NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

HOUSE BILL 12-1311

BY REPRESENTATIVE(S) Summers, Acree, Brown, Fields, Joshi, Kefalas, McCann, Schafer S., Young, Kerr A., Kerr J., Labuda, Massey, Todd, Liston;
also SENATOR(S) Boyd, Aguilar, Foster, King S., Newell, Spence, Tochtrop, Williams S.

CONCERNING CONTINUATION OF THE STATE BOARD OF PHARMACY, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE SUNSET REVIEW AND REPORT REGARDING THE BOARD AND RECODIFYING THE LAWS REGULATING PHARMACISTS, THE PRACTICE OF PHARMACY, AND THE MANUFACTURE, DISTRIBUTION, AND DISPENSING OF PRESCRIPTION DRUGS AND CONTROLLED SUBSTANCES, AND MAKING AN APPROPRIATION.

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

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

ARTICLE 42.5
Pharmacists, Pharmacy Businesses, and Pharmaceuticals

_____
Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

PART 1
GENERAL PROVISIONS

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

12-42.5-102. [Formerly 12-22-102] Definitions. As used in this ~~part 1~~ ARTICLE, unless the context otherwise requires OR THE TERM IS OTHERWISE DEFINED IN ANOTHER PART OF THIS ARTICLE:

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

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

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

~~(3) Repealed.~~

(3.5) **[Formerly 12-22-801 (1) (b)]** "Authorized distributor of record" means a wholesaler with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drug. FOR PURPOSES OF THIS SUBSECTION (3.5), an ongoing relationship is deemed to exist between a wholesaler and a manufacturer when the wholesaler, including any affiliated group of the wholesaler as defined in section 1504 of the federal "Internal Revenue Code of 1986", complies with the following:

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

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

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

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

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

(6.5) **[Formerly 12-22-801 (1) (d)]** "Chain pharmacy warehouse" means a physical location for prescription drugs that ~~acts~~ SERVES as a central warehouse and performs intracompany sales or transfers of ~~such~~ PRESCRIPTION drugs to a group of chain pharmacies or other chain pharmacy warehouses that are under common ownership or control. Notwithstanding any other provision of this ~~part 8~~ ARTICLE, a chain pharmacy warehouse receiving distributions on behalf of, or making distributions to, an intracompany pharmacy ~~is not required to~~ NEED NOT be an authorized distributor of record to be ~~considered~~ part of the normal distribution channel.

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

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

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

chemical analysis and not for sale or dispensing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(16) "HOSPITAL SATELLITE PHARMACY" MEANS A SATELLITE THAT REGISTERS PURSUANT TO SECTION 12-42.5-117 (10) FOR THE PURPOSE OF ADMINISTRATION OF DRUGS TO PATIENTS WHILE BEING TREATED IN THE FACILITY.

~~(15)~~ (17) "Intern" means a person who is: ~~attending, or who is in good standing with, an accredited school of pharmacy, who has graduated from an accredited school of pharmacy and is completing an internship to satisfy board requirements for licensure, or who is licensed~~

(a) (I) ENROLLED IN A PROFESSIONAL DEGREE PROGRAM OF A SCHOOL OR COLLEGE OF PHARMACY THAT HAS BEEN APPROVED BY THE BOARD;

(II) CURRENTLY LICENSED BY THE BOARD TO ENGAGE IN THE PRACTICE OF PHARMACY; AND

(III) IS SATISFACTORILY PROGRESSING TOWARD MEETING THE REQUIREMENTS FOR LICENSURE AS A PHARMACIST;

(b) LICENSED AS A PHARMACIST IN COLORADO OR ANOTHER STATE

OR TERRITORY OF THE UNITED STATES and in good standing and making the clinical rotations of the nontraditional pharmacy program at the university of Colorado or a substantially equivalent program as determined by the board;

(c) A GRADUATE OF AN APPROVED PROFESSIONAL DEGREE PROGRAM OF A SCHOOL OR COLLEGE OF PHARMACY OR A GRADUATE WHO HAS ESTABLISHED EDUCATION EQUIVALENCY BY OBTAINING A BOARD-APPROVED FOREIGN PHARMACY GRADUATE CERTIFICATION AND WHO IS CURRENTLY LICENSED BY THE BOARD FOR THE PURPOSE OF OBTAINING PRACTICAL EXPERIENCE AS A REQUIREMENT FOR LICENSURE AS A PHARMACIST; OR

(d) A QUALIFIED APPLICANT AWAITING EXAMINATION FOR LICENSURE AS A PHARMACIST OR MEETING BOARD REQUIREMENTS FOR LICENSURE.

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

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

(19.5) "LONG-TERM CARE FACILITY" MEANS A NURSING FACILITY, AS DEFINED IN SECTION 25.5-4-103 (14), C.R.S., THAT IS LICENSED PURSUANT TO SECTION 25-1.5-103, C.R.S.

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

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

(20.5) **[Formerly 12-22-801 (1) (h)]** "Manufacturer's exclusive distributor" means ~~anyone~~ A PERSON who contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer and who takes title to the manufacturer's prescription

drug but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug. ~~Such manufacturer's exclusive distributor shall be licensed as a wholesaler under this part 8 and,~~ To be considered part of the normal distribution channel, AS DEFINED IN SECTION 12-42.5-301 (6), A MANUFACTURER'S EXCLUSIVE DISTRIBUTOR shall ~~also~~ be an authorized distributor of record.

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

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

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

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

(a) A prescription order ~~which~~ THAT is any order, other than a chart order, authorizing the dispensing of a single drug or device that is written, mechanically produced, computer generated and signed by the practitioner, transmitted electronically or by facsimile, or produced by other means of communication by a practitioner to a licensed pharmacy or pharmacist and that includes the name or identification of the patient, the date, the symptom or purpose for which the drug is being prescribed, if included by the practitioner at the patient's authorization, and sufficient information for compounding, dispensing, and labeling; or

(b) A chart order, which is an order for inpatient drugs or medications that are to be dispensed by a pharmacist, or by a pharmacy intern under the direct supervision of a pharmacist, and administered by an authorized person only during the patient's stay in a hospital, MEDICAL CLINIC OPERATED BY A HOSPITAL, AMBULATORY SURGICAL CENTER, HOSPICE, or long-term care facility. The chart order shall contain the name of the patient and the medicine ordered and such directions as the practitioner may prescribe concerning strength, dosage, frequency, and

route of administration.

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

(a) A hospital that does not operate a registered pharmacy, ~~and any~~ rural health clinic, FEDERALLY QUALIFIED HEALTH CENTER, AS DEFINED IN SECTION 1861 (aa) (4) OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1395x (aa) (4), family planning clinic, school, jail, county or district public health agency, community health clinic, university, or college that:

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

(II) ~~that~~ Engages in the compounding, dispensing, and delivery of drugs or devices; OR

(b) AN AMBULATORY SURGICAL CENTER LICENSED PURSUANT TO PART 1 OF ARTICLE 3 OF TITLE 25, C.R.S., A MEDICAL CLINIC OPERATED BY A HOSPITAL, OR A HOSPICE LICENSED PURSUANT TO PART 1 OF ARTICLE 3 OF TITLE 25, C.R.S., THAT:

(I) HAS FACILITIES IN THIS STATE REGISTERED PURSUANT TO THIS ARTICLE; AND

(II) ENGAGES IN THE COMPOUNDING, DISPENSING, AND DELIVERY OF DRUGS OR DEVICES FOR ADMINISTRATION TO PATIENTS WHILE BEING TREATED IN THE FACILITY.

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

~~(23.6)~~ (27) "Pharmaceutical care" means the provision of drug therapy and other pharmaceutical patient care services by a pharmacist intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process. In addition to the preparation, dispensing, and distribution of medications, "pharmaceutical care" may include assessment and evaluation of the patient's medication-related needs and development and communication of a therapeutic plan with defined outcomes in consultation with the patient and the patient's other health care professionals to attain the

desired outcome. This function includes efforts to prevent, detect, and resolve medication-related problems for individual patients. "Pharmaceutical care" does not include prescriptive authority; except that a pharmacist may prescribe only over-the-counter medications to a recipient under the "Colorado Medical Assistance Act" as authorized pursuant to section 25.5-5-322, C.R.S.

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

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

(29.5) **[Formerly 12-22-801 (1) (k)]** "Pharmacy buying cooperative warehouse" means a permanent physical location that acts as a central warehouse for prescription drugs and from which sales of ~~such~~ PRESCRIPTION drugs are made to an exclusive group of pharmacies that are members or member owners of the buying cooperative operating the warehouse. ~~that shall be licensed as a wholesaler.~~

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

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

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

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

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

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

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

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

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

~~(28) Repealed.~~

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

~~(30)~~ (34) "Prescription drug" means a drug that:

(a) IS REQUIRED BY ANY APPLICABLE FEDERAL OR STATE LAW OR RULE TO BE DISPENSED ONLY PURSUANT TO AN ORDER;

(b) IS RESTRICTED BY ANY APPLICABLE FEDERAL OR STATE LAW OR RULE TO USE BY PRACTITIONERS ONLY; OR

(c) Prior to being dispensed or delivered, is required UNDER FEDERAL LAW to be labeled with ONE OF the following ~~statement: "Caution: Federal law prohibits dispensing without a prescription.",~~ STATEMENTS:

(I) "Rx only"; or

(II) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian."

~~(30.2)~~ (35) "Prescription drug outlet" OR "PHARMACY" means any pharmacy outlet registered pursuant to this article where prescriptions are compounded and dispensed. "Prescription drug outlet" includes, without limitation, a compounding prescription drug outlet registered pursuant to section ~~12-22-120 (9)~~ 12-42.5-117 (9) OR SPECIALIZED PRESCRIPTION DRUG OUTLET REGISTERED PURSUANT TO SECTION 12-42.5-117 (11).

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

~~(31) Repealed.~~

(36.3) **[Formerly 12-22-801 (1) (m)]** "Repackage" means repackaging or otherwise changing the container, wrapper, or labeling to further the distribution of a prescription drug, excluding ~~that~~ REPACKAGING OR LABELING completed by the pharmacist responsible for dispensing product to the patient.

(36.5) **[Formerly 12-22-801 (1) (n)]** "Repackager" means a person who repackages prescription drugs.

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

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

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

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

~~(33.5) Repealed.~~

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

(42) **[Formerly 12-22-801 (2)]** (a) ~~For the purposes of this part 8,~~ "Wholesale distribution" means distribution of prescription drugs to persons or entities other than a consumer or patient.

(b) "Wholesale distribution" does not include:

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

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

~~(c)~~ (III) The sale or transfer of a drug for medical reasons by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage; ~~pursuant to Colorado law;~~

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

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

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

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

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

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

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

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

~~(j) (Deleted by amendment, L. 2007, p. 1246, § 1, effective August 3, 2007.)~~

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

~~(l)~~ (XI) The sale or transfer from a retail pharmacy or chain pharmacy warehouse of expired, damaged, returned, or recalled prescription drugs to the original manufacturer or to a third-party returns processor;

~~(m)~~ (XII) The sale or transfer of compounded drugs compounded by a retail pharmacy as defined in ~~section 12-22-102 (6)~~ SUBSECTION (7) OF THIS SECTION and as authorized by section ~~12-22-121~~ 12-42.5-119 (6) (b);

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

~~(34)~~ (43) "Wholesaler" means a ~~corporation, individual, or other entity with facilities in this state that buys drugs or devices for resale or~~

~~distributes drugs or devices to corporations, individuals, or entities entitled to possess such drugs or devices, other than consumers~~ PERSON ENGAGED IN THE WHOLESALE DISTRIBUTION OF PRESCRIPTION DRUGS TO PERSONS, OTHER THAN CONSUMERS, WHO ARE ENTITLED TO POSSESS PRESCRIPTION DRUGS, INCLUDING: REPACKAGERS; OWN-LABEL DISTRIBUTORS; PRIVATE-LABEL DISTRIBUTORS; JOBBERS; BROKERS; WAREHOUSES, INCLUDING MANUFACTURERS' AND DISTRIBUTORS' WAREHOUSES; MANUFACTURERS' EXCLUSIVE DISTRIBUTORS; AUTHORIZED DISTRIBUTORS OF RECORD; DRUG WHOLESALERS OR DISTRIBUTORS; INDEPENDENT WHOLESALE DRUG TRADERS; PHARMACY BUYING COOPERATIVE WAREHOUSES; RETAIL PHARMACIES THAT CONDUCT WHOLESALE DISTRIBUTION; AND CHAIN PHARMACY WAREHOUSES THAT CONDUCT WHOLESALE DISTRIBUTION.

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

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

(3) (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~~ APPLIES to the state board of pharmacy created by this section.

(b) PARTS 1 TO 3 OF this article ~~is~~ ARE repealed, effective ~~July 1, 2012~~ SEPTEMBER 1, 2021. PRIOR TO THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW THE BOARD AND THE REGULATION OF THE PRACTICE OF PHARMACY PURSUANT TO PARTS 1 TO 3 OF THIS ARTICLE

AS PROVIDED IN SECTION 24-34-104, C.R.S.

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

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

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

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

~~(I)~~ (A) An urban or rural location; and

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

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

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

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

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

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

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

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

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

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

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

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

(a) Inspect, or direct inspectors who are licensed pharmacists to inspect, all outlets and investigate violations of this ~~part 1~~ ARTICLE;

(b) Prescribe forms and receive applications for licensure and registration and grant, ~~and~~ renew, REACTIVATE, AND REINSTATE licenses and registrations;

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

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

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

(f) Keep a record of:

(I) All licenses, registrations, and license and registration renewals, REACTIVATIONS, AND REINSTATEMENTS for a reasonable period;

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

(III) Its own proceedings;

(g) Collect all fees prescribed by this ~~part 1~~ ARTICLE;

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

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

(II) (A) The board or an administrative law judge may 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.

(B) 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~~ THE FINDINGS to the board.

(III) Upon failure of any witness to comply with ~~such~~ A subpoena

or process, the district court of the county in which the subpoenaed person or licensee resides or conducts business, upon application by the board ~~or director~~ with notice to the subpoenaed person or licensee, may issue to the person or licensee an order requiring that person or licensee to appear before the board; ~~or director;~~ to produce the relevant papers, books, records, documentary evidence, or materials if so ordered; or to give evidence touching the matter under investigation or in question. THE COURT MAY HOLD THE PERSON OR LICENSEE IN CONTEMPT OF COURT FOR failure to obey the order of the court. ~~may be punished by the court as a contempt of court.~~

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

(2) The board ~~shall have such~~ HAS other duties, powers, and authority as may be necessary to ~~the enforcement of~~ ENFORCE this ~~part 1~~ ARTICLE and ~~to the enforcement of~~ THE rules ~~and regulations made pursuant thereto~~ ADOPTED PURSUANT TO THIS ARTICLE.

(3) The board may:

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

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

(I) Training and qualifications;

(II) Quality control;

(III) Internal operating procedures;

(IV) Procurement of compounding materials;

(V) Formulation, documentation, and testing requirements;

(VI) Equipment standards;

(VII) Facility standards; and

(VIII) A recall system.

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

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

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

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

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

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

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

(d) (I) If the court finds that a detained or embargoed article is

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

(II) When THE OWNER CAN CORRECT the adulteration or misbranding ~~can be corrected~~ by proper labeling or processing of the article, ~~the court,~~ after entry of the decree and after ~~such~~ THE OWNER HAS PAID THE costs, fees, and expenses ~~have been paid by the owner of such article~~ and HAS POSTED a good and sufficient bond, conditioned that ~~such~~ THE article ~~shall~~ be ~~so~~ PROPERLY labeled or processed, ~~has been executed,~~ THE COURT may ~~by order,~~ direct, BY ORDER, that ~~such~~ THE article be delivered to the owner ~~thereof~~ for ~~such~~ PROPER labeling or processing under the supervision of an agent. The OWNER SHALL PAY THE expense of ~~such~~ THE AGENT'S supervision. ~~shall be paid by the owner. Such~~ THE bond ~~shall~~ MUST be returned to the owner of the article ~~on representation~~ ONCE THE BOARD REPRESENTS to the court ~~by the board~~ that the article is no longer in violation of the embargo and that THE OWNER HAS PAID the expenses of supervision. ~~have been paid.~~

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

12-42.5-107. [Formerly 12-22-112] Drugs, devices, and other materials. (1) The board ~~shall be~~ IS responsible for the control and regulation of drugs, including the following:

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

(b) The specification of minimum professional and technical equipment, environment, supplies, and procedures for the compounding or

dispensing of medications and drugs;

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

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

12-42.5-108. [Formerly 12-22-113] Publications. THE BOARD SHALL ISSUE ITS publications ~~of the board~~ THAT ARE circulated in quantity outside the executive branch ~~shall be issued~~ in accordance with ~~the provisions of~~ section 24-1-136, C.R.S. THE BOARD SHALL CIRCULATE ITS publications ~~of the board shall be circulated~~ to all registered prescription drug outlets ~~which~~ THAT will be directly affected by the publications.

12-42.5-109. [Formerly 12-22-113.5] Reporting - malpractice claims. (1) Each insurance company licensed to do business in this state and engaged in the writing of malpractice insurance for licensed pharmacists AND PHARMACIES, and each pharmacist or pharmacy that self-insures, shall send to the board, in the form prescribed by the board, information relating to each malpractice claim against a licensed pharmacist ~~which~~ THAT is settled or in which judgment is rendered against the insured.

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

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

12-42.5-110. [Formerly 12-22-114] Fees. (1) THE DIRECTOR OF THE DIVISION OF REGISTRATIONS SHALL DETERMINE, AND THE BOARD SHALL COLLECT, fees ~~shall be determined and collected~~ pursuant to section 24-34-105, C.R.S., for the following licenses and registrations:

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

taken the pharmacist examination in this state;

~~(b) Repealed.~~

~~(c)~~ (b) For the initial licensure, upon examination, as a pharmacist, as provided in section ~~12-22-116 (3.3)~~ 12-42.5-112 (4);

~~(d)~~ (c) For the initial licensure, without examination and upon presentation of evidence of licensure in another state, as a pharmacist, as provided in section ~~12-22-116 (7)~~ 12-42.5-112 (8);

~~(e)~~ (d) For the renewal of a license as a licensed pharmacist, as provided in section ~~12-22-118 (2)~~ 12-42.5-114 (1);

~~(f)~~ (e) For reinstatement as a licensed pharmacist, as provided in section ~~12-22-118 (2)~~ 12-42.5-114 (2);

~~(g)~~ (f) For the transfer of a prescription drug outlet registration to a new owner, as provided in section ~~12-22-119 (2)~~ 12-42.5-116 (2);

~~(h)~~ (g) For the transfer of a manager's name, as provided in section ~~12-22-119 (1)~~ 12-42.5-116 (1);

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

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

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

~~(l) Repealed.~~

~~(m)~~ (k) For the transfer of a prescription drug outlet registration to a new location, as provided in section ~~12-22-119 (2)~~ 12-42.5-116 (2);

~~(n)~~ (l) For reissuing a prescription drug outlet registration in a new store name, without change of owner or manager, as provided in section ~~12-22-119 (2)~~ 12-42.5-116 (2);

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

of a prescription drug outlet, as provided in section ~~12-22-119 (2)~~ 12-42.5-116 (2);

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

~~(q)~~ (o) For the initial and renewal registration of all other outlets under section ~~12-22-120~~ 12-42.5-117 not covered in this section;

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

(q) FOR THE INITIAL AND RENEWAL REGISTRATION OF HUMANE SOCIETIES AND ANIMAL CONTROL AGENCIES PURSUANT TO SECTION 12-42.5-117 (12).

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

12-42.5-111. [Formerly 12-22-115] Approval of schools. (1) A school or college of pharmacy ~~which~~ THAT is approved by the board as a school or college of pharmacy from which graduation is required in order for the graduate ~~thereof~~ OF THE SCHOOL OR COLLEGE OF PHARMACY to ~~be an applicant for licensure~~ APPLY FOR A LICENSE as a pharmacist ~~shall~~ MUST meet the requirements set forth by the board.

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

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

12-42.5-112. [Formerly 12-22-116] Licensure or registrations - applicability - applications - licensure requirements. (1) ~~The provisions of~~ This ~~part 1 shall apply~~ ARTICLE APPLIES to all persons in this state engaged in the practice of pharmacy and to all outlets in this state engaged in the manufacture, DISPENSING, production, sale, and distribution of drugs,

devices, and other materials used in the treatment of injury, illness, and disease.

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

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

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

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

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

~~(d)~~ (IV) Past experience in the manufacture or distribution of controlled substances and the existence in the applicant's establishment of effective controls against diversion;

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

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

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

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

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

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

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

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

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

~~(4) Repealed.~~

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

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

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

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

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

(11) **[Formerly 12-22-305 (2)]** Issuance of a license OR REGISTRATION under ~~subsection (1) of~~ this section AND SECTION 12-42.5-117 does not entitle a licensee OR REGISTERED FACILITY OR OUTLET to wholesale, manufacture, distribute, DISPENSE, or professionally use controlled substances beyond the scope of his OR HER federal registration.

12-42.5-113. [Formerly 12-22-116.5] Exemptions from licensure - hospital residency programs - home renal dialysis - research companies. (1) The board ~~shall have the authority~~ IS AUTHORIZED to approve hospital residency programs in the practice of pharmacy. Persons accepted into an approved hospital residency program who are licensed to practice pharmacy in another state ~~shall be~~ ARE exempt from the licensing requirements of this ~~part 1~~ ARTICLE so long as their practice is limited to participation in the residency program.

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

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

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

(c) The solution is sold or delivered in original packages, properly labeled, and unadulterated in accordance with the requirements of the "Colorado Food and Drug Act", part 4 of article 5 of title 25, C.R.S., and the "Federal Food, Drug, and Cosmetic Act".

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

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

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

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

12-42.5-114. [Formerly 12-22-118] Expiration and renewal of licenses or registrations. (1) All licenses ~~shall~~ AND REGISTRATIONS expire

pursuant to a schedule established by the director of the division of registrations within the department of regulatory agencies and ~~shall~~ MUST be renewed or reinstated pursuant to section 24-34-102 (8), C.R.S. The director of the division of registrations ~~within the department of regulatory agencies~~ 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 OR REGISTRATION pursuant to the schedule established by the director of the division of registrations, ~~such~~ THE license ~~shall expire~~ OR REGISTRATION EXPIRES. Any person whose license ~~has expired shall be~~ OR REGISTRATION EXPIRES IS subject to the penalties provided in this article or section 24-34-102 (8), C.R.S.

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

~~(c)~~ (2) ~~Any~~ A pharmacist ~~failing~~ WHO FAILS to renew ~~such pharmacist's~~ HIS OR HER license on or before the applicable renewal time may ~~be~~ HAVE HIS OR HER LICENSE reinstated for the remainder of the current renewal period by filing a proper application, satisfying the board that ~~such~~ THE pharmacist is fully qualified to practice, and paying the reinstatement fee as provided in section ~~12-22-114 (1) (f)~~ 12-42.5-110 (1) (e) and all delinquent fees.

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

12-42.5-115. [Formerly 12-22-118.5] Continuing education. (1) Except as permitted in subsections (2) and (3) of this section, the board ~~may~~ SHALL not renew, REINSTATE, or reactivate the license of any pharmacist until the pharmacist presents evidence ~~of having~~ THAT HE OR SHE HAS completed twenty-four hours of approved continuing pharmaceutical education within the preceding two years. Subject to subsection (9) of this section, ~~such~~ THE evidence may be provided by checking a sign-off box on the license renewal application.

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

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

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

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

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

(5) Each program of continuing pharmaceutical education ~~shall~~ MUST consist of at least one continuing education unit, which is one hour of participation in an organized continuing educational experience, including postgraduate studies, institutes, seminars, lectures, conferences, workshops, correspondence courses, cassette programs, programmed learning courses, audiovisual programs, internet programs, and any other form of presentation that is accredited.

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

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

(a) A definite stated objective;

(b) Presentation in an organized manner; and

(c) A method of program evaluation that is suitable to the type of

program being presented.

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

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

(10) ~~Failure~~ IF A LICENSED PHARMACIST FAILS to obtain the twenty-four hours of approved continuing pharmaceutical education, ~~shall result in~~ the PHARMACIST'S license ~~becoming~~ BECOMES inactive. AN inactive ~~licensees shall~~ LICENSEE IS not ~~be~~ required to comply with any continuing pharmaceutical education requirement so long as ~~such licensees remain~~ THE LICENSEE REMAINS inactive, but ~~shall~~ THE LICENSEE MUST continue ~~to be required~~ to pay applicable fees, including renewal fees. ~~Inactive status shall be noted~~ THE BOARD SHALL NOTE "INACTIVE STATUS" on the face of any license ~~issued~~ IT ISSUES TO A LICENSEE while the licensee remains inactive. Should an inactive pharmacist wish to resume the practice of pharmacy after being placed on an inactive list, the pharmacist shall file an application ~~therefor~~ TO ACTIVATE HIS OR HER LICENSE, pay the ~~registration~~ LICENSE renewal fee, and, subject to subsections (2) and (3) of this section, meet the twenty-four-hour continuing education requirement. ~~Engaging~~ IF A LICENSED PHARMACIST ENGAGES in the practice of pharmacy while on inactive status, ~~pursuant to this article~~ THAT CONDUCT may be grounds for license revocation UNDER THIS ARTICLE.

12-42.5-116. [Formerly 12-22-119] Prescription drug outlet under charge of pharmacist. (1) (a) A prescription drug outlet ~~shall~~ MUST be under the direct charge of a pharmacist manager. A proprietor who is not a pharmacist shall comply with this requirement and shall provide a manager who is a pharmacist.

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

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

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

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

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

(c) AT THE TIME the pharmacist manager in whose name the registration was obtained ~~at the time such pharmacist manager~~ ceases to be employed as ~~such~~ THE PHARMACIST MANAGER, HE OR SHE shall immediately report to the board the fact that he or she is no longer manager of the prescription drug outlet. ~~Such~~ THE pharmacist manager ~~shall be held~~ IS responsible as the manager until the cessation of employment is reported. The proprietor of the prescription drug outlet shall also notify the board of the termination of managership.

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

(3) (a) A prescription drug outlet operated by the state of Colorado or any political subdivision ~~thereof,~~ OF THE STATE is not required to be registered but, in lieu ~~thereof, shall~~ OF A REGISTRATION, MUST apply to the board, on a form approved by the board, for a certificate of compliance. The board shall determine whether ~~said~~ THE prescription drug outlet is operated in accordance with the laws of this state and the rules ~~and regulations~~ of the board. ~~and,~~ If ~~it~~ THE BOARD determines that the prescription drug outlet is ~~so~~ operated IN ACCORDANCE WITH STATE LAWS AND BOARD RULES, except for the holding of a prescription drug outlet registration, ~~it~~ THE BOARD shall

issue a certificate of compliance, which ~~shall expire~~ CERTIFICATE EXPIRES and may be renewed in accordance with ~~the provisions of~~ section 24-34-102 (8), C.R.S. ~~and, thereafter, said~~ ONCE THE BOARD ISSUES THE CERTIFICATE OF COMPLIANCE, THE prescription drug outlet ~~shall have~~ HAS the rights and privileges of, and ~~shall be~~ IS treated in all respects as, a registered prescription drug outlet. The provisions of this ~~part 1~~ ARTICLE with respect to the denial, suspension, or revocation of a prescription drug outlet registration ~~shall~~ apply to a certificate of compliance.

(b) An outlet as recognized in section ~~12-22-120 (1) (e)~~ 12-42.5-117 (1) (d) need not be under the direct charge of a pharmacist, but a licensed pharmacist shall either initially interpret all prescription orders compounded or dispensed from ~~such~~ THE outlet or provide written protocols for ~~such~~ compounding and dispensing by unlicensed persons. An outlet qualifying for registration under this paragraph (b) may also apply to the board for a waiver of ~~such~~ THE requirements concerning physical space, equipment, inventory, or business hours as ~~may be~~ necessary and consistent with the outlet's limited public welfare purpose. In determining the ~~grant~~ GRANTING or denial of ~~such~~ A waiver application, the board shall ensure that the public interest criteria set forth in section ~~12-22-101~~ 12-42.5-101 are satisfied. All other provisions of this ~~part 1~~ ARTICLE, except as specifically waived by the board, ~~shall~~ apply to ~~such~~ THE outlet.

(4) ~~The registration of~~ Every outlet and ~~the license of~~ every pharmacist and pharmacy intern regularly practicing shall ~~be~~ conspicuously ~~displayed~~ DISPLAY THE REGISTRATION AND LICENSE, RESPECTIVELY, within the premises of the place of practice or outlet.

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

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

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

12-42.5-117. [Formerly 12-22-120] Registration of facilities - rules. (1) All outlets with facilities in this state shall register with the board in one of the following classifications:

(a) Prescription drug outlet;

(b) Wholesale drug outlet;

(c) Manufacturing drug outlet;

~~(d) Repealed.~~

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

(2) The board shall establish, by rule, ~~or regulation~~ criteria, consistent with section ~~12-22-116~~ 12-42.5-112 and with the public interest as set forth in section ~~12-22-101, which~~ 12-42.5-101, THAT an outlet that has employees or personnel engaged in the practice of pharmacy must meet to qualify for registration in each classification.

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

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

(5) It ~~shall be~~ IS lawful for a person to sell and distribute nonprescription drugs. Any person engaged in the sale and distribution of ~~such~~ NONPRESCRIPTION drugs ~~shall~~ IS not ~~be deemed to be~~ improperly engaged in the practice of pharmacy, ~~nor~~ AND THE BOARD shall ~~the board~~ NOT promulgate any rule ~~or regulation~~ pursuant to this ~~part 1 which~~ ARTICLE THAT permits the sale of nonprescription drugs only by a licensed pharmacist or only under the supervision of a licensed pharmacist or ~~which~~

THAT would otherwise apply to or interfere with the sale and distribution of nonprescription drugs.

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

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

(8) No hospital outlet filling inpatient chart orders shall sell or otherwise transfer any portion of its prescription drug inventory to another registered outlet for sale or dispensing at retail. This subsection (8) ~~shall not be construed to~~ DOES NOT limit any transfer of prescription drugs for the hospital's own use or ~~to~~ limit the ability of a hospital outlet to engage in a casual sale. ~~as defined in section 12-22-102 (5).~~

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

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

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

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

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

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

(I) IS LOCATED IN A FACILITY THAT IS UNDER THE SAME

MANAGEMENT AND CONTROL AS THE BUILDING OR SITE WHERE THE PRESCRIPTION DRUG OUTLET IS LOCATED; AND

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

(b) THE BOARD SHALL ADOPT RULES AS NECESSARY TO IMPLEMENT THIS SUBSECTION (10). AT A MINIMUM, THE RULES MUST SET FORTH THE MANNER IN WHICH A SATELLITE IS TO APPLY FOR A HOSPITAL SATELLITE PHARMACY REGISTRATION AND THE LIMITS ON THE DISTANCE OF SATELLITES FROM THE MAIN PRESCRIPTION DRUG OUTLET.

(11) ON OR AFTER JANUARY 1, 2013, A PRESCRIPTION DRUG OUTLET MAY REGISTER AS A SPECIALIZED PRESCRIPTION DRUG OUTLET IF IT ENGAGES IN THE COMPOUNDING, DISPENSING, AND DELIVERY OF DRUGS AND DEVICES TO, OR THE PROVISION OF PHARMACEUTICAL CARE TO RESIDENTS OF, A LONG-TERM CARE FACILITY. THE BOARD SHALL ADOPT RULES AS NECESSARY TO IMPLEMENT THIS SUBSECTION (11).

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

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

~~permit a person to administer scheduled controlled substances, sodium pentobarbital, or sodium pentobarbital in combination with other noncontrolled prescription drugs that are medically recognized for euthanasia unless such person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering such drug or combination of drugs.~~ The board may issue a limited license to ~~carry out the provisions of this subsection (3)~~ A HUMANE SOCIETY OR ANIMAL CONTROL AGENCY TO PERFORM THE ACTIVITIES DESCRIBED IN SECTION 12-42.5-118 (17).

(c) The board shall ~~issue such~~ ADOPT rules as ~~it deems~~ necessary to ensure strict compliance with ~~the provisions of~~ this subsection ~~(3)~~ (12) AND SECTION 12-42.5-118 (17) and, ~~shall,~~ in conjunction with the state board of veterinary medicine, SHALL develop criteria for training individuals in the administration of ~~such~~ THE drug or combination of drugs. ~~The board may suspend or revoke the license upon determination that the person administering such drug or combination of drugs has not demonstrated adequate knowledge required by this subsection (3).~~

(d) Nothing in this subsection ~~(3) shall be construed to apply~~ (12) APPLIES to a licensed veterinarian.

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

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

12-42.5-118. [Formerly 12-22-121] Compounding - dispensing - sale of drugs and devices - rules. (1) Except as otherwise provided in this section ~~and part 3 of this article~~ OR PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., no drug, controlled substance, ~~as defined in section 12-22-303 (7),~~ or device shall be sold, compounded, dispensed, given, received, or held in

possession unless it is sold, compounded, dispensed, given, or received in accordance with this section.

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

(a) Any wholesaler of drugs;

(b) A licensed hospital;

(c) An other outlet; ~~as defined in section 12-22-102 (23);~~

(d) A registered prescription drug outlet; or

(e) Any practitioner authorized by law to prescribe the drugs.

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

(I) Another wholesaler of drugs or devices;

(II) Any licensed hospital;

(III) A registered prescription drug outlet;

(IV) An other outlet; ~~as defined in section 12-22-102 (23);~~ or

(V) Any practitioner authorized by law to prescribe the drugs or devices.

(b) A wholesaler may sell or deliver to a person responsible for the control of an animal a drug intended for veterinary use for that animal only if a licensed veterinarian has issued, prior to such sale or delivery, a written prescription order for the drug in the course of an existing, valid veterinarian-client-patient relationship as defined in section 12-64-103 (15.5); EXCEPT THAT, IF THE PRESCRIPTION ORDER IS FOR A DRUG THAT IS NOT A CONTROLLED SUBSTANCE OR IS A CONTROLLED SUBSTANCE LISTED ON SCHEDULE III, IV, OR V, THE LICENSED VETERINARIAN MAY ISSUE AN ORAL PRESCRIPTION ORDER FOR THAT DRUG. IF THE LICENSED VETERINARIAN ISSUES AN ORAL PRESCRIPTION ORDER FOR A CONTROLLED SUBSTANCE LISTED ON SCHEDULE III, IV, OR V, THE LICENSED VETERINARIAN SHALL

PROVIDE A WRITTEN PRESCRIPTION TO THE WHOLESALER WITHIN THREE BUSINESS DAYS AFTER ISSUING THE ORAL ORDER.

(4) ~~An order shall be compounded~~ ONLY A REGISTERED PRESCRIPTION DRUG OUTLET OR OTHER OUTLET REGISTERED PURSUANT TO SECTION 12-42.5-117 (1) (d) MAY COMPOUND or DISPENSE a prescription. ~~dispensed only from a registered prescription drug outlet or other outlet registered pursuant to section 12-22-120 (1) (e).~~ INITIAL INTERPRETATION AND FINAL EVALUATION, AS DEFINED BY THE BOARD, MAY BE CONDUCTED AT A LOCATION OTHER THAN A REGISTERED PRESCRIPTION DRUG OUTLET OR OTHER OUTLET REGISTERED PURSUANT TO THIS ARTICLE IN ACCORDANCE WITH RULES ADOPTED BY THE BOARD.

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

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

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

(III) Supply an emergency kit OR STARTER DOSE, AS DEFINED BY THE BOARD BY RULE, to:

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

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

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

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

(I) The drug is sold in the original sealed container in which it was originally received from the wholesaler;

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

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

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

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

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

(c) Nothing in this section ~~shall prohibit~~ PROHIBITS an optometrist licensed pursuant to article 40 of this title or a physician licensed pursuant to article 36 of this title from charging a fee for prescribing, adjusting, fitting, adapting, or dispensing ophthalmic devices, such as contact lenses, that are classified by the federal food and drug administration as a drug, as long as the activity is within the scope of practice of the optometrist pursuant to article 40 of this title or the scope of practice of the physician pursuant to article 36 of this title.

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

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

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

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

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

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

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

~~(14) Repealed.~~

~~(15)~~ (13) ~~Interns~~ AN INTERN under the direct and immediate supervision of a pharmacist may engage in the practice of pharmacy. AN INTERN, AS DEFINED IN SECTION 12-42.5-102 (17) (a), ENGAGED IN THE PRACTICE OF PHARMACY WITHIN THE CURRICULUM OF A SCHOOL OR COLLEGE OF PHARMACY IN ACCORDANCE WITH SECTION 12-42.5-102 (17) (a), MAY BE SUPERVISED BY A MANUFACTURER REGISTERED PURSUANT TO SECTION 12-42.5-112 OR BY ANOTHER REGULATED INDIVIDUAL AS PROVIDED FOR IN RULES ADOPTED BY THE BOARD.

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

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

~~(18)~~ (15) (a) A compounding prescription drug outlet registered pursuant to section ~~12-22-120 (9)~~ 12-42.5-117 (9) may dispense and distribute compounded drugs without limitation to practitioners or to prescription drug outlets under common ownership with the pharmacist who owns the compounding prescription drug outlet.

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

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

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

(c) (I) A prescription drug outlet shall not compound drugs that are

commercially available except as provided in subparagraph (II) of this paragraph (c).

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

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

(17) **[Formerly 12-22-304 (3) (b)]** (a) A humane society OR ANIMAL CONTROL AGENCY that is ~~duly~~ registered with ~~the secretary of state and has been in existence and in business for at least five years in this state as a nonprofit corporation, or an animal control agency that is operated by a unit of government, may apply to~~ the board ~~for a license for the purposes of being authorized~~ PURSUANT TO SECTION 12-42.5-117 (12) IS AUTHORIZED to:

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

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

(b) ~~Any~~ A society or agency ~~so licensed~~ REGISTERED PURSUANT TO SECTION 12-42.5-117 (12) shall not permit a person to administer scheduled controlled substances, sodium pentobarbital, or sodium pentobarbital in

combination with other noncontrolled prescription drugs that are medically recognized for euthanasia unless ~~such~~ THE person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering ~~such~~ THE drug or combination of drugs. ~~The board may issue a limited license to carry out the provisions of this subsection (3). The board shall issue such rules as it deems necessary to ensure strict compliance with the provisions of this subsection (3) and shall, in conjunction with the state board of veterinary medicine, develop criteria for training individuals in the administration of such drug or combination of drugs. The board may suspend or revoke the license upon determination that the person administering such drug or combination of drugs has not demonstrated adequate knowledge required by this subsection (3). Nothing in this subsection (3) shall be construed to apply to a licensed veterinarian.~~

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

12-42.5-119. [Formerly 12-22-121.7] Limited authority to delegate activities constituting practice of pharmacy to pharmacy interns or pharmacy technicians.

~~(1) Repealed.~~

~~(2) (a)~~ (1) A pharmacist may supervise up to three persons who are either pharmacy interns or pharmacy technicians, of whom no more than two may be pharmacy interns. If three pharmacy technicians are on duty, at least one ~~shall~~ MUST be certified by a nationally recognized certification board, possess a degree from an accredited pharmacy technician training program, or have completed five hundred hours of experiential training in duties described in section ~~12-22-102 (26) (b)~~ 12-42.5-102 (31) (b) at the pharmacy as certified by the pharmacist manager.

(2) THE PHARMACY SHALL RETAIN documentation verifying the training ~~shall be retained within the pharmacy~~ for review by the pharmacist responsible for the final check on prescriptions filled by the pharmacy

technician and SHALL MAKE THE DOCUMENTATION available for inspection by the board.

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

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

12-42.5-120. [Formerly 12-22-122] Prescription required - exception. (1) Except as provided in section 18-18-414, C.R.S., and subsection (2) of this section, an order is required prior to dispensing any prescription drug. Orders shall be readily retrievable within the appropriate statute of limitations.

(2) A pharmacist may refill a prescription order for any prescription drug without the ~~prescriber's~~ PRACTITIONER'S authorization when all reasonable efforts to contact the ~~prescriber~~ PRACTITIONER have failed and when, in the pharmacist's professional judgment, continuation of the medication is necessary for the patient's health, safety, and welfare. ~~Such~~ THE prescription refill ~~shall~~ MAY only be in an amount sufficient to maintain the patient until the ~~prescriber~~ PRACTITIONER can be contacted, but in no event ~~shall~~ MAY a refill under this subsection (2) continue medication beyond seventy-two hours. However, if the ~~prescriber~~ PRACTITIONER states on the prescription that ~~there shall be~~ no emergency filling of the prescription IS PERMITTED, then the pharmacist shall not issue any medication THAT IS not authorized by the prescription. Neither a prescription drug outlet nor a pharmacist ~~shall incur any liability~~ IS LIABLE as a result of refusing to refill a prescription pursuant to this subsection (2).

12-42.5-121. [Formerly 12-22-123] Labeling. (1) A prescription drug dispensed pursuant to an order must be labeled as follows:

~~(a) Repealed.~~

~~(b)~~ (a) Drugs compounded and dispensed pursuant to a chart order for a patient in a hospital ~~shall~~ MUST bear a label containing the name of the outlet, the name and location of the patient, ~~and~~ the identification of the

drug and, when applicable, any suitable control numbers, the expiration date, any warnings, and any precautionary statements.

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

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

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

12-42.5-122. [Formerly 12-22-124] Substitution of prescribed drugs authorized - when - conditions. (1) A pharmacist filling a prescription order for a specific drug by brand or proprietary name may substitute an equivalent drug product if the substituted drug product is the same generic drug type ~~as defined in section 12-22-102 (12)~~ and, in the pharmacist's professional judgment, the substituted drug product is therapeutically equivalent, ~~as defined in section 12-22-102 (33),~~ is interchangeable with the prescribed drug, and is permitted to be moved in interstate commerce. A pharmacist making a substitution shall assume the same responsibility for selecting the dispensed drug product as he OR SHE would incur in filling a prescription for a drug product prescribed by a generic name; except that ~~he shall be~~ THE PHARMACIST IS charged with notice and knowledge of the federal food and drug administration list of approved drug substances and manufacturers ~~as may be~~ THAT IS published ~~from time to time~~ PERIODICALLY.

(2) (a) If, in the opinion of the practitioner, it is in the best interest of ~~his~~ THE patient that THE PHARMACIST NOT SUBSTITUTE an equivalent drug ~~not be substituted, he~~ FOR THE SPECIFIC DRUG HE OR SHE PRESCRIBED, THE PRACTITIONER may ~~so indicate on the prescription by either writing the words "dispense as written" or by~~ CONVEY THIS INFORMATION TO THE PHARMACIST IN ANY OF THE FOLLOWING MANNERS:

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

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

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

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

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

(4) Except as provided in subsection (5) of this section, ~~in no case shall~~ the pharmacist SHALL NOT substitute a drug product as provided in this section unless the drug product substituted costs the purchaser less than the drug product prescribed. The prescription shall be priced as if it had been prescribed generically.

(5) If a prescription drug outlet does not have in stock the prescribed

drug product and the only equivalent drug product in stock is higher priced, the pharmacist, with the consent of the purchaser, may substitute the higher priced drug product. This subsection (5) applies only to a prescription drug outlet located in a town, as defined in section 31-1-101 (13), C.R.S.

12-42.5-123. [Formerly 12-22-125] Unprofessional conduct - grounds for discipline. (1) The board may suspend, revoke, refuse to renew, or otherwise discipline any license or registration issued by it, after a hearing held in accordance with the provisions of this section, upon proof that the licensee or registrant:

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

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

(c) Has violated:

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

(II) The lawful rules of the board; or

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

(d) Is unfit or incompetent by reason of negligence OR habits, ~~or physical or mental illness,~~ or for any other cause, to practice ~~as such~~ PHARMACY;

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

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

(g) Has had his or her license to practice pharmacy in another state

revoked or suspended, or is otherwise disciplined or has committed acts in any other state that would subject him or her to disciplinary action in this state;

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

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

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

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

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

(m) Has violated any lawful board order;

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

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

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

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

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

(II) HAS FAILED TO ACT WITHIN THE LIMITATIONS CREATED BY A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE PERSON

UNABLE TO PRACTICE PHARMACY WITH REASONABLE SKILL AND SAFETY OR THAT MAY ENDANGER THE HEALTH OR SAFETY OF PERSONS UNDER HIS OR HER CARE; OR

(III) HAS FAILED TO COMPLY WITH THE LIMITATIONS AGREED TO UNDER A CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION 12-42.5-134;

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

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

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

12-42.5-124. [Formerly 12-22-125.2] Disciplinary actions. (1) (a) The board may deny or discipline an applicant, licensee, or registrant when the board determines that ~~such~~ THE applicant, licensee, or registrant has engaged in activities that are grounds for discipline.

(b) THE BOARD MAY SUSPEND OR REVOKE A REGISTRATION ISSUED PURSUANT TO SECTION 12-42.5-117(12) UPON DETERMINATION THAT THE PERSON ADMINISTERING A DRUG OR COMBINATION OF DRUGS TO AN ANIMAL HAS NOT DEMONSTRATED ADEQUATE KNOWLEDGE REQUIRED BY SECTIONS 12-42.5-117 (12) AND 12-42.5-118 (17).

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

(b) Upon ~~the~~ finding ~~of the existence of~~ THAT grounds for discipline ~~of any person holding or seeking a license or registration or the renewal thereof under the provisions of~~ PURSUANT TO section ~~12-22-125~~

12-42.5-123 EXIST, the board may impose one or more of the following penalties ON A PERSON WHO HOLDS OR IS SEEKING A NEW OR RENEWAL LICENSE OR REGISTRATION:

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

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

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

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

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

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

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

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

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

CHARGES and of all forfeitures of a controlled substance.

(3) The board may also include in any disciplinary order that allows the licensee or registrant to continue to practice ~~such~~ conditions ~~as~~ THAT the board ~~may deem~~ DEEMS appropriate to assure that the licensee OR REGISTRANT is physically, mentally, morally, and otherwise qualified to practice pharmacy in accordance with the generally accepted professional standards of practice, including any or all of the following:

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

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

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

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

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

(5) (a) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), in addition to any other penalty ~~that~~ THE BOARD may ~~be imposed~~ IMPOSE pursuant to this section, THE BOARD MAY FINE any registrant violating ~~any provision of~~ this article or any rules promulgated pursuant to this article ~~may be fined~~ not less than five hundred dollars and not more than five thousand dollars for each ~~such~~ violation.

(II) IN ADDITION TO ANY OTHER PENALTY THE BOARD MAY IMPOSE

PURSUANT TO THIS SECTION, THE BOARD MAY FINE A REGISTRANT VIOLATING PART 4 OF THIS ARTICLE NOT LESS THAN FIVE HUNDRED DOLLARS AND NOT MORE THAN ONE THOUSAND DOLLARS FOR THE FIRST TIME THE BOARD IMPOSES A FINE, NOT MORE THAN TWO THOUSAND DOLLARS FOR THE SECOND TIME THE BOARD IMPOSES A FINE, AND NOT MORE THAN FIVE THOUSAND DOLLARS FOR A THIRD OR SUBSEQUENT TIME THE BOARD IMPOSES A FINE. IF A REGISTRANT VIOLATES AN AGREEMENT TO REFRAIN FROM COMMITTING SUBSEQUENT VIOLATIONS OF PART 4 OF THIS ARTICLE, THE BOARD MAY IMPOSE A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH VIOLATION OF THE AGREEMENT.

(b) THE BOARD SHALL TRANSMIT any moneys collected as administrative fines pursuant to this subsection (5) ~~shall be transmitted~~ to the state treasurer ~~who shall~~ FOR credit ~~such moneys~~ to the general fund.

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

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

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

(7) (a) When a complaint or an investigation discloses an instance of conduct that does not warrant formal action by the board but the board

determines that ~~continuation of such~~ THE conduct could warrant action if continued, THE BOARD MAY SEND a confidential letter of concern ~~may be sent by certified mail~~ to the licensee or registrant against whom the complaint was made or who was the subject of investigation. If a complaint precipitated the investigation, THE BOARD SHALL SEND a response ~~shall be sent~~ to the person making the complaint.

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

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

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

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

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

(10) (a) If it appears to the board, based upon credible evidence as presented in a written complaint by any person, that a person has violated any other portion of this ~~part 1~~ ARTICLE, then, in addition to any specific powers granted pursuant to this ~~part 1~~ ARTICLE, the board may issue to ~~such~~ THE person an order to show cause as to why the board should not issue a

final order directing ~~such~~ THE person to cease and desist from the unlawful act or unlicensed or unregistered practice.

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

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

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

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

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

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

(11) If it appears to the board, based upon credible evidence presented to the board, that a person has engaged in or is about to engage in any unlicensed or unregistered act or practice, any act or practice constituting a violation of this ~~part 1~~ ARTICLE, any rule promulgated pursuant to this ~~part 1~~ ARTICLE, OR any order issued pursuant to this ~~part 1~~ ARTICLE, or any act or practice constituting grounds for administrative sanction pursuant to this ~~part 1~~ ARTICLE, the board may enter into a stipulation with ~~such~~ THE person.

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

(13) A person aggrieved by the final cease-and-desist order may seek judicial review of the board's determination or of the board's final order as provided in section ~~12-22-125.5~~ 12-42.5-125.

12-42.5-125. [Formerly 12-22-125.5] Judicial review. The court of appeals ~~shall have~~ HAS initial jurisdiction to review all final actions and orders that are subject to judicial review of the board ~~Such~~ AND SHALL CONDUCT THE JUDICIAL REVIEW proceedings ~~shall be conducted~~ in accordance with section 24-4-106 (11), C.R.S.

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

(a) To practice pharmacy without a license;

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

(c) To willfully make a false statement in any order, report, application, or record required by this ~~part 1~~ ARTICLE;

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

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

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

~~(g) Repealed.~~

~~(h)~~ (g) To sell, compound, dispense, give, receive, or possess any drug or device unless it was sold, compounded, dispensed, given, or received in accordance with sections ~~12-22-121 to 12-22-124~~ 12-42.5-118 TO 12-42.5-122;

~~(i)~~ (h) Except as provided in section ~~12-22-124~~ 12-42.5-122, to dispense a different drug or brand of drug in place of the drug or brand ordered or prescribed without the oral or written permission of the practitioner ordering or prescribing the drug;

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

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

~~(l)~~ (k) For an employer, ~~or~~ an employer's agent or employee, or a pharmacist to use or coerce to be used ~~a~~ nonpharmacist personnel in any position or task ~~which~~ THAT would require the nonpharmacist to practice pharmacy or to make a judgmental decision using pharmaceutical knowledge or in violation of the delegatory restrictions enumerated in section ~~12-22-119 (5)~~ 12-42.5-116 (5);

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

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

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

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

12-42.5-129. [Formerly 12-22-129] Advertising of prescription drug prices. A prescription drug outlet may advertise its prices for prescription drugs. If the drug is advertised by its brand or proprietary name, THE PRESCRIPTION DRUG OUTLET SHALL ALSO INCLUDE its generic name ~~shall also be included~~ in the advertisement.

12-42.5-130. [Formerly 12-22-130] Nonresident prescription drug outlet - registration. (1) Any prescription drug outlet located outside

this state that ships, mails, or delivers, in any manner, drugs or devices into this state ~~shall be considered~~ IS a nonresident prescription drug outlet AND shall ~~be registered~~ REGISTER with the board and ~~shall~~ disclose to the board the following:

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

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

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

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

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

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

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

(b) The board may permit a wholesaler to maintain a portion of its records at a central location that is different from the storage facility of the wholesaler. If ~~such~~ THE BOARD GRANTS THE permission, ~~has been granted,~~ the wholesaler shall make available all relevant records within forty-eight hours after a request for inspection, copying, verification, or any other purpose by the board. THE WHOLESALER SHALL MAKE all other records that are available for immediate access ~~shall be~~ readily available to the board.

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

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

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

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

(3) **[Formerly 12-22-318 (2)]** The record of any controlled

substance distributed, administered, dispensed, or otherwise used ~~shall~~ MUST show the date ~~the name and address of person to whom, for whose use,~~ the controlled substance was distributed, administered, dispensed, used, or otherwise disposed of, THE NAME AND ADDRESS OF THE PERSON TO WHOM OR FOR WHOSE USE THE CONTROLLED SUBSTANCE WAS DISTRIBUTED, ADMINISTERED, DISPENSED, USED, OR OTHERWISE DISPOSED OF, and the kind and quantity of ~~such~~ THE controlled substance.

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

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

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

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

(8) **[Formerly 12-22-318 (6)]** A PERSON LICENSED, REGISTERED, OR OTHERWISE AUTHORIZED UNDER THIS ARTICLE OR OTHER LAWS OF THIS STATE SHALL DISTRIBUTE, ADMINISTER, DISPENSE, USE, OR OTHERWISE DISPOSE OF controlled substances listed in schedule I or II of part 2 of article 18 of title 18, C.R.S., ~~shall be distributed by persons licensed or otherwise authorized under this part 3 or other laws of this state~~ only pursuant to an order form. Compliance with the provisions of federal law respecting order forms ~~shall be~~ IS deemed compliance with this section.

(9) **[Formerly 12-22-320]** Prescriptions, orders, and records

required by this part ~~3~~ 1 and stocks of controlled substances ~~shall be~~ ARE open for inspection only to federal, state, county, and municipal officers whose duty it is to enforce the laws of this state or of the United States relating to controlled substances or the regulation of practitioners. No officer having knowledge by virtue of his OR HER office, of ~~any such~~ A prescription, order, or record shall divulge ~~such~~ HIS OR HER knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer to which prosecution or proceeding the person to whom ~~such~~ THE prescriptions, orders, or records relate is a party.

12-42.5-132. [Formerly 12-22-132] Immunity. 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~~ ARTICLE, and any person who lodges a complaint pursuant to this ~~part 1 shall be~~ ARTICLE IS 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~~ THE 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~~ ARTICLE IS immune from any civil or criminal liability that may result from ~~such~~ participation.

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

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

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

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

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

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

(II) (A) A licensed facility may donate unused medications to a person legally authorized to dispense the medications on behalf of a nonprofit entity that has the express purpose of providing medications, medical devices, or medical supplies for the relief of victims who are in urgent need as a result of natural or other types of disasters. A LICENSED PHARMACIST SHALL REVIEW the process of donating the unused medications to the nonprofit entity. ~~shall be reviewed by a licensed pharmacist.~~

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

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

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

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

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

(c) The following medications may not be donated:

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

(II) Controlled substances;

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

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

(V) Medications that are adulterated or misbranded, as determined by a person legally authorized to dispense the medications on behalf of the nonprofit entity.

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

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

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

12-42.5-134. Confidential agreement to limit practice - violation - grounds for discipline. (1) IF A PHARMACIST OR INTERN HAS A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE PERSON UNABLE TO PRACTICE PHARMACY WITH REASONABLE SKILL AND SAFETY TO CLIENTS, THE PHARMACIST OR INTERN SHALL NOTIFY THE BOARD OF THE ILLNESS OR CONDITION IN A MANNER AND WITHIN A PERIOD DETERMINED BY THE BOARD. THE BOARD MAY REQUIRE THE PHARMACIST OR INTERN TO SUBMIT TO AN EXAMINATION OR REFER THE PHARMACIST OR INTERN TO THE PHARMACY

PEER HEALTH ASSISTANCE DIVERSION PROGRAM ESTABLISHED IN PART 2 OF THIS ARTICLE TO EVALUATE THE EXTENT OF THE ILLNESS OR CONDITION AND ITS IMPACT ON THE PHARMACIST'S OR INTERN'S ABILITY TO PRACTICE PHARMACY WITH REASONABLE SKILL AND SAFETY TO CLIENTS.

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

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

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

(3) BY ENTERING INTO AN AGREEMENT WITH THE BOARD PURSUANT TO THIS SECTION TO LIMIT HIS OR HER PRACTICE, A PHARMACIST OR INTERN IS NOT ENGAGING IN ACTIVITIES PROHIBITED PURSUANT TO SECTION 12-42.5-123. THE AGREEMENT DOES NOT CONSTITUTE A RESTRICTION OR DISCIPLINE BY THE BOARD. HOWEVER, IF THE PHARMACIST OR INTERN FAILS TO COMPLY WITH THE TERMS OF AN AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION, THE FAILURE CONSTITUTES A PROHIBITED ACTIVITY PURSUANT TO SECTION 12-42.5-123 (1) (r), AND THE PHARMACIST OR INTERN IS SUBJECT TO DISCIPLINE IN ACCORDANCE WITH SECTION 12-42.5-124.

(4) THIS SECTION DOES NOT APPLY TO A PHARMACIST OR INTERN SUBJECT TO DISCIPLINE FOR PROHIBITED ACTIVITIES AS DESCRIBED IN SECTION 12-42.5-123 (1) (e).

PART 2
PHARMACY PEER HEALTH ASSISTANCE DIVERSION PROGRAM

12-42.5-201. [Formerly 12-22-601] Legislative declaration. (1) The general assembly hereby finds, determines, and declares that the creation of a pharmacy peer health assistance diversion program for those persons subject to the jurisdiction of the ~~state~~ board ~~of pharmacy~~ will serve to safeguard the life, health, property, and public welfare of the people of this state. ~~Such~~ A pharmacy peer health assistance diversion program will help practitioners experiencing impaired practice due to psychiatric, psychological, or emotional problems or excessive alcohol or drug use or addiction. The general assembly further declares that ~~such~~ A pharmacy peer health assistance diversion program will protect the privacy and welfare of those persons who provide services and at the same time assist the board in carrying out its duties and responsibilities to ensure that only qualified persons are allowed to engage in providing those services ~~which~~ THAT are under the jurisdiction of the board.

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

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

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

~~(1) "Board" shall have the same meaning as set forth in section~~

~~12-22-102 (4).~~

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

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

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

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

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

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

~~(2) Repealed.~~

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

~~(b)~~ (2) (a) ~~Effective July 1, 2003,~~ As a condition of licensure and licensure renewal in this state, every applicant shall pay to the administering entity that has been selected by the board pursuant to ~~the provisions of~~ paragraphs ~~(d) and (e)~~ (c) AND (d) of this subsection ~~(3)~~ (2) an amount set by the board not to exceed fifty-six dollars biennially, which amount shall be used to support designated providers that have been selected by the board to provide assistance to pharmacists AND INTERNS needing help in dealing with physical, emotional, psychiatric, psychological, drug abuse, or alcohol abuse problems that may be detrimental to their ability to practice.

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

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

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

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

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

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

(VI) Agree to receive referrals from the board;

(VII) Agree to make their services available to all licensed Colorado pharmacists AND INTERNS.

~~(d)~~ (c) The administering entity ~~shall~~ MUST 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~~ MUST be dedicated

to providing support for charitable, benevolent, educational, and scientific purposes that are related to pharmaceutical education, pharmaceutical research and science, and other pharmaceutical charitable purposes.

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

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

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

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

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

(V) To 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.

~~(f)~~ (e) The board, at its discretion, may collect the required annual payments payable to the administering entity for the benefit of the administering entity and shall transfer all such payments to the administering entity. All required annual payments collected or due to the board for each fiscal year ~~shall be deemed~~ ARE custodial funds that are not subject to appropriation by the general assembly, and ~~such~~ THE funds ~~shall~~ DO not constitute state fiscal year spending for purposes of section 20 of article X of the state constitution.

12-42.5-204. [Formerly 12-22-605] Eligibility - participants. (1) Any licensee ~~who is experiencing impaired practice~~ may apply to the board for participation in a qualified peer health assistance DIVERSION program.

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

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

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

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

12-42.5-205. [Formerly 12-22-607] Liability. Nothing in this ~~section shall be construed to create~~ PART 2 CREATES any liability of the board, members of the board, ~~a committee, the members of a committee,~~ or the state of Colorado for the actions of the board in making awards to pharmacy peer health assistance organizations or in designating licensees to participate in the programs of ~~such~~ PHARMACY PEER HEALTH ASSISTANCE organizations. No civil action may be brought or maintained against the board, its members, ~~a committee, the members of a committee,~~ or the state for an injury alleged to have been the result of an act or omission of a licensee participating in or referred to a state-funded program provided by a pharmacy peer health assistance organization. However, the state ~~shall remain~~ REMAINS 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 licensee participating in or referred to a state-funded peer health assistance diversion program occurred while ~~such~~ THE licensee was performing duties as an employee of the state.

12-42.5-206. [Formerly 12-22-608] Immunity. Any member of the board ~~or any member of a rehabilitation evaluation committee~~ acting pursuant to ~~the provisions of~~ this part ~~6 shall be~~ 2 IS immune from suit in any civil action if ~~such~~ THE member acted in good faith within the scope of

the function of ~~such~~ THE board, ~~or committee,~~ made a reasonable effort to obtain the facts of the matter as to which the member acted, and acted in the reasonable belief that the action taken by the member was warranted by the facts.

PART 3
WHOLESALERS

12-42.5-301. [Formerly 12-22-801 (1) and (2)] Definitions. ~~(1)~~ As used in this ~~section~~ PART 3, unless the context otherwise requires:

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

~~(b) "Authorized distributor of record" means a wholesaler with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drug. An ongoing relationship is deemed to exist between a wholesaler and a manufacturer when the wholesaler, including any affiliated group of the wholesaler as defined in section 1504 of the federal "Internal Revenue Code of 1986", complies with the following:~~

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

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

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

~~(c.5)~~ (2) "Board-registered outlet" means a prescription drug outlet, ~~an entity licensed pursuant to section 12-22-304,~~ an other outlet, a nonresident prescription drug outlet, a wholesaler, or a manufacturer.

~~(d) "Chain pharmacy warehouse" means a physical location for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of such drugs to a group of chain pharmacies or other chain pharmacy warehouses that are under common~~

~~ownership or control. Notwithstanding any other provision of this part 8, a chain pharmacy warehouse receiving distributions on behalf of, or making distributions to, an intracompany pharmacy is not required to be an authorized distributor of record to be considered part of the normal distribution channel.~~

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

~~(f)~~ (4) "Drop shipment" means the sale by a manufacturer of the manufacturer's prescription drug, that manufacturer's third-party logistics provider, or that manufacturer's exclusive distributor to a wholesaler whereby the wholesaler takes title to, but not possession of, ~~such~~ THE prescription drug and the wholesaler invoices the board-registered outlet or practitioner authorized by law to prescribe the prescription drug and the board-registered outlet or the practitioner authorized by law to prescribe the prescription drug receives delivery of the prescription drug directly from the manufacturer of such drug, that manufacturer's third-party logistics provider, or that manufacturer's exclusive distributor.

~~(g)~~ (5) "Facility" means a facility of a wholesaler where prescription drugs are stored, handled, repackaged, or offered for sale.

~~(h) "Manufacturer's exclusive distributor" means anyone who contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer and who takes title to the manufacturer's prescription drug but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug. Such manufacturer's exclusive distributor shall be licensed as a wholesaler under this part 8 and, to be considered part of the normal distribution channel, shall also be an authorized distributor of record.~~

~~(i)~~ (6) "Normal distribution channel" means a chain of custody for a prescription drug that goes directly or by drop shipment from a manufacturer of the prescription drug to:

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

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

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

(IV) A pharmacy to a patient; or

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

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

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

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

~~(j)~~ (7) "Pedigree" means a document or electronic file containing information that records each distribution of any given prescription drug that leaves the normal distribution channel.

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

~~(l) "Prescription drug" means any drug, including any biological product, except for blood and blood components, including factor, intended for transfusion or biological products that are also medical devices, required~~

~~by federal law or regulation to be dispensed only by a prescription, including finished dosage forms and bulk drug substances subject to section 503(b) of the "Federal Food, Drug, and Cosmetic Act".~~

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

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

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

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

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

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

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

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

~~(c) The sale or transfer of a drug for medical reasons by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage pursuant to Colorado law;~~

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

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

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

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

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

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

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

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

~~(j) (Deleted by amendment, L. 2007, p. 1246, § 1, effective August 3, 2007.)~~

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

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

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

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

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

a wholesaler within the normal distribution channel.

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

~~(b)~~ (2) The board ~~shall have the authority to~~ MAY exempt a wholesaler from any ~~of the requirements~~ REQUIREMENT of this part ~~8~~ 3 if the wholesaler exclusively distributes animal health medicines. THE BOARD MAY EXEMPT A WHOLESALER THAT DISTRIBUTES ANIMAL HEALTH MEDICINES FROM THE REQUIREMENTS OF SECTION 12-42.5-306.

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

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

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

12-42.5-303. [Formerly 12-22-802] Wholesaler license requirements. (1) (a) A wholesaler that resides in this state ~~shall~~ MUST be licensed by the board. A wholesaler that does not reside in this state ~~shall~~ MUST be licensed in this state prior to engaging in the wholesale distribution of prescription drugs in this state. The board shall exempt a manufacturer and that manufacturer's third-party logistics providers to the extent

involving that manufacturer's drugs under contract from any licensing qualifications and other requirements, including the requirements in subparagraphs (VI) and (VII) of paragraph (a) of subsection (3) of this section, subsections (4) to (6) of this section, and section ~~12-22-803~~ 12-42.5-304, to the extent the requirements are not required by federal law or regulation, unless the particular requirements are deemed necessary and appropriate following rule-making by the board.

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

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

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

(c) The board shall not issue or renew a license to a wholesaler who does not comply with this part ~~8~~ 3.

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

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

(II) The trade and business names used by the applicant;

(III) The addresses, telephone numbers, and ~~the~~ names of the contact persons for all facilities used by the applicant for the storage, handling, and distribution of prescription drugs;

(IV) The type of ownership or operation of the applicant;

(V) The names of the owner and the operator of the applicant, including:

(A) The name of each partner if the applicant is a partnership;

(B) The name and title of each officer and director, the name of the corporation, and the state of incorporation, if the applicant is a corporation;

(C) The name of the limited liability company, if the applicant is a limited liability company, and the name of the parent company, if any, and the state of incorporation OR FORMATION of both; ~~and~~ OR

(D) The name of the sole proprietor and the business entity if the applicant is a sole proprietorship;

(VI) A list of the licenses and permits issued to the applicant by any other state that authorizes the applicant to purchase or possess prescription drugs; and

(VII) The name of the applicant's designated representative for the facility, the fingerprints of the designated representative, and a personal information statement for the designated representative that includes information as required by the board, including but not limited to the information in subsection (5) of this section.

(b) A licensee shall complete and return a form approved by the board at each renewal period. The board may suspend or revoke the license of a wholesaler if the board determines that the wholesaler no longer qualifies for a license.

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

(5) The designated representative of an applicant for a wholesaler

license shall:

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

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

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

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

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

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

(g) Not have any convictions under federal, state, or local law relating to wholesale or retail prescription drug distribution or a controlled substance, AS DEFINED IN SECTION 18-18-102 (5), C.R.S.;

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

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

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

12-42.5-304. [Formerly 12-22-803] Criminal history record check. Prior to submission of an application, each designated representative shall have his or her fingerprints taken by a local law enforcement agency

for the purpose of obtaining a fingerprint-based criminal history record check. The designated representative ~~is required to~~ SHALL submit payment by certified check or money order for the fingerprints and for the actual costs of ~~said~~ THE record check at the time the fingerprints are submitted to the Colorado bureau of investigation. Upon receipt of fingerprints and receipt of the payment for costs, the Colorado bureau of investigation shall conduct a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation.

12-42.5-305. [Formerly 12-22-804] Restrictions on transactions. (1) A wholesaler shall ~~receive~~ ACCEPT prescription drug returns or exchanges from a pharmacy or a chain pharmacy warehouse pursuant to the terms and conditions of the agreement between the wholesale distributor and the pharmacy or chain pharmacy warehouse. The RECEIVING WHOLESALE DISTRIBUTOR SHALL DISTRIBUTE returns or exchanges of expired, damaged, recalled, or otherwise unsaleable pharmaceutical product ~~shall be distributed by the receiving wholesale distributor~~ only to ~~either~~ the original manufacturer or to a third-party returns processor. The returns or exchanges of prescription drugs, saleable or unsaleable, including any redistribution by a receiving wholesaler, ~~shall~~ ARE not ~~be~~ subject to the pedigree requirements of section ~~12-22-805~~ 12-42.5-306, so long as the drugs are exempt from the pedigree requirement of the federal food and drug administration's currently applicable "Prescription Drug Marketing Act of 1987" guidance. The pharmacies, chain pharmacy warehouses, and ~~cooperative~~ pharmacy BUYING COOPERATIVE warehouses ~~shall be~~ ARE responsible for ensuring that the prescription drugs returned are what they purport to be and shall ensure that those returned prescription drugs were stored under proper conditions since their receipt. Wholesalers ~~shall be held accountable~~ ARE RESPONSIBLE for policing their returns process and helping to ensure that their operations are secure and do not permit the entry of adulterated or counterfeit product. A pharmacist shall not knowingly return a medication that is not what it purports to be.

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

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

~~(4)~~ (3) A MANUFACTURER OR WHOLESALER MAY FURNISH prescription drugs ~~may be furnished~~ to a hospital pharmacy receiving area if a pharmacist or authorized receiving agent signs, at the time of delivery, a receipt showing the type and quantity of the prescription drug received. THE PHARMACIST OR AUTHORIZED RECEIVING AGENT SHALL REPORT any discrepancy between the receipt and the type and quantity of the prescription drug actually received ~~shall be reported~~ to the delivering manufacturer or wholesaler by the next business day after the delivery to the pharmacy receiving area.

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

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

~~(2) On or before June 1, 2007, the board shall determine and establish an implementation date for the use of electronic pedigrees. The implementation date shall be on or after December 31, 2007. In making its determination, the board shall consult with manufacturers, wholesalers, and pharmacies responsible for the sale and distribution of prescription drugs in this state.~~

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

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

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

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

(c) The transaction dates;

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

(e) The name of the prescription drug;

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

(g) The size and number of containers;

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

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

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

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

~~(7)~~ (6) The board shall adopt rules as necessary for the

implementation of this part ~~8~~ 3.

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

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

PART 4
ELECTRONIC MONITORING OF
PRESCRIPTION DRUGS

12-42.5-401. [Formerly 12-22-701] Legislative declaration. (1) The general assembly finds, determines, and declares that:

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

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

(c) Electronic monitoring of prescriptions for controlled substances ~~would provide~~ PROVIDES a mechanism whereby ~~prescribers could~~ PRACTITIONERS CAN discover the extent of each patient's requests for drugs and whether other providers have prescribed similar substances during a similar period of time;

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

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

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

~~(2) Repealed.~~

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

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

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

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

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

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

12-42.5-403. [Formerly 12-22-704] Prescription drug use monitoring program. (1) The board shall develop or procure a prescription controlled substance electronic program to track INFORMATION REGARDING prescriptions for controlled substances dispensed in Colorado, ~~The program shall track information regarding controlled substance prescriptions that includes, but is not limited to,~~ INCLUDING the following INFORMATION:

(a) The date the prescription was dispensed;

(b) The name of the patient and the ~~prescriber~~ PRACTITIONER;

(c) The name and amount of the controlled substance;

(d) The method of payment;

(e) The name of the dispensing pharmacy; and

(f) Any other data elements necessary to determine whether a patient is visiting multiple ~~prescribers~~ PRACTITIONERS or pharmacies, or both, to receive the same or similar medication.

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

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

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

12-42.5-404. [Formerly 12-22-705] Program operation - access - rules. (1) The board shall operate and maintain the program.

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

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

(a) Board staff responsible for administering the program;

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

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

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

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

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

(g) State regulatory boards within the division and the director of the division so long as the information released is specific to an individual ~~prescriber~~ PRACTITIONER and is part of a bona fide investigation, and the request for information is accompanied by an official court order or subpoena; and

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

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

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

(6) The board shall provide a means of sharing information about individuals whose information is recorded in the program with out-of-state

health care practitioners and law enforcement officials that meet the requirements of paragraph (b), (c), or (e) of subsection (3) of this section.

12-42.5-405. [Formerly 12-22-706] Prescription drug monitoring fund - creation - gifts, grants, and donations - fee. (1) The board ~~is authorized to~~ MAY seek and accept funds from any public or private entity for the purposes of implementing and maintaining the program. THE BOARD SHALL TRANSMIT any ~~such~~ funds ~~collected shall be transmitted~~ IT RECEIVES to the state treasurer, who shall credit the same to the prescription drug monitoring fund, which fund is hereby created. The moneys in the fund ~~shall be~~ ARE subject to annual appropriation by the general assembly for the sole purpose of implementing and maintaining the program. The moneys in the fund ~~shall~~ MUST not be transferred to or revert to the general fund at the end of any fiscal year.

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

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

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

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

to this subsection ~~(5) shall be~~ (3) ARE credited to the prescription drug monitoring fund created in subsection (1) of this section.

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

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

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

12-42.5-408. [Formerly 12-22-709] Exemption - waiver. (1) A hospital licensed or certified pursuant to section 25-1.5-103, C.R.S., a prescription drug outlet located within the hospital that is dispensing a controlled substance for a chart order or dispensing less than or equal to a twenty-four-hour supply of a controlled substance, and emergency medical services personnel certified pursuant to section 25-3.5-203, C.R.S., ~~shall be~~ ARE exempt from the reporting provisions of this part ~~7~~ 4. A hospital prescription drug outlet licensed pursuant to section ~~12-22-116~~ 12-42.5-112 shall comply with the provisions of this part ~~7~~ 4 for controlled substances dispensed for outpatient care that have more than a twenty-four-hour supply.

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

12-42.5-409. [Formerly 12-22-710] Repeal of part. This part ~~7~~ 4 is repealed, effective July 1, 2021. Prior to ~~such~~ ITS repeal, the DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW THE functions OF THE BOARD AND

THE PROGRAM under this part ~~7 shall be reviewed~~ 4 as provided in section 24-34-104, C.R.S.

SECTION 2. Repeal of relocated and nonrelocated provisions in this act. In Colorado Revised Statutes, **repeal** article 22 of title 12; except that 12-22-111, 12-22-306.1, and 12-22-606 are not relocated.

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

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

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

(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;~~

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

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

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

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

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

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

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

12-64-111. Discipline of licensees. (1) Upon receipt of a signed complaint by a complainant or upon its own motion, the board may proceed to a hearing in conformity with section 12-64-112. After a hearing, and by a concurrence of a majority of members, the board may deny a license to an applicant or revoke or suspend the license of, place on probation, or otherwise discipline or fine, a licensed veterinarian for any of the following reasons:

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

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

(hh) FAILURE TO PROVIDE A WRITTEN PRESCRIPTION TO A WHOLESALER WITHIN THREE BUSINESS DAYS AFTER ISSUING AN ORAL PRESCRIPTION ORDER, AS REQUIRED BY SECTION 12-42.5-118 (3) (b).

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

PART 2
CONTROLLED SUBSTANCES

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

27-80-202. [Formerly 12-22-302] Legislative declaration. The

general assembly finds, determines, and declares that strict control of controlled substances within this state is necessary for the immediate and future preservation of the public peace, health, and safety and that the licensing, record-keeping, penalty, and other provisions contained in this part ~~3~~ 2 are necessary for the achievement of such control.

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

(1) "Addict" means a person who has a physical or psychological dependence on a controlled substance, which dependence develops following the use of the controlled substance on a periodic or continuing basis and is demonstrated by appropriate observation and tests by a person licensed to practice medicine pursuant to article 36 of ~~this~~ title 12, C.R.S.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(I) A controlled substance;~~

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

~~(III) With respect to a particular person, any substance, if an exemption is in effect for investigational use, for that person, under section 505 of the "Federal Food, Drug, and Cosmetic Act", 21 U.S.C. sec. 355, as amended, to the extent that conduct with respect to the substance is pursuant to the exemption; or~~

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

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

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

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

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

(11) "Dispense" ~~shall have the same meaning as set forth in section 12-22-102 (9)~~ MEANS TO INTERPRET, EVALUATE, AND IMPLEMENT A PRESCRIPTION DRUG OR CONTROLLED SUBSTANCES ORDER OR CHART ORDER, INCLUDING THE PREPARATION OF A DRUG OR DEVICE FOR A PATIENT OR PATIENT'S AGENT IN A SUITABLE CONTAINER APPROPRIATELY LABELED FOR SUBSEQUENT ADMINISTRATION TO OR USE BY A PATIENT.

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

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

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

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

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

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

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

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

~~(13.5) Repealed.~~

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

~~(15)~~ (14) "Maintenance treatment" means a program of more than six months' duration for the administering or dispensing of a controlled substance, approved for such use by federal law or regulation, to an addict for the purpose of continuing his OR HER dependence upon a controlled substance in the course of conducting an authorized rehabilitation program for addicts, with a long-term goal of decreasing the addict's controlled substance dependency and leading to his OR HER possible withdrawal.

~~(16) "Manufacturer" means a person who is licensed by this part 3 and who, by compounding, mixing, cultivating, planting, growing, or other process, produces or prepares a controlled substance, but the term does not~~

~~include a pharmacist who compounds controlled substances to be dispensed pursuant to a prescription, a practitioner who compounds controlled substances for dispensing in the course of his professional practice, or a researcher acting within the provisions of this part 3.~~

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

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

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

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

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

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

~~(20) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having an addiction-forming or addiction-sustaining liability. "Opiate" does not include, unless specifically designated as~~

~~controlled under this part 3, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan). The term does include its racemic and levorotatory forms.~~

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

~~(22)~~ (17) "Peace officer" shall have the same meaning as set forth in section 16-2.5-101, C.R.S.

~~(23)~~ (18) "Person" means any individual, government, governmental subdivision, agency, business trust, estate, trust, partnership, corporation, association, institution, or other legal entity.

~~(24)~~ (19) "Peyote" means all parts of the plant presently classified botanically as lophophora williamsii lemaire, whether growing or not, the seeds thereof, any extraction from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or extracts.

~~(25) "Pharmacist" means an individual licensed pursuant to part 1 of this article to engage in the practice of pharmacy, as defined in section 12-22-102 (26).~~

~~(26) "Pharmacy" or "prescription drug outlet" shall have the same meaning as set forth in section 12-22-102 (30.2).~~

~~(27) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.~~

~~(28)~~ (20) "Practitioner" ~~shall have the same meaning as set forth in section 12-22-102 (27)~~ MEANS A PERSON AUTHORIZED BY LAW TO PRESCRIBE ANY DRUG OR DEVICE, ACTING WITHIN THE SCOPE OF SUCH AUTHORITY.

(21) **[Formerly 12-22-102 (30)]** "Prescription drug" means a drug that, prior to being dispensed or delivered, is required to be labeled with the following statement: "Caution: Federal law prohibits dispensing without a prescription.", "Rx only", or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian."

~~(29)~~ (22) "Production" or "produces" means the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

~~(30) "Remuneration" means anything of value, including money, real property, tangible and intangible personal property, contract rights, choses in action, services, and any rights of use or employment or promises or agreements connected therewith.~~

~~(31)~~ (23) "Researcher" means any person licensed by the department pursuant to this part ~~3~~ 2 to experiment with, study, or test any controlled substance within this state and includes analytical laboratories.

~~(32)~~ (24) (a) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, sp., or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity, such as the following:

(I) ^{1}cis or trans tetrahydrocannabinol, and their optical isomers;

(II) ^{6}cis or trans tetrahydrocannabinol, and their optical isomers;

(III) ^{3,4}cis or trans tetrahydrocannabinol, and their optical isomers.

(b) Since the nomenclature of the substances listed in paragraph (a) of this subsection ~~(32)~~ (24) is not internationally standardized, compounds of these structures, regardless of the numerical designation of atomic positions, are included in this definition.

~~(33) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use, for the use of a member of his household, or for use in administering to an animal owned by him or a member of his household.~~

~~(34) (Deleted by amendment, L. 92, p. 386, § 5, effective July 1, 1992.)~~

~~(35)~~ (25) "Withdrawal treatment" means a program for an intermediate term, of more than three weeks but less than six months, for the administering or dispensing, in decreasing doses, of a controlled

substance, approved for such use by federal law or regulation, to an addict while receiving rehabilitative measures as indicated, with the immediate goal being to render the addict no longer dependent on the intake of any amount of a controlled substance.

27-80-204. [Formerly 12-22-304] License required - controlled substances - repeal. (1) (a) In accordance with part 3 of article 18 of title 18, C.R.S., AN ADDICTION PROGRAM THAT COMPOUNDS, ADMINISTERS, OR DISPENSES A CONTROLLED SUBSTANCE SHALL ANNUALLY OBTAIN a license issued by the department ~~shall be obtained annually~~ for each place of business or professional practice located in this state. ~~by:~~

~~(a) Repealed.~~

~~(b) (I) Every addiction program which compounds, administers, or dispenses a controlled substance.~~

~~(II) (A)~~ (b) (I) This ~~paragraph (b)~~ SUBSECTION (1) is repealed, effective July 1, 2014.

~~(B)~~ (II) Prior to ~~such~~ THE repeal, the DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW THE licensing functions of the department ~~shall be reviewed~~ as provided in section 24-34-104, C.R.S. IN CONDUCTING the review, THE DEPARTMENT OF REGULATORY AGENCIES shall ~~also~~ consider whether the licensing pursuant to this ~~paragraph (b)~~ SUBSECTION (1) should be combined with the licensing of any other drug and alcohol addiction treatment programs by the department.

~~(2) In accordance with part 3 of article 18 of title 18, C.R.S., a license issued by the board shall be obtained annually or biannually, if applicable, for:~~

~~(a) Every manufacturer in this state who manufactures or distributes a controlled substance;~~

~~(b) Every distributor who distributes a controlled substance in this state or who is doing business in this state.~~

~~(2.5) Repealed.~~

~~(3) (a) A license issued by the board shall be obtained annually by a humane society as provided in this subsection (3). The board shall, as provided in section 24-34-105, C.R.S., collect a fee and issue a license to a humane society as provided in this subsection (3).~~

~~(b) A humane society that is duly registered with the secretary of state and has been in existence and in business for at least five years in this state as a nonprofit corporation, or an animal control agency that is operated by a unit of government, may apply to the board for a license for the purposes of being authorized to purchase, possess, and administer sodium pentobarbital, or sodium pentobarbital in combination with other prescription drugs that are medically recognized for euthanasia, to euthanize injured, sick, homeless, or unwanted pets and animals and to purchase, possess, and administer drugs commonly used for the chemical capture of animals for control purposes or to sedate or immobilize pet animals immediately prior to euthanasia. Any society or agency so licensed shall not permit a person to administer scheduled controlled substances, sodium pentobarbital, or sodium pentobarbital in combination with other noncontrolled prescription drugs that are medically recognized for euthanasia unless such person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering such drug or combination of drugs. The board may issue a limited license to carry out the provisions of this subsection (3). The board shall issue such rules as it deems necessary to ensure strict compliance with the provisions of this subsection (3) and shall, in conjunction with the state board of veterinary medicine, develop criteria for training individuals in the administration of such drug or combination of drugs. The board may suspend or revoke the license upon determination that the person administering such drug or combination of drugs has not demonstrated adequate knowledge required by this subsection (3). Nothing in this subsection (3) shall be construed to apply to a licensed veterinarian.~~

~~(4)~~ (2) Persons licensed as required under this part ~~3~~ 2, or otherwise licensed as required by federal law, may possess, ~~manufacture,~~ distribute, dispense, administer, or conduct or do research with controlled substances only to the extent authorized by their licenses and in conformity with the provisions of this part ~~3~~ 2 and with article 18 of title 18, C.R.S.

~~(5)~~ (3) ~~The following persons need not be licensed by the department or by the board to lawfully possess controlled substances under~~

~~this part 3:~~

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

~~(e) Employees of facilities~~ AN EMPLOYEE OF A FACILITY, as defined in section 25-1.5-301, C.R.S., who ~~are~~ IS administering and monitoring medications to persons under the care or jurisdiction of ~~such facilities~~ THE FACILITY pursuant to part 3 of article 1.5 of title 25, C.R.S., NEED NOT BE LICENSED BY THE DEPARTMENT TO LAWFULLY POSSESS CONTROLLED SUBSTANCES UNDER THIS PART 2.

~~(5.5) and (5.6) Repealed.~~

~~(6)~~ (4) ~~Any~~ A person who is required to be BUT IS NOT YET licensed ~~and who is not so licensed~~ may apply for a license at any time. ~~No~~ A person WHO IS required to be licensed UNDER THIS PART 2 shall NOT engage in any activity for which a license is required until ~~his~~ THE DEPARTMENT GRANTS THE PERSON'S application ~~is granted~~ and ISSUES a license ~~is issued~~ to him ~~by the department or the board~~ OR HER.

~~(7)~~ (5) ~~No~~ THE DEPARTMENT SHALL NOT ISSUE A license ~~shall be issued~~ under this part ~~3~~ 2 to a researcher ~~manufacturer, or distributor~~ of marijuana or marijuana concentrate.

27-80-205. [Formerly 12-22-305] Issuance of license - fees. (1) The department, ~~or the board~~ as provided in section ~~12-22-304 (1) or (2)~~ 27-80-204 (1), shall issue the appropriate license to each ~~manufacturer, distributor,~~ researcher and addiction program meeting all the requirements of this part ~~3~~ 2 unless it determines that the issuance of the license would be inconsistent with the public interest. In determining the public interest, the department ~~or the board~~ shall consider the following factors:

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

(b) Compliance with applicable state and local laws;

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

(d) Past experience in the manufacture or distribution of controlled substances and the existence in the applicant's establishment of effective controls against diversion;

(e) Any false or fraudulent information in an application filed under this part ~~3~~ 2;

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

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

~~(1.5) Repealed.~~

(2) Issuance of a license under subsection (1) of this section does not entitle a licensee to ~~wholesale, manufacture,~~ distribute or professionally use controlled substances beyond the scope of ~~his~~ THE LICENSEE'S federal registration.

(3) (a) The initial and annual license fees are as follows:

(I) Addiction program . . . . . $ 75.00

(II) Researchers . . . . . $ 25.00

(b) ~~Notwithstanding the provisions of paragraph (a) of this subsection (3), the fees collected by the board under this article shall be determined, collected, and appropriated pursuant to section 24-34-105, C.R.S.~~ THE DEPARTMENT SHALL TRANSMIT THE FEES COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER FOR DEPOSIT IN THE CONTROLLED SUBSTANCES PROGRAM FUND CREATED IN SECTION 27-80-206.

(4) Any person who is licensed may apply for license renewal not more than sixty days before the expiration date of ~~his~~ THE license.

(5) ~~Neither~~ The United States, ~~nor~~ the state of Colorado, or any ~~of its~~ political ~~subdivisions shall~~ SUBDIVISION OF THE STATE IS NOT REQUIRED TO pay any license fee required by this part ~~3~~ 2.

27-80-206. [Formerly 12-22-306] Controlled substances program fund - disposition of fees. There is hereby created in the state treasury the controlled substances program fund. THE DEPARTMENT SHALL TRANSMIT all moneys ~~collected by the department shall be transmitted~~ IT COLLECTS PURSUANT TO THIS PART 2 to the state treasurer, who shall credit the ~~same~~ MONEYS to the controlled substances program fund. The general assembly shall make annual appropriations from the controlled substances program fund to the department for the purposes authorized by this part ~~3~~ 2. All moneys credited to the controlled substances program fund and any interest earned on ~~such~~ THE fund ~~shall~~ remain in the fund and ~~shall~~ DO not revert to the general fund or any other fund at the end of any fiscal year.

27-80-207. [Formerly 12-22-307] Qualifications for license. (1) An applicant for a license under this part ~~3 must~~ 2 SHALL have adequate and proper facilities for the handling and storage of controlled substances and SHALL maintain proper control over ~~such~~ THE controlled substances to ~~insure against their being~~ ENSURE THE CONTROLLED SUBSTANCES ARE NOT illegally dispensed or distributed.

(2) Any person registered as a researcher by the federal government ~~shall be~~ IS presumed to possess the qualifications described in this section ~~so~~ AS long as his OR HER federal registration is valid.

(3) ~~No~~ THE DEPARTMENT SHALL NOT GRANT A license ~~shall be granted~~ to ~~any~~ A person who has been convicted within the last two years of a willful violation of this part ~~3~~ 2 or any other state or federal law regulating controlled substances.

(4) Except for fees, compliance by a registrant with the provisions of the federal law respecting registration entitles the registrant to be licensed under this part ~~3~~ 2.

27-80-208. [Formerly 12-22-308] Denial, revocation, or suspension of license. (1) THE DEPARTMENT MAY DENY, SUSPEND, OR REVOKE a license issued under this ~~part 3 may be denied, suspended, or revoked by the department or by the board~~ PART 2 pursuant to article 4 of title 24, C.R.S., upon a finding that the licensee:

(a) Has furnished false or fraudulent information in an application filed under this part ~~3~~ 2;

(b) Has been convicted of, or has had accepted by a court a plea of guilty or nolo contendere to, a felony under any state or federal law relating to a controlled substance;

(c) Has had his or her federal registration to manufacture, conduct research on, distribute, or dispense a controlled substance suspended or revoked; or

(d) Has violated any provision of this part ~~3~~ 2 or the rules ~~or regulations~~ of the department or of the STATE board OF HUMAN SERVICES CREATED IN SECTION 26-1-107, C.R.S.

(2) The department ~~or the board~~ may limit revocation or suspension of a license to the particular controlled substance ~~which~~ THAT was the basis for revocation or suspension.

(3) If the department ~~or the board~~ suspends or revokes a license, THE DEPARTMENT MAY PLACE all controlled substances owned or possessed by the licensee at the time of the suspension or on the effective date of the revocation order ~~may be placed~~ under seal. ~~No disposition~~ THE DEPARTMENT may ~~be made~~ NOT DISPOSE of substances under seal until the time for making an appeal has elapsed or until all appeals have been concluded, unless a court orders otherwise or orders the sale of any perishable controlled substances and the deposit of the proceeds with the court. ~~Upon~~ WHEN a revocation ~~order's becoming~~ ORDER BECOMES final, all controlled substances may be forfeited to the state.

(4) The department ~~or the board~~ shall promptly notify the bureau and the appropriate professional licensing agency, if any, of all charges and the final disposition ~~thereof~~ OF THE CHARGES, and of all forfeitures of a controlled substance.

27-80-209. [Formerly 12-22-317] Exemptions. (1) The provisions of section 18-18-414, C.R.S., ~~shall~~ DO not apply to:

(a) Agents of persons licensed under this part ~~3~~ 2 or under part 3 of article 18 of title 18, C.R.S., acting within the provisions of their licenses; or

(b) Officers or employees of appropriate agencies of federal, state,

or local governments acting pursuant to their official duties.

(2) All combination drugs that are exempted by regulation of the attorney general of the United States department of justice, pursuant to section 1006 (b) of Public Law 91-513 (84 Stat. 1236), known as the "Comprehensive Drug Abuse Prevention and Control Act of 1970", on or after July 1, 1981, are ~~exempted~~ EXEMPT from ~~the provisions of~~ this part ~~3~~ 2 and ~~from the provisions of~~ part 3 of article 18 of title 18, C.R.S.

(3) ~~The provisions of~~ This part ~~3 do~~ 2 DOES not apply to peyote if ~~said controlled substance~~ IT is used in religious ceremonies of any bona fide religious organization.

(4) ~~The provisions of~~ Section ~~12-22-318 shall~~ 27-80-210 DOES not apply to a practitioner authorized to prescribe ~~with respect to~~ any controlled substance ~~which~~ THAT is listed in schedules III, IV, or V of part 2 of article 18 of title 18, C.R.S., and ~~which~~ THAT is manufactured, received, or dispensed by ~~him~~ THE PRACTITIONER in the course of his OR HER professional practice, unless: ~~he~~

(a) THE PRACTITIONER dispenses, other than by direct administration, ~~any such~~ A SCHEDULE III, IV, OR V controlled substance to his OR HER patients, and ~~they are charged therefor~~ THE PRACTITIONER CHARGES THE PATIENTS either separately or together with charges for other professional services; or ~~unless he~~

(b) THE PRACTITIONER regularly engages in dispensing ~~any such~~ A SCHEDULE III, IV, OR V controlled substance to his OR HER patients.

(5) The exemptions set forth in this section ~~shall be~~ ARE available as a defense to any person accused of violating ~~the provisions of~~ section 18-18-414, C.R.S.

(6) ~~It shall not be necessary for~~ The state IS NOT REQUIRED to negate any exemption or exception in this part ~~3~~ 2 or in part 3 or 4 of article 18 of title 18, C.R.S., in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this part ~~3~~ 2 or under part 4 of article 18 of title 18, C.R.S. The burden of ~~proof of any such~~ PROVING AN exemption or exception is upon the person claiming ~~it~~ THE EXEMPTION OR EXCEPTION.

27-80-210. [Formerly 12-22-318] Records to be kept - order forms. (1) ~~(a)~~ Each person licensed or otherwise authorized under this part ~~3~~ 2 or other laws of this state to manufacture, purchase, distribute, dispense, administer, store, or otherwise handle controlled substances shall keep and maintain separate detailed and accurate records and inventories relating to controlled substances and retain ~~all such~~ THE records and inventories for a period of two years after the respective dates of ~~such~~ THE transactions as shown on ~~such~~ THE records and inventories.

~~(b) Repealed.~~

(2) The record of any controlled substance distributed, administered, dispensed, or otherwise used ~~shall~~ MUST show the date ~~the name and address of person to whom, for whose use,~~ the controlled substance was distributed, administered, dispensed, used, or otherwise disposed of, THE NAME AND ADDRESS OF THE PERSON TO WHOM OR FOR WHOSE USE THE CONTROLLED SUBSTANCE WAS DISTRIBUTED, ADMINISTERED, DISPENSED, USED, OR OTHERWISE DISPOSED OF, and the kind and quantity of ~~such~~ THE controlled substance.

~~(3) Manufacturing records of controlled substances shall include the kind and quantity of controlled substances produced or removed from process of manufacture and the dates of such production or removal from process of manufacture.~~

~~(4)~~ (3) ~~The keeping of~~ A PERSON WHO MAINTAINS a record required by federal law ~~containing~~ THAT CONTAINS substantially the same information as set forth in subsections (1) ~~to (3)~~ AND (2) of this section ~~shall constitute compliance~~ IS DEEMED TO COMPLY with the record-keeping requirements of this part ~~3~~ 2.

~~(5)~~ (4) A PERSON REQUIRED TO MAINTAIN RECORDS PURSUANT TO THIS SECTION SHALL KEEP A record ~~shall also be kept~~ of any controlled substance lost, destroyed, or stolen, the kind and quantity of ~~such~~ THE controlled substance, and the date of ~~such~~ THE loss, destruction, or theft.

~~(5.5) Prescription drug outlets shall report thefts of controlled substances to the proper law enforcement agencies and to the board within thirty days after the occurrence of such thefts.~~

~~(6)~~ (5) A PERSON LICENSED OR OTHERWISE AUTHORIZED UNDER THIS PART 2 OR OTHER LAWS OF THIS STATE SHALL DISTRIBUTE, ADMINISTER, DISPENSE, USE, OR OTHERWISE DISPOSE OF controlled substances listed in schedule I or II of part 2 of article 18 of title 18, C.R.S., ~~shall be distributed by persons licensed or otherwise authorized under this part 3 or other laws of this state~~ only pursuant to an order form. Compliance with the provisions of federal law respecting order forms ~~shall be~~ IS deemed compliance with this section.

~~(7) to (11) Repealed.~~

27-80-211. [Formerly 12-22-319] Enforcement and cooperation. (1) Each peace officer and district attorney in this state shall enforce ~~all the provisions of~~ this part ~~3~~ 2 and shall cooperate with all agencies charged with the enforcement of the laws of this state, all other states, and the United States relating to controlled substances.

(2) ~~The board shall make any inspections, investigations, and reports that may be necessary to determine compliance with the provisions of this part 3 as they pertain to pharmacies, pharmacists, and manufacturers and distributors of controlled substances.~~ The department shall cooperate with all agencies charged with the enforcement of the laws of this state, all other states, and the United States relating to controlled substances. TO THIS END, THE DEPARTMENT SHALL:

~~(3) The department of human services shall cooperate with all agencies charged with the enforcement of the laws of this state, all other states, and the United States relating to controlled substances. To this end, the department shall:~~

(a) Arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances;

(b) Cooperate with the bureau and with local, state, and other federal agencies by maintaining a centralized unit to accept, catalogue, file, and collect statistics, including records of dependent and other controlled substance law offenders within the state, and make the information available for federal, state, and local law enforcement or regulatory purposes. ~~It~~ THE DEPARTMENT shall not furnish the name or identity of a patient or research subject whose identity could not be obtained under

section ~~12-22-320~~ 27-80-212.

(c) Respond to referrals, complaints, or other information received regarding possible violations and, upon notification of the appropriate licensing authority, if applicable, and upon a written finding by the executive director of the department that probable cause exists to believe that there is illegal distribution or dispensing of controlled substances, to make any inspections, investigations, and reports that may be necessary to determine compliance with ~~the provisions of~~ this part ~~3~~ 2 by all licensed or otherwise authorized individuals who handle controlled substances;

(d) Cooperate with and make information available to appropriate state licensing and registration boards regarding any violations of this part ~~3~~ 2 by persons licensed or registered by ~~such~~ THE boards;

(e) Enter into contracts and encourage and conduct educational and research activities designed to prevent and determine misuse and abuse of controlled substances.

27-80-212. [Formerly 12-22-320] Records confidential. Prescriptions, orders, and records required by this part ~~3~~ 2 and stocks of controlled substances ~~shall be~~ ARE open for inspection only to federal, state, county, and municipal officers whose duty it is to enforce the laws of this state or of the United States relating to controlled substances or the regulation of practitioners. No officer having knowledge, by virtue of his OR HER office, of ~~any such~~ A prescription, order, or record shall divulge ~~such~~ HIS OR HER knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer to which prosecution or proceeding the person to whom ~~such~~ THE prescriptions, orders, or records relate is a party.

27-80-213. Rules. (1) **[Formerly 12-22-321]** ~~By September 1, 2007,~~ The department ~~of human services~~ shall update rules ~~existing on July 1, 2007,~~ and promulgate new rules, as necessary AND PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., to implement ~~the provisions of~~ this ~~part 3 pursuant to the procedures of article 4 of title 24, C.R.S.~~ PART 2. The department shall make the rules available to the public on its web site.

~~(2) (a) Repealed.~~

~~(b) (Deleted by amendment, L. 93, p. 1121, § 35, effective July 1, 1994.)~~

(2) **[Formerly 12-22-322]** The department ~~of human services~~ shall promulgate rules, ~~and regulations~~ IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., for research programs and for the conduct of detoxification treatment, maintenance treatment, and withdrawal treatment programs for controlled substance addiction. ~~Such rules and regulations shall be promulgated in accordance with the provisions of article 4 of title 24, C.R.S.~~

27-80-214. [Formerly 12-22-324] Defenses. The common law defense known as the "procuring agent defense" is not a defense to any crime in this ~~article~~ PART 2 or in title 18, C.R.S.

SECTION 6. In Colorado Revised Statutes, 8-2-111.6, **amend** (5) as follows:

8-2-111.6. Health care employers - immunity from civil liability - requirements - exception to blacklisting prohibition - legislative declaration. (5) For the purposes of this section, "health care worker" means any person registered, certified, or licensed pursuant to ~~article 22 of title 12, C.R.S.,~~ articles 29.5 to 43.2 of title 12, C.R.S., ~~and~~ OR article 3.5 of title 25, C.R.S., or any person who interacts directly with a patient or assists with the patient care process, who is currently employed by, or is a prospective employee of, the employer making the inquiry.

SECTION 7. In Colorado Revised Statutes, 8-42-112.5, **amend** (1) as follows:

8-42-112.5. Limitation on payments - use of controlled substances. (1) Nonmedical benefits otherwise payable to an injured worker ~~shall be~~ ARE reduced fifty percent where THE injury results from the presence in the worker's system, during working hours, of ~~not medically prescribed~~ controlled substances, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., THAT ARE NOT MEDICALLY PRESCRIBED or of a blood alcohol level at or above 0.10 percent, or at or above an applicable lower level as set forth by federal statute or regulation, as evidenced by a forensic drug or alcohol test conducted by a medical facility or laboratory licensed or certified to conduct such tests. A duplicate sample from any test

conducted ~~shall~~ MUST be preserved and made available to the worker for purposes of a second test to be conducted at the worker's expense. If the test indicates the presence of such substances or of alcohol at such level, it ~~shall be~~ IS presumed that the employee was intoxicated and that the injury was due to ~~such~~ THE intoxication. This presumption may be overcome by clear and convincing evidence.

SECTION 8. In Colorado Revised Statutes, 8-73-108, **amend** (4) (b) (IV) introductory portion, (5) (e) (VIII), (5) (e) (IX), and (5) (e) (IX.5) as follows:

8-73-108. Benefit awards - repeal. (4) **Full award.** An individual separated from a job shall be given a full award of benefits if any of the following reasons and pertinent conditions related thereto are determined by the division to have existed. The determination of whether or not the separation from employment shall result in a full award of benefits shall be the responsibility of the division. The following reasons shall be considered, along with any other factors that may be pertinent to such determination:

(b) (IV) The off-the-job or on-the-job use of not medically prescribed intoxicating beverages or controlled substances, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., may be reason for a determination for a full award pursuant to this paragraph (b), but only if:

(5) **Disqualification.** (e) Subject to the maximum reduction consistent with federal law, and insofar as consistent with interstate agreements, if a separation from employment occurs for any of the following reasons, the employer from whom such separation occurred shall not be charged for benefits which are attributable to such employment and, because any payment of benefits which are attributable to such employment out of the fund as defined in section 8-70-103 (13) shall be deemed to have an adverse effect on such employer's account in such fund, no payment of such benefits shall be made from such fund:

(VIII) Off-the-job use of not medically prescribed intoxicating beverages or controlled substances, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., to a degree resulting in interference with job performance;

(IX) On-the-job use of or distribution of not medically prescribed

intoxicating beverages or controlled substances, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.;

(IX.5) The presence in an individual's system, during working hours, of not medically prescribed controlled substances, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or of a blood alcohol level at or above 0.04 percent, or at or above an applicable lower level as set forth by federal statute or regulation, as evidenced by a drug or alcohol test administered pursuant to a statutory or regulatory requirement or a previously established, written drug or alcohol policy of the employer and conducted by a medical facility or laboratory licensed or certified to conduct such tests;

SECTION 9. In Colorado Revised Statutes, 12-2-123, **amend** (1) (p) as follows:

12-2-123. Grounds for disciplinary action - administrative penalties. (1) After notice and hearing as provided in section 12-2-125, the board may deny the issuance of, refuse to renew, revoke, or suspend any certificate of a certified public accountant issued under this article or any prior law of this state or may fine, issue a letter of admonition to, or place on probation the holder of any certificate and impose other conditions or limitations for any of the following causes:

(p) Habitual intemperance with respect to or excessive use of a habit-forming drug, controlled substance as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or alcoholic beverage that renders the certified public accountant unfit to practice public accounting;

SECTION 10. In Colorado Revised Statutes, 12-10-107.1, **amend** (1) (d) as follows:

12-10-107.1. Grounds for discipline. (1) The director may deny, suspend, revoke, place on probation, or issue a letter of admonition against a license or an application for a license if the applicant or licensee:

(d) Is addicted to or dependent upon alcohol or any controlled substance, ~~within the meaning of part 3 of article 22 of this title~~ AS DEFINED IN SECTION 18-18-102 (5), C.R.S., or is a habitual user of said controlled substance, if the use, addiction, or dependency is a danger to other participants or officials;

SECTION 11. In Colorado Revised Statutes, 12-25-308, **amend** (1) (i) as follows:

12-25-308. Disciplinary actions - grounds for discipline. (1) The board may deny, suspend, revoke, or refuse to renew the license of, place on probation, or limit the scope of practice of a licensee for the following:

(i) Habitual intemperance with respect to, or excessive use of, any habit-forming drug, any controlled substance as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or any alcoholic beverage, any of which renders him or her unfit to practice architecture;

SECTION 12. In Colorado Revised Statutes, 12-29.5-106, **amend** (1) (m) as follows:

12-29.5-106. Grounds for disciplinary action. (1) The director may deny licensure to or take disciplinary action against an acupuncturist pursuant to section 24-4-105, C.R.S., if the director finds that the acupuncturist has committed any of the following acts:

(m) Continued in the practice of acupuncture while addicted to or dependent upon alcohol or upon any habit-forming drug or while abusing or habitually or excessively using any such habit-forming drug or any controlled substance as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.;

SECTION 13. In Colorado Revised Statutes, 12-32-107, **amend** (3) (n) and (3) (o) as follows:

12-32-107. Issuance, revocation, or suspension of license - probation - immunity in professional review. (3) "Unprofessional conduct" as used in this article means:

(n) Administering, dispensing, or prescribing any habit-forming drug or any controlled substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., other than in the course of legitimate professional practice, which includes only prescriptions related to the scope of podiatric medicine as defined in section 12-32-101 (3) (a);

(o) Conviction of violation of any federal or state law regulating the

possession, distribution, or use of any controlled substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., and, for the purposes of this paragraph (o), a plea of guilty or a plea of nolo contendere accepted by the court shall be considered as a conviction;

SECTION 14. In Colorado Revised Statutes, 12-32-109.3, **amend** (1) as follows:

12-32-109.3. Use of physician assistants. (1) A person licensed under the laws of this state to practice podiatry may delegate to a physician assistant licensed by the Colorado medical board pursuant to section 12-36-107.4 the authority to perform acts that constitute the practice of podiatry to the extent and in the manner authorized by rules promulgated by the Colorado podiatry board. Such acts shall be consistent with sound practices of podiatry. Each prescription issued by a physician assistant shall have the name of his or her supervising podiatrist printed on the prescription. Nothing in this section shall limit the ability of otherwise licensed health personnel to perform delegated acts. The dispensing of prescription medication by a physician assistant shall be subject to section ~~12-22-121 (6)~~ 12-42.5-118 (6).

SECTION 15. In Colorado Revised Statutes, 12-36-106, **amend** (5) (a) as follows:

12-36-106. Practice of medicine defined - exemptions from licensing requirements - unauthorized practice by physician assistants - penalties - rules. (5) (a) A person licensed under the laws of this state to practice medicine may delegate to a physician assistant licensed by the board pursuant to section 12-36-107.4 the authority to perform acts that constitute the practice of medicine to the extent and in the manner authorized by rules promulgated by the board, including the authority to prescribe medication, including controlled substances, and dispense only such drugs as designated by the board. Such acts shall be consistent with sound medical practice. Each prescription issued by a physician assistant licensed by the board shall be imprinted with the name of his or her supervising physician. Nothing in this subsection (5) shall limit the ability of otherwise licensed health personnel to perform delegated acts. The dispensing of prescription medication by a physician assistant shall be subject to the provisions of section ~~12-22-121 (6)~~ 12-42.5-118 (6).

SECTION 16. In Colorado Revised Statutes, 12-36-117, **amend** (1) (g), (1) (h), and (1) (i) as follows:

12-36-117. Unprofessional conduct. (1) "Unprofessional conduct" as used in this article means:

(g) Administering, dispensing, or prescribing any habit-forming drug or any controlled substance as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., other than in the course of legitimate professional practice;

(h) Any conviction of violation of any federal or state law regulating the possession, distribution, or use of any controlled substance, as defined in section ~~12-22-303 (7)~~ 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 section 24-5-101, C.R.S. For purposes of this paragraph (h), "conviction" includes the entry of a plea of guilty or nolo contendere or the imposition of a deferred sentence.

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

SECTION 17. In Colorado Revised Statutes, 12-37-107, **amend** (3) (f) as follows:

12-37-107. Disciplinary action authorized - grounds for discipline - injunctions - rules. (3) The director may deny, revoke, or suspend a registration or issue a letter of admonition or place a registrant on probation for any of the following acts or omissions:

(f) Abuse or habitual or excessive use of a habit-forming drug, a controlled substance as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or alcohol;

SECTION 18. In Colorado Revised Statutes, 12-38-111.6, **amend** (1), (9), and (10) as follows:

12-38-111.6. Prescriptive authority - advanced practice nurses

- rules. (1) THE BOARD MAY AUTHORIZE an advanced practice nurse who is listed on the advanced practice registry, has a license in good standing without disciplinary sanctions issued pursuant to section 12-38-111, and has fulfilled requirements established by the board pursuant to this section ~~may be authorized by the board~~ to prescribe controlled substances or prescription drugs as defined in PART 1 OF article ~~22~~ 42.5 of this title.

(9) All prescriptions ~~shall be in compliance~~ MUST COMPLY with applicable federal and state laws, including article ~~22~~ 42.5 of this title and part 2 of article 18 of title 18, C.R.S.

(10) Nothing in this section shall be construed to permit dispensing or distribution, as defined in section ~~12-22-102~~ 12-42.5-102 (11) AND (12), by an advanced practice nurse, except for samples, under article ~~22~~ 42.5 of this title and the federal "Prescription Drug Marketing Act of 1987".

SECTION 19. In Colorado Revised Statutes, 12-38-117, **amend** (1) (i), (1) (q), (1) (r), and (1) (s) as follows:

12-38-117. Grounds for discipline. (1) "Grounds for discipline", as used in this article, means any action by any person who:

(i) Excessively uses or abuses alcohol, habit-forming drugs, controlled substances, as defined in section ~~12-22-303~~ 18-18-102 (5), C.R.S., or other drugs having similar effects, or is diverting controlled substances, as defined in section ~~12-22-303~~ 18-18-102 (5), C.R.S., or other drugs having similar effects from the licensee's place of employment; except that the board has the discretion not to discipline the licensee if such licensee is participating in good faith in a program approved by the board designed to end such excessive use or abuse;

(q) Has dispensed, injected, or prescribed an anabolic steroid, as defined in section ~~12-22-102 (2.5)~~ 18-18-102 (3), C.R.S., for the purpose of hormonal manipulation that is intended to increase muscle mass, strength, or weight without a medical necessity to do so or for the intended purpose of improving performance in any form of exercise, sport, or game;

(r) Has dispensed or injected an anabolic steroid, as defined in section ~~12-22-102 (2.5)~~ 18-18-102 (3), C.R.S., unless such anabolic steroid is dispensed from a pharmacy pursuant to a written prescription or is

dispensed by any person licensed to practice medicine in the course of such person's professional practice;

(s) Has administered, dispensed, or prescribed any habit-forming drug or any controlled substance as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., other than in the course of legitimate professional practice;

SECTION 20. In Colorado Revised Statutes, 12-38.1-111, **amend** (1) (i) as follows:

12-38.1-111. Grounds for discipline. (1) The board may suspend, revoke, or deny any person's certification to practice as a nurse aide or authority to practice as a medication aide, or may issue to the person a letter of admonition, upon proof that such person:

(i) Has habitual intemperance or excessively uses any habit-forming drug or any controlled substance as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or other drugs having similar effects, or is diverting controlled substances, as defined in section 18-18-102 (5), C.R.S., or other drugs having similar effects from the person's place of employment;

SECTION 21. In Colorado Revised Statutes, 12-39-111, **amend** (1) (g) as follows:

12-39-111. Grounds for discipline. (1) The board has the power to revoke, suspend, withhold, or refuse to renew any license, to place on probation a licensee or temporary license holder, or to issue a letter of admonition to a licensee in accordance with the procedures set forth in subsection (3) of this section, upon proof that such person:

(g) Is addicted to or dependent on alcohol or habit-forming drugs, abuses or engages in the habitual or excessive use of any such habit-forming drug or any controlled substance as defined in section ~~12-22-303 (7) or~~ 18-18-102 (5), C.R.S., or participates in the unlawful use of controlled substances as specified in section 18-18-404, C.R.S.; except that the board has the discretion not to discipline the licensee if such person is participating, in good faith, in a program approved by the board designed to end such addiction or dependency;

SECTION 22. In Colorado Revised Statutes, 12-40-108, **amend** (1) (d) as follows:

12-40-108. Application for license - licensure by endorsement. (1) A person who desires to practice optometry in the state may file with the board an application for a license, giving the information required in a form and manner approved by the board. The applicant shall demonstrate that he or she possesses the following qualifications:

(d) The applicant is not addicted to or dependent on, and has not habitually or excessively used or abused, intoxicating liquors, habit-forming drugs, or controlled substances as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.

SECTION 23. In Colorado Revised Statutes, 12-40-109.5, **amend** (1) and (1.5) as follows:

12-40-109.5. Use of prescription and nonprescription drugs. (1) Notwithstanding section ~~12-22-121~~ 12-42.5-118, a licensed optometrist may purchase, possess, and administer prescription or nonprescription drugs for examination purposes only if, after July 1, 1983, the optometrist has complied with the following minimum requirements: Successful completion, by attendance and examination, of at least fifty-five classroom hours of study in general, ocular, and clinical pharmacology which must have been completed within twenty-four months preceding the application for certification; except that, in the event that such classroom hours have been completed since 1976, only six of such classroom hours must have been completed within twenty-four months preceding the application for certification. The courses shall be offered by an institution that is accredited by a regional or professional accreditation organization recognized or approved by the council on postsecondary education or the United States department of education or their successors.

(1.5) Notwithstanding section ~~12-22-121~~ 12-42.5-118, a licensed optometrist may purchase, possess, administer, and prescribe prescription or nonprescription drugs for treatment on and after July 1, 1988, only if the optometrist has complied with the following minimum requirements within twenty-four months preceding the application for certification: Successful completion, by attendance and examination, of at least sixty classroom hours of study in ocular pharmacology, clinical pharmacology, therapeutics,

and anterior segment disease; and successful completion by attendance and examination of at least sixty hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and its appendages. The courses shall be offered by an institution that is accredited by a regional or professional accreditation organization recognized or approved by the council of postsecondary education or the United States department of education or their successors.

SECTION 24. In Colorado Revised Statutes, 12-40-118, **amend** (1) (e) and (1) (bb); and **repeal** (1) (cc) as follows:

12-40-118. Unprofessional conduct defined. (1) The term "unprofessional conduct", as used in this article, means:

(e) The habitual or excessive use or abuse of alcohol, a habit-forming drug, or any controlled substance as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.;

(bb) Administering, dispensing, or prescribing any prescription drug, as defined in section ~~12-22-102 (30)~~ 12-42.5-102 (34), or any controlled substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., other than in the course of legitimate professional practice;

(cc) ~~Dispensing for a fee any prescription drug, as defined in section 12-22-102, or any controlled substance, as defined in section 12-22-303, except as permitted in sections 12-22-121 (6) (c) and 12-40-102 (5) (b);~~

SECTION 25. In Colorado Revised Statutes, 12-40-118.5, **amend** (5) (e) as follows:

12-40-118.5. Mental and physical examination of licensees. (5) (e) For purposes of this subsection (5), "physical or mental illness or condition" does not include the habitual or excessive use or abuse of alcohol, a habit-forming drug, or any controlled substance as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.

SECTION 26. In Colorado Revised Statutes, 12-41-115, **amend** (1) (l) and (1) (m) (III) as follows:

12-41-115. Grounds for disciplinary action. (1) The board may

take disciplinary action in accordance with section 12-41-116 against a person who has:

(l) Engaged in the habitual or excessive use or abuse of alcohol, a habit-forming drug, or a controlled substance as defined in section ~~12-22-303~~ 18-18-102 (5), C.R.S.;

(m) (III) Failed to comply with the limitations agreed to under a confidential agreement entered pursuant to section ~~12-41-118~~ 12-41-118.5;

SECTION 27. In Colorado Revised Statutes, 12-41-210, **amend** (1) (h) as follows:

12-41-210. Grounds for disciplinary action. (1) The board may take disciplinary action in accordance with section 12-41-211 against a person who has:

(h) Engaged in the habitual or excessive use or abuse of alcohol, a habit-forming drug, or a controlled substance as defined in section ~~12-22-303~~ 18-18-102 (5), C.R.S.;

SECTION 28. In Colorado Revised Statutes, 12-41.5-109, **amend** (2) (h) as follows:

12-41.5-109. Grounds for action - disciplinary proceedings. (2) The director has the power to revoke, suspend, deny, or refuse to renew a license, place on probation a licensee, or issue a letter of admonition to a licensee in accordance with subsections (3), (4), (5), and (6) of this section upon proof that such person:

(h) Is an excessive or habitual user or abuser of alcohol or habit-forming drugs or is a habitual user of a controlled substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or other drugs having similar effects; except that the director has the discretion not to discipline the license holder if he or she is participating in good faith in a program approved by the director designed to end such use or abuse;

SECTION 29. In Colorado Revised Statutes, 12-42-113, **amend** (1) (i) as follows:

12-42-113. Grounds for discipline. (1) "Grounds for discipline", as used in this article, means any action by any person who:

(i) Is addicted to or dependent on alcohol or habit-forming drugs, is a habitual user of controlled substances, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or other drugs having similar effects, or is diverting controlled substances, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or other drugs having similar effects from the licensee's place of employment; except that the board has the discretion not to discipline the licensee if such licensee is participating in good faith in a program approved by the board designed to end such addiction or dependency;

SECTION 30. In Colorado Revised Statutes, 12-43-222, **amend** (1) (e) as follows:

12-43-222. Prohibited activities - related provisions. (1) A person licensed, registered, or certified under this article violates this article if the person:

(e) Habitually or excessively uses or abuses alcohol, a habit-forming drug, or a controlled substance, as defined in section ~~12-22-303~~ 18-18-102 (5), C.R.S.;

SECTION 31. In Colorado Revised Statutes, 12-43.3-104, **amend** (7) as follows:

12-43.3-104. Definitions. As used in this article, unless the context otherwise requires:

(7) "Medical marijuana" means marijuana that is grown and sold pursuant to the provisions of this article and for a purpose authorized by section 14 of article XVIII of the state constitution but shall not be considered a nonprescription drug for purposes of section ~~12-22-102 (20)~~ 12-42.5-102 (21) or ~~section~~ 39-26-717, C.R.S., or an over-the-counter medication for purposes of section 25.5-5-322, C.R.S.

SECTION 32. In Colorado Revised Statutes, 12-58-110, **amend** (1) (l) as follows:

12-58-110. Disciplinary action by board - licenses or

registrations denied, suspended, or revoked - cease-and-desist orders. (1) The board may deny, suspend, revoke, or refuse to renew any license or registration issued or applied for under the provisions of this article or place a licensee or a registrant on probation for any of the following reasons:

(l) Habitual intemperance with respect to or excessive use of any habit-forming drug, any controlled substance as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or any alcoholic beverage;

SECTION 33. In Colorado Revised Statutes, 13-4-102, **amend** (2) (k) as follows:

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

(k) Review all final actions and orders appropriate for judicial review of the state board of pharmacy, as provided in section ~~12-22-125.5~~ 12-42.5-125, C.R.S.;

SECTION 34. In Colorado Revised Statutes, 13-21-115.5, **amend** (3) (c) (II) (Q) as follows:

13-21-115.5. Volunteer service act - immunity - exception for operation of motor vehicles. (3) As used in this section, unless the context otherwise requires:

(c) (II) "Volunteer" includes:

(Q) A licensed pharmacist governed by ~~the provisions of~~ article ~~22~~ 42.5 of title 12, C.R.S., performing the practice of pharmacy, as defined in section ~~12-22-102 (26)~~ 12-42.5-102 (31), C.R.S., as a volunteer for a nonprofit organization, a nonprofit corporation, a governmental entity, or a hospital;

SECTION 35. In Colorado Revised Statutes, 16-15-102, **amend** (1) (a) (VI) as follows:

16-15-102. Ex parte order authorizing the interception of wire, oral, or electronic communications. (1) (a) An ex parte order authorizing

or approving the interception of any wire, oral, or electronic communication may be issued by any judge of competent jurisdiction of the state of Colorado upon application of the attorney general or a district attorney, or his or her designee if the attorney general or district attorney is absent from his or her jurisdiction, showing by affidavit that there is probable cause to believe that evidence will be obtained of the commission of any one of the crimes enumerated in this subsection (1) or that one of said enumerated crimes will be committed:

(VI) Dealing in controlled substances as covered by part ~~3~~ 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., as such offenses are subject to prosecution as felonies;

SECTION 36. In Colorado Revised Statutes, 17-2-201, **amend** (5.5) (b) as follows:

17-2-201. State board of parole. (5.5) (b) For purposes of this subsection (5.5), "drug" means:

(I) Any "controlled substance" as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.; and

(II) Any "drug" as defined in section ~~12-22-303 (13)~~ 27-80-203 (13), C.R.S., if chemical testing conducted pursuant to paragraph (a) of this subsection (5.5) reveals such drug is present at such a level as to be considered abusive pursuant to regulations established by the board in consultation with the department of human services.

SECTION 37. In Colorado Revised Statutes, 18-1.3-204, **amend** (2) (a) (VIII) as follows:

18-1.3-204. Conditions of probation. (2) (a) When granting probation, the court may, as a condition of probation, require that the defendant:

(VIII) Refrain from excessive use of alcohol or any unlawful use of controlled substances, as defined in section ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5), or of any other dangerous or abusable drug without a prescription;

SECTION 38. In Colorado Revised Statutes, 18-3-106, **amend** (1) (b) (II) as follows:

18-3-106. Vehicular homicide. (1) (b) (II) For the purposes of this subsection (1), one or more drugs shall mean all substances defined as a drug in section ~~12-22-303 (13)~~ 27-80-203 (13), C.R.S., and all controlled substances defined in section ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5), and glue-sniffing, aerosol inhalation, or the inhalation of any other toxic vapor or vapors as defined in section 18-18-412.

SECTION 39. In Colorado Revised Statutes, 18-3-205, **amend** (1) (b) (II) as follows:

18-3-205. Vehicular assault. (1) (b) (II) For the purposes of this subsection (1), one or more drugs shall mean all substances defined as a drug in section ~~12-22-303 (13)~~ 27-80-203 (13), C.R.S., and all controlled substances defined in section ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5), and glue-sniffing, aerosol inhalation, or the inhalation of any other toxic vapor or vapors as defined in section 18-18-412.

SECTION 40. In Colorado Revised Statutes, 18-4-202, **amend** (3) as follows:

18-4-202. First degree burglary. (3) If under the circumstances stated in subsection (1) of this section the property involved is a controlled substance, as defined in section ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5), within a pharmacy or other place having lawful possession thereof, such person commits first degree burglary of controlled substances, which is a class 2 felony.

SECTION 41. In Colorado Revised Statutes, 18-4-203, **amend** (2) (b) as follows:

18-4-203. Second degree burglary. (2) Second degree burglary is a class 4 felony, but it is a class 3 felony if:

(b) It is a burglary, the objective of which is the theft of a controlled substance, as defined in section ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5), lawfully kept within any building or occupied structure.

SECTION 42. In Colorado Revised Statutes, 18-4-204, **amend** (2) as follows:

18-4-204. Third degree burglary. (2) Third degree burglary is a class 5 felony, but it is a class 4 felony if it is a burglary, the objective of which is the theft of a controlled substance, as defined in section ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5), lawfully kept in or upon the property burglarized.

SECTION 43. In Colorado Revised Statutes, 18-4-303, **amend** (1) as follows:

18-4-303. Aggravated robbery of controlled substances. (1) A person who takes any controlled substance, as defined in section ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5), from any pharmacy or other place having lawful possession thereof or from any pharmacist or other person having lawful possession thereof under the aggravating circumstances defined in section 18-4-302 is guilty of aggravated robbery of controlled substances.

SECTION 44. In Colorado Revised Statutes, 18-4-412, **amend** (2) (a) as follows:

18-4-412. Theft of medical records or medical information - penalty. (2) As used in this section:

(a) "Medical record" means the written or graphic documentation, sound recording, or computer record pertaining to medical, mental health, and health care services, including medical marijuana services, that are performed at the direction of a physician or other licensed health care provider on behalf of a patient by physicians, dentists, nurses, technicians, emergency medical technicians, mental health professionals, prehospital providers, or other health care personnel. "Medical record" includes such diagnostic documentation as X rays, electrocardiograms, electroencephalograms, and other test results. "Medical record" includes data entered into the prescription drug monitoring program pursuant to section ~~12-22-704~~ 12-42.5-403, C.R.S.

SECTION 45. In Colorado Revised Statutes, 18-5-116, **amend** (1) as follows:

18-5-116. Controlled substances - inducing consumption by

fraudulent means. (1) It is unlawful for any person, surreptitiously or by means of fraud, misrepresentation, suppression of truth, deception, or subterfuge, to cause any other person to unknowingly consume or receive the direct administration of any controlled substance, as defined in section ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5); except that nothing in this section shall diminish the scope of health care authorized by law.

SECTION 46. In Colorado Revised Statutes, 18-8-203, **amend** (1) (a) as follows:

18-8-203. Introducing contraband in the first degree. (1) A person commits introducing contraband in the first degree if he or she knowingly and unlawfully:

(a) Introduces or attempts to introduce a dangerous instrument, malt, vinous, or spirituous liquor, as defined in section 12-47-103, C.R.S., fermented malt beverage, as defined in section 12-46-103, C.R.S., controlled substance, as defined in section 18-18-102 (5), or marijuana or marijuana concentrate, as defined in section ~~12-22-303 (17) and (18)~~ 27-80-203 (15) AND (16), C.R.S., into a detention facility or at any location where an inmate is or is likely to be located, while the inmate is in the custody and under the jurisdiction of a political subdivision of the state of Colorado or the department of corrections, but not on parole; or

SECTION 47. In Colorado Revised Statutes, 18-8-204, **amend** (2) (g) as follows:

18-8-204. Introducing contraband in the second degree. (2) "Contraband" as used in this section means any of the following, but does not include any article or thing referred to in section 18-8-203:

(g) Any drug, other than a controlled substance as defined in section ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5), in quantities other than those authorized by a physician;

SECTION 48. In Colorado Revised Statutes, 18-12-106, **amend** (1) (d) as follows:

18-12-106. Prohibited use of weapons. (1) A person commits a class 2 misdemeanor if:

(d) The person has in his or her possession a firearm while the person is under the influence of intoxicating liquor or of a controlled substance, as defined in section ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5). Possession of a permit issued under section 18-12-105.1, as it existed prior to its repeal, or possession of a permit or a temporary emergency permit issued pursuant to part 2 of this article is no defense to a violation of this subsection (1).

SECTION 49. In Colorado Revised Statutes, 18-13-123, **amend** (4) (b) as follows:

18-13-123. Unlawful administration of gamma hydroxybutyrate (GHB) or ketamine. (4) (b) It shall not be a violation of this section if ketamine is distributed or dispensed by or under the direction of such authorized person for use by a humane society that is duly registered with the secretary of state and has been in existence and in business for at least five years in this state as a nonprofit corporation, or by an animal control agency that is operated by a unit of government to control animals and to euthanize injured, sick, homeless, or unwanted pets or animals, if ~~such~~ THE humane society or animal control agency is ~~licensed~~ REGISTERED pursuant to section ~~12-22-304~~ 12-42.5-117 (12), C.R.S.

SECTION 50. In Colorado Revised Statutes, 18-17-103, **amend** (5) (b) (XIV) as follows:

18-17-103. Definitions. As used in this article, unless the context otherwise requires:

(5) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(b) Any violation of the following provisions of the Colorado statutes or any criminal act committed in any jurisdiction of the United States which, if committed in this state, would be a crime under the following provisions of the Colorado statutes:

(XIV) Offenses relating to controlled substances (part ~~3~~ 1 of article ~~22~~ 42.5 of title 12, C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., and article 18 of this title);

SECTION 51. In Colorado Revised Statutes, 18-18-102, **amend** (2) and (27) as follows:

18-18-102. Definitions. As used in this article:

(2) "Agent" means an authorized person who acts on behalf of or at the direction of a person licensed or otherwise authorized under this article or under part ~~3~~ 2 of article ~~22~~ 80 of title ~~12~~ 27, C.R.S. "Agent" does not include a common or contract carrier, a public warehouseman, or an employee of a carrier or warehouseman.

(27) "Pharmacy" means a prescription drug outlet as defined in section ~~12-22-102 (30.2)~~ 12-42.5-102 (35), C.R.S.

SECTION 52. In Colorado Revised Statutes, 18-18-302, **amend** (1) and (2) as follows:

18-18-302. Registration requirements. (1) Every person who manufactures, distributes, or dispenses any controlled substance within this state, or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, shall obtain annually or biannually, if applicable, a registration, issued by the respective licensing board or the department in accordance with rules adopted by such board or by the department. For purposes of this section and this article, "registration" or "registered" means the ~~licensing~~ REGISTERING of manufacturers, pharmacists, pharmacies, and humane societies located in this state, and distributors located in or doing business in this state, by the state board of pharmacy as set forth in ~~parts 1 and 3 of~~ article ~~22~~ 42.5 of title 12, C.R.S., the licensing of physicians by the Colorado medical board, as set forth in article 36 of title 12, C.R.S., the licensing of podiatrists by the Colorado podiatry board, as set forth in article 32 of title 12, C.R.S., the licensing of dentists by the state board of dental examiners, as set forth in article 35 of title 12, C.R.S., the licensing of optometrists by the state board of optometry, as set forth in article 40 of title 12, C.R.S., the licensing of veterinarians by the state board of veterinary medicine, as set forth in article 64 of title 12, C.R.S., and the licensing of researchers and addiction programs by the department of human services, as set forth in part ~~3~~ 2 of article ~~22~~ 80 of title ~~12~~ 27, C.R.S.

(2) A person registered by the board or the department under this

part 3 to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by the registration and in conformity with this article and with article ~~22~~ 42.5 of title 12, C.R.S.

SECTION 53. In Colorado Revised Statutes, 18-18-303, **amend** (5) as follows:

18-18-303. Registration. (5) Persons licensed OR REGISTERED under ~~the provisions of part 1 of~~ article ~~22~~ 42.5 of title 12, C.R.S., or article 32, 35, 36, 40, or 64 of title 12, C.R.S., need not be licensed separately to distribute or dispense controlled substances to the extent provided under law if they are registered or are exempt from registration by the federal drug enforcement administration, provided that such persons indicate on any initial application or renewal application the schedules of controlled substances ~~which such~~ THAT THE persons are authorized to use under Public Law 91-513, known as the federal "Comprehensive Drug Abuse Prevention and Control Act of 1970".

SECTION 54. In Colorado Revised Statutes, 18-18-403.5, **amend** (1) as follows:

18-18-403.5. Unlawful possession of a controlled substance. (1) Except as authorized by part ~~3~~ 1 OR 3 of article ~~22~~ 42.5 of title 12, C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., or ~~by~~ part 2 or 3 of this article, it is unlawful for any person knowingly to possess a controlled substance.

SECTION 55. In Colorado Revised Statutes, 18-18-405, **amend** (1) as follows:

18-18-405. Unlawful distribution, manufacturing, dispensing, or sale. (1) (a) Except as authorized by part ~~3~~ 1 of article ~~22~~ 42.5 of title 12, C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., or ~~by~~ part 2 or 3 of this article, it is unlawful for any person knowingly to manufacture, dispense, sell, or distribute, or to possess with intent to manufacture, dispense, sell, or distribute, a controlled substance; or induce, attempt to induce, or conspire with one or more other persons, to manufacture, dispense, sell, distribute, or possess with intent to manufacture, dispense, sell, or

distribute, a controlled substance; or possess one or more chemicals or supplies or equipment with intent to manufacture a controlled substance.

(b) As used in this subsection (1), "dispense" does not include labeling, as defined in section ~~12-22-102 (16)~~ 12-42.5-102 (18), C.R.S.

SECTION 56. In Colorado Revised Statutes, 18-18-406, **amend** (6) (a) (I), (6) (b) (I), (6) (b) (II), and (11) as follows:

18-18-406. Offenses relating to marijuana and marijuana concentrate. (6) (a) (I) A person shall not knowingly process or manufacture any marijuana or marijuana concentrate or knowingly allow to be processed or manufactured on land owned, occupied, or controlled by him or her any marijuana or marijuana concentrate except as authorized pursuant to part ~~3~~ 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S.

(b) (I) Except as is otherwise provided in subsection (7) of this section and except as authorized by part ~~3~~ 1 of article ~~22~~ 42.5 of title 12, C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., or ~~by~~ part 2 or 3 of this article, it is unlawful for any person knowingly to dispense, sell, distribute, or possess with intent to manufacture, dispense, sell, or distribute marijuana or marijuana concentrate; or attempt, induce, attempt to induce, or conspire with one or more other persons, to dispense, sell, distribute, or possess with intent to manufacture, dispense, sell, or distribute marijuana or marijuana concentrate.

(II) As used in subparagraph (I) of this paragraph (b), "dispense" does not include labeling, as defined in section ~~12-22-102 (16)~~ 12-42.5-102 (18), C.R.S.

(11) The provisions of this section shall not apply to any person who possesses, uses, prescribes, dispenses, or administers dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a federal food and drug administration approved drug product, pursuant to part ~~3~~ 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S.

SECTION 57. In Colorado Revised Statutes, 18-18-406.2, **amend** (4) as follows:

18-18-406.2. Unlawful distribution, manufacturing, dispensing, sale, or cultivation of synthetic cannabinoids or salvia divinorum. (4) As used in this section, "dispense" does not include labeling, as defined in section ~~12-22-102 (16)~~ 12-42.5-102 (18), C.R.S.

SECTION 58. In Colorado Revised Statutes, 18-18-414, **amend** (1) introductory portion, (1) (f), (1) (g), (1) (h), (1) (i), (1) (j), (1) (r), and (1) (t) as follows:

18-18-414. Unlawful acts - licenses - penalties. (1) Except as otherwise provided in this article or in article ~~22~~ 42.5 of title 12, C.R.S., the following acts are unlawful:

(f) The failure of a pharmacy to file and retain the prescription as required in section ~~12-22-318~~ 12-42.5-131, C.R.S.;

(g) The failure of a hospital to record and maintain a record of such dispensing as provided in section ~~12-22-318~~ 12-42.5-131 OR 27-80-210, C.R.S.;

(h) The refusal to make available for inspection and to accord full opportunity to check any record or file as required by this article, ~~or~~ part ~~3~~ 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S.;

(i) The failure to keep records as required by this article, ~~or~~ part ~~3~~ 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S.;

(j) The failure to obtain a license OR REGISTRATION as required by this article, ~~or~~ part ~~3~~ 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S.;

(r) Knowingly furnishing false or fraudulent material information in, or omitting any material information from, any application, report, or other document required to be kept or filed under this article, ~~or under~~ part ~~3~~ 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., or any record required to be kept by this article, ~~or under~~ part ~~3~~ 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S.;

(t) The refusal of entry into any premises for any inspection authorized by this article, ~~or~~ part ~~3~~ 1 of article ~~22~~ 42.5 of title 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S.

SECTION 59. In Colorado Revised Statutes, 18-18-418, **amend** (1) (a), (2), (4), and (6) as follows:

18-18-418. Exemptions. (1) The provisions of section 18-18-414 shall not apply to:

(a) Agents of persons licensed under part ~~3~~ 2 of article ~~22~~ 80 of title ~~12~~ 27, C.R.S., or under part 3 of this article, acting within the provisions of their licenses; or

(2) All combination drugs that are exempted by regulation of the attorney general of the United States department of justice, pursuant to section 1006 (b) of Public Law 91-513 (84 Stat. 1236), known as the "Comprehensive Drug Abuse Prevention and Control Act of 1970", on or after July 1, 1981, are exempted from the provisions of part ~~3~~ 1 of article ~~22~~ 42.5 of title 12, C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., and ~~from the provisions of~~ part 3 of this article.

(4) The provisions of section ~~12-22-318~~ 12-42.5-131 AND 27-80-210, C.R.S., shall not apply to a practitioner authorized to prescribe with respect to any controlled substance ~~which~~ THAT is listed in schedule III, IV, or V of part 2 of this article and ~~which~~ THAT is manufactured, received, or dispensed by ~~him~~ THE PRACTITIONER in the course of his OR HER professional practice unless he OR SHE dispenses, other than by direct administration, any such controlled substance to ~~his~~ patients and they are charged therefor either separately or together with charges for other professional services or unless ~~he~~ THE PRACTITIONER regularly engages in dispensing any such controlled substance to his OR HER patients.

(6) It shall not be necessary for the state to negate any exemption or exception in this part 4, ~~or in~~ part ~~3~~ 1 of article ~~22~~ 42.5 of title 12, C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., or ~~in~~ part 3 of this article in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this part 4. The burden of proof of any such exemption or exception is upon the person claiming it.

SECTION 60. In Colorado Revised Statutes, **amend** 18-18-602 as follows:

18-18-602. Continuation of rules - application to existing relationships. Any orders and rules adopted under any law affected by this article and in effect on July 1, 1992, and not in conflict with this article continue in effect until modified, superseded, or repealed. Rights and duties that matured, penalties that were incurred, and proceedings that were begun prior to July 1, 1992, are not affected by the enactment of the "Uniform Controlled Substances Act of 1992" or the corresponding repeal of provisions in article ~~22~~ 42.5 of title 12, C.R.S., and part 6 of article 5 of this title.

SECTION 61. In Colorado Revised Statutes, 19-3-604, **amend** (2) (e) as follows:

19-3-604. Criteria for termination. (2) In determining unfitness, conduct, or condition for purposes of paragraph (c) of subsection (1) of this section, the court shall find that continuation of the legal relationship between parent and child is likely to result in grave risk of death or serious bodily injury to the child or that the conduct or condition of the parent or parents renders the parent or parents unable or unwilling to give the child reasonable parental care to include, at a minimum, nurturing and safe parenting sufficiently adequate to meet the child's physical, emotional, and mental health needs and conditions. In making such determinations, the court shall consider, but not be limited to, the following:

(e) Excessive use of intoxicating liquors or controlled substances, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., which affects the ability to care and provide for the child;

SECTION 62. In Colorado Revised Statutes, 19-5-105, **amend** (3.1) (a) (V) as follows:

19-5-105. Proceeding to terminate parent-child legal relationship. (3.1) The court may order the termination of the other birth parent's parental rights upon a finding that termination is in the best interests of the child and that there is clear and convincing evidence of one or more of the following:

(a) That the parent is unfit. In considering the fitness of the child's parent, the court shall consider, but shall not be limited to, the following:

(V) Excessive use of intoxicating liquors or use of controlled substances, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., that affects the ability of the individual to care and provide for the child;

SECTION 63. In Colorado Revised Statutes, **amend** 22-1-110 as follows:

22-1-110. Effect of use of alcohol and controlled substances to be taught. The nature of alcoholic drinks and controlled substances, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., and special instruction as to their effects upon the human system in connection with the several divisions of the subject of physiology and hygiene, as to the physical, emotional, psychological, and social dangers of their use with an emphasis upon the nonuse of such substances by school-age children, and as to the illegal aspects of their use shall be included in the branches of study taught to school-age children during grades kindergarten through ~~grade~~ twelve in the public schools of the state. They shall be studied and taught, as thoroughly and in the same manner as other like required branches are taught in said schools, by the use of instructional materials and strategies designated by the board of directors of the respective school districts.

SECTION 64. In Colorado Revised Statutes, **amend** 22-1-119 as follows:

22-1-119. Students - dispensing of drugs to - liability. Any school employee who dispenses any drug, as such term is defined in section ~~12-22-102 (11)~~ 12-42.5-102 (13), C.R.S., to a student in accordance with written instructions from a parent or legal guardian shall not be liable for damages in any civil action or subject to prosecution in any criminal proceedings for an adverse drug reaction suffered by the student as a result of dispensing such drug.

SECTION 65. In Colorado Revised Statutes, 22-33-106, **amend** (1) (d) (I) as follows:

22-33-106. Grounds for suspension, expulsion, and denial of admission. (1) The following shall be grounds for suspension or expulsion

of a child from a public school during a school year:

(d) (I) Serious violations in a school building or in or on school property, which suspension or expulsion shall be mandatory; except that expulsion shall be mandatory for the following violations: Carrying, bringing, using, or possessing a dangerous weapon without the authorization of the school or the school district; the sale of a drug or controlled substance as defined in section ~~12-22-303~~ 18-18-102 (5), C.R.S.; or the commission of an act ~~which~~ THAT, if committed by an adult, would be robbery pursuant to part 3 of article 4 of title 18, C.R.S., or assault pursuant to part 2 of article 3 of title 18, C.R.S., other than the commission of an act that would be third degree assault under section 18-3-204, C.R.S., if committed by an adult.

SECTION 66. In Colorado Revised Statutes, 22-60.5-107, **amend** (2) (c) as follows:

22-60.5-107. Grounds for denying, annulling, suspending, or revoking license, certificate, endorsement, or authorization. (2) Any license, certificate, endorsement, or authorization may be denied, annulled, suspended, or revoked in the manner prescribed in section 22-60.5-108, notwithstanding the provisions of subsection (1) of this section:

(c) When the applicant or holder is found guilty of or upon the court's acceptance of a guilty plea or a plea of nolo contendere to a misdemeanor violation of any law of this state or another state, any municipality of this state or another state, or the United States or any territory subject to the jurisdiction of the United States involving the illegal sale of controlled substances, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.;

SECTION 67. In Colorado Revised Statutes, 22-63-302, **amend** (11) (a) (II) as follows:

22-63-302. Procedure for dismissal - judicial review. (11) (a) The board of a school district may take immediate action to dismiss a teacher, without a hearing, notwithstanding subsections (2) to (10) of this section, pending the final outcome of judicial review or when the time for seeking review has elapsed, when the teacher is convicted, pleads nolo contendere, or receives a deferred sentence for:

(II) A violation of any law of this state, any municipality of this state, or the United States involving the illegal sale of controlled substances, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.

SECTION 68. In Colorado Revised Statutes, 24-1-122, **amend** (3) (r) as follows:

24-1-122. Department of regulatory agencies - creation. (3) The following boards and agencies are transferred by a **type 1** transfer to the department of regulatory agencies and allocated to the division of registrations:

(r) State board of pharmacy, created by part 1 of article ~~22~~ 42.5 of title 12, C.R.S.;

SECTION 69. In Colorado Revised Statutes, 25-1-1202, **amend** (1) (nnn) as follows:

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:

(nnn) Section ~~12-22-707~~ 12-42.5-406, C.R.S., concerning information entered into the prescription drug monitoring program database.

SECTION 70. In Colorado Revised Statutes, 25-1.5-301, **amend** (4) (b) as follows:

25-1.5-301. Definitions. As used in this part 3, unless the context otherwise requires:

(4) "Qualified manager" means a person who:

(b) Has completed training in the administration of medications pursuant to section 25-1.5-303 or is a licensed nurse pursuant to article 38 of title 12, C.R.S., a licensed physician pursuant to article 36 of title 12, C.R.S., or a licensed pharmacist pursuant to article ~~22~~ 42.5 of title 12, C.R.S. Every unlicensed person who is a "qualified manager" within the meaning of this subsection (4) shall, every four years, successfully complete

a test approved by the department pertaining to the administration of medications.

SECTION 71. In Colorado Revised Statutes, 25-1.5-302, **amend** (1) (b) as follows:

25-1.5-302. Administration of medications - powers and duties of department - criminal history record checks. (1) The department has, in addition to all other powers and duties imposed upon it by law, the power and duty to establish and maintain by rule and regulation a program for the administration of medications in facilities, which program shall be developed and conducted by the department of human services and the department of corrections, as provided in this part 3, within the following guidelines:

(b) Any individual who is not otherwise authorized by law to administer medication in a facility shall be allowed to perform such duties only after passing a competency evaluation. An individual who administers medications in facilities in compliance with the provisions of this part 3 shall be exempt from the licensing requirements of the "Colorado Medical Practice Act", the "Nurse Practice Act", and the laws of this state pertaining to possession of controlled substances as contained in ~~part 1 of~~ article ~~22~~ 42.5 of title 12, C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., or the "Uniform Controlled Substances Act of 1992", article 18 of title 18, C.R.S.

SECTION 72. In Colorado Revised Statutes, 25-1.5-303, **amend** (1) as follows:

25-1.5-303. Medication reminder boxes or systems - medication cash fund. (1) Medication reminder boxes or systems may be used if such containers have been filled and properly labeled by a pharmacist licensed pursuant to article ~~22~~ 42.5 of title 12, C.R.S., a nurse licensed pursuant to article 38 of title 12, C.R.S., an unlicensed person trained pursuant to this section, or filled and properly labeled through the gratuitous care by members of one's family or friends. Nothing in this section authorizes or shall be construed to authorize the practice of pharmacy, as defined in section ~~12-22-102 (26)~~ 12-42.5-102 (31), C.R.S. No unlicensed person shall fill and label medication reminder boxes pursuant to this section until such person has completed appropriate training approved by the department, and no facility shall use an unlicensed person to perform such services unless

such facility has a qualified manager to oversee the work of such unlicensed person or persons. Every unlicensed person and qualified manager described in this section shall sign a disclosure statement under penalty of perjury stating that he or she never had a professional license to practice nursing, medicine, or pharmacy revoked in this or any other state for reasons directly related to the administration of medications.

SECTION 73. In Colorado Revised Statutes, 25-35-102, **amend** (3) and (8) as follows:

25-35-102. Definitions. As used in this article, unless the context otherwise requires:

(3) "Dispense" shall have the same meaning as set forth in section ~~12-22-102 (9)~~ 12-42.5-102 (11), C.R.S.

(8) "Pharmacist" means an individual licensed by this state pursuant to ~~the provisions of~~ article ~~22~~ 42.5 of title 12, C.R.S., to engage in the practice of pharmacy.

SECTION 74. In Colorado Revised Statutes, 25-35-103, **amend** (3) (d) as follows:

25-35-103. Cancer drug repository - administration - donation - dispensing - cancer drugs - medical devices. (3) A pharmacist may accept and dispense cancer drugs and medical devices donated under the program to eligible patients if all of the following requirements are met:

(d) The cancer drug or medical device is prescribed by a practitioner, as defined in section ~~12-22-102 (27)~~ 12-42.5-102 (32), C.R.S., for use by an eligible patient and is dispensed by a pharmacist.

SECTION 75. In Colorado Revised Statutes, 25.5-5-322, **amend** (2) (a) as follows:

25.5-5-322. Over-the-counter medications - rules. (2) (a) The state board, in consultation with the state board of pharmacy created pursuant to section ~~12-22-103~~ 12-42.5-103, C.R.S., shall establish by rule standards for when a licensed pharmacist may prescribe over-the-counter medications as provided under this section for purposes of receiving

reimbursement under the medical assistance program.

SECTION 76. In Colorado Revised Statutes, 25.5-5-502, **amend** (2) introductory portion as follows:

25.5-5-502. Unused medications - reuse - rules. (2) A pharmacist participating in the medical assistance program may accept unused medication from a licensed facility, as defined in section ~~12-22-133~~ 12-42.5-133 (1) (a), C.R.S., or a licensed health care provider for the purpose of dispensing the medication to another person. A pharmacist shall reimburse the state department for the cost of medications that the state department has paid to the pharmacist if medications are returned to a pharmacist and the medications are available to be dispensed to another person. Medications shall only be available to be dispensed to another person under this section if the medications are:

SECTION 77. In Colorado Revised Statutes, 26-1-111, **amend** (5) as follows:

26-1-111. Activities of the state department under the supervision of the executive director - cash fund - report - rules - statewide adoption resource registry. (5) The state department, through the unit in the state department that administers behavioral health programs and services, including those related to mental health and substance abuse, shall administer alcohol and drug abuse programs set forth in articles 80, 81, and 82 of title 27, C.R.S. ~~and applicable provisions of article 22 of title 12, C.R.S.~~

SECTION 78. In Colorado Revised Statutes, 26-6-108, **amend** (2) (c) as follows:

26-6-108. Denial of license - suspension - revocation - probation - refusal to renew license - fines. (2) The department may deny an application, or suspend, revoke, or make probationary the license of any facility regulated and licensed under this part 1 or assess a fine against the licensee pursuant to section 26-6-114 should the licensee, an affiliate of the licensee, a person employed by the licensee, or a person who resides with the licensee at the facility:

(c) Use any controlled substance, as defined in section ~~12-22-303 (7)~~

18-18-102 (5), C.R.S., or consume any alcoholic beverage during the operating hours of the facility or be under the influence of a controlled substance or alcoholic beverage during the operating hours of the facility; or

SECTION 79. In Colorado Revised Statutes, 27-82-102, **amend** (7) as follows:

27-82-102. Definitions. As used in this article, unless the context otherwise requires:

(7) "Drug" means a controlled substance as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., and toxic vapors.

SECTION 80. In Colorado Revised Statutes, 31-31-803, **amend** (3) (b) as follows:

31-31-803. Retirement for disability. (3) (b) For the purposes of this subsection (3), the terms "addiction" and "controlled substance" shall have the same meanings as such terms have in part ~~3~~ 2 of article ~~22~~ 80 of title ~~12~~ 27, C.R.S.

SECTION 81. In Colorado Revised Statutes, **amend** 33-6-123 as follows:

33-6-123. Hunting under the influence. It is unlawful for any person who is under the influence of alcohol or any controlled substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or any other drug to a degree ~~which~~ THAT renders such person incapable of safely operating a firearm or bow and arrow to hunt or take any wildlife in this state. The fact that any person charged with a violation of this section is or has been entitled to use such controlled substance or drug under the laws of this state shall not constitute a defense against any charge of violating this section. For the purposes of this section, being under the influence of any drug shall include the use of glue-sniffing, aerosol inhalation, or the inhalation of any other toxic vapor. Any person who violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment, and an assessment of twenty license suspension

points.

SECTION 82. In Colorado Revised Statutes, 33-13-108.1, **amend** (1) (a) (III) and (1) (a) (IV) as follows:

33-13-108.1. Operating a vessel while under the influence. (1) (a) It is a misdemeanor for any person to operate or be in actual physical control of a vessel in this state while:

(III) Under the influence of any controlled substance as defined in section ~~12-22-303~~ 18-18-102 (5), C.R.S., or any other drug that renders the person incapable of safely operating a vessel;

(IV) Under the influence of any combination of alcohol and any controlled substance as defined in section ~~12-22-303~~ 18-18-102 (5), C.R.S., or any other drug, when the combination of alcohol and controlled substance or any other drug renders the person incapable of safely operating a vessel.

SECTION 83. In Colorado Revised Statutes, 33-13-110, **amend** (3) (a) as follows:

33-13-110. Water skis, aquaplanes, surfboards, inner tubes, and similar devices. (3) (a) No person shall operate, manipulate, or ride water skis, an aquaplane, a surfboard, an inner tube, or any similar device while under the influence of alcohol, a controlled substance as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or any other drug, or any combination thereof, which renders ~~him~~ THE PERSON incapable of the safe operation of such device.

SECTION 84. In Colorado Revised Statutes, 33-14-116, **amend** (3) as follows:

33-14-116. Other operating restrictions. (3) No person shall operate a snowmobile while under the influence of alcohol, a controlled substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or any other drug, or any combination thereof, which renders ~~him~~ THE PERSON incapable of the safe operation of a snowmobile.

SECTION 85. In Colorado Revised Statutes, 33-44-109, **amend** (9)

as follows:

33-44-109. Duties of skiers - penalties. (9) No person shall move uphill on any passenger tramway or use any ski slope or trail while such person's ability to do so is impaired by the consumption of alcohol or by the use of any controlled substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or other drug or while such person is under the influence of alcohol or any controlled substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or other drug.

SECTION 86. In Colorado Revised Statutes, 41-2-102, **amend** (1) (b) and (1) (c) as follows:

41-2-102. Operating an aircraft under the influence - operating an aircraft with excessive alcohol content - tests - penalties - useful public service program. (1) (b) It is a misdemeanor for any person who is an habitual user of any controlled substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., to operate any aircraft in this state.

(c) For the purposes of this subsection (1), "one or more drugs" shall mean all substances defined as a drug in section ~~12-22-303 (13)~~ 27-80-203 (13), C.R.S., and all controlled substances, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.

SECTION 87. In Colorado Revised Statutes, 42-2-104, **amend** (2) (c) as follows:

42-2-104. Licenses issued - denied. (2) Except as otherwise provided in this article, a person shall not be licensed by the department to operate any motor vehicle in this state:

(c) Who has been adjudged or determined by a court of competent jurisdiction to be an habitual drunkard or addicted to the use of a controlled substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S.

SECTION 88. In Colorado Revised Statutes, 42-2-125, **amend** (1) (b) as follows:

42-2-125. Mandatory revocation of license and permit. (1) The department shall immediately revoke the license or permit of any driver or

minor driver upon receiving a record showing that such driver has:

(b) Been convicted of driving a motor vehicle while under the influence of a controlled substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or while an habitual user of such a controlled substance;

SECTION 89. In Colorado Revised Statutes, 42-4-110, **amend** (1) (d) as follows:

42-4-110. Provisions uniform throughout state. (1) The provisions of this article shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein. Cities and counties, incorporated cities and towns, and counties shall regulate and enforce all traffic and parking restrictions on streets which are state highways as provided in section 43-2-135 (1) (g), C.R.S., and all local authorities may enact and enforce traffic regulations on other roads and streets within their respective jurisdictions. All such regulations shall be subject to the following conditions and limitations:

(d) In no event shall local authorities have the power to enact by ordinance regulations governing the driving of vehicles by persons under the influence of alcohol or of a controlled substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or under the influence of any other drug to a degree ~~which~~ THAT renders any such person incapable of safely operating a vehicle, or whose ability to operate a vehicle is impaired by the consumption of alcohol or by the use of a controlled substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or any other drug, the registration of vehicles and the licensing of drivers, the duties and obligations of persons involved in traffic accidents, and vehicle equipment requirements in conflict with the provisions of this article; but said local authorities within their respective jurisdictions shall enforce the state laws pertaining to these subjects, and in every charge of violation the complaint shall specify the section of state law under which the charge is made and the state court having jurisdiction.

SECTION 90. In Colorado Revised Statutes, 42-4-805, **amend** (3) as follows:

42-4-805. Pedestrians walking or traveling in a wheelchair on

highways. (3) It is unlawful for any person who is under the influence of alcohol or of any controlled substance, as defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., or of any stupefying drug to walk or be upon that portion of any highway normally used by moving motor vehicle traffic.

SECTION 91. In Colorado Revised Statutes, 42-4-1301, **amend** (1) (c) and (1) (d) as follows:

42-4-1301. Driving under the influence - driving while impaired - driving with excessive alcoholic content - definitions - penalties. (1) (c) It is a misdemeanor for any person who is an habitual user of any controlled substance defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., to drive a motor vehicle, vehicle, or low-power scooter in this state.

(d) For the purposes of this subsection (1), one or more drugs shall mean all substances defined as a drug in section ~~12-22-303 (13)~~ 27-80-203 (13), C.R.S., and all controlled substances defined in section ~~12-22-303 (7)~~ 18-18-102 (5), C.R.S., and glue-sniffing, aerosol inhalation, and the inhalation of any other toxic vapor or vapors.

SECTION 92. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of registrations cash fund created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for the fiscal year beginning July 1, 2012, the sum of $225,108 and 1.0 FTE, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

(a) $181,055 and 1.0 FTE for personal services;

(b) $6,110 for operating expenses;

(c) $8,251 for travel;

(d) $6,600 for board expenses; and

(e) $23,092 for the purchase of legal services.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1,

2012, the sum of $23,092, or so much thereof as may be necessary, for the provision of legal services for the department of regulatory agencies related to the implementation of this act. Said sum is from reappropriated funds received from the department of regulatory agencies out of the appropriation made in paragraph (e) of subsection (1) of this section.

SECTION 93. Effective date. This act takes effect July 1, 2012.

SECTION 94. 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.

Frank McNulty SPEAKER OF THE HOUSE OF REPRESENTATIVES	Brandon C. Shaffer PRESIDENT OF THE SENATE
Marilyn Eddins CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES	Cindi L. Markwell SECRETARY OF THE SENATE

APPROVED_____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO