTEMIC, WITH THE
3 EXCEPTION OF FLUORIDE SUPPLEMENTS PERMITTED UNDER
4 SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (III) OF THIS PARAGRAPH (g);
5 AND

6 (B) DANGEROUS DRUGS OR CONTROLLED SUBSTANCES, AS DEFINED
7 IN SECTION 18-18-102 (5), C.R.S.

8 (III) A DENTAL HYGIENIST MAY PRESCRIBE THE FOLLOWING:

9 (A) FLUORIDE SUPPLEMENTS AS FOLLOWS, ALL USING SODIUM
10 FLUORIDE: TABLETS: 0.5 MG, 1.1 MG, OR 2.2 MG; LOZENGES: 2.21 MG; AND
11 DROPS: 1.1 mL;

12 (B) TOPICAL ANTI-CARIES TREATMENTS AS FOLLOWS, ALL USING
13 SODIUM FLUORIDE UNLESS OTHERWISE INDICATED: TOOTHPASTES: 1.1 %
14 OR LESS (OR STANNOUS FLUORIDE 0.4%); TOPICAL GELS: 1.1% OR LESS (OR
15 STANNOUS FLUORIDE 0.4%); ORAL RINSES: 0.05%, 0.2%, 0.44%, OR 0.5%;
16 ORAL RINSE CONCENTRATE USED IN PERIODONTAL DISEASE: 0.63%
17 STANNOUS FLUORIDE; FLUORIDE VARNISH: 5%; AND PROPHY PASTES
18 CONTAINING APPROXIMATELY 1.23% SODIUM FLUORIDE AND USED FOR
19 POLISHING PROCEDURES AS PART OF PROFESSIONAL DENTAL PROPHYLAXIS
20 TREATMENT; AND

21 (C) TOPICAL ANTI-INFECTIVES AS FOLLOWS: CHLORHEXIDINE
22 GLUCONATE RINSES: 0.12%; CHLORHEXIDINE GLUCONATE PERIODONTAL
23 CHIPS FOR INSERTION INTO THE PERIODONTAL POCKET; TETRACYCLINE
24 IMPREGNATED FIBERS, INSERTED SUBGINGIVALLY INTO THE PERIODONTAL
25 SULCUS; DOXYCYCLINE HYCLATE PERIODONTAL GEL, INSERTED
26 SUBGINGIVALLY INTO THE PERIODONTAL SULCUS; AND MINOCYCLINE
27 HYDROCHLORIDED PERIODONTAL PASTE, INSERTED SUBGINGIVALLY INTO

1 THE PERIODONTAL SULCUS.

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

5 **SECTION 29.** In Colorado Revised Statutes, **amend** 12-35-125
6 as follows:

7 **12-35-125. What constitutes practicing supervised dental**
8 **hygiene.** (1) Unless licensed to practice dentistry, a person ~~shall be~~ WHO
9 PERFORMS ANY OF THE FOLLOWING TASKS UNDER THE SUPERVISION OF A
10 LICENSED DENTIST IS deemed to be practicing supervised dental hygiene:
11 ~~who~~

12 (a) ~~Removes deposits, accretions, and stains by scaling with hand,~~
13 ~~ultrasonic, or other devices from all surfaces of the tooth and smooths and~~
14 ~~polishes natural and restored tooth surfaces, including root planing~~ ANY
15 TASK DESCRIBED IN SECTION 12-35-124 (1);

16 (b) ~~Removes granulation and degenerated tissue from the gingival~~
17 ~~wall of the periodontal pocket through the process of gingival curettage.~~
18 ~~Such curettage may include the incidental removal of live epithelial tissue~~
19 ~~and is to be performed under the indirect supervision of a licensed dentist~~
20 PREPARES STUDY CASTS; OR

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

24 (d) ~~Gathers and assembles information including, but not limited~~
25 ~~to:~~

26 (I) ~~Fact-finding and patient history;~~

27 (H) ~~Radiographic and X-ray survey for the purpose of assessing~~

1 ~~and diagnosing dental hygiene-related conditions for treatment planning~~
2 ~~for dental hygiene services as described in section 12-35-124 and this~~
3 ~~section and identifying dental abnormalities for immediate referral to a~~
4 ~~dentist;~~

5 ~~(III) Preparation of study casts;~~

6 ~~(IV) Oral inspection; and~~

7 ~~(V) Dental and periodontal charting;~~

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

10 ~~(f) Administers local anesthetic~~ ANESTHESIA under the indirect
11 supervision of a licensed dentist pursuant to rules of the board, ~~which~~
12 ~~shall include~~ INCLUDING minimum education requirements and
13 procedures for ~~such~~ LOCAL ANESTHESIA administration;

14 ~~(g) Performs dental hygiene assessment, dental hygiene diagnosis,~~
15 ~~and dental hygiene treatment planning for dental hygiene services as~~
16 ~~described in this section and section 12-35-124 and identifies dental~~
17 ~~abnormalities for immediate referral to a dentist; or~~

18 ~~(h) Administers fluoride, fluoride varnish, and antimicrobial~~
19 ~~solutions for mouth rinsing.~~

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

25 **SECTION 30.** In Colorado Revised Statutes, 12-35-128, **amend**
26 **(1), (2), and (3) (b) introductory portion; repeal (4); and add with**
27 **amended and relocated provisions (3) (b) (VI) as follows:**

1 **12-35-128. Tasks authorized to be performed by dental**
2 **assistants or dental hygienists.** (1) (a) (I) EXCEPT AS PROVIDED IN
3 SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), the responsibility for dental
4 diagnosis, dental treatment planning, or the prescription of therapeutic
5 measures in the practice of dentistry ~~shall remain~~ REMAINS with a licensed
6 dentist and may not be assigned to any dental hygienist. ~~except that~~
7 (II) A dental hygienist may:
8 (A) Perform dental hygiene assessment, dental hygiene diagnosis,
9 and dental hygiene treatment planning for dental hygiene services
10 PURSUANT TO SECTION 12-35-124 (1) (f);
11 (B) Identify dental abnormalities for immediate referral to a
12 dentist as described in ~~sections 12-35-124 and 12-35-125~~ SECTION
13 12-35-124 (1) (f); and ~~may~~
14 (C) IN COLLABORATION WITH A LICENSED DENTIST, PRESCRIBE,
15 administer, AND DISPENSE, AS DESCRIBED IN SECTION 12-35-124 (1) (g):
16 Fluoride; fluoride varnish; ~~and~~ antimicrobial solutions for mouth rinsing;
17 ~~as described in sections 12-35-124 and 12-35-125~~; OTHER NONSYSTEMIC
18 ANTIMICROBIAL AGENTS; and resorbable antimicrobial agents pursuant to
19 rules of the board.
20 (b) ~~No~~ A dental procedure that involves surgery or that will
21 contribute to or result in an irremediable alteration of the oral anatomy
22 ~~may~~ SHALL NOT be assigned to anyone other than a licensed dentist.
23 ~~Prescriptive authority may not be assigned to anyone other than a licensed~~
24 ~~dentist.~~
25 (2) Except as provided in subsection (1) of this section, a dental
26 hygienist may perform any dental task or procedure assigned to the
27 hygienist by a licensed dentist that does not require the professional skill

1 of a licensed dentist; except that ~~such~~ THE DENTAL HYGIENIST MAY
2 PERFORM THE task or procedure ~~shall be performed~~ only under the indirect
3 supervision of a licensed dentist ~~on the premises~~, or as ~~provided~~
4 ~~elsewhere~~ AUTHORIZED in sections 12-35-124 and 12-35-125.

5 (3) (b) A dental assistant may perform the following tasks under
6 the ~~direct or~~ indirect supervision of a licensed dentist:

7 (VI) [**Formerly (4)**] ~~In addition to the procedure authorized in this~~
8 ~~section, a dental assistant may make repairs and relines of~~ REPAIRING AND
9 RELINING dentures pursuant to a dental laboratory work order signed by
10 a licensed dentist.

11 (4) ~~In addition to the procedure authorized in this section, a dental~~
12 ~~assistant may make repairs and relines of dentures pursuant to a dental~~
13 ~~laboratory work order signed by a licensed dentist.~~

14 **SECTION 31.** In Colorado Revised Statutes, **amend** 12-35-131
15 as follows:

16 **12-35-131. Use of forged or invalid diploma or certificate.** It is
17 unlawful for any person to use or attempt to use as his or her own a
18 diploma of a dental college or school OR SCHOOL OF DENTAL HYGIENE, or
19 a license or license renewal certificate, of any other person or to use or
20 attempt to use a forged diploma, license, license renewal certificate, or
21 identification. It is also unlawful for any person to file with the board a
22 forged document in response to a request by the board for documentation
23 of an applicant's qualifications for licensure.

24 **SECTION 32.** In Colorado Revised Statutes, **amend** 12-35-133
25 as follows:

26 **12-35-133. Construction of dental devices by unlicensed**
27 **technician.** (1) (a) ~~Every day~~ A licensed dentist who uses the services

1 of ~~any~~ AN unlicensed ~~person~~ TECHNICIAN for the purpose of constructing,
2 altering, repairing, or duplicating any denture, ~~plate, partial plate,~~ bridge,
3 splint, or orthodontic or prosthetic appliance shall ~~be required to~~ furnish
4 ~~such~~ THE unlicensed ~~person~~ TECHNICIAN with a written OR ELECTRONIC
5 laboratory work order in ~~such~~ A form as ~~shall be~~ approved by the board,
6 which form ~~shall~~ MUST be dated and signed by ~~such~~ THE dentist for each
7 separate and individual piece of work. ~~Said~~ THE DENTIST SHALL MAKE
8 THE laboratory work order ~~shall be made in duplicate~~ A REPRODUCIBLE
9 form, ~~the duplicate copy to be retained by~~ AND the dentist AND THE
10 UNLICENSED TECHNICIAN SHALL EACH RETAIN A COPY in a permanent file
11 for ~~a period of two years. and the original copy to be retained in a~~
12 ~~permanent file for a period of two years by the unlicensed person to~~
13 ~~whom it was furnished, and both of such~~ THE permanent files OF THE
14 LICENSED DENTIST AND THE UNLICENSED TECHNICIAN shall be open to
15 inspection at any reasonable time by the board or its duly constituted
16 agent. THE LICENSED DENTIST THAT FURNISHES THE LABORATORY WORK
17 ORDER SHALL HAVE APPROPRIATE TRAINING, EDUCATION, AND
18 EXPERIENCE RELATED TO THE PRESCRIBED TREATMENT AND IS
19 RESPONSIBLE FOR DIRECTLY SUPERVISING ALL INTRAORAL TREATMENT
20 RENDERED TO THE PATIENT.

21 (b) AN UNLICENSED TECHNICIAN THAT POSSESSES A VALID
22 LABORATORY WORK ORDER MAY PROVIDE EXTRAORAL CONSTRUCTION,
23 MANUFACTURE, FABRICATION, SUPPLY, OR REPAIR OF IDENTIFIED DENTAL
24 AND ORTHODONTIC DEVICES BUT SHALL NOT PROVIDE INTRAORAL SERVICE
25 IN A HUMAN MOUTH EXCEPT UNDER THE DIRECT SUPERVISION OF A
26 LICENSED DENTIST IN ACCORDANCE WITH SECTION 12-35-128 (3) (d).

27 (2) ~~Failure of~~ IF the dentist FAILS to keep ~~such~~ permanent records

1 of laboratory work orders ~~shall subject such~~ AS REQUIRED IN PARAGRAPH
2 (a) OF SUBSECTION (1) OF THIS SECTION, THE dentist IS SUBJECT to
3 disciplinary action as deemed appropriate by the board.

4 (3) ~~Failure of any such~~ IF AN unlicensed ~~person~~ TECHNICIAN FAILS
5 to have in ~~the person's~~ HIS OR HER possession a laboratory work order
6 signed by a licensed dentist ~~or a written work order signed by the initial~~
7 ~~recipient of the laboratory work order that is identifiable~~ with each
8 denture, ~~plate, partial plate,~~ bridge, splint, or orthodontic or prosthetic
9 appliance in ~~the~~ HIS OR HER possession, ~~of such unlicensed person, shall~~
10 ~~be~~ THE ABSENCE OF THE LABORATORY WORK ORDER IS prima facie
11 evidence of a violation of this section AND CONSTITUTES THE PRACTICE OF
12 DENTISTRY WITHOUT AN ACTIVE LICENSE IN VIOLATION OF, AND SUBJECT
13 TO THE PENALTIES SPECIFIED IN, SECTION 12-35-135.

14 **SECTION 33.** In Colorado Revised Statutes, 12-35-138, **add**
15 (2.5) as follows:

16 **12-35-138. Dentist peer health assistance fund.** (2.5) IF A
17 DENTIST IS ARRESTED FOR A DRUG- OR ALCOHOL-RELATED OFFENSE, THE
18 DENTIST SHALL REFER HIMSELF OR HERSELF TO THE PEER HEALTH
19 ASSISTANCE PROGRAM WITHIN THIRTY DAYS AFTER THE ARREST FOR AN
20 EVALUATION AND REFERRAL FOR TREATMENT AS NECESSARY. IF THE
21 DENTIST SELF-REFERS, THE EVALUATION BY THE PROGRAM IS
22 CONFIDENTIAL AND CANNOT BE USED AS EVIDENCE IN ANY PROCEEDING
23 OTHER THAN BEFORE THE BOARD. IF A DENTIST FAILS TO COMPLY WITH
24 THIS SUBSECTION (2.5), THE FAILURE, ALONE, IS NOT GROUNDS FOR
25 DISCIPLINE UNDER SECTION 12-35-129 AND 12-35-129.1 UNLESS THE
26 DENTIST HAS ALSO COMMITTED AN ACT OR OMISSION SPECIFIED IN SECTION
27 12-35-129, OTHER THAN AN ACT OR OMISSION SPECIFIED IN SECTION

1 12-35-129 (1) (e) OR (1) (f).

2 **SECTION 34.** In Colorado Revised Statutes, **add** 12-35-139 and
3 12-35-140 as follows:

4 **12-35-139. Continuing education requirements - rules.** (1) AS
5 A CONDITION OF RENEWING, REACTIVATING, OR REINSTATING A LICENSE
6 ISSUED UNDER THIS ARTICLE, EVERY DENTIST AND DENTAL HYGIENIST
7 SHALL OBTAIN AT LEAST THIRTY HOURS OF CONTINUING EDUCATION
8 EVERY TWO YEARS TO ENSURE PATIENT SAFETY AND PROFESSIONAL
9 **COMPETENCY.**

10 (2) THE BOARD MAY ADOPT RULES ESTABLISHING THE BASIC
11 REQUIREMENTS FOR CONTINUING EDUCATION, INCLUDING THE TYPES OF
12 PROGRAMS THAT **QUALIFY, EXEMPTIONS FOR PERSONS HOLDING AN**
13 **INACTIVE OR RETIRED LICENSE, REQUIREMENTS FOR COURSES DESIGNED TO**
14 **ENHANCE CLINICAL SKILLS FOR CERTAIN LICENSES,** AND THE MANNER BY
15 WHICH DENTISTS AND DENTAL HYGIENISTS ARE TO REPORT COMPLIANCE
16 WITH THE CONTINUING EDUCATION REQUIREMENTS.

17 **12-35-140. Anesthesia and sedation permits - dentists and**
18 **dental hygienists - training and experience requirements - office**
19 **inspections - rules.** (1) UPON APPLICATION IN A FORM AND MANNER
20 DETERMINED BY THE BOARD AND PAYMENT OF THE APPLICABLE FEES
21 ESTABLISHED BY THE BOARD, THE BOARD MAY ISSUE AN ANESTHESIA OR
22 SEDATION PERMIT TO A LICENSED DENTIST OR A LOCAL ANESTHESIA
23 PERMIT TO A DENTAL HYGIENIST IN ACCORDANCE WITH THIS SECTION.

24 (2) (a) A LICENSED DENTIST WHO OBTAINS AN ANESTHESIA OR
25 SEDATION PERMIT PURSUANT TO THIS SECTION MAY ADMINISTER MINIMAL
26 SEDATION, MODERATE SEDATION, OR DEEP SEDATION/GENERAL
27 ANESTHESIA.

1 (b) A LICENSED DENTIST WHO ADMINISTERS MINIMAL SEDATION,
2 MODERATE SEDATION, OR DEEP SEDATION/GENERAL ANESTHESIA TO
3 PEDIATRIC DENTAL PATIENTS SHALL OBTAIN A PERMIT DESIGNATED BY THE
4 BOARD TO ALLOW FOR ADMINISTRATION TO PEDIATRIC DENTAL PATIENTS.

5 (c) AN ANESTHESIA OR SEDATION PERMIT ISSUED TO A LICENSED
6 DENTIST IS VALID FOR FIVE YEARS, UNLESS THE DENTIST'S LICENSE
7 EXPIRES. AS A CONDITION OF RENEWING AN ANESTHESIA OR SEDATION
8 PERMIT, A LICENSED DENTIST SHALL ATTEST, WHEN APPLYING TO RENEW
9 THE PERMIT, THAT HE OR SHE COMPLETED SEVENTEEN CONTINUING
10 EDUCATION CREDITS SPECIFIC TO ANESTHESIA OR SEDATION
11 ADMINISTRATION DURING THE FIVE-YEAR PERMIT PERIOD. CONTINUING
12 EDUCATION CREDITS OBTAINED AS REQUIRED BY THIS SECTION MAY BE
13 USED TO SATISFY THE CONTINUING EDUCATION REQUIREMENTS IN SECTION
14 12-35-139.

15 (3) (a) A LICENSED DENTAL HYGIENIST WHO OBTAINS A LOCAL
16 ANESTHESIA PERMIT PURSUANT TO THIS SECTION MAY ADMINISTER LOCAL
17 ANESTHESIA.

18 (b) A LOCAL ANESTHESIA PERMIT ISSUED TO A DENTAL HYGIENIST
19 IS VALID AS LONG AS THE DENTAL HYGIENIST'S LICENSE IS ACTIVE.

20 (4) (a) THE BOARD SHALL ESTABLISH, BY RULE, MINIMUM
21 TRAINING, EXPERIENCE, AND EQUIPMENT REQUIREMENTS FOR THE
22 ADMINISTRATION OF LOCAL ANESTHESIA, ANALGESIA INCLUDING NITROUS
23 OXIDE/OXYGEN INHALATION, AND MEDICATION PRESCRIBED OR
24 ADMINISTERED FOR THE RELIEF OF ANXIETY OR APPREHENSION, MINIMAL
25 SEDATION, MODERATE SEDATION, DEEP SEDATION, OR GENERAL
26 ANESTHESIA, INCLUDING PROCEDURES THAT MAY BE USED BY AND
27 MINIMUM TRAINING REQUIREMENTS FOR DENTISTS, DENTAL HYGIENISTS,

1 AND DENTAL ASSISTANTS.

2 (b) IN ORDER TO FULFILL THE TRAINING AND EXPERIENCE
3 REQUIREMENTS FOR AN ANESTHESIA OR SEDATION PERMIT, AN APPLICANT
4 MUST BE THE PRIMARY PROVIDER AND DIRECTLY PROVIDE CARE FOR ALL
5 REQUIRED CASE WORK.

6 (c) THE RULES RELATING TO ANESTHESIA AND SEDATION ARE NOT
7 INTENDED TO:

8 (I) PERMIT ADMINISTRATION OF LOCAL ANESTHESIA, ANALGESIA,
9 MEDICATION PRESCRIBED OR ADMINISTERED FOR THE RELIEF OF ANXIETY
10 OR APPREHENSION, MINIMAL SEDATION, MODERATE SEDATION, DEEP
11 SEDATION, OR GENERAL ANESTHESIA BY DENTAL ASSISTANTS; EXCEPT
12 THAT THIS SECTION DOES NOT PROHIBIT A DENTAL ASSISTANT FROM
13 MONITORING AND ADMINISTERING NITROUS OXIDE/OXYGEN INHALATION
14 PERFORMED UNDER THE SUPERVISION OF A LICENSED DENTIST PURSUANT
15 TO SECTION 12-35-113 (1) (q) AND BOARD RULES; OR

16 (II) REDUCE COMPETITION OR RESTRAIN TRADE WITH RESPECT TO
17 THE DENTISTRY NEEDS OF THE PUBLIC.

18 (5) THE BOARD SHALL ESTABLISH, BY RULE, CRITERIA AND
19 PROCEDURES FOR AN OFFICE INSPECTION PROGRAM TO BE COMPLETED
20 UPON APPLICATION AND RENEWAL OF ANESTHESIA OR SEDATION PERMITS,
21 WHICH MUST INCLUDE:

22 (a) DESIGNATION OF QUALIFIED INSPECTORS WHO ARE EXPERTS IN
23 DENTAL OUTPATIENT DEEP SEDATION/GENERAL ANESTHESIA AND
24 MODERATE SEDATION;

25 (b) A REQUIREMENT FOR EACH LICENSEE THAT IS INSPECTED TO
26 BEAR THE COST OF INSPECTION BY ALLOWING DESIGNATED INSPECTORS TO
27 CHARGE A REASONABLE FEE AS ESTABLISHED BY THE BOARD;

1 (c) A REQUIREMENT THAT AN INSPECTOR NOTIFY THE BOARD IN
2 WRITING OF THE RESULTS OF AN INSPECTION; AND

3 (d) A REQUIREMENT FOR REINSPECTION OF AN OFFICE PRIOR TO
4 THE RENEWAL OF A MODERATE SEDATION OR DEEP SEDATION/GENERAL
5 ANESTHESIA PERMIT.

6 **SECTION 35.** In Colorado Revised Statutes, **add with amended**
7 **and relocated provisions** 12-35-141 as follows:

8 **12-35-141. Professional liability insurance required.** (1) A
9 LICENSED DENTIST SHALL MEET THE FINANCIAL RESPONSIBILITY
10 REQUIREMENTS ESTABLISHED BY THE BOARD PURSUANT TO SECTION
11 13-64-301 (1) (a), C.R.S.

12 (2) [**Formerly 12-35-127 (4)**] A ~~practicing~~ LICENSED dental
13 hygienist shall have professional liability insurance in ~~the~~ AN amount of
14 not less than fifty thousand dollars per claim and WITH an aggregate
15 liability limit for all claims during a calendar year of not less than three
16 hundred thousand dollars. Upon request of the board, ~~the~~ A dental
17 hygienist shall provide proof of ~~the~~ PROFESSIONAL LIABILITY insurance to
18 the board.

19 **SECTION 36.** In Colorado Revised Statutes, 8-42-101, **amend**
20 (3.5) (a) (I) as follows:

21 **8-42-101. Employer must furnish medical aid - approval of**
22 **plan - fee schedule - contracting for treatment - no recovery from**
23 **employee - medical treatment guidelines - accreditation of physicians**
24 **- rules - repeal.** (3.5) (a) (I) "Physician" means, for the purposes of the
25 level I and level II accreditation programs, a physician licensed under the
26 "Colorado Medical Practice Act". For the purposes of level I accreditation
27 only and not level II accreditation, "physician" means a dentist licensed

1 under the "Dental Practice ~~Law of Colorado~~ ACT", a podiatrist licensed
2 under the provisions of article 32 of title 12, C.R.S., and a chiropractor
3 licensed under the provisions of article 33 of title 12, C.R.S. No physician
4 shall be deemed to be accredited under either level I or level II solely by
5 reason of being licensed.

6 **SECTION 37.** In Colorado Revised Statutes, 10-16-113, **amend**
7 (1) (c) as follows:

8 **10-16-113. Procedure for denial of benefits - internal review**
9 **- rules.** (1) (c) If a carrier denies a benefit because the treatment is an
10 excluded benefit and the claimant presents evidence from a medical
11 professional licensed pursuant to the "Colorado Medical Practice Act",
12 article 36 of title 12, C.R.S., or, for dental plans only, a dentist licensed
13 pursuant to the "Dental Practice ~~Law of Colorado~~ ACT", article 35 of title
14 12, C.R.S., acting within his or her scope of practice, that there is a
15 reasonable medical basis that the contractual exclusion does not apply to
16 the denied benefit, such evidence establishes that the benefit denial is
17 subject to the appeals process pursuant to this section and section
18 10-16-113.5.

19 **SECTION 38.** In Colorado Revised Statutes, 12-30-101, **amend**
20 (4) as follows:

21 **12-30-101. Definitions.** As used in this article, unless the context
22 otherwise requires:

23 (4) "Licensed dentist" means a person licensed to practice
24 dentistry under ~~the provisions of~~ article 35 of this title by the ~~state~~
25 COLORADO DENTAL board of ~~dental examiners~~ or its successor.

26 **SECTION 39.** In Colorado Revised Statutes, 12-35-201, **amend**
27 (2) as follows:

1 **12-35-201. Legislative declaration.** (2) It is the intent of the
2 general assembly that dentists and dental hygienists utilizing unlicensed
3 persons in their practices provide those persons with a minimum level of
4 education and training before allowing them to operate machine sources
5 of ionizing radiation; however, it is not the general assembly's intent to
6 discourage education and training beyond this minimum. It is further the
7 intent of the general assembly that established minimum training and
8 education requirements correspond as closely as possible to the
9 requirements of each particular work setting as determined by the ~~state~~
10 COLORADO DENTAL board of ~~dental examiners~~ pursuant to this part 2.

11 **SECTION 40.** In Colorado Revised Statutes, 12-35-202, **amend**
12 (1) (a) as follows:

13 **12-35-202. Board authorized to issue rules.** (1) (a) The ~~state~~
14 COLORADO DENTAL board of ~~dental examiners~~ shall adopt rules
15 prescribing minimum standards for the qualifications, education, and
16 training of unlicensed persons operating machine sources of ionizing
17 radiation and administering ~~such~~ radiation to patients for diagnostic
18 medical use. ~~No~~ A licensed dentist or dental hygienist shall NOT allow ~~any~~
19 AN unlicensed person to operate ~~any~~ A machine source of ionizing
20 radiation or to administer ~~such~~ radiation to any patient unless ~~such~~ THE
21 person ~~has met the~~ MEETS standards then in effect under rules adopted
22 pursuant to this section. The board may adopt rules allowing a grace
23 period in which newly hired operators of machine sources of ionizing
24 radiation ~~shall~~ ARE TO receive the training required ~~pursuant to~~ BY this
25 section.

26 **SECTION 41.** In Colorado Revised Statutes, 13-4-102, **amend**
27 (2) (g) as follows:

1 **13-4-102. Jurisdiction.** (2) The court of appeals has initial
2 jurisdiction to:

3 (g) Review actions of the COLORADO DENTAL board ~~of dental~~
4 ~~examiners~~ in refusing to issue or renew or in suspending or revoking a
5 license to practice dentistry or dental hygiene, as provided in section
6 12-35-130, C.R.S.;

7 **SECTION 42.** In Colorado Revised Statutes, 13-64-301, **amend**
8 (1) (a) (II) introductory portion and (1) (a) (III) as follows:

9 **13-64-301. Financial responsibility.** (1) As a condition of active
10 licensure or authority to practice in this state, every physician or dentist,
11 and every health care institution as defined in section 13-64-202, except
12 as provided in section 13-64-303.5, that provides health care services
13 shall establish financial responsibility, as follows:

14 (a) (II) The COLORADO DENTAL board, ~~of dental examiners~~ BY
15 RULE, may ~~by rule~~, exempt from or establish lesser financial responsibility
16 standards than those prescribed in this section for classes of dentists who:

17 (III) The COLORADO DENTAL board ~~of dental examiners~~ may
18 exempt from or establish lesser financial responsibility standards for a
19 dentist for reasons other than those described in subparagraph (II) of this
20 paragraph (a) that render the limits provided in subparagraph (I) of this
21 paragraph (a) unreasonable or unattainable.

22 **SECTION 43.** In Colorado Revised Statutes, 17-1-103, **amend**
23 (3) (a) (III) as follows:

24 **17-1-103. Duties of the executive director.** (3) (a) (III) The
25 executive director shall determine the qualifications for appointment to
26 the panel of medical consultants; except that all members of the panel
27 shall be licensed by the Colorado medical board pursuant to article 36 of

1 title 12, C.R.S., or the ~~state~~ COLORADO DENTAL board of ~~dental examiners~~
2 pursuant to article 35 of title 12, C.R.S.

3 **SECTION 44.** In Colorado Revised Statutes, **amend** 18-18-103
4 as follows:

5 **18-18-103. Special definition - board.** As used in parts 1 and 2
6 of this article, "board" means the state board of pharmacy. As used in
7 parts 3, 4, 5, and 6 of this article, "board" means the respective licensing
8 board responsible for licensing and registering practitioners or other
9 persons who are subject to registration pursuant to part 3 of this article.
10 For physicians the respective board is the Colorado medical board; for
11 podiatrists the respective board is the Colorado podiatry board; for
12 dentists the respective board is the ~~state~~ COLORADO DENTAL board; ~~of~~
13 ~~dental examiners~~; for optometrists the respective board is the state board
14 of optometry; for pharmacists and pharmacies the respective board is the
15 state board of pharmacy; for veterinarians the respective board is the state
16 board of veterinary medicine; and for manufacturers, distributors, and
17 humane societies the respective board is the state board of pharmacy.

18 **SECTION 45.** In Colorado Revised Statutes, 18-18-302, **amend**
19 (1) as follows:

20 **18-18-302. Registration requirements - definitions.** (1) Every
21 person who manufactures, distributes, or dispenses any controlled
22 substance within this state, or who proposes to engage in the manufacture,
23 distribution, or dispensing of any controlled substance within this state,
24 shall obtain annually or biannually, if applicable, a registration, issued by
25 the respective licensing board or the department in accordance with rules
26 adopted by such board or by the department. For purposes of this section
27 and this article, "registration" or "registered" means the registering of

1 manufacturers, pharmacists, pharmacies, and humane societies located in
2 this state, and distributors located in or doing business in this state, by the
3 state board of pharmacy as set forth in article 42.5 of title 12, C.R.S., the
4 licensing of physicians by the Colorado medical board, as set forth in
5 article 36 of title 12, C.R.S., the licensing of podiatrists by the Colorado
6 podiatry board, as set forth in article 32 of title 12, C.R.S., the licensing
7 of dentists by the ~~state~~ COLORADO DENTAL board, ~~of dental examiners~~, as
8 set forth in article 35 of title 12, C.R.S., the licensing of optometrists by
9 the state board of optometry, as set forth in article 40 of title 12, C.R.S.,
10 the licensing of veterinarians by the state board of veterinary medicine,
11 as set forth in article 64 of title 12, C.R.S., and the licensing of
12 researchers and addiction programs by the department of human services,
13 as set forth in part 2 of article 80 of title 27, C.R.S.

14 **SECTION 46.** In Colorado Revised Statutes, 24-1-122, **amend**
15 (3) (k) as follows:

16 **24-1-122. Department of regulatory agencies - creation.**

17 (3) The following boards and agencies are transferred by a **type 1**
18 transfer to the department of regulatory agencies and allocated to the
19 division of registrations:

20 (k) ~~State~~ COLORADO DENTAL board ~~of dental examiners~~, created
21 ~~by~~ IN article 35 of title 12, C.R.S.;

22 **SECTION 47. Appropriation.** (1) In addition to any other
23 appropriation, there is hereby appropriated, out of any moneys in the
24 division of professions and occupations cash fund created in section 24-
25 34-105 (2) (b) (I), Colorado Revised Statutes, not otherwise appropriated,
26 to the department of regulatory agencies, for the fiscal year beginning
27 July 1, 2014, the sum of \$109,008 and 1.0 FTE, or so much thereof as

1 may be necessary, to be allocated for the implementation of this act as
2 follows:

3 (a) \$42,530 and 1.0 FTE to the division of professions and
4 occupations for personal services;

5 (b) \$5,653 to the division of professions and occupations for
6 operating expenses and capital outlay;

7 (c) \$3,900 to the division of professions and occupations for
8 board expenses; and

9 (d) \$56,925 to the executive director's office and administrative
10 services for the purchase of legal services.

11 (2) In addition to any other appropriation, there is hereby
12 appropriated to the department of law, for the fiscal year beginning July
13 1, 2014, the sum of \$56,925 and 0.3 FTE, or so much thereof as may be
14 necessary, for the provision of legal services for the department of
15 regulatory agencies related to the implementation of this act. Said sum is
16 from reappropriated funds received from the department of regulatory
17 agencies out of the appropriation made in paragraph (d) of subsection (1)
18 of this section.

19 **SECTION 48. Effective date.** This act takes effect July 1, 2014.

20 **SECTION 49. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety.