

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0232.01 Christy Chase

SENATE BILL 09-239

SENATE SPONSORSHIP

Tochtrop, Boyd

HOUSE SPONSORSHIP

Riesberg,

Senate Committees
Health and Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE STATE BOARD OF NURSING.**

Bill Summary

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

Sunset Process - Senate Health and Human Services Committee. Implements the recommendations of the department of regulatory agencies in its sunset review of the state board of nursing (state board) as follows:

- ! Continues the state board and its functions through July 1, 2020.
- ! Eliminates the requirement that one of the 2 licensed practical nurses serving on the state board must be employed by a rural hospital and instead encourages the

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

governor, when making appointments to the state board, to strive for geographical, political, urban, and rural balance among the board membership.

- ! Clarifies that state board members representing the public cannot currently hold, and cannot have held in the past, any health care license, and they cannot be employed by or connected with a health care facility, agency, or insurer.
- ! Eliminates the requirement that state board members be confirmed by the senate.
- ! Lengthens state board member terms from 3 years to 4 years.
- ! Authorizes the state board to impose civil fines in lieu of other discipline and requires the state board to adopt rules to define a fining structure.
- ! Removes the requirement that license applicants submit proof that they are not addicted to drugs or alcohol.
- ! Modifies provisions regarding grounds for disciplining a licensee as follows:
 - ! Establishes habitual intemperance or excessive use of habit-forming drugs or controlled substances as a ground for discipline, rather than alcohol or drug dependence and addiction;
 - ! Eliminates the requirement that failure to submit a completed questionnaire to the state board upon license renewal must be negligent or willful in order to constitute grounds for discipline; and
 - ! Adds failure to notify the state board of a criminal conviction within 45 days after the conviction as a ground for discipline.
- ! Consolidates provisions regarding the circumstances in which the state board may deny a license and adds that the state board may deny a license to an applicant who lacks continued competency.
- ! Requires a nurse who has been denied a license, has had a license revoked, or has surrendered a license to avoid discipline to wait 2 years before reapplying for a license to practice nursing.
- ! Repeals obsolete provisions regarding graduate nurse permits and vouchers to spend moneys appropriated to the state board.
- ! Repeals the requirement that proceedings relating to complaints against nurses where formal charges are filed are subject to the open records law.
- ! Clarifies that the state board may conduct a criminal history record check on any person under the state board's

- regulatory authority.
- ! Clarifies that professional nurses can perform medical functions delegated by physician assistants.
- ! Specifies that, in addition to persons seeking to renew a license, applicants for an initial or reinstated license are required to pay a fee to support the nursing peer health assistance program or nurse alternative to discipline program.
- ! On and after July 1, 2010, requires all new applicants for placement on the advanced practice registry to have national certification.
- ! Eliminates restrictions on types of medications that an advanced practice nurse can prescribe. Modifies the requirements for an advanced practice nurse with prescriptive authority to enter into a collaborative agreement with a physician.
- ! Requires the state board of nursing, in cooperation with the state board of medical examiners, to adopt joint rules governing the collaborative agreements between physicians and advanced practice nurses with prescriptive authority.
- ! Repeals the "Nursing Shortage Alleviation Act of 2002".
- ! Requires advanced practice nurses engaged in independent practice to obtain professional liability insurance, and allows the state board to adopt rules specifying exemptions to and lesser requirements for professional liability coverage. Adds failure to maintain professional liability insurance to the grounds for discipline by the board.

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

2 **SECTION 1.** 12-38-133 (1), Colorado Revised Statutes, is
3 amended to read:

4 **12-38-133. Repeal of article - review of functions.** (1) This
5 article is repealed, effective July 1, ~~2009~~ 2020.

6 **SECTION 2.** 24-34-104 (40) (o) and (51), Colorado Revised
7 Statutes, are amended to read:

8 **24-34-104. General assembly review of regulatory agencies
9 and functions for termination, continuation, or reestablishment.**

10 (40) The following agencies, functions, or both, shall terminate on July

1 1, 2009:

2 (o) ~~The state board of nursing, created by article 38 of title 12,~~
3 ~~C.R.S.;~~

4 (51) The following agencies, functions, or both, shall terminate on
5 July 1, 2020:

6 (a) The regulation of persons working in coal mines by the
7 department of natural resources through the coal mine board of examiners
8 in accordance with article 22 of title 34, C.R.S.;

9 (b) THE STATE BOARD OF NURSING, CREATED BY ARTICLE 38 OF
10 TITLE 12, C.R.S.

11 **SECTION 3.** 12-38-104 (1) and (2) (b), Colorado Revised
12 Statutes, are amended to read:

13 **12-38-104. State board of nursing created.** (1) (a) There is
14 hereby created the state board of nursing in the division of registrations
15 in the department of regulatory agencies, which board shall consist of
16 eleven members WHO ARE RESIDENTS OF THIS STATE, appointed by the
17 governor ~~with senate confirmation~~, as follows:

18 (I) Two members of the board shall be licensed practical nurses
19 engaged in the practice of practical nursing ~~one of whom shall be~~
20 ~~employed by a licensed hospital in a rural area~~ AND LICENSED IN THIS
21 STATE;

22 (II) Seven members of the board shall be licensed professional
23 nurses WHO ARE ACTIVELY EMPLOYED IN THEIR RESPECTIVE NURSING
24 PROFESSIONS AND LICENSED IN THIS STATE. THE PROFESSIONAL NURSE
25 MEMBERS SHALL HAVE BEEN EMPLOYED FOR AT LEAST THREE YEARS IN
26 THEIR RESPECTIVE CATEGORIES. MEMBERS SHALL BE as follows:

27 (A) One member shall be engaged in professional nursing

1 education;

2 (B) One member shall be engaged in practical nursing education
3 in a program that prepares an individual for licensure;

4 (C) One member shall be engaged in home health care;

5 (D) One member shall be registered as an advanced practice nurse
6 pursuant to section 12-38-111.5;

7 (E) One member shall be engaged in nursing service
8 administration; and

9 (F) Two members shall be engaged as staff nurses, including one
10 staff nurse who is employed in a hospital and one employed in a nursing
11 care facility;

12 (III) Two members of the board shall be persons who are not
13 CURRENTLY LICENSED AND HAVE NOT BEEN PREVIOUSLY licensed AS
14 HEALTH CARE PROVIDERS, AND WHO ARE NOT employed BY or in any way
15 connected with, or ~~with~~ HAVE any financial interest in, ~~any~~ A health care
16 facility, agency, or insurer.

17 ~~(IV) Any statutory change in board composition shall be~~
18 ~~implemented when the terms of current members expire and no member~~
19 ~~shall be asked to resign before the end of a term due to such statutory~~
20 ~~changes.~~

21 ~~(b) The nurse members of the board shall be actively employed in~~
22 ~~their respective nursing professions, and the professional nurse members~~
23 ~~shall have been employed for at least three years in their respective~~
24 ~~categories. All members shall be residents of this state and the nurse~~
25 ~~members shall be licensed in this state. ANY STATUTORY CHANGE IN~~
26 ~~BOARD COMPOSITION SHALL BE IMPLEMENTED WHEN THE TERMS OF~~
27 ~~CURRENT MEMBERS EXPIRE, AND NO MEMBER SHALL BE ASKED TO RESIGN~~

1 BEFORE THE END OF A TERM DUE TO SUCH STATUTORY CHANGES.

2 (b.5) WHEN MAKING APPOINTMENTS TO THE BOARD, THE
3 GOVERNOR SHALL STRIVE TO ACHIEVE GEOGRAPHICAL, POLITICAL, URBAN,
4 AND RURAL BALANCE AMONG THE BOARD MEMBERSHIP.

5 (c) (I) Each member of the board shall be appointed for a term of
6 three years; ~~except as otherwise provided in subsection (2) of this section~~
7 THAT MEMBERS APPOINTED TO THE BOARD FOR A FIRST OR SECOND TERM
8 ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, SHALL
9 BE APPOINTED FOR A TERM OF FOUR YEARS.

10 (II) Any interim appointment necessary to fill a vacancy which has
11 occurred by any reason other than the expiration of a term shall be for the
12 remainder of the term of the individual member whose office has become
13 vacant.

14 (III) A member may be reappointed for a subsequent term at the
15 pleasure of the governor, ~~with the consent of the senate~~, but no member
16 shall serve for more than two consecutive terms.

17 (d) Notwithstanding the provisions of this subsection (1) to the
18 contrary, if, as determined by the governor, an appropriate applicant for
19 membership on the board pursuant to paragraph (a) of this subsection (1)
20 is not available to serve on the board for a particular term, the governor
21 may appoint a nurse whose license is in good standing to fill the vacancy
22 for the length of that term. At the end of such term, if the governor, after
23 a good faith attempt, cannot find an appropriate applicant pursuant to
24 paragraph (a) of this subsection (1), the governor may appoint a nurse
25 whose license is in good standing to fill the vacancy for one term.

26 (2) (b) ~~From the five board members whose terms are to expire on~~
27 ~~July 1, 1985, the governor shall select one member and extend that~~

1 member's term to July 1, 1987. The terms of the four other members shall
2 expire as scheduled on July 1, 1985. From the five board members whose
3 terms are to expire on July 1, 1986, the governor shall select one member
4 and extend that member's term to July 1, 1987. The terms of the four
5 other members shall expire as scheduled on July 1, 1986. The term of the
6 eleventh member shall expire on July 1, 1987, as scheduled.

7 **SECTION 4.** 12-38-108 (1) (b.5), Colorado Revised Statutes, is
8 amended to read:

9 **12-38-108. Powers and duties of the board - rules.** (1) The
10 board has the following powers and duties:

11 (b.5) To revoke, suspend, withhold, limit the scope of, or refuse
12 to renew any license, to place ~~on probation~~ a licensee or temporary
13 licensee ON PROBATION, TO IMPOSE AN ADMINISTRATIVE FINE ON A
14 LICENSEE, or to issue a letter of admonition to a licensee in accordance
15 with the procedures set forth in section 12-38-116.5 upon proof that such
16 licensee has ~~violated~~ COMMITTED AN ACT THAT CONSTITUTES grounds for
17 discipline ~~in~~ UNDER section 12-38-117 or 12-42-113;

18 **SECTION 5.** The introductory portion to 12-38-116.5 (4) (c)
19 (III), Colorado Revised Statutes, is amended to read:

20 **12-38-116.5. Disciplinary procedures of the board - inquiry**
21 **and hearings panels.** (4) (c) (III) If the hearings panel finds the charges
22 proven and orders that discipline be imposed, it shall also determine the
23 extent of such discipline, which may be in the form of a letter of
24 admonition regarding a license or suspension for a definite or indefinite
25 period, revocation, or nonrenewal of a license to practice. IN ADDITION
26 TO ANY OTHER DISCIPLINE THAT MAY BE IMPOSED PURSUANT TO THIS
27 SECTION, THE HEARINGS PANEL MAY IMPOSE A FINE OF NO LESS THAN TWO

1 HUNDRED FIFTY DOLLARS BUT NO MORE THAN ONE THOUSAND DOLLARS
2 PER VIOLATION ON ANY NURSE WHO VIOLATES THIS ARTICLE OR ANY RULE
3 ADOPTED PURSUANT TO THIS ARTICLE. THE BOARD SHALL ADOPT RULES
4 ESTABLISHING A FINE STRUCTURE AND THE CIRCUMSTANCES UNDER WHICH
5 FINES MAY BE IMPOSED. ALL FINES COLLECTED PURSUANT TO THIS
6 SUBPARAGRAPH (III) SHALL BE TRANSMITTED TO THE STATE TREASURER
7 WHO SHALL CREDIT THE SAME TO THE GENERAL FUND. In determining
8 appropriate disciplinary action, the hearings panel shall first consider
9 sanctions that are necessary to protect the public. Only after the panel has
10 considered such sanctions shall it consider and order requirements
11 designed to rehabilitate the nurse. If discipline other than revocation of
12 a license to practice is imposed, the hearings panel may also order that the
13 nurse be granted probation and allowed to continue to practice during the
14 period of such probation. The hearings panel may also include in any
15 disciplinary order that allows the nurse to continue to practice such
16 conditions as the panel may deem appropriate to assure that the nurse is
17 physically, mentally, and otherwise qualified to practice nursing in
18 accordance with generally accepted standards of practice, including any
19 of the following:

20 **SECTION 6. Repeal.** 12-38-111 (1) (c), Colorado Revised
21 Statutes, is repealed as follows:

22 **12-38-111. Requirements for professional nurse licensure.**

23 (1) The board shall issue a license to engage in the practice of
24 professional nursing to any applicant who:

25 (c) ~~Submits proof satisfactory to the board upon such forms as the~~
26 ~~board may require to show that the applicant presently is not and, for the~~
27 ~~twelve-month period immediately preceding the date of the application,~~

1 ~~was not addicted to any controlled substance, as defined in section~~
2 ~~12-22-303 (7), or is not a regular user of the same without a prescription~~
3 ~~therefor and that the applicant is not habitually intemperate in the use of~~
4 ~~intoxicating liquor;~~

5 **SECTION 7. Repeal.** 12-38-112 (1) (c), Colorado Revised
6 Statutes, is repealed as follows:

7 **12-38-112. Requirements for practical nurse licensure.**

8 (1) The board shall issue a license to engage in the practice of practical
9 nursing to any applicant who:

10 (c) ~~Submits proof satisfactory to the board upon such forms as the~~
11 ~~board may require to show that the applicant presently is not and, for the~~
12 ~~twelve-month period immediately preceding the date of the application,~~
13 ~~was not addicted to any controlled substance, as defined in section~~
14 ~~12-22-303 (7), or is not a regular user of the same without a prescription~~
15 ~~therefor and that the applicant is not habitually intemperate in the use of~~
16 ~~intoxicating liquor;~~

17 **SECTION 8.** 12-38-117 (1) (i) and (1) (v), Colorado Revised
18 Statutes, are amended, and the said 12-38-117 (1) is further amended BY
19 THE ADDITION OF A NEW PARAGRAPH, to read:

20 **12-38-117. Grounds for discipline.** (1) "Grounds for
21 discipline", as used in this article, means any action by any person who:

22 (i) ~~Is addicted to or dependent on alcohol or~~ EXCESSIVELY USES
23 OR ABUSES ALCOHOL, habit-forming drugs, ~~is a habitual user of~~ controlled
24 substances, as defined in section 12-22-303, ~~(7)~~; or other drugs having
25 similar effects, or is diverting controlled substances, as defined in section
26 12-22-303 ~~(7)~~, or other drugs having similar effects from the licensee's
27 place of employment; except that the board has the discretion not to

1 discipline the licensee if such licensee is participating in good faith in a
2 program approved by the board designed to end such ~~addiction or~~
3 ~~dependency~~ EXCESSIVE USE OR ABUSE;

4 (v) Has ~~negligently or willfully~~ failed to accurately complete and
5 submit to the board the designated questionnaire upon renewal of a
6 license pursuant to section 12-38-111 (3), 12-38-112 (3), or 12-38-112.5
7 (8);

8 (z) HAS FAILED TO REPORT TO THE BOARD, WITHIN FORTY-FIVE
9 DAYS AFTER A FINAL CONVICTION, THAT THE PERSON HAS BEEN
10 CONVICTED OF A CRIME, AS DEFINED IN TITLE 18, C.R.S.

11 **SECTION 9. Repeal.** 12-38-113, Colorado Revised Statutes, is
12 repealed as follows:

13 **12-38-113. Denial of license.** ~~(1) The board may refuse to issue~~
14 ~~a license or temporary license to practice as a nurse to any applicant who~~
15 ~~has had a license to engage in the practice of nursing or any health care~~
16 ~~occupation revoked by any legally authorized board. The board may~~
17 ~~require any such applicant to pass a written examination as provided in~~
18 ~~section 12-38-110 subsequent to a one-year waiting period after such~~
19 ~~revocation as a prerequisite to licensure. This subsection (1) in no way~~
20 ~~interferes with the authority of the board to revoke a license.~~

21 ~~(2) The board may refuse to issue a license or temporary license~~
22 ~~to practice as a nurse to any applicant during the time the applicant's~~
23 ~~license is under suspension in another state.~~

24 **SECTION 10.** 12-38-118 (1), (2), and (6), Colorado Revised
25 Statutes, are amended to read:

26 **12-38-118. Withholding or denial of license - hearing.**

27 (1) (a) The board is empowered to determine summarily whether an

1 applicant for a license or a temporary license to practice as a nurse
2 possesses the qualifications required by this article, ~~or~~ whether there is
3 probable cause to believe that an applicant has done any of the acts set
4 forth in section 12-38-117 as grounds for discipline, OR WHETHER THE
5 APPLICANT HAS HAD A LICENSE TO PRACTICE NURSING OR ANY OTHER
6 HEALTH CARE OCCUPATION REVOKED BY ANY LEGALLY AUTHORIZED
7 BOARD.

8 (b) As used in this section:

9 (I) "Applicant" includes a nurse seeking reinstatement or
10 reactivation of a license pursuant to section 12-38-118.5, but does not
11 include a renewal applicant.

12 (II) "LEGALLY AUTHORIZED BOARD" MEANS A BOARD CREATED
13 PURSUANT TO THE LAWS OF THIS STATE OR OF ANOTHER STATE FOR THE
14 PURPOSE OF LICENSING OR OTHERWISE AUTHORIZING A PERSON TO ENGAGE
15 IN A HEALTHCARE OCCUPATION. THE TERM INCLUDES ANY
16 GOVERNMENTAL ENTITY CHARGED WITH LICENSING OR OTHER OVERSIGHT
17 OF PERSONS ENGAGED IN A HEALTHCARE OCCUPATION.

18 (2) (a) (I) If the board determines that an applicant does not
19 possess the qualifications required by this article, ~~or~~ that probable cause
20 exists to believe that an applicant has done any of the acts set forth in
21 section 12-38-117, OR THAT THE APPLICANT HAS HAD A NURSING OR
22 OTHER HEALTH CARE OCCUPATION LICENSE REVOKED BY ANOTHER
23 LEGALLY AUTHORIZED BOARD, the board may withhold or deny the
24 applicant a license. ~~In such instance,~~

25 (II) THE BOARD MAY REFUSE TO ISSUE A LICENSE OR TEMPORARY
26 LICENSE TO PRACTICE AS A NURSE TO ANY APPLICANT DURING THE TIME
27 THE APPLICANT'S LICENSE IS UNDER SUSPENSION IN ANOTHER STATE.

1 (III) THE BOARD MAY REFUSE TO ISSUE A LICENSE OR MAY GRANT
2 A LICENSE SUBJECT TO TERMS OF PROBATION IF THE BOARD DETERMINES
3 THAT AN APPLICANT FOR A LICENSE HAS NOT ACTIVELY PRACTICED
4 PRACTICAL OR PROFESSIONAL NURSING, OR HAS NOT OTHERWISE
5 MAINTAINED CONTINUED COMPETENCY, AS DETERMINED BY THE BOARD,
6 DURING THE TWO YEARS IMMEDIATELY PRECEDING THE APPLICATION FOR
7 LICENSURE UNDER THIS ARTICLE.

8 (b) IF THE BOARD REFUSES TO ISSUE A LICENSE TO AN APPLICANT
9 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2), the provisions of
10 section 24-4-104 (9), C.R.S., shall apply. ~~and~~ UPON SUCH REFUSAL, the
11 board shall provide ~~such~~ THE applicant with a statement in writing setting
12 forth THE FOLLOWING:

13 (I) The basis of the board's determination that the applicant:

14 (A) Does not possess the qualifications required by this article;

15 (B) HAS HAD A NURSING OR OTHER HEALTH CARE OCCUPATION
16 LICENSE REVOKED OR SUSPENDED BY ANOTHER LEGALLY AUTHORIZED
17 BOARD; or

18 (C) HAS NOT ACTIVELY PRACTICED PRACTICAL OR PROFESSIONAL
19 NURSING, OR HAS NOT MAINTAINED CONTINUED COMPETENCY, DURING
20 THE PREVIOUS TWO YEARS; OR

21 (II) The factual basis for probable cause that the applicant has
22 done any of the acts set forth in section 12-38-117.

23 (c) IF THE BOARD REFUSES TO ISSUE A LICENSE TO AN APPLICANT
24 ON THE GROUNDS THAT THE APPLICANT'S NURSING OR OTHER HEALTH
25 CARE OCCUPATION LICENSE WAS REVOKED BY ANOTHER LEGALLY
26 AUTHORIZED BOARD, THE BOARD MAY REQUIRE THE APPLICANT TO PASS
27 A WRITTEN EXAMINATION AS PROVIDED IN SECTION 12-38-110, AS A

1 PREREQUISITE TO LICENSURE. THE APPLICANT SHALL NOT BE ALLOWED TO
2 TAKE THE WRITTEN EXAMINATION UNTIL AT LEAST TWO YEARS AFTER THE
3 REVOCATION OF THE NURSING OR OTHER HEALTH CARE OCCUPATION
4 LICENSE.

5 (6) (a) At ~~such~~ THE hearing, the applicant shall have the burden of
6 proof to show that: ~~he~~

7 (I) THE APPLICANT possesses the qualifications required for
8 licensure under this article;

9 (II) THE APPLICANT'S NURSING OR OTHER HEALTH CARE
10 OCCUPATION LICENSE WAS NOT REVOKED BY ANOTHER LEGALLY
11 AUTHORIZED BOARD; OR

12 (III) THE APPLICANT HAS ACTIVELY PRACTICED PRACTICAL OR
13 PROFESSIONAL NURSING, OR HAS MAINTAINED CONTINUED COMPETENCY,
14 DURING THE TWO YEARS PRIOR TO APPLICATION FOR A LICENSE UNDER
15 THIS ARTICLE.

16 (b) The board shall have the burden of proof to show commission
17 of acts set forth in section 12-38-117.

18 **SECTION 11.** 12-38-116.5 (4), Colorado Revised Statutes, is
19 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

20 **12-38-116.5. Disciplinary procedures of the board - inquiry**
21 **and hearings panels.** (4) (e) ANY PERSON WHOSE LICENSE TO PRACTICE
22 NURSING IS REVOKED OR WHO SURRENDERS HIS OR HER LICENSE TO AVOID
23 DISCIPLINE SHALL NOT BE ELIGIBLE TO APPLY FOR ANY LICENSE FOR TWO
24 YEARS AFTER THE DATE THE LICENSE IS REVOKED OR SURRENDERED. THE
25 TWO-YEAR WAITING PERIOD APPLIES TO ANY PERSON WHOSE LICENSE TO
26 PRACTICE NURSING OR ANY OTHER HEALTH CARE OCCUPATION IS REVOKED
27 BY ANY OTHER LEGALLY QUALIFIED BOARD.

1 **SECTION 12. Repeal.** 12-38-103 (6) and (7), Colorado Revised
2 Statutes, are repealed as follows:

3 **12-38-103. Definitions.** As used in this article, unless the context
4 otherwise requires:

5 (6) ~~"Graduate nurse" means a person who has graduated from an~~
6 ~~approved program of professional nursing, and only such graduates may~~
7 ~~use the term "graduate nurse" and its abbreviation, "G.N.", pending the~~
8 ~~results of the first licensure examination for which they are eligible.~~

9 (7) ~~"Graduate practical nurse" means a person who has graduated~~
10 ~~from an approved program of practical nursing, and only such graduates~~
11 ~~may use the term "graduate practical nurse" and its abbreviation,~~
12 ~~"G.P.N.", pending the results of the first licensure examination for which~~
13 ~~they are eligible.~~

14 **SECTION 13. Repeal.** 12-38-115 (2), Colorado Revised
15 Statutes, is repealed as follows:

16 **12-38-115. Temporary licenses and permits.** (2) ~~The board~~
17 ~~may issue a permit to graduates of approved educational programs~~
18 ~~pending the results of the licensing examination. Upon receipt of the~~
19 ~~results of the examination by the board, the permit shall expire. Such~~
20 ~~permit shall not be issued to any applicant who has previously failed an~~
21 ~~examination administered by the board or by another state or a territory~~
22 ~~of the United States or another country.~~

23 **SECTION 14.** 12-38-129, Colorado Revised Statutes, is amended
24 to read:

25 **12-38-129. Disposition of fees - appropriation.** All fees
26 collected pursuant to the authority of the state board of nursing shall be
27 transmitted to the state treasurer who shall credit the same pursuant to

1 section 24-34-105, C.R.S., and the general assembly shall make annual
2 appropriations pursuant to said section for the expenditures of the board
3 incurred in the performance of its duties. ~~All vouchers drawn against any~~
4 ~~such appropriation shall be signed and certified to by the executive officer~~
5 ~~of the board.~~

6 **SECTION 15.** 12-38-116.5 (9), Colorado Revised Statutes, is
7 amended to read:

8 **12-38-116.5. Disciplinary procedures of the board - inquiry**
9 **and hearings panels.** (9) (a) ~~Except when a decision to proceed with a~~
10 ~~disciplinary action has been agreed upon by a majority of an inquiry panel~~
11 ~~and a notice of formal complaint is drafted and served on the licensee by~~
12 ~~first-class mail, Investigations, examinations, hearings, meetings, or any~~
13 ~~other proceedings of the board conducted pursuant to the provisions of~~
14 ~~this section shall be exempt from the OPEN MEETINGS provisions of the~~
15 ~~open records law, article 72 "COLORADO SUNSHINE ACT OF 1972"~~
16 ~~CONTAINED IN PART 4 OF ARTICLE 6 of title 24, C.R.S., requiring that~~
17 ~~proceedings of the board be conducted publicly, or AND THE OPEN~~
18 ~~RECORDS PROVISIONS OF ARTICLE 72 OF TITLE 24, C.R.S., REQUIRING that~~
19 ~~the minutes or records of the board with respect to action of the board~~
20 ~~taken pursuant to the provisions of this section be open to public~~
21 ~~inspection.~~

22 (b) NOTWITHSTANDING THE EXEMPTIONS IN PARAGRAPH (a) OF
23 THIS SUBSECTION (9), RECORDS OF DISCIPLINARY ACTION TAKEN BY THE
24 BOARD PURSUANT TO THIS SECTION SHALL BE OPEN TO PUBLIC INSPECTION
25 PURSUANT TO THE OPEN RECORDS PROVISIONS OF ARTICLE 72 OF TITLE 24,
26 C.R.S.

27 **SECTION 16.** 12-38-108 (1) (l) (I) (B), Colorado Revised

1 Statutes, is amended to read:

2 **12-38-108. Powers and duties of the board - rules.** (1) The
3 board has the following powers and duties:

4 (1) (I) (B) To conduct criminal history record checks on any ~~nurse~~
5 ~~aide~~ INDIVIDUAL UNDER THE JURISDICTION OF THE BOARD, against whom
6 a complaint has been filed;

7 **SECTION 17.** 12-38-103 (4) and (9), Colorado Revised Statutes,
8 are amended to read:

9 **12-38-103. Definitions.** As used in this article, unless the context
10 otherwise requires:

11 (4) "Delegated medical function" means an aspect of care ~~which~~
12 THAT implements and is consistent with the medical plan as prescribed by
13 a licensed or otherwise legally authorized physician, podiatrist, or dentist
14 ~~Subject to the provisions of section 12-36-106 (5), a physician may~~
15 ~~delegate authority to a physician assistant who has passed a national~~
16 ~~certifying examination to implement any act under the medical plan,~~
17 ~~including the initiation of medical directives to any nurse licensed under~~
18 ~~section 12-38-111 or 12-38-112. Any such delegation to a physician~~
19 ~~assistant shall be made pursuant to the written or oral directions of a~~
20 ~~physician or written protocol~~ AND IS DELEGATED TO A REGISTERED
21 PROFESSIONAL NURSE OR A PRACTICAL NURSE BY A PHYSICIAN,
22 PODIATRIST, DENTIST, OR PHYSICIAN ASSISTANT. For purposes of this
23 subsection (4), "medical plan" means a written plan, verbal order,
24 standing order, or protocol, whether patient specific or not, that authorizes
25 specific or discretionary medical action, which may include but is not
26 limited to the selection of medication. Nothing in this subsection (4) shall
27 limit the practice of nursing as defined in this article.

1 (9) (a) "Practice of practical nursing" means the performance,
2 under the supervision of a dentist, physician, podiatrist, or professional
3 nurse authorized to practice in this state, of those services requiring the
4 education, training, and experience, as evidenced by knowledge, abilities,
5 and skills required in this article for licensing as a practical nurse
6 pursuant to section 12-38-112, in:

- 7 (I) Caring for the ill, injured, or infirm; ~~in~~
- 8 (II) Teaching and promoting preventive health measures; ~~in~~
- 9 (III) Acting to safeguard life and health; or ~~in~~
- 10 (IV) Administering treatments and medications prescribed by:
 - 11 (A) A legally authorized dentist, podiatrist, or physician; or
 - 12 (B) Physician assistant implementing a medical plan pursuant to
13 subsection (4) of this section.

14 (b) "PRACTICE OF PRACTICAL NURSING" INCLUDES THE
15 PERFORMANCE OF DELEGATED MEDICAL FUNCTIONS.

16 (c) Nothing in this article shall limit or deny a practical nurse from
17 supervising other practical nurses or other health care personnel.

18 **SECTION 18.** 12-38-131 (1), Colorado Revised Statutes, is
19 amended to read:

20 **12-38-131. Nursing peer health assistance or nurse alternative**
21 **to discipline program - fund - rules.** (1) As a condition of licensure
22 and for the purpose of supporting a nursing peer health assistance
23 program or a nurse alternative to discipline program, every ~~renewal~~
24 applicant FOR AN INITIAL LICENSE OR TO REINSTATE A LICENSE AND ANY
25 PERSON RENEWING A LICENSE ISSUED PURSUANT TO THIS ARTICLE shall pay
26 to the administering entity designated pursuant to paragraph (c) of
27 subsection (3) of this section a fee in an amount set by the board, not to

1 exceed twenty-five dollars per year; except that the board may adjust such
2 amount each January 1 to reflect changes in the United States department
3 of labor's bureau of labor statistics consumer price index, or its successor
4 index, for the Denver-Boulder consolidated metropolitan statistical area
5 for the price of goods paid by urban consumers.

6 **SECTION 19.** 12-38-111.5 (4), Colorado Revised Statutes, is
7 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

8 **12-38-111.5. Requirements for advanced practice nurse**
9 **registration - legislative declaration - definition - advanced practice**
10 **registry.** (4) (d) ON AND AFTER JULY 1, 2010, IN ADDITION TO THE
11 REQUIREMENTS OF PARAGRAPH (c) OF THIS SUBSECTION (4), A
12 PROFESSIONAL NURSE SHALL OBTAIN NATIONAL CERTIFICATION FROM A
13 NATIONALLY RECOGNIZED ACCREDITING AGENCY, AS DEFINED BY THE
14 BOARD BY RULE, IN THE APPROPRIATE SPECIALTY IN ORDER TO BE
15 INCLUDED IN THE ADVANCED PRACTICE REGISTRY; EXCEPT THAT
16 PROFESSIONAL NURSES WHO ARE INCLUDED IN THE REGISTRY AS OF JUNE
17 30, 2010, BUT HAVE NOT OBTAINED SUCH NATIONAL CERTIFICATION, MAY
18 THEREAFTER CONTINUE TO BE INCLUDED IN THE REGISTRY AND TO USE THE
19 APPROPRIATE TITLE AND ABBREVIATION.

20 **SECTION 20.** 12-38-111.6 (3) (a), (3) (b), (3) (c), and (4) (d),
21 Colorado Revised Statutes, are amended to read:

22 **12-38-111.6. Prescriptive authority - advanced practice nurses**
23 **- rules.** (3) (a) An advanced practice nurse may be granted authority to
24 prescribe prescription drugs AND CONTROLLED SUBSTANCES to provide
25 treatment for persons requiring routine health maintenance or routine
26 preventive care TO CLIENTS.

27 (b) ~~An advanced practice nurse may be granted authority to~~

1 ~~prescribe prescription drugs and controlled substances to provide~~
2 ~~treatment for persons requiring:~~

3 ~~(I) Care for an acute self-limiting condition;~~

4 ~~(II) Care for a chronic condition that has stabilized; or~~

5 ~~(III) Terminal comfort care.~~

6 (c) For purposes of this subsection (3), "self-limiting condition"
7 means a condition that has a defined diagnosis and a predictable outcome
8 and is not threatening to life or limb.

9 (4) An advanced practice nurse applying for prescriptive authority
10 shall provide evidence to the board of the following:

11 (d) (I) Execution of a written collaborative agreement with a
12 physician licensed in Colorado. ~~whose medical education, training,~~
13 ~~experience, and active practice correspond with that of the advanced~~
14 ~~practice nurse.~~

15 (II) The written collaborative agreement shall include, BUT SHALL
16 NOT BE LIMITED TO:

17 (A) A DECLARATION THAT THE INTENT OF THE COLLABORATIVE
18 AGREEMENT IS AN INTEGRATED SYSTEM OF CARE;

19 (B) The duties and responsibilities of each party TO THE
20 COLLABORATIVE AGREEMENT; AND

21 (C) DEFINITIONS OF AND provisions regarding consultation, ~~and~~
22 referral, QUALITY ASSURANCE, a mechanism designed by the advanced
23 practice nurse to assure appropriate prescriptive practice, and other
24 provisions as established by the board.

25 (III) The nurse shall provide to the board the name and
26 appropriate identifier of the physician and shall keep ~~such~~ THE
27 information current with the board. This information shall also be

1 available to the board of medical examiners, the board of pharmacy, and,
2 except for identification numbers granted by the drug enforcement
3 administration, to the general public. The nurse and collaborating
4 physician shall advise each other of collaborative agreements signed with
5 other parties. THE PARTIES TO A COLLABORATIVE AGREEMENT SHALL
6 REVIEW THE AGREEMENT PERIODICALLY TO ASSURE CONTINUED
7 COMPLIANCE WITH THIS SECTION AND SECTION 12-36-106.3.

8 (IV) Nothing in this paragraph (d) shall be construed to:

9 (A) Permit the independent practice of medicine, as defined in
10 section 12-36-106 (1) and (2), by an advanced practice nurse;

11 (B) Limit the ability of an advanced practice nurse to make an
12 independent judgment;

13 (C) Require supervision by a physician; or

14 (D) Require the use of methods for prescribing medication that are
15 codified and that do not allow the use of professional judgment or
16 variation according to the needs of the patient.

17 (V) A PHYSICIAN WHO ENTERS INTO A COLLABORATIVE
18 AGREEMENT WITH AN ADVANCED PRACTICE NURSE PURSUANT TO THIS
19 PARAGRAPH (d) SHALL NOT BE LIABLE FOR AN ADVANCED PRACTICE
20 NURSE'S PRACTICE BY VIRTUE OF HAVING ENTERED INTO THE AGREEMENT
21 WITH THE ADVANCED PRACTICE NURSE.

22 (VI) NO LATER THAN APRIL 1, 2010, THE STATE BOARD OF
23 NURSING, IN COOPERATION WITH THE STATE BOARD OF MEDICAL
24 EXAMINERS, SHALL ADOPT JOINT RULES TO IMPLEMENT THE
25 REQUIREMENTS OF THIS PARAGRAPH (d) PERTAINING TO COLLABORATIVE
26 AGREEMENTS BETWEEN PHYSICIANS AND ADVANCED PRACTICE NURSES.
27 IF THE STATE BOARD OF NURSING AND THE STATE BOARD OF MEDICAL

1 EXAMINERS FAIL TO ADOPT JOINT RULES BY APRIL 1, 2010, THE DIRECTOR
2 OF THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY
3 AGENCIES SHALL ADOPT THE RULES REQUIRED BY THIS SUBPARAGRAPH
4 (VI). THE JOINT RULES SHALL ASSURE PATIENT SAFETY WHILE PROMOTING
5 ACCESS TO HEALTH CARE SERVICES AND SHALL ADDRESS AT LEAST THE
6 FOLLOWING AREAS:

7 (A) STANDARDS FOR REMOTE CONSULTATION BETWEEN
8 ADVANCED PRACTICE NURSES AND PHYSICIANS TO FURTHER ELIMINATE
9 RESTRICTIONS ON THE PRESCRIPTIVE AUTHORITY OF ADVANCED PRACTICE
10 NURSES;

11 (B) REQUIREMENTS FOR CONSULTATION AND REFERRAL IF THE
12 COLLABORATING PHYSICIAN CANNOT BE REACHED; AND

13 (C) COLLABORATIVE AGREEMENT REQUIREMENTS THAT
14 ENCOURAGE PARTICIPATION BY REDUCING COSTS TO ADVANCED PRACTICE
15 NURSES.

16 **SECTION 21.** 12-36-106.3 (1), (2) (a), (2) (d), and (2) (e),
17 Colorado Revised Statutes, are amended, and the said 12-36-106.3 is
18 further amended BY THE ADDITION OF THE FOLLOWING NEW
19 SUBSECTIONS, to read:

20 **12-36-106.3. Collaborative agreements with advanced practice**
21 **nurses - rules.** (1) A physician licensed pursuant to the ~~"Colorado~~
22 ~~Medical Practice Act"~~ THIS ARTICLE may enter into a collaborative
23 agreement for the purposes of prescriptive authority by advanced practice
24 nurses pursuant to section 12-38-111.6 (4) (d). ~~(H)~~.

25 (2) A collaborative agreement shall include but shall not be
26 limited to:

27 (a) ~~An acknowledgment that both the physician and the advanced~~

1 ~~practice nurse are responsible for the generally accepted standards of~~
2 ~~health care;~~

3 (d) ~~An agreement between the parties as to the scope of~~
4 ~~prescriptive authority as it relates to the patient criteria in section~~
5 ~~12-38-111.6(3) and the active practice of the collaborating physician; and~~

6 (e) (I) Definitions of and provisions for REGARDING consultation,
7 referral, and quality assurance, A MECHANISM DESIGNED BY THE
8 ADVANCED PRACTICE NURSE TO ASSURE APPROPRIATE PRESCRIPTIVE
9 PRACTICE, AND OTHER PROVISIONS AS ESTABLISHED BY THE STATE BOARD
10 OF NURSING PURSUANT TO SECTION 12-38-111.6 (4) (d).

11 (II) ~~For purposes of this paragraph (e), "referral" occurs when the~~
12 ~~patient's physical or mental condition changes and such changes are not~~
13 ~~consistent with section 12-38-111.6 (3).~~

14 (4) A PHYSICIAN WHO ENTERS INTO A COLLABORATIVE
15 AGREEMENT WITH AN ADVANCED PRACTICE NURSE PURSUANT TO THIS
16 SECTION AND SECTION 12-38-111.6 (4) (d) SHALL NOT BE LIABLE FOR AN
17 ADVANCED PRACTICE NURSE'S PRACTICE BY VIRTUE OF HAVING ENTERED
18 INTO THE AGREEMENT WITH THE ADVANCED PRACTICE NURSE.

19 (5) NO LATER THAN APRIL 1, 2010, THE STATE BOARD OF MEDICAL
20 EXAMINERS, IN COOPERATION WITH THE STATE BOARD OF NURSING, SHALL
21 ADOPT JOINT RULES TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION
22 PERTAINING TO COLLABORATIVE AGREEMENTS BETWEEN PHYSICIANS AND
23 ADVANCED PRACTICE NURSES. IF THE STATE BOARD OF NURSING AND THE
24 STATE BOARD OF MEDICAL EXAMINERS FAIL TO ADOPT JOINT RULES BY
25 APRIL 1, 2010, THE DIRECTOR OF THE DIVISION OF REGISTRATIONS IN THE
26 DEPARTMENT OF REGULATORY AGENCIES SHALL ADOPT THE RULES
27 REQUIRED BY THIS SUBSECTION (5). THE JOINT RULES SHALL ASSURE

1 PATIENT SAFETY WHILE PROMOTING ACCESS TO HEALTH CARE SERVICES
2 AND SHALL ADDRESS AT LEAST THE FOLLOWING AREAS:

3 (a) STANDARDS FOR REMOTE CONSULTATION BETWEEN ADVANCED
4 PRACTICE NURSES AND PHYSICIANS TO FURTHER ELIMINATE RESTRICTIONS
5 ON THE PRESCRIPTIVE AUTHORITY OF ADVANCED PRACTICE NURSES;

6 (b) REQUIREMENTS FOR CONSULTATION AND REFERRAL IF THE
7 COLLABORATING PHYSICIAN CANNOT BE REACHED; AND

8 (c) COLLABORATIVE AGREEMENT REQUIREMENTS THAT
9 ENCOURAGE PARTICIPATION BY REDUCING COSTS TO ADVANCED PRACTICE
10 NURSES.

11 **SECTION 22. Repeal.** Part 2 of article 38 of title 12, Colorado
12 Revised Statutes, is repealed.

13 **SECTION 23.** Part 1 of article 38 of title 12, Colorado Revised
14 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
15 read:

16 **12-38-111.8. Professional liability insurance required -**
17 **advanced practice nurses in independent practice - rules.** (1) IT IS
18 UNLAWFUL FOR ANY ADVANCED PRACTICE NURSE ENGAGED IN AN
19 INDEPENDENT PRACTICE OF PROFESSIONAL NURSING TO PRACTICE WITHIN
20 THE STATE OF COLORADO UNLESS THE ADVANCED PRACTICE NURSE
21 PURCHASES AND MAINTAINS PROFESSIONAL LIABILITY INSURANCE IN AN
22 AMOUNT NOT LESS THAN FIVE HUNDRED THOUSAND DOLLARS PER CLAIM
23 WITH AN AGGREGATE LIABILITY FOR ALL CLAIMS DURING THE YEAR OF ONE
24 MILLION FIVE HUNDRED THOUSAND DOLLARS.

25 (2) PROFESSIONAL LIABILITY INSURANCE REQUIRED BY THIS
26 SECTION SHALL COVER ALL ACTS WITHIN THE SCOPE OF PRACTICE OF AN
27 ADVANCED PRACTICE NURSE AS DEFINED IN THIS PART 1.

1 (3) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTION (1) OF
2 THIS SECTION, THE BOARD, BY RULE, MAY EXEMPT OR ESTABLISH LESSER
3 LIABILITY INSURANCE REQUIREMENTS FOR ADVANCED PRACTICE NURSES.

4 **SECTION 24.** 12-38-117 (1), Colorado Revised Statutes, is
5 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

6 **12-38-117. Grounds for discipline.** (1) "Grounds for
7 discipline", as used in this article, means any action by any person who:

8 (aa) FAILS TO MAINTAIN PROFESSIONAL LIABILITY INSURANCE IN
9 ACCORDANCE WITH SECTION 12-38-111.8.

10 **SECTION 25. Effective date.** This act shall take effect July 1,
11 2009.

12 **SECTION 26. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.