

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 12-0356.01 Duane Gall x4335

HOUSE BILL 12-1300

HOUSE SPONSORSHIP

Gardner B., Barker, Ryden, Waller

SENATE SPONSORSHIP

Aguilar,

House Committees
Judiciary

Senate Committees
Health and Human Services
Finance
Appropriations

A BILL FOR AN ACT

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

Bill Summary

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

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

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

HOUSE
Am ended 3rd Reading
March 19, 2012

HOUSE
Am ended 2nd Reading
March 16, 2012

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (2) The general assembly recognizes that:

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

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

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

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

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

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

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

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

11 (2.5) "DIVISION" MEANS THE DIVISION OF REGISTRATIONS IN THE
12 DEPARTMENT OF REGULATORY AGENCIES.

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

20 (4) "JOINT COMMISSION" MEANS THE JOINT COMMISSION OR ITS
21 SUCCESSOR ENTITY.

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

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

1 licensed under article 36 of this title OR LICENSED UNDER ARTICLE 38 OF
2 THIS TITLE AND GRANTED AUTHORITY AS AN ADVANCED PRACTICE NURSE.
3 "PROFESSIONAL REVIEW COMMITTEE" INCLUDES A GOVERNING BOARD, A
4 HEARING PANEL APPOINTED BY A GOVERNING BOARD TO CONDUCT A
5 HEARING UNDER SECTION 12-36.5-104 (7) (a), AND AN INDEPENDENT
6 THIRD PARTY DESIGNATED BY A GOVERNING BOARD UNDER SECTION
7 12-36.5-104 (8) (b).

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

15 (I) LETTERS OF REFERENCE;

16 (II) Complaint, response, OR correspondence related ~~thereto~~ TO
17 THE COMPLAINT OR RESPONSE;

18 (III) INTERVIEWS OR STATEMENTS, REPORTS, MEMORANDA,
19 ASSESSMENTS, AND PROGRESS REPORTS DEVELOPED TO ASSIST IN
20 PROFESSIONAL REVIEW ACTIVITIES;

21 (IV) ASSESSMENTS AND PROGRESS REPORTS TO ASSIST IN
22 PROFESSIONAL REVIEW ACTIVITIES, INCLUDING REPORTS AND
23 ASSESSMENTS DEVELOPED BY INDEPENDENT CONSULTANTS IN
24 CONNECTION WITH PROFESSIONAL REVIEW ACTIVITIES; AND

25 (V) Recordings or transcripts of proceedings, minutes, formal
26 recommendations, decisions, exhibits, and other similar items or
27 documents RELATED TO PROFESSIONAL REVIEW ACTIVITIES OR THE

1 COMMITTEE ON ANTICOMPETITIVE CONDUCT AND typically constituting the
2 records of administrative proceedings.

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

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

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

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

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

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

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

1 (b) It is therefore the intent of the general assembly that the
2 medical board AND THE NURSING BOARD utilize and allow professional
3 review committees and governing boards to assist ~~it~~ THEM in meeting ~~its~~
4 THEIR responsibilities under ~~article~~ ARTICLES 36 AND 38 of this title,
5 RESPECTIVELY, and under this article.

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

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

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

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

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

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

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

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

23 (2.5) A PROFESSIONAL REVIEW COMMITTEE THAT IS REVIEWING
24 THE COMPETENCE OF, THE QUALITY AND APPROPRIATENESS OF PATIENT
25 CARE PROVIDED BY, OR THE PROFESSIONAL CONDUCT OF, A PERSON
26 LICENSED UNDER ARTICLE 38 OF THIS TITLE AND GRANTED AUTHORITY AS
27 AN ADVANCED PRACTICE NURSE MUST EITHER:

1 (a) HAVE, AS A VOTING MEMBER, AT LEAST ONE PERSON LICENSED
2 UNDER ARTICLE 38 OF THIS TITLE AND GRANTED AUTHORITY AS AN
3 ADVANCED PRACTICE NURSE WITH A SCOPE OF PRACTICE SIMILAR TO THAT
4 OF THE PERSON WHO IS THE SUBJECT OF THE REVIEW; OR

5 (b) ENGAGE, TO PERFORM AN INDEPENDENT REVIEW AS
6 APPROPRIATE, AN INDEPENDENT PERSON LICENSED UNDER ARTICLE 38 OF
7 THIS TITLE AND GRANTED AUTHORITY AS AN ADVANCED PRACTICE NURSE
8 WITH A SCOPE OF PRACTICE SIMILAR TO THAT OF THE PERSON WHO IS THE
9 SUBJECT OF THE REVIEW. THE PERSON CONDUCTING THE INDEPENDENT
10 REVIEW MUST BE A PERSON WHO WAS NOT PREVIOUSLY INVOLVED IN THE
11 REVIEW.

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

16 (4) ~~Any~~ A professional review committee established by any of
17 the following ~~organizations, entities, or professional societies shall be~~
18 AUTHORIZED ENTITIES IS an approved professional review committee
19 under this article if it operates pursuant to IN COMPLIANCE WITH written
20 bylaws, policies, or procedures that are in compliance with this article and
21 that have been approved by ~~its~~ THE AUTHORIZED ENTITY'S governing
22 board AND IF IT IS REGISTERED WITH THE DIVISION IN ACCORDANCE WITH
23 SECTION 12-36.5-104.6:

24 (a) The medical staff of a hospital licensed pursuant to part 1 of
25 article 3 of title 25, C.R.S., or certified pursuant to section 25-1.5-103 (1)

26 (a) (II), C.R.S.;

27 (b) The medical staff of a hospital-related corporation. For the

1 purposes of this paragraph (b), ~~a corporation~~ AN ENTITY is A
2 "hospital-related CORPORATION" if the licensed or certified hospital or
3 holding company of ~~such~~ THE LICENSED OR CERTIFIED hospital has
4 ownership or control of ~~such corporation~~ THE ENTITY;

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

10 (c.5) A SOCIETY OR ASSOCIATION OF ADVANCED PRACTICE NURSES
11 LICENSED AND REGISTERED PURSUANT TO ARTICLE 38 OF THIS TITLE AND
12 RESIDING IN THIS STATE, IF THE ADVANCED PRACTICE NURSE WHOSE
13 SERVICES ARE THE SUBJECT OF THE REVIEW IS A MEMBER OF THE SOCIETY
14 OR ASSOCIATION;

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

22 (d.5) A SOCIETY OR ASSOCIATION OF ADVANCED PRACTICE NURSES
23 LICENSED AND REGISTERED PURSUANT TO ARTICLE 38 OF THIS TITLE AND
24 PRACTICING IN A SPECIFIED NURSING ROLE AND POPULATION FOCUS, AS
25 DEFINED BY THE NURSING BOARD, WHICH SOCIETY OR ASSOCIATION HAS
26 BEEN DESIGNATED BY THE NURSING BOARD AS THE SPECIFIC NURSING
27 SOCIETY OR ASSOCIATION REPRESENTATIVE OF THOSE ADVANCED

1 PRACTICE NURSES PRACTICING IN THAT NURSING ROLE AND POPULATION
2 FOCUS, IF THE ADVANCED PRACTICE NURSE WHOSE SERVICES ARE THE
3 SUBJECT OF THE REVIEW IS A MEMBER OF THE DESIGNATED NURSING
4 SOCIETY OR ASSOCIATION.

5 (e) An individual practice association or a preferred provider
6 organization ~~comprised~~ CONSISTING of at least twenty-five physicians
7 PERSONS LICENSED UNDER ARTICLE 36 OF THIS TITLE, OR LICENSED UNDER
8 ARTICLE 38 OF THIS TITLE AND GRANTED AUTHORITY AS ADVANCED
9 PRACTICE NURSES, or a medical group ~~which~~ THAT predominantly serves
10 members of a health maintenance organization licensed pursuant to parts
11 1 and 4 of article 16 of title 10, C.R.S. A professional review committee
12 established pursuant to this paragraph (e) ~~shall have~~ HAS jurisdiction to
13 review only physicians PERSONS LICENSED UNDER ARTICLE 36 OF THIS
14 TITLE, OR LICENSED UNDER ARTICLE 38 OF THIS TITLE AND GRANTED
15 AUTHORITY AS ADVANCED PRACTICE NURSES, who are members of the
16 association or organization creating and authorizing that committee;
17 except that ~~such~~ THE professional review committee may review the care
18 provided to a particular patient referred by a member of ~~such~~ THE
19 association or organization to another physician PERSON LICENSED UNDER
20 ARTICLE 36 OF THIS TITLE, OR LICENSED UNDER ARTICLE 38 OF THIS TITLE
21 AND GRANTED AUTHORITY AS AN ADVANCED PRACTICE NURSE, who is not
22 a member of ~~such~~ THE association or organization.

23 (f) A corporation authorized to insure ~~physicians~~ PERSONS
24 LICENSED UNDER ARTICLE 36 OF THIS TITLE OR LICENSED UNDER ARTICLE
25 38 OF THIS TITLE AND GRANTED AUTHORITY AS ADVANCED PRACTICE
26 NURSES pursuant to article 3 of title 10, C.R.S., or any other ~~corporation~~
27 ORGANIZATION authorized to insure such ~~physicians~~ PERSONS in this state

1 when designated by the medical board OR NURSING BOARD under
2 subsection (5) of this section;

3 (g) THE governing boards BOARD of any AUTHORIZED entity which
4 THAT has a professional review committee established pursuant to article
5 36 OR ARTICLE 38 of this title;

6 (h) Any peer PROFESSIONAL review committee established or
7 created by a combination or pooling of any of the organizations
8 authorized by this section to have a professional review committee
9 ENTITIES;

10 (i) (I) A nonprofit corporation or association comprised
11 CONSISTING of representatives from a statewide medical PROFESSIONAL
12 society and a statewide hospital association. Such THE association shall
13 be comprised MUST CONSIST of physicians PERSONS LICENSED UNDER
14 ARTICLE 36 OF THIS TITLE OR LICENSED UNDER ARTICLE 38 OF THIS TITLE
15 AND GRANTED AUTHORITY AS ADVANCED PRACTICE NURSES, hospital
16 administrators, and hospital trustees, with a majority of such THE
17 representatives being physicians PERSONS LICENSED UNDER ARTICLE 36 OF
18 THIS TITLE WHEN THE SUBJECT OF THE INVESTIGATION IS A PERSON
19 LICENSED UNDER ARTICLE 36 OF THIS TITLE, AND AT LEAST ONE OF THE
20 REPRESENTATIVES BEING A PERSON LICENSED UNDER ARTICLE 38 OF THIS
21 TITLE AND GRANTED AUTHORITY AS AN ADVANCED PRACTICE NURSE WHEN
22 THE SUBJECT OF THE INVESTIGATION IS A PERSON LICENSED UNDER
23 ARTICLE 38 OF THIS TITLE AND GRANTED AUTHORITY AS AN ADVANCED
24 PRACTICE NURSE. The association may establish, or contract for, one or
25 more peer PROFESSIONAL review committees to review the care by
26 hospital staff physicians PERSONNEL WHO ARE LICENSED UNDER ARTICLE
27 36 OF THIS TITLE OR LICENSED UNDER ARTICLE 38 OF THIS TITLE AND

1 GRANTED AUTHORITY AS ADVANCED PRACTICE NURSES, with priority
2 given to small rural medical HOSPITAL staffs. Such peer THESE
3 PROFESSIONAL review services shall MUST be available statewide on a
4 fee-for-service basis to licensed or certified hospitals at the joint request
5 of the governing body BOARD and the medical OR NURSING staff of the
6 hospital or at the sole request of the governing body BOARD of the
7 hospital. If a physician MEMBER being reviewed specializes in a generally
8 recognized specialty of medicine OR NURSING, at least one of the
9 physicians HEALTH CARE PROVIDERS on the peer PROFESSIONAL review
10 committee shall MUST be a physician practicing PERSON LICENSED UNDER
11 ARTICLE 36 OF THIS TITLE, OR LICENSED UNDER ARTICLE 38 OF THIS TITLE
12 AND GRANTED AUTHORITY AS AN ADVANCED PRACTICE NURSE, WHO
13 PRACTICES such specialty.

14 (II) For purposes of the introductory portion to this subsection (4)
15 AND THIS PARAGRAPH (i), the bylaws, policies, and OR procedures shall
16 MUST be in ___ compliance with this article and be approved by the
17 nonprofit corporation or association.

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

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

22 (l) A PROVIDER NETWORK THAT INCLUDES PERSONS LICENSED
23 UNDER ARTICLE 36 OF THIS TITLE, OR LICENSED UNDER ARTICLE 38 OF THIS
24 TITLE AND GRANTED AUTHORITY AS ADVANCED PRACTICE NURSES, AND IS
25 ORGANIZED PURSUANT TO PART 3 OF ARTICLE 18 OF TITLE 6, C.R.S.;

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

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

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

5 (p) AN ACCOUNTABLE CARE ORGANIZATION ESTABLISHED UNDER
6 THE FEDERAL "PATIENT PROTECTION AND AFFORDABLE CARE ACT",
7 PUB.L. 111-148, OR OTHER ORGANIZATION WITH A SIMILAR FUNCTION; ==

8 (q) A HOSPITAL LICENSED PURSUANT TO PART 1 OF ARTICLE 3 OF
9 TITLE 25, C.R.S., OR CERTIFIED PURSUANT TO SECTION 25-1.5-103 (1) (a)
10 (II), C.R.S.; AND

11 (r) AN AMBULATORY SURGICAL CENTER LICENSED PURSUANT TO
12 PART 1 OF ARTICLE 3 OF TITLE 25, C.R.S.

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

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

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

1 ~~subsection (5) of this section~~ AUTHORIZED ENTITY; or

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

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

12 (7) The written bylaws, policies, or procedures of any professional
13 review committee ~~shall~~ FOR PERSONS LICENSED UNDER ARTICLE 36 OF THIS
14 TITLE OR LICENSED UNDER ARTICLE 38 OF THIS TITLE AND GRANTED
15 AUTHORITY AS ADVANCED PRACTICE NURSES MUST provide for at least the
16 following:

17 (a) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
18 PARAGRAPH (a), if the findings of any investigation indicate that ~~the~~
19 ~~physician~~ A PERSON LICENSED UNDER ARTICLE 36 OF THIS TITLE OR
20 LICENSED UNDER ARTICLE 38 OF THIS TITLE AND GRANTED AUTHORITY AS
21 AN ADVANCED PRACTICE NURSE, AND who is the subject of the
22 investigation, is lacking in qualifications OR COMPETENCY, has provided
23 substandard or inappropriate patient care, or has exhibited inappropriate
24 professional conduct AND THE PROFESSIONAL REVIEW COMMITTEE TAKES
25 OR RECOMMENDS AN ACTION TO ADVERSELY AFFECT THE PERSON'S
26 MEMBERSHIP, AFFILIATION, OR PRIVILEGES WITH THE AUTHORIZED ENTITY,
27 the professional review committee shall hold a hearing ~~unless the~~

1 ~~physician waives his right to a hearing, to consider the findings except~~
2 ~~that,~~ AND RECOMMENDATIONS UNLESS THE PERSON WAIVES, IN WRITING,
3 THE RIGHT TO A HEARING OR IS GIVEN NOTICE OF A HEARING AND FAILS TO
4 APPEAR.

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

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

14 (c) The ~~physician who is the subject of any investigation, shall be~~
15 ~~given reasonable notice of such hearing~~ AUTHORIZED ENTITY SHALL GIVE
16 TO THE SUBJECT OF ANY INVESTIGATION UNDER THIS SUBSECTION (7)
17 REASONABLE NOTICE OF THE HEARING, AND OF ANY FINDING OR
18 RECOMMENDATION THAT WOULD ADVERSELY AFFECT THE PERSON'S
19 MEMBERSHIP, AFFILIATION, OR PRIVILEGES WITH THE AUTHORIZED ENTITY,
20 and ~~shall have~~ THE SUBJECT OF THE INVESTIGATION HAS a right to be
21 present, to be represented by legal counsel at ~~such~~ THE hearing, and to
22 offer evidence in his OR HER own behalf.

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

27 (e) THE PROFESSIONAL REVIEW COMMITTEE SHALL GIVE a copy of

1 ~~such~~ THE recommendations ~~shall be given~~ to the subject ~~physician~~ OF THE
2 INVESTIGATION, who then ~~shall have~~ HAS the right to appeal ~~the findings~~
3 ~~and recommendations of the professional review committee~~ to the
4 governing board to which the recommendations are made WITH REGARD
5 TO ANY FINDING OR RECOMMENDATION THAT WOULD ADVERSELY AFFECT
6 HIS OR HER MEMBERSHIP, AFFILIATION, OR PRIVILEGES WITH THE
7 AUTHORIZED ENTITY.

8 (f) THE PROFESSIONAL REVIEW COMMITTEE SHALL FORWARD a
9 copy of any recommendations made pursuant to paragraph (d) of this
10 subsection (7) ~~shall be promptly forwarded~~ to the medical board IF THE
11 SUBJECT OF THE INVESTIGATION IS LICENSED UNDER ARTICLE 36 OF THIS
12 TITLE, OR TO THE NURSING BOARD IF THE SUBJECT OF THE INVESTIGATION
13 IS LICENSED UNDER ARTICLE 38 OF THIS TITLE AND GRANTED AUTHORITY
14 AS AN ADVANCED PRACTICE NURSE.

15 (8) (a) All governing boards shall adopt written bylaws, policies,
16 or procedures UNDER which ~~provide that a physician~~ PERSON LICENSED
17 UNDER ARTICLE 36 OF THIS TITLE OR LICENSED UNDER ARTICLE 38 OF THIS
18 TITLE AND GRANTED AUTHORITY AS AN ADVANCED PRACTICE NURSE who
19 is the subject of an adverse recommendation by a professional review
20 committee may appeal to the governing board ~~Such~~ FOLLOWING A
21 HEARING IN ACCORDANCE WITH SUBSECTION (7) OF THIS SECTION. THE
22 bylaws, policies, or procedures ~~shall~~ MUST provide that the ~~physician shall~~
23 PERSON be given reasonable notice of his OR HER right to appeal and,
24 unless waived by the ~~physician shall have~~ PERSON, HAS the right to appear
25 before the governing board, to be represented by legal counsel, and to
26 offer ~~such~~ THE argument on the record as he OR SHE deems appropriate.

27 (b) The bylaws may provide that a committee of not fewer than

1 three members of the governing board may hear the appeal. ~~such~~ ALSO,
2 THE bylaws may ~~also~~ allow for an appeal to be heard by an independent
3 third party designated by ~~the~~ A GOVERNING board UNDER THIS PARAGRAPH
4 (b).

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

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

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

- 18 (I) By the committee on anticompetitive conduct;
- 19 (II) By either party in ~~any~~ AN appeal or de novo proceeding
20 brought pursuant to this part 1;
- 21 (III) By a ~~physician~~ PERSON LICENSED UNDER ARTICLE 36 OF THIS
22 TITLE, OR LICENSED UNDER ARTICLE 38 OF THIS TITLE AND GRANTED
23 AUTHORITY AS AN ADVANCED PRACTICE NURSE, in a suit seeking judicial
24 review of ~~any~~ AN action by the governing board;
- 25 (IV) BY THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND
26 ENVIRONMENT IN ACCORDANCE WITH ITS AUTHORITY TO ISSUE OR
27 CONTINUE A HEALTH FACILITY LICENSE OR CERTIFICATION FOR AN

1 AUTHORIZED ENTITY;

2 (V) BY CMS IN ACCORDANCE WITH ITS AUTHORITY OVER FEDERAL
3 HEALTH CARE PROGRAM PARTICIPATION BY AN AUTHORIZED ENTITY;

4 ~~(IV)~~ (VI) By a AN AUTHORIZED ENTITY OR governing board
5 seeking judicial review;

6 (VII) BY THE MEDICAL BOARD WITHIN THE SCOPE OF ITS
7 AUTHORITY OVER LICENSED PHYSICIANS AND PHYSICIAN ASSISTANTS; AND

8 (VIII) BY THE NURSING BOARD WITHIN THE SCOPE OF ITS
9 AUTHORITY OVER ADVANCED PRACTICE NURSES.

10 (11) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS
11 SUBSECTION (11), THE RECORDS OF AN AUTHORIZED ENTITY OR ITS
12 PROFESSIONAL REVIEW COMMITTEE MAY BE DISCLOSED TO:

13 (I) THE MEDICAL BOARD, AS REQUESTED BY THE MEDICAL BOARD
14 ACTING WITHIN THE SCOPE OF ITS AUTHORITY OR AS REQUIRED OR
15 APPROPRIATE UNDER THIS ARTICLE OR ARTICLE 36 OF THIS TITLE;

16 (II) THE NURSING BOARD, AS REQUESTED BY THE NURSING BOARD
17 ACTING WITHIN THE SCOPE OF ITS AUTHORITY OR AS REQUIRED OR
18 APPROPRIATE UNDER THIS ARTICLE OR ARTICLE 38 OF THIS TITLE;

19 (III) THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND
20 ENVIRONMENT ACTING WITHIN THE SCOPE OF ITS HEALTH FACILITY
21 LICENSING AUTHORITY OR AS THE AGENT OF CMS;

22 (IV) CMS, IN CONNECTION WITH THE SURVEY AND CERTIFICATION
23 PROCESSES FOR FEDERAL HEALTH CARE PROGRAM PARTICIPATION BY AN
24 AUTHORIZED ENTITY; AND

25 (V) THE JOINT COMMISSION OR OTHER ENTITY GRANTED DEEMING
26 AUTHORITY BY CMS, IN CONNECTION WITH A SURVEY OR REVIEW FOR
27 ACCREDITATION.

1 (b) THE MEDICAL BOARD, NURSING BOARD, AND COLORADO
2 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL NOT MAKE
3 FURTHER DISCLOSURES OF ANY RECORDS DISCLOSED BY AN AUTHORIZED
4 ENTITY OR ITS PROFESSIONAL REVIEW COMMITTEE UNDER THIS SECTION.

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

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

1 MEDICAL BOARD, THE NURSING BOARD, CMS, THE JOINT COMMISSION, OR
2 OTHER GOVERNMENTAL AGENCY IS ENTITLED TO THE SAME IMMUNITY
3 FROM LIABILITY AS PROVIDED UNDER SECTION 12-36.5-105 FOR THE
4 DISCLOSURE OF THE RECORDS.

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

9 ~~(12)~~ (14) Investigations, examinations, hearings, meetings, ~~or any~~
10 AND other proceedings of a professional review committee or governing
11 board conducted pursuant to ~~the provisions of this part 1 shall be~~ ARE
12 exempt from ~~the provisions of~~ any law requiring that proceedings be
13 conducted publicly or that the ~~minutes or records, INCLUDING ANY~~
14 MINUTES, be open to public inspection.

15 ~~(13)~~ (15) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (10),
16 (11), OR (12) OF THIS SECTION, all proceedings, recommendations, records,
17 and reports involving professional review committees or governing
18 boards ~~shall be~~ ARE confidential.

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

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

26 **12-36.5-104.4. Hospital professional review committees.**

27 (1) The quality and appropriateness of patient care rendered by

1 ~~physicians~~ PERSONS LICENSED UNDER ARTICLE 36 OF THIS TITLE, LICENSED
2 UNDER ARTICLE 38 OF THIS TITLE AND GRANTED AUTHORITY AS
3 ADVANCED PRACTICE NURSES, and other licensed health care professionals
4 so influence the total quality of patient care that a review of care provided
5 in a hospital is ineffective without concomitantly reviewing THE overall
6 COMPETENCE, PROFESSIONAL CONDUCT OF, OR THE quality and
7 appropriateness of care rendered by, ~~physicians and other licensed health~~
8 ~~care professionals~~ SUCH PERSONS.

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

11 **12-36.5-104.6. Governing boards to register with division -**
12 **annual reports - aggregation and publication of data - definition -**
13 **rules.** (1) AS USED IN THIS SECTION, "ADVERSELY AFFECTING" HAS THE
14 SAME MEANING AS SET FORTH IN 45 CFR 60.3; EXCEPT THAT IT DOES NOT
15 INCLUDE A PRECAUTIONARY SUSPENSION OR ANY PROFESSIONAL REVIEW
16 ACTION AFFECTING A PERSON LICENSED UNDER ARTICLE 36 OF THIS TITLE,
17 OR LICENSED UNDER ARTICLE 38 OF THIS TITLE AND GRANTED AUTHORITY
18 AS AN ADVANCED PRACTICE NURSE, FOR A PERIOD OF THIRTY DAYS OR
19 LESS.

20 (2) EACH GOVERNING BOARD THAT ESTABLISHES OR USES ONE OR
21 MORE PROFESSIONAL REVIEW COMMITTEES TO REVIEW THE PRACTICE OF
22 PERSONS LICENSED UNDER ARTICLE 36 OF THIS TITLE OR LICENSED UNDER
23 ARTICLE 38 OF THIS TITLE AND GRANTED AUTHORITY AS ADVANCED
24 PRACTICE NURSES SHALL:

25 (a) REGISTER WITH THE DIVISION IN A FORM SATISFACTORY TO THE
26 DIVISION ON OR BEFORE JULY 1, 2013, IF THE GOVERNING BOARD HAS ONE
27 OR MORE EXISTING PROFESSIONAL REVIEW COMMITTEES, OR, IF THE

1 GOVERNING BOARD FIRST ESTABLISHES A PROFESSIONAL REVIEW
2 COMMITTEE ON OR AFTER JULY 1, 2013, WITHIN THIRTY DAYS AFTER
3 APPROVING THE WRITTEN BYLAWS, POLICIES, OR PROCEDURES FOR THE
4 PROFESSIONAL REVIEW COMMITTEE;

5 (b) IN ADDITION TO ANY OTHER STATE OR FEDERAL REPORTING
6 REQUIREMENTS:

7 (I) REPORT ANNUALLY TO THE MEDICAL BOARD, IN A FORM
8 SATISFACTORY TO THE MEDICAL BOARD, THE NUMBER OF FINAL
9 PROFESSIONAL REVIEW ACTIONS IN EACH OF THE FOLLOWING CATEGORIES
10 RELATING TO INDIVIDUALS LICENSED UNDER ARTICLE 36 OF THIS TITLE:

11 (A) ADVERSELY AFFECTING THE INDIVIDUAL;

12 (B) IN WHICH AN AUTHORIZED ENTITY ACCEPTED THE
13 INDIVIDUAL'S SURRENDER OF CLINICAL PRIVILEGES, MEMBERSHIP, OR
14 AFFILIATION WHILE THE INDIVIDUAL WAS UNDER INVESTIGATION;

15 (C) IN WHICH AN AUTHORIZED ENTITY ACCEPTED THE
16 INDIVIDUAL'S SURRENDER OF CLINICAL PRIVILEGES, MEMBERSHIP, OR
17 AFFILIATION IN RETURN FOR NOT CONDUCTING AN INVESTIGATION; AND

18 (D) IN WHICH THE PROFESSIONAL REVIEW COMMITTEE MADE
19 RECOMMENDATIONS REGARDING THE INDIVIDUAL FOLLOWING A HEARING
20 PURSUANT TO SECTION 12-36.5-104 (7) (d).

21 (II) REPORT ANNUALLY TO THE NURSING BOARD, IN A FORM
22 SATISFACTORY TO THE NURSING BOARD, THE NUMBER OF FINAL
23 PROFESSIONAL REVIEW ACTIONS IN EACH OF THE FOLLOWING CATEGORIES
24 RELATING TO INDIVIDUALS LICENSED UNDER ARTICLE 38 OF THIS TITLE
25 AND GRANTED AUTHORITY AS ADVANCED PRACTICE NURSES:

26 (A) ADVERSELY AFFECTING THE INDIVIDUAL;

27 (B) IN WHICH AN AUTHORIZED ENTITY ACCEPTED THE

1 INDIVIDUAL'S SURRENDER OF CLINICAL PRIVILEGES, MEMBERSHIP, OR
2 AFFILIATION WHILE THE INDIVIDUAL WAS UNDER INVESTIGATION;

3 (C) IN WHICH AN AUTHORIZED ENTITY ACCEPTED THE
4 INDIVIDUAL'S SURRENDER OF CLINICAL PRIVILEGES, MEMBERSHIP, OR
5 AFFILIATION IN RETURN FOR NOT CONDUCTING AN INVESTIGATION; AND

6 (D) IN WHICH THE PROFESSIONAL REVIEW COMMITTEE MADE
7 RECOMMENDATIONS REGARDING THE INDIVIDUAL FOLLOWING A HEARING
8 PURSUANT TO SECTION 12-36.5-104 (7) (d).

9 (c) (I) REPORT TO THE DIVISION, IN A DE-IDENTIFIED MANNER, ON
10 ITS PROFESSIONAL REVIEW ACTIVITIES DURING THE IMMEDIATELY
11 PRECEDING CALENDAR YEAR IN A FORM SATISFACTORY TO THE DIVISION.

12 THESE REPORTS MUST INCLUDE AGGREGATE DATA, WHICH IS LIMITED TO
13 THE FOLLOWING:

14 (A) THE NUMBER OF INVESTIGATIONS COMPLETED DURING THE
15 YEAR;

16 (B) THE NUMBER OF INVESTIGATIONS THAT RESULTED IN NO
17 ACTION;

18 (C) THE NUMBER OF INVESTIGATIONS THAT RESULTED IN WRITTEN
19 INVOLUNTARY REQUIREMENTS FOR IMPROVEMENT SENT TO THE SUBJECT
20 OF THE INVESTIGATION BY THE AUTHORIZED ENTITY; AND

21 (D) THE NUMBER OF INVESTIGATIONS THAT RESULTED IN WRITTEN
22 AGREEMENTS FOR IMPROVEMENT BETWEEN THE SUBJECT OF THE
23 INVESTIGATION AND THE AUTHORIZED ENTITY.

24 (II) (A) THE MEDICAL BOARD AND THE NURSING BOARD SHALL
25 FORWARD THE REPORTS RECEIVED PURSUANT TO SUB-SUBPARAGRAPHS (I)
26 AND (II), RESPECTIVELY, OF PARAGRAPH (b) OF THIS SUBSECTION (2) TO
27 THE DIVISION IN A DE-IDENTIFIED MANNER.

1 (B) THE DIVISION SHALL NOT PUBLISH ANY INFORMATION
2 IDENTIFYING THE GOVERNING BOARD OR AUTHORIZED ENTITY MAKING A
3 REPORT UNDER PARAGRAPH (b) OF THIS SUBSECTION (2) OR THIS
4 PARAGRAPH (c), AND SUCH REPORTS AND INFORMATION ARE NOT PUBLIC
5 RECORDS UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF
6 ARTICLE 72 OF TITLE 24, C.R.S.

7 (III) REPORTS SUBMITTED PURSUANT TO THIS PARAGRAPH (c)
8 MUST INCLUDE ONLY INVESTIGATIONS IN WHICH NO FINAL ACTION
9 ADVERSELY AFFECTING THE SUBJECT OF THE INVESTIGATION WAS TAKEN
10 OR RECOMMENDED.

11 (3) (a) THE DIVISION SHALL PUBLISH THE DATA PROVIDED
12 PURSUANT TO PARAGRAPHS (b) AND (c) OF SUBSECTION (2) OF THIS
13 SECTION IN AGGREGATE FORM AND WITHOUT INDIVIDUALLY IDENTIFIABLE
14 INFORMATION CONCERNING THE GOVERNING BOARD, THE AUTHORIZED
15 ENTITY, OR ANY PERSON LICENSED UNDER ARTICLE 36 OF THIS TITLE, OR
16 LICENSED UNDER ARTICLE 38 OF THIS TITLE AND GRANTED AUTHORITY AS
17 AN ADVANCED PRACTICE NURSE, WHO WAS SUBJECT TO REVIEW.

18 (b) THE DIVISION SHALL MAINTAIN AND SHALL PUBLISH ON LINE,
19 THROUGH ITS WEB SITE, A CURRENT LIST OF ALL GOVERNING BOARDS
20 THAT ARE REGISTERED IN ACCORDANCE WITH THIS SECTION AND THAT
21 OTHERWISE ARE IN COMPLIANCE WITH THIS ARTICLE.

22 (4) THE DIVISION SHALL ADOPT RULES TO IMPLEMENT THIS
23 SECTION AND MAY COLLECT A REASONABLE REGISTRATION FEE TO
24 RECOVER ITS DIRECT AND INDIRECT COSTS OF ADMINISTERING THE
25 REGISTRATION AND PUBLICATION SYSTEMS REQUIRED BY THIS SECTION.

26 (5) FOR PURPOSES OF THIS SECTION, AN INVESTIGATION OCCURS
27 WHEN THE AUTHORIZED ENTITY OR ITS PROFESSIONAL REVIEW COMMITTEE

1 NOTIFIES THE SUBJECT OF THE INVESTIGATION IN WRITING THAT AN
2 INVESTIGATION HAS COMMENCED.

3 (6) THE MEDICAL BOARD AND THE NURSING BOARD SHALL NOT
4 INITIATE AN INVESTIGATION OR ISSUE A SUBPOENA BASED SOLELY ON THE
5 DATA REPORTED PURSUANT TO PARAGRAPH (c) OF SUBSECTION (2) OF THIS
6 SECTION.

7 (7) (a) A GOVERNING BOARD THAT FAILS TO REGISTER WITH THE
8 DIVISION PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS
9 SECTION IS NOT ENTITLED TO ANY IMMUNITY AFFORDED UNDER THIS
10 ARTICLE UNTIL THE DATE THAT THE GOVERNING BOARD SO REGISTERS. A
11 GOVERNING BOARD'S FAILURE TO REGISTER DOES NOT AFFECT ANY
12 IMMUNITY, CONFIDENTIALITY, OR PRIVILEGE AFFORDED TO AN INDIVIDUAL
13 PARTICIPATING IN PROFESSIONAL REVIEW ACTIVITIES.

14 (b) A GOVERNING BOARD'S FAILURE TO REPORT AS REQUIRED BY
15 THIS SECTION DOES NOT AFFECT ANY IMMUNITY, CONFIDENTIALITY, OR
16 PRIVILEGE AFFORDED TO THE GOVERNING BOARD UNDER THIS ARTICLE.

17 **SECTION 9.** In Colorado Revised Statutes, **amend** 12-36.5-105
18 as follows:

19 =====
20 **12-36.5-105. Immunity from liability.** (1) A member of a
21 professional review committee, A GOVERNING BOARD OR ANY COMMITTEE
22 OR THIRD PARTY DESIGNATED BY THE GOVERNING BOARD UNDER SECTION
23 12-36.5-104 (8) (b) AND ANY PERSON SERVING ON THE STAFF OF THAT
24 COMMITTEE, BOARD, PANEL, OR THIRD PARTY, a witness OR CONSULTANT
25 before a professional review committee, ~~or~~ AND any person who files a
26 complaint or otherwise participates in the professional review process
27 ~~shall be~~ IS immune from suit AND LIABILITY FOR DAMAGES in any civil or

1 criminal action, including antitrust actions, brought by a physician who
2 is the subject of the review by such professional review committee, if
3 such member made a reasonable effort to obtain the facts of the matter as
4 to which he acted, acted in the reasonable belief that the action taken by
5 him was warranted by the facts, and otherwise acted in good faith within
6 the scope of such professional review committee process and if such
7 witness or participant acted in good faith within the scope of such
8 professional review committee process PERSON LICENSED UNDER ARTICLE
9 36 OF THIS TITLE OR LICENSED UNDER ARTICLE 38 OF THIS TITLE WHO IS
10 THE SUBJECT OF THE REVIEW BY SUCH PROFESSIONAL REVIEW COMMITTEE
11 UNLESS, IN CONNECTION WITH THE PROFESSIONAL REVIEW PROCESS, THE
12 PERSON PROVIDED FALSE INFORMATION AND KNEW THAT THE
13 INFORMATION WAS FALSE.

14 (2) The governing board the individual members of such board
15 and the AUTHORIZED entity that has established a peer PROFESSIONAL
16 review committee pursuant to section 12-36.5-104 the board's staff, any
17 person acting as a witness or consultant to the board, any witness
18 testifying in a proceeding authorized under this article, and any person
19 who lodges a complaint pursuant to this article shall be immune from
20 liability in any civil action brought against him or her for acts occurring
21 while acting in his or her capacity as board member, staff, consultant, or
22 witness, respectively, if such individual was acting in good faith within
23 the scope of his or her respective capacity, made a reasonable effort to
24 obtain the facts of the matter as to which he or she acted, and acted in the
25 reasonable belief that the action taken by him or her was warranted by the
26 facts. Any person participating in good faith in lodging a complaint or
27 participating in any investigative or administrative proceeding pursuant

1 to this article shall be immune from any civil or criminal liability that may
2 result from such participation. IS IMMUNE FROM SUIT AND LIABILITY FOR
3 DAMAGES IN ANY CIVIL OR CRIMINAL ACTION, INCLUDING ANTITRUST
4 ACTIONS, BROUGHT BY A PERSON LICENSED UNDER ARTICLE 36 OF THIS
5 TITLE OR LICENSED UNDER ARTICLE 38 OF THIS TITLE WHO IS THE SUBJECT
6 OF THE REVIEW BY SUCH PROFESSIONAL REVIEW COMMITTEE IF THE
7 PROFESSIONAL REVIEW ACTION WAS TAKEN WITHIN THE SCOPE OF THE
8 PROFESSIONAL REVIEW PROCESS AND WAS TAKEN:

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

11 (b) AFTER AN OBJECTIVELY REASONABLE EFFORT TO OBTAIN THE
12 FACTS OF THE MATTER;

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

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

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

22 **12-36.5-106. Committee on anticompetitive conduct - rules.**

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

26 (a) THE MEDICAL BOARD SHALL APPOINT four members of the
27 committee, ~~shall~~ WHO MUST be licensed ~~to practice medicine~~ UNDER

1 ARTICLE 36 OF THIS TITLE, OR LICENSED UNDER ARTICLE 38 OF THIS TITLE
2 AND GRANTED AUTHORITY AS ADVANCED PRACTICE NURSES, and actively
3 engaged in the practice of medicine PRACTICING in this state. and shall be
4 appointed by the medical board. No A member APPOINTED PURSUANT TO
5 THIS PARAGRAPH (a) shall NOT practice in the same medical subspecialty
6 as any other member nor AND SHALL NOT conduct his or her primary
7 practice in the same county as any other member.

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

12 (5) The committee shall annually elect a chairman CHAIR from
13 among its members. Any three members of the committee shall constitute
14 a quorum. Any action of a majority of those present comprising such THE
15 quorum shall be IS the action of the committee. Committee members shall
16 be ARE compensated as provided in section 24-34-102 (13), C.R.S. The
17 committee may in its discretion, utilize the expertise of consultants,
18 including but not limited to, legal, medical, and business specialists. THE
19 COMMITTEE SHALL ASSESS AND COLLECT costs of such THE consultants
20 shall be assessed and collected as provided in subsection (11) of this
21 section.

22 (7) Any physician A PERSON LICENSED UNDER ARTICLE 36 OF THIS
23 TITLE, OR LICENSED UNDER ARTICLE 38 OF THIS TITLE AND GRANTED
24 AUTHORITY AS AN ADVANCED PRACTICE NURSE, AND who is the subject of
25 a final action by a governing board, which action results in the denial,
26 termination, or restriction of privileges at or membership in or
27 participation in an organization, and who believes that such THE action

1 resulted from unreasonable anticompetitive conduct ~~shall have, as his sole~~
2 ~~and exclusive remedy,~~ MAY SEEK direct review of the record by the
3 committee. ~~such~~ THE review, ~~shall be~~ WHICH IS THE PERSON'S EXCLUSIVE
4 REMEDY, IS limited to the sole issue of whether ~~such~~ THE final board
5 action resulted from unreasonable anticompetitive conduct. Failure to
6 exhaust this administrative remedy before the committee ~~shall preclude~~
7 PRECLUDES the right of de novo review on the merits of the issue of
8 unreasonable anticompetitive conduct.

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

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

16 (a) ~~Review shall be initiated~~ THE AGGRIEVED PERSON MUST
17 INITIATE THE REVIEW by filing a verified complaint with the committee,
18 no later than thirty days after receipt of a notice of final action by the
19 governing board, alleging, with specificity, all facts disclosed in the
20 record and all additional facts known to the complainant ~~which~~ THAT
21 would support his OR HER allegation that the final action taken by the
22 governing board resulted from unreasonable anticompetitive conduct.

23 (b) The committee shall mail a copy of ~~such~~ THE complaint to the
24 governing board and the professional review committee by certified mail,
25 return receipt requested, within five days ~~of~~ AFTER the receipt of ~~such~~ THE
26 complaint by the committee, advising them of their right to file a verified
27 answer to the allegations stated ~~therein~~ Receipt of such complaint by mail

1 ~~shall make~~ IN THE COMPLAINT. The recipients ~~thereof~~ OF THE COMPLAINT
2 BECOME a party to these proceedings UPON RECEIPT OF THE COMPLAINT.

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

6 (f) If the committee finds ~~such~~ THAT probable cause exists, it shall
7 schedule a hearing. At ~~such~~ THE hearing, the committee shall review the
8 record below on the sole issue of whether the final action of the
9 governing board resulted from unreasonable anticompetitive conduct and
10 shall take evidence only with regard to the additional facts specifically
11 alleged in the complaint or answer regarding unreasonable
12 anticompetitive conduct, except when, in the discretion of the committee,
13 the interests of a fair hearing demand otherwise.

14 (k) If the committee finds by a preponderance of evidence that the
15 final action of the governing board resulted from unreasonable
16 anticompetitive conduct, it shall issue its final order disapproving and
17 setting aside ~~such~~ THE action or modifying the action taken by the
18 governing board in whole or in part, which final order ~~shall be~~ IS binding
19 on the parties. THE COMMITTEE SHALL MAIL a copy of ~~such~~ THE order
20 ~~shall be mailed~~ by certified mail, return receipt requested, to the parties.

21 (n) In any case presented to the committee where the ~~medical~~
22 practice of the complainant constitutes a clear and present danger to
23 patients, the committee shall refer the case to the medical board OR
24 NURSING BOARD, AS APPLICABLE, for ~~such~~ action as the board deems
25 appropriate.

26 (10) (a) Following final administrative action by the committee,
27 ~~such action of the committee may be reviewed only by the court of~~

1 appeals MAY REVIEW THE ACTION OF THE COMMITTEE through appropriate
2 proceedings brought pursuant to section 24-4-106 (11), C.R.S.

3 (b) Following final administrative action by the committee, ~~any~~
4 A party aggrieved by the final action of a governing board who wishes to
5 challenge the action of ~~such~~ THE governing board, rather than the
6 committee's review of ~~such~~ THE action, ~~shall have~~ HAS the right to seek
7 de novo review on the merits in a district court in Colorado. In no event
8 shall the medical board, NURSING BOARD, or the committee be made
9 parties to ~~such a~~ THE district court action.

10 (c) As a condition of filing a complaint under paragraph (a) of
11 subsection (9) of this section, the complainant shall post a cash bond or
12 equivalent liquid security of three thousand dollars to cover anticipated
13 costs ~~which~~ THAT may be assessed against him OR HER. Within thirty days
14 of AFTER receipt of service of a complaint on a governing board, or
15 concurrently with the filing of an answer, whichever is earlier, the
16 governing board shall post a cash bond or equivalent liquid security of
17 three thousand dollars to cover anticipated costs ~~which~~ THAT may be
18 assessed against it as a party. The committee may enforce this latter
19 requirement through the district court.

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

24 (13) (a) ~~Any~~ A member of the committee, ~~any~~ A member of the
25 committee's staff, ~~any~~ A person acting as a witness or consultant to the
26 committee, ~~any~~ A witness testifying in a proceeding authorized under this
27 article, and ~~any~~ A person who lodges a complaint pursuant to this article

1 shall be immune from liability in any civil action brought against him or
2 her for acts occurring while acting in his or her capacity as committee
3 member, staff, consultant, or witness, respectively, if such individual was
4 acting in good faith within the scope of his or her respective capacity,
5 made a reasonable effort to obtain the facts of the matter as to which he
6 or she acted, and acted in the reasonable belief that the action taken by
7 him or her was warranted by the facts. Any person participating in good
8 faith in lodging a complaint or participating in any investigative or
9 administrative proceeding pursuant to this article shall be immune from
10 any civil or criminal liability that may result from such participation IS
11 IMMUNE FROM SUIT IN ANY CIVIL OR CRIMINAL ACTION, INCLUDING
12 ANTITRUST ACTIONS, AND IS IMMUNE FROM LIABILITY FOR DAMAGES
13 UNLESS, IN CONNECTION WITH THE PROFESSIONAL REVIEW PROCESS, THE
14 PERSON PROVIDED FALSE INFORMATION AND KNEW THAT THE
15 INFORMATION WAS FALSE.

16 (b) THE COMMITTEE IS IMMUNE FROM SUIT IN ANY CIVIL OR
17 CRIMINAL ACTION, INCLUDING ANTITRUST ACTIONS, AND IS IMMUNE FROM
18 LIABILITY FOR DAMAGES IF THE PROFESSIONAL REVIEW ACTION WAS
19 TAKEN WITHIN THE SCOPE OF THE PROFESSIONAL REVIEW PROCESS AND
20 WAS TAKEN:

21 (I) IN THE OBJECTIVELY REASONABLE BELIEF THAT THE ACTION
22 WAS IN THE FURTHERANCE OF QUALITY HEALTH CARE;

23 (II) AFTER AN OBJECTIVELY REASONABLE EFFORT TO OBTAIN THE
24 FACTS OF THE MATTER;

25 (III) IN THE OBJECTIVELY REASONABLE BELIEF THAT THE ACTION
26 TAKEN WAS WARRANTED BY THE FACTS; AND

27 (IV) IN ACCORDANCE WITH PROCEDURES THAT, UNDER THE

1 CIRCUMSTANCES, WERE FAIR TO THE PERSON LICENSED UNDER ARTICLE 36
2 OF THIS TITLE OR LICENSED UNDER ARTICLE 38 OF THIS TITLE AND
3 GRANTED AUTHORITY AS AN ADVANCED PRACTICE NURSE.

4 **SECTION 11.** In Colorado Revised Statutes, **amend** 12-36.5-202
5 as follows:

6 **12-36.5-202. Rules - compliance with reporting requirements**
7 **of federal act.** ~~Upon implementation of~~ THE MEDICAL BOARD AND
8 NURSING BOARD MAY PROMULGATE RULES TO COMPLY WITH THE
9 REPORTING REQUIREMENTS OF the federal "Health Care Quality
10 Improvement Act of 1986", as amended, 42 U.S.C. secs. 11101 through
11 11152, and ~~upon implementation of~~ MAY PARTICIPATE IN the federal data
12 bank. ~~the medical board shall promulgate rules to comply with such act~~
13 ~~which rules are consistent with the standards and the reporting~~
14 ~~requirements of such act.~~

15 **SECTION 12.** In Colorado Revised Statutes, **amend** 12-36.5-203
16 as follows:

17 **12-36.5-203. Limitations on liability relating to professional**
18 **review actions.** (1) The following persons ~~shall~~ ARE IMMUNE FROM SUIT
19 ~~AND not be~~ liable for damages in any civil action with respect to their
20 participation in, assistance to, or reporting of information to a
21 professional review body COMMITTEE in connection with a professional
22 review action in this state, and such persons shall ARE not be liable for
23 damages in any A civil action with respect to their participation in,
24 assistance to, or reporting of information to a professional review body
25 which COMMITTEE THAT meets the standards of and is in conformity with
26 the provisions of the federal "Health Care Quality Improvement Act of
27 1986", as amended, 42 U.S.C. secs. 11101 through 11152: upon

1 implementation of such act by the federal government:

2 (a) The AN AUTHORIZED ENTITY, professional review body
3 COMMITTEE, OR GOVERNING BOARD;

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

6 (c) Any person under a contract or other formal agreement with
7 the professional review body A WITNESS, CONSULTANT, OR OTHER PERSON
8 WHO PROVIDED INFORMATION TO THE AUTHORIZED ENTITY, PROFESSIONAL
9 REVIEW COMMITTEE, OR GOVERNING BOARD; AND

10 (d) Any person who participates with or assists the professional
11 review body COMMITTEE OR GOVERNING BOARD with respect to the
12 professional review action ACTIVITIES.

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

19 NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, NOTHING IN THIS
20 ARTICLE RELIEVES AN AUTHORIZED ENTITY THAT IS A HEALTH CARE
21 FACILITY LICENSED OR CERTIFIED PURSUANT TO PART 1 OF ARTICLE 3 OF
22 TITLE 25, C.R.S., OR CERTIFIED PURSUANT TO SECTION 25-1.5-103, C.R.S.,
23 OF LIABILITY TO AN INJURED PERSON OR WRONGFUL DEATH CLAIMANT FOR
24 THE FACILITY'S INDEPENDENT NEGLIGENCE IN THE CREDENTIALING OR
25 PRIVILEGING PROCESS FOR A PERSON LICENSED UNDER ARTICLE 36 OF THIS
26 TITLE OR LICENSED UNDER ARTICLE 38 OF THIS TITLE AND GRANTED
27 AUTHORITY AS AN ADVANCED PRACTICE NURSE WHO PROVIDED HEALTH

1 CARE SERVICES FOR THE INJURED OR DECEASED PERSON AT THE FACILITY.
2 FOR PURPOSES OF THIS SECTION, THE FACILITY'S PARTICIPATION IN THE
3 CREDENTIALING PROCESS OR THE PRIVILEGING PROCESS DOES NOT
4 CONSTITUTE THE CORPORATE PRACTICE OF MEDICINE.

5 (b) NOTHING IN THIS SECTION AFFECTS THE CONFIDENTIALITY OR
6 PRIVILEGE OF ANY RECORDS SUBJECT TO SECTION 12-36.5-104 (10) OR OF
7 INFORMATION OBTAINED AND MAINTAINED IN ACCORDANCE WITH A
8 QUALITY MANAGEMENT PROGRAM AS DESCRIBED IN SECTION 25-3-109,
9 C.R.S. THE EXCEPTIONS TO CONFIDENTIALITY OR PRIVILEGE AS SET FORTH
10 IN SECTION 25-3-109 (4), C.R.S., AND 12-36.5-104 (10) APPLY.

11 (c) THIS SUBSECTION (2), AS AMENDED, APPLIES TO ACTIONS FILED
12 ON OR AFTER JULY 1, 2012.

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

15 (a) "Professional review action" means an action or
16 recommendation of a professional review ~~body which~~ COMMITTEE THAT
17 is taken or made in the conduct of professional review activity and ~~which~~
18 THAT is based on the QUALITY AND APPROPRIATENESS OF PATIENT CARE
19 PROVIDED BY, OR THE competence or professional conduct of, an
20 individual ~~physician~~ PERSON LICENSED UNDER ARTICLE 36 OF THIS TITLE
21 OR LICENSED UNDER ARTICLE 38 OF THIS TITLE AND GRANTED AUTHORITY
22 AS AN ADVANCED PRACTICE NURSE, which ~~conduct~~ ACTION affects or may
23 affect adversely the PERSON'S clinical privileges of or membership in a
24 professional society of the ~~physician~~ AN AUTHORIZED ENTITY.
25 "Professional review action" includes a formal decision by the
26 professional review ~~body~~ COMMITTEE not to take an action or make a
27 recommendation as provided in this paragraph (a) and also includes

1 professional review activities relating to a professional review action. An
2 action shall IS not be considered to be based upon the competence or
3 professional conduct of a physician PERSON if the action is primarily
4 based on:

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

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

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

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

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

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

26 **SECTION 13.** In Colorado Revised Statutes, 12-36-118, **amend**
27 (10) (b) as follows:

1 **12-36-118. Disciplinary action by board - immunity - rules.**

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

7 **SECTION 14. Appropriation.** (1) In addition to any other
8 appropriation, there is hereby appropriated, out of any moneys in the
9 division of registrations cash fund created in section 24-34-105 (2) (b) (I),
10 Colorado Revised Statutes, not otherwise appropriated, to the department
11 of regulatory agencies, for the fiscal year beginning July 1, 2012, the sum
12 of \$9,175, or so much thereof as may be necessary, to be allocated for the
13 implementation of this act as follows:

14 (a) \$6,222 for the division of registrations for personal services;

15 (b) \$682 for the division of registrations for operating expenses;

16 and

17 (c) \$2,271 for the purchase of legal services.

18 (2) In addition to any other appropriation, there is hereby
19 appropriated to the department of law, for the fiscal year beginning July
20 1, 2012, the sum of \$2,271, or so much thereof as may be necessary, for
21 the provision of legal services for the department of regulatory agencies
22 related to the implementation of this act. Said sum is from reappropriated
23 funds received from the department of regulatory agencies out of the
24 appropriation made in paragraph (c) of subsection (1) of this section.

25 **SECTION 15. Effective date.** This act takes effect July 1, 2012.

26 **SECTION 16. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.