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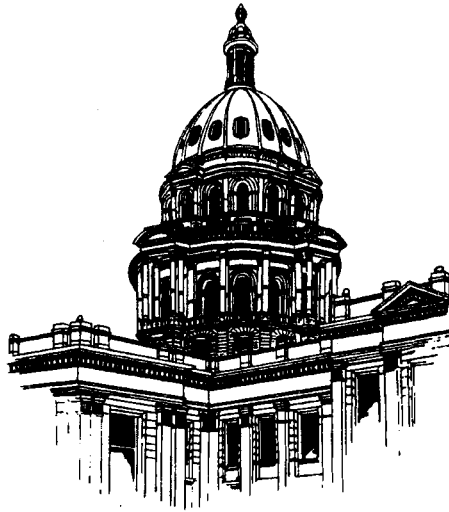
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Joint Legislative

Sunrise and Sunset

Review Committee

Report to the
COLORADO
GENERAL ASSEMBLY

Colorado Legislative Council
Research Publication No. 405
October 1995

RECOMMENDATIONS FOR 1996

**JOINT LEGISLATIVE
SUNRISE AND SUNSET
REVIEW COMMITTEE**

**Report to the
Colorado General Assembly**

**Research Publication No. 405
January 1996**

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LEGISLATIVE COUNCIL

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January 15, 1996

To Members of the Sixtieth General Assembly:

Submitted herewith is the final report of the Joint Legislative Sunrise and Sunset Review Committee. This committee is a statutory committee established under Section 2-3-1202, et seq., C.R.S.

At its meetings on October 17, November 15, and December 19, 1995, the Legislative Council approved a total of the twenty bills submitted by the committee.

Respectfully submitted,

/s/ Senator Tom Norton
Chairman
Legislative Council

TN/ed

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JOINT LEGISLATIVE SUNRISE AND SUNSET REVIEW COMMITTEE

Members of the Committee

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Senator Gigi Dennis
Senator Bob Martinez

Representative Mike Salaz,
Vice Chairman

Representative Penn Pfiffner
Representative Alice Nichol

Legislative Council Staff

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Senior Staff Attorney

Jane Brown
Staff Attorney

Mark Hamby
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JOINT LEGISLATIVE SUNRISE AND SUNSET REVIEW COMMITTEE

Statutory Authority and Responsibility

The Joint Legislative Sunrise and Sunset Review Committee was established in 1985 to perform the functions and duties relating to the termination of specified commissions, divisions, agencies, and citizens' advisory committees (sunset) and to consider proposals for the regulation of occupations and professions not presently regulated (sunrise) (Section 2-3-1202, et seq., C.R.S., and Rule 35 of the Joint Rules of the Senate and House of Representatives). In addition, the Department of Regulatory Agencies (DORA) is required to analyze and evaluate those professions seeking state regulation and the performance of each division, board, agency or function of an agency that is scheduled for termination (Section 24-34-104, et seq., C.R.S.).

During the 1995 interim, the committee held fourteen days of meetings and reviewed findings and recommendations prepared by the Office of Policy and Research in DORA. Concerned citizens, interest groups, and representatives of regulatory entities and advisory committees testified before the committee. The committee conducted twenty sunset reviews of existing state agency regulatory functions or agencies, six sunrise reviews of applications for state occupational regulation, and seven advisory committee reviews.

As a result of its hearings, the Sunrise Sunset Committee recommended twenty bills to the Legislative Council for introduction at the 1996 session of the Colorado General Assembly. At its meeting of October 17, 1995, the Legislative Council approved Sunrise Sunset bills relating to the regulation of pesticide applicators, the licensing of agricultural nurseries, and the Division of Gaming. At its meeting of November 15, 1995, the Legislative Council approved an additional thirteen bills that were recommended by the Sunrise Sunset Review Committee. At this November 15 meeting, four of the Sunrise Sunset bills were not accepted by the Legislative Council and were returned to the Sunrise Sunset Committee for further consideration of the proposed titles of the bills. The four were bills concerning the State Board of Pharmacy, the State Board of Dental Examiners, the Board of Real Estate Appraisers, and the bill addressing licensing related to fireworks. At its meeting of December 19, 1995, the Legislative Council approved these final four Sunrise Sunset Committee bills for introduction.

Interim committees of the General Assembly, such as the Joint Legislative Sunrise and Sunset Review Committee, are limited under the current rules to introduction of two bills per member. Under these rules the committee is permitted to introduce only twelve bills as "committee bills." Because the committee exceeds this twelve bill limitation by eight bills due to its statutory requirements to conduct sunrise

and sunset reviews, the committee intends that eight of its twenty recommended bills be introduced at the coming session as “delayed bills.”

A. Sunset Reviews of Existing Regulatory Programs — Regulatory Functions

During their sunset analysis of each agency or regulatory function, the committee and DORA are required by statute to consider several factors regarding the need for reviewing the entity. The factors are:

1. Whether regulation by the agency is necessary to protect the public health, safety, and welfare.
2. Whether the conditions that led to the initial regulation have changed.
3. Whether other conditions have arisen that would warrant more, less, or the same degree of regulation.
4. If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms.
5. Whether agency rules enhance the public interest and are within the scope of legislative intent.
6. Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters.
7. Whether an analysis of agency operations indicates that the agency is performing its statutory duties efficiently and effectively.
8. Whether the composition of the agency's board or commission adequately represents the public interest.
9. Whether the agency encourages public participation in its decisions rather than participation only by the people it regulates.
10. The economic impact of regulation and whether the agency stimulates or restricts competition.
11. Whether complaint, investigation, and disciplinary procedures adequately protect the public and whether disposition of complaints are in the public interest or self-serving to the profession.
12. Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action.

13. Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest (Section 24-34-104 (9) (b), C.R.S.).

DORA prepares a report of its findings and distributes the report to the Joint Legislative Sunrise and Sunset Review Committee no later than July 1 of the year prior to the entity's termination date. The report provides the basis for discussion in public hearings that the Sunrise Sunset Committee conducts during the legislative interim. The committee conducted sunset reviews of five state boards and fifteen other regulatory programs during the 1995 interim. (Seven sunset reviews of advisory committees were also conducted and are discussed later in this report.) The boards and programs reviewed were:

State Boards

Board of Dental Examiners
Board of Pharmacy
Plant Operator's Certification Board
Board of Real Estate Appraisers
Coal Mine Board

Regulatory Programs

Pesticide Applicators
Agricultural Nurseries
Division of Gaming
Colorado Joint Review Process
Vessel Registration Program
Snowmobile Registration Program
Civil Rights Division Subpoena Power
Licensing of Professional Bonding Agents
Permitting for Weather Modification
Licensing of Underground Storage Tank Installers
Functions of the Worker's Compensation Medical Care Accreditation
Commission
Licensing Functions Related to Fireworks
Registration of Direct-Entry Midwives
Certification and Training of Persons who Service or Dispose of Ozone
Depleting Compounds
Drug Precursors

SUMMARY OF COMMITTEE ACTIVITIES AND RECOMMENDATIONS

Bill A — Regulation of Pesticide Applications

Summary. Bill A continues the authority of the Commissioner of Agriculture to license commercial applicators of pesticides, qualified supervisors, and certified operators until July 1, 2001. The bill:

- authorizes any limited commercial applicator to apply pesticides on property leased by such person or such person's employer in addition to property owned by such person or the person's employer;
- authorizes licensed pesticide applicators to load general-use pesticides under the supervision of a qualified supervisor;
- authorizes licensed pesticide applicators to mix or load restricted-use pesticides under the supervision of a qualified supervisor;
- authorizes licensed pesticide applicators to apply restricted-use pesticides under the on-site supervision of a qualified supervisor;
- eliminates the administrative fee that is required to place a pesticide-sensitive person on the registry maintained by the Department of Agriculture;
- clarifies that any home-rule county, home-rule city and county, or home-rule municipality is included in statutory provisions governing imposition of additional notification requirements for pesticide applicators;
- requires that any notice of application sign required to be posted when a pesticide is applied by a commercial or limited commercial applicator include the following information in addition to other required information if the pesticide is applied on commercial property and the owner of the commercial property does not reside at the site:
 - the telephone number of the applicator;
 - the name of the pesticide applied; and
 - the date the pesticide was applied.
- in addition to existing penalties, authorizes the Commissioner of Agriculture to discipline pesticide applicator license holders through probation or other discipline imposed through stipulation and through license restriction;

- authorizes the Commissioner of Agriculture to establish an examination grading fee for qualified supervisor and certified operator license examinations;
- requires that a hearing regarding a violation be held within a reasonable period rather than immediately;
- directs that final disciplinary actions be appealed to the court of appeals rather than the district court;
- authorizes any court of competent jurisdiction to impose civil fines under the Pesticide Applicator's Act; and
- increases the maximum penalty for any violation under the act from one thousand dollars to five thousand dollars.

Background. In its sunset review of the Pesticide Applicator's Act, DORA recommended continuation of the regulation of pesticide applicators due to the potential for adverse health effects on the public resulting from improperly applied hazardous and toxic pesticides. DORA suggested merger of the Pesticide Act and the Pesticide Applicator's Act; statutory changes intended to provide the public with greater notification of pesticide applications; and increased enforcement authority for the Department of Agriculture. The DORA recommendations also included technical changes to the statutes to clarify and conform the law to current practice of the Department of Agriculture. (DORA sunrise and sunset reports are on file at the Legislative Council Library.)

Colorado law presently requires all commercial applicators to have training and all qualified supervisors and certified operators to be licensed. Turf, ornamental, and aquatic applicators are required to post a notification sign stating that pesticides have been applied and stating the name of the pesticide. Under the current law, counties, cities and counties, and municipalities are preempted from imposing more stringent notification procedures than required by the state on commercial applicators but retain the authority to impose any additional notification requirements upon private individuals, property owners, or the public. Also established in the law is a registry for pesticide sensitive persons that is maintained by the Department of Agriculture. To be placed on the registry, a person must have a doctor's verification of pesticide sensitivity and pay an administrative fee.

The Sunrise Sunset Committee heard testimony from the Environmental Protection Agency and the Colorado Department of Agriculture. Interested citizens testified concerning the impact of pesticides on neighboring properties and persons with chemical sensitivities. The Colorado Farm Bureau, the Rocky Mountain Plant Food and Agricultural Chemicals Association, the Colorado Environmental Coalition, and commercial applicators stated their support for the program.

The following motions for provisions of a bill concerning the Pesticide Applicator's Act were adopted at the Sunrise Sunset Committee meeting of Thursday, July 27, 1995. (The motions were to adopt recommendations made by DORA in its sunset review of the Pesticide Applicator's Act.)

- DORA Recommendation 1 — continue the licensing program for commercial pesticide applicators and the registration program for limited commercial and public applicators;
- DORA Recommendation 4 — eliminate the fee provision for the Pesticide Registry and better promote the registry;
- DORA Recommendation 5 — retain the current preemption language;
- DORA Recommendation 6 — require that when the owners do not reside on their commercial property, the applicator shall post notification flags that also include the applicator's telephone number, the chemical applied, and the date of the application;
- DORA Recommendation 7 — add the terms "mixing and loading" to the definition of technician;
- DORA Recommendation 8 — add the term "lease" to limited commercial applicator liability;
- DORA Recommendation 9 — include home-rule county, city, or city and county in notification requirements;
- DORA Recommendation 10 — remove obsolete language for certified operator license requirements;
- DORA Recommendation 11 — expand the commissioner's ability to restrict or place licensees on probation;
- DORA Recommendation 13 — change "immediate" under Section 35-10-120 C.R.S., to "within a reasonable time period";
- DORA Recommendation 14 — increase civil penalties to \$5,000 for those who violate any provision of the act;
- DORA Recommendation 16 — require administrative examination and grading fees;
- DORA Recommendation 18 — require disciplinary actions to be appealed directly to the Colorado Court of Appeals; and

- DORA Recommendation 19 — allow civil penalties to be determined by the Commissioner of Agriculture “or a court of competent jurisdiction.”

The following motions concerning the Pesticide Applicator’s Act were adopted at the Sunrise Sunset Committee meeting of September 19, 1995:

- that the sunset date on the pesticide applicator’s bill be changed to July 1, 2001;
- that fees to cover the cost of examinations not exceed the actual costs of administration of the examinations;
- that the words “at his OR HER discretion” on page 6, line 13 of the draft bill be stricken;
- that fee language be removed from the bill;
- that a prepared amendment to the draft bill, LLS0040.002 proposed by DORA, amending page 3, line 3 of the bill be adopted. (The amendment concerned notification of pesticide applications to be given to property owners adjacent to the property on which pesticides will be applied.);
- that the words “OR THE OWNER’S AGENT” be added to page 4, line 16 of the bill following the word “SITE” and that language concerning the owner of property being “present” rather than “residing” be included in the draft bill. (This amendment facilitates notification of property owners by commercial applicators.);
- that language be included in the draft bill precluding local governments from promulgating standards more stringent than state standards for the application of pesticides;
- that the sunset date of July 1, 2001, be included in the title of the bill; and
- that the draft bill concerning the Pesticide Applicator’s Act be recommended to the Legislative Council.

Bill B — Colorado Nursery Act

Summary. Bill B continues until July 1, 2001, the issuance of registrations relating to nurseries through the Commissioner of Agriculture. At the September 19, 1995, meeting, a motion passed exempting in-state nurseries from inspection but not exempting them from registration. The motion also provided nurseries the opportunity

to request an inspection and pay for it. (At the first hearing on this issue on September 1, 1995, a motion was passed to change the inspection requirement for premises on which nursery stock is sold from once each year to twice each year.)

Background. The current nursery registration program consists of registration of all persons who sell nursery stock; annual inspections of nurseries, nursery dealers and turfgrass sod farms; and the issuance of inspection certificates. In their sunset review of the Colorado Nursery Act, DORA recommended continuation of the program to protect the public and ensure that nursery stock is free of disease and insect infestation.

The committee received testimony in support of the program from representatives of the American Society of Landscape Architects, Colorado nurseries, the Colorado Division of Plant Industries, and the Colorado Nursery Association. A representative of the Colorado State Forest Service testified in regard to the importance of inspections in protecting Colorado forests from defoliation by gypsy moths.

Bill C — Limited Gaming Regulation

Summary. Bill C continues until July 1, 2001, the authority of the Department of Revenue to regulate limited gaming through the Division of Gaming. The bill also:

- changes the license renewal requirement from an annual renewal requirement to a biennial renewal requirement for support and key license holders;
- removes the requirement that persons licensed to be employees where gaming is conducted register with the local sheriff;
- removes the requirement that a person holding a retail gaming license also obtain an operator license;
- directs the commission to promulgate rules specifying how and when the movement of slot machines must be reported, and repeals the statutory provisions specifying how reporting must be done; and
- modifies the requirement that the Director of the Division of Gaming not hold outside employment to instead require that the director not hold outside employment that might create a conflict of interest.

Background. In its sunset review of the Division of Gaming, DORA recommended continuation of the regulation of limited gaming through the Division of Gaming due to the potential for economic harm to the public of an unregulated or loosely regulated limited gaming industry. Fifty-eight casinos are operating in Colorado with a total of 5,900 employees. The Division of Gaming investigates the background

of all gaming license applicants and conducts revenue audits of casinos to ensure compliance with procedures for handling money. The division is cash-funded through the gaming tax, application and license fees, and fines.

The following motions were adopted at the August 31, 1995, meeting relating to the Division of Gaming:

- DORA Recommendation 1 — continue the regulation of limited gaming by the Division of Gaming;
- DORA Recommendation 2 — change the license renewal cycle for support and key employees from annual to every two years and allow the commission flexibility in setting the renewal period (“up to 120 days”) for support and key licenses. (Currently, applications for renewal must be filed with the commission no later than 120 days prior to expiration of the current license. Also, the motion included encouragement for the division to reduce license fees accordingly.);
- DORA Recommendation 3 — amend Section 12-47.1-604 (1), C.R.S., to clarify when tax returns or reports are due. (The existing language is confusing as to when a tax return or report is considered late in remittance to the division.);
- DORA Recommendation 4 — amend statute to allow the commission to set, by rule, the time and manner by which casinos must report the movement of slot machines. (The existing language has created unnecessary paperwork on the part of licensees and the division.);
- DORA Recommendation 5 — amend statute to exempt retail gaming licensees from also having to obtain an operator license. (This is an unnecessary duplication and expense to retail licensees, as the qualifications for obtaining an operator license are no more stringent than qualifying for a retail license.);
- DORA Recommendation 6 — amend statute to allow the Director of the Division of Gaming to pursue part-time professions that do not conflict with his or her duties as director; and
- strike Section 12-47.1-502, C.R.S., requiring the registration of employees with local sheriffs.

The following motions relating to the Division of Gaming were adopted at the committee’s September 19, 1995, meeting:

- that a sunset date of July 1, 2001, for the Division of Gaming, be put in the bill;

- that the commission be permitted to promulgate rules setting the time and manner for the renewal of gaming licenses. (This motion duplicated a portion of the motion adopted at the committee meeting of August 31, 1995, DORA Recommendation 2.); and
- that the draft bill concerning the Division of Gaming be recommended to the Legislative Council.

Bill D — Bail Bond Agents

Summary. Bill D continues the licensure of bail bonding agents, removes all provisions that concern the regulation of bail bonding agents from the statutes for professions and occupations and relocates the following provisions to the insurance statutes:

- prelicensure education requirements for insurance producers qualified to sell bail bonds (Eight clock hours of prelicensure education are required.);
- a requirement that cash bail bonding agents post a qualification bond of not less than \$50,000;
- requirements concerning cash bail bonding agents (Cash bonding agents are permitted to continue practicing until voluntarily leaving the business; cash bondsmen are required to pay a tax on fees.);
- notice requirements of the Division of Insurance concerning insurance producers qualified to sell bail bonds;
- bonding agreement requirements (Bonding agreements must be in writing and understood by the principal; receipts must be given for collateral; and bail bond producers must not charge more than fifteen percent of the amount of bail furnished or twenty dollars, whichever is greater.);
- a provision authorizing the division to request certain information from insurance producers qualified to sell bail bonds. (Bail bond producers must provide lists of collateral taken to the surety and must provide other information requested by the division. A requirement for the submission of fingerprints in applications for bail bond licenses is eliminated.);
- provisions for disciplinary action that may be taken against a bail bond producer's license. (Failing to comply with court orders relating to the issuance or forfeiture of a bail bond or the return of collateral; acting as a bail bond producer when in default in securing any person's bail bond; failing to post bail bonds, refund moneys or return collateral in a timely

fashion; soliciting business where prisoners are confined, arraigned or in custody; inducing a person to commit a crime; suggesting the use of particular attorneys.)

The bill eliminates the requirement for bail bondsmen to obtain two licenses; only an insurance license must be obtained. The bill also eliminates continuing education requirements and establishes requirements for the return and preservation of collateral.

Background. In its sunset review of the regulation of Colorado bail bonding agents by the Colorado Division of Insurance, DORA recommended continuation of regulatory authority for the division. DORA also made recommendations intended to improve the administration of the bail bonding agent's law.

The Sunrise Sunset Committee heard testimony from a representative of the Division of Insurance who testified in regard to the economic and emotional costs associated with the loss of collateral and the need for state regulation to remove unscrupulous agents from the industry. A representative from the insurance industry offered support for the concept of having a single license as an insurance agent to be obtained by bail bonding agents, and elimination of the requirement for a separate bail bond license. The committee heard testimony in regard to citizen complaints received by the division. A representative of the Independent Bail Bond Agents expressed opposition to the expansion of regulation of bonding agents and said that the existing system adequately protects the public. A representative of the Professional Bail Bonding Agents Association suggested that background checks in the licensure process be streamlined.

Bill E — Pharmacists Regulation

Summary. Bill E continues the authority of the State Board of Pharmacy to regulate pharmacists. The bill:

- changes the composition of the board from five pharmacists and two non-pharmacists to four pharmacists and four non-pharmacists;
- modifies the requirements for membership on the board by removing the requirement that members be appointed based upon the Congressional districts in the state, and requires instead that appointments provide adequate urban and rural representation and a balance among the various types of practice by pharmacists;
- requires self-insured pharmacists and pharmacies to report malpractice claims that are settled or adjudicated against the insured in the same manner as do insurance companies;

- clarifies language to show that all pharmacists are “licensed” and all outlets are “registered”;
- specifies that all persons seeking licensure, whether by examination, endorsement, or reinstatement, must take a jurisprudence examination;
- repeals the provisions that create classes of pharmacists;
- increases the number of outlets over which a pharmacy manager may be in direct charge from a total of two to a total of four;
- empowers the board to approve the types of facilities that may receive emergency kits containing prescription drugs;
- repeals the requirements that a person must obtain a special permit to dispose of any stock of drugs or devices;
- modifies the requirements for substituting generic drugs for prescribed drugs by:
 - (1) repealing the prohibition on substitution unless the substitute costs less;
 - (2) repealing the prohibition on substituting for a higher-priced alternative drug without the patient’s permission when the lower priced drug is not in stock; and
 - (3) requiring the pharmacist to disclose the costs of the prescribed drug and the substitute drug to the patient orally and in writing;
- empowers the board to send confidential letters of concern to a licensee who has been the subject of an investigation because of conduct that the board feels does not rise to the level of being actionable but which could become actionable if continued; and
- repeals the Peer Assistance Program for pharmacists.

Background. In its sunset review, DORA recommended continuing the regulatory authority of the State Board of Pharmacy and made numerous recommendations for changes to the statutes. DORA recommendations included a recommendation to change the requirements for membership on the Board of Pharmacy; consistency in the use of the terms “licensed” and “registered” in the Pharmacy Practice Act; and consolidation of the four classes of pharmacist licenses into a single class. DORA also recommended that the General Assembly implement a system for the centralized collection of data on the distribution of controlled substances; that the General Assembly provide guidance to the Board of Pharmacy in giving the “jurisprudence exam” to applicants for licensure; that self-insured pharmacies as well as pharmacies covered through insurance companies be required to report malpractice

claims to the board; that the board be given the authority to determine which health care facilities are eligible for the placement of emergency kits including prescription drugs; that the board be given the authority to approve computerized examinations; and that the investigative subpoena powers of the board be formalized.

Further recommendations included elimination of the permitting requirements for the destruction of prescription drugs; the addition of "letters of concern" to the potential disciplinary actions that may be taken by the board; maintenance of the current option of applying directly to the board for licensure by endorsement; changing the language in the Peer Assistance Program to be consistent with similar programs in other health related occupational licensing programs; adoption of a definition for satellite distribution points in a health facility permitting multiple areas for the storage and distribution of drugs; the electronic transmission of prescriptions for controlled substances in some cases; and elimination of the requirement for the printing of a daily hardcopy of the transactions of a pharmacy.

The Sunrise Sunset Review Committee heard testimony from the Program Administrator for the State Board of Pharmacy. He testified that Colorado is one of the strictest states in the nation in regard to disciplinary actions against pharmacists. The President of the Board of Pharmacy commented on the number of pharmacies that a pharmacist can effectively manage; the composition of the Board of Pharmacy; the reporting of malpractice settlements to the Board; computer adapted testing; the licensure of pharmacists by endorsement; the faxing of prescriptions; and state regulation of working environments of pharmacists.

A representative of the Colorado Pharmacy Association supported DORA's recommendations with some exceptions. A representative of the Colorado Society of Hospital Pharmacists stated his support for the continuation of licensure by the board and expressed concern with the DORA recommendation concerning a centralized data collection system. He also commented on licensure by endorsement and offered support for a requirement for a jurisprudence exam for all applicants for licensure.

A representative of the University of Colorado School of Pharmacy supported the continuation of licensure and regulatory powers of the board. A representative of the Colorado Area Health Education Center supported continuation of the board and commented on the composition of the board and the Model Pharmacy Practice Act. Representatives of the Colorado Medical Society and the Colorado Academy of Family Practitioners expressed concern with portions of the Model Pharmacy Practice Act that would give pharmacists a form of prescriptive authority.

A representative of the Colorado Hospital Association commented on the practice of "therapeutic interchange" of drugs (drugs that are therapeutically equivalent but have a differing chemical makeup) and stated support for "casual sales," allowing pharmacies in proximity to sell drugs to each other to permit the more timely delivery of drugs to patients. Pharmacists expressed concern with the mail order prescription business for drugs. A representative of the Colorado Retail Council offered support for the continuation of the practice act and of pharmacy regulation, commented on the

supervisory ratio of pharmacists to technicians, and commented on the composition of the board.

The following motions for provisions of a bill addressing the Board of Pharmacy were adopted by the Sunrise Sunset Committee at three separate hearings in the 1995 interim. (Many of the motions were to adopt recommendations made by DORA.)

August 17, 1995, Motions

- change the composition of the Board of Pharmacy, eliminating the requirement that one member be appointed from each Congressional district, balancing the board by type of practice, geographic and urban/rural balance;
- correct the inconsistent use of the terms “registered” and “licensed” in the act, i.e., that references to “registered” be replaced with “licensed”;
- DORA Recommendation 4 — consolidate the four classes of pharmacist licensees. (The act currently identifies four classes of licensed pharmacists, who pay the same fees and have the same scope of practice. They differ only in the method of obtaining their license or in the length of licensure. The differentiation serves no purpose.);
- DORA Recommendation 6 — require jurisprudence examinations of all persons seeking licensure by endorsement or reinstatement of an expired license. (This motion provides guidance to the board on the issue of out-of-practice and jurisprudence examinations.);
- DORA Recommendation 7 — (with a modification) require that self-insured pharmacists and pharmacies using surety companies report all malpractice settlements or judgements to the board. (The intent is to provide the board with information about practices which violate the law or board regulations. The motion clarifies that self-insured pharmacies also have to report claims. Currently, the board has required this in regulation.);
- DORA Recommendation 8 — delegate to the board the responsibility for identification of health care facilities eligible for the placement of emergency kits. (The act currently limits the kind of facility in which these kits can be placed. The board should have the ability to decide this in regulation. As health care changes, new types of health care facilities are being developed.);
- DORA Recommendation 9 — change the licensure by examination requirement from a written examination to a board approved examination with the exception that oral exams would not be permitted. (This motion

would speed up the examination process by permitting the use of a computerized examination.);

- DORA Recommendation 11 — eliminate a provision in the law requiring permits for the destruction of outdated or contaminated drugs. (This provision was intended as a method to monitor the disposition of drugs when they expire or become contaminated. As a practical matter, these drugs are returned to the distributor or manufacturer. The board has not issued one of these permits in many years.);
- DORA Recommendation 12 — empowering the board to write confidential “letters of concern” as a disciplinary option. (The board may issue these letters in situations where an investigation reveals practices that are not violations of statute or regulations, but could lead to violations.);
- repeal of the Pharmacy PEER Assistance Program;
- DORA Recommendation 15 — adopt a definition for a “satellite distribution point.” (Large hospitals have many areas for the storage and distribution of drugs. Under the current act, regulation of these points of distribution is burdensome. The definition will allow more efficient regulation.);
- adopt the following language offered by the Colorado Hospital Association (with some alterations) amending Section 12-22-121, C.R.S., permitting casual sales and small loans of prescription drugs among registered prescription drug outlets subject to replacement: “Any registered prescription drug outlet, OR LICENSED HOSPITAL OTHER OUTLET, may make a casual sale of or may give OR LOAN SUBJECT TO REPLACEMENT a drug to another registered prescription drug outlet or to a wholesaler of drugs, or it may sell or give a drug to a practitioner authorized by law to prescribe the same....”;
- DORA Administrative Recommendation 2 — that the board should eliminate the requirement for a daily printout of computer reports from pharmacies. (More efficient techniques can be used to back up and store records, such as offsite data transmissions.);
- amend Section 12-22-119, C.R.S., to permit pharmacists to supervise as many as four prescription drug outlets (PDOs);
- amend Section 12-22-124, C.R.S., concerning authorization of substitution of prescribed drugs; strike sections (4) and (5); and add the language “along with the original prescription and cost” to (3), to address the cost of the substituted drug; and

- request a draft bill be prepared containing the provisions listed above and that the title of the bill be written tightly to reflect these changes.

September 19, 1995, Motions

- change the sunset review date in the draft bill to July 1, 2003;
- change the composition of the Board of Pharmacy to three pharmacists and three non-pharmacists (See later motion on October 12.);
- insert the words "OR RESIDENCE" on page 13, lines 7 and 19 of the draft bill;
- amend page 6, lines 6 and 8 of the draft bill, striking the word "such" and inserting the words "relating to each malpractice claim" on line 6 and striking the words "Claims reports and information" and replacing them with "Information relating to each malpractice claim" on line 8. This section of the bill relates to the reporting of malpractice claims.

October 12, 1995, Motions

- include a provision in the bill to change the composition of the board to four pharmacists and four non-pharmacists;
- include Title #1 from a list of potential titles prepared by the Office of Legislative Legal Services in the bill;
- replace the word "proprietor" on page 11, lines 12 and 13 of the bill with the word "owner";
- recommend the draft bill, as amended, to the Legislative Council.

Bill F — Real Estate Appraiser Regulation

Summary. Bill F extends the regulatory authority of the Board of Real Estate Appraisers until July 1, 2002, and makes the following changes to the laws regulating real estate appraisers, effective July 1, 1996:

- makes the registration, licensing, and certification of real estate appraisers voluntary as opposed to mandatory, except for appraiser employees of county assessors;

- replaces “estimate” of the value of real estate with “opinion” in the definition of “appraisal” and “real estate appraiser”;
- decreases the number of licensed or certified appraisers on the Board of Real Estate Appraisers (“the board”) by one, and increases the number of public members on the board by one, maintaining the current total of seven members;
- clarifies that the board’s powers apply to registered appraisers as well as to licensed and certified appraisers;
- decreases the amount of experience required for residential appraisers to be licensed from two years to one year;
- deletes the requirement that county assessors must be registered, licensed, or certified appraisers, but retains the registration, licensing, or certification requirement of appraiser employees of county assessors;
- eliminates the requirement that tests must be taken in continuing education courses for appraisers;
- removes the condition that an appraiser license or certification issued by another state will be recognized temporarily only if the property appraised is part of a federally related transaction as defined by federal law;
- replaces language authorizing the board to determine if an applicant for registration, licensure, or certification has good moral character with language authorizing the board to consider whether the applicant has been convicted of a crime involving moral turpitude;
- changes the board’s issuance of letters of admonition to registered, licensed, or certified appraisers from a formal disciplinary proceeding to an informal mechanism to address misconduct that does not warrant formal action;
- makes it a class three misdemeanor to make an appraisal on a contingency fee basis;
- eliminates the requirement that any savings a financial institution incurs by using an inside appraiser must be passed on to the consumer; and
- repeals obsolete provisions.

In its sunset review of the Board of Real Estate Appraisers, DORA recommended that the General Assembly continue the regulation of real estate

appraisers by the Board of Real Estate Appraisers, that changes be made to statutes to improve the regulatory program, and that definitions be amended.

DORA recommended:

- updating the definitions of “appraisal,” “appraiser,” and “evaluation”;
- giving the board authority to set by rule the qualifications for appraiser’s license and certification;
- removing unenforceable language from the statute and making technical changes to the statutes;
- deleting the requirement that the board determine if applicants are of “good moral character”;
- removing the issuance of letters of admonition as a formal disciplinary mechanism;
- changing the class of “registered appraiser” to “apprentice”;
- amending the qualifying criteria for a temporary practice permit; and
- deleting requirements that elected or appointed assessors be licensed or certified appraisers.

Colorado currently has mandatory licensing and certification of appraisers. In regard to making Colorado a voluntary licensure state, DORA noted that “having a dual scheme where some appraisers would be state-regulated and others would not be could cause confusion in the appraisers industry, the real estate market, financial institutions, and with consumers.” Thirty-two states currently have voluntary licensure. DORA held that the minimum education and experience requirements and the uniform standard of practice in the law serve the public well.

The program is administered by the board which is located within the Division of Real Estate in DORA. The board is cash funded and has seven members. The board promulgates rules, charges fees for applications, examines applicants, and issues licenses and certifications. The board also has disciplinary authority and investigatory and subpoena powers.

Colorado has four classes of real estate appraisers with varying qualification requirements: registered appraiser, licensed appraiser, certified residential appraiser and certified general appraiser. Licensees, certified appraisers, and registrants must renew every three years. The statutes permit the licensure of out-of-state appraisers by endorsement. Colorado has 3,374 registered, licensed, or certified appraisers.

The federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) sets forth minimum requirements for real estate appraisals and appraisers. This federal law requires that states establish licensing and certification programs at least as stringent as required by FIRREA for all federally related real estate transactions. Eighty percent of all real estate transactions in Colorado are "federally related." FIRREA exempts the use of a state certified or licensed appraiser for real estate transactions under \$250,000, "the federal de minimis exemption." FIRREA requires appraisers to take continuing education classes. (Colorado requires testing on these classes.)

At its sunset hearing on July 27, 1995, the Sunrise Sunset Review Committee heard testimony from a representative of the Board of Real Estate Appraisers. This spokesperson commented on potential problems with the use of unlicensed appraisers, disciplinary actions of the board, continuing education requirements, and the consumer protection role of the board, and supported the current mandatory licensure scheme. A representative of the Colorado Real Estate Appraisers Certification Steering Committee expressed support for most of the DORA recommendations. A representative of the Colorado Assessor's Association offered support for the existing licensing program. Appraisers testified in support of licensure, updating definitions, and continuing education for appraisers.

The committee adopted the following motions:

- continue the Board of Real Estate Appraisers as it existed on July 1, 1995;
- licensing shall be voluntary for private appraisers and mandatory for assessor's staffs;
- the Board of Real Estate Appraisers membership shall be three appraisers, one county assessor, one financial institution member, and two public members who are not appraisers (adds one public member and removes one appraiser);
- charging contingency fees shall become an unlawful act;
- relax the language regarding temporary licensure and certification by endorsement in accordance with the testimony that the board wanted more authority in that area;
- education and experience standards shall be taken out of the statutes and language put in to say they must meet but not exceed federal standards;
- assessors will have up to two years to get their licenses;
- change language from "estimate of value" to "opinion of value";

- continuing education tests shall be eliminated;
- DORA Recommendation 4 — delete a section of law that is unenforceable: “Any savings by a financial institution in using an inside appraiser must be passed on to the consumer.”;
- DORA Recommendation 5 — delete the requirement that the board may determine whether an applicant is of good “moral character” before a license or certification is approved and substitute language;
- DORA Recommendation 9 — delete all requirements that elected or appointed assessors must be a licensed or certified appraiser, retain the requirement that an assessor’s appraisal staff be licensed or certified;
- DORA Recommendation 10 — delete irrelevant statutory provisions (motion does not include the new “apprentice term”);
- DORA Recommendation 6 — just the part pertaining to removal of the issuance of letters of admonition from the list of possible formal disciplinary actions, (the portion authorizing the board to use public censure is not included in the motion); and
- write the title on the bill in this form: “Continuing the Act as it was originally adopted with the exceptions of the following changes.”

At its meeting of October 12, 1995, the committee adopted the following motions:

- include a repeal date of 2002 in the bill;
- amend the bill to retain the requirement for two years of appraisal experience for persons applying for a residential appraisers’s certification at two years, and to retain the experience requirement for those applying for a general appraiser’s certification at three years; and
- recommend the bill to the Legislative Council.

Bill G — Civil Rights Division Subpoena Powers

Summary. Bill G continues the authority of the Director of the Colorado Civil Rights Division to subpoena witnesses in cases relating to allegations of unfair employment practices until July 1, 2002.

The bill restricts the division’s use of its subpoena powers as follows:

- the power to subpoena may only be used in investigations that “directly relate” to a charge; and
- such power may be used only if the person or entity to be subpoenaed has refused or failed to provide the information requested voluntarily after a proper request has been made.

Background. DORA conducted a sunset review of the powers of the Director of the Civil Rights Division to subpoena witnesses and documents when investigating allegations of unfair employment practices. DORA recommended continuation of this authority for the director. The Civil Rights Division has other subpoena powers that were not subject to the sunset review. DORA notes that “the Civil Rights Division must investigate all employment discrimination complaints filed against Colorado employers with one or more employees. It must conduct investigations within statutory time constraints. Without subpoena power, an uncooperative respondent has the power to obstruct an investigation. The Civil Rights Division has found this power invaluable, and there is no evidence that it has been abused.” In the last four years, subpoenas have been issued in investigations of approximately one percent of the complaints filed. DORA noted that employment records are controlled by the employer, and thus without subpoena power, the commission may not be able to gather complete information about the charges of discrimination.

Charges of employment discrimination must be filed within six months of the date of the alleged violation. The Civil Rights Division is then required to make a determination as to whether probable cause exists for crediting the allegations, and a formal hearing must be arranged within 270 days after a charge is filed. If the Civil Rights Commission does not meet the deadline, it loses jurisdiction over the case to a district court. If an unfair employment practice is proven, the commission can issue orders to the employer to cease and desist, correct the practices, pay actual damages, or initiate other relief. During the investigatory stage of the complaint, the director can subpoena witnesses and documents. The subpoena is enforceable in district court. The commission has adopted a work-sharing agreement with the Equal Employment Opportunity Commission for the handling of cases where the two agencies have common jurisdiction.

At the sunset hearing, a representative of the Colorado Civil Rights Division testified in support of the continuation of the subpoena powers. An attorney with experience in employment discrimination cases testified that these powers are sometimes used in a “heavy handed” way. He said that the paperwork requirements of the division are onerous and that the division should be required to seek approval to use the subpoena powers through the judicial branch.

Bill H — Dental Board

Summary. Bill H continues the State Board of Dental Examiners. The bill:

- restricts board members to two terms of four years;
- changes the membership of the board to include five dentists;
- provides immunity to board members from civil suits that are based on their official acts;
- specifies who may assist in conducting dental and dental hygiene licensing examinations;
- repeals the Dental Peer Health Assistance Program;
- authorizes the board to issue temporary licenses and confidential letters of concern;
- exempts from the practice of dentistry or dental hygiene those examiners who represent a board-approved testing agency;
- makes the following procedures the practice of dentistry:
 - drug prescription and administration of anesthetics;
 - prescribing dosage levels for inhalation analgesia;
 - interpreting dental charts.
- states that X-ray procedures may be delegated to trained personnel;
- includes provisions pursuant to which a hospital may employ a dentist or dental hygienist;
- prohibits a hospital from interfering with such professional's independent judgment;
- amends licensing examination requirements;
- eliminates the probation and supervision period for graduates of foreign schools;
- permits licensing by reciprocity for any applicant licensed in a jurisdiction that has reciprocity with Colorado;
- requires applicants to provide the board with verification of licensure from any jurisdiction;

- provides that the board shall issue a retired license to any licensee meeting stated requirements;
- makes disciplinary provisions applicable to dental hygienists and makes the following actions a cause for discipline:
 - failing to report adverse action taken against a license by another state;
 - failing to adequately supervise unlicensed employees;
 - engaging in conduct relating to the practice of dentistry or dental hygiene that constitutes a crime;
 - practicing outside the scope of legitimate dental or dental hygiene practice; and
- eliminates a requirement that the board mail to all board members a list of all licensees.

Background. The Department of Regulatory Agencies, in the sunset review of the State Board of Dental Examiners, made thirty-nine recommendations for amending the practice act. The bulk of these recommendations were adopted by the Sunrise Sunset Review Committee for inclusion in the bill, which is recommended to the Legislative Council.

The main concerns of the State Board of Dental Examiners are the licensure, regulation, and the discipline of dentists and dental hygienists. The board currently consists of nine members, four of which are dentists. The board has the power to conduct examinations, promulgate rules and issue subpoenas. The statute defines procedures which may be performed by supervised and unsupervised dental hygienists. There are currently about 5,700 licensees in Colorado.

Some of the more prominent recommendations from DORA were to place an additional dentist on the board, allow the board to expand the scope of practice of unsupervised dental hygienists by rule, increase the legal resources allocated to the board, and facilitate the practice of qualified dentists from other jurisdictions in Colorado.

The committee heard testimony from dentists in support of the PEER Assistance Program; in support of the ability of the board to issue "letters of concern"; regarding changing the composition of the board; permitting licensure by endorsement; and permitting retired dentists to provide care to the indigent. The committee also heard testimony concerning the scope of practice of dental auxiliaries, the scope of practice of dental hygienists, and the independent, unsupervised practice of dental hygiene.

Bill I — Vessel Regulation

Summary. Bill I continues until July 1, 1999, the authority of the Department of Natural Resources to regulate boats through the Division of Parks and Outdoor Recreation. The bill:

- specifies that an officer must have probable cause to seize a vessel that does not appear to be in the legal possession of the owner;
- changes postseizure hearing requirements on seized vessels to mirror the requirements for retaining seized property in drug cases;
- requires an officer to have probable cause to board a vessel;
- exempts vessels with propulsion systems of 10 horsepower or less from registration requirements if the Division of Parks and Outdoor Recreation is able to obtain a waiver from the U.S. Coast Guard from federal numbering requirements; and
- directs the division to set vessel registration fees to cover the costs of administering the vessel registration laws, capping such fees at no more than nine dollars per year, and repeals existing fees as set in statute.

Background. In its sunset review of the Vessel Registration Program, DORA recommended that the regulatory program be continued by the General Assembly. DORA did not make recommendations for changes in the statutes.

The program is responsible for the registration and numbering of 87,000 boats in Colorado. Operation of an unregistered vessel in Colorado is a misdemeanor. The program requires safety equipment for the operation of a vessel and sets penalties for the operation of vessels while the operator impaired by drugs or alcohol.

DORA argued that the program provides efficient law enforcement, safety training, and enforcement of safe boating practices. The Division of Parks and Outdoor Recreation provides regulatory oversight for the vessel registration program and the Board of Parks and Outdoor Recreation promulgates rules and regulations for the program.

The program disseminates safe boating information and provides safety study courses. This portion of the program is funded by the federal government. The registration program generates \$1.4 million annually from fees of \$15.25 for vessels less than twenty feet in length, and \$20.25 for vessels twenty feet or more in length. The revenue provides part of the budget for the operations of the Division of Parks and Outdoor Recreation. The Division's budget for vessel registration operations in the 1994/1995 fiscal year was \$34,501 and \$56,023 for seasonal work programs. The Division administers thirty-two water based recreation areas in the state.

The Vessel Registration Program is mandated by federal law through the U.S. Coast Guard. Federal law requires the reporting of boating accidents and the numbering of vessels in the state in which the boat owner resides. By complying with these requirements, Colorado qualifies for federal matching funds.

The Sunrise Sunset Review Committee received testimony from the Division of Parks and Outdoor Recreation in support of the program. They emphasized the safety aspects of the program and noted that the program has been reviewed within the last year by the Legislative Audit Committee. They further commented on a memorandum of understanding between the division and the Coast Guard, the division's leasing of water, cost sharing among user groups, and law enforcement aspects of the program.

A representative of the National Insurance Crime Bureau testified on the importance of the centralized data base to the insurance industry. Representatives of the law enforcement community offered support for the registration program. Boat owners and boat dealers also supported the program. At its meetings of September 14 and October 12, 1995, the Sunrise Sunset Review Committee adopted motions to prepare a bill with those provisions listed above and to recommend this bill to the Legislative Council. A motion passed to change the effective date of the bill to 1997 to give the division sufficient time to set new fees.

Bill J — Coal Mine Board

Summary. Bill J continues until July 1, 2003, the authority of the Coal Mine Board of Examiners to regulate coal miners. The bill:

- authorizes the Governor to remove any member of the board for misconduct, incompetence, or neglect of duty;
- removes the visual and auditory acuity requirement for a person to qualify to sit for the certification examination;
- repeals references to requirements for a person to become a hoistman;
- changes the experience requirements for certification as a shot-firer to one year experience in use and handling of explosives, rather than in any aspect of coal mining;
- repeals the provision requiring that a person who has committed a violation that was not deliberate and willful be allowed a reasonable opportunity to comply with lawful requirements before the person's certificate is revoked or suspended; and

- removes the “willful” standard from the basis for revocation of a certificate of competency.

Background. In its sunset review of the Coal Mine Board of Examiners, DORA recommended that the board be continued by the General Assembly. DORA concluded that the existing examination and certification requirements provide protection to those who work in coal mines. The report also recommended that:

- the requirement for Senate confirmation of appointees to the board be removed and that the Governor be permitted to remove members for misconduct, incompetence, or neglect of duty;
- a penalty be established for non-compliance with the requirement for a mine employee to have a certificate of competency;
- the board be permitted to seek injunctive relief through a court of competent jurisdiction to respond to situations in which an certified miner is creating a safety threat;
- a requirement for an eyesight and hearing test for candidates for examination be repealed (DORA believes that this should be a responsibility of the mining companies.);
- the physical and psychological requirements for the position of hoistman be repealed (DORA believes that this should be the responsibility of the employee and the mining company.);
- the statute be amended to update and clarify the positions for which a certificate of competency is required;
- the law be amended to require certified officials to perform functions in accordance with legal requirements;
- the duties and powers of the board be updated to reflect the positions over which the board has jurisdiction;
- the qualifications for the position of shot-firer be updated to one year’s experience in the use and handling of explosives; and
- the grounds for revocation of a certificate be updated to remove the stringent burden of proof that the board must meet to revoke a certification.

DORA noted that “The Coal Mine Board of Examiners (five members) is located in the Office of Active and Inactive Mines under the direction of the Division of Mines and Geology in the Department of Natural Resources. The Coal Mine Board of Examiners works in tandem with the Mine Safety and Training Program to examine

and certify mining occupations.” Certificates of competency are required for workers in any Colorado coal mine. Applicants must pay a \$25.00 examination fee and meet experience requirements. The board has never disciplined a practitioner. Two hundred and twenty-three certificates were issued in 1994.

Inspection is only required at mines with seventy-five or fewer employees. Large mines are inspected by the federal Mine Safety and Health Administration (MSHA). If Colorado were to discontinue this program, the MSHA would have authority to certify miners in the state. However, DORA contacted federal officials, who “revealed that certification of Colorado miners would be a very low priority. MSHA’s focus is primarily on inspections, aggressive pursuit of civil remedies, and seeking injunctive relief.”

The Sunrise Sunset Review Committee heard testimony in support of continuation of the Coal Mine Board of Examiners from representatives of the Department of Natural Resources and the chair of the board. They testified that the board and its programs protect miners and serve as an arbiter between labor and management. Representatives of the United Mine Workers of America, the Colorado Mining Association, and mining companies also testified in support of continuation of the board.

Bill K — Certification of Plant Operators

Summary. Bill K continues the Plant Operators Certification Board until the year 2004. The bill:

- classifies wastewater treatment plant operators as domestic wastewater treatment plant operators and industrial wastewater treatment plant operators;
- provides for the certification of industrial and domestic wastewater treatment plant operators;
- eliminates customer relations as one of the topics for operator examinations;
- eliminates continuing education requirements for plant operators;
- requires that the current member of the Plant Operators Certification Board nominated as a wastewater treatment plant operator be a domestic wastewater treatment plant operator;
- requires that the board contain the following representatives in addition to current board members:

- a certified Class A industrial wastewater treatment plant operator;
and
 - a small systems operator who is certified as a Class C or Class D water treatment or wastewater treatment plant operator.
- requires that at least three of the members of the board represent private industry;
 - directs the board to establish criteria for the discipline or reprimand of plant operators and the suspension or revocation of certifications of plant operators;
 - provides that the certification of any operator expires if the certification is not renewed before the expiration date of the certification;
 - allows renewal of such certification up to two years after the expiration date;
 - directs the board to revoke any certification that is not renewed within two years after the expiration date; and
 - repeals obsolete statutory provisions.

Background. In its sunset review of the Plant Operators Certification Program, DORA recommended continuation of the program. “The program was established to ensure all water and wastewater treatment facilities in Colorado are operated by persons qualified to protect the public health, safety and welfare.” The program is operated under the authority of the nine-member Plant Operators Certification Board and is administered by the Water Quality Control Division. The board promotes and assists in training programs designed to develop qualified operators and establishes the minimum class of certified operator required for supervision of the state’s water and wastewater treatment plants. The board has no technical support staff but utilizes the technical staff of the Water Quality Control Division in the Department of Public Health and Environment. Division engineers inspect all classified plants. The total budget for the program was approximately \$70,000 for fiscal year 1994/95. Fees raised \$22,000 of this amount.

DORA recommended that:

- the board be permitted to set fees by rule at a level sufficient to cash fund the program;
- the responsibility for classifying water and wastewater treatment facilities and the enforcement provisions of the board be moved to the Water Quality Control Division;

- the board be permitted to adjust continuing education requirements;
- the makeup of the board be changed to include an operator of a small water treatment or wastewater treatment plant; and
- alternate formats, such as video for obtaining continuing education requirements, be permitted.

The act assures adequate operation of water and wastewater treatment facilities in the state; provides for the examination, classification, and certification of about 4,000 water and wastewater treatment plant operators; establishes minimum standards for plant operators; encourages vocational education for operators; requires water and wastewater treatment plants to be under the supervision of a certified operator; and provides for the classification of all water and wastewater treatment plants.

The statute creates four classes of certification for operators, all requiring a written examination and various experience levels. The law permits certification by endorsement and requires continuing education. Fees are charged for certification and renewal.

Representatives of the board testified in regard to the educational role of the board, disciplinary action of the board, the need for inspections, and the role of the board in protecting the public. A representative of the Rocky Mountain Water and Effluent Association offered support for the certification program, continuing education, and an increase in fees. A representative of the Colorado Rural Water Association offered support for the continuation of certification.

The Plant Operator's Certification Board provided recommendations to the Sunrise Sunset Review Committee to update the statutes. A representative of the Water Quality Control Division testified in support of testing and continuing education for operators, and commented on the recommendations of the board. At its meeting of October 2, 1995, the Sunrise Sunset Review Committee adopted motions to prepare a bill containing the provisions listed above.

Bill L — Direct-Entry Midwifery

Summary. Bill L:

- continues until July 1, 2001, the regulation of direct-entry midwives by the Division of Registrations;
- eliminates current language prohibiting a direct-entry midwife from also being licensed as a health care provider under Colorado law;

- prohibits any person who has had his or her registration revoked from re-registering until after a two-year waiting period;
- increases the minimum age for applicants from 18 to 19 years;
- authorizes registrants to carry and administer oxygen;
- adds grounds for discipline;
- grants civil and criminal immunity to the director and his or her staff, as well as to any person who files a complaint, when testifying in good faith or participating in an investigative proceeding;
- authorizes the Director of the Division of Registrations to keep its investigatory files confidential until the results of investigation are known and either the complaint is dismissed or notice of hearing and charges are served upon the registrant.

Background. In its sunset review of the registration of direct-entry midwives, DORA recommended continuation of the program. The registration program was initiated in 1993 to prepare and adopt suitable standards for education, training programs, and examination of direct-entry midwives. Prior to 1993, the practice of lay midwifery in Colorado was illegal. Midwives assist with home births and the post partum period.

DORA found that the potential for harm to the public requires regulatory oversight of this profession. As a result of the program, midwives are now held accountable for a standard of care, and actions have been taken against unregistered midwives. DORA recommended:

- addition of a section to the statutes on grounds for discipline (Disciplinary action is authorized in statute but grounds for discipline are not delineated.);
- granting governmental immunity for the good-faith reasonable actions of agents of the Midwives Registration Program and any witnesses;
- permitting files to be kept confidential during the investigatory process;
- granting provisions for the denial of registrations;
- enforcing a two-year waiting period for the reinstatement of a revoked registration;
- authorizing subpoena power for the director;

- empowering the director to refer cases to be heard by an administrative law judge;
- creation of a registry of apprentice midwives to assist the program in keeping track of these apprentices;
- permitting midwives to administer certain drugs in emergencies (Currently they can only administer eye prophylactic therapy.);
- eliminating a prohibition regarding dual health-care licensure (This provision was originally adopted to prevent providers of traditional licensed health care from circumventing regulatory oversight. The restriction is a barrier to those holding other health care licenses from practicing as direct-entry midwives.); and
- permitting the Director of the Division of Registrations to adopt suitable educational standards for applicants, without having to comply with the Private Occupational Education Act.

In current state statute, the Director of the Division of Registrations is given rule-making authority, the ability to set fees for registration, the ability to deny and revoke registrations, and the ability to seek injunctions against those violating the law. Direct-entry midwives must be at least eighteen, have a high school diploma, complete a training program, acquire practical experience through an apprenticeship program, complete education and training requirements, be the primary birth attendant at a minimum of thirty births, and have a CPR certificate.

Currently, 25 direct-entry midwives are registered in Colorado. The current fee is \$1,000 for the examination and \$1,300 for the annual registration renewal. Since the inception of the program, the division has received seventeen complaints against direct-entry midwives.

The Sunrise Sunset Review Committee received testimony from representatives of the Colorado Medical Society. They stated that the practice of direct-entry midwifery poses potential harm to the public. They also stated their opposition to granting authority for direct-entry midwives to administer medications, stated that direct-entry midwives are seeking a significant expansion in their scope of practice, and stated that direct-entry midwives must be given appropriate medical training.

The Program Administrator for the Midwives Registration Program testified in regard to birth statistics. A member of the public testified in support of the practice of direct-entry midwifery. A physician testified that midwifery in Colorado is a safe practice and that Colorado's direct-entry midwives are sufficiently trained and experienced. A representative of Families for Safe Childbirth Alternatives testified in support of the practice of midwifery, in regard to the philosophy of the practice of direct-entry midwifery, and in regard to the lower cost of this practice relative to hospital births. A representative of the Colorado Midwives Association testified that

Colorado's direct-entry midwives have extensive training, fill a niche in rural areas of Colorado, and that DORA's recommendations will make the practice even safer.

Bill M — Licensing of Drug Precursors

Summary. Bill M removes provisions concerning drug precursors from the Colorado Licensing of Controlled Substances Act in Title 12, Colorado Revised Statutes, and requires refunding of the licensing fee to the sole licensee under the act.

Background. In its sunset review of the Colorado Drug Precursor Licensing Program, DORA recommended that the regulatory program be terminated but that language be retained in the law prohibiting the diversion of drug precursors for illicit purposes.

The program is administered by the Colorado Department of Public Health and Environment through the State Board of Pharmacy and is designed to prevent the unlawful diversion of drug precursors, substances that could be used in the manufacturing of illicit drugs, from legitimate sources to illegal uses. The State Board of Pharmacy issues a license to those people and businesses who use controlled substances for legitimate purposes. The program also incorporates record keeping, inspections, and penalties for violating conditions of the act. The department also promulgates rules and charges an annual fee of \$500 for licenses. Certain professionals are exempted from the licensing requirement. Colorado is one of only four states that have developed a drug precursor licensing program.

Only one company is licensed in Colorado and submits to the program requirements. Twenty-six other companies that would have been required to obtain a license in Colorado elected not to transact drug precursor business here. These companies either eliminated this service for their customers or moved this part of their business to one of the other forty-six states without licensing requirements. DORA found that no complaints have been filed with the Department of Health against the sole licensee.

Thus, DORA recommended repealing the drug precursor licensing program, repealing unnecessary record keeping requirements in the law, repealing statutory direction for the department to create rules and regulations for the administration of the program, and creating a new part in the law regarding the regulation of the manufacturing, distribution, and dispensing of drug precursors. The DORA report stated that "a criminal investigation is a more efficient, effective and economical method to regulate the diversion for illegal uses of drug precursors. Both federal and state law provide severe criminal penalties, when it is demonstrated that drug precursors were used for illicit or unlawful purposes. The review discovered that persons and businesses that have legitimate uses for drug precursors already maintain a series of internal and external sale and record keeping controls."

Federal law, specifically the Chemical Diversion and Trafficking Act of 1988, and the Controlled Substances Act of 1984, address the diversion of drug precursors to illegal uses. The U.S. Drug Enforcement Administration (DEA) enforces applicable federal laws. DORA noted that "the Colorado statute lists many of the same drug precursors, creates a licensing and inspection process, and requires the same record keeping system" as the federal laws. Federal law requires registration with the DEA of those handling drug precursors.

The Sunrise Sunset Review Committee held its sunset review of the Drug Precursor Licensing Program on August 17, 1995. The committee took testimony on DORA's recommendations and adopted motions to prepare a bill. At its meeting of October 12, 1995, the committee adopted motions to strike the section of the draft bill which would have placed a list of drug precursors in the criminal statutes; to strike a subsection of the bill addressing the reporting of the theft or loss of drug precursors; to add a repeal date of 2002 to the bill addressing the record keeping functions of the department relating to controlled substances and drug precursors; and to recommend the bill to the Legislative Council.

Bill N — Colorado Joint Review Process

Summary. Bill N allows the Colorado Joint Review Process (CJRP) to sunset and repeals the requirement that the Office of Regulatory Reform (ORR) provide and coordinate environmental information and regulatory assistance in conjunction with the CJRP.

Background. In its sunset review of the CJRP, DORA recommended that the program be permitted to sunset. DORA stated that the CJRP "is a non-regulatory program designed to streamline the environmental permitting process for large energy and mining projects. The process has been underutilized in recent years because of the lack of large projects and the inability to adapt and market the process to smaller projects that are more common in today's economy." DORA noted that regulatory agencies in state government are working together informally to streamline regulatory requirements without a statutory mandate.

The CJRP is administered by the Division of Minerals and Geology in the Department of Natural Resources and was designed to coordinate and facilitate the permitting process for developers of natural resources and independent governmental permitting agencies. Participation on the part of developers is voluntary. Developers who choose to participate in the process must submit information to the department. The CJRP staff then requests participation from the various federal, state, and local regulatory authorities. Current statutes permit recovery of the costs of the program from project sponsors. The ORR is required to coordinate environmental information and regulatory assistance with the CJRP.

The Joint Review Process is conducted in three phases. Phase I involves an application from the project sponsor for participation in the process. In Phase II, the CJRP staff coordinates meetings and hearings between regulatory authorities and interested parties concerning project design and planning. In Phase III, feasibility studies are completed, public hearings are conducted, and permit applications are reviewed. The three phases can take several years to complete. In its sunset review, DORA noted that "anecdotal information indicates industry participants believe the up-front participation by various parties actually increases the time line for obtaining necessary permits." However, they believe that participation reduces litigation following the issuance of permits.

DORA found that the strongest support for the program was with governmental agencies and that not all participants in the process cooperated fully with the program. Only nine projects have been coordinated through the CJRP since its inception. The last CJRP project was a 1992 U.S. Forest Service review of the Breckenridge Ski Area expansion. DORA found no empirical data to evaluate the efficiency or effectiveness of the CJRP, that it is "a solution in search of a problem," and that the CJRP has not been successfully marketed to smaller projects. DORA also recommended that the statute requiring ORR to provide and coordinate environmental information and regulatory assistance in conjunction with the CJRP be repealed.

A representative of the Department of Natural Resources testified that the department supports DORA's recommendations.

Bill O — Regulation of Weather Modification

Summary. Bill O continues until July 1, 2003 the issuance of permits for weather modification operations by the Executive Director of the Department of Natural Resources. The bill:

- eliminates the licensing of weather modification operators;
- provides that renewal permits for ground-based winter cloud seeding operations have a duration of five years for the second permit and ten years for the third or subsequent permit;
- eliminates the requirement that proof of financial responsibility be provided in a weather modification permit application;
- requires that the qualification, education, and experience of the weather modification operator be provided in a weather modification permit application;
- eliminates the requirement that the Executive Director of the Department of Natural Resources determine that a commercial weather modification

project be conceived to provide an economic benefit before a permit may be issued;

- eliminates the requirement that the Executive Director determine that a scientific or research project be designed for and offer promise of expanding knowledge and technology of weather modification before a permit may be issued;
- changes the permit fee imposed for a commercial operation from two percent of the value of the contract for the project to an amount set by the Executive Director that is sufficient to cover the direct costs of application review, hearings, and monitoring if the applicant is a Colorado resident, and an amount sufficient to cover both direct and indirect costs of application review, hearings, and monitoring if the applicant is a nonresident;
- repeals the requirement that certain information be contained in reports filed by weather modification operators; and
- authorizes the Executive Director to promulgate rules requiring weather modification operators to file reports.

Background. Colorado statute requires the licensing of weather modifiers and separate permits for each particular operation. Two types of licenses are issued: a general weather modification license, and a ground-based winter cloud seeding license. Clouds are seeded by dropping or spraying dry ice or silver iodide into them. Ground-based seeding is cheaper and therefore more common. In 1987, the Executive Director of the Department of Natural Resources delegated responsibility for management of the state's weather modification program to the Director of the Colorado Water Conservation Board. The program is allocated one-tenth of an FTE and has an annual budget of approximately \$45,000.

Licensed general weather modifiers must file bi-weekly, final operational, and annual reports of their activities. Ground-based winter cloud-seeding weather modifiers must only keep records and file an annual report. The regulatory statutes also contain experience and educational requirements for cloud seeders. Permit applicants must furnish proof of financial responsibility, an operational plan, publish notices of the operation, and participate in a public hearing. At the public hearing, the Department of Natural Resources determines the economic benefit of the project, if the project is technically feasible, the impact of the project on the surrounding population, whether the project expands weather modification technology, and the degree of risk of the project. Fees for commercial permits are \$100 plus two percent of the commission operations. Separate permits are required annually for each operation, except for ground-based winter cloud seeding permits which are issued for a period of five years. In Colorado, cloud seeding operations augment reservoir collection, make snow for ski areas, and help to control hail damage.

In its sunset review of the Weather Modification Act of 1972, DORA recommended sunsetting the licensing provisions of the act and continuing and expanding the Weather Modification Permit Program to strengthen regulatory oversight. DORA found that regulation is necessary due to the potential effect of these activities on snowpack, flooding, snow removal costs, and impacts on livestock and wildlife. DORA found that public safety is adequately addressed through the permitting portion of the program and thus recommended doing away with the licensing scheme. DORA recommended that education and experience requirements be linked to the permitting process. DORA also made recommendations to improve the effectiveness of the act. Further recommendations from DORA included a recommendation to clarify reporting requirements of weather modifiers and to give the director the authority to waive fees.

At its sunset hearing on August 31, 1995, the Sunrise Sunset Review Committee heard testimony from the Department of Natural Resources in favor of retaining the qualifications for cloud seeders in the law. Representatives of the Colorado Water Conservation Board testified in favor of the DORA recommendations. A representative of Vail Associates stated his support for the five-year duration of ground-based licenses and said that Vail does twenty to thirty operations per year.

Bill P — Regulation of Fireworks

Summary. Bill P eliminates the licensing function of the Executive Director of the Department of Public Safety regarding fireworks. The bill also:

- authorizes counties and municipalities to regulate fireworks within their boundaries by imposing reasonable restrictions on the location, storage, and sale of permissible fireworks pursuant to zoning and fire code requirements, but prohibits any municipal or county requirement limiting sales of fireworks to less than sixty days annually;
- prohibits any local government from banning sales of permissible fireworks within the boundaries of the local government;
- retains the prohibitions against:
 - any person furnishing fireworks to an individual under sixteen years of age; and
 - any individual under sixteen years of age purchasing fireworks;
- modifies the definition of permissible fireworks to exclude any firework that propels itself three feet or more off of the ground and to exclude any firework that projects or disbursts any plastic or brittle fragments, rather than only brittle plastic fragments;

- retains the prohibition against possession or discharge of fireworks other than permissible fireworks and provides exceptions to such prohibition for:
 - any fireworks display for which a municipality, fire protection district, or county has issued a permit; and
 - any exporter who is engaged in the practice of exporting fireworks;
- eliminates the Fireworks Licensing Cash Fund; and
- repeals statutory provisions regarding:
 - warning signs required to be posted by persons selling fireworks;
 - importation of fireworks;
 - exportation of fireworks;
 - storage of fireworks; and
 - seizure of fireworks by local authorities.

Background. In its sunset review of the Fireworks Licensing Program, DORA found that “the law is not very effective in stemming the flow of illegal fireworks into the state, controlling the sale of illegal fireworks, or preventing the sale or use of fireworks by juveniles. Enforcement activities must be curtailed because there are not enough funds to effectively administer the program. Local authorities currently have a large responsibility in regulating fireworks.” DORA recommended allowing the program to terminate and permitting local authorities to regulate fireworks, but keeping age limitations in statute as well as purchase and possession restrictions. In the event that the General Assembly decides to continue the licensing program, DORA made several recommendations to amend the existing law. Assuming discontinuance of the licensure program, DORA recommended retaining and revising the definition of “permissible fireworks.” DORA also recommended that the current statutory allowance for exporters to sell fireworks to vendors outside of the state be retained.

Regulations governing the licensing of fireworks retailers, display retailers, wholesalers and exporters are promulgated by the Director of the Department of Public Safety. License fees are currently \$25 for a fireworks retailer and \$750 for a display retailer, wholesaler, or exporter. The Division of Fire Safety is responsible for enforcing the laws which regulate *licensed* fireworks dealers. The division does not have the authority to discipline unlicensed activity or to seize fireworks for sale in violation of the article. The program is allocated \$66,000 per year and has one FTE.

Federal control of fireworks by the Federal Bureau of Investigation focuses primarily on interstate transportation. Other federal agencies involved in fireworks regulation are Occupational Safety and Health Administration (OSHA), the Department

of Transportation, the Bureau of Alcohol, Tobacco and Firearms, and the Consumer Products Safety Commission.

Current Colorado law:

- requires that warning signs be posted stating that the sale of fireworks to persons under sixteen years of age is illegal;
- creates retailer and exporter licenses for fireworks dealers;
- prohibits unlicensed persons from bringing fireworks into the state;
- prohibits the sale of fireworks at retail or the use of fireworks in a display that were not purchased from a licensed wholesaler;
- gives local authorities the power to seize fireworks held in violation of the law, grant permits to conduct supervised public displays, and sets penalties for violating the fireworks law;
- establishes grounds for denying, suspending or revoking a license;
- defines permissible fireworks;
- creates a fireworks licensing cash fund and sets maximum fees; and
- requires storage in accordance with building and fire codes.

The Sunrise Sunset Review Committee heard testimony in opposition to DORA's recommendations from a representative of the Rocky Mountain Fireworks Association and in support of the existing regulatory scheme. A representative of the Division of Fire Safety said that most enforcement of the law is at the local level and supported minimum state standards. A representative of Arapahoe County offered support for the existing law and suggested giving the division the authority to set fees.

Bill Q — Worker's Compensation Medical Care Accreditation

Summary. Bill Q repeals the Workers' Compensation Medical Care Accreditation Commission and continues the accreditation function of the Director of the Division of Workers' Compensation.

Background. In its sunset review of the Workers' Compensation Accreditation Program and the Medical Care Accreditation Commission, DORA recommended continuation of both the program and the commission. DORA also recommended that the Division of Workers' Compensation be given the authority to decide, by rule, which

medical impairment rating guide to use for medical impairment ratings. The statute requires the use of a particular guide and is too restrictive, according to DORA.

The Medical Care Accreditation Commission was created to advise the Director of the Division of Workers' Compensation in implementation of the workers' compensation law, including the fee schedule for which treatment rendered to employees shall be compensated, the medical impairment rating guidelines, the medical treatment guidelines, utilization standards, and denial of surgery and its relationship to maximum medical improvement. The commission is made up of seven members with the Medical Director serving as an additional and ex-officio member. The commission has appointed task forces in the areas in which it must advise the director of the division. DORA found that the division relies heavily on the commission's recommendations when making its decisions and that the commission brings together all of the affected parties to resolve disagreements prior to the promulgation of rules by the division.

Level I and Level II physician accreditation programs are created in statute. Level I accreditation educates physicians who treat workers with injuries that result in more than three days of lost time. This accreditation, which is conducted through a home study course, familiarizes the physicians with medical guidelines, the administrative and legal aspects of workers' compensation, and is voluntary (except for chiropractors). Level II accreditation, which is conducted through a seminar or through home study, is mandatory for physicians who perform medical impairment ratings on workers and provides instruction to physicians on the conduct of impairment ratings and administrative and legal issues. The objective of Level II accreditation is to standardize the medical impairment rating process. Accreditation must be renewed every three years.

A representative of the commission testified that the requirement for the use of the third edition of the American Medical Association (AMA) Guide to the Evaluation of Permanent Impairment leads to unnecessary litigation and that some portions of the guide are outdated. He also commented on the role of the commission. A representative of the Colorado Medical Society offered support for the continuation of the accreditation programs and for granting the division flexibility in determining which version of the AMA guides to use. A representative of the Colorado Compensation Insurance Authority offered support for the continuation of the commission and the accreditation programs. He also stated that any change in the use of the AMA guides should be cost-neutral. A representative of the Workers' Compensation Coalition testified that the legislature did not intend that the commission should exist for as long as it has and expressed concern with potential litigation which could result from changing the requirement for use of the third edition AMA guide. Representatives of the Division of Workers' Compensation testified that the accreditation program is a model for use in other states and offered support for the commission and its work to standardize ratings. Finally, a representative of the Colorado AFL-CIO offered support for all of DORA's recommendations.

Bill R — Snowmobile Registration Fees

Summary. Bill R repeals fees for the registration of snowmobiles. The Sunrise Sunset Committee recommends that this program be permitted to sunset. Bill R is a "housekeeping bill" to eliminate registration fees listed in statute that are not included in the repealer and that otherwise would remain in the law and have no purpose.

Background. In its sunset review of the Snowmobile Registration Program, DORA found that the program provides no significant public protection but does create an improved environment for snowmobile participants in Colorado. Therefore, DORA recommended continuation of the existing regulation. DORA made no suggestions for statutory revision. The purposes of Colorado's snowmobile program are to register and number snowmobiles with the Division of Wildlife, provide for a snowmobile safety certification program, provide a method of tracking snowmobile accidents and stolen snowmobiles, and provide high-quality snowmobiling opportunities. The program was created in 1977 and helps maintain winter economies for mountain towns that are not near ski resorts. One-half of all moneys collected from the \$15.25 registration fee and one-half of all moneys collected from fines are credited to the Snowmobile Recreation Fund. The other half is credited to the General Fund. In 1994, 22,115 snowmobile registrations were sold in the state. The Colorado Snowmobile Association is concerned that the loss of the program could result in a deterioration of safe, groomed and marked trails, because local snowmobile clubs would be unable to meet the financial burden of marking and grooming trails.

Representatives of the Department of Natural Resources testified that the department would not pay for trail grooming if the program were discontinued and that the program also provides an investigative tool for law enforcement purposes. A representative of the Colorado Snowmobile Association testified that the association works well with the Division of State Parks and that the program benefits small communities. A motion to recommend continuation of the Snowmobile Registration Program failed.

B. Sunrise Reviews of Occupations Requesting State Regulation

During the 1995 interim, the Sunrise Sunset Review Committee reviewed six applications for licensure, registration, or other forms of state regulation submitted pursuant to Section 24-34-104.1(2), C.R.S. When considering whether or not to regulate a profession or occupation, the committee must consider the following criteria:

1. whether the practice of the unregulated profession or occupation clearly harms or endangers the health, welfare, or safety of the public;
2. whether the potential for harm is easily recognizable, rather than remote or dependent on tenuous argument;
3. whether the public needs and can reasonably be expected to benefit from an assurance of an initial and continuing professional or occupational competence; and
4. whether the public can be adequately protected by other means in a more cost-effective manner.

Eight sunrise applications and seven DORA sunrise reviews were submitted for the consideration of the committee during the 1995 interim. These were the:

- HVAC Tradespeople and Contractors;
- Hemodialysis Technicians;
- Dispensing Opticians and Contact Lens Technicians;
- Athletic Trainers;
- Landscape Architects;
- Occupational Therapists,
- Respiratory Care Practitioners (application withdrawn), and
- Naturopathic Physicians (application withdrawn).

Although seven DORA sunrise reports were prepared, only six sunrise hearings were conducted by the committee. The Colorado Society for Respiratory Care Board of Directors and the Colorado Association of Naturopathic Physicians withdrew their applications for regulation prior to consideration by the committee.

Of the six sunrise hearings conducted by the Sunrise Sunset Review Committee, only the sunrise hearing on the application for state regulation of HVAC tradespeople

and contractors resulted in a committee recommendation of legislation to the Legislative Council. The provisions of the bill concerning the regulation of heating, ventilation, air conditioning and refrigeration tradespeople and contractors are described below.

Summary of Committee Activities and Recommendations

Bill S — Regulation of Heating, Ventilation, Air Conditioning and Refrigeration

Summary. Bill S creates the state Heating, Ventilation, Air Conditioning and Refrigeration (HVACR) Board. The bill also:

- authorizes the Governor, with the consent of the Senate, to appoint the board members;
- provides duties and powers of the board;
- requires licensing of persons performing heating, ventilation, air conditioning, and refrigeration work by the state HVACR Board;
- establishes licenses for any HVACR journeyman, master HVACR supervisor, or HVACR contractor and sets classifications and requirements for such licenses;
- requires the registration of apprentices;
- prohibits any city, town, county, or city and county from requiring the examination, certification, licensing, or registration of HVACR craft persons who are licensed, registered, or certified under the act;
- allows such governmental authorities to impose reasonable registration requirements on HVACR contractors but prohibits any fees for such registration;
- requires any HVACR contractor to obtain a bond in an amount equal to at least five percent of the value of the HVACR work performed by the contractor in the preceding calendar year;
- requires any residential HVACR contractor to maintain a general liability insurance policy in an amount of at least \$1 million and any commercial HVACR contractor to maintain a general liability insurance policy in an amount of at least \$5 million;
- sets forth grounds for disciplinary action against persons violating the act;
- authorizes the issuance of temporary permits to engage in HVACR work;

- provides exemptions from licensing requirements for individuals performing HVACR work on their own property or residences and for employees of the federal government performing HVACR work on federal property;
- directs the state HVACR Board to establish inspection fees;
- limits HVACR inspection fees charged by local governments to 25 percent above state inspection fees;
- requires the hiring of a sufficient number of state inspectors to provide inspection of HVACR work throughout the state;
- stipulates HVACR inspection procedures; and
- repeals the act on July 1, 1999, subject to prior review by the Joint Legislative Sunrise and Sunset Review Committee.

Background. In its sunrise review of the proposed licensure of heating, ventilation, air conditioning, and refrigeration professionals, DORA recommended that there be no state regulation of persons providing HVACR services. DORA found that the “harm caused by the HVACR community does not appear to be of a proportion to warrant state licensure. The public is adequately protected by the enforcement of codes by the local communities and the requirement of local licensing.”

The applicants sought the establishment of a cash-funded licensure program, a minimum standard of practice throughout the state, and a \$10,000 bond requirement on all HVACR professionals. DORA noted that “a statewide license would reduce the HVACR costs of business by eliminating local multiple licensing costs required by each municipality.” Colorado has approximately 1,000 contractors and 15,000 tradespeople. Thirty-three states currently have some form of licensing of HVACR professionals.

Although the state does not regulate the HVACR occupation in Colorado, some safeguards exist to ensure proper work. The national Uniform Mechanical Code, the Uniform Solar Energy Code, and the Uniform Plumbing Code are widely accepted guides for HVACR practices. Municipalities and counties are currently responsible for safe and adequate HVACR work. Local governments issue permits for projects and inspect work to ensure that it meets code standards. Some communities require licensure of HVACR professionals, including written exams and fees. The Colorado Consumer Protection Act provides protection against unethical tradespeople.

At its sunrise hearing on September 15, 1995, the Sunrise Sunset Review Committee heard testimony regarding potential harm to the public that may result from unethical or unqualified HVACR professionals. A business owner testified in support of licensure and a bonding requirement. Contractors testified that there are currently no consequences for the inept and the unscrupulous in these industries. They testified in support of licensure and minimum standards and said that over one-third of the

state's counties have no codes. At this hearing, a motion passed to prepare a draft bill establishing minimum criteria, a bonding requirement, and avoiding any preemption of local authority.

The Sunrise Sunset Review Committee adopted the following motions amending the draft HVACR bill at its meeting of October 13, 1995:

- replace the legislative declaration of the bill with a declaration similar to the declaration in the regulatory law for electricians;
- amend page 4, line 12 of the bill regarding the definition of "gas service";
- change the composition of the HVACR Board created in the bill to five representatives from the public and five representatives from industry;
- permit the board to adopt rules based on the 1994 edition of the Uniform Mechanical and Solar Codes;
- strike lines 22 through 26 on page 9 of the bill, lines 1 through 3 on page 10 of the bill, and lines 17 through 19 on page 10;
- strike language on lines 22 through 26 on page 10 of the bill;
- require a bond or cash deposit of five percent of the cost of the HVACR project and include a sliding scale for bond and cash deposit requirements;
- strike lines 19 through 25 on page 33 of the bill;
- strike subsection (3) on pages 34 and 35 of the bill;
- include a provision in the bill requiring that inspectors supervise the entire state and that license and inspection fees cover all costs;
- strike lines 11 through 14 of page 36 of the bill, include language in the bill stating that fees shall not be charged for registration, and include language from the Electrical Code in the bill;
- adopt prepared amendment #6, including changing "3" to "5" on line 3;
- amend page 40, line 9 of the bill;
- add language to page 36 of the bill, concerning low voltage service;
- adopt prepared amendment #3, amending page 4, line 8 of the bill;
- amend the bill so that members of the board receive no compensation, but that they be reimbursed for expenses, lodging, meals and travel;

- include a provision in the bill requiring general liability insurance coverage of \$1 million for residential projects and \$5 million of coverage for commercial projects;
- include in the bill a 1999 repeal date; and
- recommend the draft bill, as amended, to the Legislative Council.

Additional Sunrise Reviews Conducted

Hemodialysis Technicians

In its sunrise review of the application for state certification of hemodialysis technicians and R.N. training programs, DORA recommended against certification. DORA found no indication that certification of the training programs would provide additional protection to dialysis patients and that existing state and federal regulation provides adequate protection. Hemodialysis patients testified at the Sunrise Sunset hearing on September 14, 1995, in support of standardized training and competency testing. A representative of the Colorado Renal Administrator's Association said that the state could issue regulations to require standardization of training. Patients noted that complaints are often not filed against these technicians because patients are afraid to criticize those who are treating them. There was no motion for a bill to further regulate hemodialysis technicians. The committee asked that the Colorado Renal Administrator's Association keep the members informed of the potential development of rules in this area.

Dispensing Opticians and Contact Lens Technicians

In its sunrise review of the application for licensure of optical and contact lens dispensers, DORA found that the harm that opticians cause the public does not appear to be of a proportion to warrant state licensure. At the sunrise hearing on September 15, 1995, opticians testified in support of licensure and said that federal regulations to control quality in the industry are not enforced. Representatives of chain optical shops testified against state licensure and said that this would be a barrier to competition. There was no motion to further regulate opticians.

Athletic Trainers

In its sunrise review of the application for licensure of athletic trainers in Colorado, DORA found that no evidence was provided by the applicant, or revealed by independent research, of harm to the public by unqualified trainers performing rehabilitation functions. DORA recommended that the current regulatory structure for athletic trainers be continued. A representative of the Colorado Athletic Trainers' Association testified in support of licensure and of a proficiency test for athletic trainers. The committee also received testimony in opposition to licensure. There was no motion to further regulate the profession of athletic trainer.

Landscape Architects

In its sunrise review of the application for licensure of landscape architects in Colorado, DORA found that "the evidence available establishes that regulation in other states is questionable as to its need. Further, no persuasive evidence has been submitted to justify the proposal that actual or potential measurable harm exists in the landscape architecture field that would be solved by the imposition of a licensing scheme." Landscape architects and contractors were present to testify in support of licensure and minimum levels of competency at the Sunrise Sunset committee hearing of September 15, 1995. There was no motion for a bill to regulate landscape architects.

Occupational Therapists

In its sunrise review of the application for licensure of occupational therapists in Colorado, DORA recommended that the practice of occupational therapy not be licensed. DORA noted that "the applicants have not shown that the unlicensed practice of occupational therapy clearly harms the health, safety and welfare of the public. In addition, licensure does not assure that the public will be more protected than they currently are by Colorado statute, federal law, and the existing private credentials of occupational therapists." Representatives of the Occupational Therapy Association of Colorado testified in support of licensure and said that the state has no mechanism for reporting complaints against occupational therapists. A representative of the Colorado Hospital Association testified in opposition to licensure. Motions to prepare a bill to regulate occupational therapists failed.

C. Sunset Reviews of Advisory Committees

Section 2-3-1203, C.R.S., requires the Sunrise Sunset Committee to review advisory committees for their effectiveness. Advisory committees involve private citizens in the daily operations of government, thereby allowing government to utilize the expertise of its citizens. When reviewing information submitted by the advisory committees, the Sunrise Sunset Committee ascertains whether the advisory committees remain useful to government.

The following information submitted by the advisory committee helps the Sunrise Sunset Committee determine whether or not to continue the functions of the advisory committee:

- the names of the current members of the advisory committee;
- revenues and expenditures of the advisory committee, including per diem paid to members, and any travel expenses;
- the dates that the advisory committee held meetings and the number of members who attended;
- a listing of all advisory proposals made by the advisory committee, together with an indication as to whether or not each proposal has been acted on, implemented, or enacted into statute; and
- the reasons why the advisory committee should be continued.

If an advisory committee remains useful, the Sunrise Sunset Committee recommends its continued existence no longer be subject to sunset review. If an advisory committee no longer benefits government operations, it is allowed to terminate.

The Sunrise Sunset Review Committee conducted sunset reviews of the following seven advisory committees during the 1995 interim:

- Program Advisory Committee on Motorcycle Operator Safety Training;
- Advisory Committee for Regulation of Pesticides and Pesticide Use;
- Classroom Paraprofessional Advisory Board;
- Pharmacy Advisory Committee;
- Long-term Care Advisory Committee;
- Nursery Advisory Committee, and
- Bail Bonding Agents' Advisory Committee.

Of the seven advisory committees reviewed, the only advisory committee for which the Sunrise Sunset Committee recommended continuation was the Advisory Committee for the Regulation of Pesticides and Pesticide Use.

Summary of Committee Activities and Recommendations

Bill T — Extension of Pesticide Advisory Body

Summary. Bill T continues the Pesticide and Pesticide Use Advisory Committee, which was scheduled for repeal July 1, 1996.

Background. The Advisory Committee for the Regulation of Pesticides and Pesticide Use has assisted with the rewriting of rules and regulations associated with the Pesticide Applicator's Act and the Pesticide Act in recent years. At its sunset hearing on this advisory committee, the Sunrise Sunset Committee received testimony in support of the continuation of the advisory committee from the Department of Agriculture and from a representative of the Colorado Pesticide Network. The department stated that the advisory committee should be continued because "it provides a valuable link between the department, the regulated community, the public, and the technical personnel. Such communication allows for reasonable regulation without being overly burdensome to the individuals and businesses being regulated."

The eleven-member advisory committee is appointed by the State Agricultural Commission. Members of the advisory committee receive no compensation but are reimbursed for expenses.

MATERIALS AVAILABLE

Summaries of Meetings

- July 26, 1995* - Sunset Reviews of Advisory Committees: Program Advisory Committee on Motorcycle Operator Safety Training, Advisory Committee for the Regulation of Pesticides and Pesticide Use, Classroom Paraprofessional Advisory Board, Pharmacy Advisory Committee, Nursery Advisory Committee, Long-term Care Advisory Committee, Bail Bonding Agent's Advisory Committee; Sunset Review - Licensing of Professional Bonding Agents
- July 27, 1995* - Sunset Reviews: Board of Real Estate Examiners, Pesticide Applicator's Act
- August 17, 1995* - Sunset Reviews: Board of Pharmacy, Drug Precursors, Licensing of Professional Bonding Agents, Bail Bonding Agent's Advisory Committee
- August 18, 1995* - Sunset Reviews: Board of Dental Examiners, Civil Rights Division Subpoena Powers, Division of Gaming
- August 31, 1995* - Sunset Reviews: Division of Gaming, Joint Review Process, Vessel Registration, Snowmobile Registration, Weather Modification, Board of Dental Examiners
- September 1, 1995* - Sunset Reviews: Plant Operator's Certification Board, Licensing Related to Fireworks, Licensing of Agricultural Nurseries, Certification for Ozone Depleting Compound Disposal
- September 14, 1995* - Sunset Review: Vessel Registration, Sunrise Reviews - Occupational Therapists, Hemodialysis Technicians
- September 15, 1995* - Sunrise Reviews: Dispensing Opticians and Contact Lens Technicians, Landscape Architects, HVAC Technicians, Athletic Trainers

- September 19, 1995* – Sunrise Review: Athletic Trainers, Sunset Review - Plant Operator's Certification Board, Committee Consideration of Legislation
- October 2, 1995* – Sunset Reviews: Licensing Related to Fireworks, Licensing of Underground Storage Tank Installers, Coal Mine Board, Plant Operator's Certification Board
- October 3, 1995* – Sunset Reviews: Worker's Compensation Accreditation Commission, Registration of Direct-Entry Midwives
- October 12, 1995* – Committee Consideration of Legislation
- October 13, 1995* – Committee Consideration of Legislation
- December 19, 1995* – Committee Consideration of Legislation

DORA Reports

Detailed reports on all sunrise and sunset issues were prepared and submitted by the Office of Policy and Research, DORA. These reports are available at the Legislative Council Staff Library.

Advisory Committee Reports

Information submitted by all advisory committees is available from the Legislative Council staff.

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APPENDIX A
SUNSET TERMINATION SCHEDULE
(Sunset reviews are conducted one year prior to termination)

JULY 1, 1994

The Division of Banking
The Division of Financial Services
The Division of Securities
Board of Registration for Professional
Engineers and Professional Land
Surveyors
Licensing of Commercial Driving
Schools
Licensing of Debt Management
Companies
Licensing of Persons to Sell or Issue
Money Orders
Licensing of Pet Animal or Psittacine
Bird Dealerships
Licensing of Kennels
Licensing of River Outfitters

JULY 1, 1995

Board of Chiropractic Examiners
Board of Medical Examiners
Board of Nursing
Podiatry Board
Licensing of Slaughter, Processing,
and Sale of Meat
Licenses Related to Measurement
Standards
Licensing Relating to Poultry Eggs
Apple Storage Facilities
Commodity Warehouses
Frozen Food Provisioners
Psychiatric Technicians
Asbestos Control Functions of the
Department of Health

JULY 1, 1996

The Functions of the Workers'
Compensation Medical Care
Accreditation Commission and
the Accreditation of Health Care
Providers Under the Workers'
Compensation System
Licensing of Functions Relating to
Fireworks
Permitting for Specific Weather
Modifications Operations

Underground Storage Tank Installers
Board of Dental Examiners
Board of Pharmacy
Colorado Joint Review Process
Plant Operators' Certification
Board
Vessel Registration
Snowmobile Registration
Commercial Pesticide Applicators,
Qualified Supervisors and Certified
Operators
Board of Real Estate Appraisers
Civil Rights Division Subpoena
Powers
Licensing of Professional Bonding
Agents
Regulation of Agricultural Nurseries
Division of Gaming
Registration of Direct-Entry Midwives
Certification for Ozone Depleting
Compound Disposal
Coal Mine Board
Drug Precursors

JULY 1, 1997

The Office of Regulatory Reform
The Division of Insurance
The Functions of The Department of
Social Services Relating to the
Expending of Moneys from the
Central Fund for State and
Veterans Nursing Homes created
by section 26-12-106, C.R.S.
Imposition of Sanctions upon Nursing
Facilities for Violations of
Federal Medicaid Regulations

JULY 1, 1998

Board of Examiners of Architects
State Electrical Board
Examining Board of Plumbers
Public Utilities Commission
Utility Consumers' Board
Office of Consumer Council
Notaries Public

JULY 1, 1998 (continued)

Grievances against Persons Regulated by the Mental Health Grievance Board
The Motor Vehicle Dealer Board and the Licensing Functions of the Executive Director of the Department of Revenue
The Fire Suppression Program of the Division of Fire Safety
Licensing of Bingo and Games of Chance
Program for the Administration and Monitoring of Medications in Facilities
Exemption from Licensure under the Colorado Controlled Substance Act pursuant to Section 12-22-304 (5)(e)(I), C.R.S., for Persons who Administer or Monitor Medications in Facilities.
Exemption from Licensure under the Colorado Medical Practice Act pursuant to Section 12-36-106 (3)(o)(I), C.R.S., for Persons who Administer and Monitor Medications in Facilities.
Exemption from Licensure under the Nurse Practice Act pursuant to Section 12-38-125 (1)(h)(I), C.R.S., for Persons who Administer and Monitor Medications in Facilities.

JULY 1, 1999

Division of Civil Rights
Real Estate Division/
Real Estate Commission
Division of Racing Events
Board of Examiners of Nursing
Home Administrators

JULY 1, 2000

State Board of Accountancy
State Board of Barbers and Cosmetologists
Collection Agency Board

Licensing of Debt Management Companies
Pet Animal Care Facilities

JULY 1, 2001

The State Board of Veterinary Medicine
Passenger Tramway Safety Board
The Licensing of Slaughterers of Livestock through the Department of Agriculture
Licensing of Public Livestock Markets
Physical Therapists

JULY 1, 2002

Board of Optometric Examiners
Licensing of Massage Parlors
Registration of Acupuncturists

JULY 1, 2003

Certification of Nurse Aides
Registration of Outfitters

JULY 1, 2004

Division of Banking
Division of Financial Services
State Board of Registration for Professional Engineers and Professional Land Surveyors
Division of Securities
Licensing of Persons to Sell or Issue Money Orders
Licensing of River Outfitters

APPENDIX B
BOARDS AND COMMISSIONS REVIEWED BY THE JOINT LEGISLATIVE SUNRISE SUNSET REVIEW
COMMITTEE

(Reviews are conducted one year prior to sunset date)

AGENCY	YEAR REVIEWED	STATUS AFTER SUNSET REVIEW	NEXT SUNSET DATE IS JULY 1 OF
State Board of Accountancy	1980 1989	modified and continued; modified and continued;	2000
State Board of Examiners of Architects	1980 1987	modified and continued; modified and continued;	1998
Division of Banking	1980 1983 1993	modified and continued; modified and continued; modified and continued;	2004
State Board of Barbers and Cosmetologists (created in 1977 by consolidation of State Board of Barbers and State Board of Cosmetology)	1980 1989	modified and continued; modified and continued;	2000
State Board of Chiropractic Examiners	1977 1984 1995	modified and continued; modified and continued; modified and continued	2010
Division of Civil Rights and Colorado Civil Rights Commission	1978 1988	modified and continued; modified and continued;	1999
Collection Agency Board	1977 1989	modified and continued; modified and continued;	2000
Office of Consumer Counsel	1987 1992	modified and continued; modified and continued;	1998
State Board of Dental Examiners	1978 1985	modified and continued; modified and continued; independent practice for dental hygienists authorized;	1996
State Electrical Board	1977 1980 1987	modified and continued; modified and continued; modified and continued;	1998
Division of Financial Services (Pre-1989 Division of Savings and Loans)	1980 1983 1993	modified and continued; modified and continued; modified and continued;	2004

AGENCY	YEAR REVIEWED	STATUS AFTER SUNSET REVIEW	NEXT SUNSET DATE IS JULY 1 OF
Grievance Board (created 1988)	1991	modified and continued;	2002
Colorado Division of Insurance	1977 1982 1991	modified and continued; modified and continued; modified and continued;	1997
State Board of Marriage and Family Therapist Examiners (created 1988)	1991	modified and continued;	1998
State Board of Medical Examiners	1978 1984 1995	modified and continued; modified and continued; modified and continued;	2010
Motor Vehicle Dealer Licensing Board (Dept. of Revenue)	1991	modified and continued;	1998
State Board of Nursing (practical nursing board merged with nursing board, effective 7/1/80)	1978 1984 1995	modified and continued; modified and continued; modified and continued;	2010
Board of Examiners of Nursing Home Administrators	1977 1982	modified and continued; modified and continued;	1999
State Board of Optometric Examiners	1978 1984	modified and continued; modified and continued;	1995
Passenger Tramway Safety	1977 1982 1992	modified and continued; modified and continued; modified and continued;	2001
State Board of Pharmacy	1978 1985	modified and continued; modified and continued;	1996
State Board of Plumbing Examiners	1980 1987	modified and continued; modified and continued;	1998
Colorado Podiatry Board	1984 1989 1995	separated from medical board, effective 7/1/85; modified and continued; modified and continued;	2010
State Board of Licensed Professional Counselor Examiners (created 1988)	1991	modified and continued;	1998

AGENCY	YEAR REVIEWED	STATUS AFTER SUNSET REVIEW	NEXT SUNSET DATE IS JULY 1 OF
State Board of Registration for Professional Engineers and Professional Land Surveyors	1980 1987 1993	modified and continued; modified and continued; modified and continued;	2004
State Board of Psychologist Examiners	1980 1986 1991	modified and continued; board re-established as part of mental health practice law; modified and continued;	1998
Public Utilities Commission	1977 1982 1992	modified and continued; modified and continued; modified and continued;	1998
Division of Racing Events (Dept. of Revenue)	1977 1982 1992	modified and continued; modified and continued; modified and continued;	1999
Board of Real Estate Appraisers (created 1990)			1996
Real Estate Commission	1978 1988	modified and continued; modified and continued;	1999
Office of Regulatory Reform	1982 1986 1990	modified and continued; modified and continued; modified and continued;	1997
Division of Securities	1980 1983 1993	modified and continued; modified and continued; modified and continued;	2004
State Board of Social Work Examiners	1980 1986 1991	modified and continued; board re-established as part of mental health practice law; modified and continued;	1998
State Board of Veterinary Medicine	1978 1990	modified and continued; modified and continued;	2001

**APPENDIX C
BOARDS AND COMMISSIONS ALLOWED TO SUNSET**

AGENCY	YEAR REVIEWED	STATUS AFTER SUNSET REVIEW
Board of Abstractor Examiners	1980	terminated , effective 7/1/82
Colorado Hospital Commission	1979	terminated , effective 3/1/80
Colorado Outfitter's Licensing Board	1987	terminated , licensing functions transferred to the Director of the Division of Registrations
State Athletic Commission of Colorado	1977	terminated , effective 7/1/77
State Board of Examiners of Barbers	1977	consolidated with cosmetology and continued, effective 7/1/77.
State Board of Cosmetology	1977	consolidated with barber board, effective 7/1/77;
State Board of Hearing Aid Dealers	1980 1985	modified and continued; terminated , effective 4/17/86; a thirty-day rescission period for purchases of hearing aids enacted
Life Care Institutions Board of Examiners of Institutions for Aged Persons	1977 1980	name changed to Board of Examiners of Life Care Institutions and continued; terminated ; modified statutory functions transferred to Division of Insurance, effective 5/22/81
CO Manufactured Housing Board (Pre-1988 Mobile Home Licensing Board)	1980 1987 1991	modified and continued; modified and continued, name change; terminated by General Assembly ;
Board of Mortuary Science	1977 1980	modified and continued; terminated , effective 7/1/82;
State Board of Physical Therapy	1978 1985	modified and continued; terminated , effective 7/1/86; licensing functions transferred to the Director of the Division of Registrations
State Board of Practical Nursing	1978	terminated and consolidated with nursing board, effective 7/1/80
Board of Registration for Professional Sanitarians	1977	terminated , effective 7/1/78
State Board of Shorthand Reporters	1977	terminated , effective 7/1/77; standards administered by state court administrator
Commission on the Status of Women	1978	terminated , effective 7/1/80

APPENDIX D
Licensing Functions Eliminated

1. Licensing and regulation of landscape architects (1977)
2. State licensing of beekeepers (1990)
3. Licensing and examination requirements for artificial inseminators (1991)
4. Regulation of motor clubs (1992)
5. State regulation of cemeteries (1992)
6. Nursing home penalty cash fund (1993)
7. Licensing of Commercial Driving Schools (1994)
8. Licensing Requirements for Apple Storage (1995)

APPENDIX E

The following list shows those licensing functions of state departments, not listed in Appendix B, reviewed by the Joint Legislative Sunrise Sunset Review Committee.

Department of Agriculture

1. Licensing of slaughter, processing, and sale of meat
2. Licenses related to measurement standards
3. Licensing relating to poultry eggs
4. Licensing of operators of apple storage facilities
5. Licensing of dealers, agents and transporters of farm products and commodity warehouses
6. Licensing of butchers and slaughters of livestock, State Board of Stock Inspection Commissioners
7. Registration relating to nurseries
8. Licensing of public livestock markets, State Board of Stock Inspection Commissioners
9. Licensing of commercial pesticide applicators, qualified supervisors and certified operators
10. Colorado Seed Act

Department of Labor and Employment

1. Underground storage tank installers (State Inspector of Oils)
2. The functions of the Workers' Compensation Medical Care Accreditation Commission

Department of Natural Resources

1. Joint Review Process

Division of Parks and Outdoor Recreation

1. Vessel registration
2. Snowmobile registration
3. Licensing of river outfitters
4. Permitting for specific weather modifications operations

Department of Public Health & Environment

1. Licensing of pet animal or psittacine bird dealerships
2. Licensing of kennels
3. Asbestos control functions
4. Specific regulations promulgated by the Air Quality Control Commission
5. Medication Aide Program
6. Water and waste-water treatment plant operators certification board

7. Administration and monitoring of medications in facilities
8. Exemption from licensure under the "Colorado Controlled Substance Act" pursuant to Section 12-22-304 (5)(e)(I), C.R.S., for persons who administer or monitor medications in facilities.
9. Exemption from licensure under the "Colorado Medical Practice Act" pursuant to Section 12-36-106 (3)(o)(I), C.R.S., for persons who administer and monitor medications in facilities.
10. Exemption from Licensure under the "Nurse Practice Act" pursuant to section 12-38-125 (1)(h)(I), C.R.S., for Persons who Administer and Monitor Medications in Facilities.

Department of Public Safety

1. Licensing of functions relating to fireworks
2. Fire Suppression Program

Department of Regulatory Agencies

Division of Banking

1. Licensing of debt management companies
2. Licensing of persons to sell or issue money orders

Division of Civil Rights

1. Subpoena powers granted to the Director of the Division of Civil Rights

Division of Insurance

1. Licensing of professional bondsmen

Division of Registrations

1. Outfitter registration
2. Registration of acupuncturist
3. Licensing of physical therapists

State Board of Nursing

1. Psychiatric technicians
2. Certification of nurse aides

Secretary of State

1. Licensing of bingo and games of chance
2. Notaries Public

Department of Human Services

1. The functions of the Department of Human Services relating to the expenditure of moneys from the central fund for state and veterans nursing homes

Local Licensing Authorities

1. Licensing of massage parlors

**APPENDIX F
SUNRISE APPLICATION HISTORY**

The following chronological table summarizes the sunrise actions of the Sunrise Sunset Committee from 1985 to 1995.

<u>Year Reviewed Introduced</u>	<u>Outcome/ Legislation</u>
<u>1985</u>	
1. Dietitians	No licensure recommended
2. Lay Midwives	No licensure recommended
3. Marriage and Family Therapists	No licensure recommended
4. Modeling Agencies	No licensure recommended
5. Private Investigators	No licensure recommended
6. Professional Counselors	No licensure recommended
7. Commercial Health and Fitness Club Managers	No licensure recommended
<u>1986</u>	
1. Acupuncturists	Committee recommended additional study
2. Respiratory Therapists	No licensure recommended
3. Professional Counselors	Legislation recommended but not approved by the Legislative Council
<u>1987</u>	
1. Athletic Trainers	No licensure recommended
2. Community Living Specialists	No licensure recommended (HB 1065, Persons Who Administer Medications, adopted)
3. Hearing Aid Dealers	Application withdrawn
4. Occupational Therapists	No licensure recommended
5. Private Investigators	No licensure recommended
6. Respiratory Therapists	Application withdrawn

Year Reviewed
Introduced

Outcome/ Legislation

1988

- | | |
|--|---|
| 1. Acupuncturists | Licensure legislation enacted (SB 9) |
| 2. Creative Arts Therapists | No licensure recommended |
| 3. Repossessors | No licensure recommended (SB 14, Repossession of Collateral, adopted) |
| 4. Underground Storage Tank Installers | Licensure legislation enacted (HB 1299) |

1989

- | | |
|---------------------------------------|--|
| 1. Asbestos Air Samplers | No licensure recommended |
| 2. Creative Arts Therapists | No licensure recommended |
| 3. Dietitians | No licensure recommended |
| 4. Fire Suppression System Installers | No licensure recommended (SB 90-4, Fire Suppression Program, adopted) |
| 5. Interior Designers | No licensure recommended |
| 6. Landscape Architects | No licensure recommended |
| 7. Locksmiths | No licensure recommended |
| 8. Massage Therapists | No licensure recommended (SB 90-37, Define Massage Therapists, adopted) |
| 9. Pesticide Dealer/Managers | No licensure recommended |
| 10. Real Estate Appraisers
34) | Licensure enacted (SB 90-34) |
| 11. Security Guards | No licensure recommended |
| 12. X-Ray Assistants | No licensure recommended (HB 90-1006, X-ray Assistants Qualifications, Postponed Indefinitely) |

Year Reviewed
Introduced

Outcome/ Legislation

1990

- | | |
|-----------------------------------|--|
| 1. Athletic Trainers | No licensure recommended
(HB 91-1127, Athletic Trainers Exception, adopted) |
| 2. Dietitians | No licensure recommended |
| 3. Locksmiths | No licensure recommended |
| 4. Massage Therapists | No licensure recommended |
| 5. Mortuary Science Practitioners | No licensure recommended |
| 6. Occupational Therapists | No licensure recommended |
| 7. Private Security Officers | No licensure recommended
(HB 91-1014, Security Guard Criminal Data by CBI, adopted) |

1991

- | | |
|--|---|
| 1. Lay Midwives | Recommendation for licensure failed (HB 92-1010) |
| 2. Financial Planners | Recommendation for licensure failed (HB 92-1005) |
| 3. Hearing Aid Dealers, Speech-Language Pathologists, Audiologists | No licensure recommended
(SB92-83, Code Violation on Sale of Hearing Aids, adopted)) |
| 4. Property Managers | No licensure recommended
(SB 92-100, Manage Common Interest Communities, adopted) |
| 5. Plumbing Contractors | No licensure recommended
(SB 92-98, Term Plumbing Contractor, adopted) |
| 6. Tanning Facilities | No licensure recommended |
| 7. Professional Boxing | No licensure recommended |
| 8. Domestic Violence Counselors | No licensure recommended |
| 9. Sign Language Interpreters | No licensure recommended |

Year Reviewed
Introduced

Outcome/ Legislation

1992

- | | |
|---|---|
| 1. Private Utilization Review | No licensure recommended (SB 93-21, Health Care Coverage Entities, adopted) |
| 2. Colorado Seed Sellers | Licensure legislation enacted SB 93-17 |
| 3. Direct-Entry Midwives | Licensure legislation enacted HB 93-1051 |
| 4. Interpreters for the Deaf | Recommendation for licensure failed (HB 93-1044) |
| 5. Radon Service Providers | No licensure recommended (SB 93-58, Procedures for Presence of Radon, Postponed Indefinitely) |
| 6. Hemodialysis Technicians | No licensure recommended |
| 7. Consumer Electronics Service Technicians | No licensure recommended |

1993

- | | |
|-----------------------------------|---|
| 1. Third Party Administrators | Application withdrawn |
| 2. Naturopathic Physicians | Recommendation for licensure failed (HB 94-1022) |
| 3. Dieticians | Title protection legislation enacted (HB 94-1102) |
| 4. Respiratory Care Practitioners | Recommendation for certification failed (HB 94-1016) |

1994

- | | |
|---|---|
| 1. Audiologists and Hearing Aid Dealers | Recommendation for registration enacted (HB 95-1011) |
| 2. Hemodialysis Technicians | No licensure recommended |
| 3. Bed and Breakfasts | No licensure recommended |

Year Reviewed
Introduced

Outcome/ Legislation

- | | |
|---------------------------------|--------------------------|
| 4. Veterinary Technicians | No licensure recommended |
| 5. Electrologists | No licensure recommended |
| 6. Mortgage Brokers and Bankers | No licensure recommended |
| 7. Code Enforcement Officials | Application withdrawn |
| 8. Lead Abatement Industry | Application withdrawn |

1995

- | | |
|--|--------------------------|
| 1. Heating, Ventilation and Air Conditioning
Tradespeople and Contractors | Licensure Recommended |
| 2. Hemodialysis Technicians | No licensure recommended |
| 3. Dispensing Opticians and Contact
Lens Technicians | No licensure recommended |
| 4. Athletic Trainers | No licensure recommended |
| 5. Landscape Architects | No licensure recommended |
| 6. Occupational Therapists | No licensure recommended |
| 7. Respiratory Care Practitioners | Application withdrawn |
| 8. Naturopathic Physicians | Application withdrawn |

BILL A

A BILL FOR AN ACT

CONCERNING THE REGULATION OF PESTICIDE APPLICATIONS BY THE COMMISSIONER OF AGRICULTURE, AND, IN CONNECTION THEREWITH, CONTINUING THE AUTHORITY OF THE COMMISSIONER OF AGRICULTURE TO LICENSE COMMERCIAL APPLICATORS OF PESTICIDES, QUALIFIED SUPERVISORS, AND CERTIFIED OPERATORS THROUGH THE YEAR 2001.

Bill Summary

"Regulation of Pesticide Applications"

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

Joint legislative sunrise and sunset review committee. Continues until July 1, 2001, the authority of the commissioner of agriculture to license commercial applicators of pesticides, qualified supervisors, and certified operators.

Authorizes any limited commercial applicator to apply pesticides on property leased by such person or such person's employer in addition to property that is owned by such person or such person's employer.

In addition to existing authorized actions, authorizes licensed pesticide applicators to:

- Load general-use pesticides under the supervision of a qualified supervisor;
- Mix or load restricted-use pesticides under the supervision of a qualified supervisor; and
- Apply restricted-use pesticides under the on-site supervision of a qualified supervisor.

Eliminates the administrative fee that is required to place a pesticide-sensitive person on the registry maintained by the department of agriculture.

Clarifies that any home rule county, home rule city and county, or home rule municipality is included in statutory provisions governing imposition of additional notification requirements for pesticide applicators.

Prohibits any local government from imposing any requirement governing the application of pesticides that is more stringent than the requirements contained in the "Pesticide Applicators' Act".

Requires that any notice-of-application sign required to be posted when a pesticide is applied by a commercial or limited commercial applicator include the following information in addition to other required information if the pesticide is applied on a site and an owner of the site or an agent of an owner is not present at the site:

- The telephone number of the applicator;
- The name of the pesticide applied; and
- The date the pesticide was applied.

In addition to existing penalties, authorizes the commissioner of agriculture to discipline pesticide applicator license holders through probation or other discipline imposed through stipulation and through license restriction.

Authorizes the commissioner of agriculture to establish an examination grading fee for qualified supervisor and certified operator license examinations. Restricts such fee to the actual administrative costs incurred in the grading of applications.

Requires that a hearing regarding a violation be held within a reasonable period of time rather than immediately. Directs that final disciplinary actions be appealed to the court of appeals rather than the district court.

Authorizes any court of competent jurisdiction to impose civil fines under the "Pesticide Applicators' Act".

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

SECTION 1. 35-10-103 (8) and (15) (a) (II), Colorado Revised Statutes, 1995 Repl. Vol., are amended to read:

35-10-103. Definitions. As used in this article, unless the context otherwise requires:

(8) "Limited commercial applicator" means any person engaged in applying pesticides in the course of conducting a business; except that such application shall be only in or on property owned OR LEASED by the person or the person's employer.

(15) (a) "Technician" means any individual who:

(II) Mixes, LOADS, or applies general use pesticides under the supervision of a qualified supervisor, MIXES OR LOADS RESTRICTED USE PESTICIDES UNDER THE SUPERVISION OF A QUALIFIED SUPERVISOR, or APPLIES restricted use pesticides under the on-site supervision of a qualified supervisor; or

SECTION 2. 35-10-112 (1) (a), (1) (c), and (3), Colorado Revised Statutes, 1995 Repl. Vol., are amended to read:

35-10-112. Notification requirements - registry of pesticide-sensitive persons - preemption. (1) (a) The commissioner shall promulgate rules and regulations for the establishment of a registry of pesticide-sensitive persons to be maintained by the department. Pesticide-sensitive persons may apply to be placed on the registry provided they can provide proof of medical justification in the form and manner prescribed by the commissioner. ~~and shall pay an administrative fee in an amount to be determined by the commissioner.~~ Said registry shall be updated at least annually and the published registry shall be provided to all commercial, limited commercial, and public applicators on

record with the commissioner. Names added after the most recently published registry shall be available from the department upon request.

(c) A commercial, limited commercial, or public applicator, prior to applying a pesticide in any turf or ornamental category, shall take reasonable actions to give notice of the date and approximate time of any such pesticide application, prior to the application, to any person who resides on property which abuts the property to be treated and whose name is on the published registry. IF TWO PROPERTY SITES WOULD BE CONSIDERED TO BE ABUTTING BUT FOR THE FACT THAT SUCH SITES ARE SEPARATED BY AN ALLEY, FOR THE PURPOSES OF THIS SECTION SUCH SITES ARE DEEMED TO BE ABUTTING.

(3) No county, city and county, ~~or~~ municipality, HOME RULE COUNTY, HOME RULE CITY AND COUNTY, OR HOME RULE MUNICIPALITY shall enact or impose any notification requirements upon commercial applicators which are more stringent than those imposed by this article; except that each county, city and county, ~~and~~ municipality, HOME RULE COUNTY, HOME RULE CITY AND COUNTY, AND HOME RULE MUNICIPALITY shall retain the authority to impose any notification requirements upon private individuals, property owners, and the general public. Any such notification requirement imposed by any county, city and county, ~~or~~ municipality, HOME RULE COUNTY, HOME RULE CITY AND COUNTY, OR HOME RULE MUNICIPALITY on private individuals, property owners, or the general public shall not be held to be applicable to any commercial applicator, nor shall any commercial applicator be exposed to any liability for a failure to comply with any such notification requirement.

SECTION 3. 35-10-112 (2), Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

35-10-112. Notification requirements - registry of pesticide-sensitive persons - preemption. (2) (d) IF A COMMERCIAL OR LIMITED COMMERCIAL APPLICATOR MAKES A PESTICIDE APPLICATION ON A PROPERTY SITE PURSUANT TO PARAGRAPHS (a) OR (b) OF THIS SUBSECTION (2) AND AN OWNER OF THE SITE OR AN AGENT OF AN OWNER OF THE SITE IS NOT PRESENT AT THE SITE, THEN, IN ADDITION TO THE INFORMATION REQUIRED BY PARAGRAPH (c) OF THIS SUBSECTION (2), THE NOTICE-OF-APPLICATION SIGNS POSTED BY THE APPLICATOR AT THE SITE SHALL ALSO CONTAIN THE FOLLOWING INFORMATION IN BLACK LETTERING AND SYMBOLS ON A BRIGHT YELLOW BACKGROUND IN AT LEAST EIGHTEEN-POINT BOLDFACED TYPE:

- (I) THE TELEPHONE NUMBER OF THE APPLICATOR;
- (II) THE NAME OF THE PESTICIDE APPLIED; AND
- (III) THE DATE THE PESTICIDE WAS APPLIED.

SECTION 4. Article 10 of title 35, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

35-10-112.5. Pesticide requirements of local governments. A LOCAL GOVERNMENT MAY NOT ENACT OR IMPOSE ANY REQUIREMENT GOVERNING THE APPLICATION OF PESTICIDES THAT IS MORE STRINGENT THAN THE REQUIREMENTS IMPOSED BY THIS ARTICLE.

SECTION 5. 35-10-114, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

35-10-114. Certified operator - license required. ~~On and after a date determined by the commissioner pursuant to rules and regulations,~~ Any individual acting as a certified operator ~~must~~ SHALL possess a valid certified

operator license issued by the commissioner in accordance with this article and any rules and regulations adopted pursuant thereto.

SECTION 6. 35-10-118 (2) (c) and (3), Colorado Revised Statutes, 1995 Repl. Vol., are amended to read:

35-10-118. Powers and duties of the commissioner. (2) The commissioner is authorized to adopt all reasonable rules and regulations for the administration and enforcement of this article, including, but not limited to:

(c) The issuance and reinstatement of any license authorized under this article and the grounds for any disciplinary actions authorized under this article, including letters of admonition, PROBATION OR OTHER DISCIPLINE THROUGH STIPULATION, or the RESTRICTION, denial, suspension, or revocation of any license authorized under this article;

(3) The commissioner shall determine the content of each such examination required for the administration of this article and the amount of any examination AND EXAMINATION GRADING fee. ANY EXAMINATION GRADING FEE ESTABLISHED BY THE COMMISSIONER IS LIMITED TO THE ACTUAL ADMINISTRATIVE COSTS INCURRED IN THE GRADING OF EXAMINATIONS. ~~He~~ THE COMMISSIONER shall establish a passing score for each examination which reflects a minimum level of competency in the class or subclass for which the applicant is being tested.

SECTION 7. 35-10-120 (2), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

35-10-120. Enforcement. (2) Whenever the commissioner has reasonable cause to believe a violation of any provision of this article or any

rule made pursuant to this article has occurred and immediate enforcement is deemed necessary, ~~he~~ THE COMMISSIONER may issue a cease and desist order, which may require any person to cease violating any provision of this article or any rule made pursuant to this article. Such cease and desist order shall set forth the provisions alleged to have been violated, the facts alleged to have constituted the violation, and the requirement that all actions cease forthwith. At any time after service of the order to cease and desist, the person may request, at ~~his~~ THE PERSON'S discretion, ~~an immediate~~ A hearing TO BE HELD WITHIN A REASONABLE PERIOD OF TIME to determine whether or not such violation has occurred. Such hearing shall be conducted pursuant to the provisions of article 4 of title 24, C.R.S., and shall be determined promptly.

SECTION 8. The introductory portion to 35-10-121 (1), Colorado Revised Statutes, 1995 Repl. Vol., is amended, and the said 35-10-121 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

35-10-121. Disciplinary actions - denial of license. (1) The commissioner, pursuant to the provisions of article 4 of title 24, C.R.S., may issue letters of admonition, IMPOSE PROBATION OR OTHER DISCIPLINE THROUGH STIPULATION, or RESTRICT, deny, suspend, refuse to renew, or revoke any license authorized under this article if the applicant or licensee:

(4) ANY PERSON AGGRIEVED BY A FINAL DISCIPLINARY ACTION TAKEN BY THE COMMISSIONER MAY APPEAL SUCH ACTION TO THE COLORADO COURT OF APPEALS IN ACCORDANCE WITH SECTION 24-4-106 (11), C.R.S.

SECTION 9. 35-10-122 (1), (2), and (4), Colorado Revised Statutes, 1995 Repl. Vol., are amended to read:

35-10-122. Civil penalties. (1) Any person who violates any provision of this article or any rule or regulation adopted pursuant to this article is subject to a civil penalty, as determined by the commissioner OR A COURT OF COMPETENT JURISDICTION. The maximum penalty shall not exceed one thousand dollars per violation; except that such penalty may be doubled if it is determined, after notice and an opportunity for hearing, that the person has violated the provision, rule, or regulation for the second time.

(2) No civil penalty may be imposed BY THE COMMISSIONER unless the person charged is given notice and opportunity for a hearing pursuant to article 4 of title 24, C.R.S.

(4) Before imposing any civil penalty, the commissioner OR A COURT OF COMPETENT JURISDICTION may consider the effect of such penalty on the ability of the person charged to stay in business.

SECTION 10. 35-10-128, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

35-10-128. Repeal of article - termination of functions. Effective ~~July 1, 1996~~, JULY 1, 2001, this article shall be repealed. The licensing function of the commissioner of agriculture shall also terminate on ~~July 1, 1996~~ JULY 1, 2001. Prior to such repeal and termination, the licensing function shall be reviewed as provided for in section 24-34-104, C.R.S., and, as part of such review, the department of regulatory agencies shall report on the extent of local regulation of pesticides pursuant to section 31-15-707 (1) (b), C.R.S., or under the police power of any political subdivision of the state.

SECTION 11. 24-34-104 (25.1) (f), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25.1) The following functions of the specified agencies shall terminate on July 1, 1996:

(f) ~~The licensing of commercial applicators, qualified supervisors, and certified operators through the commissioner of agriculture in accordance with article 10 of title 35, C.R.S.;~~

SECTION 12. 24-34-104 (30) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (30) (a) The following functions of the specified agency shall terminate on July 1, 2001:

(V) THE LICENSING OF COMMERCIAL APPLICATORS, QUALIFIED SUPERVISORS, AND CERTIFIED OPERATORS THROUGH THE COMMISSIONER OF AGRICULTURE IN ACCORDANCE WITH ARTICLE 10 OF TITLE 35, C.R.S.

SECTION 13. Effective date - applicability. This act shall take effect July 1, 1996, and shall apply to act occurring on or after said date.

SECTION 14. 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.

BILL B

A BILL FOR AN ACT

CONCERNING THE ISSUANCE OF REGISTRATIONS RELATING TO NURSERIES
THROUGH OFFICIALS OF THE DEPARTMENT OF AGRICULTURE.

Bill Summary

"Colorado Nursery Act"

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

Continues until July 1, 2001, the issuance of registrations relating to nurseries through the commissioner of agriculture and the department of agriculture. Changes the inspection requirement for premises on which nursery stock is sold from once each year to twice each year. Exempts any nursery selling only nursery stock that is grown within Colorado from the inspection requirement unless such nursery requests an inspection.

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

SECTION 1. 35-26-103 (1), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

35-26-103. Inspections. (1) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, premises in this state on which nursery stock is kept for sale or offered for sale shall be inspected at least ~~once~~ TWICE each year by the commissioner or ~~his~~ THE COMMISSIONER'S authorized agents, and all areas in this state which are sources of collected nursery stock may be inspected by the commissioner or ~~his~~ THE COMMISSIONER'S authorized agents. Inspections may also be made by the commissioner or ~~his~~ THE COMMISSIONER'S authorized agents at any time deemed

appropriate by the commissioner based on information known to the commissioner or based on any complaint received by the commissioner alleging failure to comply with any provision of this article or any rule ~~or regulation~~ promulgated pursuant to this article.

(b) ANY NURSERY THAT ONLY SELLS NURSERY STOCK THAT IS GROWN WITHIN COLORADO AND DOES NOT EXPORT SUCH STOCK OUTSIDE OF COLORADO IS EXEMPT FROM THE INSPECTION REQUIREMENTS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (1); EXCEPT THAT SUCH NURSERY MAY BE INSPECTED UPON REQUEST IF THE REQUIRED INSPECTION FEE IS PAID.

SECTION 2. 35-26-115, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

35-26-115. Termination of function - repeal of article. The registration functions of the commissioner and the department as set forth in this article are terminated on ~~July 1, 1996~~ JULY 1, 2001. This article is repealed, effective ~~July 1, 1996~~ JULY 1, 2001. Prior to such repeal, the registration functions shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 3. 24-34-104 (25.2), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended, to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25.2) ~~The function of the issuance of registrations relating to nurseries through the commissioner of agriculture and the department of agriculture in accordance with article 26 of title 35, C.R.S., shall terminate on July 1, 1996.~~

SECTION 4. 24-34-104 (30) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (30) (a) The following functions of the specified agency shall terminate on July 1, 2001:

(V) THE ISSUANCE OF REGISTRATIONS RELATING TO NURSERIES THROUGH THE COMMISSIONER OF AGRICULTURE AND THE DEPARTMENT OF AGRICULTURE IN ACCORDANCE WITH ARTICLE 26 OF TITLE 35, C.R.S.

SECTION 5. 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.

BILL C

A BILL FOR AN ACT

CONCERNING THE CONTINUATION OF THE REGULATION OF LIMITED GAMING
THROUGH THE DIVISION OF GAMING.

Bill Summary

"Limited Gaming Regulation"

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

Joint legislative sunrise and sunset review committee. Continues until July 1, 2011, the authority of the department of revenue to regulate limited gaming through the division of gaming.

Changes from an annual renewal requirement to a biennial renewal requirement for support and key license holders. Removes the requirement that persons licensed to be employees where gaming is conducted register with the local sheriff. Removes the requirement that a person holding a retail gaming license also obtain an operator license.

Directs the commission to promulgate rules specifying how and when the movement of slot machines must be reported and repeals the statutory provisions specifying how such reporting must be done.

Modifies the requirement that the director of the division of gaming not hold any outside employment to say instead that the director not hold any outside employment that might create a conflict of interest.

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

SECTION 1. 12-47.1-203, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-47.1-203. Director - qualification - powers and duties. (1) The director shall:

(a) Be qualified by training and experience to direct the work of the division;

(b) ~~and, notwithstanding the provisions of section 24-5-101, C.R.S., the director shall~~ Be of good character and shall not have been convicted of any felony or gambling-related offense, NOTWITHSTANDING THE PROVISIONS OF SECTION 24-5-101, C.R.S.;

(c) ~~The director shall devote his entire time and attention to the duties of his office and shall~~ Not be engaged in any other profession or occupation THAT COULD PRESENT A CONFLICT OF INTEREST TO THE DIRECTOR'S DUTIES AS DIRECTOR OF THE DIVISION; AND

(d) ~~The director, as administrative head of the division, shall~~ Direct and supervise ~~the~~ THE administrative and technical activities OF THE DIVISION.

(2) In addition to the duties imposed upon the director elsewhere in this part 2, ~~it shall be the duty of~~ the director SHALL:

(a) ~~To~~ Supervise and administer the operation of the division and limited gaming in accordance with the provisions of this article and the rules ~~and regulations~~ of the commission;

(b) ~~To~~ Attend meetings of the commission or ~~to~~ appoint a designee to attend in the director's place;

(c) (I) ~~To~~ Employ and direct such personnel as may be necessary to carry out the purposes of this article, but no person shall be employed who has been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101, C.R.S.

(II) The director, with the approval of the commission, may enter into agreements with any department, agency, or unit of state government to secure services which the director deems necessary and to provide for the payment for such services and may employ and compensate such consultants and technical assistants as may be required and as otherwise permitted by law.

(d) ~~To~~ Confer with the commission as necessary or desirable, but not less than once each month, with regard to the operation of the division;

(e) ~~To~~ Make available for inspection by the commission or any member of the commission, upon request, all books, records, files, and other information and documents in the director's office;

(f) ~~To~~ Advise the commission and recommend to the commission such rules and regulations and such other procedures as the director deems necessary and advisable to improve the operation of the division and the conduct of limited gaming;

(g) With the concurrence of the commission or pursuant to commission requirements and procedures, ~~to~~ enter into contracts for materials, equipment, and supplies to be used in the operation of the division;

(h) ~~To~~ Make a continuous study and investigation of the operation and the administration of similar laws which may be in effect in other states or countries; of any literature on gaming which from time to time may be published or available; and of any federal laws which may affect the operation of the division, the conduction of limited gaming, or the reaction of Colorado citizens to limited gaming with a view to recommending or effecting changes that would serve the purposes of this article;

(i) (I) ~~To~~ Furnish to the state treasurer and the commission a monthly report which contains a full and complete statement of the division's revenue and expenses for each month.

(II) All reports required by this paragraph (i) shall be public, and copies of all such reports shall be sent to the governor, the speaker of the house of representatives, the president of the senate, the minority leaders of both houses, and the executive director of the department of revenue.

(j) ~~To~~ Annually prepare and submit to the commission, for its approval, a proposed budget for the succeeding fiscal year, which budget shall set forth a complete financial plan for all proposed expenditures and anticipated revenues of the division. ~~For the fiscal year commencing July 1, 1991, the director shall prepare a proposed budget and shall submit it to the commission for approval by the commission at the earliest feasible time.~~

(k) ~~To~~ Take such action as may be determined by the commission to be necessary to protect the security and integrity of limited gaming;

(l) ~~To~~ Perform any other lawful acts which the commission may consider necessary or desirable in order to carry out the purposes and provisions of this article; AND

(m) ~~To~~ Annually prepare and submit to the commission, for its approval, a proposed budget for the ensuing fiscal year, which budget shall present a complete financial plan setting forth all proposed expenditures and anticipated revenues of the division.

SECTION 2. 12-47.1-206, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-47.1-206. Repeal of division - review of functions. Unless continued by the general assembly, this part 2 is repealed, effective July 1, 1996 JULY 1, 2001, and those powers, duties, and functions of the director specified in this part 2 are abolished. The provisions of section 24-34-104 (5) to (12), C.R.S., concerning a windup period, an analysis and evaluation, public hearings, and claims by or against an agency shall apply to the powers, duties, and functions of the director of said division.

SECTION 3. 12-47.1-501 (1) (b), (1) (d), and (1) (e), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-47.1-501. Licenses - types. (1) The commission may issue five types of licenses as follows:

(b) **Operator license.** (f) An operator license is required for all persons who permit slot machines on their premises or who engage in the business of placing and operating slot machines on the premises of a retailer. Each license issued pursuant to this paragraph (b) shall expire one year from the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule. ~~and regulation.~~ A licensed operator shall obtain slot machines only from a licensed manufacturer or distributor.

(f) THIS PARAGRAPH (b) SHALL NOT APPLY TO PERSONS HOLDING RETAIL GAMING LICENSES ISSUED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (1).

(d) **Support license.** A support license is required for all persons employed in the field of limited gaming and by all gaming employees. No person required to hold a support license shall be an employee of, or assist, any

licensee until such person obtains a valid support license. Persons licensed as key employees need not obtain support licenses. The commission may deny a support license to any person discharged for cause from employment by any licensed gaming establishment in this or any other country. Each license issued pursuant to this paragraph (d) shall expire ~~one year~~ TWO YEARS from the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule. ~~and regulation.~~

(e) **Key employee license.** Every retail gaming licensee shall have a person in charge of all limited gaming activities available at all times when limited gaming is being conducted. Such person in charge shall hold a key employee license. Each license issued pursuant to this paragraph (e) shall expire ~~one year~~ TWO YEARS from the date of its issuance but may be renewed upon the filing and approval of an application for renewal. The fee for the initial license and all renewals thereof shall be determined by the commission pursuant to rule. ~~and regulation.~~

SECTION 4. 12-47.1-502, Colorado Revised Statutes, 1991 Repl. Vol., is repealed as follows:

12-47.1-502. Registration of employees. ~~All other persons licensed to be employed where limited gaming is conducted shall be registered with the local sheriff within ten days after beginning employment.~~

SECTION 5. 12-47.1-519 (2), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-47.1-519. Renewal of licenses. (2) An application for renewal of a license shall MAY be filed with the commission ~~no later than~~ UP TO one hundred

twenty days prior to the expiration of the current license, and all license fees and taxes as required by law shall be paid to the commission on or before the date of expiration of the current license. THE COMMISSION SHALL SET THE MANNER, TIME, AND PLACE AT WHICH AN APPLICATION IS MADE.

SECTION 6. 12-47.1-604 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-47.1-604. Returns and reports - failure to file - penalties. (1) (a) Any person who fails to file a return or report required by this article, which return or report includes taxable transactions, ~~within fifteen days following the date the return or report is due~~ ON OR BEFORE THE DATE THE RETURN OR REPORT IS DUE AS PRESCRIBED IN SECTION 12-47.1-602 is subject to the payment of an additional amount assessed as a penalty equal to fifteen percent of the tax or ten dollars, whichever is greater; except that, for good cause shown, the executive director may reduce or eliminate such penalty.

(b) Any person subject to taxation under this article who fails to pay the tax within the time prescribed is subject to an interest charge of two percent per month or portion thereof for the period of time during which the payment is late or five dollars, whichever is greater.

(c) (I) Penalty and interest are considered the same as a tax for the purposes of collection and enforcement, including liens, distraint warrants, and criminal violations.

(II) Any payment received for taxes, penalties, or interest is applied first to the tax, beginning with the oldest delinquency, then to interest and then to penalty.

(d) The executive director may, upon application of the taxpayer, establish a maximum interest rate of twenty-four percent upon delinquent taxes if the executive director determines that the delinquent payment was caused by a mistake of law and was not caused by an intent to evade the tax.

SECTION 7. 12-47.1-803 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-47.1-803. Slot machines - shipping notices. (1) (a) (I) Any slot machine manufacturer or distributor shipping or importing a slot machine into the state of Colorado shall provide to the commission at the time of shipment a copy of the shipping invoice which shall include, at a minimum, the destination, the serial number of each machine, and a description of each machine.

(II) Any person within the state of Colorado receiving a slot machine shall, upon receipt of the machine, provide to the commission upon a form available from the commission information showing at a minimum the location of each machine, its serial number, and description. Such report shall be provided regardless of whether the machine is received from a manufacturer or any other person.

(III) Any machine licensed pursuant to this section shall be licensed for a specific location, and movement of the machine from that location shall be reported to the commission ~~within twenty-four hours after such movement~~ IN ACCORDANCE WITH RULES ADOPTED BY THE COMMISSION.

(b) Any person violating any provision of this section commits a class 5 felony and shall be punished as provided in section 18-1-105, C.R.S.

(c) Any slot machine ~~which~~ THAT is not in compliance with this article is declared contraband and may be summarily seized and destroyed after notice and hearing.

(d) THE COMMISSION SHALL PROMULGATE RULES SETTING THE TIME AND MANNER FOR REPORTING THE MOVEMENT OF ANY SLOT MACHINE.

SECTION 8. 24-34-104 (25.6) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25.6) The following agencies and functions of the specified agencies shall terminate on July 1, 1996:

(a) ~~The division of gaming, created by part 2 of article 47.1 of title 12, C.R.S.;~~

SECTION 9. 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

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

(30.1) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE ON JULY 1, 2001: THE FOLLOWING DIVISION IN THE DEPARTMENT OF REVENUE: THE DIVISION OF GAMING, CREATED BY PART 2 OF ARTICLE 47.1 OF TITLE 12, C.R.S.

SECTION 10. 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.

BILL D

A BILL FOR AN ACT

CONCERNING THE ELIMINATION OF PROVISIONS REGULATING BAIL BONDING AGENTS FROM THE PROFESSIONS AND OCCUPATIONS STATUTES, AND, IN CONNECTION THEREWITH, THE RELOCATION OF CERTAIN PROVISIONS TO THE INSURANCE LAWS.

Bill Summary
"Bail Bond Agents"

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

Joint Legislative Sunrise and Sunset Review Committee.

Removes all provisions that concern the regulation of bail bonding agents from the statutes for professions and occupations and relocates the following provisions to the insurance laws:

- Prelicensure education requirements for insurance producers qualified to sell bail bonds;
- A requirement that cash bail bonding agents post a qualification bond;
- Requirements concerning cash bail bonding agents;
- Notice requirements of the division of insurance concerning insurance producers qualified to sell bail bonds;
- Bonding agreement requirements;
- A provision authorizing the division to request certain information from insurance producers qualified to sell bail bonds.

- Provisions that list the reasons why disciplinary action may be taken against a bail bond producer's license.

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

SECTION 1. The introductory portion to 10-2-201 (1) (a), Colorado Revised Statutes, 1994 Repl. Vol., is amended, and the said 10-2-201 (1) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

10-2-201. Prelicensure education - when required. (1) (a) Except as otherwise provided in section 10-2-202, in addition to other requirements for licensure as specified under this article and as a condition of initial licensure, an individual applicant for qualification in life, sickness and accident, BAIL BONDS, or property and casualty lines shall be required to provide evidence to the commissioner that the individual applicant has satisfactorily completed an approved prelicensure education or training course or program as follows:

(IV) AN INDIVIDUAL SEEKING INSURANCE PRODUCER LICENSE AUTHORITY TO SELL BAIL BONDS SHALL COMPLETE AT LEAST EIGHT CLOCK HOURS OF PRELICENSURE EDUCATION, TWO OF WHICH SHALL CONCERN THE CRIMINAL COURT SYSTEM, TWO OF WHICH SHALL CONCERN BAIL BOND INDUSTRY ETHICS, AND FOUR OF WHICH SHALL CONCERN THE LAWS RELATING TO BAIL BONDS.

SECTION 2. 10-2-301 (6) (a) and (6) (c), Colorado Revised Statutes, 1994 Repl. Vol., as amended, are amended to read:

10-2-301. Continuing education requirement - advisory committee. (6) (a) The commissioner shall be responsible for administering the continuing insurance education requirements under this article ~~and the continuing education requirements under article 7 of title 12, C.R.S.,~~ and approving courses of instruction which qualify for such purposes. The commissioner shall promulgate

such rules and regulations as the commissioner deems necessary to administer such continuing education requirements, including the provisions and requirements of this section. The commissioner shall also promulgate regulations requiring that producers ~~and bail bonding agents licensed under article 7 of title 12, C.R.S.~~ be required to provide to a continuing education administrator proof of compliance with the continuing education requirements as a condition of license renewal. For persons licensed pursuant to section 10-11-116 (1) (c), compliance with the continuing legal education credits requirements of the Colorado supreme court shall be deemed to meet the requirements of this section.

(c) Each producer ~~and bail bonding agent licensed under article 7 of title 12, C.R.S.~~ shall be responsible for paying to the continuing education administrator a reasonable biennial fee for the operation of the continuing education programs, which fee shall be used to administer the provisions of this section.

SECTION 3. 10-2-401, Colorado Revised Statutes, 1994 Repl. Vol., is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

10-2-401. License required. (6) NO LAW ENFORCEMENT OR JUDICIAL OFFICER IS AUTHORIZED TO ISSUE BAIL BONDS UNDER THIS ARTICLE.

(7) NO PERSON IS AUTHORIZED TO ISSUE BAIL BONDS UNDER THIS ARTICLE IF SUCH PERSON, WITHIN THE PRECEDING TEN YEARS:

(a) WAS CONVICTED OF A FELONY OR OTHER CRIME INVOLVING MORAL TURPITUDE;

(b) SERVED A SENTENCE UPON CONVICTION OF A FELONY OR OTHER CRIME INVOLVING MORAL TURPITUDE IN A CORRECTIONAL FACILITY, CITY OR COUNTY JAIL, OR COMMUNITY CORRECTIONAL FACILITY; OR

(c) WAS UNDER THE SUPERVISION OF THE STATE BOARD OF PAROLE OR ANY PROBATION DEPARTMENT.

SECTION 4. 10-2-402 (10), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-2-402. License examination requirement. (10) Applicants for life, health coverages, property, BAIL BOND, or casualty examinations shall comply with prelicensure education requirements as prescribed in section 10-2-201 prior to taking the written examination.

SECTION 5. The introductory portion to 10-2-404 (1), Colorado Revised Statutes, 1994 Repl. Vol., is amended, to read:

10-2-404. Application for license. (1) An applicant for an insurance producer license shall make application on a form specified by the commissioner and shall declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the ~~individual's~~ APPLICANT'S knowledge and belief. Before approving the application, the commissioner shall verify that:

SECTION 6. 10-2-407, Colorado Revised Statutes, 1994 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

10-2-407. License - lines of insurance - authority - forfeiture. (4) (a) A PERSON LICENSED BY THE DIVISION AS A CASH BONDING AGENT AS OF JANUARY 1, 1992, WHO FURNISHES BAIL IN A FORM OTHER THAN IN THE FORM OF THE BAIL BOND OF AN INSURER, SHALL NOT HAVE AUTHORITY TO ISSUE BAIL BONDS UNLESS

AND UNTIL THE COMMISSIONER HAS VERIFIED THAT SUCH PERSON HAS POSTED A QUALIFICATION BOND MEETING THE REQUIREMENTS OF SUBPARAGRAPH (f) OF THIS PARAGRAPH (a):

(1) (A) EACH CASH BONDING AGENT SHALL POST A QUALIFICATION BOND WITH THE DIVISION IN AN AMOUNT NOT LESS THAN FIFTY THOUSAND DOLLARS. ANY SUCH BOND SHALL BE CONDITIONED UPON ITS FULL AND PROMPT PAYMENT INTO ANY COURT ORDERING SUCH BOND FORFEITED. IN THE EVENT OF A FORFEITURE OF A QUALIFICATION BOND, THE DIVISION SHALL HAVE PRIORITY OVER ALL OTHER CLAIMANTS TO SUCH BOND. IN THE EVENT OF A BOND FORFEITURE, A CASH BONDING AGENT SHALL BE PROHIBITED FROM WRITING NEW BAIL BONDS UNTIL THE QUALIFICATION BOND IS INCREASED TO AT LEAST FIFTY THOUSAND DOLLARS. THE BOND SHALL BE TO THE PEOPLE OF THE STATE OF COLORADO IN FAVOR OF ANY COURT IN THIS STATE AND TO THE COMMISSIONER AND THE DIVISION TO FULFILL THE PURPOSES OF THIS SECTION.

(B) A QUALIFICATION BOND SHALL MEET SUCH SPECIFICATIONS AS MAY BE REQUIRED AND APPROVED BY THE DIVISION.

(b) UPON ENTRY OF A JUDGMENT BY A COURT OF COMPETENT JURISDICTION DECLARING THE BAIL BOND ISSUED BY AN INSURANCE PRODUCER FORFEITED, THE INSURANCE PRODUCER OR THE INSURANCE COMPANY SHALL PAY THE BOND WITHIN A REASONABLE TIME TO BE DETERMINED BY THE COURT, BUT NOT TO EXCEED NINETY DAYS. IF THE BOND IS NOT PAID, THE COURT SHALL ORDER THE DIVISION TO DECLARE ANY APPLICABLE QUALIFICATION BOND TO BE FORFEITED AFTER A HEARING PURSUANT TO SECTION 10-2-801. THE DIVISION SHALL ALSO ORDER THE INSURANCE PRODUCER AND ANY INSURANCE COMPANY ACTING AS A SURETY ON THE BOND TO PAY TO THE COURT AN AMOUNT EQUAL TO THE AMOUNT OF THE BOND DECLARED FORFEITED, AFTER NOTICE AND HEARING

PURSUANT TO SECTIONS 24-4-104 AND 24-5-105, C.R.S. THE DIVISION SHALL SUSPEND THE LICENSE OF SUCH INSURANCE PRODUCER AND INSURANCE COMPANY UNTIL SUCH TIME AS ALL FORFEITURES AND JUDGMENTS ORDERED AND ENTERED AGAINST SUCH PRODUCER AND INSURANCE COMPANY HAVE BEEN CERTIFIED AS PAID OR VACATED BY ORDER OF A COURT OF RECORD.

(c) EACH INSURANCE PRODUCER AUTHORIZED TO WRITE BAIL BONDS SHALL PROVIDE TO THE SURETY A LIST OF ALL COLLATERAL TAKEN FOR ASSURANCE OF COMPLIANCE WITH THE BOND AND THE FEE PAID THEREFOR, WITHIN TEN DAYS OF TAKING THE COLLATERAL. FAILURE TO PROVIDE THIS WRITTEN LIST TO THE SURETY, KEEP A FILE OF ALL SUCH LISTS FOR TWO YEARS FOLLOWING THE END OF THE CALENDAR YEAR IN WHICH EACH WAS PREPARED, OR PROVIDE THE LIST OR A COPY OF THE LIST TO THE COMMISSIONER ON REQUEST IS A VIOLATION OF THIS SECTION AND SHALL BE A GROUND FOR REVOCATION OF THE INSURANCE PRODUCER'S LICENSE.

(d) EACH INSURANCE PRODUCER QUALIFIED TO WRITE BAIL BONDS UNDER THIS SECTION SHALL, UNDER OATH, PROVIDE ANY INFORMATION CONCERNING SUCH PRODUCER'S BUSINESS ACTIVITIES AS MAY BE REQUESTED BY THE DIVISION. SUCH INFORMATION SHALL BE PROVIDED IN A TIMELY MANNER.

(e) (I) EACH PERSON LICENSED BY THE DIVISION AS A CASH BONDING AGENT AS OF JANUARY 1, 1992, WHO FURNISHES BAIL IN A FORM OTHER THAN IN THE FORM OF THE BAIL BOND OF AN INSURER, SHALL CONTINUE TO BE AUTHORIZED TO WRITE BAIL BONDS IN ACCORDANCE WITH SECTION 16-4-104 (1) (b) (III), C.R.S. EACH PERSON SO LICENSED SHALL, EFFECTIVE AS OF JULY 1, 1996, PAY TO THE DIVISION AN ANNUAL FEE IN THE AMOUNT OF TWO HUNDRED DOLLARS. SUCH FEE SHALL BE IN ADDITION TO ANY OTHER FEE IMPOSED BY THIS TITLE AND SHALL BE PAID IN THE MANNER PRESCRIBED BY THE DIVISION.

(II) EACH PERSON LICENSED BY THE DIVISION AS A CASH BONDING AGENT, AS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e), SHALL PAY TO THE DIVISION A TAX ON THE FEES CHARGED FOR BAIL BY SUCH PERSON. SUCH TAX SHALL BE THE SAME AS THE TAX LEVIED ON INSURANCE COMPANIES BY SECTION 10-3-209 (1), AND ALL APPLICABLE PROVISIONS OF SUCH SECTION SHALL BE APPLIED TO SUCH PERSON IN THE SAME MANNER AND AMOUNTS AS THEY ARE APPLIED TO INSURANCE COMPANIES.

SECTION 7. Part 4 of article 2 of title 10, Colorado Revised Statutes, 1994 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTION to read:

10-2-407.5. Bail bonding agreements - requirements - payment schedule. (1) A BAIL BONDING AGREEMENT SHALL BE IN WRITING, SIGNED BY THE BAIL BOND PRODUCER AND THE PRINCIPAL, AND A COPY SHALL BE PROVIDED TO THE PRINCIPAL. IF THE PRINCIPAL IS ILLITERATE OR DOES NOT READ THE ENGLISH LANGUAGE, SUCH BAIL BOND PRODUCER SHALL NOTE ON THE AGREEMENT THAT HE OR SHE OR A THIRD PARTY HAS READ THE AGREEMENT TO OR TRANSLATED THE AGREEMENT FOR THE PRINCIPAL, AND A COPY OF THE TRANSLATION SHALL BE ATTACHED TO THE AGREEMENT AND PROVIDED TO THE PRINCIPAL.

(2) A RECEIPT SHALL BE PROVIDED TO THE PRINCIPAL THAT INCLUDES A FULL DESCRIPTION OF ANY COLLATERAL OR SECURITY TAKEN INTO THE CUSTODY OF THE BAIL BOND PRODUCER.

(3) EXCEPT FOR BAIL BOND FILING FEES CHARGED BY A COURT OR LAW ENFORCEMENT AGENCY AND THE ACTUAL COST OF STORING COLLATERAL IN A SECURE, SELF-SERVICE PUBLIC STORAGE FACILITY, NO BAIL BOND PRODUCER

SHALL CHARGE FOR HIS OR HER PREMIUM, COMMISSION, OR FEE AN AMOUNT MORE THAN FIFTEEN PERCENT OF THE AMOUNT OF BAIL FURNISHED OR TWENTY DOLLARS, WHICHEVER IS GREATER.

(4) AN ARRANGEMENT FOR THE PAYMENT OF ALL OR PART OF THE PREMIUM, COMMISSION, OR FEE PAID TO A BAIL BOND PRODUCER SHALL BE IN WRITING AND SHALL INCLUDE THE SCHEDULE OF SUCH PAYMENTS.

SECTION 8. 10-2-408 (1), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-2-408. License - contents - continuation due date - bond. (1) The commissioner shall issue a perpetual insurance producer license to an applicant who has met the requirements of section 10-2-404; EXCEPT THAT THE AUTHORITY TO WRITE BAIL BONDS SHALL EXPIRE ANNUALLY ON JANUARY 1, UNLESS SUCH AUTHORITY WAS REVOKED OR SUSPENDED BY THE DIVISION PRIOR TO SUCH DATE.

SECTION 9. 10-2-702, Colorado Revised Statutes, 1994 Repl. Vol., as amended, is amended to read:

10-2-702. Commissions. No insurer or insurance producer shall pay, directly or indirectly, any commission, service fee, brokerage, or other valuable consideration to any person for services as an insurance producer within this state unless, at the time such services were performed, such person was a duly licensed insurance producer under this article for the performance of such services. In addition, no person, other than a person appropriately licensed by this state as an insurance producer at the time such services were performed, shall accept any such consideration; except that any person duly licensed under this article may pay or assign such person's commissions to, or direct that such person's commissions be paid to, a partnership of which the person is a member,

employee, or agent or to a corporation of which the person is an officer, employee, or agent. FURTHER, NO INSURANCE PRODUCER AUTHORIZED TO ISSUE BAIL BONDS SHALL PAY A CLIENT REFERRAL FEE TO ANY PERSON NOT LICENSED OR AUTHORIZED TO ISSUE BAIL BONDS. This section shall not prevent payment or receipt of renewal or other deferred commissions to or by any person entitled thereto under this section.

SECTION 10. Part 7 of article 2 of title 10, Colorado Revised Statutes, 1994 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

10-2-705. Bail bond producers - collateral - return - forfeiture. (1) THE BAIL BOND PRODUCER AND THE SURETY COMPANY SHALL BE LIABLE FOR ANY FAILURE TO RETURN COLLATERAL OR PRESERVE WITHOUT USE.

(2) A BAIL BOND PRODUCER MAY ACCEPT COLLATERAL OR OTHER INDEMNITY FROM THE PRINCIPAL OR FROM ANOTHER ON BEHALF OF SUCH PRINCIPAL, IF:

(a) NO COLLATERAL OR SECURITY IN TANGIBLE PROPERTY IS TAKEN BY PLEDGE OR DEBT INSTRUMENT THAT ALLOWS RETENTION, SALE, OR OTHER DISPOSITION OF SUCH PROPERTY UPON DEFAULT, EXCEPT IN ACCORDANCE WITH ARTICLE 9 OF TITLE 4, C.R.S.;

(b) NO COLLATERAL OR SECURITY IN REAL PROPERTY IS TAKEN BY DEED OR OTHER INSTRUMENT UNLESS THE BAIL BOND PRODUCER'S INTEREST IN THE PROPERTY IS LIMITED TO THE AMOUNT OF THE BAIL BOND;

(c) THE PERSON FROM WHOM THE COLLATERAL OR SECURITY IS TAKEN IS ISSUED A RECEIPT DESCRIBING THE CONDITION OF THE COLLATERAL AT THE TIME IT IS TAKEN INTO THE CUSTODY OF THE BAIL BOND PRODUCER.

(3) (a) IN THE EVENT OF THE FAILURE OR INABILITY FOR ANY REASON OF A BAIL BOND PRODUCER OR SUCH PRODUCER'S HEIRS OR ASSIGNEES TO RETURN COLLATERAL AS REQUIRED IN THIS ARTICLE, THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE IS AUTHORIZED TO TAKE WHATEVER ACTIONS ARE NECESSARY AND APPROPRIATE TO ASSURE COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE CONCERNING THE RETURN OF COLLATERAL. THE COMMISSIONER MAY RECOVER COSTS AND ATTORNEY FEES INCURRED IN RECOVERING COLLATERAL.

(b) THE COMMISSIONER IS AUTHORIZED TO UTILIZE ANY OR ALL OF THE QUALIFICATION BOND REQUIRED IN SECTION 10-2-407 (4) (a) FOR ANY COSTS INCURRED. THE COMMISSIONER SHALL FORFEIT A QUALIFICATION BOND IN THE AMOUNT NECESSARY TO PAY ANY FINAL, NONAPPEALABLE JUDGMENT AWARD FOR FAILURE TO RETURN COLLATERAL, INCLUDING COSTS AND ATTORNEY FEES, IF AWARDED.

SECTION 11. 10-2-801 (1), Colorado Revised Statutes, 1994 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

10-2-801. Licenses - denial, suspension, revocation, termination. (1) The commissioner may suspend, revoke, refuse to continue or renew, or refuse to issue an insurance producer license if, after notice to the insurance producer licensee and after hearing in accordance with sections 24-4-104 and 24-4-105, C.R.S., the commissioner finds that as to the licensee or applicant any one or more of the following conditions exist:

(n) WITH RESPECT TO BAIL BOND PRODUCERS ONLY:

(I) FAILING TO COMPLY WITH A COURT ORDER RELATING TO THE ISSUANCE OR FORFEITURE OF A BAIL BOND, THE RETURN OR REPAYMENT OF COLLATERAL, OR OTHER;

(II) ACTING AS A BAIL BOND PRODUCER IN ANY COURT OF RECORD IN THIS STATE IF SUCH LICENSEE IS IN DEFAULT IN SECURING ANY PERSON'S BAIL BOND;

(III) FAILING TO POST A BAIL BOND WITHIN TWENTY-FOUR HOURS OF RECEIPT OF FULL PAYMENT OR A SIGNED CONTRACT FOR PAYMENT, OR IF THE BOND IS NOT SO POSTED, FAILING TO REFUND ALL MONEYS RECEIVED, RELEASE ALL LIENS, AND RETURN ALL COLLATERAL WITHIN FORTY-EIGHT HOURS OF RECEIPT OF SUCH PAYMENT OR CONTRACT;

(IV) FAILING TO PRESERVE WITHOUT USE, RETAIN SEPARATELY, OR RETURN COLLATERAL TAKEN AS SECURITY ON A BAIL BOND TO THE PRINCIPAL, INDEMNITOR, OR DEPOSITOR OF SUCH COLLATERAL;

(V) FAILING TO RETURN ANY COLLATERAL OR SECURITY, EXCEPT THE FEE RECEIVED FOR A BAIL BOND, WITHIN TEN WORKING DAYS AFTER RECEIPT OF A COPY OF A COURT ORDER THAT RESULTS IN A RELEASE OF THE BAIL BOND BY THE COURT;

(VI) SOLICITING BAIL BOND BUSINESS IN OR ABOUT ANY PLACE WHERE PRISONERS ARE CONFINED, ARRAIGNED, OR IN CUSTODY;

(VII) COERCING, SUGGESTING, AIDING AND ABETTING, OFFERING PROMISE OF FAVOR, OR THREATENING A PERSON ON WHOSE BOND SUCH BAIL BOND PRODUCER IS SURETY OR OFFERS TO BECOME SURETY, TO INDUCE THAT PERSON TO COMMIT A CRIME;

(VIII) SPECIFYING, SUGGESTING, OR ADVISING THE EMPLOYMENT OF A PARTICULAR ATTORNEY TO REPRESENT SUCH BAIL BOND PRODUCER'S PRINCIPAL.

SECTION 12. Repeal. Article 7 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is repealed.

SECTION 13. Effective date - applicability. This act shall take effect July 1, 1996, and shall apply to acts occurring on or after said date.

SECTION 14. 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.

BILL E

A BILL FOR AN ACT

CONCERNING REGULATION OF THE PRACTICE OF PHARMACY, AND, IN CONNECTION THEREWITH, CONTINUING THE AUTHORITY OF THE STATE BOARD OF PHARMACY TO REGULATE PHARMACISTS, REPEALING THE PHARMACY PEER ASSISTANCE PROGRAM, CHANGING MEMBERSHIP ON THE STATE BOARD OF PHARMACY TO FOUR LICENSED PHARMACISTS AND FOUR NONPHARMACISTS, CLARIFYING AND UPDATING LICENSING REQUIREMENTS FOR PHARMACISTS AND REGISTRATION REQUIREMENTS FOR PHARMACIES, AND MODIFYING REQUIREMENTS FOR THE SUBSTITUTION OF GENERIC DRUGS FOR PRESCRIBED DRUGS.

Bill Summary
"Pharmacists Regulation"

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

Joint Legislative Sunrise and Sunset Review Committee. Continues the authority of the state board of pharmacy to regulate pharmacists.

Changes the makeup of the board to 4 pharmacists and 4 nonpharmacists from 5 pharmacists and 2 nonpharmacists. Modifies the requirements for membership on the board by removing the requirement that members be appointed based upon the congressional districts in the state and requires instead that appointments provide adequate urban and rural representation and a balance among the various types of practice by pharmacists.

Requires self-insured pharmacists and pharmacies to report malpractice claims that are settled or adjudicated against the insured in the same manner as do insurance companies.

Clarifies language to show that all pharmacists are "licensed" and all outlets are "registered".

Specifies that all persons seeking licensure, whether by examination, endorsement, or reinstatement, must take a jurisprudence examination.

Repeals the provisions that set up classes of pharmacists.

Increases the number of outlets over which a pharmacy manager may be in direct charge from a total of 2 to a total of 4.

Specifies that all outlets must be registered.

Empowers the board to approve the types of facilities that may receive emergency kits. Repeals the requirements that a person must obtain a special permit to dispose of any stock of drugs or devices.

Modifies the requirements for substituting generic drugs for prescribed drugs by:

- Repealing the prohibition on substitution unless the substitute costs less;
- Repealing the prohibition on substituting for a higher-priced alternative drug without the patient's permission when the lower priced drug is not in stock; and
- Requiring the pharmacist to disclose the costs of the prescribed drug and the substitute drug to the patient orally and in writing.

Empowers the board to send confidential letters of concern to a licensee who has been the subject of an investigation because of conduct that the board feels does not rise to the level of being actionable but which could become actionable if continued.

Repeals the peer assistance program for pharmacists.

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

SECTION 1. 12-22-102 (5), (23), and (30.2), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-22-102. **Definitions.** As used in this part 1, unless the context otherwise requires:

(5) "Casual sale" means a sale to a corporation, individual, or other entity, other than a consumer, entitled to possess prescription drugs; except that the amount of drugs sold in such manner by any registered ~~prescription drug~~ outlet shall not exceed five percent of the total amount of drugs sold annually by such outlet.

(23) "Outlet" means any prescription drug outlet, hospital, institution, nursing home, rural health clinic, convalescent home, extended care facility, family planning clinic, wholesaler, manufacturer, OR mail order vendor, other than a pharmacist, ~~with~~ THAT HAS facilities in this state ~~who~~ REGISTERED PURSUANT TO THIS ARTICLE AND THAT engages in the dispensing, delivery, distribution, manufacturing, wholesaling, or sale of drugs or devices.

(30.2) "Prescription drug outlet" ~~means any outlet REGISTERED PURSUANT TO THIS ARTICLE where prescriptions are filled or compounded, and are sold, dispensed, offered, or displayed for sale.~~

SECTION 2. 12-22-103 (3), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-22-103. State board of pharmacy - creation - subject to termination - ~~repeal of article.~~ (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 to the state board of pharmacy created by this section.~~

(b) This article is repealed, effective ~~July 1, 1996~~ JULY 1, 2003.

SECTION 3. 12-22-104, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-22-104. **Membership.** (1) The board shall be composed of ~~five~~ FOUR 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~~ FOUR nonpharmacists who have no financial interest in the practice of pharmacy.

(2) All appointments shall be made by the governor IN ACCORDANCE WITH THIS SECTION.

(3) FOR PURPOSES OF ACHIEVING A BALANCE IN THE MEMBERSHIP ON THE BOARD, THE GOVERNOR SHALL CONSIDER:

- (a) WHETHER THE APPOINTEE'S HOME IS IN:
 - (I) AN URBAN OR RURAL LOCATION; AND
 - (II) AN AREA ALREADY REPRESENTED GEOGRAPHICALLY BY ANOTHER APPOINTEE ON THE BOARD; AND

(b) THE TYPE OF PRACTICE OF THE APPOINTEE SO THAT VARIOUS TYPES OF PRACTICES ARE REPRESENTED ON THE BOARD.

(4) (a) The term of office of each member shall be four years. ~~Persons holding office on June 15, 1987, are subject to the provisions of section 24-1-137, C.R.S.~~

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

(c) No member of the board may serve more than two consecutive full terms. ~~Appointments shall be made so that at least one member shall reside in each congressional district. A vacancy on the board occurs whenever any member moves out of the congressional district from which he was appointed.~~

~~A member who moves out of such congressional district shall promptly notify the governor of the date of such move, but such notice is not a condition precedent to the occurrence of the vacancy. The governor shall fill the vacancy as provided in this section.~~

(5) No more than four members of the board shall be members of the same major political party. ~~Appointments made to take effect on January 1, 1983, shall be made in accordance with section 24-1-135, C.R.S.~~

(6) The pharmacist members shall be appointed so that the term of one member shall expire July 1 each year. ~~and board members serving on January 1, 1980, shall serve until the July 1 next following the date on which their terms would otherwise expire. Of the two nonpharmacist members whose terms are scheduled to expire on July 1, 1986, the governor shall select one and extend the term of that member to July 1, 1987. Persons holding office on June 15, 1987, are subject to the provisions of section 24-1-137, C.R.S.~~

SECTION 4. 12-22-110 (1) (a) and (1) (f), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-22-110. Powers and duties. (1) The board shall:

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

(f) Keep a record of all licenses AND registrations, OF ALL LICENSE AND REGISTRATION renewals, suspensions, and revocations, and of its own proceedings;

SECTION 5. 12-22-113.5, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

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 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 is settled or in which judgment is rendered against the insured.

(2) The insurance company OR SELF-INSURED PHARMACIST OR PHARMACY shall provide ~~such~~ information RELATING TO EACH MALPRACTICE CLAIM as is deemed necessary by the board to conduct a further investigation and hearing.

(3) ~~Claims reports and~~ Information RELATING TO EACH MALPRACTICE CLAIM provided by insurance companies OR SELF-INSURED PHARMACISTS OR PHARMACIES shall be 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 final disciplinary action taken. The board may use such information in any formal hearing involving a licensee.

SECTION 6. 12-22-114 (1) (c), (1) (d), and (1) (p), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-22-114. Fees. (1) Fees shall be determined and collected pursuant to section 24-34-105 for the following licenses:

(c) For the initial licensure, upon examination, as a ~~Class IV~~ pharmacist, as provided in ~~section 12-22-117 (1) (d)~~ SECTION 12-22-116 (3.3);

(d) For the initial licensure, without examination and upon presentation of evidence of licensure in another state, as a ~~Class V~~ pharmacist, as provided in ~~section 12-22-117 (1) (e)~~ SECTION 12-22-116 (7);

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

SECTION 7. 12-22-116 (3) and (7), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-22-116, as amended, is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

12-22-116. Licensure or registrations - applicability - applications - licensure requirements. (3) Every applicant for a license or registration under this part 1 shall make written application in the manner and form prescribed by the board, setting forth his THE APPLICANT'S name and address, his THE APPLICANT'S qualifications for said license or registration, and other information required by the board. Every application shall be accompanied by the fee specified, and, if the applicant is required to take an examination, he SUCH APPLICANT shall appear for examination at the time and place fixed by the board.

(3.3) (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 DESIGNED TO TEST THE APPLICANT'S KNOWLEDGE OF PHARMACY AND OTHER RELATED SUBJECTS AND SHALL BE IN A FORM APPROVED BY THE BOARD; EXCEPT THAT THE EXAMINATION SHALL NOT 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 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).

(3.5) EVERY APPLICANT FOR LICENSURE AS A PHARMACIST, WHETHER BY EXAMINATION, ENDORSEMENT, OR REINSTATEMENT, SHALL TAKE A JURISPRUDENCE EXAMINATION APPROVED BY THE BOARD THAT TESTS SUCH APPLICANT'S KNOWLEDGE OF THE LAWS OF THIS STATE.

(7) (a) A person licensed by examination and in good standing in another state may apply directly to the board for licensure by endorsement, IF THE EXAMINATION IS SUBSTANTIALLY EQUIVALENT TO THE EXAMINATION GIVEN TO APPLICANTS FOR LICENSURE BY EXAMINATION IN THIS STATE. THE PERSON SO APPLYING FOR LICENSURE SHALL PRODUCE SATISFACTORY EVIDENCE OF HAVING RECEIVED THE SECONDARY AND PROFESSIONAL EDUCATION REQUIRED OF APPLICANTS FOR LICENSURE AS PHARMACISTS UNDER THE PROVISIONS OF THIS PART 1.

(b) The board shall provide procedures for direct application and may designate a clearinghouse for those applicants who choose not to apply directly.

SECTION 8. 12-22-117, Colorado Revised Statutes, 1991 Repl. Vol., is repealed as follows:

12-22-117. Classes of pharmacists. ~~(1) A licensed pharmacist is defined to be:~~

~~(a) Class I. A person licensed in this state as a licensed pharmacist on July 1, 1979;~~

~~(b) and (c) Repealed.~~

~~(d) Class IV. Any person who has graduated from a school or college of pharmacy approved by the board, who satisfactorily passes an examination before the board, which examination shall be in writing and shall be fairly designed to test the applicant's knowledge of pharmacy and other related subjects, and who has completed an internship as prescribed by the board;~~

~~(e) Class V. Upon the payment of a fee as established pursuant to section 24-34-105, C.R.S., any person who is licensed by the board by reason of his licensure in some other state by examination substantially equivalent to the examination given to applicants for licensure by examination in this state. The person so applying for licensure shall produce satisfactory evidence of having had the required secondary and professional education demanded of applicants for licensure as pharmacists under the provisions of this part 1. The board shall require such person to pass a jurisprudence examination which shall be administered monthly by the board or a board approved equivalent. Such jurisprudence examination shall not be administered by the board after July 1, 1988.~~

~~(f) Repealed.~~

~~(g) Class VI. Upon the payment of a fee established pursuant to section 24-34-105, C.R.S., any person who produces evidence satisfactory to the board that he has an undergraduate degree from a school of pharmacy outside the United States, who has passed a foreign graduate equivalency test given or approved by the board, who has passed an examination as required by paragraph (d) of this subsection (1), and who has completed an internship as prescribed by the board.~~

SECTION 9. 12-22-118 (2), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-22-118. Expiration and renewal of licenses or registrations.

(2) (a) Every licensee who desires to retain his A license shall pay a renewal fee on or before the expiration date of his SUCH license.

(b) In case any licensee or registrant defaults in the payment of the renewal fee, his THE license or registration shall expire, and notice thereof shall be given to the licensee or registrant by first-class mail to the licensee's or registrant's last-known address as shown in the records of the board. Such licensee or registrant shall not thereafter practice or carry on operations which were authorized under said license or registration.

(c) Any pharmacist failing to renew his SUCH PHARMACIST'S license on or before the applicable renewal time may be reinstated for the remainder of the current renewal period by filing a proper application, satisfying the board that he SUCH PHARMACIST is fully qualified to practice, and paying the reinstatement fee as provided in section 12-22-114 (1) (f) and all delinquent fees.

SECTION 10. 12-22-119 (1) and (5), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-22-119. Prescription drug outlet under charge of pharmacist.

(1) (a) A prescription drug outlet shall be under the direct charge of a manager who is a pharmacist, who is not the manager of any MORE THAN THREE other prescription drug outlet OUTLETS, and who has direct control of the pharmaceutical affairs of said prescription drug outlet OR OUTLETS. 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 void if the pharmacist manager in whose name the prescription drug outlet registration was issued ceases to be engaged as the manager, and the proprietor OWNER shall close the prescription drug outlet unless

he SUCH OWNER has employed a pharmacist, and, within seven days after termination of the former manager's employment, has made application to transfer the registration to the new manager and has paid the transfer fee therefor.

(c) The pharmacist manager in whose name the registration was obtained, at the time he SUCH PHARMACIST MANAGER ceases to be employed as such, shall immediately report to the board the fact that he OR SHE is no longer manager of the prescription drug outlet. ~~and he SUCH PHARMACIST MANAGER shall be held responsible as the manager until he or the proprietor does so report~~ THE CESSATION OF EMPLOYMENT IS REPORTED. The proprietor of the prescription drug outlet shall also notify the board of the termination of managership.

(d) Upon the transfer of the management of the prescription drug outlet and payment of the fee therefor, a new registration showing the name of the new manager shall be issued.

(5) The pharmacist responsible for the prescription order or chart order may delegate certain specific tasks, as provided in section 12-22-102 (26) (b), to a person who is not a pharmacist or pharmacist intern and who is under his SUCH PHARMACIST'S direct and immediate supervision if in his OR HER professional judgment such delegation is appropriate; except that no such 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).

SECTION 11. 12-22-120 (1) (e), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-22-120. Registration of facilities. (1) All outlets with facilities in this state shall register annually with the board in one of the following classifications:

(e) 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).

SECTION 12. 12-22-121 (5), (10), (13), and (16), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-22-121. Compounding, dispensing, and sale of drugs and devices.

(5) A registered ~~prescription drug~~ outlet may make a casual sale OR LOAN of or may give a drug to another registered ~~prescription drug~~ outlet or to a wholesaler of drugs, or it may sell or give a drug to a practitioner authorized by law to prescribe the same, or it may supply an emergency kit to ~~a nursing care facility, an intermediate health care facility, or a residential care facility~~ ANY FACILITY OR RESIDENCE APPROVED BY THE BOARD FOR RECEIPT OF AN EMERGENCY KIT in compliance with subsection (13) of this section.

~~(10) Any person may apply to the board for, and the board may issue to such person, a special permit authorizing such person to dispose of any stock of drugs or devices in his possession in accordance with such permit. No disposition shall be made under any such permit to anyone other than a person to whom a wholesaler or manufacturer of drugs or devices would be authorized to sell such drug or device.~~

~~(13) A nursing care facility, an intermediate health care facility, and a residential care facility providing twenty-four-hour on-site nursing services~~ ANY FACILITY OR RESIDENCE 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.

(16) ~~After September 1, 1976,~~ No manufacturer or wholesaler of prescription drugs shall sell or give any prescription drug, as provided in subsections (2) and (3) of this section, to a licensed hospital or registered ~~prescription drug~~ 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.

SECTION 13. 12-22-124 (2), (3), (4), and (5), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-22-124. Substitution of prescribed drugs authorized - when - conditions. (2) (a) If, in the opinion of the practitioner, it is in the best interest of his THE patient that an equivalent drug not be substituted, he THE PRACTITIONER may so indicate on the prescription by either writing the words "dispense as written" or by initialing in his OR HER own handwriting a preprinted box labeled "dispense as written".

(b) In no case shall a facsimile of the handwritten signature or the handwritten initials of a practitioner be preprinted to indicate "dispense as written".

(c) If 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.

(3) (a) If a substitution is made the PHARMACIST SHALL:

(I) PROVIDE THE NAME, PRICE, AND COST OF THE substitution ~~shall be communicated~~ to the purchaser in writing and orally;

(II) PROVIDE THE NAME, PRICE, AND COST OF THE INITIALLY PRESCRIBED DRUG IN WRITING AND ORALLY;

(III) LABEL the container ~~shall be labeled~~ with the name of the drug dispensed; and

(IV) ~~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.

(b) Communication of such substitution to institutionalized patients shall not be required.

(4) ~~Except as provided in subsection (5) of this section, in no case shall the pharmacist 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.~~

SECTION 14. 12-22-125 (2) (a) (IV), (5) (a), and (6), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-22-125 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-22-125. Licenses or registrations may be denied, suspended, or revoked. (2) (a) The board may deny, suspend, or revoke any license to practice as a pharmacist or pharmacy intern, after a hearing held in accordance with the provisions of this section, upon proof that the licensee:

(IV) Has had his OR HER license to practice pharmacy in another state revoked or suspended for disciplinary reasons or has committed acts in any other state ~~which~~ THAT would subject him OR HER to disciplinary action in this state;

(5) (a) The board may also include in any disciplinary order ~~which~~ THAT allows the licensee or registrant to continue to practice such conditions as the board may deem appropriate to assure that the licensee 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:

(I) Submission by the respondent to such examinations as the board may order to determine ~~his~~ THE RESPONDENT'S physical or mental condition or ~~his~~ professional qualifications;

(II) The taking by ~~him~~ THE RESPONDENT of such therapy courses of training or education as may be needed to correct deficiencies found either in the hearing or by such examinations;

(III) The review or supervision of ~~his~~ THE RESPONDENT'S practice as may be necessary to determine the quality of his OR HER practice and to correct deficiencies therein; and

(IV) The imposition of restrictions upon the nature of ~~his~~ THE RESPONDENT'S practice to assure that he OR SHE does not practice beyond the limits of his OR HER capabilities.

(6) (a) When a complaint or an investigation discloses an instance of misconduct which, in the opinion of the board, does not warrant formal action by the board but which should not be dismissed as being without merit, a letter of admonition may be sent by certified mail to the pharmacist against whom a complaint was made and a copy thereof to the person making the complaint. ~~but,~~

(b) When a letter of admonition is sent by certified mail by the board to a pharmacist complained against, such pharmacist shall be advised that he OR SHE has the right to request in writing, within twenty days after proven receipt of the letter, that formal disciplinary proceedings be initiated ~~against him~~ to adjudicate the propriety of the conduct upon which the letter of admonition is based.

(c) If ~~such~~ THE request is timely made, the letter of admonition shall be deemed vacated, and the matter shall be processed by means of formal disciplinary proceedings.

(7) 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 CONDUCT COULD WARRANT ACTION IF CONTINUED, A CONFIDENTIAL LETTER OF CONCERN MAY BE SENT BY CERTIFIED MAIL TO THE PHARMACIST AGAINST WHOM THE COMPLAINT WAS MADE OR WHO WAS THE SUBJECT OF INVESTIGATION. IF A COMPLAINT PRECIPITATED THE INVESTIGATION, A RESPONSE SHALL BE SENT TO THE PERSON MAKING THE COMPLAINT.

SECTION 15. 24-34-104 (25) (b), Colorado Revised Statutes, 1988 Repl. Vol., is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25) The following boards in the division of registrations shall terminate on July 1, 1996:

(b) ~~The state board of pharmacy, created by part 1 of article 22 of title 12, C.R.S.~~

SECTION 16. 24-34-104 (32), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (32) The following function of the specified agency shall terminate on July 1, 2003:

(c) THE STATE BOARD OF PHARMACY AND REGULATION OF THE PRACTICE OF PHARMACY BY THE DEPARTMENT OF REGULATORY AGENCIES THROUGH THE DIVISION OF REGISTRATION.

SECTION 17. Repeal. Part 6 of article 22 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is repealed.

SECTION 18. Effective date - applicability. This act shall take effect July 1, 1996, and shall apply to acts committed on or after said date.

SECTION 19. 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.

BILL F

A BILL FOR AN ACT

CONCERNING THE REGULATION OF REAL ESTATE APPRAISERS BY THE BOARD OF REAL ESTATE APPRAISERS, AND, IN CONNECTION THEREWITH, CONTINUING THE AUTHORITY OF THE BOARD OF REAL ESTATE APPRAISERS TO REGULATE LICENSED, CERTIFIED, OR REGISTERED APPRAISERS, CONVERTING THE REGULATION OF PRIVATE-SECTOR REAL ESTATE APPRAISERS TO A VOLUNTARY SYSTEM, DELETING REFERENCES TO THE MANDATORY REGULATION OF COUNTY ASSESSORS HELD UNCONSTITUTIONAL BY THE COLORADO SUPREME COURT, CHANGING THE MEMBERSHIP OF THE BOARD OF REAL ESTATE APPRAISERS TO DECREASE THE NUMBER OF LICENSED OR CERTIFIED APPRAISERS AND INCREASE BY ONE THE NUMBER OF PUBLIC MEMBERS ON THE BOARD, AND PROHIBITING CONTINGENCY FEES.

Bill Summary

"Real Estate Appraiser Regulation"

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

Joint Legislative Sunrise and Sunset Review Committee. Extends the regulatory authority of the board of real estate appraisers until July 1, 2002, and makes the following changes to the laws regulating real estate appraisers, effective July 1, 1996:

- (1) Makes the registration, licensing, and certification of real estate appraisers voluntary as opposed to mandatory, except for appraiser employees of county assessors;
- (2) In the definition of "appraisal" and "real estate appraiser", replaces "estimate" of the value of real estate with "opinion";

- (3) Decreases the number of licensed or certified appraisers on the board of real estate appraisers ("board") by one and increases the number of public members on the board by one, maintaining the current total of 7 members;
- (4) Clarifies that the board's powers apply to registered appraisers as well as to licensed and certified appraisers;
- (5) Decreases the amount of experience required for residential appraisers to be licensed from 2 years to 1 year ;
- (6) Deletes the requirement that county assessors must be registered, licensed, or certified, but retains the registration, licensing, or certification requirement of appraiser employees of county assessors;
- (7) Eliminates the requirement that tests must be taken in continuing education courses for appraisers;
- (8) Removes the condition that an appraiser license or certification issued by another state will be recognized temporarily only if the property appraised is part of a federally related transaction as defined by federal law;
- (9) Replaces language authorizing the board to determine if an applicant for registration, licensure, or certification has good moral character with language authorizing the board to consider whether the applicant has been convicted of a crime involving moral turpitude;
- (10) Changes the board's issuance of letters of admonition to registered, licensed, or certified appraisers from a formal disciplinary proceeding to an informal mechanism to address misconduct that does not warrant formal action;
- (11) Makes it a class 3 misdemeanor to make an appraisal on a contingency fee basis;
- (12) Eliminates the requirement that any savings a financial institution incurs by using an inside appraiser must be passed on to the consumer;
- (13) Repeals obsolete provisions.

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

SECTION 1. 12-61-701, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-61-701. Legislative declaration. The general assembly finds, determines, and declares that this part 7 is enacted pursuant to the requirements of the federal "Real Estate Appraisal Reform Amendments", Title XI of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of

1989". The general assembly further finds, determines, and declares that this part 7 is intended to implement the minimum requirements of federal law in the least burdensome manner to real estate appraisers while providing the SOME protection to the public and users of appraisals mandated by federal law BY ESTABLISHING A VOLUNTARY REGISTRATION, LICENSING, AND CERTIFICATION PROGRAM FOR MOST APPRAISERS.

SECTION 2. 12-61-702 (1) and (5), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended to read:

12-61-702. Definitions. As used in this part 7, unless the context otherwise requires:

(1) "Appraisal", "appraisal report", or "real estate appraisal" means a written analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate. Such terms include a valuation, which is an ~~estimate~~ OPINION of the value of real estate, and an analysis, which is a general study of real estate not specifically performed only to determine value; except that such terms include any valuation completed by ANY APPRAISER EMPLOYEE OF a county assessor as defined in section 39-1-102 (2), C.R.S. ~~or any appraiser employee of any such assessor.~~ Such terms do not include an analysis, valuation, opinion, conclusion, notation, or compilation of data by an officer, director, or regular salaried employee of a financial institution or its affiliate, made for internal use only by the said financial institution or affiliate, concerning an interest in real estate that is owned or held as collateral by the said financial institution or affiliate which is not represented or deemed to be an appraisal except to the said financial institution, the agencies regulating the said financial institution, and any secondary markets

that purchase real estate secured loans. Any such appraisal prepared by an officer, director, or regular salaried employee of said financial institution who is not registered, licensed, or certified under this part 7 shall contain a written notice that the preparer is not registered, licensed, or certified as an appraiser under this part 7.

(5) "Real estate appraiser" or "appraiser" means any person who provides for a fee or a salary an ~~estimate~~ OPINION of the nature, quality, value, or utility of an interest in, or aspect of, identified real estate and includes one who estimates value and who possesses the necessary qualifications, ability, and experience to execute or direct the appraisal of real property. "Real estate appraiser" does not include any person who conducts appraisals strictly of personal property. Such term also does not include any person licensed as a broker or salesman pursuant to part 1 of this article who provides an ~~estimate~~ OPINION of value which is not represented as an appraisal and is not used for purposes of obtaining financing. Such term also does not include any person licensed as a certified public accountant pursuant to article 2 of this title, and otherwise regulated, provided such ~~estimates~~ OPINIONS of value for real estate are not represented as an appraisal. "Real estate appraiser" does not include any corporation, which is acting through its officers or regular salaried employees, when conducting a valuation of real estate property rights owned, to be purchased, or sold by the corporation. "Real estate appraiser" also does not include any person who conducts appraisals strictly of water rights or of mineral rights. Such term also does not include any right-of-way acquisition agent employed by a public entity who provides an ~~estimate~~ OPINION of value which is not represented as an appraisal when the property being valued is five thousand dollars or less; and the term does not include any officer, director, or

regular salaried employee of a financial institution or its affiliate who makes, for internal use only by the said financial institution or affiliate, an analysis, evaluation, opinion, conclusion, notation, or compilation of data with respect to an appraisal so long as such person does not make a written adjustment of the appraisal's conclusion as to the value of the subject real property. Such term also does not include any officer, director, or regular salaried employee of a financial institution or its affiliate who makes such an internal analysis, valuation, opinion, conclusion, notation, or compilation of data concerning an interest in real estate that is owned or held as collateral by the financial institution or its affiliate.

SECTION 3. 12-61-703 (1), (2.5) (b), (2.5) (c), and (6), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-61-703. Board of real estate appraisers - creation - compensation - immunity - repeal of part. (1) There is hereby created in the division a board of real estate appraisers consisting of seven members appointed by the governor with the consent of the senate. Of such members, ~~four~~ THREE shall be licensed or certified appraisers, one of whom shall have expertise in eminent domain matters, one shall be a county assessor in office, one shall be an officer or employee of a commercial bank experienced in real estate lending, and ~~one~~ TWO shall be ~~a member~~ MEMBERS of the public at large not engaged in any of the businesses represented by the other members of the board. Of the members of the board appointed for terms beginning July 1, 1990, the commercial bank member, the county assessor member, and two of the appraiser members shall be appointed for terms of three years, and the public member and the remaining appraiser members shall be appointed for terms of one year. Of such members

~~appointed for terms beginning July 1, 1990, the appraiser members and the assessor member need not be licensed appraisers, but, unless a federal extension is granted pursuant to section 12-61-704 (1) (j), shall be licensed by July 1, 1991, or shall be ineligible to remain as members of the board and shall be removed by the governor.~~ Members of the board appointed after July 1, 1990, shall hold office for a term of three years. THE ADDITIONAL PUBLIC MEMBER OF THE BOARD OF REAL ESTATE APPRAISERS AUTHORIZED BY THIS SUBSECTION (1) SHALL NOT BE APPOINTED BEFORE THE EARLIEST DATE ON WHICH ONE OF THE FOUR APPRAISER MEMBERS' TERMS EXPIRES AFTER JULY 1, 1996. In the event of a vacancy by death, resignation, removal, or otherwise, the governor shall appoint a member to fill the unexpired term. The governor shall have the authority to remove any member for misconduct, neglect of duty, or incompetence.

(2.5) (b) ~~(4) In the event that this organizational structure is disapproved by the appraisal subcommittee established pursuant to Title XI of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of 1989", the governor is directed, notwithstanding any other provision of this article or the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S., to the contrary, to transfer the board by executive order to an agency which meets the approval of the appraisal subcommittee.~~

~~(II) The governor shall notify in writing the joint sunrise and sunset review committee of the general assembly of any action taken pursuant to this subsection (2.5) and shall provide such committee with a copy of the disapproval action issued by the appraisal subcommittee.~~

~~(III) The responsibility and authority of the governor is limited to the sole issue of the transfer of the board, and nothing in this subsection (2.5) shall be~~

~~construed to authorize the governor to modify any other statutory provisions that govern the board and its activities.~~

~~(c) The governor's authority under this subsection (2.5) shall terminate on the date the appraisal subcommittee grants approval of the organizational structure of the board.~~

(6) This part 7 is repealed, effective July 1, ~~1996~~ 2002. Prior to such repeal, the board of real estate appraisers shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 4. 12-61-704 (1) (b), (1) (e), and (1) (h) (I), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended to read:

12-61-704. Powers and duties of the board. (1) In addition to all other powers and duties imposed upon it by law, the board has the following powers and duties:

(b) To charge application, examination, and REGISTRATION, license, and certificate renewal fees established pursuant to section 12-61-111.5 ~~to~~ FROM all applicants for REGISTRATION, licensure, certification, examination, and renewal under this part 7. No fees received from applicants seeking REGISTRATION, licensure, certification, examination, or renewal shall be refunded.

(e) To issue, deny, or refuse to renew a REGISTRATION, license, or certificate pursuant to this part 7;

(h) (I) ~~Except as provided in section 12-61-706 (6),~~ To develop or purchase any examination required for the administration of this part 7, to offer each such examination at least twice a year or, if demand warrants, at more frequent intervals, and to establish a passing score for each examination which reflects a minimum level of competency;

SECTION 5. 12-61-706 (2), (5), (6), and (7), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended to read:

12-61-706. Qualifications for registration, licensing, and certification of appraisers - continuing education. (2) A person applying for a residential appraiser's license shall apply in such form and manner as prescribed by the board. Applicants shall have had at least ninety-five classroom hours of appraisal education and training, or the substantial equivalent thereof as approved by the board. Additionally, an applicant shall have had at least ~~two years~~ ONE YEAR of appraisal experience as approved by the board, and shall pass an examination developed or purchased by the board, except as otherwise provided in subsection (6) of this section for the initial examination pursuant to this section. Such person shall be known as a Colorado licensed appraiser.

(5) (a) Subject to ~~the provisions of section 12-61-714 (2),~~ 12-61-714, all ~~county assessors and~~ appraiser employees of county assessors shall be registered, licensed, or certified as provided in subsection (1), (2), (3), or (4) of this section. Obtaining and maintaining a license or certificate under any one of said subsection (1), (2), (3), or (4) shall entitle ~~a county assessor or~~ AN appraiser employee of a county assessor to perform all real estate appraisals required to fulfill such person's official duties.

(b) ~~County assessors and~~ Appraiser employees of county assessors shall be subject to all provisions of this part 7; except that ~~county assessors and~~ appraiser employees of county assessors shall not be subject to disciplinary actions by the board on the ground that they have performed appraisals beyond their level of competency when appraising real estate in fulfillment of their official duties.

(c) All reasonable costs incurred by ~~a county assessor or~~ AN appraiser employee of a county assessor to obtain and maintain a registration, license, or certificate pursuant to this section shall be paid by the county.

~~(6) (a) For purposes of the initial examination pursuant to this part 7 only, the director shall have the following powers and duties:~~

~~(I) To follow the requirements for application for registration, licensure, or certification pursuant to this subsection (6) and subsections (1) to (5) of this section;~~

~~(II) To designate in advance a place of examination;~~

~~(III) To follow the requirements of the board for determining a passing score.~~

~~(b) Initial appointees to the board are prohibited from participation in the development of the initial examinations given under this section. Any other person who participates in the development of an examination pursuant to this subsection (6) shall be prohibited from taking such examination for a period of two years from the date the examination is first given.~~

(7) The board shall prescribe continuing education requirements for persons registered, licensed, or certified under this part 7 as needed to meet the requirements of the federal "Real Estate Appraisal Reform Amendments", Title XI of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of 1989". ~~and shall require tests to measure the information obtained by persons attending such continuing education courses.~~ The board shall not establish any continuing education requirements which are more stringent than the requirements of federal law.

SECTION 6. 12-61-708, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-61-708. Licensure or certification by endorsement - temporary practice. (1) The board may issue a license or certification to an appraiser by endorsement to engage in the occupation of real estate appraisal to any applicant who has a license, registration, or certification in good standing as a real estate appraiser under the laws of another jurisdiction if:

(a) The applicant presents proof satisfactory to the board that, at the time of application for a Colorado registration, license, or certificate by endorsement, the applicant possesses credentials and qualifications which are substantially equivalent to the requirements of this part 7; OR

(b) THE JURISDICTION THAT ISSUED THE APPLICANT A LICENSE OR CERTIFICATE TO ENGAGE IN THE OCCUPATION OF REAL ESTATE APPRAISAL HAS A LAW SIMILAR TO THIS SUBSECTION (1) PURSUANT TO WHICH IT LICENSES OR CERTIFIES PERSONS WHO ARE LICENSED REAL ESTATE APPRAISERS IN THIS STATE.

(1.2) The board may specify by rules and regulations what shall constitute substantially equivalent credentials and qualifications and the manner in which credentials and qualifications of an applicant will be reviewed by the board.

(2) Pursuant to section 1122 (a) of Title XI of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of 1989", the board shall recognize, on a temporary basis, the license or certification of an appraiser issued by another state if:

(a) ~~The property to be appraised is part of a federally related transaction as defined in section 1121 (4) of Title XI of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of 1989"; and~~

(b) The appraiser's business is of a temporary nature; and

(c) The appraiser applies for and is granted a temporary practice permit by the board.

SECTION 7. 12-61-709 (1), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-61-709. Denial of registration, license, or certificate - renewal.

(1) The board is empowered to determine whether an applicant for registration, licensure, or certification possesses the NECESSARY qualifications ~~for registration, licensure, or certification required by this part 7, including~~ TO PERFORM APPRAISALS. THE BOARD MAY CONSIDER SUCH QUALITIES AS the applicant's truthfulness AND honesty and ~~good moral character~~ WHETHER THE APPLICANT HAS BEEN CONVICTED OF A CRIME INVOLVING MORAL TURPITUDE.

SECTION 8. 12-61-710 (2), (3), and (5) (d), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended, and the said 12-61-710 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-61-710. Prohibited activities - grounds for disciplinary actions - procedures. (2) If an applicant, a registrant, a licensee, or a certified person has violated any of the provisions of this section, the board may deny or refuse to renew any REGISTRATION, license, or certificate, or, as specified in subsection SUBSECTIONS (2.5) AND (5) of this section, revoke or suspend any REGISTRATION, license, or certificate, issue a letter of admonition to a licensee or certified person, or place a REGISTRANT, licensee, or certified person on probation.

(2.5) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN INSTANCE OF MISCONDUCT BY A REGISTERED, LICENSED, OR CERTIFIED APPRAISER THAT IN THE OPINION OF THE BOARD DOES NOT WARRANT FORMAL ACTION BY THE BOARD BUT SHOULD NOT BE DISMISSED AS BEING WITHOUT MERIT, THE BOARD MAY SEND A LETTER OF ADMONITION BY CERTIFIED MAIL TO THE APPRAISER AGAINST WHOM A COMPLAINT WAS MADE. THE LETTER SHALL ADVISE THE APPRAISER OF THE

RIGHT TO MAKE A WRITTEN REQUEST, WITHIN TWENTY DAYS AFTER RECEIPT OF THE LETTER OF ADMONITION, TO THE BOARD TO BEGIN FORMAL DISCIPLINARY PROCEEDINGS AS PROVIDED IN THIS SECTION TO ADJUDICATE THE CONDUCT OR ACTS ON WHICH THE LETTER WAS BASED.

(3) A proceeding for discipline of a registrant, licensee, or certified person may be commenced when the board has reasonable grounds to believe that a REGISTRANT, licensee, or certified person has committed any act or failed to act pursuant to the grounds established in subsection (1) of this section OR WHEN A REQUEST FOR A HEARING IS TIMELY MADE UNDER SUBSECTION (2.5) OF THIS SECTION.

(5) As authorized in subsection (2) of this section, disciplinary actions by the board may consist of the following:

(d) ~~Issuance of letters of admonition. Letters of admonition shall be sent by certified mail to the registrant, licensee, or certified person against whom a complaint was made. The letter shall advise the person that he or she may, within twenty days after receipt of the letter, make a written request to the board to institute formal disciplinary proceedings in order to formally adjudicate the conduct or acts on which the letter was based.~~

SECTION 9. 12-61-712, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-61-712. Unlawful acts. (1) It is unlawful for any person to:

(a) Violate any provision of this part 7; ~~or, on and after July 1, 1991, to act as a real estate appraiser in this state without first having obtained a registration, license, or certificate from the board pursuant to this part 7.~~

(b) MAKE AN APPRAISAL ON A CONTINGENCY FEE BASIS.

(2) Any person who violates any provision of subsection (1) of this section commits a class 3 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S. Any person who subsequently violates any provision of subsection (1) of this section within three years after the date of a conviction for a violation of subsection (1) of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

SECTION 10. 12-61-714, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-61-714. Special provision for appraiser employees of county assessors. (1) ~~Except as provided in subsection (2) of this section, unless a federal waiver is applied for and granted pursuant to section 12-61-704 (1) (j), on and after July 1, 1991, any person acting as a real estate appraiser in this state shall be licensed as provided in this part 7, and, on and after said date, no person shall practice without such a license or certificate or hold himself out to the public as a real estate appraiser unless licensed or certified pursuant to this part 7.~~

(2) ~~Notwithstanding the provisions of subsection (1) of this section, any county assessor holding office on or before July 1, 1990, appraiser employee of any such assessor so employed on or before July 1, 1990, or any other public employee so employed on or before July 1, 1990, shall comply with the provisions of this part 7 by July 1, 1992. Thereafter, Any county assessor or appraiser employee of any such COUNTY assessor shall have one year from the date of taking office or the beginning of employment to comply with the provisions of this part 7.~~

SECTION 11. 12-61-716, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is repealed as follows:

12-61-716. Business entities. ~~(1) A corporation, partnership, bank, savings and loan association, savings bank, credit union, or other business entity may provide appraisal services if such appraisal is prepared by individuals registered, certified, or licensed in accordance with this part 7. An individual who is not a registered, certified, or licensed appraiser may assist in the preparation of an appraisal if:~~

~~(a) The assistant is under the direct supervision of a registered, certified, or licensed appraiser; and~~

~~(b) The final appraisal document is approved and signed by an individual who is a registered, certified, or licensed appraiser.~~

SECTION 12. 12-61-718, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-61-718. Scope of article. (1) ~~(a) The provisions of this article shall not apply to an appraisal relating to any real estate related transaction or loan made or to be made by a financial institution or its affiliate if such real estate related transaction or loan is excepted from appraisal regulations established by the primary federal regulator of said financial institution and the appraisal is performed by:~~

~~(I) An officer, director, or regular salaried employee of the financial institution or its affiliate; or~~

~~(II) A real estate broker or salesperson licensed under this article with whom said institution or affiliate has contracted for performance of the appraisal.~~

~~(b) Such appraisal shall not be represented or deemed to be an appraisal except to the said financial institution, the agencies regulating the said financial institution, and any secondary markets that purchase real estate secured loans. Such appraisal shall contain a written notice that the preparer is not registered, licensed, or certified as an appraiser under this part 7. Nothing in this subsection (1) shall be construed to exempt a person registered, licensed, or certified as an appraiser under this part 7 from regulation as provided in this part 7.~~

(2) Nothing in this article shall be construed to limit the ability of any federal or state regulator of a financial institution to require the financial institution to obtain appraisals as specified by the regulator.

~~(3) Any savings by a financial institution in using an inside appraiser must be passed on to the consumer.~~

SECTION 13. 24-34-104 (25.5), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is repealed as follows:

~~24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25.5) The following board in the division of real estate shall terminate on July 1, 1996: The board of real estate appraisers, created by article 61 of title 12, C.R.S.~~

SECTION 14. 24-34-104 (31) (b), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (31) (b) The

following AGENCIES, functions, ~~of the specified agencies~~ OR BOTH shall terminate on July 1, 2002:

(III) THE BOARD OF REAL ESTATE APPRAISERS, CREATED BY ARTICLE 61 OF TITLE 12, C.R.S.

SECTION 15. **Effective date.** This act shall take effect July 1, 1996.

SECTION 16. **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.

BILL G

A BILL FOR AN ACT

CONCERNING LIMITATIONS ON THE SUBPOENA POWER OF THE COLORADO CIVIL RIGHTS DIVISION, AND, IN CONNECTION THEREWITH, THE CONTINUATION OF THE DIRECTOR'S AUTHORITY TO USE SUCH POWER IN UNFAIR EMPLOYMENT PRACTICE CASES.

Bill Summary
"Subpoena Powers"

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

Joint Legislative Sunrise and Sunset Review Committee. Continues the authority of the director of the Colorado civil rights division to subpoena witnesses in cases relating to allegations of unfair employment practices, until July 1, 2002.

Restricts the division's use of its subpoena powers, as follows:

- The power to subpoena may only be used in investigations that "directly relate" to a charge; and
- Such power may be used only if the person or entity to be subpoenaed has refused or failed to provide the information requested voluntarily after a proper request has been made.

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

SECTION 1. 24-34-104 (25.1) (g), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25.1) The following functions of the specified agencies shall terminate on July 1, 1996:

~~(g) Subpoena powers granted to the director of the division of civil rights in cases relating to allegations of unfair employment practices, as defined in part 4 of article 34 of this title;~~

SECTION 2. 24-34-104 (31) (b), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (31) (b) The following AGENCIES, functions, ~~of the specified agencies~~ OR BOTH, shall terminate on July 1, 2002:

(III) SUBPOENA POWERS GRANTED TO THE DIRECTOR OF THE DIVISION OF CIVIL RIGHTS IN CASES RELATING TO ALLEGATIONS OF UNFAIR EMPLOYMENT PRACTICES, AS DEFINED IN PART 4 OF THIS ARTICLE.

SECTION 3. 24-34-305 (1) (d) (I), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-34-305. Powers and duties of commission. (1) The commission has the following powers and duties:

(d) (I) To hold hearings upon any complaint issued against a respondent pursuant to section 24-34-306; to subpoena witnesses and compel their attendance, IF THE TESTIMONY OF THE WITNESSES SOUGHT IS LIMITED TO MATTERS DIRECTLY RELATED TO THE CHARGE; to administer oaths and take the testimony of any person under oath; and to compel such respondent to produce for examination any books and papers relating to any matter involved in such complaint. ANY SUBPOENA ISSUED PURSUANT TO THIS SUBPARAGRAPH (I) SHALL BE ISSUED ONLY IF THE PERSON OR ENTITY TO BE SUBPOENAED HAS REFUSED OR

FAILED, AFTER A PROPER REQUEST FROM THE DIRECTOR, TO PROVIDE VOLUNTARILY TO THE DIRECTOR THE INFORMATION SOUGHT BY THE SUBPOENA. Such hearings may be held by the commission itself, or by any commissioner, or by any administrative law judge appointed by the commission pursuant to part 10 of article 30 of this title, subject to appropriations for such administrative law judges made to the department of personnel; except that, if no administrative law judge is made available within the time limitations set forth in section 24-34-306 (11), the governor shall appoint an administrative law judge at the request of the commission, and such administrative law judge shall be paid out of moneys appropriated to the division. If a witness either fails or refuses to obey a subpoena issued by the commission, the commission may petition the district court having jurisdiction for issuance of a subpoena in the premises, and the court shall in a proper case issue its subpoena. Refusal to obey such subpoena shall be punishable as contempt.

SECTION 4. 24-34-306 (2) (a) and (2) (c), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

24-34-306. Charge - complaint - hearing - procedure - exhaustion of administrative remedies - repeal. (2) (a) After the filing of a charge, the director, with the assistance of the staff, shall make a prompt investigation thereof. If such charge alleges an unfair employment practice as defined in part 4 of this article or an unfair housing practice as defined in part 5 of this article, the director may subpoena witnesses and compel the testimony of witnesses and the production of books, papers, and records, ~~relevant to such charge~~ IF THE TESTIMONY, BOOKS, PAPERS, AND RECORDS SOUGHT ARE LIMITED TO MATTERS DIRECTLY RELATED TO THE CHARGE. Any subpoena issued pursuant to this

paragraph (a) shall be enforceable in the district court for the district in which the alleged discriminatory or unfair practice occurred AND SHALL BE ISSUED ONLY IF THE PERSON OR ENTITY TO BE SUBPOENAED HAS REFUSED OR FAILED, AFTER A PROPER REQUEST FROM THE DIRECTOR, TO PROVIDE VOLUNTARILY TO THE DIRECTOR THE INFORMATION SOUGHT BY THE SUBPOENA.

(c) The director's subpoena powers in cases relating to allegations of unfair employment practices are repealed on ~~July 1, 1996~~ JULY 1, 2002. Prior to such repeal, the director's subpoena powers in such cases shall be reviewed as provided for in 24-34-104, C.R.S.

SECTION 5. 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.

BILL H

A BILL FOR AN ACT

CONCERNING REGULATION OF THE PRACTICE OF DENTISTRY, AND, IN CONNECTION THEREWITH, CONTINUING THE REGULATORY AUTHORITY OF THE STATE BOARD OF DENTAL EXAMINERS, REPEALING THE DENTAL PEER HEALTH ASSISTANCE PROGRAM, CHANGING MEMBERSHIP ON THE STATE BOARD OF DENTAL EXAMINERS TO INCLUDE FIVE DENTISTS, IMPOSING TERM LIMITS ON BOARD MEMBERSHIP AND MODIFYING REQUIREMENTS FOR SUCH MEMBERSHIP, CLARIFYING AND UPDATING LICENSING AND DISCIPLINARY REQUIREMENTS FOR PERSONS REGULATED BY THE STATE BOARD OF DENTAL EXAMINERS, AND INCLUDING WITHIN THE PRACTICE OF DENTISTRY CERTAIN SPECIFIED PROCEDURES.

Bill Summary
"Dental Board"

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

Joint Legislative Sunrise and Sunset Review Committee. Continues the state board of dental examiners. Restricts board members to 2 terms of 4 years. Changes the membership of the board to include 5 dentists. Makes the members immune from civil suits that are based on their official acts. Specifies who may assist in conducting dental and dental hygiene licensing examinations.

Repeals the dental peer health assistance program.

Authorizes the board to issue temporary licenses and confidential letters of concern. Exempts from the practice of dentistry or dental hygiene, examiners who represent a board-approved testing agency. Makes the following procedures the practice of dentistry:

- Drug prescription and administration of anesthetics;
- Prescribing dosage levels for inhalation analgesia;
- Interpreting dental charts.

States that X-ray procedures may be delegated to trained personnel. Includes provisions pursuant to which a hospital may employ a dentist or dental hygienist. Prohibits a hospital from interfering with such professional's independent judgment.

Amends the licensing examination requirements. Eliminates the probation and supervision period for graduates of foreign schools. Permits licensing by reciprocity for any applicant licensed in a jurisdiction that has reciprocity with Colorado. Requires applicants to provide the board with verification of licensure from any jurisdiction. Provides that the board shall issue a retired license to any licensee meeting stated requirements.

Makes the disciplinary provisions applicable to dental hygienists and makes the following actions a cause for discipline:

- Failing to report adverse action taken against a license by another state;
- Failing to adequately supervise unlicensed employees;
- Engaging in conduct relating to the practice of dentistry or dental hygiene that constitutes a crime;
- Practicing outside the scope of legitimate dental or dental hygiene practice.

Eliminates a requirement that the board mail to all board members a list of all licensees.

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

SECTION 1. 12-35-103 (1.3) and (4)(a), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-35-103 (4) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

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

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

(4) "Personal direction" means the orders of a dentist licensed in Colorado, which shall be classified as follows:

(a) "Direct supervision" means the supervision of those tasks or procedures that do not require the presence of the dentist in the room where performed but require his THE DENTIST'S presence on the premises and availability for prompt consultation and treatment.

(c) FOR PURPOSES OF THIS SUBSECTION (4) ONLY, "PREMISES" MEANS WITHIN THE SAME BUILDING, DENTAL OFFICE, OR TREATMENT FACILITY AND WITHIN CLOSE ENOUGH PROXIMITY TO RESPOND IN A TIMELY MANNER TO AN EMERGENCY OR THE NEED FOR ASSISTANCE.

SECTION 2. 12-35-104 (1) and (2), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-35-104, as amended, is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-35-104. State board of dental examiners - subject to termination - immunity - repeal of article. (1) The state board of dental examiners, referred to in this article as the "board", in existence on July 1, 1986, is continued as the agency of this state for the regulation of the practice of dentistry in this state and to carry out the purposes of this article. The board shall be under the supervision and control of the division of registrations as provided by section 24-34-102, C.R.S. The board shall consist of ~~four~~ FIVE dentist members, two dental hygienist members, and three members from the public at large, each member to be appointed by the governor for a term of four years and to have the qualifications provided in this article; except that the dentist member first appointed on or after July 1, 1986, shall serve for a term ending January 1, 1989. Of the two new public members appointed on July 1, 1986, one member shall serve a term ending January 1, 1989, and one member shall serve a term ending January 1, 1990. ~~There shall be at least one member from each~~

~~congressional district, but no more than two members of the board may reside in the same congressional district at the same time. No more than five members of the board shall be members of the same major political party. A vacancy on the board occurs whenever any member moves out of the congressional district from which he was appointed. A member who moves out of such congressional district shall promptly notify the governor of the date of such move, but such notice is not a condition precedent to the occurrence of the vacancy. DUE CONSIDERATION SHALL BE GIVEN TO HAVING A GEOGRAPHICAL, POLITICAL, AND URBAN/RURAL BALANCE AMONG THE BOARD MEMBERS. EFFECTIVE JULY 1, 1996, NO MEMBER SHALL SERVE MORE THAN TWO CONSECUTIVE TERMS OF FOUR YEARS. Should a vacancy occur in any board membership before the expiration of the term thereof, the governor shall fill such vacancy by appointment for the remainder of such term in the same manner as in the case of original appointments. The terms of existing board members serving on the board as of July 1, 1986, shall not be disturbed by the provisions of this subsection (1), except as necessary to comply with the requirements governing composition of the board. Any member of the board may be removed by the governor for misconduct, incompetence, or neglect of duty.~~

(2) The board shall organize annually by electing one of its members as president, one as vice-president, and one as secretary. ~~and treasurer.~~ It may adopt such rules for its government as it may deem proper and shall adopt and use a seal. The board shall meet at least once a year, and more often if necessary, at such times and places as it may from time to time designate.

(6) MEMBERS OF THE BOARD SHALL BE IMMUNE FROM SUIT IN ANY CIVIL ACTION BASED ON ANY DISCIPLINARY PROCEEDINGS OR OTHER OFFICIAL ACTS PERFORMED IN GOOD FAITH AS MEMBERS OF SUCH BOARD.

SECTION 3. 12-35-105, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

~~12-35-105. Qualifications of board members. No person shall be appointed to the board who is not a legal resident of Colorado, and no dentist or dental hygienist shall be appointed to the board who has not been licensed to practice dentistry or dental hygiene, respectively, in Colorado for at least five years immediately preceding his appointment. No person shall be eligible for appointment to the board who has been convicted of a violation of any of the provisions of this or any prior dental practice laws or has been convicted of a felony.~~ A PERSON SHALL BE QUALIFIED TO BE APPOINTED TO THE BOARD IF SUCH PERSON IS:

- (a) A LEGAL RESIDENT OF COLORADO;
 - (b) CURRENTLY LICENSED AS A DENTIST OR DENTAL HYGIENIST; AND
 - (c) HAS BEEN ACTIVELY ENGAGED IN A CLINICAL PRACTICE IN THIS STATE FOR AT LEAST FIVE YEARS IMMEDIATELY PRECEDING THE APPOINTMENT.
- (2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, A PERSON CONVICTED OF A FELONY IN COLORADO OR ANY OTHER STATE OR OF VIOLATING THIS ARTICLE OR ANY LAW GOVERNING THE PRACTICE OF DENTISTRY SHALL NOT BE APPOINTED TO THE BOARD.

SECTION 4. 12-35-107 (1) (a), (1) (b), (1) (c), and (1) (e); Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-35-107. Powers and duties of board. (1) The board shall exercise, subject to the provisions of this article, the following powers and duties:

- (a) ~~Conduct examinations to ascertain the qualifications and fitness of applicants for licenses to practice dentistry and for licenses to practice dental~~

~~hygiene;~~ CONDUCT EXAMINATIONS TO ASCERTAIN THE QUALIFICATIONS AND FITNESS OF APPLICANTS FOR LICENSURE TO PRACTICE DENTISTRY AND DENTAL HYGIENE. TO ASSIST WITH SUCH EXAMINATIONS:

(I) ONLY PROCTORS OR LICENSED DENTISTS MAY PARTICIPATE IN THE EXAMINATION OF CANDIDATES FOR DENTAL LICENSURE;

(II) LICENSED DENTISTS, LICENSED DENTAL HYGIENISTS, OR PROCTORS MAY PARTICIPATE IN THE EXAMINATION OF CANDIDATES FOR DENTAL HYGIENE LICENSURE;

~~(b) Make, publish, and declare reasonable rules and regulations after public hearing thereon. All rules and regulations of the board shall be reviewed annually at a public hearing. Notice of such hearing shall be given at least thirty days prior to the date set for the hearing in the manner prescribed by section 24-4-103, C.R.S. Rules and regulations of the board may concern but not be limited to:~~ MAKE, PUBLISH, DECLARE, AND PERIODICALLY REVIEW SUCH REASONABLE RULES AS MAY BE NECESSARY TO CARRY OUT AND MAKE EFFECTIVE THE POWERS AND DUTIES OF THE BOARD AS VESTED IN IT BY THIS ARTICLE. RULES OF THE BOARD MAY INCLUDE BUT SHALL NOT BE LIMITED TO:

(I) ~~The conduct and administration of examinations~~ EXAMINATION OF applicants for licensing as dentists and dental hygienists;

(II) The practices of dentistry and dental hygiene;

(III) The tasks and procedures which may be assigned to ~~dental auxiliaries~~ and dental hygienists, CLINICAL DENTAL ASSISTANTS, OR OTHER AUXILIARIES;

(IV) The specification of essential instructions to be included in a laboratory work order.

(c) Conduct hearings to revoke, suspend, or deny the issuance of a license, license certificate, or renewal certificate granted under the authority of this

article or of previous laws, ISSUE A CONFIDENTIAL LETTER OF CONCERN, or to reprimand, censure, or place on probation a licensee when evidence has been presented showing violation of any of the provisions of this article by a holder of or an applicant for a license, license certificate, or renewal certificate. The board may elect to hear the matter itself, or it may elect to hear the matter with the assistance of an administrative law judge or an advisory attorney from the office of the attorney general, and, in such case, the advisor or administrative law judge shall advise the board on legal and procedural matters and rule on evidence and otherwise conduct the course of the hearing.

(e) Grant and issue licenses and renewal certificates in conformity with this article to such applicants as have been found qualified. THE BOARD MAY ALSO GRANT AND ISSUE TEMPORARY LICENSES. THE BOARD SHALL PROMULGATE RULES CONCERNING THE GRANTING OF TEMPORARY LICENSES, WHICH SHALL INCLUDE BUT NOT BE LIMITED TO RESTRICTIONS WITH RESPECT TO EFFECTIVE DATES, AREAS OF PRACTICE THAT MAY BE PERFORMED, AND LICENSING FEES THAT MAY BE CHARGED TO THE APPLICANT.

SECTION 5. 12-35-108 (1) (a), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-108. Power of board to administer oaths - issue subpoenas - service - penalty for refusing to obey subpoena. (1) (a) The president and, in his THE PRESIDENT'S absence, the vice-president and, in the latter's absence, the secretary, ~~and treasurer,~~ or an administrative law judge, shall have the power to administer oaths, take affirmations of witnesses, and issue subpoenas to compel the attendance of witnesses and the production of all necessary papers, books, records, documentary evidence, and materials in any hearing, investigation,

accusation, or other matter coming before the board. The board may appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., to take evidence and to make findings and report them to the board. The sheriffs of the several counties of the state or other officers authorized to serve process shall serve any subpoena or other order issued by such officer or officers of said board and shall receive for such services the fees provided for like service to be paid on certification of such officer from any funds in the hands of the board.

SECTION 6. 12-35-109 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-109. Persons entitled to practice dentistry or dental hygiene.

(1) It is unlawful for any person to practice dentistry or dental hygiene in this state except those:

(a) ~~Who, on or after April 21, 1961, were duly licensed dentists, pursuant to the laws of this state;~~

(b) ~~Who, on or after April 21, 1961, were duly licensed dental hygienists, pursuant to the laws of this state;~~

(c) Who ~~may be~~ ARE duly licensed as dentists or dental hygienists pursuant to the provisions of this article;

(d) Who are designated by this article as dental auxiliaries, but only to the extent of the procedures authorized by THIS ARTICLE AND the rules ~~and regulations~~ adopted by the board.

SECTION 7. 12-35-110, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-110. What constitutes practicing dentistry. (1) ~~Any~~ A person shall be deemed to be practicing dentistry ~~who~~ IF IN THE COURSE OF LEGITIMATE PROFESSIONAL PRACTICE SUCH PERSON:

(a) Performs, or attempts or professes to perform, any dental operation or oral surgery or dental diagnostic or therapeutic services of any kind. Nothing in this paragraph (a) shall be construed as prohibiting a dental hygienist or dental auxiliary from providing preventive dental or nutritional counseling, education, or instruction services.

(b) Is a proprietor of a place where dental operation, oral surgery, or dental diagnostic or therapeutic services are performed; except that nothing in this section shall be construed as prohibiting a dental hygienist or dental auxiliary from performing those tasks and procedures consistent with section 12-35-125 (2) and (3);

(c) Directly or indirectly, by any means or method, takes impression of the human tooth, teeth, or jaws or performs any phase of any operation incident to the replacement of a part of a tooth or supplies artificial substitutes for the natural teeth; EXCEPT THAT NOTHING IN THIS SECTION SHALL PROHIBIT OR BE CONSTRUED AS PROHIBITING A DENTAL HYGIENIST OR DENTAL AUXILIARY FROM PERFORMING TASKS AND PROCEDURES CONSISTENT WITH SECTION 12-35-122.5 (1)(d), 12-35-122.6 (1)(d), AND 12-35-125 (4) (a) (I);

(d) Furnishes, supplies, constructs, reproduces, or repairs any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth other than on the written laboratory work order of a duly licensed and practicing dentist, or places such appliance or structure in the human mouth, or adjusts or attempts or professes to adjust the same, or delivers the same to any person

other than the dentist upon whose laboratory work order the work was performed;

(e) Professes to the public by any method to furnish, supply, construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth;

~~(f) Diagnoses, or professes to diagnose, prescribes for or professes to the public to prescribe for, treats or professes to treat disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws or adjacent structure~~ EXAMINES, DIAGNOSES, PLANS TREATMENT, OR TREATS NATURAL OR ARTIFICIAL STRUCTURES OR CONDITIONS ADJACENT TO OR FUNCTIONALLY RELATED TO THE ORAL CAVITY;

(g) Extracts, or attempts to extract, human teeth, or corrects, or attempts to correct, malformations of teeth or of the jaws;

(h) Repairs or fills cavities in the human teeth;

~~(i) Uses a roentgen or X-ray machine for the purpose of taking dental X-rays or roentgenograms~~ PRESCRIBES IONIZING RADIATION OR THE USE OF AN X-RAY FOR THE PURPOSE OF TAKING DENTAL X-RAYS OR ROENTGENOGRAMS. THESE PROCEDURES MAY BE DELEGATED TO APPROPRIATELY TRAINED PERSONNEL;

(j) Gives, or professes to give, interpretations or readings of dental X-rays or roentgenograms; EXCEPT THAT NOTHING IN THIS SECTION SHALL PROHIBIT OR BE CONSTRUED AS PROHIBITING A DENTAL HYGIENIST FROM PERFORMING TASKS AND PROCEDURES CONSISTENT WITH SECTION 12-35-122.5 AND 12-35-122.6;

~~(k) Uses the words dentist, dental surgeon, oral surgeon, or the letters D.D.S., D.M.D., or any other words, letters, title, or descriptive matter which in any way represents to the general public that he is able to diagnose, treat,~~

~~prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of the teeth or jaws or adjacent structures~~ REPRESENTS HIMSELF OR HERSELF TO AN INDIVIDUAL OR THE GENERAL PUBLIC AS PRACTICING DENTISTRY, BY USING THE WORDS "DENTIST" OR "DENTAL SURGEON", OR BY USING THE LETTERS "D.D.S.", "D.M.D.", OR "D.D.S./D.M.D.". NOTHING IN THIS PARAGRAPH (k) SHALL PROHIBIT OR BE CONSTRUED AS PROHIBITING A DENTAL HYGIENIST OR DENTAL AUXILIARY FROM PERFORMING TASKS AND PROCEDURES CONSISTENT WITH SECTION 12-35-125 (2)(a) OR (4) (a); ~~or~~

(l) States, permits to be stated, or professes by any means or method whatsoever that he OR SHE can perform or will attempt to perform dental operations or render a diagnosis connected therewith;

(m) PRESCRIBES SUCH DRUGS OR MEDICATIONS AND ADMINISTERS SUCH GENERAL OR LOCAL ANESTHETICS, ANESTHESIA, OR ANALGESIA AS MAY BE NECESSARY FOR THE PROPER PRACTICE OF DENTISTRY; EXCEPT THAT NOTHING IN THIS SECTION SHALL PROHIBIT OR BE CONSTRUED AS PROHIBITING A DENTAL HYGIENIST FROM PERFORMING THOSE TASKS AND PROCEDURES CONSISTENT WITH SECTIONS 12-35-122.5 (1)(e), 12-35-122.6 (1)(e) AND (1)(f), AND 12-35-125, AND IN ACCORDANCE WITH RULES PROMULGATED BY THE BOARD.

(n) PRESCRIBES, INDUCES, AND SETS DOSAGE LEVELS FOR INHALATION ANALGESIA. MONITORING MAY BE DELEGATED TO APPROPRIATELY TRAINED PERSONNEL.

(o) GIVES OR PROFESSES TO GIVE INTERPRETATIONS OR READINGS OF DENTAL CHARTS OR RECORDS OR GIVES TREATMENT PLANS OR INTERPRETATIONS OF TREATMENT PLANS DERIVED FROM EXAMINATIONS, PATIENT RECORDS, DENTAL X-RAYS, OR ROENTGENOGRAMS; EXCEPT THAT NOTHING IN THIS SECTION SHALL PROHIBIT OR BE CONSTRUED AS PROHIBITING A DENTAL HYGIENIST OR

DENTAL AUXILIARY FROM PERFORMING TASKS AND PROCEDURES CONSISTENT WITH SECTIONS 12-35-125 (2) AND (4), 12-35-122.5, AND 12-35-122.6.

SECTION 8. 12-35-111 (1)(a), Colorado Revised Statutes, 1991 Repl. Vol., is amended, and the said 12-35-111 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-35-111. Persons exempt from operations of this article. (1) Nothing in this article shall apply to the following practices, acts, and operations:

(a) Practice of his OR HER profession by a physician or surgeon licensed as such under the laws of this state unless ~~he~~ THE PHYSICIAN OR SURGEON practices dentistry as a specialty;

(i) THE PRACTICING OF DENTISTRY OR DENTAL HYGIENE BY AN EXAMINER REPRESENTING A TESTING AGENCY APPROVED BY THE BOARD, DURING THE ADMINISTRATION OF AN EXAMINATION.

SECTION 9. 12-35-112, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

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

(2) THE group practice of dentistry OR DENTAL HYGIENE is permitted.

(3) The practice of dentistry OR DENTAL HYGIENE by a limited liability company of licensees or by a limited liability partnership of licensees is permitted subject to the limitations and requirements, insofar as are applicable, set forth in section 12-36-134, relating to a limited liability company or limited liability partnership for the practice of medicine.

(4) (a) FOR PURPOSES OF THIS SUBSECTION (4) ONLY, "HOSPITAL" MEANS A HOSPITAL CURRENTLY LICENSED OR CERTIFIED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO THE DEPARTMENT'S AUTHORITY UNDER SECTION 25-1-107 (1) (I), C.R.S.

(b) A HOSPITAL MAY EMPLOY DENTISTS AND DENTAL HYGIENISTS, SUBJECT TO THE FOLLOWING LIMITATIONS:

(I) (A) NOTHING IN THIS SUBSECTION (4) SHALL BE CONSTRUED TO ALLOW ANY HOSPITAL THAT EMPLOYS A DENTIST OR DENTAL HYGIENIST TO LIMIT OR OTHERWISE EXERCISE CONTROL OVER THE DENTIST'S OR DENTAL HYGIENIST'S INDEPENDENT PROFESSIONAL JUDGMENT CONCERNING THE PRACTICE OF DENTISTRY OR DENTAL HYGIENE, INCLUDING THE DENTIST'S JUDGMENT CONCERNING DIAGNOSIS OR TREATMENT, OR TO REQUIRE DENTISTS TO REFER EXCLUSIVELY TO THE HOSPITAL OR DENTISTS OR DENTAL HYGIENISTS IN THE EMPLOY OF SAID HOSPITAL. ANY HOSPITAL THAT KNOWINGLY OR RECKLESSLY SO LIMITS OR CONTROLS A DENTIST OR DENTAL HYGIENIST IN THE DESCRIBED MANNER, OR ATTEMPTS TO DO SO, SHALL BE DEEMED TO HAVE VIOLATED HOSPITAL STANDARDS OF OPERATION AND MAY BE HELD LIABLE TO THE PATIENT OR TO THE DENTIST OR DENTAL HYGIENIST, OR BOTH, FOR SUCH VIOLATIONS, INCLUDING PROXIMATELY CAUSED DAMAGES.

(B) NOTHING IN THIS SUBSECTION (4) SHALL BE CONSTRUED TO AFFECT A HOSPITAL'S DECISIONS WITH RESPECT TO THE AVAILABILITY OF ITS SERVICES, TECHNOLOGY, EQUIPMENT, FACILITIES, OR TREATMENT PROGRAMS, OR TO REQUIRE A HOSPITAL TO MAKE AVAILABLE TO ITS PATIENTS, DENTISTS, OR DENTAL HYGIENISTS ADDITIONAL SERVICES, TECHNOLOGY, EQUIPMENT, FACILITIES, OR TREATMENT PROGRAMS.

(II) NOTHING IN THIS SUBSECTION (4) SHALL BE CONSTRUED TO ALLOW A HOSPITAL THAT EMPLOYS A DENTIST OR DENTAL HYGIENIST TO OFFER SUCH DENTIST OR DENTAL HYGIENIST A PERCENTAGE OF FEES CHARGED TO PATIENTS BY THE HOSPITAL, OR ANY OTHER FINANCIAL INCENTIVE TO ARTIFICIALLY INCREASE SERVICES PROVIDED TO PATIENTS.

(III) THE MEDICAL STAFF BYLAWS OR POLICIES AND HOSPITAL POLICIES OF ANY HOSPITAL THAT EMPLOYS DENTISTS OR DENTAL HYGIENISTS SHALL NOT DISCRIMINATE WITH REGARD TO CREDENTIALS OR STAFF PRIVILEGES ON THE BASIS OF WHETHER SUCH DENTIST OR DENTAL HYGIENIST IS AN EMPLOYEE OF, HAS STAFF PRIVILEGES AT, OR CONTRACTS WITH SUCH HOSPITAL. ANY HOSPITAL THAT SO DISCRIMINATES SHALL BE DEEMED TO HAVE VIOLATED HOSPITAL STANDARDS OF OPERATION AND MAY BE HELD LIABLE TO THE DENTIST OR DENTAL HYGIENIST FOR SUCH VIOLATIONS, INCLUDING PROXIMATELY CAUSED DAMAGES. THIS SUBPARAGRAPH (III) SHALL NOT AFFECT THE TERMS OF A CONTRACT OR WRITTEN EMPLOYMENT ARRANGEMENT WHICH PROVIDES THAT THE CREDENTIALS OR STAFF AND CLINICAL PRIVILEGES OF A PRACTITIONER ARE INCIDENT TO OR COTERMINOUS WITH THE CONTRACT OR EMPLOYMENT ARRANGEMENT OR THE INDIVIDUAL'S ASSOCIATION WITH A GROUP HOLDING THE CONTRACT.

(IV) EVERY HOSPITAL THAT EMPLOYS A DENTIST OR DENTAL HYGIENIST SHALL REPORT THE NUMBER OF DENTISTS AND DENTAL HYGIENISTS ON THE HOSPITAL'S MEDICAL STAFF TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT WHEN APPLYING FOR INITIAL FACILITY LICENSURE AND FOR EACH LICENSE RENEWAL. SUCH REPORT SHALL SEPARATELY IDENTIFY THE NUMBER OF DENTISTS AND DENTAL HYGIENISTS WHO ARE EMPLOYED BY, OR UNDER SEPARATE CONTRACT WITH AND INDEPENDENT OF, THE HOSPITAL.

(V) THE MEDICAL STAFF BYLAWS OR POLICIES AND HOSPITAL POLICIES OF ANY HOSPITAL THAT EMPLOYS DENTISTS AND DENTAL HYGIENISTS SHALL CONTAIN A PROCEDURE BY WHICH COMPLAINTS BY DENTISTS AND DENTAL HYGIENISTS THAT ALLEGE A VIOLATION OF SUBPARAGRAPHS (I), (II), OR (III) OF THIS PARAGRAPH (b) MAY BE HEARD AND RESOLVED. SUCH PROCEDURE SHALL ENSURE THAT THE DUE PROCESS RIGHTS OF THE PARTIES ARE PROTECTED. ANY DENTIST OR DENTAL HYGIENIST WHO BELIEVES HE OR SHE HAS BEEN THE SUBJECT OF SUCH A VIOLATION HAS THE RIGHT TO COMPLAIN AND REQUEST A REVIEW OF THE MATTER PURSUANT TO SUCH PROCEDURE.

(c) NOTHING IN THIS SUBSECTION (4) SHALL PRECLUDE A DENTIST, DENTAL HYGIENIST, OR PATIENT FROM SEEKING OTHER REMEDIES AVAILABLE TO SUCH DENTIST, DENTAL HYGIENIST, OR PATIENT AT LAW OR IN EQUITY.

SECTION 10. 12-35-113 (1) (b), Colorado Revised Statutes, 1991 Repl. Vol., is amended, and the said 12-35-113 (1), as amended, is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-35-113. Application for license - fee. (1) Every person not currently holding a license to practice dentistry in this state who desires to practice dentistry in this state shall file with the secretary of the board an application for

a license on a form to be provided by the board, verified by the oath of the applicant, and accompanied by a fee required by section 12-35-123.5 (2) (b) or established pursuant to section 24-34-105, C.R.S., in which application it shall appear that the applicant:

(b) Is a graduate of a dental school or college which at the time of the applicant's graduation was accredited by the council on dental education of the American dental association. It shall be sufficient for the applicant to attach to his THE APPLICANT'S application a certified photostatic copy of a transcript of credits prepared by the dental college or school attended by the applicant.

(e) HAS VERIFICATION OF LICENSURE FROM OTHER JURISDICTIONS WHERE THE APPLICANT HOLDS A CURRENT DENTAL OR OTHER HEALTH CARE LICENSE.

SECTION 11. 12-35-113.5, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-113.5. Graduates of foreign dental schools. (1) ~~Notwithstanding anything in section 12-35-113 (1) (b) to the contrary, an applicant for a license to practice dentistry who has studied dentistry and received a degree of doctor of dental medicine or doctor of dental surgery from a foreign dental school shall be eligible for licensure if he~~ AN APPLICANT FOR A LICENSE TO PRACTICE DENTISTRY WHO IS A GRADUATE OF A FOREIGN NONACCREDITED DENTAL SCHOOL MUST:

(a) ~~Prior to acceptance into the certification program described in paragraph (b) of this subsection (1), has passed the examinations given by the national board of dental examiners of the American dental association~~ PRESENT EVIDENCE OF HAVING COMPLETED A PROGRAM IN CLINICAL DENTISTRY AND HAVING OBTAINED A DOCTORATE OF DENTAL SURGERY OR A DOCTORATE OF

DENTAL MEDICINE AT A DENTAL SCHOOL ACCREDITED BY A NATIONALLY RECOGNIZED ACCREDITING AGENCY;

~~(b) Has been recommended for examination for licensure by the school of dentistry at the university of Colorado following satisfactory completion of a comprehensive preclinical dental examination, developed with the approval of the board, certifying that the applicant meets the standards established for students of the school of dentistry in those areas specified by the board; such an evaluation will be administered on an annual basis at the expense of the applicant and at the written request of the board~~ PASS THE EXAMINATION ADMINISTERED BY THE JOINT COMMISSION ON NATIONAL DENTAL EXAMINATIONS;

~~(c) Has achieved a passing score on the examinations specified by the board for other applicants for licensure, pursuant to section 12-35-114; and~~ PASS AN EXAMINATION DESIGNED TO TEST THE APPLICANT'S CLINICAL SKILLS AND KNOWLEDGE. SUCH EXAMINATION MAY BE ADMINISTERED BY A TESTING AGENCY OF WHICH THE BOARD IS A PARTICIPATING MEMBER.

~~(d) Has completed, subsequent to meeting the requirements of paragraphs (a) to (c) of this subsection (1) and within two years after meeting such requirements, a one year probationary period of dental practice under the direct supervision of a dentist licensed in accordance with this article and has been recommended for licensure to the board by the supervising dentist. The applicant shall register with the board in advance of the one year probationary period and submit quarterly reports in accordance with the rules and on forms provided therefor by the board. Upon registration, the applicant shall be issued a probationary license, which shall expire when the applicant ceases practicing under the direct supervision of the licensed dentist or after one year, whichever is earlier.~~

SECTION 12. 12-35-114 (1), (2), (3), (4), and (6), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended to read:

12-35-114. Examinations - how conducted - certificates issued to successful applicants - conditions on reexamination. ~~(1) When the application and accompanying proof, as required by section 12-35-113, are found satisfactory, the board shall notify the applicant to submit to an examination at a time and place to be fixed by the board.~~ APPLICANTS FOR DENTAL LICENSURE SHALL SUBMIT TO THE BOARD PROOF OF HAVING SUCCESSFULLY PASSED THE FOLLOWING:

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

(b) AN EXAMINATION ON THE PROVISIONS OF THIS ARTICLE;

(c) AN EXAMINATION DESIGNED TO TEST THE APPLICANT'S CLINICAL SKILLS AND KNOWLEDGE. SUCH EXAMINATION MAY BE ADMINISTERED BY A TESTING AGENCY OF WHICH THE BOARD IS A PARTICIPATING MEMBER.

~~(2) Such examination shall be written, theoretical, practical, and clinical and of such a character as to thoroughly test the qualification of the applicant to practice dentistry. Such examination may be given at any accredited dental school or other facility approved by the board within or without the state of Colorado and may be on a regional basis. Every applicant, however, must be examined for knowledge of the provisions of this article.~~

~~(3) The board may accept, in lieu of examination upon theory subjects, the certificate of the council of the national board of dental examiners of the American dental association evidencing the successful passing of examinations given by said council. The board may also accept, in accordance with~~

~~reasonable rules and regulations, in lieu of examination upon theoretical subjects, results of examinations conducted by a school or college of dentistry accredited by the American dental association evidencing the successful passing of examinations given in the program of the school or college.~~

~~(4) All examination papers given by the board, with the grades affixed thereto, shall be filed with the secretary of the board and kept for reference and inspection for a period of not less than two years. ALL EXAMINATION RESULTS REQUIRED BY THE BOARD SHALL BE FILED WITH THE BOARD AND KEPT FOR REFERENCE FOR A PERIOD OF NOT LESS THAN TWO YEARS. Should the applicant successfully complete such examinations and be otherwise qualified, the applicant shall be granted a license by the board and shall be issued a license certificate signed by a majority of the OFFICERS OF THE board. including the president and the secretary.~~

(6) The board shall adopt rules to establish:

(a) The maximum number of times and maximum time period within which an applicant will be allowed to retake only the failed parts of the ~~clinical~~ examination DESIGNED TO TEST CLINICAL SKILLS AND KNOWLEDGE; and

(b) The maximum number of times an applicant may fail to successfully complete the ~~clinical~~ examination DESIGNED TO TEST CLINICAL SKILLS AND KNOWLEDGE before the board requires such applicant to take specified remedial measures as a prerequisite to retaking the examination.

SECTION 13. Part 1 of article 35 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

12-35-114.5. Licensure by reciprocity. (1) THE BOARD SHALL PROVIDE FOR LICENSURE UPON APPLICATION OF ANY PERSON LICENSED IN GOOD STANDING TO PRACTICE DENTISTRY IN ANOTHER STATE OR TERRITORY OF THE UNITED STATES WHO PROVIDES THE CREDENTIALS AND MEETS THE QUALIFICATIONS SET FORTH IN THIS SECTION IN THE MANNER PRESCRIBED BY THE BOARD.

(2) THE BOARD SHALL ISSUE A LICENSE TO AN APPLICANT LICENSED AS A DENTIST IN ANOTHER STATE OR TERRITORY OF THE UNITED STATES IF:

(a) SUCH STATE OR TERRITORY HAS RECIPROCITY WITH COLORADO;

(b) SAID APPLICANT HAS SUBMITTED CREDENTIALS AND QUALIFICATIONS FOR LICENSURE THAT INCLUDE:

(I) EVIDENCE OF ALL CURRENT, VALID, AND ACTIVE HEALTH CARE LICENSES, INCLUDING LICENSES TO PRACTICE DENTISTRY, HELD BY THE APPLICANT;

(II) EVIDENCE OF THE APPLICANT'S SUCCESSFUL COMPLETION OF AN EXAMINATION APPROVED BY THE BOARD;

(III) VERIFICATION THAT THE APPLICANT HAS BEEN ENGAGED IN CLINICAL PRACTICE OR IN TEACHING DENTISTRY IN AN ACCREDITED PROGRAM FOR AT LEAST ONE YEAR DURING THE THREE YEARS IMMEDIATELY PRECEDING THE APPLICATION;

(IV) A REPORT OF ANY PENDING OR FINAL DISCIPLINARY ACTIONS AGAINST ANY HEALTH CARE LICENSE HELD BY THE APPLICANT AT ANY TIME; AND

(V) A REPORT OF ANY PENDING OR FINAL MALPRACTICE ACTIONS AGAINST THE APPLICANT.

SECTION 14. 12-35-116 (1), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-35-116. Renewal of license - fees. (1) On or before the first day of the month designated pursuant to rules and regulations promulgated by the board, every dentist licensed to practice dentistry in this state shall transmit to the secretary of the board, upon a form prescribed by the board, ~~his~~ THE DENTIST'S signature, post-office address, office address, the number of ~~his~~ THE DENTIST'S license certificate, and such other pertinent information as may be requested, together with a fee required by section 12-35-123.5 (2) (b) or established pursuant to section 24-34-105, C.R.S., and all fees then in arrears, and shall receive therefor a renewal certificate authorizing ~~him~~ THE DENTIST to continue the practice of dentistry in this state. The board shall establish renewal fees and schedules subject to the provisions of section 24-34-102 (8), C.R.S.

SECTION 15. 12-35-117 (2), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-117. Failure to renew license - forfeiture - effect on disciplinary proceedings. (2) Failure of any licensee to pay the annual registration fee prescribed by subsection (1) of this section shall automatically suspend the practitioner's license while ~~he~~ THE PRACTITIONER is so delinquent, and the name of any delinquent licensee shall be omitted from the list kept by the secretary of the board pursuant to section 12-35-120.

SECTION 16. The introductory portion to 12-35-118 (1), and 12-35-118 (1) (a), (1) (b), (1) (c), (1) (g), (1) (q), (1) (u), (1.5), (3), (6) (b), and (7), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended, and the said 12-35-118 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

12-35-118. Causes for denial of issuance or renewal - suspension or revocation of licenses - other disciplinary action - unprofessional conduct defined - immunity in professional review. (1) The board may deny the issuance or renewal of, suspend for a specified time period, ~~of not more than one year,~~ or revoke any license provided for by this article or may reprimand, censure, or place on probation any licensed dentist or dental hygienist after notice and hearing, which may be conducted by an administrative law judge, pursuant to the provisions of article 4 of title 24, C.R.S., or it may issue a letter of admonition without a hearing (except that any licensed dentist or dental hygienist to whom such a letter of admonition is sent may, within thirty days after ~~receipt thereof~~ THE DATE OF THE MAILING OF SUCH LETTER BY THE BOARD, request in writing to the board a formal hearing thereon, and the letter of admonition shall be deemed vacated, and the board shall, upon such request, hold such a hearing) for any of the following causes:

(a) Resorting to fraud, misrepresentation, or deception in applying for, ~~or in securing,~~ RENEWING, OR SEEKING REINSTATEMENT OF a license TO PRACTICE DENTISTRY OR DENTAL HYGIENE IN THIS STATE, IN APPLYING FOR PROFESSIONAL LIABILITY COVERAGE REQUIRED PURSUANT TO SECTION 13-64-301, C.R.S., or in taking the ~~examination~~ EXAMINATIONS provided for in this article;

(b) ANY conviction of a felony or ~~pleading guilty or nolo contendere to a felony~~ ANY CRIME THAT WOULD CONSTITUTE A VIOLATION OF THIS ARTICLE. FOR PURPOSES OF THIS PARAGRAPH (b), CONVICTION INCLUDES THE ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE OR A DEFERRED SENTENCE;

(c) Administering, dispensing, USING, or prescribing ~~any habit-forming drug, as defined in section 12-22-102 (13), or~~ TO HIMSELF OR HERSELF, EXCEPT ON AN EMERGENCY BASIS, any controlled substance, as defined in ~~section~~

~~12-22-303 (7)~~; PART 2 OF ARTICLE 18 OF TITLE 18, C.R.S., OR AS CONTAINED IN SCHEDULE II OF 21 U.S.C. SEC. 812, other than in the course of legitimate professional practice;

(g) Except as otherwise provided in section 25-3-103.7, C.R.S., practicing dentistry OR DENTAL HYGIENE as a partner, agent, or employee of or in joint venture with any person who does not hold a license to practice dentistry OR DENTAL HYGIENE within this state or practicing dentistry OR DENTAL HYGIENE as an employee of or in joint venture with any partnership, association, or corporation except as provided in section 12-35-112. Any licensee holding a license to practice dentistry OR DENTAL HYGIENE in this state may accept employment from any person, partnership, association, or corporation to examine, prescribe, and treat the employees of such person, partnership, association, or corporation.

(q) Failure to report a dental OR DENTAL HYGIENE malpractice judgment or settlement to the board by the licensee within ninety days;

(u) Sharing any professional fees with anyone except those with whom he THE DENTIST OR DENTAL HYGIENIST is lawfully associated in the practice of dentistry or dental hygiene; except that it shall not be considered a violation of this paragraph (u) if a licensed dentist OR DENTAL HYGIENIST pays to an independent advertising or marketing agent compensation for the advertising or marketing services rendered on the licensed dentist's OR DENTAL HYGIENIST'S behalf by such agent, including compensation which is paid for the results or performance of such services on a per patient basis;

(cc) FAILING TO REPORT TO THE BOARD THE SURRENDER OF A LICENSE TO, OR ADVERSE ACTION TAKEN AGAINST A LICENSE BY, A LICENSING AGENCY IN ANOTHER STATE, TERRITORY, OR COUNTRY, A GOVERNMENTAL AGENCY, A LAW

ENFORCEMENT AGENCY, OR A COURT FOR AN ACT OR CONDUCT THAT WOULD CONSTITUTE GROUNDS FOR DISCIPLINE PURSUANT TO THIS ARTICLE.

(dd) FAILING TO PROVIDE ADEQUATE OR PROPER SUPERVISION WHEN EMPLOYING UNLICENSED PERSONS IN A DENTAL OR DENTAL HYGIENE PRACTICE.

(ee) ENGAGING IN ANY CONDUCT THAT CONSTITUTES A CRIME AS DEFINED IN TITLE 18, C.R.S., WHICH CONDUCT RELATES TO THE LICENSEE'S PRACTICE AS A DENTIST OR DENTAL HYGIENIST.

(ff) PRACTICING OUTSIDE THE SCOPE OF A LEGITIMATE DENTAL OR DENTAL HYGIENE PRACTICE.

~~(1.5) A revocation or suspension of a license to practice dentistry or dental hygiene in any other state, territory, or country for disciplinary reasons shall be deemed to be prima facie evidence of grounds for action under subsection (1) of this section.~~ THE DISCIPLINE OF A LICENSEE TO PRACTICE DENTISTRY IN ANOTHER STATE, TERRITORY, OR COUNTRY SHALL BE DEEMED TO BE UNPROFESSIONAL CONDUCT; EXCEPT THAT THIS SUBSECTION (1.5) SHALL APPLY ONLY TO DISCIPLINE THAT IS BASED UPON AN ACT OR OMISSION IN SUCH OTHER STATE, TERRITORY, OR COUNTRY THAT IS DEFINED SUBSTANTIALLY THE SAME AS UNPROFESSIONAL CONDUCT PURSUANT TO THIS ARTICLE.

(3) Complaints relating to the conduct of any dentist or dental hygienist shall be in writing and may be made by any person and, if so made, shall be signed by such person or may be initiated by the board on its own motion. The dentist or dental hygienist complained of shall be given notice ~~by mail~~ OF SUCH COMPLAINT.

(6) (b) Any member of the board or a professional review committee authorized by the board and any witness or consultant appearing before the board or such professional review committee shall be immune from suit in any civil

action brought by a licensee who is the subject of a professional review proceeding if such member, witness, or consultant acts in good faith within the scope of the function of the board or such committee, has made a reasonable effort to obtain the facts of the matter as to which ~~he~~ SUCH MEMBER, WITNESS, OR CONSULTANT acts, and acts in the reasonable belief that the action taken by ~~him~~ SUCH MEMBER, WITNESS, OR CONSULTANT is warranted by the facts. The immunity provided by this paragraph (b) shall extend to the members of an authorized professional review committee of a society or an association of persons licensed pursuant to this article and witnesses or consultants appearing before such committee if such committee is authorized to act as provided in subparagraph (II) of paragraph (a) of this subsection (6).

(7) The proceedings and records of a review committee shall be held in confidence and shall not be subject to discovery or introduction into evidence in any civil action against a dentist arising out of the matters which are the subject of evaluation and review by such committee. However, records of closed proceedings and investigations shall be available to the particular licensee under review and the complainant involved in the proceedings. No person who was in attendance at a meeting of such committee shall be permitted or required to testify in any such civil action as to any evidence or other matters produced or presented during the proceedings of such committee or as to any findings, recommendations, evaluations, opinions, or other actions of such committee or any members thereof. However, information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any such civil action merely because they were presented during proceedings of such committee, and any documents or records which have been presented to the review committee by any witness shall be returned

to the witness, if requested by ~~him~~ THE WITNESS or if ordered to be produced by a court in any action, with copies thereof to be retained by the committee at its discretion. Any person who testifies before such committee or who is a member of such committee shall not be prevented from testifying as to matters within ~~his~~ SUCH PERSON'S knowledge, but the said witness cannot be asked about ~~his~~ THE WITNESS' testimony before such a committee or opinions formed by ~~him~~ THE WITNESS as a result of said committee hearings.

SECTION 17. 12-35-118 (5) (a), (5) (b), and (5) (c), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-35-118 (5) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

12-35-118. Causes for denial of issuance or renewal - suspension or revocation of licenses - other disciplinary action - unprofessional conduct defined - immunity in professional review. (5) (a) If the board has reasonable cause to believe that a person licensed to practice dentistry or dental hygiene in this state is unable to practice dentistry or dental hygiene with reasonable skill and safety to patients, because of a ~~condition described in paragraph (d) of subsection (1) of this section or because of a physical or mental disability or~~ because of excessive use of any habit-forming drug or substance, the board may require such licensed dentist or dental hygienist to submit to mental or physical examinations by ~~physicians designated by it~~ A QUALIFIED PROFESSIONAL DESIGNATED BY THE BOARD.

(b) Upon the failure of such licensed dentist or dental hygienist to submit to such mental or physical examinations, unless due to circumstances beyond ~~his~~ THE DENTIST'S OR DENTAL HYGIENIST'S control, the board may suspend such

dentist's or dental hygienist's license to practice dentistry or dental hygiene in this state until such time as ~~he~~ THE DENTIST OR DENTAL HYGIENIST submits to the examinations.

(c) Every person licensed to practice dentistry or dental hygiene in this state shall be deemed, by so practicing or by applying for a renewal of ~~his~~ THE PERSON'S license to practice dentistry or dental hygiene in this state, to have given ~~his~~ consent to submit to mental or physical examinations when directed in writing by the board, and further to have waived all objections to the admissibility of the examining ~~physician's~~ QUALIFIED PROFESSIONAL'S testimony or examination reports on the ground of privileged communication.

(f) IF AN INVESTIGATION DISCLOSES AN INSTANCE OF CONDUCT WHICH, IN THE OPINION OF THE BOARD, DOES NOT WARRANT FORMAL BOARD ACTION AND SHOULD BE DISMISSED, BUT IN WHICH THE BOARD HAS NOTICED INDICATIONS OF POSSIBLE ERRANT CONDUCT THAT COULD LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED, A CONFIDENTIAL LETTER OF CONCERN SHALL BE SENT TO THE LICENSEE AGAINST WHOM THE COMPLAINT WAS MADE.

(g) THE BOARD MAY INCLUDE IN ANY DISCIPLINARY ORDER THAT ALLOWS THE DENTIST OR DENTAL HYGIENIST TO CONTINUE TO PRACTICE, SUCH CONDITIONS AS THE BOARD MAY DEEM APPROPRIATE TO ASSURE THAT THE DENTIST OR DENTAL HYGIENIST IS PHYSICALLY, MENTALLY, AND OTHERWISE QUALIFIED TO PRACTICE DENTISTRY OR DENTAL HYGIENE IN ACCORDANCE WITH GENERALLY ACCEPTED PROFESSIONAL STANDARDS OF PRACTICE. SUCH AN ORDER MAY INCLUDE ANY OR ALL OF THE FOLLOWING:

(I) SUBMISSION BY THE LICENSEE TO SUCH EXAMINATIONS AS THE BOARD MAY ORDER TO DETERMINE THE LICENSEE'S PHYSICAL OR MENTAL CONDITION OR PROFESSIONAL QUALIFICATIONS;

(II) THE TAKING BY THE LICENSEE OF SUCH THERAPY, COURSES OF TRAINING, OR EDUCATION AS MAY BE NEEDED TO CORRECT DEFICIENCIES FOUND BY THE BOARD OR BY SUCH EXAMINATIONS;

(III) THE REVIEW OR SUPERVISION OF THE LICENSEE'S PRACTICE AS MAY BE NECESSARY TO DETERMINE ITS QUALITY AND TO CORRECT ANY DEFICIENCIES;

(IV) THE IMPOSITION OF RESTRICTIONS ON THE LICENSEE'S PRACTICE TO ASSURE THAT SUCH PRACTICE DOES NOT EXCEED THE LIMITS OF THE LICENSEE'S CAPABILITIES.

SECTION 18. 12-35-119 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-119. Change of address - duplicate licenses and certificates.

(1) Every person licensed under this article, upon changing ~~his~~ THE LICENSEE'S place of business, shall furnish the secretary of the board ~~his~~ THE LICENSEE'S new MAILING address within thirty days.

SECTION 19. 12-35-120, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-120. Records to be kept by secretary of the board. The secretary of the board shall keep a record book in which shall be entered the names of all persons to whom licenses and license renewal certificates have been granted under this article, the numbers of such licenses and renewal certificates, the dates of granting the same, and other matters of record. The book so provided and kept shall be a book of records which shall be open to public inspection during ordinary office hours. A copy of any part or all of the book of records certified by the secretary, or a certified statement of the contents of the book of records, shall be prima facie evidence of the same in any court of this state. ~~On~~

~~July 1 of each even numbered year, the secretary shall mail to each member of the board a complete list of licensees, corrected to the previous January 1, including the name, license number, and business address of each licensee entitled to practice in this state, and~~ Upon payment of a fee to cover the cost of duplication, the secretary shall furnish the list of licensees to any person.

SECTION 20. 12-35-122, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-122. Dentists may prescribe drugs, etc. A dentist has the right to prescribe such drugs or medicine, perform such surgical operations, administer such general or local anesthetics, and use such appliances as may be necessary to the proper practice of dentistry. A DENTIST SHALL NOT PRESCRIBE, DISTRIBUTE, OR GIVE TO A FAMILY MEMBER OR HIMSELF OR HERSELF ANY HABIT-FORMING DRUG, AS DEFINED IN SECTION 12-22-102 (13), OR ANY CONTROLLED SUBSTANCE, AS DEFINED IN PART 2 OF ARTICLE 18 OF TITLE 18, C.R.S., OR AS CONTAINED IN SCHEDULE II OF 21 U.S.C. SEC. 812, OTHER THAN IN THE COURSE OF LEGITIMATE DENTAL PRACTICE AND PURSUANT TO THE RULES PROMULGATED BY THE BOARD REGARDING CONTROLLED SUBSTANCE RECORDKEEPING.

SECTION 21. 12-35-123 (1), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-35-123. Dental hygienists - application fees. (1) Every person who desires to qualify for practice as a dental hygienist within this state shall file with the secretary of the board his A written application for a license, on which application he SUCH APPLICANT shall list any act, the commission of which would be grounds for disciplinary action under section 12-35-118 against a

licensed dental hygienist, along with an explanation of the circumstances of such act, and shall furnish satisfactory proof that he is a graduate of GRADUATION FROM a school of dental hygiene which, at the time of the applicant's graduation, was accredited by ~~the council on dental education of the American dental association~~ A NATIONALLY RECOGNIZED ACCREDITING AGENCY. Such application must be on the form prescribed and furnished by the board, verified by the oath of the applicant, and accompanied by a fee established pursuant to section 24-34-105, C.R.S.

SECTION 22. 12-35-124 (1), (2), (4) (b) (I), and (5), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended to read:

12-35-124. Examinations - license. (1) ~~When the application and accompanying proof as required by section 12-35-123 are found satisfactory, the board shall notify the applicant to submit to an examination at a time and place to be fixed by the board. Such examination shall be written, theoretical, practical, and clinical. The examination may be given at any accredited dental school or other facility approved by the board within or without the state of Colorado and may be given on a regional basis. Every applicant, however, must be examined for knowledge of the provisions of this article~~ EVERY APPLICANT FOR DENTAL HYGIENE LICENSURE SHALL SUBMIT TO THE BOARD, PROOF OF HAVING SUCCESSFULLY COMPLETED THE FOLLOWING:

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

(b) AN EXAMINATION DESIGNED TO TEST THE APPLICANT'S CLINICAL SKILLS AND KNOWLEDGE, WHICH MAY BE ADMINISTERED BY A TESTING AGENCY OF WHICH THE BOARD IS A PARTICIPATING MEMBER;

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

(2) All examination ~~papers with the grades affixed thereto~~, RESULTS REQUIRED BY THE BOARD shall be filed with the ~~secretary of the board~~ and kept for reference ~~and inspection~~ for a period of not less than two years. Should ~~the~~ AN applicant successfully complete such examinations ~~the~~ AND BE OTHERWISE QUALIFIED, SUCH applicant shall be granted a license by the board ~~which shall be evidence of the applicant's right to practice as a dental hygienist in this state~~ AND SHALL BE ISSUED A LICENSE CERTIFICATE SIGNED BY THE OFFICERS OF THE BOARD.

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

(I) ~~Evidence of all current, valid, and active health care licenses, including dental hygiene licenses, held by the applicant~~ VERIFICATION OF LICENSURE FROM ANY OTHER JURISDICTION WHERE THE APPLICANT HAS HELD A DENTAL HYGIENE OR OTHER HEALTH CARE LICENSE;

(5) ~~The board may accept, in lieu of examination upon theoretical subjects, the certificate of the council of the national board of dental examiners of the American dental association which evidences that the applicant successfully passed the examinations administered by the council for dental hygiene.~~

SECTION 23. 12-35-125, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-125. Tasks authorized to be performed by dental auxiliaries or dental hygienists. (1) The responsibility for diagnosis, treatment planning, or

the prescription of therapeutic measures in the practice of dentistry shall remain with a licensed dentist and may not be assigned to any dental hygienist. ~~or dental auxiliary.~~ No dental procedure that will contribute to or result in an irremediable alteration of the oral anatomy may be assigned to anyone other than a licensed dentist.

(2) (a) ~~Except as provided in subsection (1) of this section, a dental hygienist may perform any dental task or procedure assigned to him~~ THE HYGIENIST by a licensed dentist that does not require the professional skill of a licensed dentist but only under the general supervision of a licensed dentist in the office of a licensed dentist, or as provided elsewhere in this section.

(b) and (c) Repealed, L. 86, p. 636, § 20, effective July 1, 1986.

(3) ~~Except as provided in subsection (1) of this section, a dental auxiliary may perform any dental tasks and procedures, whether constituting dental hygiene pursuant to section 12-35-122.5 or not, except the administration of local anesthesia, sealing, root planing, and soft tissue curettage, assigned to him by a licensed dentist that do not require the professional skill of a licensed dentist but only under the personal direction of the licensed dentist. Any dental auxiliary who performs any task set forth in subsection (4), (5), or (6) of this section may perform such task under the general supervision of a licensed dentist.~~

(4) (a) A DENTAL AUXILIARY SHALL NOT PERFORM THE FOLLOWING TASKS:

(I) DIAGNOSIS;

(II) TREATMENT PLANNING;

(III) PRESCRIPTION OF THERAPEUTIC MEASURES;

(IV) ANY PROCEDURE THAT CONTRIBUTES TO OR RESULTS IN AN IRREMIABLE ALTERATION OF THE ORAL ANATOMY;

(V) ADMINISTRATION OF LOCAL ANESTHESIA;

(VI) SCALING (SUPRA AND SUB-GINGIVAL), AS IT PERTAINS TO THE PRACTICE OF DENTAL HYGIENE;

(VII) ROOT PLANING;

(VIII) SOFT TISSUE CURETTAGE;

(IX) PERIODONTAL PROBING.

(b) AN AUXILIARY MAY PERFORM THE FOLLOWING TASKS UNDER THE PERSONAL DIRECTION OF A LICENSED DENTIST:

(I) SMOOTHING AND POLISHING NATURAL AND RESTORED TOOTH SURFACES;

(II) PROVISION OF PREVENTIVE MEASURES INCLUDING THE APPLICATION OF FLUORIDES AND OTHER RECOGNIZED TOPICAL AGENTS FOR THE PREVENTION OF ORAL DISEASE;

(III) GATHERING AND ASSEMBLING INFORMATION INCLUDING BUT NOT LIMITED TO FACT-FINDING AND PATIENT HISTORY, ORAL INSPECTION, AND DENTAL AND PERIODONTAL CHARTING;

(IV) ADMINISTERING TOPICAL ANESTHETIC TO A PATIENT IN THE COURSE OF PROVIDING DENTAL CARE;

(V) ANY OTHER TASK OR PROCEDURE THAT DOES NOT REQUIRE THE PROFESSIONAL SKILL OF A LICENSED DENTIST.

(c) AN AUXILIARY MAY, UNDER THE DIRECT SUPERVISION OF A LICENSED DENTIST IN ACCORDANCE WITH RULES PROMULGATED BY THE BOARD, ADMINISTER AND MONITOR THE USE OF NITROUS OXIDE ON A PATIENT.

(d) (I) A dental auxiliary may perform intraoral and extraoral tasks and procedures necessary for the construction of a full denture UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST. These tasks and procedures shall include:

(A) Taking of preliminary and final impressions;

(B) Bite-registration and determination of vertical dimensions;

(C) Tooth selection;

(D) A preliminary try-in of the wax-up trial denture prior to and subject to a try-in and approval in writing of the wax-up trial denture by the licensed dentist;

(E) Denture adjustments that involve the periphery, occlusal, or tissue-bearing surfaces of the denture prior to the final examination of the denture pursuant to subsection (5) of this section.

(II) The tasks and procedures in ~~paragraph (a) of this subsection (4)~~ SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) shall be performed in the regularly announced office location of a licensed practicing dentist, and ~~he~~ THE DENTIST shall be personally liable for all treatment rendered to the patient. No licensed dentist may maintain or utilize more than two announced office locations in which auxiliary personnel are utilized to perform tasks and procedures authorized in ~~paragraph (a) of this subsection (4)~~ SUBPARAGRAPH (I) OF THIS PARAGRAPH (d). A dental auxiliary performing these tasks and procedures shall be properly identified as a dental auxiliary. No dentist shall utilize more than the number of dental auxiliaries ~~he~~ THE DENTIST can reasonably supervise.

(III) Prior to any work being performed pursuant to ~~paragraph (a) of this subsection (4)~~ SUBPARAGRAPH (I) OF THIS PARAGRAPH (d), the patient shall first be examined by the treating dentist licensed to practice in this state who shall certify that the patient has no pathologic condition that requires surgical correction or other treatment prior to complete denture service.

(5) At the time of a preliminary try-in of a wax-up trial denture as provided by ~~subparagraph (IV) of paragraph (a) of subsection (4)~~ SUB-SUBPARAGRAPH (D) OF SUBPARAGRAPH (I) OF PARAGRAPH (d) OF SUBSECTION (4) of this section, the

dental auxiliary shall advise the patient that the dentist will examine the wax-up trial denture and make a vertical and occlusal check and that, within one month after delivery of the denture, the patient shall be examined by the licensed dentist for a certification in the patient chart that the denture is satisfactory. ~~Both examinations shall be included in the dentist's fee.~~

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

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

SECTION 24. 12-35-128, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-128. Use of forged or invalid diploma or certificate. It is unlawful for any person to use or attempt to use as his OR HER own a diploma of a dental college or school, or a license or license renewal certificate of any other person, or to use or attempt to use a forged diploma, license, license renewal certificate, or identification. IT IS ALSO UNLAWFUL FOR ANY PERSON TO FILE WITH THE BOARD A FORGED DOCUMENT, WHICH DOCUMENT HAS BEEN REQUIRED OR REQUESTED BY THE BOARD FOR USE IN ASSESSING AN APPLICANT'S QUALIFICATIONS FOR LICENSURE.

SECTION 25. 12-35-130, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-130. Employment of unlicensed person by dentist - penalty.

(1) Every duly licensed ~~and registered~~ dentist who uses the services of any unlicensed person for the purpose of constructing, altering, repairing, or

duplicating any denture, plate, partial plate, bridge, splint, or orthodontic or prosthetic appliance shall be required to furnish such unlicensed person with a written laboratory work order in such form as shall be approved by the board, which form shall be dated and signed by such dentist for each separate and individual piece of work. Said laboratory work order shall be made in duplicate form, the duplicate copy to be retained by the dentist in a permanent file for a period of two years and the original copy to be retained in a permanent file for a period of two years by the unlicensed person to whom it was furnished, and both of such permanent files shall be open to inspection at any reasonable time by the board or its duly constituted agent.

(2) Failure of the dentist to keep such permanent records of laboratory work orders shall subject such dentist to ~~suspension or revocation of his license to practice dentistry~~ DISCIPLINARY ACTION AS DEEMED APPROPRIATE BY THE BOARD.

(3) Failure of any such unlicensed person to have in ~~his~~ THE PERSON'S possession a laboratory work order signed by a licensed dentist, or a written work order signed by the initial recipient of the laboratory work order which is identifiable with each denture, plate, partial plate, bridge, splint, or orthodontic or prosthetic appliance in the possession of such unlicensed person, shall be prima facie evidence of a violation of this section.

SECTION 26. 12-35-131, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-131. Soliciting or advertisements by unlicensed persons. It is unlawful for any unlicensed person, corporation, entity, partnership, or group of persons to solicit or advertise ~~by mail, card, newspaper, pamphlet, radio, or~~

otherwise to the general public to construct, reproduce, or repair prosthetic dentures, bridges, plates, or other appliances to be used or worn as substitutes for natural teeth.

SECTION 27. 12-35-134 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-134. Independent advertising or marketing agent - injunctive proceedings. (1) Notwithstanding the provisions of section 12-35-118 (1) (s), a licensed dentist or dental hygienist may employ an independent advertising or marketing agent to provide advertising or marketing services on his THE DENTIST'S OR DENTAL HYGIENIST'S behalf, and the same shall not be considered unprofessional conduct.

SECTION 28. Article 35 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

12-35-136. Retired licenses. (1) ANY PERSON LICENSED TO PRACTICE DENTISTRY OR DENTAL HYGIENE PURSUANT TO THIS ARTICLE MAY APPLY TO THE BOARD FOR RETIRED LICENSURE STATUS. ANY SUCH APPLICATION SHALL BE IN THE FORM AND MANNER DESIGNATED BY THE BOARD. THE BOARD MAY GRANT SUCH STATUS BY ISSUING A RETIRED LICENSE OR IT MAY DENY THE APPLICATION IF THE LICENSEE HAS BEEN DISCIPLINED FOR ANY OF THE CAUSES SET FORTH IN SECTION 12-35-118.

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

(a) PROVIDE AN AFFIDAVIT TO THE BOARD STATING THAT, AFTER A DATE CERTAIN, THE APPLICANT SHALL NOT PRACTICE DENTISTRY OR DENTAL HYGIENE IN THIS STATE, SHALL NO LONGER EARN INCOME AS A DENTIST OR DENTAL

HYGIENE ADMINISTRATOR OR CONSULTANT, OR SHALL NOT PERFORM ANY ACTIVITY THAT CONSTITUTES PRACTICING DENTISTRY OR DENTAL HYGIENE PURSUANT TO SECTIONS 12-35-110, 12-35-122.5, AND 12-35-122.6, UNLESS SAID APPLICANT IS ISSUED A LICENSE TO PRACTICE DENTISTRY OR DENTAL HYGIENE PURSUANT TO SUBSECTION (5) OF THIS SECTION;

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

(3) THE RETIRED STATUS OF A LICENSEE SHALL BE PLAINLY INDICATED ON THE FACE OF ANY RETIRED LICENSE CERTIFICATE ISSUED UNDER THIS SECTION.

(4) THE BOARD IS AUTHORIZED TO CONDUCT DISCIPLINARY PROCEEDINGS PURSUANT TO SECTION 12-35-117 OR 12-35-118 AGAINST ANY PERSON LICENSED UNDER THIS SECTION FOR AN ACT COMMITTED WHILE SUCH PERSON WAS LICENSED PURSUANT TO THIS ARTICLE.

(5) ANY PERSON LICENSED UNDER THIS SECTION MAY APPLY TO THE BOARD FOR A RETURN TO ACTIVE LICENSURE STATUS BY FILING AN APPLICATION IN THE FORM AND MANNER THE BOARD SHALL DESIGNATE PURSUANT TO SECTION 12-35-113, PAYING THE APPROPRIATE LICENSE FEE ESTABLISHED PURSUANT TO SECTION 24-34-105, C.R.S., AND MEETING THE FINANCIAL RESPONSIBILITY REQUIREMENTS ISSUED BY THE BOARD PURSUANT TO SECTION 13-64-301 (1), C.R.S. THE BOARD MAY APPROVE SUCH APPLICATION AND ISSUE A LICENSE TO PRACTICE DENTISTRY OR DENTAL HYGIENE OR MAY DENY THE APPLICATION IF THE LICENSEE HAS BEEN DISCIPLINED FOR ANY OF THE CAUSES SET FORTH IN SECTION 12-35-118.

(6) A DENTIST IN RETIRED STATUS MAY PROVIDE DENTAL SERVICES ON A VOLUNTARY BASIS TO THE INDIGENT, IF SUCH SERVICES ARE PROVIDED ON A

LIMITED BASIS AND NO FEE IS CHARGED. SUCH A DENTIST SHALL HAVE IMMUNITY FOR VOLUNTARY CARE PROVIDED PURSUANT TO THIS SUBSECTION (6).

SECTION 29. 24-34-104 (25) (a), Colorado Revised Statutes, 1988 Repl. Vol., is amended, and the said 24-34-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25) The following boards in the division of registrations shall terminate on July 1, 1996:

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

(32.5) THE FOLLOWING BOARDS SHALL TERMINATE ON JULY 1, 2003: THE STATE BOARD OF DENTAL EXAMINERS, CREATED BY ARTICLE 35 OF TITLE 12, C.R.S.

SECTION 30. Repeal. Section 12-35-123.5, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is repealed.

SECTION 31. Effective date - applicability. This act shall take effect July 1, 1996, and shall apply to acts committed on or after said date.

SECTION 32. 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.

BILL I

A BILL FOR AN ACT

CONCERNING THE CONTINUED AUTHORITY OF THE DIVISION OF PARKS AND
OUTDOOR RECREATION TO REGULATE VESSELS.

Bill Summary

"Vessel Regulation"

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

Joint Legislative Sunrise and Sunset Review Committee. Continues until July 1, 2003, the authority of the department of natural resources to regulate vessels through the division of parks and outdoor recreation.

Specifies that an officer must have probable cause to seize a vessel that does not appear to be in the legal possession of the owner. Changes postseizure hearing requirements on seized vessels to mirror the requirements for retaining seized property in drug cases. Requires an officer to have probable cause to board a vessel.

Exempts vessels with propulsion systems of 10 horsepower or less from registration requirements if the division of parks and outdoor recreation is able to obtain a waiver from the U.S. coast guard from federal numbering requirements.

Directs the division to set vessel registration fees to cover the costs of administering the vessel registration laws, capping such fees at no more than \$9 per year and repealing existing fees as set in statute.

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

SECTION 1. 33-12-102 (1.2) (e), (1.2) (f), (1.2) (g), and (1.2)

(h), Colorado Revised Statutes, 1988 Repl. Vol., are amended to read:

33-12-102. Types of passes and registrations - fees.

(1.2) The fees for the types of passes and registrations to be issued by the division, unless the board establishes a lesser fee pursuant to section 33-10-107

(1) (h), are as follows:

(e) Vessel registration (including annual resident registration, ten-day nonresident registration, and each rental vessel registration):

~~(I) For vessels less than twenty feet in length \$ 15.00~~

~~(II) For vessels twenty feet or more in length \$ 20.00~~

FEES SHALL BE SET BY THE DIVISION BY RULE AT SUCH AMOUNTS AS ARE NECESSARY TO COVER THE COST OF ADMINISTERING ARTICLE 13 OF THIS TITLE; EXCEPT THAT NO FEE SHALL BE MORE THAN NINE DOLLARS PER YEAR.

(f) Dealer registration for all vessels owned by a dealer which are operated for research, testing, experimentation, or demonstration purposes only:

~~(I) When the dealer sells twenty five or fewer vessels within the preceding year \$ 15.00~~

~~(II) When the dealer sells more than twenty five vessels within the preceding year \$ 30.00~~ FEES SHALL BE SET BY THE DIVISION BY RULE AT SUCH AMOUNTS AS ARE NECESSARY TO COVER THE COST OF ADMINISTERING ARTICLE 13 OF THIS TITLE; EXCEPT THAT NO FEE SHALL BE MORE THAN NINE DOLLARS PER YEAR.

(g) Manufacturer registration for all vessels owned by a manufacturer which are operated for demonstration or testing purposes only ~~\$ 15.00~~ FEE SHALL BE SET BY THE DIVISION BY RULE AT SUCH AMOUNT AS IS NECESSARY TO COVER THE COST OF ADMINISTERING ARTICLE 13 OF THIS TITLE; EXCEPT THAT THE FEE SHALL BE NO MORE THAN NINE DOLLARS PER YEAR.

(h) Nonresident annual vessel registration for a person from a state or country where registration is not required ~~\$ 20.00~~ FEE SHALL BE SET BY THE

DIVISION BY RULE AT SUCH AMOUNT AS IS NECESSARY TO COVER THE COST OF ADMINISTERING ARTICLE 13 OF THIS TITLE; EXCEPT THAT THE FEE SHALL BE NO MORE THAN NINE DOLLARS PER YEAR.

SECTION 2. 33-13-103, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

33-13-103. Numbering of vessels required. (1) (a) (I) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1), it is unlawful for any person to operate or use a vessel on the waters of this state unless such vessel has been numbered and a certificate of the number, referred to in this article as a "registration", has been issued to such vessel by the division. (II) The operator of ~~such~~ A vessel THAT IS REQUIRED TO BE REGISTERED PURSUANT TO THIS PARAGRAPH (a) shall produce the registration for inspection upon demand of any officer authorized to enforce the provisions of articles 10 to 15 and 32 of this title.

(b) The following VESSELS are exempt from the REGISTRATION requirements of PARAGRAPH (a) OF this subsection (1) and from the vessel registration fee set forth in section 33-12-102:

(~~a~~) (I) Any vessel ~~which~~ THAT is neither a motorboat nor a sailboat as defined in section 33-13-102; except that canoes, kayaks, and nonmotorized rafts ~~exempted by this~~ FROM THE REGISTRATION REQUIREMENTS OF paragraph (a) OF THIS SUBSECTION (1) shall be marked as required by subsection (5) of this section;

(~~b~~) (II) Vessels holding a valid marine document issued by the United States bureau of customs;

(~~e~~) (III) Vessels ~~which~~ THAT are numbered in accordance with applicable federal law or in accordance with a federally approved numbering system of another state when the registration is valid and the identifying number set forth in the registration is displayed on each side of the bow of such vessel ~~which~~ AND SUCH vessel is not used within this state during a period of not more than sixty consecutive days;

(~~d~~) (IV) A vessel from a country other than the United States temporarily using the waters of this state;

(~~e~~) (V) A vessel belonging to a class of vessels which has been exempted after the division has found that the numbering of vessels of such class will not materially aid their identification, and, if an agency of the federal government has a numbering system applicable to the class of vessels to which the vessel in question belongs, after the division has further found that the vessel would also be exempt from numbering if it were subject to federal law; OR

(VI) (A) ON AND AFTER JULY 1, 1996, AND SUBJECT TO THE REQUIREMENTS OF SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (VI), ANY VESSEL THAT HAS A PROPULSION SYSTEM CAPABLE OF PRODUCING TEN HORSEPOWER OR LESS THAT ARE NOT OPERATED IN WATERS IN THIS STATE UNDER THE JURISDICTION OF THE UNITED STATES COAST GUARD PURSUANT TO C.F.R. SECTION 2.05-30; EXCEPT THAT ANY SUCH VESSEL SHALL BE MARKED AS REQUIRED IN SUBSECTION (5) OF THIS SECTION.

(B) THE DIVISION SHALL APPLY TO THE UNITED STATES COAST GUARD FOR AN EXEMPTION FROM THE FEDERAL NUMBERING REQUIREMENTS FOR VESSELS POWERED BY AN ATTACHED MOTOR CAPABLE OF PRODUCING TEN HORSEPOWER OR LESS. IF THE DIVISION OBTAINS SUCH EXEMPTION, THIS SUBPARAGRAPH (VI) SHALL BECOME APPLICABLE.

(C) IF THE COAST GUARD DENIES AN EXEMPTION PURSUANT TO SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (VI), THE DIVISION SHALL SO NOTIFY THE REVISOR OF STATUTES AND THIS SUBPARAGRAPH (VI) IS REPEALED, EFFECTIVE JULY 1 OF THE YEAR FOLLOWING SUCH NOTIFICATION.

(F) (c) Any vessel defined as a sailboard in section 33-13-102 (3.7) shall be marked as required by subsection (5) of this section.

(2) (a) Every registration issued pursuant to this article shall continue in full force and effect for a period ending December 31 of the year of issuance of the registration unless sooner terminated or discontinued in accordance with the provisions of this article.

(b) A registration may be renewed by the owner in the same manner as that provided for obtaining the initial registration. The same number shall be reissued if the application for renewal is received by the division within thirty days before the date of expiration.

(3) The board shall prescribe by rule ~~or regulation~~ a system of numbering which is in compliance with the federal system for numbering vessels.

(4) Any person who violates subsection (1) of this section is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of twenty-five dollars.

(5) (a) It is unlawful for any person to operate or use a canoe, kayak, sailboard, or nonmotorized raft, ~~which~~ OR VESSEL WITH A PROPULSION SYSTEM CAPABLE OF PRODUCING TEN HORSEPOWER OR LESS THAT is not required to be registered under subsection (1) of this section on the waters of this state unless it has been marked with the owner's name and current address in a legible, clearly visible, and durable fashion.

(b) Any person who violates this subsection (5) is guilty of a petty offense and, upon conviction thereof, shall be punished by a fine of fifteen dollars.

SECTION 3. 33-13-105, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

33-13-105. Seizure of vessels by officers. (1) (a) (I) Every parks and recreation officer and other peace officer of this state ~~is authorized to take~~ MAY SEIZE and hold ~~possession of~~ any vessel ~~if its hull identification number has been altered, changed, or obliterated~~ or if such officer has ~~good and sufficient~~ ~~reason~~ PROBABLE CAUSE to believe that the vessel is not in the lawful possession of the operator or person in charge thereof.

(II) FOR PURPOSES OF THIS SUBSECTION (1), "PROBABLE CAUSE" INCLUDES DISCOVERY DURING ANY ROUTINE AND LAWFUL INSPECTION OF A VESSEL THAT THE SUCH VESSEL'S HULL IDENTIFICATION NUMBER HAS BEEN ALTERED, CHANGED, OR OBLITERATED.

(III) NO VESSEL SHALL BE BOARDED OR INSPECTED IF THE SOLE PURPOSE OF SUCH BOARDING OR INSPECTION IS TO VERIFY OR EXAMINE THE HULL IDENTIFICATION NUMBER, UNLESS THE OFFICER HAS PROBABLE CAUSE ON OTHER GROUNDS TO BELIEVE THE VESSEL IS NOT IN THE LAWFUL POSSESSION OF THE OPERATOR OR PERSON IN CHARGE THEREOF.

(b) It is the duty of any ~~such officer~~ ~~se taking possession of~~ SEIZING any vessel, on being informed of any such vessel, to immediately notify the appropriate law enforcement agencies and the owner if known. Such notification shall contain a description of such vessel and any other helpful facts that may assist in locating or establishing the ownership thereof or in prosecuting any person for a violation of article 4 of title 18, C.R.S., or other state laws.

(2) "Hull identification number" means any identifying number, serial number, engine number, or other distinguishing number or mark, including letters, if any, placed on a vessel or engine by its manufacturer or by authority of the division or in accordance with the laws of another state or country, excluding the vessel registration number.

(3) (a) Whenever a vessel ~~comes into the custody of an officer~~ IS SEIZED PURSUANT TO SUBSECTION (1) OF THIS SECTION, the law enforcement agency or a governmental entity may commence an action in a court ~~having~~ OF COMPETENT jurisdiction to determine whether said vessel shall be destroyed, sold, converted to the use of the seizing agency, or otherwise disposed of by an order of said court.

(b) (I) ANY FORFEITURE PROCEEDING INITIATED PURSUANT TO THIS SECTION SHALL BE CONDUCTED, TO THE EXTENT PRACTICABLE, IN CONFORMANCE WITH SECTION 16-13-505, C.R.S.

(II) FOR PURPOSES OF APPLYING SECTION 16-13-505, C.R.S., TO A SEIZURE HEARING CONDUCTED PURSUANT TO THIS SECTION, "CONTRABAND" INCLUDES ANY VESSEL SEIZED IN ACCORDANCE WITH THIS SECTION.

(4) ~~No court order providing for disposition shall be issued unless the person from whom the vessel was seized, as determined by the registration records of the division, is provided a postseizure hearing by the court having jurisdiction within a reasonable period of time after the seizure. This subsection (4) shall not apply with respect to such vessel used as evidence in any action or proceeding.~~ Nothing in this section shall preclude the return of such THE SEIZED vessel to the owner by the seizing agency following presentation of satisfactory evidence of ownership and, if determined necessary, requiring the owner to

obtain an assignment of a hull identification number for the vessel from the division.

~~(5) Notice of said postseizure hearing shall be in the form of a registered letter mailed to the person from whom the property was seized as determined by the registration records of the division. Such notice shall be mailed within sixty days after seizure of such vessel and shall contain the following information:~~

~~(a) The name and address of the person from whom the vessel was seized;~~

~~(b) A statement that the vessel has been seized for investigation as provided in this section and that the vessel will be released upon a determination that the hull identification number has not been altered, changed, or obliterated or upon presentation of satisfactory evidence of the ownership of such vessel if no other person claims an interest in said vessel within sixty days of the date the notice is mailed; otherwise, a hearing regarding the disposition of such vessel shall take place in a court having jurisdiction;~~

~~(c) A statement that the person from whom the vessel was seized, as determined by the registration records of the division, will receive notification of the commencement of any action seeking to determine the disposition of said vessel within ten days after the filing of said action;~~

~~(d) The name and address of the law enforcement agency where the evidence of ownership of such vessel may be presented; and~~

~~(e) A statement of the text contained in this section.~~

~~(6) (a) At a hearing held pursuant to any action filed by the seizing agency or the governmental entity to determine the disposition of any vessel seized pursuant to this section, the court shall consider the following:~~

~~(i) If the evidence reveals either that the vessel hull identification number has not been altered, changed, or obliterated or that the hull identification~~

~~number has been altered, changed, or obliterated but satisfactory evidence of ownership has been presented, the vessel shall be returned to the person entitled thereto. If ownership cannot be established, nothing in this section shall preclude the return of said vessel to a good faith purchaser following the presentation of satisfactory evidence of ownership thereof and, if necessary, upon the good faith purchaser's obtaining an assignment of a hull identification number from the division.~~

~~(H) If the evidence reveals that the vessel hull identification number has been altered, changed, or obliterated and satisfactory evidence of ownership has not been presented, the vessel shall be destroyed, sold, converted to the use of the seizing agency, or otherwise disposed of, as provided for by order of the court.~~

~~(b) At the hearing, the seizing agency shall have the burden of establishing, by a preponderance of the evidence, that the vessel hull identification number has been altered, changed, or obliterated.~~

~~(c) At the hearing, any claimant to the vessel shall have the burden of providing satisfactory evidence of ownership.~~

(7) If the court having jurisdiction orders the vessel sold by the division, the proceeds of the sale shall be ~~applied as provided for in section 33-15-104~~ FORWARDED TO THE TREASURER, WHO SHALL CREDIT SUCH PROCEEDS TO THE GENERAL FUND.

SECTION 4. 33-13-112 (1), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

33-13-112. Enforcement - applicability. (1) Every parks and recreation officer and other peace officer of this state has the authority to enforce the

provisions of this article and, in the exercise thereof, has the authority to stop and board any vessel; EXCEPT THAT, THE OFFICER SHALL HAVE PROBABLE CAUSE PRIOR TO STOPPING AND BOARDING ANY VESSEL.

SECTION 5. 33-13-115, Colorado Revised Statutes, 1995 Repl. Vol., is repealed as follows:

33-13-115. Termination of functions. ~~The functions of registration and numbering of vessels by the division as set forth in this article are terminated on July 1, 1996. Prior to such termination, these functions shall be reviewed as provided for in section 24-34-104, C.R.S.~~

SECTION 6. 33-13-116, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

33-13-116. Repeal of sections. Sections 33-13-103, 33-13-104, 33-13-105, and 33-13-107 are repealed, effective ~~July 1, 1996~~ JULY 1, 1999. Prior to such repeal, the function of registration and numbering of vessels shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 7. 24-34-104 (25.1) (d), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25.1) The following functions of the specified agencies shall terminate on July 1, 1996:

(d) ~~The registration and numbering of vessels through the division of parks and outdoor recreation in accordance with article 13 of title 33, C.R.S.;~~

SECTION 8. 24-34-104 (24) (c), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (28) (c) The following agencies and functions of the specified agencies shall terminate July 1, 1999:

(IV) THE REGISTRATION AND REGULATION OF VESSELS BY THE DEPARTMENT OF NATURAL RESOURCES THROUGH THE DIVISION OF PARKS AND OUTDOOR RECREATION IN ACCORDANCE WITH ARTICLE 13 OF TITLE 33, C.R.S.

SECTION 9. Effective date. This act shall take effect January 1, 1997.

SECTION 10. 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.

BILL J

A BILL FOR AN ACT

CONCERNING THE REGULATION OF COAL MINERS BY THE COAL MINE BOARD OF EXAMINERS.

**Bill Summary
"Coal Mine Board"**

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

Joint Legislative Sunrise and Sunset Review Committee. Continues until July 1, 2003, the authority of the coal mine board of examiners to regulate coal miners. Authorizes the governor to remove any member of the board for misconduct, incompetence, or neglect of duty. Removes the visual and auditory acuity requirement for a person to qualify to sit for the certification examination. Repeals references to requirements for a person to become a hoistman. Changes the experience requirements for certification as a shot-firer to one year experience in use and handling of explosives rather than in any aspect of coal mining. Repeals the provision requiring that a person who has committed a violation that was not deliberate and willful be allowed a reasonable opportunity to comply with lawful requirements before the person's certificate is revoked or suspended. Removes the willful standard from the bases for revocation of a certificate of competency.

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

SECTION 1. 34-22-102 (3), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

34-22-102. Board of examiners - created - duties - members. (3) The members of the board shall be appointed by the governor with the consent of the senate. The term of office for each member of the board shall be four years. Any vacancies on the board shall be filled by the governor by appointment for

the remainder of an unexpired term. THE GOVERNOR MAY REMOVE ANY BOARD MEMBER FOR MISCONDUCT, INCOMPETENCE, OR NEGLECT OF DUTY.

SECTION 2. 34-22-107 (3) and (6), Colorado Revised Statutes, 1995 Repl. Vol., are amended to read:

34-22-107. Revocation of certification - procedures - grounds. (3) No revocation or suspension of a certificate shall be lawful unless the office of active and inactive mines has first given the certificate holder notice, in writing, of the facts or conduct that may warrant such action, afforded the certificate holder an opportunity to submit written data, views, and arguments with respect to such facts or conduct. ~~and, except in cases of deliberate and willful violations, given the certificate holder a reasonable opportunity to comply with all lawful requirements.~~

(6) No certificate of competency shall be revoked except where the majority of the board finds, in writing, based on the evidence of a hearing record, that the holder of the certificate is guilty of:

- (a) ~~Willful and deliberate~~ Disregard of applicable mining law; or
- (b) ~~Willful or reckless~~ Disregard of safety in the mine which endangers life or property; or
- (c) Incompetence in the mine which endangers the safety of life and property; or
- (d) ~~Willful~~ Withholding or altering of mine examination information or reports where life and property is endangered.

SECTION 3. 34-22-112 (1), (6), and (7), Colorado Revised Statutes, 1995 Repl. Vol., are amended to read:

~~34-22-112. Examinations - applicant qualifications. (1) All candidates for examination for certification shall demonstrate at the time of the examination satisfactory eyesight and hearing consistent with the practice and needs of the coal mining industry.~~

(6) Every applicant for certification as a shot-firer must have at least one year's experience in coal mines THE USE AND HANDLING OF EXPLOSIVES.

~~(7) All hoistmen working in coal mines must be certified as follows:~~

~~(a) Applicants must have at least one year's experience as a hoistman trainee under a certified hoistman or must have been trained in a course approved by the division or the United States mine safety and health administration.~~

~~(b) A hoistman shall be physically and psychologically fit to operate a hoist. A medical evaluation will be required annually by a qualified licensed physician.~~

SECTION 4. 34-22-113, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

34-22-113. Board of examiners - repeal - review of functions. Unless continued by the general assembly, this article is repealed, effective July 1, 1996 JULY 1, 2003, and the coal mine board of examiners is abolished. The provisions of section 24-34-104 (5) to (12), C.R.S., concerning a wind-up period, an analysis and evaluation, public hearings, and claims by or against an agency shall apply to the powers, duties, and functions of the board specified in this article.

SECTION 5. 24-34-104 (25.7) (b), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is repealed 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:

~~(b) The regulation of persons working in coal mines by the coal mine board of examiners in accordance with article 22 of title 34, C.R.S.~~

SECTION 6. 24-34-104 (32), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (32) The following function of the specified agency shall terminate on July 1, 2003:

(c) THE REGULATION OF PERSONS WORKING IN COAL MINES BY THE DEPARTMENT OF NATURAL RESOURCES THROUGH THE COAL MINE BOARD OF EXAMINERS IN ACCORDANCE WITH ARTICLE 22 OF TITLE 34, C.R.S.

SECTION 7. Effective date - applicability. This act shall take effect July 1, 1996, and shall apply to acts occurring on or after said date.

SECTION 8. 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.

BILL K

A BILL FOR AN ACT

CONCERNING THE CERTIFICATION OF PLANT OPERATORS BY THE PLANT OPERATORS CERTIFICATION BOARD, AND, IN CONNECTION THEREWITH, CONTINUING THE PLANT OPERATORS CERTIFICATION BOARD UNTIL THE YEAR 2004, MODIFYING THE MEMBERSHIP OF THE PLANT OPERATORS CERTIFICATION BOARD, PROVIDING FOR THE CERTIFICATION OF INDUSTRIAL AND DOMESTIC WASTEWATER TREATMENT PLANT OPERATORS, AND ELIMINATING CONTINUING EDUCATION REQUIREMENTS FOR PLANT OPERATORS.

Bill Summary

"Certification Of Plant Operators"

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

Joint Legislative Sunrise and Sunset Review Committee. Continues the plant operators certification board until the year 2004. Classifies wastewater treatment plant operators as domestic wastewater treatment plant operators and industrial wastewater treatment plant operators. Provides for the certification of industrial and domestic wastewater treatment plant operators.

Eliminates customer relations as one of the topics for operator examinations.

Eliminates continuing education requirements for plant operators.

Requires that the current member of the plant operators certification board nominated as a wastewater treatment plant operator be a domestic wastewater treatment plant operator. Requires that the plant operators certification board contain the following representatives in addition to current board members:

- A certified Class A industrial wastewater treatment plant operator; and
- A small systems operator who is certified as a Class C or Class D water treatment or wastewater treatment plant operator.

Requires that at least 3 of the members of the plant operators certification board represent private industry.

Directs the plant operators certification board to establish criteria for the discipline or reprimand of plant operators and the suspension or revocation of certifications of plant operators.

Provides that the certification of any operator expires if the certification is not renewed before the expiration date of the certification. Allows renewal of such certification up to 2 years after the expiration date. Directs the board to revoke any certification that is not renewed within 2 years after the expiration date.

Repeals obsolete statutory provisions.

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

SECTION 1. 25-9-102 (5), Colorado Revised Statutes, 1989 Repl. Vol., is amended, and the said 25-9-102, as amended, is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

25-9-102. Definitions. As used in this article, unless the context otherwise requires:

(4.5) "DOMESTIC WASTEWATER TREATMENT PLANT" MEANS ANY FACILITY OR GROUP OF UNITS USED FOR THE TREATMENT OF DOMESTIC WASTEWATER AND FOR THE REDUCTION AND HANDLING OF SOLIDS AND GASES REMOVED FROM SUCH WASTES, WHETHER OR NOT SUCH FACILITY OR GROUP OF UNITS IS DISCHARGING INTO STATE WATERS. "DOMESTIC WASTEWATER TREATMENT PLANT" SPECIFICALLY EXCLUDES INDIVIDUAL SEWAGE DISPOSAL SYSTEMS.

(4.7) "INDUSTRIAL WASTEWATER TREATMENT PLANT" MEANS ANY FACILITY OR GROUP OF UNITS USED FOR THE PRETREATMENT, TREATMENT, OR HANDLING OF INDUSTRIAL WATERS, WASTEWATER, REUSE WATER, AND WASTES THAT ARE DISCHARGED INTO STATE WATERS. "INDUSTRIAL WASTEWATER TREATMENT PLANT" INCLUDES FACILITIES THAT CLEAN UP CONTAMINATED GROUND WATER OR OTHER SIMILAR SPILLS; EXCEPT THAT SUCH TERM DOES NOT INCLUDE

FACILITIES DESIGNED TO OPERATE FOR LESS THAN ONE YEAR OR FACILITIES WITH IN-SITU DISCHARGE.

(5) "Wastewater treatment plant" means ~~the facility or group of units used for the treatment of industrial or domestic wastewater from sewer systems and for the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units is discharging into state waters.~~ "Wastewater treatment plant" specifically excludes any facility or group of units used for pretreatment, treatment, or handling of industrial water, wastewaters, reuse waters, and wastes which are not discharged into state waters EITHER A DOMESTIC WASTEWATER TREATMENT PLANT OR AN INDUSTRIAL WASTEWATER TREATMENT PLANT.

SECTION 2. 25-9-103, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

25-9-103. Plant operators certification board - composition - repeal of article. (1) There is hereby created the plant operators certification board which shall constitute a section of the division of administration of the department and shall consist of nine members, ~~five~~ SEVEN of whom shall be as follows:

- (a) A certified Class A water treatment plant operator;
- (b) A certified Class A DOMESTIC wastewater treatment plant operator;
- (b.5) A CERTIFIED CLASS A INDUSTRIAL WASTEWATER TREATMENT PLANT OPERATOR;
- (b.7) A SMALL SYSTEMS OPERATOR WHO IS CERTIFIED AS A CLASS C OR CLASS D WATER TREATMENT OR WASTEWATER TREATMENT PLANT OPERATOR;
- (c) A representative from the Colorado municipal league;

(d) A representative recommended by the ~~state board of health~~ DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

(e) A representative recommended by the state water quality control commission.

(2) All members of the board shall be appointed by the governor. AT LEAST THREE OF THE MEMBERS OF THE BOARD SHALL REPRESENT PRIVATE INDUSTRY.

(3) ~~Appointments to the initial board shall be as follows: Three of the members shall be appointed for a three year term, three for a two year term, and three for a one year term. Thereafter all board members shall serve for a term of three years. No member shall serve continuously on the board for more than nine years.~~

(4) This article is repealed, effective ~~July 1, 1996~~ JULY 1, 2004. Prior to such repeal, the plant operators certification board shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 3. 25-9-104 (3), (4), and (6), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

25-9-104. Duties of the board. (3) The board shall establish not ~~less~~ MORE than four classes of certified water treatment plant operators, ~~and not less~~ MORE than four classes of DOMESTIC wastewater treatment plant operators, AND NOT MORE THAN THREE CLASSES OF INDUSTRIAL WASTEWATER TREATMENT PLANT OPERATORS, which classes shall differentiate the various levels of complexity to be encountered in water and wastewater treatment plant operation.

(4) The board shall ~~after due consideration, establish~~ MAINTAIN for each water and wastewater treatment plant a minimum class of certified operators

required for its direct supervision. ~~Compliance for all such treatment plants shall be mandatory by January 1, 1976.~~

(6) The board shall exercise such other powers and duties as are deemed necessary within the scope of this article. THE BOARD, IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., SHALL ESTABLISH CRITERIA FOR THE DISCIPLINE OR REPRIMAND OF ANY WATER TREATMENT PLANT OPERATOR, WASTEWATER TREATMENT PLANT OPERATOR, OR INDUSTRIAL WASTEWATER TREATMENT PLANT OPERATOR AND FOR THE SUSPENSION OR REVOCATION OF THE CERTIFICATION OF ANY SUCH OPERATOR. SUCH CRITERIA ARE AS FOLLOWS:

(a) WILLFULLY OR NEGLIGENTLY VIOLATING, CAUSING, OR ALLOWING THE VIOLATION OF RULES PROMULGATED PURSUANT TO THIS ARTICLE OR FAILING TO COMPLY WITH THE PROVISIONS OF THIS ARTICLE;

(b) SUBMITTING FALSE OR MISLEADING INFORMATION ON ANY DOCUMENT PROVIDED TO THE DEPARTMENT OR THE BOARD;

(c) USING FRAUD OR DECEPTION IN THE COURSE OF EMPLOYMENT AS AN OPERATOR;

(d) FAILING TO CONFORM WITH MINIMUM STANDARDS IN THE PERFORMANCE OF AN OPERATOR'S DUTIES; AND

(e) ENGAGING IN DISHONEST CONDUCT DURING AN EXAMINATION.

SECTION 4. 25-9-105 (1) (d), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

25-9-105. Water treatment plant operator. (1) Persons who by examination and experience are found to be qualified for certification as water

treatment plant operators shall be certified as having the minimum qualifications required for each of the respective classes, as follows:

(d) Class A. In addition to the knowledge required for a Class B applicant, the Class A applicant must indicate by written examination ~~his~~ THE APPLICANT'S knowledge of the interpretation of results of chemical, physical, and biological control analyses; maintenance and operational procedures; housekeeping; ~~customer relations~~; corrosion control; cross-connection control; and supervisory control techniques. The applicant must also have four years' experience working in a water treatment facility.

SECTION 5. The introductory portion to 25-9-106 (1) and 25-9-106 (1) (d), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

25-9-106. Domestic wastewater treatment plant operator. (1) Persons who by examination and experience are found to be qualified for certification as DOMESTIC wastewater treatment plant operators shall be certified as having the minimum qualifications required for each of the respective classes, as follows:

(d) Class A. In addition to the knowledge required for a Class B applicant, the Class A applicant must indicate by written examination ~~his~~ THE APPLICANT'S knowledge in the interpretation of the results of chemical, physical, and biological control analyses; maintenance and operational procedures; and record-keeping, ~~customer relations~~, corrosion control, cross-connection control, and supervisory control techniques. The applicant must also have four years' experience working in a wastewater treatment facility.

SECTION 6. Article 9 of title 25, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

25-9-106.2. Industrial wastewater treatment plant operator.

(1) PERSONS WHO BY EXAMINATION AND EXPERIENCE ARE FOUND TO BE QUALIFIED FOR CERTIFICATION AS INDUSTRIAL WASTEWATER TREATMENT PLANT OPERATORS SHALL BE CERTIFIED AS HAVING THE MINIMUM QUALIFICATIONS REQUIRED FOR EACH OF THE RESPECTIVE CLASSES, AS FOLLOWS:

(a) CLASS C. THE CLASS C APPLICANT SHALL INDICATE BY WRITTEN EXAMINATION THE APPLICANT'S KNOWLEDGE OF WASTEWATER TREATMENT PRINCIPLES; SETTLING CHARACTERISTICS OF SOLIDS AND GRIT; SEPARATE SLUDGE DIGESTION; SAMPLING; BASIC CHEMICAL, PHYSICAL, AND BIOLOGICAL TESTS; AIR STRIPPING; STANDARD CLARIFICATION; NEUTRALIZATION; AND SLUDGE DEWATERING. THE APPLICANT SHALL ALSO HAVE TWO YEARS' EXPERIENCE WORKING IN A WASTEWATER TREATMENT FACILITY.

(b) CLASS B. IN ADDITION TO THE KNOWLEDGE REQUIRED FOR A CLASS C APPLICANT, THE CLASS B APPLICANT SHALL INDICATE BY WRITTEN EXAMINATION THE APPLICANT'S KNOWLEDGE OF CHEMICAL COAGULATION; ACTIVATED CARBON ABSORPTION; ULTRAFILTRATION; MICROFILTRATION; AND THE MAINTENANCE AND OPERATION OF BIOLOGICAL UNITS, SEDIMENTATION UNITS, AND AUXILIARY EQUIPMENT. THE APPLICANT SHALL ALSO HAVE THREE YEARS' EXPERIENCE WORKING IN A WASTEWATER TREATMENT FACILITY.

(c) CLASS A. IN ADDITION TO THE KNOWLEDGE REQUIRED FOR A CLASS B APPLICANT, THE CLASS A APPLICANT SHALL INDICATE BY WRITTEN EXAMINATION THE APPLICANT'S KNOWLEDGE IN THE INTERPRETATION OF THE RESULTS OF CHEMICAL, PHYSICAL, AND BIOLOGICAL CONTROL ANALYSES; CHEMICAL CONVERSION, ION EXCHANGE, ELECTROLYTIC CONVERSION, AND REVERSE OSMOSIS; MAINTENANCE AND OPERATIONAL PROCEDURES; AND RECORD-KEEPING

AND SUPERVISORY CONTROL TECHNIQUES. THE APPLICANT SHALL ALSO HAVE FOUR YEARS' EXPERIENCE WORKING IN A WASTEWATER TREATMENT FACILITY.

SECTION 7. 25-9-106.5, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

25-9-106.5. Education and experience - substitution allowed. Education and cross-experience may be substituted for experience requirements for certification as a Class C, Class B, or Class A water treatment plant operator, ~~or~~ as a Class C, Class B, or Class A DOMESTIC wastewater treatment plant operator, OR AS A CLASS C, CLASS B, OR CLASS A INDUSTRIAL WASTEWATER TREATMENT PLANT OPERATOR; except that at least fifty percent of any experience requirement shall be met by actual on-site operating experience in a water treatment facility or a wastewater treatment facility, as the case may be. For purposes of this section "cross-experience" means that experience as a wastewater plant operator may be substituted for experience requirements for certification as water treatment plant operator and vice versa.

SECTION 8. 25-9-107 (4), (4.5), (6), (7) and (8), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

25-9-107. Certification procedure. (4) (a) Certificates shall be renewed upon payment of the required renewal fee by the applicant.

(b) IF ANY OPERATOR FAILS TO RENEW THE OPERATOR'S CERTIFICATION BEFORE THE EXPIRATION DATE OF SUCH CERTIFICATION, SUCH CERTIFICATION IS EXPIRED. IF A CERTIFICATION EXPIRES BECAUSE OF FAILURE TO RENEW BEFORE THE EXPIRATION DATE OF SUCH CERTIFICATION, THE OPERATOR MAY RENEW THE CERTIFICATION UP TO TWO YEARS AFTER THE EXPIRATION DATE UPON PAYING THE REQUIRED RENEWAL FEE. IF AN OPERATOR DOES NOT RENEW A CERTIFICATION

WITHIN TWO YEARS AFTER THE EXPIRATION DATE OF SUCH CERTIFICATION, THE BOARD SHALL REVOKE THE CERTIFICATION.

~~(4.5) (a) In addition to payment of the required renewal fee, an applicant for recertification shall submit proof of compliance with the following minimum continuing education requirements:~~

~~(I) Class A water and wastewater treatment plant operators, five continuing education units;~~

~~(II) Class B water and wastewater treatment plant operators, four continuing education units;~~

~~(III) Class C water and wastewater treatment plant operators, three continuing education units;~~

~~(IV) Class D water and wastewater treatment plant operators, two continuing education units.~~

~~(b) For purposes of this subsection (4.5), one continuing education unit is equal to ten hours of instruction.~~

~~(c) This subsection (4.5) is repealed, effective July 1, 1999.~~

~~(6) Certificates of proper classification shall be issued without examination, upon appropriate application filed with the board on or before July 1, 1985, to applicants who have been the operators of any facilities covered under this article on or before July 1, 1973. A certificate so issued shall be valid only for that particular treatment plant or system and for the classification determined by the board on the basis of experience and education of the operator and shall remain in effect unless revoked by the board pursuant to the provisions of article 4 of title 24, C.R.S.~~

~~(7) Certification in an appropriate classification shall be issued to operators who on or before July 1, 1973, hold certificates of competency attained by~~

~~examination under the voluntary certification program within the state of Colorado during the time immediately preceding July 1, 1973.~~

~~(8) Certificates of proper classification as industrial wastewater treatment plant operators in industrial wastewater treatment plant facilities using chemical or physical treatment methods may be issued to applicants who successfully complete the appropriate examination and who meet the requirements to be set by the board pursuant to rules and regulations. Until the board establishes rules and regulations under this subsection (8), any operator may be certified for a particular industrial treatment plant if he has a current Class A license.~~

SECTION 9. 25-9-109, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

25-9-109. Use of title. Only a person who has been qualified by the board as a certified water treatment plant operator, or certified DOMESTIC wastewater treatment plant operator, OR CERTIFIED INDUSTRIAL WASTEWATER TREATMENT PLANT OPERATOR and who possesses a valid certificate attesting to this certification in this state shall have the right and privilege of using the title "certified water treatment plant operator, Class", or "certified DOMESTIC wastewater treatment plant operator, Class", OR "CERTIFIED INDUSTRIAL WASTEWATER TREATMENT PLANT OPERATOR, CLASS".

SECTION 10. 25-9-110 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

25-9-110. Violations - penalty. (1) It is unlawful for any person to represent himself OR HERSELF as a certified water treatment plant operator of any class, or a certified DOMESTIC wastewater treatment plant operator of any class, OR A CERTIFIED INDUSTRIAL WASTEWATER TREATMENT PLANT OPERATOR OF ANY

CLASS without first being so certified by the board and without being the holder of a current valid certificate issued by the board. Any person violating the provisions of this subsection (1) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars.

SECTION 11. 24-34-104 (25.1) (c), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25.1) The following functions of the specified agencies shall terminate on July 1, 1996:

(c) ~~The plant operators certification board created in section 25-9-103, C.R.S.;~~

SECTION 12. The introductory portion to 24-34-104 (34), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended, and the said 24-34-104 (34) is further amended, BY THE ADDITION OF A NEW PARAGRAPH, to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (34) The following AGENCIES, functions, ~~of the specified agencies~~ OR BOTH, shall terminate on July 1, 2004:

(f) THE PLANT OPERATORS CERTIFICATION BOARD CREATED BY SECTION 25-9-103, C.R.S.

SECTION 13. Effective date - applicability. This act shall take effect July 1, 1996, and shall apply to acts occurring on or after said date.

SECTION 14. 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.

BILL L

A BILL FOR AN ACT

CONCERNING THE REGULATION OF THE PRACTICE OF DIRECT-ENTRY MIDWIFERY.

Bill Summary

"Direct-Entry Midwifery"

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

Joint Legislative Sunrise and Sunset Review Committee. Continues until July 1, 2001, the regulation of direct-entry midwives by the division of registrations (the "division"). Eliminates current language prohibiting a direct-entry midwife from also being licensed as a health care provider under Colorado law.

Prohibits any person who has had his or her registration revoked from re-registering until after a 2-year waiting period. Increases the minimum age for applicants from 18 to 19 years.

Authorizes registrants to carry and administer oxygen. Adds grounds for discipline. Grants civil and criminal immunity to the director and his or her staff, as well as any person who files a complaint, when testifying in good faith or participating in an investigative proceeding. Authorizes the director of the division to keep its investigatory files confidential until the results of the investigation are known and either the complaint is dismissed or notice of hearing and charges are served upon the registrant.

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

SECTION 1. 12-37-101 (1), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-37-101. Scope of article - exemptions. (1) The provisions of this article shall apply only to direct-entry midwives, also known as "lay" midwives, and shall not apply to those persons who are otherwise licensed by the state of

Colorado under this title if the practice of midwifery is within the scope of such licensure. ~~No person who is a licensed health care provider under any other article of this title shall simultaneously be so licensed and also be registered under this article. A licensed health care provider who holds a license in good standing may relinquish said license and subsequently be registered under this article.~~ It is the intent of the general assembly that health care be provided pursuant to this article as an alternative to traditional licensed health care and not for the purpose of enabling providers of traditional licensed health care to circumvent the regulatory oversight to which they are otherwise subject under any other article of this title.

SECTION 2. 12-37-103 (4) and (5) (a), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended, and the said 12-37-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-37-103. Requirement for registration with the division of registrations - annual fee - grounds for revocation. (4) ~~The director may deny registration to or revoke the registration of a direct entry midwife pursuant to section 24-4-104, C.R.S., if the director finds that the direct entry midwife has:~~

~~(a) Failed to provide any information required, or to pay any fee assessed, in accordance with this section, or provided false, deceptive, or misleading information to the division of registrations when the direct entry midwife knew or should reasonably have known that the information was false, deceptive, or misleading;~~

~~(b) Been responsible for any act or omission which does not meet generally accepted standards of safe care for women and infants, whether or not actual injury to a patient is established;~~

~~(e) Violated any provision of section 12-37-105;~~

~~(d) Habitual intemperance with regard to or excessive use of any habit forming drug, as defined in section 12-22-102 (13), any controlled substance, as defined in section 12-22-303 (7), or any alcoholic beverage; or~~

~~(e) Violated any rule of the director promulgated under this article.~~

(4.5) A PERSON WHO HAS HAD HIS OR HER REGISTRATION REVOKED SHALL NOT APPLY FOR RE-REGISTRATION UNTIL AT LEAST TWO YEARS HAVE ELAPSED SINCE THE DATE OF THE REVOCATION.

(5) To qualify to register, a direct-entry midwife shall have successfully completed an examination evaluated and approved by the director as an appropriate test to measure competency in the practice of direct-entry midwifery, which examination shall have been developed by a person or entity other than the director or the division and the acquisition of which shall require no expenditure of state funds. The national registry examination administered by the midwives' alliance of North America, incorporated, shall be among those evaluated by the director. The director is authorized to approve any existing test meeting all the criteria set forth in this subsection (5). In addition to successfully completing such examination, a direct-entry midwife shall be deemed qualified to register if such person has:

(a) Attained the age of ~~eighteen~~ NINETEEN years;

SECTION 3. 12-37-105, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-37-105. Prohibited acts - practice standards - informed consent - emergency plan - risk assessment - referral. (13) IT SHALL BE LAWFUL FOR

A REGISTERED DIRECT-ENTRY MIDWIFE TO PURCHASE, POSSESS, CARRY, AND ADMINISTER OXYGEN.

SECTION 4. 12-37-107, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

12-37-107. Disciplinary action authorized - grounds for discipline.

(3) THE DIRECTOR HAS THE POWER TO DENY, REVOKE, OR SUSPEND ANY REGISTRATION OR TO ISSUE A LETTER OF ADMONITION OR PLACE A REGISTRANT ON PROBATION FOR ANY OF THE FOLLOWING ACTS OR OMISSIONS:

(a) ANY VIOLATION OF THE PROVISIONS OF SECTION 12-37-103, 12-37-104, OR 12-37-105 OR ANY RULE PROMULGATED PURSUANT TO SECTION 12-37-106 (1) (a);

(b) FAILING TO PROVIDE ANY INFORMATION REQUIRED PURSUANT TO OR TO PAY ANY FEE ASSESSED IN ACCORDANCE WITH SECTION 12-37-103, OR PROVIDING FALSE, DECEPTIVE, OR MISLEADING INFORMATION TO THE DIVISION OF REGISTRATIONS THAT THE DIRECT-ENTRY MIDWIFE KNEW OR SHOULD REASONABLY HAVE KNOWN WAS FALSE, DECEPTIVE, OR MISLEADING;

(c) ENGAGING IN ANY ACT OR OMISSION THAT DOES NOT MEET GENERALLY ACCEPTED STANDARDS OF SAFE CARE FOR WOMEN AND INFANTS, WHETHER OR NOT ACTUAL INJURY TO A PATIENT IS ESTABLISHED;

(d) HABITUAL INTEMPERANCE WITH REGARD TO OR EXCESSIVE USE OF A HABIT-FORMING DRUG, AS DEFINED IN SECTION 12-22-102 (13), A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), OR AN ALCOHOLIC BEVERAGE;

(e) HAS PROCURED OR ATTEMPTED TO PROCURE A REGISTRATION IN THIS OR ANY OTHER STATE OR JURISDICTION BY FRAUD, DECEIT, MISREPRESENTATION, MISLEADING OMISSION, OR MATERIAL MISSTATEMENT OF FACT;

(f) HAS HAD A LICENSE OR REGISTRATION TO PRACTICE DIRECT-ENTRY MIDWIFERY OR ANY OTHER HEALTH CARE OCCUPATION SUSPENDED OR REVOKED IN ANY JURISDICTION. A CERTIFIED COPY OF THE ORDER OF SUSPENSION OR REVOCATION SHALL BE PRIMA FACIE EVIDENCE OF SUCH SUSPENSION OR REVOCATION.

(g) VIOLATION OF ANY LAW OR REGULATION GOVERNING THE PRACTICE OF DIRECT-ENTRY MIDWIFERY IN ANOTHER STATE OR JURISDICTION. A PLEA OF NOLO CONTENDERE OR ITS EQUIVALENT ACCEPTED BY ANY STATE AGENCY OF ANOTHER STATE OR JURISDICTION MAY BE CONSIDERED TO BE THE SAME AS A FINDING OF VIOLATION FOR PURPOSES OF A PROCEEDING UNDER THIS ARTICLE.

(h) HAS FALSIFIED, FAILED TO MAKE ESSENTIAL ENTRIES IN, OR IN A NEGLIGENT MANNER MADE INCORRECT ENTRIES IN CLIENT RECORDS;

(i) HAS BEEN CONVICTED OF A FELONY OR HAS HAD ACCEPTED BY A COURT A PLEA OF GUILTY OR NOLO CONTENDERE TO A FELONY. A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF COMPETENT JURISDICTION OF SUCH CONVICTION OR PLEA SHALL BE PRIMA FACIE EVIDENCE OF SUCH CONVICTION.

(j) HAS VIOLATED ANY PROVISION OF THIS ARTICLE OR HAS AIDED OR KNOWINGLY PERMITTED ANY PERSON TO VIOLATE ANY PROVISION OF THIS ARTICLE; OR

(k) HAS ADVERTISED THROUGH NEWSPAPERS, MAGAZINES, CIRCULARS, DIRECT MAIL, DIRECTORIES, RADIO, TELEVISION, OR OTHERWISE THAT THE REGISTRANT WILL PERFORM ANY ACT PROHIBITED BY THIS ARTICLE.

(4) ANY PROCEEDING TO DENY, SUSPEND, OR REVOKE A REGISTRATION OR PLACE A REGISTRANT ON PROBATION SHALL BE CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND 24-4-105, C.R.S. SUCH PROCEEDING MAY BE

CONDUCTED BY AN ADMINISTRATIVE LAW JUDGE DESIGNATED PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S.

(5) THE DIRECTOR MAY ACCEPT AS PRIMA FACIE EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION ANY DISCIPLINARY ACTION TAKEN AGAINST A REGISTRANT BY ANOTHER JURISDICTION IF THE VIOLATION THAT PROMPTED SUCH DISCIPLINARY ACTION WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS ARTICLE.

SECTION 5. Article 37 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

12-37-109.5. Immunity. THE DIRECTOR, DIVISION, STAFF, ANY PERSON ACTING AS A CONSULTANT TO THE DIRECTOR, ANY WITNESS TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS ARTICLE, AND ANY PERSON WHO LODGES A COMPLAINT PURSUANT TO THIS ARTICLE SHALL BE IMMUNE FROM CRIMINAL LIABILITY AND SUIT IN ANY CIVIL ACTION BROUGHT BY ANY PERSON BASED UPON AN ACTION OF THE DIRECTOR IF SUCH PERSON, STAFF PERSON, CONSULTANT, OR WITNESS ACTS IN GOOD FAITH WITHIN THE SCOPE OF THIS ARTICLE, HAS MADE A REASONABLE EFFORT TO ASCERTAIN THE FACTS OF THE MATTER AS TO WHICH HE OR SHE ACTS, AND ACTS IN THE REASONABLE BELIEF THAT THE ACTION TAKEN BY HIM OR HER IS WARRANTED BY THE FACTS. THE IMMUNITY PROVIDED BY THIS SECTION SHALL ALSO EXTEND TO ANY PERSON PARTICIPATING IN GOOD FAITH IN ANY INVESTIGATIVE PROCEEDING PURSUANT TO THIS ARTICLE.

12-37-109.7. Confidential files. THE DIRECTOR MAY KEEP CONFIDENTIAL ALL FILES AND INFORMATION CONCERNING AN INVESTIGATION AUTHORIZED UNDER THIS ARTICLE UNTIL THE RESULTS OF SUCH INVESTIGATION ARE PROVIDED

TO THE DIRECTOR AND EITHER THE COMPLAINT IS DISMISSED OR NOTICE OF HEARING AND CHARGES ARE SERVED UPON THE REGISTRANT.

SECTION 6. 12-37-110, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-37-110. Repeal of article. (1) This article is repealed, effective July 1, 1996 JULY 1, 2001.

(2) PRIOR TO SUCH REPEAL, THE REGISTERING OF DIRECT-ENTRY MIDWIVES BY THE DIVISION OF REGISTRATIONS SHALL BE REVIEWED AS PROVIDED IN SECTION 24-34-104, C.R.S.

SECTION 7. 24-34-104 (25.6) (b), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25.6) The following agencies and functions of the specified agencies shall terminate on July 1, 1996:

(b) ~~The registering of direct entry midwives by the division of registrations in accordance with article 37 of title 12, C.R.S.~~

SECTION 8. The introductory portion to 24-34-104 (30) (a) and 24-34-104 (30) (a) (IV), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended, and the said 24-34-104 (30) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (30) (a) The following AGENCIES, functions, ~~of the specified agency~~ OR BOTH, shall terminate on July 1, 2001:

(IV) ~~The following agencies, functions, or both, shall terminate on July 1, 2001:~~ The certification of persons in connection with the control of asbestos pursuant to part 5 of article 7 of title 25, C.R.S.;

(V) THE REGISTRATION OF DIRECT-ENTRY MIDWIVES BY THE DIVISION OF REGISTRATIONS IN ACCORDANCE WITH ARTICLE 37 OF TITLE 12, C.R.S.

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

BILL M

A BILL FOR AN ACT

CONCERNING THE REGULATION OF DRUG PRECURSORS.

**Bill Summary
"Drug Precursors"**

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

Joint Legislative Sunrise and Sunset Review Committee. Removes provisions concerning drug precursors from the "Colorado Licensing of Controlled Substances Act" in title 12, Colorado Revised Statutes.

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

SECTION 1. Repeal. 12-22-303 (13.5), 12-22-304 (2.5), (5.5), and (5.6), 12-22-305 (1.5), and 12-22-321 (2)(a), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are repealed.

SECTION 2. Part 3 of article 22 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

12-22-306.1. Fees - drug precursors - refund. ALL MONEYS COLLECTED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO SECTION 12-22-305 FROM APPLICANTS AND LICENSEES WHO MANUFACTURE, TRANSFER, POSSESS, OR TRANSPORT DRUG PRECURSORS SHALL BE REFUNDED, BEFORE SEPTEMBER 30, 1996, TO THE PERSONS FROM WHOM SUCH MONEYS WERE COLLECTED.

SECTION 3. 12-22-308 (1) (b), (1) (c), (2), and (3), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-22-308. Denial, revocation, or suspension of license. (1) A license issued under this part 3 may be denied, suspended, or revoked by the department or by the board pursuant to article 4 of title 24, C.R.S., upon a finding that the licensee:

(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; ~~or a drug precursor;~~

(c) Has had his OR HER federal registration to manufacture, conduct research on, distribute, or dispense a controlled substance ~~or a drug precursor~~ suspended or revoked; or

(2) The department or the board may limit revocation or suspension of a license to the particular controlled substance ~~or drug precursor~~ which was the basis for revocation or suspension.

(3) If the department or the board suspends or revokes a license, all controlled substances ~~or drug precursors~~ 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 may be made of substances ~~or precursors~~ 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 ~~or drug precursors~~ and the deposit of the proceeds with the court. Upon a revocation order's becoming final, all controlled substances ~~and all drug precursors~~ may be forfeited to the state.

SECTION 4. 12-22-319 (2), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-22-319. Enforcement and cooperation. (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 make any inspections, investigations, and reports that may be necessary to determine compliance with this part 3 pertaining to persons who manufacture, possess, transfer, or transport drug precursors~~ 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.

SECTION 5. 18-18-414 (1) (o), (1) (p), (1) (s), and (5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

18-18-414. Unlawful acts - licenses - penalties. (1) Except as otherwise provided in this article or in article 22 of title 12, C.R.S., the following acts are unlawful:

(o) Knowingly transferring drug precursors except to ~~an authorized licensee~~ A LEGITIMATE BUSINESS INTEREST;

(p) ~~Knowingly using in the course of the manufacture or transfer of a drug precursor a license number which is fictitious, revoked, suspended, or issued to another person;~~

(s) ~~The knowing manufacture by a licensee of a drug precursor not authorized by his license, or the knowing transfer of a drug precursor not authorized by his license to another licensee or authorized person;~~

(5) Any person who violates paragraph (o), ~~(p)~~, (q), (r), ~~(s)~~, or (t) of subsection (1) of this section commits a class 4 felony.

SECTION 6. 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (31.5) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE ON JULY 1, 2002: THE RECORDKEEPING FUNCTIONS OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT RELATING TO CONTROLLED SUBSTANCES IN ACCORDANCE WITH PART 3 OF ARTICLE 22 OF TITLE 12, C.R.S.

SECTION 7. 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.

BILL N

A BILL FOR AN ACT

CONCERNING THE SUNSET OF THE COLORADO JOINT REVIEW PROCESS.

Bill Summary

"Colorado Joint Review Process"

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

Joint Sunrise And Sunset Review Committee. Allows the Colorado joint review process to sunset.

Repeals the requirement that the office of regulatory reform provide and coordinate environmental information and regulatory assistance in conjunction with the Colorado joint review process.

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

SECTION 1. 24-34-904 (1) (m), Colorado Revised Statutes, 1988 Repl. Vol., is repealed as follows:

24-34-904. Powers and duties - repeal. (1) The office has the following powers and duties:

(m) ~~To provide and coordinate environmental information and regulatory assistance in conjunction with the Colorado joint review process, created by article 10 of title 34, C.R.S.~~

SECTION 2. Effective date. This act shall take effect September 1, 1996, unless a referendum is ordered on this act pursuant to section 1 (3) of article V of the state constitution. If a referendum is ordered, and this act is approved by the registered electors of the state acting pursuant to section 1 (3)

of article V of the state constitution, this act shall take effect upon proclamation of the governor.

BILL O

A BILL FOR AN ACT

CONCERNING REGULATION OF WEATHER MODIFICATION, AND, IN CONNECTION THEREWITH, CONTINUING THE ISSUANCE OF PERMITS FOR WEATHER MODIFICATION OPERATIONS BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES AND ELIMINATING THE LICENSING OF WEATHER MODIFICATION OPERATORS.

Bill Summary

"Regulation Of Weather Modification"

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

Joint Legislative Sunrise and Sunset Review Committee. Continues until July 1, 2003, the issuance of permits for weather modification operations by the executive director of the department of natural resources. Eliminates the licensing of weather modification operators.

Provides that renewal permits for ground-based winter clouding seeding operations have a duration of 5 years for the second permit and 10 years for the third or subsequent permit.

Eliminates the requirement that proof of financial responsibility be provided in a weather modification permit application. Requires that the qualification, education, and experience of the weather modification operator be provided in a weather modification permit application. Eliminates the requirement that the executive director of the department of natural resources determine that a commercial weather modification project be conceived to provide and offer promise of providing an economic benefit before a permit may be issued. Eliminates the requirement that the executive director determine that a scientific or research project be designed for and offer promise of expanding knowledge and technology of weather modification before a permit may be issued.

Changes the permit fee imposed for a commercial operation from 2% of the value of the contract for the project to an amount set by the director that is sufficient to cover the direct costs of application review, hearings, and monitoring if the applicant is a Colorado resident and an amount sufficient to

cover both direct and indirect costs of application review, hearings, and monitoring if the applicant is a nonresident.

Repeals the requirement that certain information be contained in reports filed by weather modification operators. Authorizes the executive director of the department of natural resources to promulgate rules requiring weather modification operators to file reports.

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

SECTION 1. 36-20-104 (3) and (6), Colorado Revised Statutes, 1990 Repl. Vol., are amended, and the said 36-20-104, as amended, is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

36-20-104. Definitions. As used in this article, unless the context otherwise requires:

(3) ~~"License" means a certification issued by the director indicating that a specific person has met the standards for certification as a weather modifier and is approved to direct weather modification operations in the state.~~

(4.5) "OPERATOR" MEANS ANY PERSON WHO CONDUCTS A WEATHER MODIFICATION OPERATION IN COLORADO.

(6) ~~"Person" means an individual, partnership, or public or private corporation or agency, except where the context indicates that "person" is used in the sense of a living individual~~ HAS THE SAME MEANING AS THAT PROVIDED IN SECTION 2-4-401 (8), C.R.S.

SECTION 2. 36-20-105 (2), Colorado Revised Statutes, 1990 Repl. Vol., is amended to read:

36-20-105. Administration. (2) The director shall issue all licenses and permits provided for in this article. ~~He~~ THE DIRECTOR is hereby empowered to issue rules and regulations ~~he~~ THE DIRECTOR finds necessary to facilitate the implementation of this article, and ~~he~~ THE DIRECTOR is authorized to execute and

administer all other provisions of this article pursuant to the powers and limitations contained in this article.

SECTION 3. 36-20-107 (2), Colorado Revised Statutes, 1990 Repl. Vol., as amended, is repealed as follows:

~~36-20-107. Duties of the director. (2) (a) The director shall establish qualifications, procedures, and conditions for the issuance of licenses for the purpose of conducting weather modification activities within the state.~~

~~(b) (I) The qualifications so established shall ensure that the licensee demonstrates knowledge, skill, and experience reasonably necessary to accomplish weather modification without actionable injury to person or property, but the licensee shall be limited in the exercise of such license to the method of weather modification within his area of expertise. At a minimum each such applicant, except for applicants for licenses for ground-based winter cloud seeding, shall meet requirements at least as stringent as one or more of the following:~~

~~(A) Demonstrates that such person has at least eight years' experience at the professional level in weather modification field research or operations, at least three of those years as a project director; or~~

~~(B) Has obtained a baccalaureate degree in engineering, mathematics, or the physical sciences plus three years' experience in weather modification field research or operations; or~~

~~(C) Has obtained a baccalaureate degree in meteorology or a degree in engineering or the physical sciences which includes, or is in addition to, the equivalent of at least twenty-five semester hours of meteorological course work~~

~~and two years' practical experience in weather modification operations or research.~~

~~(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (b), the qualifications established by the director for ground-based winter cloud seeding shall ensure that the licensee demonstrates knowledge, skill, and experience reasonably necessary to accomplish weather modification without actionable injury to person or property, but the licensee shall be limited in the exercise of such license to the method of weather modification within such licensee's area of experience. Notwithstanding the provisions of sub-subparagraph (A) of subparagraph (I) of this paragraph (b), for ground-based winter cloud seeding a person shall have at least eight years' experience at the professional level in weather modification field research or operations, at least two of those years as a project director.~~

SECTION 4. 36-20-108 (1) and (3) (b), Colorado Revised Statutes, 1990 Repl. Vol., as amended, are amended to read:

36-20-108. Powers of the director. (1) The director may issue permits applicable to specific weather modification operations. For each operation, said permit shall describe the specific geographic area authorized to be affected and shall provide a specific time period during which the operation may continue, which period may be discontinuous but for operations other than ground-based winter cloud seeding may not have a total duration exceeding one calendar year from the day of its issuance. A separate permit shall be required for each operation. Permits for ground-based winter cloud seeding shall have a duration of five years. ~~The director shall issue a permit only after it is established that the project is conceived to provide economic benefits or that it will advance or~~

~~enhance scientific knowledge.~~ IF A PERMIT FOR A GROUND-BASED WINTER CLOUD SEEDING OPERATION IS RENEWED, THE SECOND PERMIT SHALL HAVE A DURATION OF FIVE YEARS AND ANY THIRD OR SUBSEQUENT PERMIT SHALL HAVE A DURATION OF TEN YEARS. The director shall issue only one active permit for activities in any geographic area if two or more projects therein might adversely interfere with each other.

(3) (b) All hearings conducted under this article shall be conducted pursuant to the provisions of this article and article 4 of title 24, C.R.S., and the director ~~may, by the director's own action, appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., subject to appropriations made to the department of personnel, to~~ OR THE DIRECTOR'S DESIGNEE SHALL conduct any hearing required by this article. ~~said hearing to be conducted under the provisions and within the limitations of article 4 of title 24, C.R.S., and this article.~~

SECTION 5. 36-20-109 (1), Colorado Revised Statutes, 1990 Repl. Vol., is amended to read:

36-20-109. Permit required - exemptions. (1) No person may engage in activities for weather modification and control without ~~a weather modification license and~~ a weather modification permit issued by the director; nor may any person engage in any activities in violation of any term or condition of ~~the license or~~ the permit.

SECTION 6. 36-20-110, Colorado Revised Statutes, 1990 Repl. Vol., is repealed as follows:

36-20-110. Issuance of license. ~~(1) The director, in accordance with applicable regulations, shall issue a weather modification license to each applicant who:~~

~~(a) Pays the license fee, if applicable; and~~

~~(b) Meets the qualifications for licensure established by the director pursuant to section 36-20-107 (2).~~

SECTION 7. 36-20-111, Colorado Revised Statutes, 1990 Repl. Vol., is repealed as follows:

36-20-111. License fee - expiration. ~~A license shall be issued under this article only upon the payment to the state of Colorado the sum of one hundred dollars for such license. Each such license shall expire at the end of the calendar year in which it is issued.~~

SECTION 8. The introductory portion to 36-20-112 (1) and 36-20-112 (1) (a), (1) (c), (1) (d), (1) (e), (3) (a), (3) (c), and (3) (d), Colorado Revised Statutes, 1990 Repl. Vol., as amended, are amended, and the said 36-20-112 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

36-20-112. Permit required - when issued. (1) The director, in accordance with his regulations, shall issue a weather modification permit to each applicant who:

(a) ~~Holds, or if the applicant is a corporation, the corporation demonstrates that the person in control of the project holds, a valid weather modification license; except that, for ground based winter cloud seeding, a political subdivision of the state may be issued a permit pursuant to this section without holding a weather modification license if the other requirements of this section are met;~~

~~(c) Furnishes proof of financial responsibility adequate to meet obligations reasonably likely to be attached to or result from the proposed weather modification operation. Such proof of financial responsibility may, but at the discretion of the director shall not be required to, be shown by presentation of proof of a prepaid insurance policy with an insurance company licensed to do business in Colorado, which insurance policy shall insure liabilities in an amount set by the director and provide a cancellation clause with a thirty day notice to the director, or by filing with the director an individual, schedule, blanket, or other corporate surety bond in an amount approved by the director. The director shall not require proof of financial responsibility in excess of the limitations imposed by section 24-10-114, C.R.S., from any political subdivision of the state authorized to conduct ground based winter cloud seeding weather modification activities pursuant to this article.~~

(d) Submits a complete operational plan for each proposed project prepared by the ~~licensed~~ operator in control which includes a specific statement of objectives, a map of the proposed operating area which specifies the primary target area and shows the area reasonably expected to be affected, the name and address of the ~~licensee~~ OPERATOR, the nature and object of the intended operation, the person or organization on whose behalf it is to be conducted, AND a statement showing any expected effect upon the environment and methods of determining and evaluating the same. ~~and such other detailed information as may be required to describe the operation and its proposed method of evaluation.~~ This operational plan shall be placed on file with the director and with any other agent as ~~he~~ THE DIRECTOR may require.

(e) Publishes a notice of intent to modify weather in the counties to be affected by the weather modification program before the ~~licensee~~ OPERATOR

secures a permit and before beginning operations. The published notice shall designate the primary target area and indicate the general area which might be affected. It shall also indicate the expected duration and intended effect and state that complete details are available on request from the ~~licensee~~ OPERATOR or the director or from the other agent specified by the director. The publication shall also specify a time and place, not more than one week following the completion of publication, for a hearing on the proposed project. Proof of publication shall be furnished to the director by the ~~licensee~~ OPERATOR.

(g) PROVIDES THE INFORMATION THAT IS REQUESTED BY THE DIRECTOR REGARDING THE QUALIFICATIONS, EDUCATION, AND EXPERIENCE OF THE OPERATOR.

(3) No permit may be issued unless the director determines, based on the information provided in the operational plan and on the testimony provided at the public hearing:

~~(a) That, if it is a commercial project, the proposed weather modification operation is conceived to provide, and offers promise of providing, an economic benefit to the area in which the operation will be conducted;~~

(c) That the project is ~~if it is a commercial project,~~ scientifically and technically feasible;

~~(d) That the project is, if it is a scientific or research project, designed for and offers promise of expanding the knowledge and the technology of weather modification;~~

SECTION 9. 36-20-113, Colorado Revised Statutes, 1990 Repl. Vol., is amended to read:

36-20-113. Permit fee. The fee for each permit or the renewal thereof under section 36-20-114 shall be at a ~~minimum of~~ LEAST one hundred dollars. If the operation is a commercial project ~~an additional amount equal to two percent of the value of the contract for such commercial project shall be required and paid before a permit may be issued~~ AND THE APPLICANT IS A RESIDENT OF THIS STATE, THE DIRECTOR SHALL SET A FEE THAT IS SUFFICIENT TO PAY THE DIRECT COSTS OF REVIEW OF THE PERMIT APPLICATION, PUBLIC HEARINGS REGARDING THE APPLICATION, AND MONITORING OF PERMIT OPERATIONS UNDER THE PROVISIONS OF THIS ARTICLE. IF THE OPERATION IS A COMMERCIAL PROJECT AND THE APPLICANT IS NOT A RESIDENT OF THIS STATE, THE DIRECTOR SHALL SET A FEE THAT IS SUFFICIENT TO PAY BOTH THE DIRECT COSTS AND THE INDIRECT COSTS OF REVIEW OF THE PERMIT APPLICATION, PUBLIC HEARINGS REGARDING THE APPLICATION, AND MONITORING OF PERMIT OPERATIONS UNDER THE PROVISIONS OF THIS ARTICLE. Said fees are intended to provide at least a portion of the moneys necessary to administer this article.

SECTION 10. 36-20-114, Colorado Revised Statutes, 1990 Repl. Vol., as amended, is amended to read:

36-20-114. Limits of permit. (1) Except for ground-based winter cloud seeding, a separate permit is required annually for each operation. If an operation is to be conducted under contract, a permit is required for each separate contract. Subject to the provisions of subsection (2) of this section, a permit may be granted for more than one year's duration. A permit for ground-based winter cloud seeding shall be issued for a period of five years. IF A PERMIT FOR A GROUND-BASED WINTER CLOUD SEEDING OPERATION IS RENEWED, THE SECOND PERMIT SHALL HAVE A DURATION OF FIVE YEARS AND

ANY THIRD OR SUBSEQUENT PERMIT SHALL HAVE A DURATION OF TEN YEARS.

(2) The director may conditionally approve a project other than ground-based winter cloud seeding for a continuous time period in excess of one year's duration. Permits for such operations must be renewed annually. In approving the renewal of a permit for a continuous program, the director may waive the procedures for initial issuance of a permit in section 36-20-112 and, upon review and approval of the project's operational record, the director may issue a renewed permit for the operation to continue. In such instances, the fees ~~based upon the value of the contract~~ IMPOSED pursuant to section 36-20-113 may be prorated and paid on an annual basis.

(3) A project permit may be granted by the director without prior publication of notice by the ~~licensee~~ OPERATOR in cases of fire, frost, hail, sleet, smog, fog, drought, or other emergency. In such cases, publication of notice shall be performed as soon as possible and shall not be subject to the time limits specified in this article or in article 4 of title 24, C.R.S.

SECTION 11. 36-20-115 (1) (a), (2), and (3), Colorado Revised Statutes, 1990 Repl. Vol., are amended to read:

36-20-115. Modification of permit. (1) The director may revise the terms and conditions of a permit if:

(a) The ~~licensee~~ OPERATOR is first given notice and a reasonable opportunity for a hearing on the need for a revision; and

(2) If it appears to the director that an emergency situation exists or is impending which could endanger life, property, or the environment, ~~he~~ THE DIRECTOR may, without prior notice or a hearing, immediately modify the conditions of a permit or order temporary suspension of the permit on ~~his~~ THE

DIRECTOR'S own order. The issuance of such order shall include notice of a hearing to be held within ten days thereafter on the question of permanently modifying the conditions or continuing the suspension of the permit. Failure to comply with an order temporarily suspending an operation or modifying the conditions of a permit shall be grounds for immediate revocation of the permit. ~~and of the operator's license.~~

(3) It shall be the responsibility of the licensee OPERATOR conducting any operation to notify the director of any emergency which can reasonably be foreseen or of any existing emergency situations in subsection (2) of this section which might in any way be caused or affected by the weather modification operation. Failure by the licensee OPERATOR to so notify the director of any such existing emergency, or any impending emergency which should have been foreseen, may be grounds, at the discretion of the director, for ~~revocation of the license and~~ revocation of the permit for operation.

SECTION 12. 36-20-116, Colorado Revised Statutes, 1990 Repl. Vol., is amended to read:

36-20-116. Scope of activity. Once a permit is issued, the licensee OPERATOR shall confine his OR HER activities within the limits of time and area specified in the permit, except to the extent that the limits are modified by the director. ~~He~~ THE OPERATOR shall also comply with any terms and conditions of the permit as originally issued or as subsequently modified by the director.

SECTION 13. 36-20-117, Colorado Revised Statutes, 1990 Repl. Vol., as amended, is amended to read:

36-20-117. Reports of operator. (1) ~~In order to aid in research and development in weather modification and to aid in the protection of life and~~

~~property or the environment, any person conducting any weather modification operation in Colorado or elsewhere by undertaking operations within Colorado shall file such reports at such time and in the manner and form as shall be required by regulation of the director; except that, for ground based winter cloud seeding projects, operators shall be required to keep a record of all operations conducted, showing the equipment, the methods, the types, amounts, times, and places of seeding agents employed, a statement as to the estimated effect of the operation in relation to its intended purpose, and the name and address of each person participating or assisting in the operation. A report on the evaluation of project results for ground based winter cloud seeding shall be filed with the director within one year of the termination of a project or, in the case of an ongoing project, at least once every two years. The director may require such additional reports as the director deems necessary. Ground based winter cloud seeding projects shall not be subject to any other reporting requirements contained in this article or rules and regulations of the director. THE DIRECTOR MAY PROMULGATE RULES REQUIRING ANY OPERATOR WHO HAS BEEN ISSUED A WEATHER MODIFICATION PERMIT TO FILE CERTAIN REPORTS REGARDING OPERATIONS CONDUCTED UNDER THE PERMIT.~~

(2) ~~Report forms may be developed by the director and shall include basic records showing: The method employed, the type of equipment used, the kind and amount of each material used, the times and places the equipment is operated, the name and address of each individual, other than the licensee, who participates or assists in the operation, any environmental effects realized or suspected to have occurred, and any other necessary data the director may require.~~

(3) ~~Except for ground based winter cloud seeding projects, the director shall require written biweekly reports summarizing the project's activities and intended results while the project is actually in operation, and except for ground based winter cloud seeding projects, the director shall require a written final operational report and a written final report evaluating the project, or an annual operational report and an annual project evaluation, as the case may be. Except for ground based winter cloud seeding projects, a final operational report along with a preliminary scientific evaluation of the project shall be filed no later than thirty days after the completion of the project. Except for ground based winter cloud seeding projects, a final complete scientific evaluation of the project shall be filed no later than one hundred eighty days after the completion of the project. Except for ground based winter cloud seeding projects, an annual summary report shall be filed sixty days prior to the renewal of a permit under the provisions of section 36-20-114 (2).~~ All such reports FILED UNDER THE PROVISIONS OF THIS SECTION are declared to be public records subject to the provisions and limitations of part 2 of article 72 of title 24, C.R.S.

SECTION 14. 36-20-119, Colorado Revised Statutes, 1990 Repl. Vol., is amended to read:

36-20-119. Suspension - revocation - refusal to renew. (1) The director may suspend or revoke a ~~license or~~ permit if it appears that the ~~licensee~~ OPERATOR no longer has the qualifications necessary for the issuance of an original ~~license or~~ permit or has violated any provision of this article.

(2) The director may refuse ~~to renew the license of, or~~ to issue another permit to any applicant who has failed to comply with any provision of this article.

SECTION 15. 36-20-120, Colorado Revised Statutes, 1990 Repl. Vol., is repealed as follows:

~~**36-20-120. Operation under permit.** Operations under permits may only be carried forward by or under the immediate direction and supervision of a licensee.~~

SECTION 16. 36-20-121 (1), Colorado Revised Statutes, 1990 Repl. Vol., is amended to read:

36-20-121. Hearing required. (1) Except as provided in section 36-20-115, the director may not suspend or revoke a ~~license or~~ permit without first giving the ~~licensee~~ OPERATOR notice and a reasonable opportunity to be heard with respect to the grounds for ~~his~~ THE DIRECTOR'S proposed action.

SECTION 17. 36-20-123 (2), Colorado Revised Statutes, 1990 Repl. Vol., is amended to read:

36-20-123. Legal recourse - liability - damages. (2) (a) Failure to obtain a ~~license or~~ permit before conducting an operation, or any actions which knowingly constitute a violation of the conditions of a permit, shall constitute negligence per se.

(b) The director may order any person who is found to be conducting a weather modification operation without a ~~license and~~ permit to cease and desist from said operation. Any person who fails to obey said order commits a class 6 felony and shall be punished as provided in section 18-1-105, C.R.S.

SECTION 18. 36-20-124, Colorado Revised Statutes, 1990 Repl. Vol., is amended to read:

36-20-124. Permit as defense in actions. The fact that a person ~~holds a~~ ~~license or~~ was issued a permit under this article, or that ~~he~~ THE PERSON has

complied with the requirements established by the director pursuant to this article, is not admissible as a defense in actions for damages or injunctive relief brought against ~~him~~ THE PERSON.

SECTION 19. 36-20-126 (1) (a) and (2), Colorado Revised Statutes, 1990 Repl. Vol., is amended to read:

36-20-126. Penalties. (1) (a) Any person responsible for conducting a weather modification operation without first having procured the required license and permit and any person who contracts with or pays another person known to be ~~unlicensed and~~ without a permit to conduct a weather modification operation commits a class 6 felony and shall be punished as provided in section 18-1-105, C.R.S.

(2) Any person who makes a false statement in the application for a license or permit, or who fails to file any report as required by this article, or who violates any other provisions of this article, except as otherwise provided in section 36-20-123 and subsection (1) of this section, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. Each such violation shall be a separate offense.

SECTION 20. 36-20-127, Colorado Revised Statutes, 1990 Repl. Vol., is amended to read:

36-20-127. Repeal of article. This article is repealed, effective July 1, 1996 JULY 1, 2003. Prior to such repeal, the function of the issuance of permits for specific weather modifications operations through the director shall be reviewed as provided in section 24-34-104, C.R.S.

SECTION 21. 24-34-104 (25.1) (i), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25.1) The following functions of the specified agencies shall terminate on July 1, 1996:

(i) ~~The function of the issuance of permits for specific weather modifications operations through the executive director of the department of natural resources performed in accordance with article 20 of title 36, C.R.S.;~~

SECTION 22. The introductory portion to 24-34-104 (32), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended, and the said 24-34-104 (32) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (32) The following ~~function of the specified agency~~ AGENCIES, FUNCTIONS, OR BOTH shall terminate on July 1, 2003:

(c) THE ISSUANCE OF PERMITS FOR SPECIFIC WEATHER MODIFICATION OPERATIONS THROUGH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES IN ACCORDANCE WITH ARTICLE 20 OF TITLE 36, C.R.S.

SECTION 23. Effective date - applicability. This act shall take effect July 1, 1996, and shall apply to offenses committed on or after said date.

SECTION 24. 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.

BILL P

A BILL FOR AN ACT

CONCERNING THE AUTHORITY FOR PERSONS TO SELL LAWFUL FIREWORKS ANYWHERE IN THE STATE SUBJECT TO CERTAIN REASONABLE RESTRICTIONS IMPOSED BY LOCAL GOVERNMENTS ON LOCATION, STORAGE, AND SALE OF SUCH FIREWORKS.

Bill Summary

"Regulation Of Fireworks"

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

Joint Legislative Sunrise and Sunset Review Committee. Eliminates the licensing function of the executive director of the department of public safety regarding fireworks.

Authorizes counties and municipalities to regulate fireworks within their boundaries by imposing reasonable restrictions on the location, storage, and sale of permissible fireworks pursuant to zoning and fire code requirements, but prohibits any municipal or county requirement limiting sales of fireworks to less than 60 days annually. Prohibits any local government from banning sales of permissible fireworks within the boundaries of the local government.

Retains the prohibitions against:

- Any person furnishing fireworks to an individual under 16 years of age; and
- Any individual under 16 years of age purchasing fireworks.

Modifies the definition of permissible fireworks to exclude any firework that propels itself 3 feet or more off of the ground and to exclude any firework that projects or disbursts any plastic or brittle fragments, rather than only brittle plastic fragments.

Retains the prohibition against possession or discharge of fireworks other than permissible fireworks. Provides exceptions to such prohibition for:

- Any fireworks display for which a municipality, fire protection district, or county has issued a permit; and
- Any exporter who is engaged in the practice of exporting fireworks.

Eliminates the fireworks licensing cash fund.

Repeals statutory provisions regarding:

- Warning signs required to be posted by persons selling fireworks;
- Importation of fireworks;
- Exportation of fireworks;
- Storage of fireworks; and
- Seizure of fireworks by local authorities.

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

SECTION 1. 12-28-101 (1), (2), (4), and (6), the introductory portion to 12-28-101 (8), and 12-28-101 (9), (10), (11), and (12), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-28-101. Definitions. As used in this article, unless the context otherwise requires:

(1) ~~"Display retailer" means any person, including a manufacturer, who is licensed as a display retailer under the provisions of section 12-28-104 and who sells, delivers, consigns, gives, or otherwise furnishes fireworks to any person authorized by section 12-28-103 to discharge fireworks in Colorado.~~

(2) "Exporter" means any person, including a manufacturer, ~~licensed as an exporter under the provisions of section 12-28-104 and~~ who sells, delivers, consigns, gives, or otherwise furnishes fireworks for export outside of the state of Colorado.

(4) ~~"Fund" means the fireworks licensing cash fund created in section 12-28-104 (6) (b).~~

(6) ~~"Local authority" means the duly authorized fire department, police department, or sheriff's department of a local jurisdiction.~~

(8) "Permissible fireworks" means the following items designed primarily to produce visual or audible effects by combustion, including certain devices

designed to produce audible or visual effects; except that no device or component shall, upon functioning, PROPEL ITSELF THREE FEET OR MORE OFF OF THE GROUND OR project or disburse any metal, glass, PLASTIC, or brittle plastic fragments:

(9) "Person" ~~includes an individual, partnership, firm, company, association, corporation, or governmental entity~~ HAS THE SAME MEANING AS THAT PROVIDED IN SECTION 2-4-401 (8), C.R.S.

(10) "Retailer" ~~means any person who sells, delivers, consigns, or furnishes permissible fireworks to another person not for resale.~~

(11) "Storage" ~~means the possession of fireworks for safe custody, where the safekeeping is the principal object of deposit, and not the consumption or sale.~~

(12) "Wholesaler" ~~means any person, including a manufacturer, who is licensed as a wholesaler under section 12-28-104 and who sells, delivers, consigns, gives, or otherwise furnishes permissible fireworks to a retailer for resale in Colorado.~~

SECTION 2. 12-28-102, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-28-102. Unlawful use or sale of fireworks - exceptions. (1) ~~Except as provided for in subsection (6) of this section,~~ It shall be unlawful for any person to knowingly furnish to any ~~person~~ INDIVIDUAL who is under sixteen years of age, by gift, sale, or any other means, any fireworks, including those defined as permissible fireworks in section 12-28-101 (8).

(2) ~~Except as provided for in subsection (6) of this section,~~ It shall be unlawful for any ~~person~~ INDIVIDUAL who is under sixteen years of age to

purchase any fireworks, including those defined as permissible fireworks in section 12-28-101 (8).

(3) ~~Nothing in this section shall be construed to prohibit any statutory or home rule municipality from enacting any ordinance which prohibits a person under sixteen years of age from purchasing any fireworks, including those defined as permissible fireworks in section 12-28-101 (8).~~

(4) ~~Any person who sells or offers to sell any fireworks, including those defined as permissible fireworks in section 12-28-101 (8), shall display a warning sign, as specified in this subsection (4). Said warning sign shall be displayed in a prominent place on the premises at all times, shall have a minimum height of eight and one half inches and a minimum width of eleven inches, and shall read as follows:~~

WARNING

**IT IS ILLEGAL FOR ANY PERSON UNDER
SIXTEEN YEARS OF AGE TO PURCHASE ANY FIREWORKS.
VIOLATORS MAY BE PUNISHED BY A FINE OF UP
TO \$750.00, BY IMPRISONMENT FOR UP TO SIX MONTHS,
OR BY BOTH SUCH FINE AND IMPRISONMENT.**

(5) ~~Except as provided in this section and in section 12-28-103,~~ It shall be unlawful for any person to possess or discharge any fireworks, other than permissible fireworks, anywhere in this state; EXCEPT THAT:

(a) SUCH FIREWORKS MAY BE POSSESSED AND DISCHARGED BY PERSONS IN CONNECTION WITH A FIREWORKS DISPLAY IF A GOVERNING BODY HAS ISSUED A PERMIT FOR SUCH FIREWORKS DISPLAY; AND

(b) SUCH FIREWORKS MAY BE POSSESSED BY AN EXPORTER WHEN SUCH PERSON IS ENGAGED IN THE PRACTICE OF EXPORTING FIREWORKS.

(6) At all times that it is lawful for any person over the age of sixteen years to possess and discharge permissible fireworks, it shall also be lawful for a person under the age of sixteen years to possess and discharge permissible fireworks, if such person is under adult supervision.

~~(7) (a) Except as provided in this section, it shall be unlawful for any person who is not licensed as a retailer under this article, in retail transactions with the public, to offer for sale, expose for sale, sell, or have in such person's possession with the intent to offer for sale any permissible fireworks.~~

~~(b) This subsection (7) shall take effect July 15, 1991.~~

~~(8) (a) Except as provided in this section, it shall be unlawful for any person who is not licensed as a display retailer, wholesaler, or exporter under this article, in transactions other than retail transactions with the public, to offer for sale, expose for sale, sell, or have in such person's possession with the intent to offer for sale any fireworks including permissible fireworks.~~

~~(b) This subsection (8) shall take effect July 15, 1991.~~

(9) Nothing in this article shall prevent or regulate:

(a) The use of fireworks by railroads or other transportation agencies for signal purposes or illumination;

(b) The sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations;

OR

(c) The sale, purchase, possession, or use of fireworks distributed by the division of wildlife for agricultural purposes under conditions approved by said division. ~~or~~

~~(d) The sale, delivery, consignment, gift, or furnishing of fireworks among display retailers, wholesalers, or exporters licensed under this article.~~

SECTION 3. 12-28-104, Colorado Revised Statutes, 1991 Repl. Vol., is repealed as follows:

~~12-28-104. Licensing - creation of fireworks licensing cash fund. (1) No person shall sell, offer for sale, expose for sale, or possess with intent to sell permissible fireworks for retail until that person first obtains a retailer of fireworks license from the director of the department of public safety and the permit, if any, required by section 12-28-103 (1). Such retailer's license shall be good only for the calendar year in which it is issued, shall apply to only one retail location, and shall at all times be displayed at the place of business of such licensed retailer.~~

~~(2) No person shall sell, deliver, consign, give, or furnish fireworks to any person authorized by section 12-28-103 to discharge fireworks in Colorado until that person first obtains a display retailer of fireworks license from the director of the department of public safety and the permit, if any, required by section 12-28-103 (1).~~

~~(3) No person shall sell, deliver, consign, give, or furnish permissible fireworks to a retailer for resale in Colorado until that person first obtains a wholesaler of fireworks license from the director of the department of public safety and the permit, if any, required by section 12-28-103 (1).~~

~~(4) No person shall sell, deliver, consign, give, or furnish fireworks for export outside of Colorado until that person first obtains an exporter of fireworks license from the director of the department of public safety and the permit, if any, required by section 12-28-103 (1).~~

~~(5) Applications for each display, retail, wholesale, and export license shall be filed with the director of the department of public safety at least thirty days~~

before the start of activities for which the license is required. Each such license shall be valid through September 1 of the year following the date on which the license was issued.

~~(6) (a) All fees pursuant to this article shall be collected by the director of the department of public safety.~~

~~(b) All fees collected pursuant to paragraph (a) of this subsection (6) shall be transmitted to the state treasurer who shall credit the same to the fireworks licensing cash fund which fund is hereby created in the state treasury. The general assembly shall appropriate the moneys in the fund to the department of public safety for payment of salaries and expenses necessary for the administration of this article.~~

~~(c) The director of the department of public safety shall set fees pursuant to this article at such rates as are necessary to provide for the direct and indirect costs and expenses of the department of public safety in the administration of this article; except that the fee for a retailer of fireworks license shall not exceed twenty five dollars and the fee for a display retailer of fireworks license, a wholesaler of fireworks license, or an exporter of fireworks license shall not exceed seven hundred fifty dollars. Such rates shall be reviewed annually by the director of the department of public safety and the director shall report annually to the general assembly on the propriety of such rates.~~

~~(7) The director of the department of public safety shall promulgate rules and regulations to implement the provisions of this article. Such rules and regulations may include requirements which are reasonably necessary for the safety of workers and the public and the protection of property. The procedure for the promulgation of such rules and regulations shall be in accordance with the provisions of section 24-4-103, C.R.S.~~

~~(8) Any person aggrieved by a decision or order of the director of the department of public safety may seek judicial review pursuant to the provisions of section 24-4-106, C.R.S.~~

~~(9) Any licenses issued prior to July 15, 1991, by the secretary of state shall remain valid through September 1, 1991.~~

~~(10) This section shall take effect July 15, 1991.~~

SECTION 4. 12-28-105, Colorado Revised Statutes, 1991 Repl. Vol., is repealed as follows:

12-28-105. Importation of fireworks - duties of licensees - retention of invoices for inspection. ~~(1) It shall be unlawful for any person not licensed as a display retailer, wholesaler, or exporter under the provisions of section 12-28-104 to bring any fireworks including permissible fireworks into this state. Retail purchasers shall not purchase fireworks by mail order or receive any fireworks in Colorado by mail, parcel service, or other carrier. All fireworks sales and deliveries to retail purchasers in Colorado shall be made in Colorado and shall be conducted only by persons licensed pursuant to this article.~~

~~(2) It shall be unlawful for any retailer to sell, offer for sale, expose for sale, or possess with intent to sell any permissible fireworks in this state which have not been purchased from a wholesaler licensed under the provisions of section 12-28-104.~~

~~(3) It shall be unlawful for any person to conduct any fireworks display using fireworks which have not been purchased from a display retailer licensed under the provisions of section 12-28-104.~~

~~(4) Any retailer licensed under the provisions of section 12-28-104 (1), and any person who discharges fireworks pursuant to section 12-28-103 (2) or (3),~~

shall keep available, for inspection by local authorities, a copy of each invoice for fireworks purchased as long as any fireworks included on such invoice are held in such person's possession. Such invoice shall show the license number of the wholesaler or display retailer from whom such fireworks were purchased.

~~(5) This section shall take effect July 15, 1991.~~

SECTION 5. 12-28-106, Colorado Revised Statutes, 1991 Repl. Vol., is repealed as follows:

12-28-106. Exportation of fireworks. ~~(1) It shall be unlawful to export fireworks, other than permissible fireworks, from the state of Colorado, unless such fireworks are transported in accordance with the regulations of the United States department of transportation regulating the transportation of explosives, fireworks, and other dangerous articles by motor, rail, air, and water and the exporter obtains a signed bill of lading from each person transporting such fireworks, which shall show the quantity and types of fireworks transported and the recipient's full legal name and address.~~

~~(2) The exporter may transport such fireworks by common carrier or by the exporter's vehicle; except that the sale of such fireworks for transport in the purchaser's vehicle is unlawful unless:~~

~~(a) The exporter requires the purchaser to display a valid motor vehicle driver's license issued by a state other than the state of Colorado and records the number and state of issue of such driver's license on the bill of lading pertaining to such sale, and further requires the purchaser to display a valid motor vehicle registration showing that the purchaser owns a motor vehicle licensed in a state other than the state of Colorado, which license plate number and state of issue shall be recorded on the bill of lading pertaining to such sale; or~~

~~(b) The exporter requires the purchaser to display a valid motor vehicle driver's license issued by the state of Colorado and records the number and state of issue of such driver's license on the bill of lading pertaining to such sale, and further requires the purchaser to furnish a valid wholesale or retail license number or resale license number issued by the governing body of a state or local authority located outside of the state of Colorado, which number and state of issue shall be recorded on the bill of lading pertaining to such sale.~~

~~(3) The bills of lading required by this section shall be retained by the exporter for a period of three years from the date of such sale.~~

SECTION 6. 12-28-107, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-28-107. Regulation of permissible fireworks by municipalities and counties. ~~This article shall not be construed to prohibit the imposition by municipal ordinance of further regulations and prohibitions upon the sale, use, and possession of fireworks, including permissible fireworks, within the corporate limits of any city or town, but no such city or town shall permit or authorize the sale, use, or possession of any fireworks in violation of this article.~~

A MUNICIPALITY OR COUNTY MAY REGULATE FIREWORKS BY IMPOSING REASONABLE RESTRICTIONS ON THE LOCATION, STORAGE, AND SALE OF PERMISSIBLE FIREWORKS WITHIN THE CORPORATE LIMITS OF SUCH MUNICIPALITY OR WITHIN THE UNINCORPORATED AREAS OF SUCH COUNTY PURSUANT TO ZONING AND FIRE CODE REQUIREMENTS. NO MUNICIPALITY OR COUNTY MAY RESTRICT SALES OF PERMISSIBLE FIREWORKS TO DATES TOTALING LESS THAN SIXTY DAYS IN ANY CALENDAR YEAR. NO LOCAL GOVERNMENT IS AUTHORIZED TO BAN SALES

OF PERMISSIBLE FIREWORKS WITHIN THE BOUNDARIES OF SUCH LOCAL GOVERNMENT.

SECTION 7. 12-28-108, Colorado Revised Statutes, 1991 Repl. Vol., is repealed as follows:

~~12-28-108. Storage of fireworks. All storage of fireworks shall be in accordance with the building and fire codes adopted by the governing body.~~

SECTION 8. 12-28-109, Colorado Revised Statutes, 1991 Repl. Vol., is repealed as follows:

~~12-28-109. Seizure of fireworks. The local authorities shall seize, take, and remove, at the expense of the owner, all stocks of fireworks, including permissible fireworks, offered or exposed for sale, stored, or held in violation of this article.~~

SECTION 9. 12-28-111, Colorado Revised Statutes, 1991 Repl. Vol., is repealed as follows:

~~12-28-111. Denial, suspension, or revocation of or refusal to renew license. (1) The director of the department of public safety may deny, suspend, revoke, or refuse to renew any license issued or applied for under the provisions of this article for any of the following reasons:~~

~~(a) Violations of any of the provisions of this article;~~

~~(b) A conviction of any felony, but subject to the provisions of section 24-5-101, C.R.S.;~~

~~(c) A conviction pursuant to section 12-28-110;~~

~~(d) Any material misstatement, misrepresentation, or fraud in obtaining a license.~~

~~(2) Such revocation or suspension proceedings shall be brought by the Colorado director of the department of public safety pursuant to the provisions of the "State Administrative Procedure Act", article 4 of title 24, C.R.S.~~

SECTION 10. 12-28-112, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is repealed as follows:

~~12-28-112. Repeal of article. This article is repealed, effective July 1, 1996. Prior to such repeal the licensing functions of the executive director of the department of public safety shall be reviewed as provided for in section 24-34-104, C.R.S.~~

SECTION 11. 24-34-104 (25.1) (I), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is repealed as follows:

~~24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25.1) The following functions of the specified agencies shall terminate on July 1, 1996:~~

~~(I) The licensing functions relating to fireworks of the executive director of the department of public safety in accordance with article 28 of title 12, C.R.S.~~

SECTION 12. Effective date - applicability. This act shall take effect July 1, 1996, and shall apply to acts occurring on or after said date.

SECTION 13. 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.

BILL Q

A BILL FOR AN ACT

CONCERNING WORKERS' COMPENSATION MEDICAL CARE CLASSES FOR LEVEL I AND LEVEL II TRAINING FOR PHYSICIANS BY THE DIRECTOR OF THE DIVISION OF WORKERS' COMPENSATION.

Bill Summary

"Workers' Comp Medical Care Accreditation"

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

Joint Legislative Sunrise and Sunset Review Committee. Repeals the workers' compensation medical care accreditation commission. Continues the accreditation function of the director of the division of workers' compensation.

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

SECTION 1. 8-42-101 (3.5) and (3.6), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

8-42-101. Employer must furnish medical aid - approval of plan - fee schedule - contracting for treatment - no recovery from employee - medical treatment guidelines - accreditation of physicians - repeal.

(3.5) (a) (I) "Physician" means, for the purposes of the level I and level II accreditation programs, a physician licensed under the "Colorado Medical Practice Act". For the purposes of level I accreditation only and not level II accreditation, "physician" means a dentist licensed under the "Dental Practice Law of Colorado", a podiatrist licensed under the provisions of article 32 of title 12, C.R.S., and a chiropractor licensed under the provisions of article 33 of title

12, C.R.S. No physician shall be deemed to be accredited under either level I or level II solely by reason of being licensed.

(II) The director shall promulgate rules by January 1, 1992, establishing a system for the determination of medical treatment guidelines and utilization standards and medical impairment rating guidelines for impairment ratings as a percent of the whole person or affected body part based on the revised third edition of the "American Medical Association Guides to the Evaluation of Permanent Impairment", in effect as of July 1, 1991.

(b) A medical impairment rating system shall be ~~made available~~ MAINTAINED by the director. ~~by January 1, 1992.~~

(c) ~~There is hereby created in the division the workers' compensation medical care accreditation commission to advise the director on the fee schedule established pursuant to subparagraph (I) of paragraph (a) of subsection (3) of this section and on medical impairment rating guidelines and medical treatment guidelines and utilization standards, as well as the denial of surgery and its relationship to maximum medical improvement. Such advisory commission shall consist of seven citizens of this state who shall be appointed by the governor with the consent of the senate. The governor shall consider any recommendations of the director and may receive input from appropriate professional societies.~~

(d) ~~Two members of the commission shall be physicians licensed to practice medicine in this state, one member shall be a chiropractor licensed to practice in this state, two members shall be consumers, one of whom shall represent the interests of small business and one of whom shall represent the interests of risk management, one member shall be a representative of workers injured on the job, and one member shall be a representative of the insurancee~~

industry. In addition, the medical director serving pursuant to paragraph (n) of subsection (3.6) of this section shall serve as an ex officio member of the commission.

(c) All members of the commission shall serve terms of three years; except that the terms of the members initially appointed by the governor shall be as follows:

(I) Two members, one of whom is a licensed physician and the other of whom is a consumer representing either the interests of small business or the interests of risk management, shall be appointed for terms ending July 1, 1992;

(II) Two members, one of whom is a licensed physician and one of whom is a consumer representing either the interests of small business or risk management, shall be appointed for terms ending July 1, 1993; and

(III) Three members, one of whom is a representative of the insurance industry, one of whom is a licensed chiropractor, and one of whom is a representative of workers who have been injured on the job, shall be appointed for terms ending July 1, 1994.

(f) All initial appointments shall be made by the governor as soon as practicable but in no event later than July 1, 1991.

(g) The chair of the commission shall be elected by its members every two years.

(h) The physicians who are members of the commission shall have either a minimum of three years' experience in occupational medicine, with thirty percent of their practice devoted to cases involving occupational injuries, or a minimum of five years' experience in occupational medicine, with fifteen percent of their practice devoted to cases involving occupational medicine. The balance

of the practice of such members shall reflect a diversity of areas of practice, including family and internal medicine.

(i) Members of the commission who are not employees of the state shall receive fifty dollars per diem for attendance at official meetings and shall be reimbursed for reasonable and necessary travel expenses incurred in the conduct of commission business. Travel expenses shall be reimbursed at the rate authorized for state employees.

(j) The governor shall remove any member of the commission for malfeasance in office, failure to regularly attend meetings, or any cause that renders such member incapable or unfit to discharge the duties of his office, and any such removal shall not be subject to review.

(k) (I) This subsection (3.5) is repealed, effective July 1, 1996. JULY 1, 2003.

(II) Prior to such repeal the commission and the accreditation process created by this subsection (3.5) and subsection (3.6) of this section shall be reviewed as provided for in section 24-34-104, C.R.S.

(3.6) The director, with input from the commission, shall establish a two-tier accreditation system which shall be comprised of the following programs:

(a) (I) A program which establishes ESTABLISHING the accreditation requirements for physicians providing primary care to patients who have, as a result of their injury, been unable to return to work for more than three working days, referred to in this section as "time-loss injuries", which program shall be voluntary except in the case of chiropractors, for whom it shall be mandatory, and which shall be known as level I accreditation; and

(II) A program ~~which establishes~~ ESTABLISHING the accreditation requirements for physicians providing impairment evaluation of injured workers, which program shall be known as level II accreditation.

(b) On and after January 1, 1993, a physician who provides impairment evaluation of injured workers shall complete and must have received accreditation under the level II accreditation program. Specialists who do not render primary care to injured workers and who do not perform impairment evaluations do not require accreditation. The facility where a physician provides such services cannot be accredited.

(c) Both the level I and level II accreditation programs shall be implemented and available to physicians no later than July 1, 1992. All physicians who are required to be accredited shall complete the level II accreditation program or programs no later than July 1, 1993.

(d) The level I and level II accreditation programs shall operate in such a manner that the costs thereof shall be fully met by registration fees paid by the physicians. The registration fee for level I accreditation shall not exceed two hundred fifty dollars, and the registration fee for level II accreditation shall not exceed four hundred dollars. The registration fee for each program shall cover the cost of all accreditation course work and materials.

(e) The accreditation system shall be established so as to provide physicians with an understanding of the administrative, legal, and medical roles and in such a manner that accreditation is accessible to every licensed physician, with consideration of specialty and geographic diversity.

(f) Initial accreditation shall be for a three-year period and may be renewed for successive three-year periods. The director by regulation may determine any additional training program required prior to accreditation renewal.

(g) The director shall, upon good cause shown, revoke the accreditation of any physician who violates the provisions of this subsection (3.6) or any rule promulgated by the director pursuant to this subsection (3.6), following a hearing on the merits before an administrative law judge, subject to review by the industrial claim appeals office and the court of appeals, in accordance with all applicable provisions of article 43 of this title.

(h) If a physician whose accreditation has been revoked submits a claim for payment for services rendered subsequent to such revocation, the physician shall be considered in violation of section 10-1-127, C.R.S., and neither an insurance carrier ~~or~~ NOR A self-insured employer shall be under any obligation to pay such claim.

(i) A physician who provides treatment for nontime loss injuries need not be accredited to be reimbursed for the costs of such treatment pursuant to the provisions of the "Workers' Compensation Act of Colorado".

~~(j) The division shall be charged with the responsibility of providing sufficient staff, facilities, and administrative support to accomplish the tasks of the commission.~~

(k) The division shall make available to insurers a list of all accredited physicians and a list of all physicians whose accreditation has been revoked. Such lists shall be updated on a monthly basis.

(l) The registration fees collected pursuant to paragraph (d) of this subsection (3.6) shall be transmitted to the state treasurer, who shall credit the same to the physicians accreditation program cash fund, which is hereby created in the state treasury. Moneys in the physicians accreditation program cash fund are hereby continuously appropriated for the payment of the direct costs of providing the level I and level II accreditation courses and materials.

(m) All administrative costs associated with the level I and level II accreditation programs ~~and all costs associated with the duties and responsibilities of the commission, including reimbursement of travel expenses as authorized under paragraph (i) of subsection (3.5) of this section,~~ shall be paid out of the workers' compensation cash fund in accordance with appropriations made pursuant to section 8-44-112 (7).

(n) The director shall contract with the medical school of the University of Colorado for the services of a medical director to advise the director ~~and to work with the commission~~ on issues of accreditation, impairment rating guidelines, medical treatment guidelines and utilization standards, and case management and to consult with the director on peer review activities as specified in this subsection (3.6) and section 8-43-501. Such medical director shall be a medical doctor licensed to practice in this state with experience in occupational medicine. The director may contract with an appropriate private organization which meets the definition of a utilization and quality control peer review organization as set forth in 42 U.S.C. sec. 1320c-1 (1) (A) or (1) (B), to conduct peer review activities under this subsection (3.6) and section 8-43-501 and to recommend whether or not adverse action is warranted.

(o) Except as provided in this subsection (3.6), on and after July 1, 1993, neither an insurance carrier nor a self-insured employer or injured worker shall be liable for costs incurred for services rendered by a physician in the impairment evaluation of a patient if such attending physician is not accredited at a level II accreditation pursuant to the provisions of this subsection (3.6).

(p) (I) For purposes of this paragraph (p):

(A) "Case management" means a system developed by the insurance carrier in which the carrier shall assign a person knowledgeable in workers'

compensation health care to communicate with the employer, employee, and treating physician to assure that appropriate and timely medical care is being provided.

(B) "Managed care" means the provision of medical services through a recognized organization authorized under the provisions of parts 1, 3, and 4 of article 16 of title 10, C.R.S., or a network of medical providers accredited to practice workers' compensation under this subsection (3.6).

(II) On or before July 1, 1993, every employer or its insurance carrier shall offer at least managed care or medical case management in the counties of Denver, Adams, Jefferson, Arapahoe, Douglas, Boulder, Larimer, Weld, El Paso, Pueblo, and Mesa and shall offer medical case management in all other counties of the state.

(q) The division is authorized to accept moneys from any governmental unit as well as grants, gifts, and donations from individuals, private organizations, and foundations; except that no grant, gift, or donation may be accepted by the division if it is subject to conditions which are inconsistent with this article or any other laws of this state or which require expenditures from the workers' compensation cash fund which have not been approved by the general assembly. All moneys accepted by the division shall be transmitted to the state treasurer for credit to the workers' compensation cash fund.

(r) (I) This subsection (3.6) is repealed, effective ~~July 1, 1996~~ JULY 1, 2003.

(II) Prior to such repeal ~~the commission and~~ the accreditation process created by subsection (3.5) of this section and this subsection (3.6) shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 2. 24-34-104 (25.1) (k), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25.1) The following functions of the specified agencies shall terminate on July 1, 1996:

(k) ~~The functions of the workers' compensation medical care accreditation commission and the accreditation of health care providers under the workers' compensation system in accordance with section 8-42-101 (3.5) and (3.6), C.R.S.;~~

SECTION 3. 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (32.5) THE FOLLOWING FUNCTIONS, AGENCIES, OR BOTH, SHALL TERMINATE ON JULY 1, 2003: THE ACCREDITATION OF HEALTH CARE PROVIDERS UNDER THE WORKERS' COMPENSATION SYSTEM IN ACCORDANCE WITH SECTION 8-42-101 (3.5) AND (3.6), C.R.S.

SECTION 4. Effective date. This act shall take effect July 1, 1996.

SECTION 5. 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.

BILL R

A BILL FOR AN ACT

CONCERNING THE REPEAL OF SNOWMOBILE REGISTRATION FEES.

Bill Summary
"Snowmobile Registration Fees"

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

Joint Legislative Sunrise and Sunset Review Committee. Repeals fees for the registration of snowmobiles.

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

SECTION 1. 33-12-102 (1.2) (i), (1.2) (j), (1.2) (k), and (1.2) (l), Colorado Revised Statutes, 1995 Repl. Vol., are repealed as follows:

33-12-102. Types of passes and registrations - fees. (1.2) The fees for the types of passes and registrations to be issued by the division, unless the board establishes a lesser fee pursuant to section 33-10-107 (1) (h), are as follows:

(i) ~~Snowmobile registration (including annual resident registration and each rental snowmobile)~~ \$ 15.00

(j) ~~Dealer registration for all snowmobiles owned by a snowmobile dealer which are operated for demonstration or testing purposes only;~~

(l) ~~When the dealer sells twenty five or fewer snowmobiles within the preceding year~~ \$ 25.00

~~(H) When the dealer sells more than twenty five snowmobiles within the preceding year~~ \$ 50.00

(k) ~~Manufacturer registration for all snowmobiles owned by a manufacturer which are operated for research, testing, experimentation, or demonstration purposes only~~ \$ 25.00

(l) ~~Nonresident annual snowmobile registration~~ .. \$ 15.00

SECTION 2. Effective date. This act shall take effect July 1, 1996.

SECTION 3. 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.

BILL S

A BILL FOR AN ACT

CONCERNING THE REGULATION OF PERSONS INVOLVED WITH WORK RELATED TO
MECHANICAL SYSTEMS FOR STRUCTURES.

Bill Summary
"Regulation Of HVACR"

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

Joint Legislative Sunrise and Sunset Review Committee. Creates the state HVACR board. Authorizes the governor, with the consent of the senate, to appoint the board members. Provides duties and powers of the board.

Requires licensing of persons performing heating, ventilation, air conditioning, and refrigeration work by the state HVACR board. Establishes licenses for any HVACR journeyman, master HVACR supervisor, or HVACR contractor. Sets classifications and requirements for such licenses. Requires registration of apprentices.

Prohibits any city, town, county, or city and county from requiring the examination, certification, licensing, or registration of HVACR craft persons who are licensed, registered, or certified under this act. Allows such governmental authorities to impose reasonable registration requirements on HVACR contractors, but prohibits any fees for such registration.

Requires any HVACR contractor to obtain a bond in an amount equal to at least 5% of the value of the HVACR work performed by the contractor in the preceding calendar year. Requires any residential HVACR contractor to maintain a general liability insurance policy in an amount of at least \$1,000,000 and any commercial HVACR contractor to maintain a general liability insurance policy in an amount of at least \$5,000,000.

Sets forth grounds for disciplinary action against persons violating this act.

Authorizes the issuance of temporary permits to engage in HVACR work.

Provides exemptions from licensing requirements for individuals doing HVACR work on their own property or residences and for employees of the federal government performing HVACR work on federal property.

Directs the state HVACR board to establish inspection fees. Limits HVACR inspection fees charged by local governments to 25% above state inspection fees. Provides for the hiring of a sufficient number of state inspectors

to provide inspection of HVACR work throughout the state. Provides HVACR inspection procedures.

Repeals the act on July 1, 1999, subject to prior review by the joint legislative sunrise and sunset review committee.

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

SECTION 1. Title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 67

Heating, Ventilation, Air Conditioning, and

Refrigeration (HVACR) Craft Persons

12-67-101. Legislative declaration. THE GENERAL ASSEMBLY HEREBY DECLARES THAT THE STATE HEATING, VENTILATION, AIR CONDITIONING, AND REFRIGERATION BOARD, REFERRED TO IN THIS ARTICLE AS THE "STATE HVACR BOARD", SHALL BE SPECIFICALLY INVOLVED IN THE TESTING AND LICENSING OF PERSONS WORKING WITH HEATING, VENTILATION, AIR CONDITIONING, AND REFRIGERATION, REFERRED TO IN THIS ARTICLE AS "HVACR", AND SHALL PROVIDE FOR INSPECTIONS OF HVACR INSTALLATIONS WHERE LOCAL INSPECTION AUTHORITIES ARE NOT PROVIDING SUCH SERVICE.

12-67-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "APPRENTICE" MEANS A PERSON WHO IS REQUIRED TO BE REGISTERED AS SUCH UNDER THIS ARTICLE, WHO IS IN COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE, AND WHO IS PERFORMING HVACR WORK IN THE EMPLOYMENT OF A LICENSED HVACR CONTRACTOR UNDER THE DIRECT SUPERVISION OF A LICENSED HVACR MASTER SUPERVISOR, HVACR JOURNEYMAN, OR HVACR RESIDENTIAL JOURNEYMAN. THE CLASSIFICATIONS OF RECOGNIZED HVACR

APPRENTICESHIP ARE AS FOLLOWS, WHICH SHALL BE INTERPRETED PURSUANT TO THE DEFINITIONS OF LICENSE CLASSIFICATIONS THAT ARE PROVIDED IN SECTION 12-67-108:

- (a) BOILERMAKER;
- (b) GAS SERVICE;
- (c) HEATING AND VENTILATING;
- (d) RESIDENTIAL HEATING AND VENTILATING;
- (e) REFRIGERATION;
- (f) RESIDENTIAL REFRIGERATION;
- (g) STEAM AND HOT WATER;
- (h) RESIDENTIAL HOT WATER;
- (i) SOLAR HOT WATER AND SPACE HEATING;
- (j) RESIDENTIAL SOLAR WATER.

(2) "BOARD" MEANS THE STATE HVACR BOARD.

(3) "HVACR" MEANS HEATING, VENTILATION, AIR CONDITIONING, AND REFRIGERATION.

(4) (a) "HVACR CONTRACTOR" MEANS ANY PERSON WHO, ACTING IN A PROFESSIONAL CAPACITY OTHER THAN AS THE EMPLOYEE OF ANOTHER WITH WAGES AS THE SOLE COMPENSATION, UNDERTAKES TO, OR OFFERS TO UNDERTAKE TO, OR PURPORTS TO HAVE THE CAPACITY TO UNDERTAKE TO, OR SUBMITS A BID TO, OR THROUGH OTHERS UNDERTAKES OR OFFERS TO UNDERTAKE FOR ANOTHER THE PLANNING, LAYING OUT, SUPERVISING, AND INSTALLING OR THE MAKING OF ADDITIONS, ALTERATIONS, AND REPAIRS IN THE INSTALLATION OF HVACR APPARATUS AND EQUIPMENT FOR HEATING, VENTILATION, AIR CONDITIONING, AND REFRIGERATION. EVIDENCE OF THE SECURING OF ANY PERMIT FROM A GOVERNMENTAL AGENCY OR THE EMPLOYMENT OF ANY PERSON ON AN HVACR

CONSTRUCTION PROJECT SHALL BE ACCEPTED BY THE HVACR BOARD OR ANY COURT OF THIS STATE AS PRIMA FACIE EVIDENCE THAT THE PERSON IS ACTING IN THE CAPACITY OF AN HVACR CONTRACTOR.

(b) "HVACR CONTRACTOR" INCLUDES ANY SUBCONTRACTOR OR SPECIALTY CONTRACTOR, BUT DOES NOT INCLUDE ANYONE WHO MERELY FURNISHES MATERIAL OR SUPPLIES WITHOUT FABRICATING THEM INTO, OR CONSUMING THEM IN THE PERFORMANCE OF, THE WORK OF AN HVACR CONTRACTOR.

(c) AN HVACR CONTRACTOR MAY BE ONLY AN INDIVIDUAL OR A PROFESSIONAL CORPORATION THAT IS ORGANIZED TO ALLOW PERSONAL RESPONSIBILITY FOR CORPORATE LIABILITY. IF ANY HVACR CONTRACTOR IS FOUND LIABLE FOR ANY ACT OR OMISSION, ANY PROPERTY TRANSFERRED TO THE SPOUSE OF AN INDIVIDUAL CONTRACTOR OR TO THE SPOUSE OF A MEMBER OF A PROFESSIONAL CORPORATION CONTRACTOR DURING THE TEN-YEAR PERIOD PRIOR TO THE DATE OF THE ACT OR OMISSION MAY BE ATTACHED TO PAY ANY JUDGMENT THAT IS AWARDED TO THE PERSON WHO HAS SUFFERED THE LOSS.

(d) AN HVACR CONTRACTOR MAY BE ONE OR MORE OF THE FOLLOWING CLASSIFICATIONS, WHICH SHALL BE INTERPRETED PURSUANT TO THE DEFINITIONS OF LICENSE CLASSIFICATIONS THAT ARE PROVIDED IN SECTION 12-67-108:

- (I) BOILERMAKER;
- (II) GAS SERVICE;
- (III) HEATING AND VENTILATING;
- (IV) RESIDENTIAL HEATING AND VENTILATING;
- (V) REFRIGERATION;
- (VI) RESIDENTIAL REFRIGERATION;
- (VII) STEAM AND HOT WATER;
- (VIII) RESIDENTIAL HOT WATER;

(IX) SOLAR HOT WATER AND SPACE HEATING;

(X) RESIDENTIAL SOLAR WATER.

(e) A REGISTERED PROFESSIONAL ENGINEER WHO PLANS OR DESIGNS HVACR INSTALLATION SHALL NOT BE CLASSIFIED AS AN HVACR CONTRACTOR.

(5) "HVACR JOURNEYMAN" MEANS A PERSON HAVING THE NECESSARY QUALIFICATIONS, TRAINING, EXPERIENCE, AND TECHNICAL KNOWLEDGE TO INSTALL AND REPAIR HVACR APPARATUS AND EQUIPMENT FOR HEATING, AIR CONDITIONING, VENTILATION, AND REFRIGERATION, IN ACCORDANCE WITH STANDARD RULES AND REGULATIONS GOVERNING SUCH WORK IN ONE OR MORE OF THE FOLLOWING CLASSIFICATIONS, WHICH SHALL BE INTERPRETED PURSUANT TO THE DEFINITIONS OF LICENSE CLASSIFICATIONS THAT ARE PROVIDED IN SECTION 12-67-108:

- (a) JOURNEYMAN BOILERMAKER;
- (b) JOURNEYMAN GAS SERVICE;
- (c) JOURNEYMAN HEATING AND VENTILATING;
- (d) JOURNEYMAN REFRIGERATION;
- (e) JOURNEYMAN RESIDENTIAL REFRIGERATION;
- (f) JOURNEYMAN STEAM AND HOT WATER;
- (g) JOURNEYMAN RESIDENTIAL HOT WATER;
- (h) JOURNEYMAN SOLAR HOT WATER AND SPACE HEATING;
- (i) JOURNEYMAN RESIDENTIAL SOLAR HOT WATER.

(6) "HVACR WORK" MEANS NORMAL WORK ACTIVITIES RELATING TO INSTALLATION AND REPAIR OF HEATING, VENTILATION, AIR CONDITIONING, AND REFRIGERATION APPARATUS.

(7) "MASTER HVACR SUPERVISOR" MEANS A PERSON HAVING THE NECESSARY QUALIFICATIONS, TRAINING, EXPERIENCE, AND TECHNICAL

KNOWLEDGE TO PROPERLY PLAN, LAY OUT, AND SUPERVISE THE INSTALLATION AND REPAIR OF HVACR APPARATUS AND EQUIPMENT FOR HEATING, AIR CONDITIONING, VENTILATION, AND REFRIGERATION IN ACCORDANCE WITH STANDARD RULES AND REGULATIONS GOVERNING SUCH WORK, SUCH AS THE UNIFORM MECHANICAL CODE (UMC) AND THE UNIFORM SOLAR ENERGY CODE (USEC). A MASTER HVACR SUPERVISOR MAY BE ONE OR MORE OF THE FOLLOWING SUPERVISOR CLASSIFICATIONS, WHICH SHALL BE INTERPRETED PURSUANT TO THE DEFINITIONS OF LICENSE CLASSIFICATIONS THAT ARE PROVIDED IN SECTION 12-67-108, FOR THE APPROPRIATE HVACR CONTRACTOR:

CONTRACTOR BUSINESS LICENSE: MASTER SUPERVISOR REQUIRED:

- | | |
|---|--|
| (a) BOILERMAKER | BOILERMAKER |
| (b) GAS SERVICE | GAS SERVICE, HEATING AND VENTILATING, OR RESIDENTIAL HEATING AND VENTILATION |
| (c) HEATING AND VENTILATING | HEATING AND VENTILATING |
| (d) RESIDENTIAL HEATING AND VENTILATING | HEATING AND VENTILATING OR RESIDENTIAL HEATING AND VENTILATING |

- (e) RESIDENTIAL HOT WATER RESIDENTIAL HOT WATER OR STEAM AND HOT WATER
- (f) REFRIGERATION REFRIGERATION
- (g) RESIDENTIAL REFRIGERATION REFRIGERATION OR RESIDENTIAL REFRIGERATION
- (h) SOLAR HOT WATER AND SPACE HEATING SOLAR HOT WATER AND SPACE HEATING
- (i) RESIDENTIAL SOLAR HOT WATER RESIDENTIAL SOLAR HOT WATER OR SOLAR HOT WATER AND SPACE HEATING
- (j) STEAM AND HOT WATER STEAM AND HOT WATER

(8) "TRAINEE" MEANS ANY PERSON PERFORMING HVACR WORK UNDER THE DIRECT SUPERVISION OF A LICENSED MASTER HVACR SUPERVISOR OR A LICENSED HVACR JOURNEYMAN.

12-67-103. State HVACR board. (1) THERE IS HEREBY ESTABLISHED WITHIN THE DIVISION OF REGISTRATIONS OF THE DEPARTMENT OF REGULATORY AGENCIES A STATE HVACR BOARD, WHICH SHALL CONSIST OF TEN MEMBERS APPOINTED BY THE GOVERNOR, WITH THE CONSENT OF THE SENATE, WHO SHALL BE RESIDENTS OF THE STATE OF COLORADO. THE MEMBERS OF THE BOARD SHALL BE AS FOLLOWS:

- (a) ONE MEMBER SHALL BE AN HVACR CONTRACTOR WHO HAS A MASTER HVACR SUPERVISOR LICENSE;
- (b) ONE MEMBER SHALL BE A MASTER HVACR SUPERVISOR OR HVACR JOURNEYMAN WHO IS NOT AN HVACR CONTRACTOR;
- (c) ONE MEMBER SHALL BE A REPRESENTATIVE OF PRIVATE, MUNICIPAL, OR COOPERATIVE UTILITIES RENDERING GASEOUS SERVICE TO THE ULTIMATE PUBLIC;

(d) ONE MEMBER SHALL BE A BUILDING OFFICIAL FROM A POLITICAL SUBDIVISION OF THE STATE PERFORMING HVACR INSPECTIONS;

(e) ONE MEMBER SHALL BE A PROFESSIONAL ENGINEER EXPERIENCED IN HVACR DESIGN WHO IS LICENSED TO PRACTICE IN THE STATE OF COLORADO AND IS ACTIVELY ENGAGED IN THE BUILDING INDUSTRY; AND

(f) FIVE SHALL BE APPOINTED FROM THE PUBLIC AT LARGE.

(2) EXCEPT FOR THE INITIAL BOARD APPOINTED FOR TERMS BEGINNING JULY 1, 1996, ALL MEMBERS SHALL SERVE FOR THREE-YEAR TERMS. OF SUCH MEMBERS, THE HVACR LICENSEES APPOINTED FOR TERMS BEGINNING JULY 1, 1996, NEED NOT BE LICENSED AT THE TIME OF APPOINTMENT, BUT SHALL BE LICENSED BY JULY 1, 1996, OR SHALL BE INELIGIBLE TO REMAIN AS MEMBERS OF THE BOARD AND SHALL BE REMOVED BY THE GOVERNOR. TO ACHIEVE BOARD CONTINUITY AND STAGGERED ROTATION, THE INITIAL BOARD APPOINTED FOR TERMS BEGINNING JULY 1, 1996, SHALL SERVE THE FOLLOWING TERMS:

- (a) ONE-YEAR TERMS: UTILITY REPRESENTATIVE, HVACR ENGINEER, AND ONE PUBLIC CITIZEN AT LARGE;
 - (b) TWO-YEAR TERMS: HVACR CONTRACTOR, HVACR JOURNEYMAN, AND BUILDING OFFICIAL; AND
 - (c) THREE-YEAR TERMS: ALL OTHER MEMBERS OF THE BOARD.
- (3) ALL APPOINTEES TO THE BOARD SHALL BE LIMITED TO TWO FULL TERMS EACH. ANY VACANCY OCCURRING IN THE MEMBERSHIP OF THE BOARD SHALL BE FILLED BY THE GOVERNOR BY APPOINTMENT FOR THE UNEXPIRED TERM OF SUCH MEMBER. THE GOVERNOR MAY REMOVE ANY MEMBER OF THE BOARD FOR MISCONDUCT, INCOMPETENCE, OR NEGLECT OF DUTY.

(4) THE MEMBERS OF THE BOARD SHALL BE REIMBURSED FOR ACTUAL EXPENSES PURSUANT TO THE PROVISIONS OF SECTION 24-34-102 (13), C.R.S., BUT

MAY NOT RECEIVE ANY PER DIEM ALLOWANCE OR OTHER COMPENSATION FOR THEIR DUTIES UNDER THIS ARTICLE.

12-67-104. Board under department of regulatory agencies. THE STATE HVACR BOARD AND ITS POWERS, DUTIES, AND FUNCTIONS SHALL BE WITHIN OF THE DEPARTMENT OF REGULATORY AGENCIES AND ALLOCATED TO THE DIVISION OF REGISTRATIONS.

12-67-105. Standards - oath - meeting - powers. (1) THE BOARD MAY ADOPT RULES BASED UPON THE 1994 EDITIONS OF THE UNIFORM MECHANICAL CODE AND THE UNIFORM SOLAR ENERGY CODE.

(2) (a) THE BOARD, ANNUALLY IN THE MONTH OF JULY, SHALL ELECT FROM THE MEMBERSHIP THEREOF A PRESIDENT, VICE-PRESIDENT, AND SECRETARY-TREASURER. THE BOARD SHALL MEET AT LEAST ONCE A MONTH AND AT SUCH OTHER TIMES AS IT DEEMS NECESSARY.

(b) A MAJORITY OF THE BOARD SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF ALL BUSINESS.

(3) IN ADDITION TO ALL OTHER POWERS AND DUTIES CONFERRED OR IMPOSED UPON THE BOARD BY THIS ARTICLE, THE BOARD IS AUTHORIZED TO:

(a) ADOPT, AND FROM TIME TO TIME REVISE, SUCH RULES NOT INCONSISTENT WITH THIS ARTICLE AS MAY BE NECESSARY TO ENABLE IT TO CARRY INTO EFFECT THE PROVISIONS OF THIS ARTICLE. IN ADOPTING SUCH RULES, THE BOARD SHALL CONSIDER THE STANDARDS IN THE 1994 EDITION OF THE UNIFORM MECHANICAL CODE, THE 1994 EDITION OF THE UNIFORM SOLAR ENERGY CODE, OR BY ANY MODIFICATIONS TO THE STANDARDS MADE BY THE BOARD AFTER A HEARING IS HELD PURSUANT TO THE PROVISIONS OF ARTICLE 4 OF TITLE 24, C.R.S. THESE STANDARDS ARE ADOPTED AS THE MINIMUM

STANDARDS GOVERNING THE PLANNING, LAYING OUT, AND INSTALLING OR THE MAKING OF ADDITIONS, ALTERATIONS, AND REPAIRS IN THE INSTALLATION OF HVACR APPARATUS AND EQUIPMENT FOR HEATING, VENTILATING, AIR CONDITIONING, AND REFRIGERATION IN THIS STATE. A COPY OF THE CODE SHALL BE KEPT IN THE OFFICE OF THE BOARD AND OPEN TO PUBLIC INSPECTION. THE AFFIRMATIVE VOTE OF TWO-THIRDS OF ALL APPOINTED MEMBERS OF THE BOARD SHALL BE REQUIRED TO SET ANY STANDARDS THAT ARE DIFFERENT FROM THOSE SET FORTH IN THE UNIFORM MECHANICAL CODE. IF REQUESTED IN WRITING, THE BOARD SHALL SEND A COPY OF NEWLY ADOPTED STANDARDS AND RULES TO ANY INTERESTED PARTY AT LEAST THIRTY DAYS BEFORE THE IMPLEMENTATION AND ENFORCEMENT OF SUCH STANDARDS OR RULES. COPIES MAY BE FURNISHED FOR A FEE ESTABLISHED PURSUANT TO SECTION 24-34-105, C.R.S.

(b) ADOPT A SEAL;

(c) REGISTER AND RENEW THE REGISTRATION OF APPRENTICES AND TRAINEES AND QUALIFIED HVACR CONTRACTORS AND EXAMINE, LICENSE, AND RENEW LICENSES OF HVACR JOURNEYMEN AND MASTER HVACR SUPERVISORS, AS PROVIDED IN THIS ARTICLE;

(d) CAUSE THE PROSECUTION AND ENJOINER, IN ANY COURT OF COMPETENT JURISDICTION, OF ALL PERSONS VIOLATING THIS ARTICLE AND INCUR NECESSARY EXPENSES THEREFOR.

(e) INSPECT AND APPROVE OR DISAPPROVE THE INSTALLATION WITHIN THIS STATE OF HVACR APPARATUS OR EQUIPMENT FOR HEATING, VENTILATING, AIR CONDITIONING, AND REFRIGERATION IN ACCORDANCE WITH THE MINIMUM STANDARDS IN THE UNIFORM MECHANICAL CODE, THE UNIFORM SOLAR ENERGY CODE, OR AS PROVIDED IN THIS ARTICLE.

(f) REVIEW AND APPROVE OR DISAPPROVE REQUESTS FOR EXCEPTIONS TO THE UNIFORM MECHANICAL CODE OR UNIFORM SOLAR ENERGY CODE IN UNIQUE CONSTRUCTION SITUATIONS WHERE A STRICT INTERPRETATION OF THE CODE WOULD RESULT IN UNREASONABLE OPERATIONAL CONDITIONS OR UNREASONABLE ECONOMIC BURDENS, AS LONG AS PUBLIC SAFETY IS NOT COMPROMISED.

(g) CONDUCT HEARINGS IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-4-105, C.R.S.; EXCEPT THAT THE BOARD MAY REQUEST THE APPOINTMENT OF AN ADMINISTRATIVE LAW JUDGE PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO CONDUCT SUCH HEARINGS.

(h) EXAMINE PERSONS REGULATED BY THE BOARD PURSUANT TO THIS ARTICLE FOR THE RENEWAL OF A LICENSE OR REGISTRATION. EXAMINATION SHALL BE BY A BRIEF MULTIPLE-CHOICE EXAM TO BE INCLUDED IN THE RENEWAL NOTICE PROCESS AND SHALL BE AN OPEN BOOK EXAM.

12-67-106. Program administrator. THE DIRECTOR OF THE DIVISION OF REGISTRATIONS MAY APPOINT A PROGRAM ADMINISTRATOR PURSUANT TO SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION TO WORK WITH THE BOARD IN CARRYING OUT ITS DUTIES UNDER THIS ARTICLE.

12-67-107. HVACR licenses - control and supervision. (1) NO PERSON SHALL ENGAGE IN OR WORK AT THE BUSINESS, TRADE, OR CALLING OF A MASTER HVACR SUPERVISOR OR HVACR JOURNEYMAN IN THIS STATE UNTIL THE PERSON HAS RECEIVED A LICENSE FROM THE DIVISION OF REGISTRATIONS UPON WRITTEN NOTICE FROM THE BOARD OR THE PROGRAM ADMINISTRATOR, ACTING AS THE AGENT THEREOF, OR A TEMPORARY PERMIT FROM THE BOARD, THE PROGRAM ADMINISTRATOR, OR THE PROGRAM ADMINISTRATOR'S AGENT.

(2) A MASTER HVACR SUPERVISOR OR HVACR JOURNEYMAN SHALL NOT PERFORM HVACR WORK OF A TYPE THAT IS BEYOND THE AUTHORIZATION OF THE LICENSE HELD.

12-67-108. License requirements. (1) AN APPLICANT FOR ONE OR MORE CLASSIFICATIONS OF A MASTER HVACR SUPERVISOR LICENSE SHALL FURNISH WRITTEN EVIDENCE THAT THE APPLICANT IS A GRADUATE MECHANICAL ENGINEER OF AN ACCREDITED COLLEGE OR UNIVERSITY AND HAS ONE YEAR OF PRACTICAL HVACR EXPERIENCE IN THE CONSTRUCTION INDUSTRY, THAT THE APPLICANT IS A GRADUATE OF AN HVACR TRADE SCHOOL OR COMMUNITY COLLEGE AND HAS AT LEAST FOUR YEARS OF PRACTICAL EXPERIENCE IN THE APPROPRIATE HVACR CATEGORY OF WORK, OR THAT THE APPLICANT HAS HAD AT LEAST ONE YEAR OF PRACTICAL EXPERIENCE IN PLANNING, LAYING OUT, SUPERVISING, AND INSTALLING HVACR APPARATUS OR EQUIPMENT FOR HEATING, VENTILATING, AIR CONDITIONING BEYOND THE PRACTICAL EXPERIENCE REQUIREMENTS FOR THE LICENSE THE APPLICANT IS SEEKING. EACH APPLICANT FOR A LICENSE AS A MASTER HVACR SUPERVISOR SHALL FILE AN APPLICATION ON FORMS PREPARED AND FURNISHED BY THE BOARD, TOGETHER WITH THE EXAMINATION FEE PROVIDED IN SECTION 12-67-116. NOT LESS THAN THIRTY DAYS PRIOR TO A SCHEDULED WRITTEN EXAMINATION, THE BOARD SHALL NOTIFY EACH APPLICANT THAT THE EVIDENCE SUBMITTED WITH THE APPLICATION IS SUFFICIENT TO QUALIFY THE APPLICANT TO TAKE SUCH WRITTEN EXAMINATION OR THAT SUCH EVIDENCE IS INSUFFICIENT AND THE APPLICATION IS REJECTED. IN THE EVENT THAT AN APPLICATION IS REJECTED, THE BOARD SHALL SET FORTH THE REASONS THEREFOR IN THE NOTICE TO THE APPLICANT AND SHALL FORTHWITH RETURN SUCH APPLICANT'S EXAMINATION FEE. THE PLACE OF EXAMINATION SHALL BE DESIGNATED IN ADVANCE BY THE BOARD, AND EXAMINATIONS SHALL BE HELD AT

LEAST TWICE A YEAR AND AT SUCH OTHER TIMES AS, IN THE OPINION OF THE BOARD, THE NUMBER OF APPLICANTS WARRANTS.

(2) AN HVACR JOURNEYMAN LICENSE SHALL BE REQUIRED IN THE FOLLOWING WORK ONLY IN THE TRADE FOR WHICH THE PERSON IS LICENSED UNDER A LICENSED JOURNEYMAN CLASSIFICATION:

(a) JOURNEYMAN BOILERMAKER LICENSE: PERMITS THE INSTALLATION AND ERECTION OF STEAM AND HOT WATER BOILERS, PRESSURE VESSELS, PRECIPITATORS, INCINERATORS, BREACHING, CHIMNEYS, PLATES AND CASINGS. THE HOLDER OF THIS LICENSE MAY PERFORM THIS WORK ONLY IN THE EMPLOY OF A BOILERMAKER CONTRACTOR.

(b) JOURNEYMAN GAS SERVICE LICENSE: PERMITS THE INSTALLATION OF THE FOLLOWING EQUIPMENT UTILIZING GAS OR LIQUID FUEL: GAS AND LIQUID FUEL PIPING; GAS AND LIQUID FUEL CONTROLS; COMMERCIAL COOKING EQUIPMENT; AFTER BURNERS; RANGES; DRYERS; CONVERSION BURNERS; VENTING OF DOMESTIC WATER HEATERS, DRYERS, AND INCINERATORS; WATER HEATERS NOT EXCEEDING ONE HUNDRED MBTU INPUT; AND LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT VOLTS AND IS NOT ENCLOSED IN A CONDUIT OR RACEWAY. THE LOW VOLTAGE WIRING PERMITTED BY THIS LICENSE SHALL APPLY TO GAS OR LIQUID FUEL-FIRED APPLIANCES ONLY. THE HOLDER OF THIS LICENSE MAY PERFORM THIS WORK ONLY WHEN IN THE EMPLOY OF A GAS SERVICE CONTRACTOR OR A HEATING AND VENTILATION CONTRACTOR.

(c) JOURNEYMAN HEATING AND VENTILATING LICENSE: PERMITS THE INSTALLATION OF WARM AIR HEATING, DUCTWORK, VENTILATION AND EVAPORATIVE COOLING, EXTERIOR SHEET METAL, WATER HEATERS NOT EXCEEDING ONE HUNDRED MBTU INPUT, GAS PIPING, BURNERS, VENTING AND CONTROLS, EXHAUST SYSTEMS AND APPURTENANCES THEREOF, LOW VOLTAGE

WIRING EXHAUST SYSTEMS AND APPURTENANCES THEREOF, AND LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT VOLTS AND IS NOT ENCLOSED IN A CONDUIT OR RACEWAY. THE HOLDER OF THIS LICENSE MAY PERFORM THIS WORK ONLY IN THE EMPLOY OF A HEATING AND VENTILATING CONTRACTOR OR A RESIDENTIAL HEATING AND VENTILATING CONTRACTOR.

(d) JOURNEYMAN STEAM FITTER LICENSE: PERMITS THE INSTALLATION OF STEAM AND HOT WATER HEATING SYSTEMS; SOLAR PROCESS, STEAM, AND HOT WATER SPACE HEATING SYSTEMS; PROCESS AND INDUSTRIAL PIPING AND RELATED APPURTENANCES; PIPING USED FOR THE TRANSMISSION OF CHEMICALS, GASES, AIR, MILK, AND OTHER PRODUCTS TRANSMITTED THROUGH PIPING; ALL ITEMS REGULATED BY THE UNIFORM MECHANICAL CODE FOR BOILERS, PRESSURE VESSELS, STEAM AND WATER HEATING SYSTEMS, AND PROCESS PIPING; LOW-STATIC GAS-FIRED UNIT HEATERS; INDUSTRIAL OVENS; BURNERS, PIPING, AND CONTROLS UTILIZING GAS; LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT VOLTS AND IS NOT ENCLOSED IN A CONDUIT OR RACEWAY; COMMERCIAL COOKING EQUIPMENT; COMMERCIAL INCINERATORS; AND AFTER BURNERS. THE HOLDER OF THIS LICENSE MAY PERFORM THIS WORK ONLY IN THE EMPLOY OF A STEAM AND HOT WATER CONTRACTOR OR A RESIDENTIAL HOT WATER CONTRACTOR.

(e) JOURNEYMAN REFRIGERATION LICENSE: PERMITS THE INSTALLATION OF REFRIGERATION SYSTEMS AND APPURTENANT COOLING TOWERS, PIPE INSULATION, AND LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT VOLTS AND IS NOT ENCLOSED IN A CONDUIT OR RACEWAY. THE HOLDER OF THIS LICENSE MAY PERFORM THIS WORK ONLY IN THE EMPLOY OF A REFRIGERATION CONTRACTOR OR A RESIDENTIAL REFRIGERATION CONTRACTOR.

(f) JOURNEYMAN SOLAR HOT WATER AND SPACE HEATING LICENSE: PERMITS THE LICENSEE TO INSTALL, ADD TO, ALTER, SERVICE, AND REPAIR, SOLAR ENERGY SYSTEMS AND APPURTENANCES FOR WATER HEATING, SPACE HEATING AND COOLING, SWIMMING POOL AND SPA HEATING, AND INDUSTRIAL PROCESS HEATING; ALL ITEMS REGULATED BY THE UNIFORM SOLAR ENERGY CODE; AUXILIARY AND BACK-UP HEATING SYSTEMS WHEN SUCH SYSTEMS ARE AN INTEGRAL PART OF THE SOLAR COLLECTOR OR STORAGE EQUIPMENT; WATER HEATERS NOT EXCEEDING ONE HUNDRED MBTU PER HOUR; GAS PIPING, BURNERS, AND VENTING AND CONTROLS DIRECTLY RELATED TO SUCH EQUIPMENT; PIPE INSULATION; AND LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT VOLTS AND IS NOT ENCLOSED IN A CONDUIT OR RACEWAY. THE HOLDER OF THIS LICENSE MAY PERFORM WORK ONLY IN THE EMPLOY OF A STEAM AND HOT WATER CONTRACTOR, A RESIDENTIAL HOT WATER CONTRACTOR, A SOLAR HOT WATER AND SPACE HEATING CONTRACTOR, OR A RESIDENTIAL SOLAR WATER HEATING CONTRACTOR.

(3) (a) AN APPLICANT FOR AN HVACR JOURNEYMAN LICENSE SHALL FURNISH WRITTEN EVIDENCE THAT THE APPLICANT HAS HAD AT LEAST FOUR YEARS' APPRENTICESHIP IN THE HVACR CATEGORY TRADE THE APPLICANT IS SEEKING OR FOUR YEARS' PRACTICAL EXPERIENCE IN HVACR INSTALLING AND REPAIRING HVACR APPARATUS AND EQUIPMENT FOR THE CATEGORY THE APPLICANT IS SEEKING AND SHALL FURTHER ESTABLISH THAT AT LEAST TWO OF SUCH YEARS' EXPERIENCE HAS BEEN IN COMMERCIAL OR INDUSTRIAL WORK.

(b) ANY APPLICANT FOR AN HVACR JOURNEYMAN LICENSE SHALL BE PERMITTED TO SUBSTITUTE FOR REQUIRED PRACTICAL EXPERIENCE EVIDENCE OF ACADEMIC TRAINING IN THE HVACR FIELD WHICH SHALL BE CREDITED AS FOLLOWS:

(I) IF THE APPLICANT IS A GRADUATE MECHANICAL ENGINEER OF AN ACCREDITED COLLEGE OR UNIVERSITY OR THE GRADUATE OF A COMMUNITY COLLEGE OR TRADE SCHOOL PROGRAM APPROVED BY THE BOARD, THE APPLICANT SHALL RECEIVE ONE YEAR OF WORK EXPERIENCE CREDIT.

(II) IF THE APPLICANT HAS ACADEMIC TRAINING, INCLUDING MILITARY TRAINING, WHICH IS NOT SUFFICIENT TO QUALIFY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), THE BOARD SHALL PROVIDE WORK EXPERIENCE CREDIT FOR SUCH TRAINING ACCORDING TO A UNIFORM RATIO ESTABLISHED BY RULE.

(c) ANY APPLICATION FOR A LICENSE AND NOTICE TO THE APPLICANT SHALL BE MADE AND GIVEN AS PROVIDED FOR IN THE CASE OF A MASTER HVACR SUPERVISOR'S LICENSE IN SUBSECTION (1) OF THIS SECTION.

(4) (a) AN HVACR RESIDENTIAL JOURNEYMAN LICENSE SHALL BE REQUIRED IN THE FOLLOWING WORK ONLY IN THE TRADE FOR WHICH THE PERSON IS LICENSED UNDER A LICENSED RESIDENTIAL JOURNEYMAN CLASSIFICATION:

(I) JOURNEYMAN RESIDENTIAL HEATING AND VENTILATING LICENSE: PERMITS THE LICENSEE TO INSTALL, ADD TO, ALTER, OR REPAIR, IN A GROUP R-3 OR M OCCUPANCY ONLY, WARM AIR HEATING SYSTEMS AND THEIR APPURTENANCES, DUCTWORK, VENTILATION AND EVAPORATIVE COOLING, DUCT INSULATION, WATER HEATERS NOT EXCEEDING ONE HUNDRED MBTU INPUT, GAS PIPING, BURNERS, VENTING AND CONTROLS, EXHAUST SYSTEMS AND APPURTENANCES THEREOF, AND LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT VOLTS AND IS NOT ENCLOSED IN A CONDUIT OR RACEWAY. THE HOLDER OF THIS LICENSE MAY PERFORM THIS WORK ONLY IN THE EMPLOY OF A HEATING AND VENTILATING CONTRACTOR OR A RESIDENTIAL HEATING AND VENTILATING CONTRACTOR.

(II) JOURNEYMAN RESIDENTIAL HOT WATER HEATING LICENSE: PERMITS THE LICENSEE TO INSTALL, ADD TO, ALTER, OR REPAIR, IN A GROUP R-3 OR M OCCUPANCY ONLY, HOT WATER HEATING SYSTEMS AND THEIR APPURTENANCES, SOLAR PROCESS, STEAM AND HOT WATER SPACE HEATING, GAS PIPING AND CONTROLS, PIPE INSULATION, AND LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT VOLTS AND IS NOT ENCLOSED IN A CONDUIT OR RACEWAY. THE HOLDER OF THIS LICENSE MAY PERFORM WORK ONLY IN THE EMPLOY OF A STEAM AND HOT WATER CONTRACTOR.

(III) JOURNEYMAN RESIDENTIAL REFRIGERATION LICENSE: PERMITS THE LICENSEE TO INSTALL, ADD TO, ALTER, OR REPAIR, IN A GROUP R-2, R-3, OR M OCCUPANCY ONLY, REFRIGERATION SYSTEMS CONSISTING OF SELF-CONTAINED REFRIGERATION SYSTEMS OF FIVE TONS OR LESS, PRECHARGED SYSTEMS UTILIZING GROUP 1 REFRIGERANTS, GAS FIRED ABSORPTION CHILLERS, PIPE INSULATION, AND LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT VOLTS AND IS NOT ENCLOSED IN A CONDUIT OR RACEWAY. THE HOLDER OF THIS LICENSE MAY PERFORM THIS WORK ONLY IN THE EMPLOY OF A REFRIGERATION CONTRACTOR OR A RESIDENTIAL REFRIGERATION CONTRACTOR.

(IV) JOURNEYMAN RESIDENTIAL SOLAR HOT WATER LICENSE: PERMITS THE LICENSEE TO INSTALL, ADD TO, ALTER, OR REPAIR, IN A GROUP R-3 OR M OCCUPANCY ONLY, SOLAR ENERGY SYSTEMS AND THEIR APPURTENANCES FOR WATER HEATING, SPACE HEATING, AND SWIMMING POOL AND SPA HEATING; AUXILIARY AND BACK-UP HEATING SYSTEMS WHEN SUCH SYSTEMS ARE AN INTEGRAL PART OF THE SOLAR COLLECTOR OR STORAGE EQUIPMENT; PIPE INSULATION; AND LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT VOLTS AND IS NOT ENCLOSED IN A CONDUIT OR RACEWAY. THE HOLDER OF THIS LICENSE MAY PERFORM WORK ONLY IN THE EMPLOY OF A STEAM AND HOT WATER

CONTRACTOR, A RESIDENTIAL HOT WATER CONTRACTOR, A SOLAR HOT WATER AND SPACE HEATING CONTRACTOR, OR A RESIDENTIAL SOLAR WATER HEATING CONTRACTOR.

(b) AN APPLICANT FOR AN HVACR RESIDENTIAL JOURNEYMAN LICENSE SHALL FURNISH WRITTEN EVIDENCE THAT THE APPLICANT HAS AT LEAST TWO YEARS OF ACCREDITED TRAINING OR TWO YEARS OF PRACTICAL EXPERIENCE IN HVACR INSTALLATION IN ONE-, TWO-, THREE-, AND FOUR-FAMILY DWELLINGS.

(c) ANY APPLICANT FOR AN HVACR LICENSE SHALL BE PERMITTED TO SUBSTITUTE FOR REQUIRED PRACTICAL EXPERIENCE EVIDENCE OF ACADEMIC TRAINING IN THE HVACR FIELD, WHICH SHALL BE CREDITED AS FOLLOWS:

(I) IF THE APPLICANT IS A GRADUATE MECHANICAL ENGINEER OF AN ACCREDITED COLLEGE OR UNIVERSITY OR A GRADUATE OF A COMMUNITY COLLEGE OR TRADE SCHOOL PROGRAM APPROVED BY THE BOARD, THE APPLICANT SHALL RECEIVE ONE YEAR OF WORK EXPERIENCE CREDIT.

(II) IF THE APPLICANT HAS ACADEMIC TRAINING, INCLUDING MILITARY TRAINING, WHICH IS NOT SUFFICIENT TO QUALIFY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), THE BOARD SHALL PROVIDE WORK EXPERIENCE CREDIT FOR SUCH TRAINING ACCORDING TO A UNIFORM RATIO ESTABLISHED BY RULE.

(5) (a) ANY EXAMINATION THAT IS GIVEN FOR MASTER HVACR SUPERVISOR OR HVACR JOURNEYMAN, IN THE VARIOUS CATEGORIES, SHALL BE SUBJECT TO BOARD APPROVAL. THE BOARD, OR ITS DESIGNEE, SHALL CONDUCT AND GRADE THE EXAMINATION AND SHALL SET THE PASSING SCORE TO REFLECT A MINIMUM LEVEL OF COMPETENCY. IF IT IS DETERMINED THAT AN APPLICANT HAS PASSED THE EXAMINATION, THE DIVISION OF REGISTRATIONS, UPON WRITTEN NOTICE FROM THE BOARD OR THE PROGRAM ADMINISTRATOR, ACTING AS AN AGENT THEREOF, AND UPON PAYMENT BY THE APPLICANT OF THE FEE PROVIDED IN

SECTION 12-67-116, SHALL ISSUE TO THE APPLICANT A LICENSE THAT AUTHORIZES THE APPLICANT TO ENGAGE IN THE BUSINESS, TRADE, OR CALLING OF A MASTER HVACR SUPERVISOR OR HVACR JOURNEYMAN.

(b) ALL LICENSE AND REGISTRATION EXPIRATION AND RENEWAL SCHEDULES SHALL BE IN ACCORD WITH THE PROVISIONS OF SECTION 24-34-102, C.R.S. SUCCESSFUL COMPLETION OF AN EXAMINATION AS AUTHORIZED IN SECTION 12-67-105 (3) (i) IS REQUIRED AS A PREREQUISITE FOR RENEWAL OF A LICENSE OR REGISTRATION. FEES IN REGARD TO SUCH RENEWALS SHALL BE THOSE SET FORTH IN SECTION 12-67-116.

(c) ANY LICENSE THAT HAS LAPSED SHALL BE DEEMED TO HAVE EXPIRED. IN SUCH INSTANCES, THE BOARD IS AUTHORIZED TO REQUIRE THE LICENSEE TO DEMONSTRATE COMPETENCY AFTER TWO YEARS IF THE BOARD DETERMINES THAT SUCH A SHOWING IS NECESSARY AND TO REQUIRE THE PAYMENT FOR THE APPROPRIATE FEE.

(6) (a) THERE SHALL BE THE FOLLOWING CLASSES OF HVACR CONTRACTOR LICENSES:

(I) BOILERMAKER CONTRACTOR: PERMITS THE LICENSEE TO INSTALL, ASSEMBLE, OR REPAIR STEAM AND HOT WATER BOILERS, ALL PRESSURE AND NON-PRESSURE VESSELS, PRECIPITATORS, BREACHING, METAL STACKS, PLATES, AND CASINGS. ALL WORK SHALL BE PERFORMED UNDER THE SUPERVISION OF THE HOLDER OF A MASTER BOILERMAKER SUPERVISOR LICENSE.

(II) GAS SERVICE CONTRACTOR: PERMITS THE LICENSEE TO INSTALL, ADD TO, ALTER, OR REPAIR THE FOLLOWING EQUIPMENT WHICH UTILIZES GAS OR LIQUID FUEL: GAS AND LIQUID FUEL PIPING; GAS AND LIQUID FUEL CONTROLS; COMMERCIAL COOKING EQUIPMENT; AFTER BURNERS; RANGES; DRYERS; CONVERSION BURNERS; VENTING OF DOMESTIC WATER HEATERS, DRYERS, AND

INCINERATORS; WATER HEATERS NOT EXCEEDING ONE HUNDRED MBTU INPUT; AND LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT VOLTS AND IS NOT ENCLOSED IN A CONDUIT OR RACEWAY. ALL WORK SHALL BE PERFORMED UNDER THE SUPERVISION OF THE HOLDER OF A MASTER GAS SERVICE SUPERVISOR LICENSE OR A MASTER HEATING AND VENTILATING SUPERVISOR LICENSE.

(III) HEATING AND VENTILATING CONTRACTOR: PERMITS THE LICENSEE TO INSTALL, ADD TO, ALTER, OR REPAIR WARM AIR HEATING; VENTING; VENTILATION; EVAPORATIVE COOLING; EXHAUST SYSTEMS AND THEIR APPURTENANCES; DUCTWORK; DUST COLLECTION SYSTEMS; DOMESTIC AND COMMERCIAL RANGE HOODS; WATER HEATERS NOT EXCEEDING ONE HUNDRED MBTU INPUT; GAS PIPING; BURNERS, VENTING, AND CONTROLS; TRASH AND LAUNDRY CHUTES; EXTERIOR SHEET METAL; DUCT INSULATION; AND LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT VOLTS AND IS NOT ENCLOSED IN A CONDUIT OR RACEWAY AND A MAXIMUM OF TEN TONS OF REFRIGERATION WHEN IT IS UTILIZED FOR COMFORT COOLING AND THE REFRIGERATING SYSTEM IS SELF-CONTAINED. THIS REFRIGERATION SHALL NOT INCLUDE SYSTEMS WITH PRECHARGED LINES OR SEPARATE AIR-COOLED CONDENSER OR CHILLED WATER SYSTEMS. ALL WORK SHALL BE PERFORMED UNDER THE SUPERVISION OF THE HOLDER OF A MASTER HEATING AND VENTILATING SUPERVISOR LICENSE.

(IV) RESIDENTIAL HEATING AND VENTILATING CONTRACTOR: PERMITS THE LICENSEE TO INSTALL, ADD TO, ALTER, OR REPAIR, IN SINGLE-FAMILY HOMES, DUPLEXES AND GARAGES, AND BUILDINGS ACCESSORY THERETO ONLY, WARM AIR HEATING SYSTEMS AND THEIR APPURTENANCES; DUCTWORK; VENTILATION; EVAPORATIVE COOLING; DUCT INSULATION; EXTERIOR SHEET METAL; GAS PIPING; BURNERS, VENTING, AND CONTROLS; WATER HEATERS NOT EXCEEDING ONE

HUNDRED MBTU INPUT; AND LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT VOLTS AND IS NOT ENCLOSED IN A CONDUIT OR RACEWAY. ALL WORK SHALL BE PERFORMED UNDER THE SUPERVISION OF THE HOLDER OF A MASTER HEATING AND VENTILATING SUPERVISOR LICENSE OR A MASTER RESIDENTIAL HEATING AND VENTILATING SUPERVISOR LICENSE.

(V) STEAM AND HOT WATER CONTRACTOR: PERMITS THE LICENSEE TO INSTALL, ADD TO, ALTER, OR REPAIR STEAM AND HOT WATER HEATING SYSTEMS; SOLAR PROCESS, STEAM, AND HOT WATER SPACE HEATING SYSTEMS; PROCESS PIPING AND RELATED APPURTENANCES; PIPING USED FOR THE TRANSMISSION OF CHEMICALS, GASES, AIR, AND OTHER PRODUCTS; ALL ITEMS REGULATED BY THE MECHANICAL AND PLUMBING CODE FOR BOILERS, PRESSURE VESSELS, STEAM AND WATER HEATING SYSTEMS, AND PROCESS PIPING; LOW-STATIC GAS-FIRED UNIT HEATERS; INDUSTRIAL OVENS; BURNERS; CONTROLS; PIPING AND CONTROLS UTILIZING GAS, LIQUID, OR SOLID FUEL; WATER HEATERS; PIPE INSULATION; AND LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT VOLTS AND IS NOT ENCLOSED IN A CONDUIT OR RACEWAY. ALL WORK SHALL BE PERFORMED UNDER THE SUPERVISION OF THE HOLDER OF A MASTER STEAM AND HOT WATER SUPERVISOR LICENSE, MASTER RESIDENTIAL HOT WATER SUPERVISOR LICENSE, MASTER SOLAR HOT WATER AND SPACE HEATING SUPERVISOR LICENSE, OR MASTER RESIDENTIAL SOLAR HOT WATER SUPERVISOR LICENSE.

(VI) RESIDENTIAL HOT WATER CONTRACTOR: PERMITS THE LICENSEE TO INSTALL, ADD TO, ALTER, OR REPAIR, IN SINGLE-FAMILY HOMES, DUPLEXES AND GARAGES, AND BUILDINGS ACCESSORY THERETO ONLY, HOT WATER HEATING SYSTEMS AND THEIR APPURTENANCES; SOLAR PROCESS, STEAM, AND HOT WATER SPACE HEATING SYSTEMS; WATER HEATERS; GAS PIPING AND CONTROLS; PIPE INSULATION; AND LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT

VOLTS AND IS NOT ENCLOSED IN A CONDUIT OR RACEWAY. ALL WORK SHALL BE PERFORMED UNDER THE SUPERVISION OF THE HOLDER OF A MASTER STEAM AND HOT WATER SUPERVISOR LICENSE, MASTER RESIDENTIAL HOT WATER SUPERVISOR LICENSE, MASTER SOLAR HOT WATER AND SPACE HEATING SUPERVISOR LICENSE, OR MASTER RESIDENTIAL SOLAR HOT WATER SUPERVISOR LICENSE.

(VII) REFRIGERATION CONTRACTOR: PERMITS THE LICENSEE TO INSTALL, ADD TO, ALTER, OR REPAIR REFRIGERATION SYSTEMS AND APPURTENANT COOLING TOWERS; PIPE INSULATION; AND LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT VOLTS AND IS NOT ENCLOSED IN A CONDUIT OR RACEWAY. A LICENSE IS NOT REQUIRED FOR THE INSTALLATION OF SELF-CONTAINED WINDOW-TYPE AIR CONDITIONERS. ALL WORK SHALL BE PERFORMED UNDER THE SUPERVISION OF THE HOLDER OF A MASTER REFRIGERATION SUPERVISOR LICENSE.

(VIII) RESIDENTIAL REFRIGERATION CONTRACTOR: PERMITS THE LICENSEE TO INSTALL, ADD TO, ALTER, OR REPAIR, IN SINGLE-FAMILY HOMES, DUPLEXES AND GARAGES, AND BUILDINGS ACCESSORY THERETO ONLY, REFRIGERATION SYSTEMS CONSISTING OF SELF-CONTAINED REFRIGERATION SYSTEMS OF FIVE TONS OR LESS; THE INSTALLATION OF PRECHARGED SYSTEMS UTILIZING GROUP 1 REFRIGERANTS; AND GAS FIRED ABSORPTION CHILLERS. ALL WORK SHALL BE PERFORMED UNDER THE SUPERVISION OF THE HOLDER OF A MASTER REFRIGERATION SUPERVISOR LICENSE OR A MASTER RESIDENTIAL REFRIGERATION SUPERVISOR LICENSE.

(IX) SOLAR HOT WATER AND SPACE HEATING CONTRACTOR: PERMITS THE LICENSEE TO INSTALL, ADD TO, ALTER, OR REPAIR, SOLAR ENERGY SYSTEMS AND APPURTENANCES FOR WATER HEATING, SPACE HEATING, AND COOLING; SWIMMING POOL AND SPA HEATING AND INDUSTRIAL PROCESS HEATING; ALL ITEMS AS SPECIFIED BY THE UNIFORM SOLAR ENERGY CODE; AUXILIARY AND

BACK-UP HEATING SYSTEMS WHEN SUCH SYSTEMS ARE AN INTEGRAL PART OF THE SOLAR COLLECTOR OR STORAGE EQUIPMENT; WATER HEATERS NOT EXCEEDING ONE HUNDRED MBTU PER HOUR; GAS PIPING, BURNERS, VENTING, AND CONTROLS DIRECTLY RELATED TO EQUIPMENT LISTED ABOVE; PIPE INSULATION; AND LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT VOLTS AND IS NOT ENCLOSED IN A CONDUIT OR RACEWAY. ALL WORK SHALL BE PERFORMED UNDER THE SUPERVISION OF THE HOLDER OF A MASTER STEAM AND HOT WATER SUPERVISOR LICENSE, MASTER RESIDENTIAL HOT WATER SUPERVISOR LICENSE, MASTER SOLAR HOT WATER AND SPACE HEATING SUPERVISOR LICENSE, OR MASTER RESIDENTIAL SOLAR HOT WATER SUPERVISOR LICENSE.

(X) RESIDENTIAL SOLAR WATER HEATING CONTRACTOR: PERMITS THE LICENSEE TO INSTALL, ADD TO, ALTER, OR REPAIR, IN SINGLE FAMILY HOMES, DUPLEXES AND GARAGES, AND BUILDINGS ACCESSORY THERETO ONLY, SOLAR ENERGY SYSTEMS AND THEIR APPURTENANCES FOR WATER HEATING, SPACE HEATING, AND SWIMMING POOL AND SPA HEATING; AUXILIARY AND BACK-UP HEATING SYSTEMS WHEN SUCH SYSTEMS ARE AN INTEGRAL PART OF THE SOLAR COLLECTOR OR STORAGE EQUIPMENT; PIPE INSULATION; AND LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT VOLTS AND IS NOT ENCLOSED IN A CONDUIT OR RACEWAY. ALL WORK SHALL BE PERFORMED UNDER THE SUPERVISION OF THE HOLDER OF A MASTER STEAM AND HOT WATER SUPERVISOR LICENSE, A MASTER RESIDENTIAL HOT WATER SUPERVISOR LICENSE, A MASTER SOLAR HOT WATER AND SPACE HEATING SUPERVISOR LICENSE, OR A MASTER RESIDENTIAL SOLAR WATER HEATING SUPERVISOR LICENSE.

(b) NO PERSON, FIRM, COPARTNERSHIP, ASSOCIATION, OR COMBINATION THEREOF SHALL ENGAGE IN THE BUSINESS OF AN HVACR CONTRACTOR WITHOUT HAVING FIRST BEEN LICENSED WITH THE BOARD. THE BOARD SHALL LICENSE

SUCH CONTRACTOR UPON PAYMENT OF THE FEE AS PROVIDED IN SECTION 12-67-116, AND PRESENTATION OF EVIDENCE THAT THE APPLICANT HAS COMPLIED WITH THE FOLLOWING REQUIREMENTS:

(I) EVIDENTIARY PROOF THAT THE APPLICANT'S FIRM HAS IN FORCE FOR THE DURATION OF THE LICENSE APPLICABLE WORKERS' COMPENSATION AND UNEMPLOYMENT COMPENSATION PROGRAMS THAT MEET OR EXCEED COMPLIANCE WITH THE LAWS OF THIS STATE.

(II) THE APPLICANT SHALL FILE WITH THE BOARD A SURETY BOND OR CASH DEPOSIT, IN A FORM ACCEPTABLE TO THE BOARD, EXECUTED BY THE CONTRACTOR AS PRINCIPAL WITH A CORPORATION AUTHORIZED TO TRANSACT SURETY BUSINESS IN THE STATE OF COLORADO AS A SURETY.

(III) THE APPLICANT SHALL PROVIDE PROOF THAT THE APPLICANT HAS OBTAINED A GENERAL LIABILITY INSURANCE POLICY IN CONFORMANCE WITH SUBSECTION (7) OF THIS SECTION.

(c) BEFORE GRANTING RENEWAL OF A HVACR CONTRACTOR LICENSE TO ANY APPLICANT, THE BOARD SHALL REQUIRE THAT THE APPLICANT FILE WITH THE BOARD SATISFACTORY EVIDENCE THAT THE APPLICANT'S SURETY BOND OR CASH DEPOSIT IS IN FULL FORCE. THE CASH DEPOSIT SHALL BE MAINTAINED BY AN INSTITUTION APPROVED BY THE BOARD. THE CASH DEPOSIT SHALL BE ASSIGNED TO THE STATE OF COLORADO.

(d) THE BOND OR CASH DEPOSIT SHALL BE ISSUED FOR THE TIME PERIOD OF THE LICENSE. FAILURE OF AN APPLICANT OR LICENSEE TO FILE OR MAINTAIN IN FULL FORCE THE REQUIRED BOND OR CASH DEPOSIT CONSTITUTES CAUSE FOR THE BOARD TO DENY, REVOKE, SUSPEND, OR REFUSE TO RENEW A LICENSE.

(e) THE BOND OR CASH DEPOSIT SHALL BE REVIEWED FROM TIME TO TIME BY THE BOARD. THE BOND OR CASH DEPOSIT SHALL BE IN AN AMOUNT EQUAL TO

AT LEAST FIVE PERCENT OF THE VALUE OF THE HVACR WORK CONDUCTED BY THE CONTRACTOR IN THE PRECEDING CALENDAR YEAR. THE BOND OR CASH DEPOSIT SHALL BE CONTINUOUS IN FORM AND SHALL BE CONDITIONED THAT THE TOTAL AGGREGATE LIABILITY OF THE SURETY FOR ALL CLAIMS IS LIMITED TO THE FACE AMOUNT OF THE BOND OR CASH DEPOSIT IN FORCE. IF THE BOARD DECIDES THAT ACTIONS BROUGHT AGAINST THE CONTRACTOR UNDER PARAGRAPHS (f) AND (g) OF THIS SECTION WERE NOT FLAGRANT IN NATURE, IN LIEU OF SUSPENSION, THE BOARD MAY REQUIRE THAT THE BOND OR CASH DEPOSIT BE INCREASED. SAID INCREASE SHALL NOT BE LESS THAN DOUBLE THE ORIGINAL BOND AMOUNT.

(f) EACH BOND OR DEPOSIT REQUIRED SHALL BE IN FAVOR OF THE STATE OF COLORADO FOR THE BENEFIT OF ANY PERSON WHO:

(I) AS OWNER OF THE PROPERTY TO BE IMPROVED ENTERED INTO A CONSTRUCTION CONTRACT WITH THE CONTRACTOR AND IS DAMAGED BY FAILURE OF THE CONTRACTOR TO PERFORM THE CONTRACT OR TO REMOVE LIENS FILED AGAINST THE PROPERTY;

(II) AS A SUPPLIER OR MATERIALMAN FURNISHED MATERIALS OR EQUIPMENT FOR THE CONSTRUCTION COVERED BY THE CONTRACT.

(g) ANY PERSON CLAIMING AGAINST THE BOND OR CASH DEPOSIT MAY BRING AN ACTION TO THE BOARD ON THE BOND OR CASH DEPOSIT FOR THE AMOUNT OF DAMAGE THE PERSON HAS SUFFERED TO THE EXTENT COVERED BY THE BOND OR CASH DEPOSIT. A PERSON WHO BRINGS ACTION ON A BOND OR CASH DEPOSIT SHALL NOTIFY THE BOARD IN WRITING UPON FILING THE ACTION. NO ACTION MAY BE COMMENCED ON THE BOND OR CASH DEPOSIT MORE THAN ONE YEAR AFTER THE COMMISSION OF THE ACT ON WHICH THE ACTION IS BASED.

(h) UPON RECEIVING A REQUEST FROM A PERSON FOR WHOSE BENEFIT A BOND OR CASH DEPOSIT IS REQUIRED, THE BOARD SHALL NOTIFY THE PERSON THAT:

(I) A BOND OR CASH DEPOSIT IS IN EFFECT AND THE AMOUNT OF THE BOND OR CASH DEPOSIT;

(II) THERE IS AN ACTION AGAINST A BOND, AND THE AMOUNT SOUGHT BY THE PERSON BRINGING THE ACTION AGAINST THE BOND OR CASH DEPOSIT.

(i) IF A SURETY DESIRES TO MAKE PAYMENT WITHOUT AWAITING THE RESPONSE FROM THE BOARD, THE AMOUNT OF THE BOND MUST BE REDUCED TO THE EXTENT OF ANY PAYMENT MADE BY THE SURETY IN GOOD FAITH UNDER THE BOND. ANY PAYMENT MUST BE BASED ON WRITTEN CLAIMS RECEIVED BY THE SURETY OR BOARD.

(j) CLAIMS AGAINST A BOND OR DEPOSIT HAVE EQUAL PRIORITY, EXCEPT WHERE OTHERWISE PROVIDED BY LAW, AND IF THE BOND OR DEPOSIT IS INSUFFICIENT TO PAY ALL OF THOSE CLAIMS IN FULL, THEY SHALL BE PAID PRO-RATA. PARTIAL PAYMENT OF CLAIMS IS NOT FULL PAYMENT, AND THE CLAIMANTS MAY BRING ACTIONS AGAINST THE CONTRACTOR FOR THE UNPAID BALANCES.

(k) THE SURETY MAY CANCEL THE BOND UPON GIVING ONE HUNDRED TWENTY DAYS NOTICE TO THE BOARD AND TO THE CONTRACTOR BY CERTIFIED MAIL. UPON RECEIPT BY THE BOARD OF THE NOTICE, THE BOARD SHALL IMMEDIATELY NOTIFY THE CONTRACTOR WHO IS THE PRINCIPAL ON THE BOND THAT THE CONTRACTOR'S LICENSE WILL BE SUSPENDED OR REVOKED UNLESS THE CONTRACTOR FURNISHES AN EQUIVALENT BOND OR CASH DEPOSIT BEFORE THE EFFECTIVE DATE OF THE CANCELLATION. THE NOTICE MAILED TO THE

CONTRACTOR BY THE BOARD SHALL BE BY CERTIFIED MAIL ADDRESSED TO THE CONTRACTOR'S LATEST ADDRESS OF RECORD IN THE OFFICE OF THE BOARD.

(l) IF THE CONTRACTOR DOES NOT COMPLY WITH THE REQUIREMENTS OF THE NOTICE FROM THE BOARD, THE BOARD SHALL SUSPEND OR REVOKE THE CONTRACTOR'S LICENSE ON THE DATE THE BOND IS CANCELLED.

(7) ANY HVACR CONTRACTOR PERFORMING ONLY RESIDENTIAL HVACR WORK SHALL OBTAIN AND MAINTAIN IN FORCE A GENERAL LIABILITY INSURANCE POLICY IN AN AMOUNT OF AT LEAST ONE MILLION DOLLARS. ANY HVACR CONTRACTOR PERFORMING ANY COMMERCIAL HVACR WORK SHALL OBTAIN AND MAINTAIN IN FORCE A GENERAL LIABILITY INSURANCE POLICY IN AN AMOUNT OF AT LEAST FIVE MILLION DOLLARS.

(8) THE BOARD MAY SUSPEND OR REVOKE LICENSES ALREADY ISSUED; REFUSE RENEWALS OF LICENSES; IMPOSE LIMITS ON THE FIELD, SCOPE, AND MONETARY LIMIT OF THE LICENSE; REPRIMAND; OR TAKE OTHER LESS SEVERE DISCIPLINARY ACTION, INCLUDING BUT NOT LIMITED TO, INCREASING THE AMOUNT OF THE BOND OR CASH DEPOSIT OF THE LICENSEE, IF THE LICENSEE COMMITS ANY OF THE FOLLOWING ACTS:

(a) FAILURE TO KEEP RECORDS SHOWING ALL CONTRACTS, DOCUMENTS, RECEIPTS, AND DISBURSEMENTS BY A LICENSEE OF ALL OF THE LICENSEE'S TRANSACTIONS AS A CONTRACTOR AND TO KEEP THEM OPEN FOR INSPECTION BY THE BOARD OR EXECUTIVE OFFICER FOR A PERIOD OF NOT LESS THAN THREE YEARS AFTER THE COMPLETION OF ANY CONSTRUCTION PROJECT OR OPERATION TO WHICH THE RECORDS REFER;

(b) MISREPRESENTATION OF A MATERIAL FACT BY AN APPLICANT OR LICENSEE IN OBTAINING A LICENSE, OR IN CONNECTION WITH ANY INFORMATION

OR EVIDENCE FURNISHED TO THE BOARD IN CONNECTION WITH OFFICIAL MATTERS OF THE BOARD;

(c) FAILURE TO KEEP IN FORCE THE BOND OR CASH DEPOSIT;

(d) FAILURE TO MAINTAIN THE LIABILITY INSURANCE POLICY REQUIRED PURSUANT TO SUBSECTION (7) OF THIS SECTION;

(e) FAILURE IN ANY MATERIAL RESPECT TO COMPLY WITH THE PROVISIONS OF THIS ARTICLE OR THE RULES OF THE BOARD.

(9) IF EITHER THE OWNER OR A PART OWNER OF ANY FIRM, COPARTNERSHIP, CORPORATION, ASSOCIATION, OR COMBINATION THEREOF HAS BEEN ISSUED ONE OR MORE MASTER HVACR SUPERVISOR LICENSES BY THE DIVISION OF REGISTRATIONS AND IS IN CHARGE OF THE SUPERVISION OF ALL HVACR WORK PERFORMED BY SUCH CONTRACTOR, UPON WRITTEN NOTICE FROM THE BOARD OR THE PROGRAM ADMINISTRATOR, ACTING AS THE AGENT THEREOF, THE DIVISION SHALL PROMPTLY, UPON PAYMENT OF THE FEE AS PROVIDED IN SECTION 12-67-116, LICENSE SUCH LICENSEE AS AN HVACR CONTRACTOR IN THE CATEGORY REQUESTED.

(10) IF ANY PERSON, FIRM, COPARTNERSHIP, CORPORATION, ASSOCIATION, OR COMBINATION THEREOF ENGAGES IN THE BUSINESS OF AN HVACR CONTRACTOR AND DOES NOT COMPLY WITH SUBSECTION (9) OF THIS SECTION, IT SHALL EMPLOY AT LEAST ONE LICENSED MASTER HVACR SUPERVISOR LICENSED IN THE APPROPRIATE AREA OF WORK, WHO SHALL BE IN CHARGE OF THE SUPERVISION OF ALL HVACR WORK PERFORMED BY SUCH CONTRACTOR.

(11) NO HOLDER OF A MASTER HVACR SUPERVISOR LICENSE SHALL BE NAMED AS THE MASTER HVACR SUPERVISOR, UNDER THE PROVISIONS OF PARAGRAPHS(b) AND (c) OF SUBSECTION (6) OF THIS SECTION, FOR MORE THAN ONE CONTRACTOR, AND A MASTER NAME SHALL BE ACTIVELY ENGAGED IN A

FULL-TIME CAPACITY WITH THAT CONTRACTING COMPANY. THE QUALIFYING MASTER HVACR SUPERVISOR LICENSE HOLDER SHALL NOTIFY THE BOARD WITHIN FIFTEEN DAYS AFTER THE LICENSE HOLDER'S TERMINATION AS A QUALIFYING MASTER HVACR SUPERVISOR. THE MASTER HVACR SUPERVISOR LICENSE HOLDER IS RESPONSIBLE FOR ALL HVACR WORK PERFORMED BY THE HVACR CONTRACTING COMPANY. FAILURE TO COMPLY WITH A NOTIFICATION MAY LEAD TO SUSPENSION OR REVOCATION OF THE MASTER HVACR SUPERVISOR LICENSE AS PROVIDED IN SECTION 12-67-122.

12-67-109. Credit for experience not subject to supervision of a licensed HVACR journeyman or master HVACR supervisor. FOR ALL APPLICANTS SEEKING WORK EXPERIENCE CREDIT TOWARD LICENSURE, THE BOARD SHALL GIVE CREDIT FOR HVACR WORK THAT IS NOT REQUIRED TO BE PERFORMED BY OR UNDER THE SUPERVISION OF A LICENSED HVACR JOURNEYMAN OR A MASTER HVACR SUPERVISOR IF THE APPLICANT CAN SHOW THAT THE PARTICULAR EXPERIENCE RECEIVED OR THE SUPERVISION UNDER WHICH THE WORK HAS BEEN PERFORMED IS ADEQUATE. WORK EXPERIENCE CREDIT AWARDED UNDER THIS SECTION SHALL NOT EXCEED ONE-HALF OF THE APPLICABLE EXPERIENCE REQUIREMENT FOR ANY LICENSE ISSUED UNDER THIS ARTICLE.

12-67-110. Unauthorized use of title. NO PERSON, FIRM, PARTNERSHIP, CORPORATION, OR ASSOCIATION SHALL ADVERTISE IN ANY MANNER OR USE THE TITLE OR DESIGNATION OF MASTER HVACR SUPERVISOR OR HVACR JOURNEYMAN UNLESS QUALIFIED AND LICENSED UNDER THIS ARTICLE.

12-67-111. License by endorsement. THE BOARD MAY ISSUE A HVACR LICENSE BY ENDORSEMENT IN THIS STATE TO ANY PERSON WHO IS LICENSED IN ANOTHER STATE IF SUCH PERSON PRESENTS PROOF SATISFACTORY TO THE BOARD

THAT, AT THE TIME OF APPLICATION FOR A COLORADO LICENSE BY ENDORSEMENT, THE PERSON POSSESSES CREDENTIALS AND QUALIFICATIONS THAT ARE SUBSTANTIALLY EQUIVALENT TO REQUIREMENTS IN COLORADO FOR LICENSURE BY EXAMINATION. THE BOARD MAY SPECIFY BY RULE WHAT SHALL CONSTITUTE SUBSTANTIALLY EQUIVALENT CREDENTIALS AND QUALIFICATIONS AND MAY FURTHER REQUIRE A WAITING PERIOD OF SIX MONTHS AFTER THE ISSUANCE OF A LICENSE IN ANOTHER STATE BEFORE ISSUING A LICENSE IN COLORADO.

12-67-112. Temporary permits. (1) THE BOARD, THE PROGRAM ADMINISTRATOR, OR THE PROGRAM ADMINISTRATOR'S AGENT, AS PROVIDED IN THE RULES PROMULGATED BY THE BOARD, SHALL ISSUE TEMPORARY PERMITS TO ENGAGE IN THE WORK OF A MASTER HVACR SUPERVISOR CATEGORY IN CASES WHERE A HVACR CONTRACTOR NO LONGER HAS THE SERVICES OF ANY HVACR MASTER AS REQUIRED UNDER THIS ARTICLE.

(2) THE BOARD, THE PROGRAM ADMINISTRATOR, OR THE PROGRAM ADMINISTRATOR'S AGENT, AS PROVIDED IN THE RULES PROMULGATED BY THE BOARD, SHALL ISSUE TEMPORARY PERMITS TO ENGAGE IN THE WORK OF AN HVACR JOURNEYMAN OR A MASTER HVACR SUPERVISOR TO ANY APPLICANT WHO FURNISHES EVIDENCE SATISFACTORY TO THE BOARD THAT THE APPLICANT HAS THE REQUIRED EXPERIENCE TO QUALIFY FOR THE EXAMINATION PROVIDED IN THIS ARTICLE AND WHO PAYS THE FEE PROVIDED IN SECTION 12-67-116 FOR SUCH PERMITS.

(3) TEMPORARY PERMITS ISSUED UNDER THE PROVISIONS OF THIS SECTION CONTINUE IN EFFECT ONLY UNTIL THE NEXT EXAMINATION IS GIVEN AND MAY BE REVOKED BY THE BOARD AT ANY TIME. IF THE APPLICANT IS GRANTED A

LICENSE, ANY FEE PAID FOR THE TEMPORARY PERMIT SHALL BE APPLIED TO THE FEE REQUIRED FOR A LICENSE.

12-67-113. Licensing of persons during initial period - repeal.

(1) DURING THE PERIOD BEGINNING JULY 1, 1996, UNTIL THE FIRST EXAMINATIONS ARE GIVEN BY THE BOARD, THE BOARD MAY ADOPT REASONABLE RULES FOR INVESTIGATING, CLASSIFYING, AND QUALIFYING APPLICANTS FOR LICENSURE AND MAY ISSUE LICENSES TO APPLICANTS DETERMINED BY THE BOARD TO BE QUALIFIED WITH OR WITHOUT WRITTEN EXAMINATION.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 1997.

12-67-114. Supervision of apprentices and trainees - registration - discipline.

(1) ANY PERSON MAY WORK AS AN APPRENTICE OR TRAINEE BUT SHALL NOT DO ANY HVACR WORK EXCEPT UNDER THE SUPERVISION OF A LICENSED HVACR JOURNEYMAN OR MASTER HVACR SUPERVISOR. THE DEGREE OF SUPERVISION REQUIRED SHALL BE NO MORE THAN ONE LICENSED HVACR JOURNEYMAN OR MASTER HVACR SUPERVISOR TO SUPERVISE NO MORE THAN ONE APPRENTICE OR TRAINEE AT THE JOB SITE.

(2) ANY HVACR CONTRACTOR, HVACR JOURNEYMAN, OR MASTER HVACR SUPERVISOR WHO IS THE EMPLOYER OR SUPERVISOR OF ANY HVACR APPRENTICE OR TRAINEE SHALL BE RESPONSIBLE FOR THE HVACR WORK PERFORMED BY SUCH APPRENTICE OR TRAINEE. THE BOARD MAY TAKE DISCIPLINARY ACTION AGAINST ANY SUCH HVACR CONTRACTOR, MASTER HVACR SUPERVISOR, OR HVACR JOURNEYMAN UNDER THE PROVISIONS OF SECTION 12-67-122 FOR ANY IMPROPER WORK PERFORMED BY AN HVACR APPRENTICE OR TRAINEE PERFORMING HVACR WORK DURING THE TIME OF THE APPRENTICE'S OR TRAINEE'S EMPLOYMENT WHILE UNDER THE EMPLOYMENT OR SUPERVISION OF SUCH HVACR CONTRACTOR, MASTER HVACR SUPERVISOR, OR

HVACR JOURNEYMAN. THE REGISTRATION OF SUCH APPRENTICE OR TRAINEE MAY ALSO BE SUBJECT TO DISCIPLINARY ACTION UNDER THE PROVISIONS OF SECTION 12-67-122.

(3) UPON EMPLOYING A HVACR APPRENTICE OR TRAINEE TO PERFORM HVACRWORK, THE HVACR CONTRACTOR, WITHIN THIRTY DAYS AFTER SUCH INITIAL EMPLOYMENT, SHALL REGISTER SUCH APPRENTICE OR TRAINEE WITH THE BOARD. THE EMPLOYER SHALL ALSO NOTIFY THE BOARD WITHIN THIRTY DAYS AFTER THE TERMINATION OF SUCH EMPLOYMENT.

12-67-115. Exemptions - copies of minimum standards - registration by local authorities.

(1) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO REQUIRE ANY INDIVIDUAL TO HOLD A LICENSE BEFORE DOING HVACR WORK ON THE INDIVIDUAL'S OWN PROPERTY OR RESIDENCE IF ALL SUCH HVACR WORK, EXCEPT FOR MAINTENANCE, REPAIR, OR ALTERATION OF EXISTING FACILITIES, IS INSPECTED AS PROVIDED IN THIS ARTICLE; EXCEPT THAT, IF SUCH PROPERTY OR RESIDENCE IS INTENDED FOR SALE OR RESALE BY A PERSON ENGAGED IN THE BUSINESS OF CONSTRUCTING OR REMODELING SUCH FACILITIES OR STRUCTURES, IS RENTAL PROPERTY THAT IS OCCUPIED OR IS TO BE OCCUPIED BY TENANTS FOR LODGING, EITHER TRANSIENT OR PERMANENT, OR IS GENERALLY OPEN TO THE PUBLIC, THE OWNER IS RESPONSIBLE FOR, AND THE PROPERTY IS SUBJECT TO, ALL OF THE PROVISIONS OF THIS ARTICLE PERTAINING TO INSPECTION AND LICENSING, UNLESS SPECIFICALLY EXEMPTED THEREIN.

(2) IF THE PROPERTY OF ANY PERSON, FIRM, OR CORPORATION IS RENTAL PROPERTY OR IS DEVELOPED FOR SALE, LEASE, OR RENTAL, IS OCCUPIED OR IS TO BE OCCUPIED BY TENANTS FOR LODGING, EITHER TRANSIENT OR PERMANENT, OR IS GENERALLY OPEN TO THE PUBLIC, THEN SUCH PROPERTY IS SUBJECT TO ALL THE PROVISIONS OF THIS ARTICLE PERTAINING TO INSPECTION AND LICENSING,

EXCEPT FOR THE MAINTENANCE, REPAIR, OR ALTERNATION OF EXISTING FACILITIES OTHERWISE EXEMPT UNDER THIS SECTION.

(3) AN INDIVIDUAL, FIRM, COPARTNERSHIP, OR CORPORATION MAY ENGAGE IN BUSINESS AS AN HVACR CONTRACTOR WITHOUT AN HVACR LICENSE IF ALL HVACR WORK PERFORMED BY SUCH INDIVIDUAL, FIRM, COPARTNERSHIP, OR CORPORATION IS UNDER THE DIRECTION AND CONTROL OF A LICENSED MASTER HVACR SUPERVISOR.

(4) THE BOARD IS DIRECTED TO MAKE AVAILABLE AND MAIL MINIMUM STANDARDS PERTAINING TO SPECIFIC HVACR INSTALLATIONS ON REQUEST AND TO CHARGE A FEE FOR THE SAME, SUCH FEE NOT TO EXCEED THE ACTUAL COST INVOLVED. REQUESTS FOR COPIES OF THE NATIONAL UNIFORM MECHANICAL CODE OR THE UNIFORM SOLAR ENERGY CODE SHALL BE FILLED WHEN AVAILABLE, COSTS THEREOF NOT TO EXCEED THE ACTUAL COST TO THE BOARD.

(5) BECAUSE HVACR LICENSING AND THE EXAMINATION OF PERSONS PERFORMING HVACR WORK IS A MATTER OF STATEWIDE CONCERN, NO EXAMINATION, CERTIFICATION, LICENSING, OR REGISTRATION OF HVACR CONTRACTORS, MASTER HVACR SUPERVISORS, HVACR JOURNEYMEN, APPRENTICES, OR TRAINEES WHO ARE LICENSED, REGISTERED, OR CERTIFIED UNDER THIS ARTICLE SHALL BE REQUIRED BY ANY CITY, TOWN, COUNTY, OR CITY AND COUNTY; EXCEPT THAT ANY SUCH LOCAL GOVERNMENTAL AUTHORITY MAY IMPOSE REASONABLE REGISTRATION REQUIREMENTS ON ANY HVACR CONTRACTOR AS A CONDITION OF PERFORMING SERVICES WITHIN THE JURISDICTION OF SUCH AUTHORITY. A LOCAL GOVERNMENT AUTHORITY MAY NOT CHARGE ANY FEE FOR SUCH REGISTRATION.

(6) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO REQUIRE THAT EMPLOYEES OF THE FEDERAL GOVERNMENT WHO PERFORM HVACR WORK ON

FEDERAL PROPERTY BE LICENSED OR THAT THE HVACR WORK PERFORMED ON SUCH PROPERTY BE REGULATED PURSUANT TO THIS ARTICLE.

(7) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO REQUIRE:

(a) THAT REFERENCES TO ANY LOW VOLTAGE WIRING THAT DOES NOT EXCEED FORTY-EIGHT VOLTS BE INTERPRETED TO MEAN THAT A REGISTERED ELECTRICAL CONTRACTOR OR LICENSED ELECTRICIAN NEEDS AN HVACR LICENSE IN ORDER TO PROVIDE LOW VOLTAGE SERVICES.

(b) THAT REFERENCES PERMITTING THE INSTALLATION OF, ADDITION TO, ALTERATION OF, AND REPAIR OF WATER HEATERS NOT EXCEEDING ONE HUNDRED MBTU BE INTERPRETED TO MEAN THAT A LICENSED PLUMBER NEEDS AN HVACR LICENSE IN ORDER TO INSTALL, ADD TO, ALTER, OR REPAIR WATER HEATERS.

12-67-116. Fees. (1) AS ESTABLISHED PURSUANT TO SECTION 24-34-105, C.R.S., FEES SHALL BE CHARGED BY THE STATE HVACR BOARD FOR THE FOLLOWING:

- (a) MASTER HVACR SUPERVISOR LICENSE;
- (b) ANNUAL RENEWAL OF MASTER HVACR SUPERVISOR LICENSE;
- (c) JOURNEYMAN HVACR LICENSE;
- (d) ANNUAL RENEWAL OF HVACR JOURNEYMAN LICENSE;
- (e) EXAMINATION FOR MASTER HVACR SUPERVISOR;
- (f) EXAMINATION FOR HVACR JOURNEYMAN;
- (g) HVACR CONTRACTOR LICENSE;
- (h) ANNUAL RENEWAL OF HVACR CONTRACTOR LICENSE;
- (i) ANNUAL RENEWAL OF APPRENTICE REGISTRATION.

12-67-117. Disposition of fees and expenses of board. ALL MONEYS COLLECTED UNDER THIS ARTICLE SHALL BE TRANSMITTED TO THE STATE

TREASURER, WHO SHALL CREDIT THE SAME PURSUANT TO SECTION 24-34-105, C.R.S., AND THE GENERAL ASSEMBLY SHALL MAKE ANNUAL APPROPRIATIONS FOR EXPENDITURES OF THE BOARD INCURRED IN THE PERFORMANCE OF ITS DUTIES UNDER THIS ARTICLE, WHICH EXPENDITURES SHALL BE MADE FROM SUCH APPROPRIATIONS UPON VOUCHERS AND WARRANTS DRAWN PURSUANT TO LAW.

12-67-118. Report - publications. (1) THE BOARD MAY PREPARE AND TRANSMIT ANNUALLY, IN THE FORM AND MANNER PRESCRIBED BY THE HEADS OF THE PRINCIPAL DEPARTMENTS PURSUANT TO THE PROVISIONS OF SECTION 24-1-136, C.R.S., A REPORT ACCOUNTING TO THE GOVERNOR AND THE GENERAL ASSEMBLY FOR THE EFFICIENT DISCHARGE OF ALL RESPONSIBILITIES ASSIGNED BY LAW OR DIRECTIVE TO THE BOARD.

(2) PUBLICATIONS OF THE BOARD DISTRIBUTED IN QUANTITY OUTSIDE OF THE EXECUTIVE BRANCH SHALL BE ISSUED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-1-136, C.R.S.

12-67-119. Inspectors - qualifications. (1) THE DIRECTOR OF THE DIVISION OF REGISTRATIONS MAY APPOINT OR EMPLOY, WITH THE POWER OF REMOVAL, COMPETENT PERSONS LICENSED UNDER THIS ARTICLE AS HVACR JOURNEYMEN OR MASTER HVACR SUPERVISORS AS STATE HVACR INSPECTORS. THE DIRECTOR ALSO MAY APPOINT OR EMPLOY, WITH THE POWER OF REMOVAL, FOR THE PURPOSE OF INSPECTING ONE-, TWO-, THREE-, OR FOUR-FAMILY DWELLINGS, COMPETENT PERSONS WITH THE FOLLOWING QUALIFICATIONS:

(a) PERSONS WHO HAVE PASSED THE WRITTEN RESIDENTIAL HVACR EXAMINATION DESCRIBED IN SECTION 12-67-108 (4); OR

(b) PERSONS WHO HAVE BEEN CERTIFIED AS RESIDENTIAL HVACR INSPECTORS BY A NATIONAL CERTIFICATION AUTHORITY APPROVED BY THE BOARD

AND WHO HAVE FURNISHED SATISFACTORY EVIDENCE OF AT LEAST TWO YEARS' PRACTICAL EXPERIENCE IN THE INSPECTION OF RESIDENTIAL DWELLINGS.

(2) STATE HVACR INSPECTORS MAY BE EMPLOYED EITHER ON A FULL- OR PART-TIME BASIS AS THE CIRCUMSTANCES IN EACH CASE SHALL WARRANT. THE DIRECTOR OF THE DIVISION OF REGISTRATIONS SHALL EMPLOY A SUFFICIENT NUMBER OF INSPECTORS TO PROVIDE INSPECTION SERVICES THROUGHOUT THE STATE. THE DIRECTOR OF THE DIVISION OF REGISTRATIONS MAY CONTRACT WITH ANY HVACR INSPECTOR REGULARLY ENGAGED AS SUCH AND CERTIFY THE INSPECTOR TO MAKE INSPECTIONS IN A DESIGNATED AREA AT SUCH COMPENSATION AS SHALL BE FIXED BY SAID DIRECTOR. THE COMPENSATION FOR STATE HVACR INSPECTORS SHALL BE DERIVED SOLELY FROM LICENSE AND INSPECTION FEES COLLECTED UNDER THE REQUIREMENTS OF THIS ARTICLE. STATE HVACR INSPECTORS HAVE THE RIGHT OF INGRESS AND EGRESS TO AND FROM ALL PUBLIC AND PRIVATE PREMISES DURING REASONABLE WORKING HOURS WHERE THIS ARTICLE APPLIES FOR THE PURPOSE OF MAKING HVACR INSPECTIONS OR OTHERWISE DETERMINING COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE. IN ORDER TO AVOID CONFLICTS OF INTEREST, A STATE HVACR INSPECTOR HIRED UNDER THIS SECTION SHALL NOT INSPECT ANY HVACR WORK IN WHICH SUCH INSPECTOR HAS ANY FINANCIAL OR OTHER PERSONAL INTEREST AND SHALL NOT BE ENGAGED IN THE HVACR BUSINESS BY CONTRACTING, SUPPLYING MATERIAL, OR PERFORMING HVACR WORK AS DEFINED IN THIS ARTICLE.

(3) ANY EMPLOYEE OF A PRIVATE, MUNICIPAL, OR COOPERATIVE UTILITY RENDERING SERVICE TO THE PUBLIC SHALL BE PROHIBITED FROM EMPLOYMENT AS AN HVACR INSPECTOR ONLY WHEN IN THE PERFORMANCE OF ANY HVACR WORK AS DEFINED IN THIS ARTICLE. HVACR INSPECTORS PERFORMING HVACR

INSPECTIONS WHO ARE EMPLOYED BY ANY CITY, TOWN, COUNTY, OR CITY AND COUNTY SHALL POSSESS THE SAME QUALIFICATIONS REQUIRED OF THE STATE HVACR INSPECTORS UNDER THIS SECTION, SHALL BE REGISTERED WITH THE BOARD PRIOR TO THE ASSUMPTION OF THEIR DUTIES, SHALL NOT INSPECT ANY HVACR WORK IN WHICH SUCH INSPECTOR HAS ANY FINANCIAL OR OTHER PERSONAL INTEREST, AND SHALL NOT BE ENGAGED, WITHIN THE JURISDICTION EMPLOYING SUCH INSPECTOR, IN THE HVACR BUSINESS BY CONTRACTING, SUPPLYING MATERIAL, OR PERFORMING HVACR WORK AS DEFINED IN THIS ARTICLE.

(4) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO LIMIT ANY INSPECTOR FROM QUALIFYING AS AN INSPECTOR IN OTHER CONSTRUCTION SPECIALTIES.

12-67-120. Inspection - application - standards. (1) ANY INDIVIDUAL REQUIRED TO HAVE HVACR INSPECTION UNDER THIS ARTICLE MAY APPLY THROUGH ANY PRIVATE, MUNICIPAL, OR COOPERATIVE UTILITY RENDERING SERVICE TO THE PUBLIC FOR AN APPLICATION FOR INSPECTION; EXCEPT THAT WHERE ANY INCORPORATED TOWN OR CITY, ANY COUNTY, OR ANY CITY AND COUNTY OF THIS STATE HAS AN ESTABLISHED BUILDING DEPARTMENT WHERE APPLICATIONS FOR BUILDING PERMITS AND INSPECTIONS ARE PROCESSED, SUCH INDIVIDUAL SHALL APPLY TO SUCH BUILDING DEPARTMENT. SUCH UTILITY SHALL PROVIDE FORMS FURNISHED BY THE BOARD TO THE APPLICANT, WHO SHALL REMIT THE APPLICATION FOR INSPECTION TO SUCH BOARD ON SUCH FORMS. UPON PAYMENT BY THE APPLICANT OF THE APPLICABLE FEE TO THE BOARD, THE BOARD SHALL ISSUE A TEMPORARY PERMIT TO THE APPLICANT AND SHALL REMIT A COPY OF SUCH PERMIT TO THE UTILITY AND THE STATE INSPECTOR RESPONSIBLE FOR SUCH INSPECTION AND RETAIN ONE COPY IN ITS OFFICE. WITHIN SEVEN

WORKING DAYS AFTER COMPLETION OF FINAL INSPECTION AND APPROVAL BY THE STATE HVACR INSPECTOR, WRITTEN NOTICE SHALL BE ISSUED BY THE BOARD TO THE APPLICANT, THE UTILITY, AND THE STATE INSPECTOR RESPONSIBLE FOR SUCH INSPECTION, AND ONE COPY SHALL BE RETAINED IN THE OFFICE OF THE BOARD. NO UTILITY SHALL PROVIDE SERVICE TO ANY PERSON REQUIRED TO HAVE HVACR INSPECTION UNDER THIS ARTICLE WITHOUT PROOF OF FINAL APPROVAL AS PROVIDED IN THIS SUBSECTION (1); EXCEPT THAT SUCH SERVICE SHALL BE PROVIDED IN THOSE SITUATIONS DETERMINED BY THE LOCAL HVACR INSPECTION AUTHORITY, OR BY THE BOARD, WHICHEVER SHALL HAVE JURISDICTION, TO BE EMERGENCY SITUATIONS FOR A MAXIMUM PERIOD OF SEVEN DAYS OR UNTIL SUCH INSPECTION HAS BEEN MADE.

(2) ANY HVACR INSTALLATION IN ANY NEW CONSTRUCTION, REMODELING, OR REPAIR OTHER THAN MANUFACTURED UNITS CERTIFIED BY THE DIVISION OF HOUSING PURSUANT TO SECTION 24-32-715, C.R.S., EXCEPT IN ANY INCORPORATED TOWN OR CITY, ANY COUNTY, OR ANY CITY AND COUNTY HAVING ITS OWN HVACR CODE AND INSPECTION EQUAL TO THE MINIMUM STANDARDS AS ARE PROVIDED IN THIS ARTICLE, SHALL BE INSPECTED BY A STATE HVACR INSPECTOR. A STATE HVACR INSPECTOR SHALL INSPECT ANY NEW CONSTRUCTION, REMODELING, OR REPAIR SUBJECT TO THE PROVISIONS OF THIS SUBSECTION (2) WITHIN FIVE WORKING DAYS AFTER THE RECEIPT OF THE APPLICATION FOR INSPECTION. PRIOR TO THE COMMENCEMENT OF ANY SUCH HVACR INSTALLATION, THE PERSON MAKING SUCH INSTALLATION SHALL MAKE APPLICATION FOR INSPECTION AND PAY THE REQUIRED FEE THEREFOR.

(3) EACH APPLICATION, CERTIFICATE OF APPROVAL, AND NOTICE OF DISAPPROVAL SHALL CONTAIN THE NAME OF THE PROPERTY OWNER, IF KNOWN, THE LOCATION AND A BRIEF DESCRIPTION OF THE INSTALLATION, THE NAME OF

THE GENERAL CONTRACTOR IF ANY, THE NAME OF THE HVACR CONTRACTOR OR LICENSED HVACR JOURNEYMAN OR MASTER HVACR SUPERVISOR AND STATE REGISTRATION NUMBER, THE STATE HVACR INSPECTOR, AND THE INSPECTION FEE CHARGED FOR THE INSPECTION. THE ORIGINAL NOTICE OF DISAPPROVAL AND WRITTEN REASONS FOR DISAPPROVAL AND CORRECTIVE ACTIONS TO BE TAKEN SHALL BE MAILED TO THE BOARD, AND A COPY OF SUCH NOTICE SHALL BE MAILED TO THE HVACR CONTRACTOR, WITHIN TWO WORKING DAYS AFTER THE DATE OF INSPECTION, AND A COPY OF THE NOTICE SHALL BE POSTED AT THE INSTALLATION SITE IN A CONSPICUOUS PLACE NEAREST A PUBLIC ROAD. SUCH FORMS SHALL BE FURNISHED BY THE BOARD, AND A COPY OF EACH APPLICATION, CERTIFICATE, AND NOTICE MADE OR ISSUED SHALL BE FILED WITH THE BOARD.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE ANY UTILITY AS DEFINED IN THIS ARTICLE TO COLLECT OR ENFORCE COLLECTION OR IN ANY WAY HANDLE THE PAYMENT OF ANY FEE CONNECTED WITH SUCH APPLICATION.

(5) ALL INSPECTION PERMITS ISSUED BY THE BOARD SHALL BE VALID FOR A PERIOD OF FIVE MONTHS, AND THE BOARD SHALL CANCEL THE PERMIT AND REMOVE IT FROM ITS FILES AT THE END OF THE TWELVE-MONTH PERIOD, EXCEPT IN THE FOLLOWING CIRCUMSTANCES:

(a) IF AN APPLICANT MAKES A SHOWING AT THE TIME OF APPLICATION FOR A PERMIT THAT THE HVACR WORK IS SUBSTANTIAL AND IS LIKELY TO TAKE LONGER THAN TWELVE MONTHS, THE BOARD MAY ISSUE A PERMIT TO BE VALID FOR A PERIOD LONGER THAN TWELVE MONTHS, BUT NOT EXCEEDING THREE YEARS.

(b) IF THE APPLICANT NOTIFIES THE BOARD PRIOR TO THE EXPIRATION OF THE TWELVE-MONTH PERIOD OF EXTENUATING CIRCUMSTANCES, AS DETERMINED

BY THE BOARD, DURING THE TWELVE-MONTH PERIOD, THE BOARD MAY EXTEND THE VALIDITY OF THE PERMIT FOR A PERIOD NOT TO EXCEED SIX MONTHS.

(6) IF AN INSPECTION IS REQUESTED BY AN APPLICANT AFTER A PERMIT HAS EXPIRED OR HAS BEEN CANCELED, A NEW PERMIT MUST BE APPLIED FOR AND GRANTED BEFORE AN INSPECTION IS PERFORMED.

(7) NOTWITHSTANDING THE FACT THAT ANY INCORPORATED TOWN OR CITY, ANY COUNTY, OR ANY CITY AND COUNTY IN WHICH A PUBLIC SCHOOL IS LOCATED OR IS TO BE LOCATED HAS ITS OWN HVACR CODE AND INSPECTION AUTHORITY, ANY HVACR INSTALLATION IN ANY NEW CONSTRUCTION, REMODELING, OR REPAIR OF A PUBLIC SCHOOL SHALL BE INSPECTED BY A STATE HVACR INSPECTOR.

(8) IN THE EVENT THAT ANY INCORPORATED TOWN OR CITY, ANY COUNTY, OR ANY CITY AND ITS COUNTY INTENDS TO COMMENCE OR CEASE PERFORMING HVACR INSPECTIONS IN ITS RESPECTIVE JURISDICTION, IT SHALL COMMENCE OR CEASE THE SAME ONLY AS OF JULY 1 OF ANY YEAR, AND WRITTEN NOTICE OF SUCH INTENT SHALL BE GIVEN TO THE BOARD ON OR BEFORE OCTOBER 1 OF THE PRECEDING CALENDAR YEAR. IF NOTICE IS NOT GIVEN AND THE USE OF STATE HVACR INSPECTORS IS REQUIRED, THE RESPECTIVE LOCAL GOVERNMENT OF THE JURISDICTION REQUIRING SUCH INSPECTORS SHALL REIMBURSE THE STATE HVACR BOARD FOR ANY EXPENSES INCURRED IN PERFORMING SUCH INSPECTIONS, IN ADDITION TO TRANSMITTING THE REQUIRED PERMIT FEES.

(9) (a) ANY PERSON CLAIMING TO BE AGGRIEVED BY THE FAILURE OF A STATE HVACR INSPECTOR TO INSPECT THE PERSON'S PROPERTY AFTER PROPER APPLICATION OR BY NOTICE OF DISAPPROVAL WITHOUT SETTING FORTH THE REASONS FOR DENYING THE INSPECTION PERMIT MAY REQUEST THE PROGRAM ADMINISTRATOR TO REVIEW THE ACTIONS OF THE STATE HVACR INSPECTOR OR

THE MANNER OF THE INSPECTION. SUCH REQUEST MAY BE MADE BY THE PERSON'S AUTHORIZED REPRESENTATIVE AND SHALL BE IN WRITING.

(b) UPON THE FILING OF A REQUEST, THE PROGRAM ADMINISTRATOR SHALL CAUSE A COPY THEREOF TO BE SERVED UPON THE STATE HVACR INSPECTOR COMPLAINED OF, TOGETHER WITH AN ORDER REQUIRING SUCH INSPECTOR TO ANSWER THE ALLEGATIONS OF SAID REQUEST WITHIN A TIME FIXED BY THE PROGRAM ADMINISTRATOR.

(c) IF THE REQUEST IS NOT GRANTED WITHIN TEN DAYS AFTER IT IS FILED, IT MAY BE TREATED AS REJECTED. ANY PERSON AGGRIEVED BY THE ACTION OF THE PROGRAM ADMINISTRATOR IN REFUSING THE REVIEW REQUESTED OR IN FAILING OR REFUSING TO GRANT ALL OR PART OF THE RELIEF REQUESTED MAY FILE A WRITTEN COMPLAINT AND REQUEST FOR A HEARING WITH THE BOARD, SPECIFYING THE GROUNDS RELIED UPON.

(d) ANY HEARING BEFORE THE BOARD SHALL BE HELD PURSUANT TO THE PROVISIONS OF SECTION 24-4-105, C.R.S.

12-67-121. Inspection fees. (1) AS ESTABLISHED PURSUANT TO SECTION 24-34-105, C.R.S., INSPECTION FEES SHALL BE CHARGED BY THE STATE HVACR BOARD FOR THE FOLLOWING CATEGORIES:

(a) RESIDENTIAL CONSTRUCTION AND EXTENSIVE REMODELING (BASED ON ENCLOSED LIVING AREA) NOT INCLUDING EXTENSIONS TO OR MINOR REMODELING OF EXISTING INSTALLATIONS, WHICH SHALL BE GOVERNED BY PARAGRAPH (b) OF THIS SUBSECTION (1), AND NOT, IN ANY INSTANCE, TO INCLUDE ANY MAINTENANCE, REPAIR, OR ALTERATION OF EXISTING FACILITIES THAT ARE EXEMPT AS SET FORTH IN THIS ARTICLE:

(I) NOT MORE THAN ONE THOUSAND SQUARE FEET;

(II) MORE THAN ONE THOUSAND SQUARE FEET BUT NOT MORE THAN ONE THOUSAND FIVE HUNDRED SQUARE FEET;

(III) MORE THAN ONE THOUSAND FIVE HUNDRED SQUARE FEET BUT NOT MORE THAN TWO THOUSAND SQUARE FEET, PER ONE HUNDRED SQUARE FEET IN EXCESS OF TWO THOUSAND SQUARE FEET REINSPCTIONS.

(b) ALL OTHER FEES, EXCEPT FOR INSPECTIONS IN MOBILE HOME AND TRAVEL TRAILER PARKS OR OTHER MOVABLE STRUCTURES, SHALL BE COMPUTED ON THE DOLLAR VALUE OF THE HVACR INSTALLATION, INCLUDING MATERIALS AND ITEMS, AND THE TOTAL COST TO THE CONSUMER. FEE CATEGORIES SHALL BE SET FOR THE FOLLOWING VALUATIONS OF WORK:

(I) NOT MORE THAN THREE HUNDRED DOLLARS;

(II) MORE THAN THREE HUNDRED DOLLARS BUT NOT MORE THAN TWO THOUSAND DOLLARS;

(III) MORE THAN TWO THOUSAND DOLLARS BUT NOT MORE THAN FIFTY THOUSAND DOLLARS;

(IV) MORE THAN FIFTY THOUSAND DOLLARS BUT NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS; AND

(V) MORE THAN FIVE HUNDRED THOUSAND DOLLARS.

(2) BECAUSE HVACR INSPECTIONS ARE MATTERS OF STATEWIDE CONCERN, THE MAXIMUM FEES, ESTABLISHED ANNUALLY, CHARGEABLE FOR HVACR INSPECTIONS BY ANY TOWN OR CITY, COUNTY, OR CITY AND COUNTY SHALL NOT BE MORE THAN TWENTY-FIVE PERCENT ABOVE THOSE PROVIDED IN THIS SECTION, AND NO SUCH LOCAL GOVERNMENT SHALL IMPOSE OR COLLECT ANY OTHER FEE OR CHARGE RELATED TO HVACR INSPECTIONS OR PERMITS.

(3) IF AN APPLICATION IS NOT FILED IN ADVANCE OF THE COMMENCEMENT OF AN INSTALLATION, THE INSPECTION FEE SHALL BE TWICE THE AMOUNT PRESCRIBED THEREFOR IN THIS SECTION.

12-67-122. Disciplinary action by the board - licenses or registrations denied, suspended, or revoked. (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 MAY PLACE A LICENSEE OR REGISTRANT ON PROBATION FOR ANY OF THE FOLLOWING REASONS:

(a) VIOLATION OF OR AIDING OR ABETTING IN THE VIOLATION OF ANY PROVISION OF THIS ARTICLE;

(b) VIOLATION OF THE RULES OR ORDERS PROMULGATED BY THE BOARD IN CONFORMITY WITH THE PROVISIONS OF THIS ARTICLE OR AIDING OR ABETTING SUCH VIOLATION;

(c) FAILURE OR REFUSAL TO REMOVE, WITHIN A REASONABLE TIME, THE CAUSE OF THE DISAPPROVAL OF ANY HVACR INSTALLATION AS REPORTED ON THE NOTICE OF DISAPPROVAL OF ANY HVACR INSTALLATION. "REASONABLE TIME" INCLUDES TIME FOR APPEAL TO AND A HEARING BEFORE THE BOARD;

(d) FAILURE OR REFUSAL TO MAINTAIN OR ADHERE TO THE MINIMUM STANDARDS SET FORTH IN RULES ADOPTED BY THE BOARD PURSUANT TO SECTION 12-67-105 (1);

(e) ANY CAUSE FOR WHICH THE ISSUANCE OF THE LICENSE COULD HAVE BEEN REFUSED HAD IT THEN EXISTED AND BEEN KNOWN TO THE BOARD;

(f) COMMITMENT OF ONE OR MORE ACTS OR OMISSIONS THAT DO NOT MEET GENERALLY ACCEPTED STANDARDS OF HVACR PRACTICE;

(g) CONVICTION OF OR ACCEPTANCE OF A PLEA OF GUILTY OR NOLO CONTENDERE BY A COURT TO A FELONY. IN CONSIDERING THE DISCIPLINARY

ACTION, THE BOARD SHALL BE GOVERNED BY THE PROVISIONS OF SECTION 24-5-101, C.R.S.

(h) ADVERTISING BY ANY LICENSEE OR REGISTRANT THAT IS FALSE OR MISLEADING;

(i) DECEPTION, MISREPRESENTATION, OR FRAUD IN OBTAINING OR ATTEMPTING TO OBTAIN A LICENSE OR IN OBTAINING OR ATTEMPTING TO OBTAIN THE RENEWAL OF A LICENSE OR REGISTRATION;

(j) FAILURE OF A MASTER HVACR SUPERVISOR WHO IS CHARGED WITH SUPERVISING ALL HVACR WORK WITHIN THE MASTER HVACR SUPERVISOR'S AREA OF LICENSE CATEGORY PERFORMED BY A CONTRACTOR PURSUANT TO SECTION 12-67-108 (1) TO ADEQUATELY SUPERVISE SUCH WORK OR FAILURE OF ANY LICENSEE TO ADEQUATELY SUPERVISE AN APPRENTICE OR TRAINEE WHO IS WORKING AT THE TRADE PURSUANT TO SECTION 12-67-114;

(k) EMPLOYMENT OF ANY PERSON REQUIRED BY THIS ARTICLE TO BE LICENSED OR REGISTERED TO OBTAIN A PERMIT WHO HAS NOT OBTAINED SUCH LICENSE, REGISTRATION, OR PERMIT;

(1) DISCIPLINARY ACTION AGAINST A HVACR'S LICENSE IN ANOTHER STATE. EVIDENCE OF SUCH DISCIPLINARY ACTION SHALL BE PRIMA FACE EVIDENCE FOR DENIAL OF LICENSURE OR OTHER DISCIPLINARY ACTION IF THE VIOLATION WOULD BE GROUNDS FOR SUCH DISCIPLINARY ACTION IN THIS STATE.

(2) 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, A LETTER OF ADMONITION MAY BE SENT BY CERTIFIED MAIL TO THE LICENSEE OR REGISTRANT AGAINST WHOM A COMPLAINT WAS MADE AND A COPY THEREOF TO THE PERSON MAKING THE COMPLAINT, BUT, WHEN A LETTER OF

ADMONITION IS SENT BY CERTIFIED MAIL BY THE BOARD TO A LICENSEE OR REGISTRANT COMPLAINED AGAINST, SUCH PERSON SHALL BE ADVISED THAT THE PERSON HAS THE RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS AFTER PROVEN RECEIPT OF THE LETTER, THAT FORMAL DISCIPLINARY PROCEEDINGS BE INITIATED AGAINST THE PERSON TO ADJUDICATE THE PROPRIETY OF THE CONDUCT UPON WHICH THE LETTER OF ADMONITION IS BASED. IF SUCH REQUEST IS TIMELY MADE, THE LETTER OF ADMONITION SHALL BE DEEMED VACATED, AND THE MATTER SHALL BE PROCESSED BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

(3) ANY DISCIPLINARY ACTION TAKEN BY THE BOARD AND JUDICIAL REVIEW OF SUCH ACTION SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 4 OF TITLE 24, C.R.S., AND THE HEARING AND OPPORTUNITY FOR REVIEW SHALL BE CONDUCTED PURSUANT TO SAID ARTICLE BY THE BOARD OR AN ADMINISTRATIVE LAW JUDGE AT THE BOARD'S DISCRETION.

12-67-123. Reapplication after revocation of licensure. NO PERSON WHOSE LICENSE HAD BEEN REVOKED SHALL BE ALLOWED TO REAPPLY FOR LICENSURE EARLIER THAN TWO YEARS FROM THE EFFECTIVE DATE OF THE REVOCATION.

12-67-124. Reconsideration and review of board action. THE BOARD, ON ITS OWN MOTION OR UPON APPLICATION, AT ANY TIME AFTER THE IMPOSITION OF ANY DISCIPLINE AS PROVIDED FOR IN SECTION 12-67-122, MAY RECONSIDER ITS PRIOR ACTION AND REINSTATE OR RESTORE SUCH LICENSE OR TERMINATE PROBATION OR REDUCE THE SEVERITY OF ITS PRIOR DISCIPLINARY ACTION. THE TAKING OF ANY SUCH FURTHER ACTION, OR THE HOLDING OF A HEARING WITH RESPECT THERETO, SHALL REST IN THE SOLE DISCRETION OF THE BOARD.

12-67-125. Immunity. ANY MEMBER OF THE BOARD SHALL BE IMMUNE FROM SUIT IN ANY CIVIL ACTION BASED UPON ANY DISCIPLINARY PROCEEDINGS OR OTHER OFFICIAL ACTIONS PERFORMED IN GOOD FAITH. ANY WITNESS, CONSULTANT, OR COMPLAINANT PARTICIPATING IN GOOD FAITH IN THE MAKING OF A COMPLAINT OR REPORT OR PARTICIPATING IN GOOD FAITH IN ANY INVESTIGATIVE OR ADMINISTRATIVE PROCEEDING PURSUANT TO THIS ARTICLE SHALL ALSO BE IMMUNE FROM SUIT IN ANY CIVIL ACTION.

12-67-126. Violations - penalty. (1) IT IS UNLAWFUL FOR ANY PERSON TO:

(a) VIOLATE THE PROVISIONS OF SECTION 12-67-111, EXCEPT FOR THOSE PRACTICING PURSUANT TO SECTION 12-67-107 OR 12-67-115;

(b) PRACTICE AS AN HVACR JOURNEYMAN, MASTER HVACR SUPERVISOR, HVACR CONTRACTOR, OR APPRENTICE DURING A PERIOD WHEN THE PERSON'S LICENSE OR REGISTRATION HAS BEEN SUSPENDED OR REVOKED;

(c) SELL OR FRAUDULENTLY OBTAIN OR FURNISH A LICENSE TO PRACTICE AS AN HVACR JOURNEYMAN OR MASTER HVACR SUPERVISOR OR TO AID OR ABET THEREIN.

(2) ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION COMMITS A CLASS 3 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.

12-67-127. Judicial review. THE COURT OF APPEALS SHALL HAVE INITIAL JURISDICTION TO REVIEW ALL FINAL ACTIONS AND ORDERS OF THE BOARD THAT ARE SUBJECT TO JUDICIAL REVIEW. SUCH PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH SECTION 24-4-106 (11), C.R.S.

12-67-128. Repeal of article. THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 1999. PRIOR TO SUCH REPEAL, THE STATE HVACR BOARD SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

SECTION 2. 24-1-122 (3), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

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:

(mm) STATE HVACR BOARD, CREATED BY ARTICLE 67 OF TITLE 12, C.R.S.

SECTION 3. 24-34-104 (28) (c), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (28) (c) The following agencies and functions of the specified agencies shall terminate July 1, 1999:

(IV) THE STATE HVACR BOARD, CREATED BY ARTICLE 67 OF TITLE 12, C.R.S.

SECTION 4. Effective date - applicability. This act shall take effect July 1, 1996, and shall apply to acts occurring on or after said date.

SECTION 5. 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.

BILL T

A BILL FOR AN ACT

CONCERNING ADVISORY BODIES SCHEDULED FOR REPEAL JULY 1, 1996.

Bill Summary
"Extension Of Pesticide Advisory Body"

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

Joint Legislative Sunrise and Sunset Review Committee. Continues the pesticide and pesticide use advisory committee scheduled for repeal July 1, 1996.

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

SECTION 1. 2-3-1203 (3) (i) (II), Colorado Revised Statutes, 1980 Repl. Vol., as amended, is repealed as follows:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(i) July 1, 1996:

(II) ~~The advisory committee for regulation of pesticides and pesticide use, appointed pursuant to section 35-10-125, C.R.S.;~~

SECTION 2. 35-10-125 (6), Colorado Revised Statutes, 1995 Repl. Vol., is repealed as follows:

35-10-125. Advisory committee - sunset review. (6) (a) ~~This section is repealed, effective July 1, 1996.~~

(b) ~~Prior to said repeal, the advisory committee appointed pursuant to this section shall be reviewed as provided for in section 2-3-1203, C.R.S.~~

SECTION 3. 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.