A BILL FOR AN ACT

CONCERNING THE REGULATION OF DENTAL HEALTH CARE PROVIDERS

BY THE STATE BOARD OF DENTAL EXAMINERS.

Bill Summary

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

(Drafting note: This bill includes some statutory sections that have been relocated and renumbered, either without change or with amendments. Former section numbers are supplied in brackets for comparison purposes.)

Recreates the state dental board (board) and its regulation of dentists and dental hygienists. Continues the board's authority until 2012. Reorganizes provisions within the "Dental Practice Law of Colorado" for clarity and ease of usage.

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

Increases the membership of the board by 3 members, of whom 2 are dentists and one is a dental hygienist. Limits a member of the board to serving 2 consecutive 4-year terms. Redesigns the disciplinary procedures of the board. Eliminates the position of secretary to the board. Requires the board to meet at least quarterly. Clarifies the requirements for members of the board. Creates a 2-panel system to address disciplinary investigations or actions of the board. Outlines procedures for the 2 panels. Allows for subcommittees of the board to perform licensing functions.

Requires dentists and dental hygienists from other states to participate in an accredited research or educational program. Allows the board to recognize dental specialties defined by the American dental association. Exempts foreign-trained dentists who are teaching in an accredited dental school offering a doctorate of dental surgery or doctorate of dental medicine from licensure requirements and clarifies the licensure requirements for these dentists. Allows the board to issue letters of admonition. Allows the board to issue subpoenas to obtain all documents relevant to a hearing or inquiry.

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

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

Requires the professional review committee to notify the board of actions that may constitute violations of the Dental Practice Act. Allows for an audit of the records of a professional review committee by the board or its designee.

Prohibits a person whose license is revoked from obtaining a license for at least 2 years. Extends immunity from civil or criminal liability for activities related to reviewing or supervising a licensee by an office inspector or practice monitor.
Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 35 of title 12, Colorado Revised Statutes, is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

PART 1

GENERAL PROVISIONS

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

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

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

(1) "Accredited" means a program that is nationally
RECOGNIZED FOR SPECIALIZED ACCREDITING FOR DENTAL, DENTAL
HYGIENE, AND DENTAL AUXILIARY PROGRAMS BY THE UNITED STATES
DEPARTMENT OF EDUCATION.

(2) "BOARD" MEANS THE STATE BOARD OF DENTAL EXAMINERS,
CREATED IN SECTION 12-35-104.

(3) "DENTAL ASSISTANT" MEANS ANY PERSON NOT A DENTIST OR
DENTAL HYGIENIST LICENSED IN COLORADO WHO MAY BE ASSIGNED OR
DELEGATED TO PERFORM DENTAL TASKS OR PROCEDURES AS AUTHORIZED
BY THIS ARTICLE OR BY RULES OF THE BOARD.

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

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

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

(b) For purposes of this subsection (6) only, "premises" means within the same building, dental office, or treatment facility and within close enough proximity to respond in a timely manner to an emergency or the need for assistance.

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

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

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

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

(b) For purposes of this subsection (10) only, "premises" means within the same building, dental office, or treatment
FACILITY AND WITHIN CLOSE ENOUGH PROXIMITY TO RESPOND IN A TIMELY MANNER TO AN EMERGENCY OR THE NEED FOR ASSISTANCE.

(11) "LABORATORY WORK ORDER" MEANS THE WRITTEN INSTRUCTIONS OF A DENTIST LICENSED IN COLORADO AUTHORIZING ANOTHER PERSON TO CONSTRUCT, REPRODUCE, OR REPAIR ANY PROSTHETIC DENTURE, BRIDGE, APPLIANCE, OR OTHER STRUCTURE TO FUNCTION IN THE ORAL CAVITY, MAXILLOFACIAL AREA, OR ADJACENT AND ASSOCIATED REGIONS.

(12) "LICENSE" MEANS THE GRANT OF AUTHORITY BY THE BOARD TO ANY PERSON TO ENGAGE IN THE PRACTICE OF DENTISTRY OR DENTAL HYGIENE. SUCH LICENSE SHALL BE A PRIVILEGE PERSONAL TO THE LICENSEE AND MAY BE REVOKED, SUSPENDED, OR SUBMITTED TO DISCIPLINARY CONDITIONS BY THE BOARD FOR VIOLATION OF ANY OF THE PROVISIONS OF THIS ARTICLE AND SHALL BE NULL AND VOID UPON THE FAILURE OF THE LICENSEE TO FILE AN APPLICATION FOR RENEWAL AND TO PAY THE FEE AS REQUIRED BY SECTION 12-35-121.

(13) "LICENSE CERTIFICATE" MEANS THE DOCUMENTARY EVIDENCE THAT THE BOARD HAS GRANTED AUTHORITY TO THE LICENSEE TO PRACTICE DENTISTRY OR DENTAL HYGIENE IN THIS STATE.

(14) "PROPRIETOR" INCLUDES ANY PERSON WHO:

(a) EMPLOYS DENTISTS, DENTAL HYGIENISTS, OR DENTAL ASSISTANTS IN THE OPERATION OF A DENTAL OFFICE, EXCEPT AS PROVIDED IN SECTIONS 12-35-113 AND 12-35-128;

(b) PLACES IN POSSESSION OF A DENTIST, DENTAL HYGIENIST, DENTAL ASSISTANT, OR OTHER AGENT SUCH DENTAL MATERIAL OR EQUIPMENT AS MAY BE NECESSARY FOR THE MANAGEMENT OF A DENTAL OFFICE ON THE BASIS OF A LEASE OR ANY OTHER AGREEMENT FOR
COMPENSATION FOR THE USE OF SUCH MATERIAL, EQUIPMENT, OR OFFICES;

OR

(c) RETAINS THE OWNERSHIP OR CONTROL OF DENTAL EQUIPMENT
OR MATERIAL OR A DENTAL OFFICE AND MAKES THE SAME AVAILABLE IN
ANY MANNER FOR USE BY DENTISTS, DENTAL HYGIENISTS, DENTAL
ASSISTANTS, OR OTHER AGENTS; EXCEPT THAT NOTHING IN THIS
PARAGRAPH (c) SHALL APPLY TO BONA FIDE SALES OF DENTAL EQUIPMENT
OR MATERIAL SECURED BY A CHATTEL MORTGAGE OR RETAIN-TITLE
AGREEMENT OR TO THE LOAN OF ARTICULATORS.

(15) "RENEWAL CERTIFICATE" MEANS THE DOCUMENTARY
EVIDENCE THAT THE BOARD HAS RENEWED THE AUTHORITY OF THE
LICENSEE TO PRACTICE DENTISTRY OR DENTAL HYGIENE IN THIS STATE.

12-35-104. State board of dental examiners - subject to
termination - immunity - repeal of article. (1) (a) THE STATE BOARD
OF DENTAL EXAMINERS IS HEREBY CREATED AS THE AGENCY OF THIS STATE
FOR THE REGULATION OF THE PRACTICE OF DENTISTRY IN THIS STATE AND
to carry out the purposes of this article. THE BOARD SHALL BE
UNDER THE SUPERVISION AND CONTROL OF THE DIVISION OF
REGISTRATIONS AS PROVIDED BY SECTION 24-34-102, C.R.S. THE BOARD
SHALL CONSIST OF FIVE DENTIST MEMBERS, TWO DENTAL HYGIENIST
MEMBERS, AND THREE MEMBERS FROM THE PUBLIC AT LARGE, EACH
MEMBER TO BE APPOINTED BY THE GOVERNOR FOR A TERM OF FOUR YEARS
AND TO HAVE THE QUALIFICATIONS PROVIDED IN THIS ARTICLE. NO
MEMBER SHALL SERVE MORE THAN TWO CONSECUTIVE TERMS OF FOUR
YEARS. DUE CONSIDERATION SHALL BE GIVEN TO HAVING A
GEOGRAPHICAL, POLITICAL, URBAN, AND RURAL BALANCE AMONG THE
BOARD MEMBERS. SHOULD A VACANCY OCCUR IN ANY BOARD

(b) NOTWITHSTANDING THE JULY 1, 2004, RECREATION AND REENACTMENT OF THIS ARTICLE, MEMBERS OF THE BOARD WHO WERE SERVING AS OF JUNE 30, 2004, SHALL CONTINUE TO SERVE EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, AND THEIR SERVICE SHALL BE DEEMED TO HAVE BEEN CONTINUOUS. ON AND AFTER JANUARY 1, 2005, THE BOARD SHALL CONSIST OF SEVEN DENTIST MEMBERS, THREE DENTAL HYGIENIST MEMBERS, AND THREE MEMBERS FROM THE PUBLIC AT LARGE, EACH MEMBER TO BE APPOINTED BY THE GOVERNOR FOR A TERM OF FOUR YEARS AND TO HAVE THE QUALIFICATIONS PROVIDED IN THIS ARTICLE.

(2) THE BOARD SHALL ORGANIZE ANNUALLY BY ELECTING ONE OF ITS MEMBERS AS CHAIRPERSON AND ONE AS VICE-CHAIRPERSON. IT MAY ADOPT SUCH RULES FOR ITS GOVERNMENT AS IT MAY DEEM PROPER. THE BOARD SHALL NOT MEET MORE THAN NINE TIMES ANNUALLY. MEETINGS OF A PANEL OF THE BOARD SHALL BE INCLUDED WITHIN THESE NINE ANNUAL MEETINGS.

(3) THE BOARD MAY EMPLOY EXAMINATION PROCTORS WHEN NECESSARY.

(4) (a) THE PROVISIONS OF SECTION 24-34-104, C.R.S., CONCERNING THE TERMINATION SCHEDULE FOR REGULATORY BODIES OF THE STATE UNLESS EXTENDED AS PROVIDED IN THAT SECTION, ARE APPLICABLE TO THE BOARD. AT THE TIME OF SUNSET REVIEW BY THE
APPROPRIATE LEGISLATIVE COMMITTEE, ALL FUNCTIONS OF THE BOARD, INCLUDING THE ISSUING OF PERMITS FOR ADMINISTERING ANESTHESIA AND THE REGULATION OF SUCH ADMINISTRATION OF ANESTHESIA, SHALL BE REVIEWED.

(b) THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 2012.

12-35-105. Qualifications of board members. (1) A person shall be qualified to be appointed to the board if such person is:

(a) A legal resident of Colorado;

(b) Currently licensed as a dentist or dental hygienist, if fulfilling that position on the board; and

(c) Has been actively engaged in a clinical practice in this state for at least five years immediately preceding the appointment, if fulfilling the position of dentist or dental hygienist on the board.

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

12-35-106. Quorum of board - panel. A majority of the members of the board shall constitute a quorum for the transaction of business, but if less than a quorum is present on the day appointed for a meeting, those present may adjourn until a quorum is present. Any action taken by a quorum of the assigned panel shall constitute action by the board; except that, for disciplinary matters concerning a dentist, a majority of dentist members is required for a quorum.
12-35-107. Powers and duties of board. (1) The board shall exercise, subject to the provisions of this article, the following powers and duties:

(a) Conduct examinations to ascertain the qualifications and fitness of applicants for licensure to practice dentistry and dental hygiene. To assist with such examinations:
   (I) Only proctors or licensed dentists may participate in the examination of candidates for dental licensure; and
   (II) Only licensed dentists, licensed dental hygienists, or proctors may participate in the examination of candidates for dental hygiene licensure.

(b) Make, publish, declare, and periodically review such reasonable rules as may be necessary to carry out and make effective the powers and duties of the board as vested in it by this article. Rules of the board may include but shall not be limited to:
   (I) The examination of applicants for licensing as dentists and dental hygienists;
   (II) The practices of dentistry and dental hygiene;
   (III) The tasks and procedures that may be assigned to dental assistants and dental hygienists; and
   (IV) The specification of essential instructions to be included in a laboratory work order.

(c) Conduct hearings to revoke, suspend, or deny the issuance of a license or renewal license granted under the authority of this article or of previous laws, issue a confidential letter of concern, issue a letter of admonition, or
REPRIMAND, CENSURE, OR PLACE ON PROBATION A LICENSEE WHEN EVIDENCE HAS BEEN PRESENTED SHOWING VIOLATION OF ANY OF THE PROVISIONS OF THIS ARTICLE BY A HOLDER OF OR AN APPLICANT FOR A LICENSE. THE BOARD MAY ELECT TO HEAR THE MATTER ITSELF PURSUANT TO THE PROVISIONS OF SECTION 12-35-129, OR IT MAY ELECT TO HEAR THE MATTER WITH THE ASSISTANCE OF AN ADMINISTRATIVE LAW JUDGE OR AN ADVISORY ATTORNEY FROM THE OFFICE OF THE ATTORNEY GENERAL, AND, IN SUCH CASE, THE ADVISOR OR ADMINISTRATIVE LAW JUDGE SHALL ADVISE THE BOARD ON LEGAL AND PROCEDURAL MATTERS AND RULE ON EVIDENCE AND OTHERWISE CONDUCT THE COURSE OF THE HEARING.

(d) CONDUCT INVESTIGATIONS AND INSPECTIONS FOR COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE;

(e) GRANT AND ISSUE LICENSES AND RENEWAL CERTIFICATES IN CONFORMITY WITH THIS ARTICLE TO SUCH APPLICANTS AS HAVE BEEN FOUND QUALIFIED. THE BOARD MAY ALSO GRANT AND ISSUE TEMPORARY LICENSES. THE BOARD SHALL PROMULGATE RULES CONCERNING THE GRANTING OF TEMPORARY LICENSES, WHICH RULES SHALL INCLUDE, BUT NOT BE LIMITED TO, RESTRICTIONS WITH RESPECT TO EFFECTIVE DATES, AREAS OF PRACTICE THAT MAY BE PERFORMED, AND LICENSING FEES THAT MAY BE CHARGED TO THE APPLICANT.

(f) MAKE SUCH REASONABLE RULES AS MAY BE NECESSARY TO CARRY OUT AND MAKE EFFECTIVE THE POWERS AND DUTIES OF THE BOARD AS VESTED IN IT BY THE PROVISIONS OF THIS ARTICLE; EXCEPT THAT ALL RULES ADOPTED OR AMENDED BY THE BOARD ON OR AFTER JULY 1, 1979, SHALL BE SUBJECT TO SECTIONS 24-4-103 (8) (c) AND (8) (d) AND 24-34-104 (9) (b) (II), C.R.S. SUCH RULES MAY INCLUDE, BUT SHALL NOT BE LIMITED TO, MINIMUM TRAINING AND EQUIPMENT REQUIREMENTS FOR
THE ADMINISTRATION OF LOCAL ANESTHETICS, GENERAL ANESTHESIA,
CONSCIOUS SEDATION, AND NITROUS OXIDE/OXYGEN INHALATION
SEDATION, INCLUDING PROCEDURES THAT MAY BE USED BY AND MINIMUM
TRAINING REQUIREMENTS FOR DENTISTS, DENTAL HYGIENISTS, AND
DENTAL ASSISTANTS. THE GENERAL ASSEMBLY DECLARES THAT RULES
RELATING TO ANESTHESIA ARE NOT INTENDED TO PERMIT ADMINISTRATION
OF LOCAL ANESTHETICS, GENERAL ANESTHESIA, CONSCIOUS SEDATION, OR
NITROUS OXIDE/OXYGEN INHALATION SEDATION BY DENTAL ASSISTANTS
NOR TO REDUCE COMPETITION OR RESTRAIN TRADE WITH RESPECT TO
DENTISTRY NEEDS OF THE PUBLIC.

(g) THROUGH THE DEPARTMENT OF REGULATORY AGENCIES AND
SUBJECT TO APPROPRIATIONS MADE TO THE DEPARTMENT OF REGULATORY
AGENCIES, EMPLOY HEARING OFFICERS OR ADMINISTRATIVE LAW JUDGES
ON A FULL-TIME OR PART-TIME BASIS TO CONDUCT ANY HEARINGS
REQUIRED BY THIS ARTICLE. THE HEARING OFFICERS AND ADMINISTRATIVE
LAW JUDGES SHALL BE APPOINTED PURSUANT TO PART 10 OF ARTICLE 30
OF TITLE 24, C.R.S.

(h) (I) ISSUE ANESTHESIA PERMITS TO LICENSED DENTISTS AND SET
AND COLLECT A FEE FOR SUCH ISSUANCE.

(II) ANESTHESIA PERMITS SHALL BE VALID FOR A PERIOD OF FIVE
YEARS AND SHALL ALLOW PERMIT-HOLDING LICENSEES TO ADMINISTER
DEEP CONSCIOUS SEDATION OR BOTH GENERAL ANESTHESIA AND DEEP
CONSCIOUS SEDATION.

(i) DEVELOP CRITERIA AND PROCEDURES FOR AN OFFICE
INSPECTION PROGRAM INCLUDING, BUT NOT LIMITED TO:

(I) DESIGNATING QUALIFIED INSPECTORS WHO ARE EXPERTS IN
DENTAL OUTPATIENT GENERAL ANESTHESIA AND DEEP CONSCIOUS
SEDATION;

(II) REQUIRING EACH LICENSEE INSPECTED TO BEAR THE COST OF INSPECTION BY ALLOWING DESIGNATED INSPECTORS TO CHARGE A REASONABLE FEE AS ESTABLISHED BY THE BOARD;

(III) REQUIRING AN INSPECTOR TO NOTIFY THE BOARD IN WRITING OF THE RESULTS OF AN INSPECTION.

(2) THE BOARD MAY RECOGNIZE THOSE DENTAL SPECIALTIES DEFINED BY THE AMERICAN DENTAL ASSOCIATION.

(3) TO FACILITATE THE LICENSURE OF QUALIFIED APPLICANTS, THE BOARD MAY, IN ITS DISCRETION, ESTABLISH A SUBCOMMITTEE OF AT LEAST SIX BOARD MEMBERS TO PERFORM LICENSING FUNCTIONS IN ACCORDANCE WITH THIS ARTICLE. FOUR SUBCOMMITTEE MEMBERS SHALL CONSTITUTE A QUORUM OF THE SUBCOMMITTEE. THE CHAIRPERSON OF THE BOARD MAY SERVE ON A SUBCOMMITTEE AS DEEMED NECESSARY BY THE CHAIRPERSON. ANY ACTION TAKEN BY A QUORUM OF THE SUBCOMMITTEE SHALL CONSTITUTE ACTION BY THE BOARD.


THE AUTHORITY GRANTED THE BOARD UNDER THE PROVISIONS OF THIS ARTICLE SHALL NOT BE CONSTRUED TO AUTHORIZE THE BOARD TO ARBITRATE OR ADJUDICATE FEE DISPUTES BETWEEN LICENSEES OR BETWEEN A LICENSEE AND ANY OTHER PARTY.

12-35-109. [Formerly 12-35-108] Power of board to administer oaths - issue subpoenas - service - penalty for refusing to obey subpoena. (1) THE BOARD OR AN ADMINISTRATIVE LAW JUDGE SHALL HAVE THE POWER TO ADMINISTER OATHS, TAKE AFFIRMATIONS OF WITNESSES, AND ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF ALL RELEVANT PAPERS, BOOKS,
RECORDS, DOCUMENTARY EVIDENCE, AND MATERIALS IN ANY HEARING, INVESTIGATION, ACCUSATION, OR OTHER MATTER COMING BEFORE THE BOARD. THE BOARD MAY APPOINT AN ADMINISTRATIVE LAW JUDGE PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO TAKE EVIDENCE AND TO MAKE FINDINGS AND REPORT THEM TO THE BOARD.

(2) UPON FAILURE OF ANY WITNESS TO COMPLY WITH SUCH SUBPOENA OR PROCESS, THE BOARD MAY PETITION THE DISTRICT COURT IN THE COUNTY IN WHICH THE PROCEEDING IS PENDING SETTING FORTH THAT DUE NOTICE HAS BEEN GIVEN OF THE TIME AND PLACE OF ATTENDANCE OF THE WITNESS AND THE SERVICE OF THE SUBPOENA, IN WHICH EVENT, THE DISTRICT COURT, AFTER HEARING EVIDENCE IN SUPPORT OF OR CONTRARY TO THE PETITION, MAY ENTER AN ORDER AS IN OTHER CIVIL ACTIONS COMPPELLING THE WITNESS TO ATTEND AND TESTIFY OR PRODUCE BOOKS, RECORDS, OR OTHER EVIDENCE.

(3) ANY MEMBER OF THE BOARD, ANY MEMBER OF THE BOARD'S STAFF, ANY PERSON ACTING AS A WITNESS OR CONSULTANT TO THE BOARD, ANY WITNESS TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS PART 1, AND ANY PERSON WHO LODGES A COMPLAINT PURSUANT TO THIS PART 1, SHALL BE IMMUNE FROM LIABILITY IN ANY CIVIL ACTION BROUGHT AGAINST HIM OR HER FOR ACTS OCCURRING WHILE ACTING IN HIS OR HER CAPACITY AS BOARD MEMBER, STAFF, CONSULTANT, OR WITNESS, RESPECTIVELY, IF SUCH INDIVIDUAL WAS ACTING IN GOOD FAITH WITHIN THE SCOPE OF HIS OR HER RESPECTIVE CAPACITY, MADE A REASONABLE EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO WHICH HE OR SHE ACTED, AND ACTED IN THE REASONABLE BELIEF THAT THE ACTION TAKEN BY HIM OR HER WAS WARRANTED BY THE FACTS. ANY PERSON PARTICIPATING IN GOOD FAITH IN LODGING A COMPLAINT OR
PARTICIPATING IN ANY INVESTIGATIVE OR ADMINISTRATIVE PROCEEDING
PURSUANT TO THIS PART 1 SHALL BE IMMUNE FROM ANY CIVIL OR
CRIMINAL LIABILITY THAT MAY RESULT FROM SUCH PARTICIPATION.

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

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

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

12-35-111. [Formerly 12-35-119] Change of address -
duplicate licenses and certificates. (1) Every person licensed under
this article, upon changing the licensee's place of business, shall
FURNISH TO THE BOARD THE LICENSEE’S NEW MAILING ADDRESS WITHIN THIRTY DAYS.

(2) THE BOARD MAY ISSUE A DUPLICATE OF ANY LICENSE UPON ATTESTATION BY THE LICENSEE OF LOSS OR DESTRUCTION AND SHALL CHARGE A FEE ESTABLISHED PURSUANT TO SECTION 24-34-105, C.R.S., FOR A DUPLICATE.

12-35-112. [Formerly 12-35-109] Persons entitled to practice dentistry or dental hygiene. (1) IT IS UNLAWFUL FOR ANY PERSON TO PRACTICE DENTISTRY OR DENTAL HYGIENE IN THIS STATE EXCEPT THOSE:

(a) WHO ARE DULY LICENSED AS DENTISTS OR DENTAL HYGIENISTS PURSUANT TO THIS ARTICLE.

(b) WHO ARE DESIGNATED BY THIS ARTICLE AS DENTAL ASSISTANTS, BUT ONLY TO THE EXTENT OF THE PROCEDURES AUTHORIZED BY THIS ARTICLE AND THE RULES ADOPTED BY THE BOARD.

12-35-113. [Formerly 12-35-110] What constitutes practicing dentistry. (1) A PERSON SHALL BE DEEMED TO BE PRACTICING DENTISTRY IF SUCH PERSON:

(a) PERFORMS, OR ATTEMPTS OR PROFESSES TO PERFORM, ANY DENTAL OPERATION, ORAL SURGERY, OR DENTAL DIAGNOSTIC OR THERAPEUTIC SERVICES OF ANY KIND; EXCEPT THAT NOTHING IN THIS PARAGRAPH (a) SHALL BE CONSTRUED TO PROHIBIT A DENTAL HYGIENIST OR DENTAL ASSISTANT FROM PROVIDING PREVENTIVE DENTAL OR NUTRITIONAL COUNSELING, EDUCATION, OR INSTRUCTION SERVICES;

(b) IS A PROPRIETOR OF A PLACE WHERE DENTAL OPERATION, ORAL SURGERY, OR DENTAL DIAGNOSTIC OR THERAPEUTIC SERVICES ARE PERFORMED; EXCEPT THAT NOTHING IN THIS PARAGRAPH (b) SHALL BE CONSTRUED TO PROHIBIT A DENTAL HYGIENIST OR DENTAL ASSISTANT
FROM PERFORMING THOSE TASKS AND PROCEDURES CONSISTENT WITH
SECTION 12-35-128;

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

(d) Furnishes, supplies, constructs, reproduces, or repairs
any prosthetic denture, bridge, appliance, or other structure to
be worn in the human mouth or upon the jaws, maxillofacial
area, or adjacent and associated structures other than on the
written laboratory work order of a duly licensed and
practicing dentist;

(e) Places an appliance or structure described in
paragraph (d) of this subsection (1) in the human mouth;

(f) Adjusts, attempts, or professes to adjust an appliance
or structure described in paragraph (d) of this subsection (1);

(g) Delivers an appliance or structure described in
paragraph (d) of this subsection (1) to any person other than the
dentist upon whose laboratory work order the work was
performed;

(h) Professes to the public by any method to furnish,
SUPPLY, CONSTRUCT, REPRODUCE, OR REPAIR ANY PROSTHETIC DENTURE, BRIDGE, APPLIANCE, OR OTHER STRUCTURE TO BE WORN IN THE HUMAN MOUTH OR UPON THE JAWS, MAXILLOFACIAL AREA, OR ADJACENT AND ASSOCIATED STRUCTURES;

   (i) EXAMINES, DIAGNOSES, PLANS TREATMENT OF, OR TREATS NATURAL OR ARTIFICIAL STRUCTURES OR CONDITIONS ASSOCIATED WITH, ADJACENT TO, OR FUNCTIONALLY RELATED TO THE ORAL CAVITY, JAWS, MAXILLOFACIAL AREA, OR ADJACENT AND ASSOCIATED STRUCTURES AND THEIR IMPACT ON THE HUMAN BODY;

   (j) EXTRACTS, OR ATTEMPTS TO EXTRACT, HUMAN TEETH OR CORRECTS, OR ATTEMPTS TO CORRECT, MALFORMATIONS OF HUMAN TEETH OR JAWS;

   (k) REPAIRS OR FILLS CAVITIES IN HUMAN TEETH;

   (l) PRESCRIBES IONIZING RADIATION OR THE USE OF AN XRAY FOR THE PURPOSE OF TAKING DENTAL XRAYS OR ROENTGENOGRAMS; EXCEPT THAT NOTHING IN THIS PARAGRAPH (l) SHALL BE CONSTRUED TO PROHIBIT THESE PROCEDURES FROM BEING DELEGATED TO APPROPRIATELY TRAINED PERSONNEL IN ACCORDANCE WITH THIS ARTICLE AND RULES OF THE BOARD;

   (m) GIVES, OR PROFESSES TO GIVE, INTERPRETATIONS OR READINGS OF DENTAL XRAYS OR ROENTGENOGRAMS, CT SCANS, OR OTHER DIAGNOSTIC METHODOLOGIES; EXCEPT THAT NOTHING IN THIS PARAGRAPH (m) SHALL BE CONSTRUED TO PROHIBIT A DENTAL HYGIENIST FROM PERFORMING TASKS AND PROCEDURES CONSISTENT WITH SECTIONS 12-35-124 AND 12-35-125;

   (n) REPRESENTS HIMSELF OR HERSELF TO AN INDIVIDUAL OR THE GENERAL PUBLIC AS PRACTICING DENTISTRY, BY USING THE WORDS
"DENTIST" OR "DENTAL SURGEON", OR BY USING THE LETTERS "D.D.S.", "D.M.D.", "D.D.S./M.D.", OR "D.M.D./M.D.". NOTHING IN THIS PARAGRAPH (n) SHALL BE CONSTRUED TO PROHIBIT A DENTAL HYGIENIST OR DENTAL ASSISTANT FROM PERFORMING TASKS AND PROCEDURES CONSISTENT WITH SECTION 12-35-128 (2) OR (3) (a).

(o) STATES, PERMITS TO BE STATED, OR PROFESSES BY ANY MEANS OR METHOD WHATSOEVER THAT HE OR SHE CAN PERFORM OR WILL ATTEMPT TO PERFORM DENTAL OPERATIONS OR RENDER A DIAGNOSIS CONNECTED THEREWITH;

(p) PRESCRIBES SUCH DRUGS OR MEDICATIONS AND ADMINISTERS SUCH GENERAL OR LOCAL ANESTHETICS, ANESTHESIA, OR ANALGESIA AS MAY BE NECESSARY FOR THE PROPER PRACTICE OF DENTISTRY; EXCEPT THAT NOTHING IN THIS PARAGRAPH (p) SHALL BE CONSTRUED TO PROHIBIT A DENTAL HYGIENIST FROM PERFORMING THOSE TASKS AND PROCEDURES CONSISTENT WITH SECTIONS 12-35-124 (1) (e), 12-35-125 (1) (e) AND (1) (f), AND 12-35-128, AND IN ACCORDANCE WITH RULES PROMULGATED BY THE BOARD;

(q) PRESCRIBES, INDUCES, AND SETS DOSAGE LEVELS FOR INHALATION ANALGESIA; EXCEPT THAT NOTHING IN THIS PARAGRAPH (q) SHALL BE CONSTRUED TO PROHIBIT THE DELEGATION OF MONITORING AND ADMINISTRATION TO APPROPRIATELY TRAINED PERSONNEL IN ACCORDANCE WITH THIS ARTICLE AND RULES OF THE BOARD;

(r) GIVES OR PROFESSES TO GIVE INTERPRETATIONS OR READINGS OF DENTAL CHARTS OR RECORDS OR GIVES TREATMENT PLANS OR INTERPRETATIONS OF TREATMENT PLANS DERIVED FROM EXAMINATIONS, PATIENT RECORDS, DENTAL X RAYS, OR ROENTGENOGRAMS; EXCEPT THAT NOTHING IN THIS PARAGRAPH (r) SHALL BE CONSTRUED TO PROHIBIT A
DENTAL HYGIENIST OR DENTAL ASSISTANT FROM PERFORMING TASKS AND
PROCEDURES CONSISTENT WITH SECTIONS 12-35-124, 12-35-125, AND
12-35-128 (2) AND (3).

12-35-114. [Formerly 12-35-122] Dentists may prescribe
drugs, etc. A LICENSED DENTIST IS AUTHORIZED TO PRESCRIBE SUCH
DRUGS OR MEDICINE, PERFORM SUCH SURGICAL OPERATIONS, ADMINISTER
SUCH GENERAL OR LOCAL ANESTHETICS, AND USE SUCH APPLIANCES AS
MAY BE NECESSARY TO THE PROPER PRACTICE OF DENTISTRY. A DENTIST
SHALL NOT PRESCRIBE, DISTRIBUTE, OR GIVE TO ANY PERSON, INCLUDING
HIMSELF OR HERSELF, ANY HABIT-FORMING DRUG OR ANY CONTROLLED
SUBSTANCE, AS DEFINED IN 18-18-102 (5), C.R.S., OR AS CONTAINED IN
SCHEDULE II OF 21 U.S.C. SEC. 812, OTHER THAN IN THE COURSE OF
LEGITIMATE DENTAL PRACTICE AND PURSUANT TO THE RULES
PROMULGATED BY THE BOARD REGARDING CONTROLLED SUBSTANCE
RECORD-KEEPING.

12-35-115. [Formerly 12-35-111] Persons exempt from
operation of this article. (1) NOTHING IN THIS ARTICLE SHALL APPLY TO
THE FOLLOWING PRACTICES, ACTS, AND OPERATIONS:

(a) PRACTICE OF HIS OR HER PROFESSION BY A PHYSICIAN OR
SURGEON LICENSED AS SUCH UNDER THE LAWS OF THIS STATE UNLESS THE
PHYSICIAN OR SURGEON PRACTICES DENTISTRY AS A SPECIALTY;

(b) THE GIVING OF AN ANESTHETIC BY A QUALIFIED ANESTHETIST
OR REGISTERED NURSE FOR A DENTAL OPERATION UNDER THE DIRECT
SUPERVISION OF A LICENSED DENTIST;

(c) THE PRACTICE OF DENTISTRY OR DENTAL HYGIENE IN THE
DISCHARGE OF THEIR OFFICIAL DUTIES BY GRADUATE DENTISTS OR DENTAL
SURGEONS OR DENTAL HYGIENISTS IN THE UNITED STATES ARMED FORCES,
PUBLIC HEALTH SERVICE, COAST GUARD, OR VETERANS ADMINISTRATION;

d) Students or residents regularly employed by a private hospital or by a city, county, city and county, or state hospital under an advanced dental education program accredited by the Commission on Dental Accreditation of the American Dental Association and approved and registered as such by the Board;

e) The practice of dentistry or dental hygiene by instructors and students in schools or colleges of dentistry or schools of dental hygiene or schools of dental assistant education while such instructors and students are participating in accredited programs of such schools or colleges;

f) The practice of dentistry or dental hygiene by dentists or dental hygienists licensed in good standing by other states or countries while appearing in programs of dental education or research at the invitation of any group of licensed dentists or dental hygienists in this state who are in good standing, so long as such practice is limited to five consecutive days in a twelve-month period and the name of each person engaging in such practice is submitted to the Board, in writing and on a form approved by the Board, at least ten days before the person performs such practice;

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

(h) The performance of acts by a person under the direct
or indirect supervision of a dentist licensed in Colorado when
authorized pursuant to the rules of the board or when
authorized under other provisions of this article;

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

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

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

THE PRACTICE OF DENTISTRY OR DENTAL HYGIENE BY A LIMITED LIABILITY COMPANY OF LICENSEESE OR BY A LIMITED LIABILITY PARTNERSHIP OF LICENSEESE IS PERMITTED SUBJECT TO THE LIMITATIONS AND REQUIREMENTS, IN SO FAR AS ARE APPLICABLE, SET FORTH IN SECTION 12-36-134, RELATING TO A LIMITED LIABILITY COMPANY OR LIMITED LIABILITY PARTNERSHIP FOR THE PRACTICE OF MEDICINE.


EVERY PERSON NOT CURRENTLY HOLDING A LICENSE TO PRACTICE DENTISTRY IN THIS STATE WHO DESIRES TO PRACTICE DENTISTRY IN THIS STATE SHALL FILE WITH THE BOARD AN APPLICATION FOR A LICENSE ON A FORM TO BE PROVIDED BY THE BOARD, VERIFIED BY THE OATH OF THE APPLICANT, AND ACCOMPANIED BY A FEE REQUIRED BY SECTION 12-35-138 (1) (a) OR ESTABLISHED PURSUANT TO SECTION 24-34-105, C.R.S., IN WHICH APPLICATION IT SHALL APPEAR THAT THE APPLICANT:

(a) HAS ATTAINED THE AGE OF TWENTY-ONE YEARS;

(b) IS A GRADUATE OF A DENTAL SCHOOL OR COLLEGE THAT, AT THE TIME OF THE APPLICANT'S GRADUATION, WAS ACCREDITED. AN OFFICIAL TRANSCRIPT PREPARED BY THE DENTAL COLLEGE OR SCHOOL ATTENDED SHALL BE SUBMITTED TO THE BOARD.

(c) HAS LISTED ANY ACT THE COMMISSION OF WHICH WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-35-129 AGAINST A LICENSED DENTIST, ALONG WITH AN EXPLANATION OF THE CIRCUMSTANCES OF SUCH ACT;

(d) HAS VERIFICATION OF LICENSURE FROM OTHER JURISDICTIONS WHERE THE APPLICANT HOLDS OR HAS HELD A DENTAL OR OTHER HEALTH
CARE LICENSE;

(e) Has proof that he or she has not been subject to final
or pending disciplinary action by any state in which the
applicant is or has been previously licensed; except that, if the
applicant has been subject to disciplinary action, the board may
review such disciplinary action to determine whether it
warrants grounds for refusal to issue a license; and

(f) Has proof that he or she has met any more stringent
criteria established by the board.

(2) An applicant for licensure shall demonstrate to the
board that he or she has maintained the professional ability and
knowledge required by this article when such applicant has not
graduated from an accredited dental school or college within
the twelve months immediately preceding the application and
has not, for at least one year of the five years immediately
preceding the application, engaged in:

(a) The active clinical practice of dentistry;

(b) Teaching dentistry in an accredited program; or

(c) Service as a dentist in the military.

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

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

(a) Present evidence of having completed a program in
CLINICAL DENTISTRY AND HAVING OBTAINED A DOCTORATE OF DENTAL SURGERY OR A DOCTORATE OF DENTAL MEDICINE AT AN ACCREDITED DENTAL SCHOOL;

(b) PASS THE EXAMINATION ADMINISTERED BY THE JOINT COMMISSION ON NATIONAL DENTAL EXAMINATIONS; AND

(c) PASS AN EXAMINATION DESIGNED TO TEST THE APPLICANT’S CLINICAL SKILLS AND KNOWLEDGE. SUCH EXAMINATION SHALL BE ADMINISTERED BY A REGIONAL TESTING AGENCY COMPOSED OF AT LEAST FOUR STATES OR AN EXAMINATION OF ANOTHER STATE.

12-35-119. [Formerly 12-35-114] Examinations - how conducted - certificates issued to successful applicants - conditions on reexamination. (1) APPLICANTS FOR DENTAL LICENSURE SHALL SUBMIT TO THE BOARD PROOF OF HAVING SUCCESSFULLY PASSED THE FOLLOWING:

(a) THE EXAMINATION ADMINISTERED BY THE JOINT COMMISSION ON NATIONAL DENTAL EXAMINATIONS;

(b) A JURISPRUDENCE EXAMINATION, APPROVED BY THE BOARD, DESIGNED TO TEST THE APPLICANT’S KNOWLEDGE OF THE PROVISIONS OF THIS ARTICLE; AND

(c) AN EXAMINATION DESIGNED TO TEST THE APPLICANT’S CLINICAL SKILLS AND KNOWLEDGE. SUCH EXAMINATION SHALL BE ADMINISTERED BY A REGIONAL TESTING AGENCY COMPOSED OF AT LEAST FOUR STATES OR AN EXAMINATION OF ANOTHER STATE.

(2) ALL EXAMINATION RESULTS REQUIRED BY THE BOARD SHALL BE FILED WITH THE BOARD AND KEPT FOR REFERENCE FOR A PERIOD OF NOT LESS THAN TWO YEARS. SHOULD THE APPLICANT SUCCESSFULLY COMPLETE SUCH EXAMINATIONS AND BE OTHERWISE QUALIFIED, THE APPLICANT SHALL BE GRANTED A LICENSE BY THE BOARD AND SHALL BE
ISSUED A LICENSE CERTIFICATE.

(3) The board shall adopt rules to establish:

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

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

12-35-120. [Formerly 12-35-114.5] Licensure by credentials.

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

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

(a) Proof of graduation from an accredited dental school;

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

(c) Proof the applicant has been in practice or teaching dentistry, which involves personally providing care to patients.
FOR NOT LESS THAN THREE HUNDRED HOURS ANNUALLY IN AN ACCREDITED
DENTAL SCHOOL FOR A MINIMUM OF FIVE YEARS OUT OF THE SEVEN YEARS
IMMEDIATELY PRIOR TO APPLYING FOR LICENSURE;

(d) PROOF THE APPLICANT HAS NOT BEEN SUBJECT TO FINAL OR
PENDING DISCIPLINARY ACTION BY ANY STATE IN WHICH THE APPLICANT
IS OR HAS BEEN PREVIOUSLY LICENSED; EXCEPT THAT, IF THE APPLICANT
HAS BEEN SUBJECT TO DISCIPLINARY ACTION, THE BOARD MAY REVIEW
SUCH DISCIPLINARY ACTION TO DETERMINE WHETHER THE UNDERLYING
CONDUCT WARRANTS REFUSAL TO ISSUE A LICENSE;

(e) PROOF THE APPLICANT HAS PASSED AN EXAMINATION ON THE
PROVISIONS OF THIS ARTICLE;

(f) PROOF THE APPLICANT HAS PASSED AN ENTRY LEVEL
EXAMINATION ACCEPTABLE TO THE BOARD; AND

(g) PROOF THE APPLICANT HAS MET ANY MORE STRINGENT
CRITERIA ESTABLISHED BY THE BOARD.

12-35-121. [Similar to 12-35-116, 12-35-117, and 12-35-127]
Renewal of dental and dental hygienist licenses - fees. LICENSES SHALL
BE RENEWED OR REINSTATED PURSUANT TO A SCHEDULE ESTABLISHED BY
THE DIRECTOR OF THE DIVISION OF REGISTRATIONS WITHIN THE
DEPARTMENT OF REGULATORY AGENCIES, REFERRED TO IN THIS SECTION
AS THE DIRECTOR, AND SHALL BE RENEWED OR REINSTATED PURSUANT TO
SECTION 24-34-102 (8), C.R.S. THE DIRECTOR MAY ESTABLISH RENEWAL
FEES AND DELINQUENCY FEES FOR REINSTATEMENT PURSUANT TO SECTION
24-34-105, C.R.S. IF A PERSON FAILS TO RENEW HIS OR HER LICENSE
PURSUANT TO THE SCHEDULE ESTABLISHED BY THE DIRECTOR, SUCH
LICENSE SHALL EXPIRE. ANY PERSON WHOSE LICENSE HAS EXPIRED SHALL
BE SUBJECT TO THE PENALTIES PROVIDED IN THIS ARTICLE OR SECTION
12-35-122. [Formerly 12-35-135] Inactive dental license.

(1) Any person licensed to practice dentistry pursuant to this article may apply to the board to be transferred to an inactive status. Such application shall be in the form and manner designated by the board. The board may grant such status by issuing an inactive license, or it may deny the application for any of the causes set forth in section 12-35-129.

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

(a) Provide an affidavit to the board that the applicant, after a date certain, shall not practice dentistry in this state unless he or she is issued a license to practice dentistry pursuant to subsection (5) of this section;

(b) Pay the license fee as authorized pursuant to section 24-34-105, C.R.S.; and

(c) Comply with any financial responsibility standards promulgated by the board pursuant to section 13-64-301 (1), C.R.S.

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

(4) The board is authorized to conduct disciplinary proceedings as set forth in section 12-35-129 against any person licensed under this section for any act committed while the person was licensed pursuant to this article.

(5) Any person licensed under this section who wishes to resume the practice of dentistry shall file an application in the
FORM AND MANNER THE BOARD SHALL DESIGNATE, PAY THE LICENSE FEE
PROMULGATED BY THE BOARD PURSUANT TO SECTION 24-34-105, C.R.S.,
AND MEET THE FINANCIAL RESPONSIBILITY REQUIREMENTS PROMULGATED
BY THE BOARD PURSUANT TO SECTION 13-64-301 (1), C.R.S. THE BOARD
MAY APPROVE SUCH APPLICATION AND ISSUE A LICENSE TO PRACTICE
DENTISTRY OR MAY DENY THE APPLICATION FOR ANY OF THE CAUSES SET
FORTH IN SECTION 12-35-129.

12-35-123. [Formerly 12-35-136] Retired dental and dental
hygienist licenses. (1) ANY PERSON LICENSED TO PRACTICE DENTISTRY
OR DENTAL HYGIENE PURSUANT TO THIS ARTICLE MAY APPLY TO THE
BOARD FOR RETIRED LICENSURE STATUS. ANY SUCH APPLICATION SHALL
BE IN THE FORM AND MANNER DESIGNATED BY THE BOARD. THE BOARD
MAY GRANT SUCH STATUS BY ISSUING A RETIRED LICENSE, OR IT MAY DENY
THE APPLICATION IF THE LICENSEE HAS BEEN DISCIPLINED FOR ANY OF THE
CAUSES SET FORTH IN SECTION 12-35-129.

(2) ANY PERSON APPLYING FOR A LICENSE UNDER THIS SECTION
SHALL:

(a) PROVIDE AN AFFIDAVIT TO THE BOARD STATEING THAT, AFTER
A DATE CERTAIN, THE APPLICANT SHALL NOT PRACTICE DENTISTRY OR
DENTAL HYGIENE, SHALL NO LONGER EARN INCOME AS A DENTIST OR
DENTAL HYGIENE ADMINISTRATOR OR CONSULTANT, AND SHALL NOT
PERFORM ANY ACTIVITY THAT CONSTITUTES PRACTICING DENTISTRY OR
DENTAL HYGIENE PURSUANT TO SECTIONS 12-35-113, 12-35-124, AND
12-35-125 UNLESS SAID APPLICANT IS ISSUED A LICENSE TO PRACTICE
DENTISTRY OR DENTAL HYGIENE PURSUANT TO SUBSECTION (5) OF THIS
SECTION; AND

(b) PAY THE LICENSE FEE AUTHORIZED BY SECTION 24-34-105,
C.R.S., WHICH FEE SHALL NOT EXCEED FIFTY DOLLARS.

(3) The retired status of a licensee shall be plainly indicated on the face of any retired license certificate issued under this section.

(4) The board is authorized to conduct disciplinary proceedings pursuant to section 12-35-129 against any person licensed under this section for an act committed while such person was licensed pursuant to this article.

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

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

12-35-124. [Formerly 12-35-122.5] What constitutes practicing unsupervised dental hygiene. (1) Unless licensed to practice dentistry, a person shall be deemed to be practicing
UNSUPERVISED DENTAL HYGIENE WHO:

(a) REMOVES DEPOSITS, ACCRECTIONS, AND STAINS BY SCALING WITH HAND, ULTRASONIC, OR OTHER DEVICES FROM ALL SURFACES OF THE TOOTH AND SMOOTHES AND POLISHES NATURAL AND RESTORED TOOTH SURFACES;

(b) REMOVES GRANULATION AND DEGENERATED TISSUE FROM THE GINGIVAL WALL OF THE PERIODONTAL POCKET THROUGH THE PROCESS OF GINGIVAL CURETTAGE;

(c) PROVIDES PREVENTIVE MEASURES INCLUDING THE APPLICATION OF FLUORIDES, SEALANTS, AND OTHER RECOGNIZED TOPICAL AGENTS FOR THE PREVENTION OF ORAL DISEASE;

(d) GATHERS AND ASSEMBLES INFORMATION INCLUDING, BUT NOT LIMITED TO, FACT-FINDING AND PATIENT HISTORY, ORAL INSPECTION, AND DENTAL AND PERIODONTAL CHARTING; OR

(e) ADMINISTERS A TOPICAL ANESTHETIC TO A PATIENT IN THE COURSE OF PROVIDING DENTAL CARE.

(2) UNSUPERVISED DENTAL HYGIENE MAY BE PERFORMED BY LICENSED DENTISTS AND LICENSED DENTAL HYGIENISTS WITHOUT THE SUPERVISION OF A LICENSED DENTIST.

(3) NOTWITHSTANDING THE PROVISIONS OF SECTION 12-35-103 (14) OR 12-35-113 (1) (b), A DENTAL HYGIENIST MAY BE THE PROPRIETOR OF A PLACE WHERE SUPERVISED OR UNSUPERVISED DENTAL HYGIENE IS PERFORMED AND MAY PURCHASE, OWN, OR LEASE EQUIPMENT NECESSARY TO PERFORM SUPERVISED OR UNSUPERVISED DENTAL HYGIENE.

12-35-125. [Formerly 12-35-122.6] What constitutes practicing supervised dental hygiene. (1) UNLESS LICENSED TO PRACTICE DENTISTRY, A PERSON SHALL BE DEEMED TO BE PRACTICING
SUPERVISED DENTAL HYGIENE WHO:

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

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

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

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

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

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

(2) Supervised dental hygiene may be performed by licensed dentists and, except for the administration of local anesthetic performed under paragraph (f) of subsection (1) of this section, by licensed dental hygienists under the indirect
12-35-126. [Formerly 12-35-123] Application for dental hygienist license - fee. (1) EVERY PERSON WHO DESIRES TO QUALIFY FOR PRACTICE AS A DENTAL HYGIENIST WITHIN THIS STATE SHALL FILE WITH THE BOARD:

(a) A WRITTEN APPLICATION FOR A LICENSE, ON WHICH APPLICATION SUCH APPLICANT SHALL LIST:

(I) ANY ACT THE COMMISSION OF WHICH WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 12-35-129 AGAINST A LICENSED DENTAL HYGIENIST; AND

(II) AN EXPLANATION OF THE CIRCUMSTANCES OF SUCH ACT; AND

(b) SATISFACTORY PROOF OF GRADUATION FROM A SCHOOL OF DENTAL HYGIENE THAT, AT THE TIME OF THE APPLICANT'S GRADUATION, WAS ACCREDITED, AND PROOF THAT THE PROGRAM OFFERED BY THE ACCREDITED SCHOOL OF DENTAL HYGIENE WAS AT LEAST TWO ACADEMIC YEARS.

(2) SUCH APPLICATION MUST BE ON THE FORM PRESCRIBED AND FURNISHED BY THE BOARD, VERIFIED BY THE OATH OF THE APPLICANT, AND ACCOMPANIED BY A FEE ESTABLISHED PURSUANT TO SECTION 24-34-105, C.R.S.

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

(4) LICENSES FOR DENTAL HYGIENISTS SHALL BE RENEWED OR
REINSTATED PURSUANT TO A SCHEDULE ESTABLISHED BY THE DIRECTOR OF
THE DIVISION OF REGISTRATIONS WITHIN THE DEPARTMENT OF
REGULATORY AGENCIES, REFERRED TO IN THIS SECTION AS THE DIRECTOR,
AND SHALL BE RENEWED OR REINSTATED PURSUANT TO SECTION 24-34-102
(8), C.R.S. THE DIRECTOR MAY ESTABLISH RENEWAL FEES AND
DELINQUENCY FEES FOR REINSTATEMENT PURSUANT TO SECTION
24-34-105, C.R.S. IF A PERSON FAILS TO RENEW HIS OR HER LICENSE
PURSUANT TO THE SCHEDULE ESTABLISHED BY THE DIRECTOR, SUCH
LICENSE SHALL EXPIRE. ANY PERSON WHOSE LICENSE HAS EXPired SHALL
BE SUBJECT TO THE PENALTIES PROVIDED IN THIS ARTICLE OR SECTION
24-34-102 (8), C.R.S.

12-35-127. [Formerly 12-35-124] Dental hygienist
examinations - license - endorsement. (1) EVERY APPLICANT FOR
DENTAL HYGIENE LICENSURE SHALL SUBMIT TO THE BOARD PROOF OF
HAVING SUCCESSFULLY COMPLETED THE FOLLOWING:

(a) AN EXAMINATION ADMINISTERED BY THE JOINT COMMISSION ON
NATIONAL DENTAL EXAMINATIONS;

(b) AN EXAMINATION DESIGNED TO TEST THE APPLICANT'S
CLINICAL SKILLS AND KNOWLEDGE, WHICH SHALL BE ADMINISTERED BY A
REGIONAL TESTING AGENCY COMPOSED OF AT LEAST FOUR STATES OR AN
EXAMINATION OF ANOTHER STATE; AND

(c) AN EXAMINATION ON THE PROVISIONS OF THIS ARTICLE.

(2) ALL EXAMINATION RESULTS REQUIRED BY THE BOARD SHALL
BE FILED WITH THE BOARD AND KEPT FOR REFERENCE FOR A PERIOD OF NOT
LESS THAN TWO YEARS. SHOULD AN APPLICANT SUCCESSFULLY COMPLETE
SUCH EXAMINATIONS AND BE OTHERWISE QUALIFIED, THE APPLICANT
SHALL BE GRANTED A LICENSE BY THE BOARD AND SHALL BE ISSUED A
LICENSE CERTIFICATE SIGNED BY THE OFFICERS OF THE BOARD.

(3) (a) THE BOARD SHALL PROVIDE FOR LICENSURE UPON
APPLICATION OF ANY PERSON LICENSED IN GOOD STANDING TO PRACTICE
DENTAL HYGIENE IN ANOTHER STATE OR TERRITORY OF THE UNITED
STATES WHO HAS MET THE REQUIREMENTS OF SECTION 12-35-126,
SUBSECTIONS (1) AND (2) OF THIS SECTION, AND PARAGRAPH (b) OF THIS
SUBSECTION (3) AND PROVIDES THE CREDENTIALS AND MEETS THE
QUALIFICATIONS SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (3) IN
THE MANNER PRESCRIBED BY THE BOARD. THE EXAMINATION FOR
KNOWLEDGE OF THE PROVISIONS OF THIS ARTICLE SHALL BE
ACCOMPLISHED BY THE USE OF A MAIL-IN JURISPRUDENCE EXAMINATION
ADMINISTERED BY THE BOARD.

(b) THE BOARD SHALL ISSUE A LICENSE TO AN APPLICANT DULY
LICENSED AS A DENTAL HYGIENIST IN ANOTHER STATE OR TERRITORY OF
THE UNITED STATES WHO HAS SUBMITTED CREDENTIALS AND
QUALIFICATIONS FOR LICENSURE IN COLORADO. SUCH CREDENTIALS AND
QUALIFICATIONS SHALL INCLUDE:

(I) VERIFICATION OF LICENSURE FROM ANY OTHER JURISDICTION
WHERE THE APPLICANT HAS HELD A DENTAL HYGIENE OR OTHER HEALTH
CARE LICENSE;

(II) EVIDENCE OF THE APPLICANT’S SUCCESSFUL COMPLETION OF
THE NATIONAL BOARD DENTAL EXAMINATION ADMINISTERED BY THE JOINT
COMMISSION ON NATIONAL DENTAL EXAMINATIONS;
(III) Verification that the applicant has been engaged either in clinical practice or in teaching dental hygiene or dentistry in an accredited program for at least one year during the three years immediately preceding the application;

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

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

12-35-128. [Formerly 12-35-125] Tasks authorized to be performed by dental assistants or dental hygienists. (1) The responsibility for diagnosis, treatment planning, or the prescription of therapeutic measures in the practice of dentistry shall remain with a licensed dentist and may not be assigned to any dental hygienist. No dental procedure that will contribute to or result in an irremediable alteration of the oral anatomy may be assigned to anyone other than a licensed dentist.

(2) Except as provided in subsection (1) of this section, a dental hygienist may perform any dental task or procedure assigned to the hygienist by a licensed dentist that does not require the professional skill of a licensed dentist; except that such task or procedure shall be performed only under the general supervision of a licensed dentist on the premises, or as provided elsewhere in this section.

(3)(a) A dental assistant shall not perform the following tasks:

(I) Diagnosis;
(II) Treatment planning;
(III) Prescription of therapeutic measures;
(IV) Any procedure that contributes to or results in an irremediable alteration of the oral anatomy;
(V) Administration of local anesthesia;
(VI) Scaling (supra and sub-gingival), as it pertains to the practice of dental hygiene;
(VII) Root planing;
(VIII) Soft tissue curettage;
(IX) Periodontal probing.

(b) A dental assistant may perform the following tasks under the direct or indirect supervision of a licensed dentist:
(I) Smoothing and polishing natural and restored tooth surfaces;
(II) Provision of preventive measures, including the application of fluorides and other recognized topical agents for the prevention of oral disease;
(III) Gathering and assembling information including, but not limited to, fact-finding and patient history, oral inspection, and dental and periodontal charting;
(IV) Administering topical anesthetic to a patient in the course of providing dental care;
(V) Any other task or procedure that does not require the professional skill of a licensed dentist.

(c) A dental assistant may, under the direct supervision of a licensed dentist in accordance with rules promulgated by the board, administer and monitor the use of nitrous oxide on a
PATIENT.

(d) (I) A DENTAL ASSISTANT MAY PERFORM INTRAORAL AND EXTRAORAL TASKS AND PROCEDURES NECESSARY FOR THE FABRICATION OF A COMPLETE OR PARTIAL DENTURE UNDER THE DIRECT SUPERVISION OF A LICENSED DENTIST. THESE TASKS AND PROCEDURES SHALL INCLUDE:

(A) MAKING OF PRELIMINARY AND FINAL IMPRESSIONS;

(B) JAW RELATION RECORDS AND DETERMINATION OF VERTICAL DIMENSIONS;

(C) TOOTH SELECTION;

(D) A PRELIMINARY TRY-IN OF THE WAX-UP TRIAL DENTURE PRIOR TO AND SUBJECT TO A TRY-IN AND APPROVAL IN WRITING OF THE WAX-UP TRIAL DENTURE BY THE LICENSED DENTIST;

(E) DENTURE ADJUSTMENTS THAT INVOLVE THE PERIPHERY, OCCLUSAL, OR TISSUE-BEARING SURFACES OF THE DENTURE PRIOR TO THE FINAL EXAMINATION OF THE DENTURE.

(II) THE TASKS AND PROCEDURES IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) SHALL BE PERFORMED IN THE REGULARLY ANNOUNCED OFFICE LOCATION OF A LICENSED PRACTICING DENTIST, AND THE DENTIST SHALL BE PERSONALLY LIABLE FOR ALL TREATMENT RENDERED TO THE PATIENT. A DENTAL ASSISTANT PERFORMING THESE TASKS AND PROCEDURES SHALL BE PROPERLY IDENTIFIED AS A DENTAL ASSISTANT. NO DENTIST SHALL UTILIZE MORE THAN THE NUMBER OF DENTAL ASSISTANTS THE DENTIST CAN REASONABLY SUPERVISE.

(III) PRIOR TO ANY WORK BEING PERFORMED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (d), THE PATIENT SHALL FIRST BE EXAMINED BY THE TREATING DENTIST LICENSED TO PRACTICE IN THIS STATE WHO SHALL CERTIFY THAT THE PATIENT HAS NO PATHOLOGIC
CONDITION THAT REQUIRES SURGICAL CORRECTION OR OTHER TREATMENT PRIOR TO COMPLETE DENTURE SERVICE.

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

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

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

(a) Resorting to fraud, misrepresentation, or deception in applying for, securing, renewing, or seeking reinstatement of a
APPLICATION FOR PROFESSIONAL LIABILITY COVERAGE REQUIRED PURSUANT TO SECTION 13-64-301, C.R.S., OR IN TAKING THE EXAMINATIONS PROVIDED FOR IN THIS ARTICLE;

(b) Any conviction of a felony or any crime that would constitute a violation of this article. For purposes of this paragraph (b), conviction includes the entry of a plea of guilty or no lo contedere or a deferred sentence.

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

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

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

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

(g) Aiding or abetting, in the practice of dentistry or dental hygiene, any person not licensed to practice dentistry or dental hygiene as defined under this article or of any person
WHOSE LICENSE TO PRACTICE DENTISTRY OR DENTAL HYGIENE IS
SUSPENDED;

(h) EXCEPT AS OTHERWISE PROVIDED IN SECTION 25-3-103.7, C.R.S., PRACTICING DENTISTRY OR DENTAL HYGIENE AS A PARTNER,
AGENT, OR EMPLOYEE OF OR IN JOINT VENTURE WITH ANY PERSON WHO
DOES NOT HOLD A LICENSE TO PRACTICE DENTISTRY OR DENTAL HYGIENE
WITHIN THIS STATE OR PRACTICING DENTISTRY OR DENTAL HYGIENE AS AN
EMPLOYEE OF OR IN JOINT VENTURE WITH ANY PARTNERSHIP,
ASSOCIATION, OR CORPORATION EXCEPT AS PROVIDED IN SECTION
12-35-116. A LICENSEE HOLDING A LICENSE TO PRACTICE DENTISTRY OR
DENTAL HYGIENE IN THIS STATE MAY ACCEPT EMPLOYMENT FROM ANY
PERSON, PARTNERSHIP, ASSOCIATION, OR CORPORATION TO EXAMINE,
PREScribe, AND TREAT THE EMPLOYEES OF SUCH PERSON, PARTNERSHIP,
ASSOCIATION, OR CORPORATION.

(i) VIOLATING OR ATTEMPTING TO VIOLATE, DIRECTLY OR
INDIRECTLY, OR ASSISTING IN OR ABETTING THE VIOLATION OF OR
CONSPIRING TO VIOLATE ANY PROVISION OR TERM OF THIS ARTICLE OR
LAWFUL RULE OR ORDER OF THE BOARD;

(j) SUCH PHYSICAL OR MENTAL DISABILITY AS TO RENDER THE
LICENSEE UNABLE TO PERFORM DENTAL OR DENTAL HYGIENE SERVICES
WITH REASONABLE SKILL AND WITH SAFETY TO THE PATIENT;

(k) AN ACT OR OMISSION CONSTITUTING GROSSLY NEGLIGENT
DENTAL OR DENTAL HYGIENE PRACTICE OR THAT FAILS TO MEET
GENERALLY ACCEPTED STANDARDS OF DENTAL OR DENTAL HYGIENE
PRACTICE;

(l) ADVERTISING IN A MANNER THAT IS MISLEADING, DECEPTIVE,
OR FALSE;
(m) ENGAGING IN A SEXUAL ACT WITH A PATIENT DURING THE COURSE OF PATIENT CARE OR WITHIN SIX MONTHS IMMEDIATELY FOLLOWING THE TERMINATION OF THE LICENSEE’S PROFESSIONAL RELATIONSHIP WITH THE PATIENT. "SEXUAL ACT", AS USED IN THIS PARAGRAPH (m), MEANS SEXUAL CONTACT, SEXUAL INTRUSION, OR SEXUAL PENETRATION AS DEFINED IN SECTION 18-3-401, C.R.S.

(n) REFUSING TO MAKE PATIENT RECORDS AVAILABLE TO A PATIENT PURSUANT TO A WRITTEN AUTHORIZATION-REQUEST UNDER SECTION 25-1-802, C.R.S.;

(o) FALSE BILLING IN THE DELIVERY OF DENTAL OR DENTAL HYGIENE SERVICES, INCLUDING, BUT NOT LIMITED TO, PERFORMING ONE SERVICE AND BILLING FOR ANOTHER, BILLING FOR ANY SERVICE NOT RENDERED, AND COMMITTING A FRAUDULENT INSURANCE ACT, AS DEFINED IN SECTION 10-1-128, C.R.S.;

(p) ABUSE OF HEALTH INSURANCE PURSUANT TO SECTION 18-13-119, C.R.S.;

(q) FAILING TO NOTIFY THE BOARD, IN WRITING, OF THE ENTRY OF A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION IN FAVOR OF ANY PARTY AND AGAINST THE LICENSEE INVOLVING NEGLIGENT MALPRACTICE OF DENTISTRY OR DENTAL HYGIENE. SUCH NOTICE SHALL BE GIVEN WITHIN NINETY DAYS AFTER THE ENTRY OF SUCH JUDGMENT AND SHALL CONTAIN THE NAME OF THE COURT, THE CASE NUMBER, AND THE NAMES OF ALL PARTIES TO THE ACTION.

(r) FAILING TO REPORT A DENTAL OR DENTAL HYGIENE MALPRACTICE JUDGMENT OR MALPRACTICE SETTLEMENT TO THE BOARD BY THE LICENSEE WITHIN NINETY DAYS;

(s) FAILING TO FURNISH UNLICENSED PERSONS WITH LABORATORY
work orders pursuant to section 12-35-133;

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

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

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

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

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

(y) engaging in any of the following activities and
PRACTICES:

(I) WILLFUL AND REPEATED ORDERING OR PERFORMANCE, WITHOUT CLINICAL JUSTIFICATION, OF DEMONSTRABLY UNNECESSARY LABORATORY TESTS OR STUDIES;

(II) THE ADMINISTRATION, WITHOUT CLINICAL JUSTIFICATION, OF TREATMENT THAT IS DEMONSTRABLY UNNECESSARY;

(III) IN ADDITION TO THE PROVISIONS OF PARAGRAPH (X) OF THIS SUBSECTION (1), THE FAILURE TO OBTAIN CONSULTATIONS OR PERFORM REFERRALS WHEN FAILING TO DO SO IS NOT CONSISTENT WITH THE STANDARD OF CARE FOR THE PROFESSION;

(IV) ORDERING OR PERFORMING, WITHOUT CLINICAL JUSTIFICATION, ANY SERVICE, X-RAY, OR TREATMENT THAT IS CONTRARY TO RECOGNIZED STANDARDS OF THE PRACTICE OF DENTISTRY OR DENTAL HYGIENE AS INTERPRETED BY THE BOARD;

(z) FALSIFYING OR REPEATEDLY MAKING INCORRECT ESSENTIAL ENTRIES OR REPEATEDLY FAILING TO MAKE ESSENTIAL ENTRIES ON PATIENT RECORDS;

(aa) VIOLATING THE PROVISIONS OF SECTION 8-42-101 (3.6), C.R.S.;

(bb) VIOLATING THE PROVISIONS OF SECTION 12-35-202 OR ANY RULE OF THE BOARD ADOPTED PURSUANT TO SAID SECTION;

(cc) ADMINISTERING GENERAL ANESTHESIA OR DEEP CONSCIOUS SEDATION WITHOUT OBTAINING A PERMIT FROM THE BOARD IN ACCORDANCE WITH SECTION 12-35-107 (1) (h);

(dd) FAILURE TO REPORT WITHIN NINETY DAYS AFTER FINAL DISPOSITION TO THE BOARD THE SURRENDER OF A LICENSE TO, OR ADVERSE ACTION TAKEN AGAINST A LICENSE BY, A LICENSING AGENCY IN ANOTHER
STATE, TERRITORY, OR COUNTRY, A GOVERNMENTAL AGENCY, A LAW
ENFORCEMENT AGENCY, OR A COURT FOR AN ACT OR CONDUCT THAT
WOULD CONSTITUTE GROUNDS FOR DISCIPLINE PURSUANT TO THIS ARTICLE;

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

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

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

(hh) Failing to establish and continuously maintain
financial responsibility as required by section 13-64-301, C.R.S.;

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

(jj) Failure to complete a required continuing education
course pursuant to section 12-35-121 (5).

(2) Any person whose license to practice is revoked is
rendered ineligible to apply for any license under this article
for at least two years after the date of revocation or
surrender of the license. Any subsequent application for
licensure shall be treated as an application for a new license.

(3) Any member of the board or professional review
committee authorized by the board, any member of the board's or
professional review committee's staff, any person acting as a
WITNESS OR CONSULTANT TO THE BOARD OR COMMITTEE, ANY WITNESS
TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS ARTICLE, AND ANY
PERSON WHO LODGES A COMPLAINT PURSUANT TO THIS ARTICLE SHALL BE
IMMUNE FROM LIABILITY IN ANY CIVIL ACTION BROUGHT AGAINST HIM OR
HER FOR ACTS OCCURRING WHILE ACTING IN HIS OR HER CAPACITY AS
BOARD OR COMMITTEE MEMBER, STAFF, CONSULTANT, OR WITNESS,
RESPECTIVELY, IF SUCH INDIVIDUAL WAS ACTING IN GOOD FAITH WITHIN
THE SCOPE OF HIS OR HER RESPECTIVE CAPACITY, MADE A REASONABLE
EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO WHICH HE OR SHE
ACTED, AND ACTED IN THE REASONABLE BELIEF THAT THE ACTION TAKEN
BY HIM OR HER WAS WARRANTED BY THE FACTS. ANY PERSON
PARTICIPATING IN GOOD FAITH IN LODGING A COMPLAINT OR
PARTICIPATING IN ANY INVESTIGATIVE OR ADMINISTRATIVE PROCEEDING
PURSUANT TO THIS ARTICLE SHALL BE IMMUNE FROM ANY CIVIL OR
CRIMINAL LIABILITY THAT MAY RESULT FROM SUCH PARTICIPATION.

(4) THE DISCIPLINE OF A LICENSEE BY ANOTHER STATE, TERRITORY,
OR COUNTRY SHALL BE DEEMED THE EQUIVALENT OF UNPROFESSIONAL
CONDUCT UNDER THIS ARTICLE; EXCEPT THAT THIS SUBSECTION (4) SHALL
APPLY ONLY TO DISCIPLINE THAT IS BASED UPON AN ACT OR OMISSION IN
SUCH OTHER STATE, TERRITORY, OR COUNTRY THAT IS DEFINED
SUBSTANTIALLY THE SAME AS UNPROFESSIONAL CONDUCT PURSUANT TO
THIS ARTICLE.

(5) (a) **\[Nothing in this section shall be construed to\]** DEPRIVE ANY DENTAL PATIENT OF THE RIGHT TO CHOOSE OR REPLACE ANY
PROFESSIONALLY RECOGNIZED RESTORATIVE MATERIAL, NOR TO PERMIT
DISCIPLINARY ACTION AGAINST A DENTIST SOLELY FOR REMOVING OR
PLACING ANY PROFESSIONALLY RECOGNIZED RESTORATIVE MATERIAL.
(b) **NOTHING IN PARAGRAPH (a) OF THIS SUBSECTION (5) SHALL BE CONSTRUED TO PREVENT DISCIPLINARY ACTION AGAINST A DENTIST FOR PRACTICING DENTISTRY IN VIOLATION OF THIS ARTICLE.**

(6) **COMPLAINTS RELATING TO THE CONDUCT OF ANY DENTIST OR DENTAL HYGIENIST SHALL BE IN WRITING AND MAY BE MADE BY ANY PERSON AND, IF SO MADE, SHALL BE SIGNED BY SUCH PERSON OR MAY BE INITIATED BY THE BOARD ON ITS OWN MOTION. THE DENTIST OR DENTAL HYGIENIST COMPLAINED OF SHALL BE GIVEN NOTICE OF SUCH COMPLAINT.**

(7) (a) **IF THE BOARD HAS REASONABLE CAUSE TO BELIEVE THAT A PERSON LICENSED TO PRACTICE DENTISTRY OR DENTAL HYGIENE IN THIS STATE IS UNABLE TO PRACTICE DENTISTRY OR DENTAL HYGIENE WITH REASONABLE SKILL AND SAFETY TO PATIENTS, BECAUSE OF A PHYSICAL OR MENTAL DISABILITY OR BECAUSE OF EXCESSIVE USE OF ANY HABIT-FORMING DRUG OR SUBSTANCE OR CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 18-18-102 (5), C.R.S., THE BOARD MAY REQUIRE SUCH LICENSED DENTIST OR DENTAL HYGIENIST TO SUBMIT TO MENTAL OR PHYSICAL EXAMINATIONS BY A QUALIFIED PROFESSIONAL DESIGNATED BY THE BOARD.**

(b) **UPON THE FAILURE OF SUCH LICENSED DENTIST OR DENTAL HYGIENIST TO SUBMIT TO SUCH MENTAL OR PHYSICAL EXAMINATIONS, UNLESS THE FAILURE IS DUE TO CIRCUMSTANCES BEYOND THE DENTIST’S OR DENTAL HYGIENIST’S CONTROL, THE BOARD MAY SUSPEND SUCH DENTIST’S OR DENTAL HYGIENIST’S LICENSE TO PRACTICE DENTISTRY OR DENTAL HYGIENE IN THIS STATE UNTIL SUCH TIME AS THE DENTIST OR DENTAL HYGIENIST SUBMITS TO THE EXAMINATIONS.**

(c) **EVERY PERSON LICENSED TO PRACTICE DENTISTRY OR DENTAL HYGIENE IN THIS STATE SHALL BE DEEMED, BY SO PRACTICING OR BY**
APPLYING FOR A RENEWAL OF THE PERSON’S LICENSE TO PRACTICE
DENTISTRY OR DENTAL HYGIENE IN THIS STATE, TO HAVE GIVEN CONSENT
TO SUBMIT TO MENTAL OR PHYSICAL EXAMINATIONS WHEN DIRECTED IN
WRITING BY THE BOARD, AND FURTHER TO HAVE WAIVED ALL OBJECTIONS
TO THE ADMISSIBILITY OF THE EXAMINING QUALIFIED PROFESSIONAL’S
TESTIMONY OR EXAMINATION REPORTS ON THE GROUND OF PRIVILEGED
COMMUNICATION.

(d) The results of any mental or physical examination
ordered by the Board shall not be used as evidence in any
proceeding other than before the Board.

(e) Investigations, examinations, hearings, meetings, or
any other proceedings of the Board conducted pursuant to this
section shall be exempt from the provisions of any law requiring
that proceedings of the Board be conducted publicly or that the
minutes or records of the Board with respect to action of the
Board taken pursuant to this section are open to public
inspection; except that the final action of the Board taken
pursuant to this section shall be open to the public.

(f) If an investigation discloses an instance of conduct
that, in the opinion of the Board, does not warrant formal Board
action and should be dismissed, but in which the Board has
noticed indications of possible errant conduct that could lead
to serious consequences if not corrected, a confidential letter
of concern shall be sent to the licensee against whom the
complaint was made. The person making the complaint shall be
sent a notice that a letter of concern has been issued by the
Board.
(g) The board may include, in any disciplinary order that allows the dentist or dental hygienist to continue to practice, such conditions as the board may deem appropriate to assure that the dentist or dental hygienist is physically, mentally, and otherwise qualified to practice dentistry or dental hygiene in accordance with generally accepted professional standards of practice. Such an order may include any or all of the following:

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

(II) The taking by the licensee of such therapy, courses of training, or education as may be needed to correct deficiencies found by the board or by such examinations;

(III) The review or supervision of the licensee’s practice as may be necessary to determine its quality and to correct any deficiencies;

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

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

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

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

(9) A professional review committee of a society or an association of persons licensed pursuant to this article shall:

(a) Notify the board within sixty days after the review committee analyzes care provided by a licensee and determines
THAT SUCH CARE MAY NOT MEET GENERALLY ACCEPTED STANDARDS OR
HAS OTHERWISE VIOLATED ANY PROVISION OF THIS ARTICLE. SUCH CARE
MAY BE SUBJECT TO DISCIPLINARY ACTION BY THE BOARD.

(b) ALLOW A PERIODIC AUDIT OF RECORDS OF THE REVIEW
COMMITTEE TO BE PERFORMED BY THE BOARD OR DESIGNEE OF THE BOARD
WHO SHALL BE A LICENSED OR RETIRED DENTIST FROM ANY STATE. SUCH
AUDIT SHALL BE CONDUCTED NO MORE THAN TWICE ANNUALLY. IF ANY
PATTERN OF BEHAVIOR OF A LICENSEE IS IDENTIFIED THAT MAY
CONSTITUTE REASONABLE GROUNDS TO BELIEVE THERE HAS BEEN A
VIOLATION OF THIS ARTICLE, ALL RELEVANT RECORDS OF THE REVIEW
COMMITTEE SHALL BE SUBJECT TO A SUBPOENA ISSUED BY THE BOARD.

(10) THE PROCEEDINGS AND RECORDS OF A REVIEW COMMITTEE
SHALL BE HELD IN CONFIDENCE AND SHALL NOT BE SUBJECT TO DISCOVERY
OR INTRODUCTION INTO EVIDENCE IN ANY CIVIL ACTION AGAINST A
DENTIST ARISING OUT OF THE MATTERS THAT ARE THE SUBJECT OF
EVALUATION AND REVIEW BY SUCH COMMITTEE. HOWEVER, RECORDS OF
CLOSED PROCEEDINGS AND INVESTIGATIONS SHALL BE AVAILABLE TO THE
PARTICULAR LICENSEE UNDER REVIEW AND THE COMPLAINANT INVOLVED
IN THE PROCEEDINGS. NO PERSON WHO WAS IN ATTENDANCE AT A
MEETING OF SUCH COMMITTEE SHALL BE PERMITTED OR REQUIRED TO
TESTIFY IN ANY SUCH CIVIL ACTION AS TO ANY EVIDENCE OR OTHER
MATTERS PRODUCED OR PRESENTED DURING THE PROCEEDINGS OF SUCH
COMMITTEE OR AS TO ANY FINDINGS, RECOMMENDATIONS, EVALUATIONS,
OPINIONS, OR OTHER ACTIONS OF SUCH COMMITTEE OR ANY MEMBERS
THEREOF. HOWEVER, INFORMATION, DOCUMENTS, OR RECORDS
OTHERWISE AVAILABLE FROM ORIGINAL SOURCES ARE NOT TO BE
CONSTRUED AS IMMUNE FROM DISCOVERY OR USE IN ANY SUCH CIVIL
ACTION MERELY BECAUSE THEY WERE PRESENTED DURING PROCEEDINGS
OF SUCH COMMITTEE, AND ANY DOCUMENTS OR RECORDS THAT HAVE BEEN
PRESENTED TO THE REVIEW COMMITTEE BY ANY WITNESS SHALL BE
RETURNED TO THE WITNESS, IF REQUESTED BY THE WITNESS OR IF
ORDERED TO BE PRODUCED BY A COURT IN ANY ACTION, WITH COPIES
THEREOF TO BE RETAINED BY THE COMMITTEE AT ITS DISCRETION. ANY
PERSON WHO TESTIFIES BEFORE SUCH COMMITTEE OR WHO IS A MEMBER OF
SUCH COMMITTEE SHALL NOT BE PREVENTED FROM TESTIFYING AS TO
MATTERS WITHIN SUCH PERSON'S KNOWLEDGE, BUT THE PERSON SHALL
NOT BE ASKED ABOUT HIS OR HER TESTIMONY BEFORE SUCH A COMMITTEE
OR OPINIONS HE OR SHE FORMED AS A RESULT OF SAID COMMITTEE
HEARINGS.

(11) IF THE BOARD FINDS THE CHARGES PROVEN AND ORDERS THAT
DISCIPLINE BE IMPOSED, IT MAY ALSO ORDER THE LICENSEE TO TAKE SUCH
COURSES OF TRAINING OR EDUCATION AS MAY BE NEEDED TO CORRECT
DEFICIENCIES FOUND AS A RESULT OF THE HEARING.

(12) (a) ON AND AFTER JANUARY 1, 2005, THE CHAIRPERSON OF
THE BOARD SHALL DIVIDE THOSE MEMBERS OF THE BOARD OTHER THAN
THE CHAIRPERSON INTO TWO PANELS OF SIX MEMBERS EACH.

(b) EACH PANEL SHALL ACT AS BOTH AN INQUIRY PANEL AND A
HEARING PANEL. MEMBERS OF THE BOARD MAY BE REASSIGNED FROM ONE
PANEL TO THE OTHER BY THE CHAIRPERSON. THE CHAIRPERSON MAY BE
A MEMBER OF BOTH PANELS, BUT IN NO EVENT SHALL THE CHAIRPERSON OR
ANY OTHER MEMBER WHO HAS CONSIDERED A COMPLAINT AS A MEMBER
OF A PANEL ACTING AS AN INQUIRY PANEL TAKE ANY PART IN THE
CONSIDERATION OF A FORMAL COMPLAINT INVOLVING THE SAME MATTER.

(c) ALL MATTERS REFERRED TO ONE PANEL FOR INVESTIGATION
SHALL BE HEARD, IF REFERRED FOR FORMAL HEARING, BY THE OTHER
panel or a committee of such panel. HOWEVER, IN ITS DISCRETION,
either inquiry panel may elect to refer a case for formal
hearing to a qualified administrative law judge in lieu of a
hearing panel of the board for an initial decision pursuant to
section 24-4-105, C.R.S.

(d) The initial decision of an administrative law judge may
be reviewed pursuant to section 24-4-105 (14) and (15), C.R.S., by
the filing of exception to the initial decision with the hearing
panel that would have heard the case if it had not been referred
to an administrative law judge or by review upon the motion of
such hearing panel. The respondent or the board's counsel shall
file such exception.

(e) An investigation shall be under the supervision of the
panel to which the investigation is assigned. The person making
such investigation shall report the results of the investigation
to the assigning panel for appropriate action.


(1) The court of appeals, by appropriate proceedings under
section 24-4-106 (11), C.R.S., may review any final action of the
board to:

(a) Deny or refuse to issue or renew a license;
(b) Suspend a license;
(c) Revoke a license;
(d) Censure a licensee;
(e) Issue a letter of admonition to a licensee;
(f) Place a licensee on probation; or
(g) Issue a reprimand to a licensee.

(2) The provisions of this section apply to a license issued to a dentist or dental hygienist.

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

12-35-132. [Formerly 12-35-129] Sale of forged or invalid diploma or license certificate. (1) It is unlawful to sell or offer to sell a diploma conferring a dental or dental hygiene degree or a license or license renewal certificate granted pursuant to this article or prior dental practice laws, or to procure such diploma or license or license renewal certificate:

(a) with the intent that it be used as evidence of the right to practice dentistry or dental hygiene by a person other than the one upon whom it was conferred or to whom such license or license renewal certificate was granted; or

(b) with fraudulent intent to alter the document and use or attempt to use it when it is so altered.

12-35-133. [Formerly 12-35-130] Employment of unlicensed person by dentist - penalty. (1) Every duly licensed dentist who uses the services of any unlicensed person for the purpose of
CONSTRUCTING, ALTERING, REPAIRING, OR DUPLICATING ANY DENTURE, PLATE, PARTIAL PLATE, BRIDGE, SPLINT, OR ORTHODONTIC OR PROSTHETIC APPLIANCE SHALL BE REQUIRED TO FURNISH SUCH UNLICENSED PERSON WITH A WRITTEN LABORATORY WORK ORDER IN SUCH FORM AS SHALL BE APPROVED BY THE BOARD, WHICH FORM SHALL BE DATED AND SIGNED BY SUCH DENTIST FOR EACH SEPARATE AND INDIVIDUAL PIECE OF WORK. SAID LABORATORY WORK ORDER SHALL BE MADE IN DUPLICATE FORM, THE DUPLICATE COPY TO BE RETAINED BY THE DENTIST IN A PERMANENT FILE FOR A PERIOD OF TWO YEARS AND THE ORIGINAL COPY TO BE RETAINED IN A PERMANENT FILE FOR A PERIOD OF TWO YEARS BY THE UNLICENSED PERSON TO WHOM IT WAS FURNISHED, AND BOTH OF SUCH PERMANENT FILES SHALL BE OPEN TO INSPECTION AT ANY REASONABLE TIME BY THE BOARD OR ITS DULY CONSTITUTED AGENT.

(2) FAILURE OF THE DENTIST TO KEEP SUCH PERMANENT RECORDS OF LABORATORY WORK ORDERS SHALL SUBJECT SUCH DENTIST TO DISCIPLINARY ACTION AS DEEMED APPROPRIATE BY THE BOARD.

(3) FAILURE OF ANY SUCH UNLICENSED PERSON TO HAVE IN THE PERSON'S POSSESSION A LABORATORY WORK ORDER SIGNED BY A LICENSED DENTIST, OR A WRITTEN WORK ORDER SIGNED BY THE INITIAL RECIPIENT OF THE LABORATORY WORK ORDER THAT IS IDENTIFIABLE WITH EACH DENTURE, PLATE, PARTIAL PLATE, BRIDGE, SPLINT, OR ORTHODONTIC OR PROSTHETIC APPLIANCE IN THE POSSESSION OF SUCH UNLICENSED PERSON, SHALL BE PRIMA FACIE EVIDENCE OF A VIOLATION OF THIS SECTION.

12-35-134. [Formerly 12-35-131] Soliciting or advertisements by unlicensed persons. IT IS UNLAWFUL FOR ANY UNLICENSED PERSON, CORPORATION, ENTITY, PARTNERSHIP, OR GROUP OF PERSONS TO SOLICIT OR ADVERTISE TO THE GENERAL PUBLIC TO CONSTRUCT, REPRODUCE, OR
REPAIR PROSTHETIC DENTURES, BRIDGES, PLATES, OR OTHER APPLIANCES TO BE USED OR WORN AS SUBSTITUTES FOR NATURAL TEETH.

12-35-135. [Formerly 12-35-132] Penalty for violation - injunction. (1) ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF THIS ARTICLE COMMIT A CLASS 3 MISDEMEANOR AND SHALL BE LIABLE TO PROSECUTION BY THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY OF THE DISTRICT IN WHICH THE VIOLATION IS ALLEGED TO HAVE OCCURRED AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

(2) IF THE BOARD HAS REASONABLE CAUSE TO BELIEVE THAT ANY PERSON IS VIOLATING ANY PROVISIONS OF THIS ARTICLE OR OF ANY LAWFUL RULE ISSUED UNDER THIS ARTICLE, IN ADDITION TO ALL OTHER ACTIONS PROVIDED FOR IN THIS ARTICLE AND WITHOUT PREJUDICE THERETO, THE BOARD MAY ENTER AN ORDER REQUIRING SUCH PERSON TO CEASE AND DESIST FROM VIOLATING THIS ARTICLE OR SUCH RULE, AND, IN ADDITION, MAY REQUEST THAT AN ACTION BE BROUGHT ON RELATION OF THE PEOPLE OF THE STATE OF COLORADO BY THE ATTORNEY GENERAL OR BY THE DISTRICT ATTORNEY OF THE DISTRICT IN WHICH THE VIOLATION IS ALLEGED TO HAVE OCCURRED, TO ENJOIN SUCH PERSON FROM ENGAGING IN OR CONTINUING SUCH VIOLATION OR FROM DOING ANY ACT IN FURTHERANCE THEREOF. IN ANY SUCH ACTION, AN ORDER OR JUDGMENT MAY BE ENTERED AWARDING SUCH PRELIMINARY OR FINAL INJUNCTION AS THE COURT MAY DEEM PROPER.

12-35-136. [Formerly 12-35-133] Attorney general shall represent board and members. THE ATTORNEY GENERAL OF THE STATE OF COLORADO SHALL COUNSEL WITH AND ADVISE THE BOARD IN CONNECTION WITH ITS DUTIES AND RESPONSIBILITIES UNDER THIS ARTICLE. IF LITIGATION IS BROUGHT AGAINST THE BOARD OR ANY OF ITS INDIVIDUAL
MEMBERS IN CONNECTION WITH ACTIONS TAKEN BY IT OR THEM UNDER THE PROVISIONS OF THIS ARTICLE AND SUCH ACTIONS ARE FREE OF MALICE, FRAUD, OR WILLFUL NEGLECT OF DUTY, THE ATTORNEY GENERAL SHALL DEFEND SUCH LITIGATION WITHOUT COST TO THE BOARD OR TO ANY INDIVIDUAL MEMBER THEREOF.

12-35-137. [Formerly 12-35-134] Independent advertising or marketing agent - injunctive proceedings. (1) NOTWITHSTANDING SECTION 12-35-129 (1) (t), A LICENSED DENTIST OR DENTAL HYGIENIST MAY EMPLOY AN INDEPENDENT ADVERTISING OR MARKETING AGENT TO PROVIDE ADVERTISING OR MARKETING SERVICES ON THE DENTIST'S OR DENTAL HYGIENIST'S BEHALF, AND THE SAME SHALL NOT BE CONSIDERED UNPROFESSIONAL CONDUCT.

(2) THE BOARD SHALL NOT HAVE THE AUTHORITY TO REGULATE, DIRECTLY OR INDIRECTLY, ADVERTISING OR MARKETING ACTIVITIES OF INDEPENDENT ADVERTISING OR MARKETING AGENTS EXCEPT AS PROVIDED IN THIS SECTION. THE BOARD MAY, IN THE NAME OF THE PEOPLE OF THE STATE OF COLORADO, APPLY FOR AN INJUNCTION IN DISTRICT COURT TO ENJOIN ANY INDEPENDENT ADVERTISING OR MARKETING AGENT FROM THE USE OF ADVERTISING OR MARKETING THAT THE COURT FINDS ON THE BASIS OF THE EVIDENCE PRESENTED BY THE BOARD TO BE MISLEADING, DECEPTIVE, OR FALSE; EXCEPT THAT A LICENSED DENTIST OR DENTAL HYGIENIST SHALL NOT BE SUBJECT TO DISCIPLINE BY THE BOARD, INJUNCTION, OR PROSECUTION IN THE COURTS UNDER THIS ARTICLE OR ANY OTHER LAW FOR ADVERTISING OR MARKETING BY AN INDEPENDENT ADVERTISING OR MARKETING AGENT IF THE FACTUAL INFORMATION THAT THE LICENSED DENTIST OR DENTAL HYGIENIST PROVIDES TO THE INDEPENDENT ADVERTISING OR MARKETING AGENT IS ACCURATE AND NOT
MISLEADING, DECEPTIVE, OR FALSE.

12-35-138. [Formerly 12-35-123.5] Dentist peer health assistance fund. (1) (a) Effective July 1, 2004, as a condition of renewal in this state, every renewal applicant shall pay to the administering entity that has been selected by the board pursuant to the provisions of paragraph (b) of this subsection (1) an amount not to exceed fifty-nine dollars per year, which maximum amount may be adjusted on January 1, 2005, and annually thereafter by the board to reflect changes in the United States bureau of statistics consumer price index for the Denver-Boulder consolidated metropolitan statistical area for all urban consumers or goods, or its successor index. Such fee shall be used to support designated providers that have been selected by the board to provide assistance to dentists needing help in dealing with physical, emotional, or psychological problems that may be detrimental to their ability to practice dentistry. Such fee shall not exceed one hundred dollars per year per licensee.

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

(I) Provide for the education of dentists with respect to the recognition and prevention of physical, emotional, and psychological problems and provide for intervention when necessary or under circumstances that may be established by rules promulgated by the board;
(II) Offer assistance to a dentist in identifying physical, emotional, or psychological problems;

(III) Evaluate the extent of physical, emotional, or psychological problems and refer the dentist for appropriate treatment;

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

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

(VI) Agree to receive referrals from the board;

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

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

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

(I) Collect the required annual payments;

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

(III) Distribute the moneys collected, less expenses, to the designated provider, as directed by the board;
(IV) Provide an annual accounting to the board of all amounts collected, expenses incurred, and amounts disbursed; and

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

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

(b) Notwithstanding section 12-35-129 and section 24-4-104, C.R.S., the board may immediately suspend the license of any dentist who is referred to a peer health assistance program by the board and who fails to attend or to complete such program. If such dentist objects to such suspension, he or she may submit a written request to the board for a formal hearing on such suspension within ten days after receiving notice of such suspension, and the board shall grant such request.
SUCH HEARING THE DENTIST SHALL BEAR THE BURDEN OF PROVING THAT
HIS OR HER LICENSE SHOULD NOT BE SUSPENDED.

(c) ANY DENTIST WHO IS ACCEPTED INTO A PEER HEALTH
ASSISTANCE PROGRAM IN LIEU OF DISCIPLINARY ACTION BY THE BOARD
SHALL AFFIRM THAT, TO THE BEST OF HIS OR HER KNOWLEDGE,
INFORMATION, AND BELIEF, HE OR SHE KNOWS OF NO INSTANCE IN WHICH
HE OR SHE HAS VIOLATED THIS ARTICLE OR THE RULES OF THE BOARD,
EXCEPT IN THOSE INSTANCES AFFECTED BY THE DENTIST’S PHYSICAL,
EMOTIONAL, OR PSYCHOLOGICAL PROBLEMS.

(3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO CREATE
ANY LIABILITY ON BEHALF OF THE BOARD OR THE STATE OF COLORADO
FOR THE ACTIONS OF THE BOARD MEMBERS IN MAKING GRANTS TO PEER
ASSISTANCE PROGRAMS, AND NO CIVIL ACTION MAY BE BROUGHT OR
MAINTAINED AGAINST THE BOARD OR THE STATE FOR AN INJURY ALLEGED
TO HAVE BEEN THE RESULT OF THE ACTIVITIES OF ANY STATE-FUNDED PEER
ASSISTANCE PROGRAM OR THE RESULT OF AN ACT OR OMISSION OF A
DENTIST PARTICIPATING IN OR REFERRED BY A STATE-FUNDED PEER
ASSISTANCE PROGRAM. HOWEVER, THE STATE SHALL REMAIN LIABLE
UNDER THE PROVISIONS OF THE "COLORADO GOVERNMENTAL IMMUNITY
ACT", ARTICLE 10 OF TITLE 24, C.R.S., IF AN INJURY ALLEGED TO HAVE
BEEN THE RESULT OF AN ACT OR OMISSION OF A DENTIST PARTICIPATING IN
OR REFERRED BY A STATE-FUNDED PEER ASSISTANCE PROGRAM OCCURRED
WHILE SUCH DENTIST WAS PERFORMING DUTIES AS AN EMPLOYEE OF THE
STATE.

(4) THE BOARD IS AUTHORIZED TO PROMULGATE RULES NECESSARY
TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

PART 2
SAFETY TRAINING FOR
UNLICENSED X-RAY TECHNICIANS

12-35-201. Legislative declaration. (1) The General Assembly hereby finds, determines, and declares that public exposure to the hazards of ionizing radiation used for diagnostic purposes should be minimized wherever possible. Accordingly, the General Assembly finds, determines, and declares that for any dentist or dental hygienist to allow an untrained person to operate a machine source of ionizing radiation, including without limitation a device commonly known as an "X-ray machine", or to administer such radiation to a patient for diagnostic purposes is a threat to the public health and safety.

(2) It is the intent of the General Assembly that dentists and dental hygienists utilizing unlicensed persons in their practices provide those persons with a minimum level of education and training before allowing them to operate machine sources of ionizing radiation; however, it is not the General Assembly’s intent to discourage education and training beyond this minimum. It is further the intent of the General Assembly that established minimum training and education requirements correspond as closely as possible to the requirements of each particular work setting as determined by the State Board of Dental Examiners pursuant to this Part 2.

(3) The General Assembly seeks to ensure, and accordingly declares its intent, that in promulgating the rules authorized by this Part 2, the Board will make every effort, consistent with its other statutory duties, to avoid creating a
SHORTAGE OF QUALIFIED INDIVIDUALS TO OPERATE MACHINE SOURCES OF
IONIZING RADIATION FOR BENEFICIAL MEDICAL PURPOSES IN ANY AREA OF
THE STATE.

12-35-202. Board authorized to issue rules. (1) (a) The state
board of dental examiners shall adopt rules prescribing
minimum standards for the qualifications, education, and
training of unlicensed persons operating machine sources of
ionizing radiation and administering such radiation to patients
for diagnostic medical use. No licensed dentist or dental
hygienist shall allow any unlicensed person to operate any
machine source of ionizing radiation or to administer such
radiation to any patient unless such person has met the
standards then in effect under rules adopted pursuant to this
section. The board may adopt rules allowing a grace period in
which newly hired operators of machine sources of ionizing
radiation shall receive the training required pursuant to this
section.

(b) For purposes of this part 2, "unlicensed person" means
a person who does not hold a current and active license
entitling the person to practice dentistry or dental hygiene
under the provisions of this article.

(2) The board shall seek the assistance of licensed
dentists or licensed dental hygienists in developing and
formulating the rules promulgated pursuant to this section.

(3) The required number of hours of training and
education for all unlicensed persons operating machine sources
of ionizing radiation and administering such radiation to
patients shall be established by the board by rule. This standard shall apply to all persons in dental settings other than hospitals and similar facilities licensed by the department of public health and environment pursuant to section 25-1.5-103, C.R.S. Such training and education may be obtained through programs approved by the appropriate authority of any state or through equivalent programs and training experience, including on-the-job training as determined by the board.

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

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

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

SECTION 3. 25-1-1202 (1) (k), Colorado Revised Statutes, is amended to read:

25-1-1202. Index of statutory sections regarding medical record confidentiality and health information. (1) Statutory provisions concerning policies, procedures, and references to the release, sharing, and use of medical records and health information include the following:

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

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

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

SECTION 5. Repeal. 24-34-104 (32.5) (b), Colorado Revised Statutes, is repealed as follows:

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

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

SECTION 6. 24-34-104 (43), Colorado Revised Statutes, is amended to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (43) The following agencies, functions, or both shall terminate on July 1, 2012:

(a) The state board of pharmacy and regulation of the practice of pharmacy by the department of regulatory agencies through the division of registrations.

(b) THE STATE BOARD OF DENTAL EXAMINERS, CREATED BY
ARTICLE 35 OF TITLE 12, C.R.S.

SECTION 7. Appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 8. Effective date - applicability. This act shall take effect July 1, 2004, and shall apply to licenses and registrations related to the practice of dentistry issued or renewed on or after said date.

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