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0358 Sunrise and Sunset Review Committee



# COLORADO

## GENERAL ASSEMBLY

Legislative Council  
Research Publication No. 358

**Sunrise and Sunset  
Review Committee**

**December 1990**

**RECOMMENDATIONS FOR 1991**

**JOINT LEGISLATIVE SUNRISE SUNSET  
REVIEW COMMITTEE**

**Report to the  
Colorado General Assembly**

**Research Publication No. 358  
December 1990**

# COLORADO GENERAL ASSEMBLY

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Rep. Ruth Wright

To Members of the Fifty-Eighth Colorado General Assembly:

Submitted herewith is the final report of the Joint Legislative Sunrise Sunset Review Committee. The Committee was created pursuant to section 2-3-1201, C.R.S., (House Bill 1087, 1985 session), and Rule 35 of the Joint Rules of the Senate and House of Representatives. The purpose of the committee is to review the termination of divisions, boards or agencies pursuant to the statutory sunset provisions (section 24-34-104, C.R.S.) and to review requests for new regulation of occupations and professions pursuant to the statutory sunrise provisions (section 24-3-104.1, C.R.S.).

At its meeting on October 15, the Legislative Council reviewed this report. A motion to forward the report and recommendations of the Joint Legislative Sunrise Sunset Review Committee to the Fifty-Eighth General Assembly was also approved.

Respectfully submitted,

/s/ Representative Barbara Philips  
Chairman  
Joint Legislative Sunrise Sunset  
Review Committee

## TABLE OF CONTENTS

	Page
<b>LETTER OF TRANSMITTAL</b> . . . . .	iii
<b>TABLE OF CONTENTS</b> . . . . .	v
<b>LIST OF BILLS</b> . . . . .	vii
 <b>JOINT LEGISLATIVE SUNRISE SUNSET REVIEW COMMITTEE</b>	
Members of the Committee . . . . .	1
Summary of Recommendations . . . . .	3
 <b>Sunset Review of Existing Regulatory Boards and Offices</b> . . . . .	 8
State Board of Veterinary Medicine . . . . .	8
Office of Regulatory Reform . . . . .	10
 <b>Sunset Review of Licensing Functions of Certain Agencies</b> . . . . .	 11
Butchers and Slaughterers of Livestock Licensing, State Board of Stock Inspection Commissioners . . . . .	11
Public Livestock Markets Licensing, State Board of Stock Inspection Commissioners . . . . .	13
Medication Aide Program, Department of Health . . . . .	14
Colorado Nursery Act, Department of Agriculture . . . . .	14
Physical Therapy Registration, Department of Regulatory Agencies . . . . .	15
 <b>Sunrise Review of Occupations Requesting Licensure</b> . . . . .	 17
Athletic Trainers . . . . .	17
Dietitians . . . . .	18
Locksmiths . . . . .	18
Massage Therapists . . . . .	19
Mortuary Science Practitioners . . . . .	20
Occupational Therapists . . . . .	21
Private Security Officers . . . . .	21
 <b>Sunset Review of Advisory Committees</b> . . . . .	 22

	<b>Page</b>
<b>Additional Bills</b> .....	25
<b>Applicants for Licensure as a Barber or Cosmetologist</b> <b>Concerning the Board of Barbers and Cosmetologists</b> .....	25

## LIST OF BILLS

	<b>Page</b>
Bill 1 - Concerning the Regulation of Veterinarians, and, in Connection Therewith, Providing for the Continuation of the State Board of Veterinary Medicine . . . . .	27
Bill 2 - Concerning the Office of Regulatory Reform, and Providing for the Continuation of Such Office and of the Advisory Committee Thereto . . . . .	37
Bill 3 - Concerning Slaughterers of Livestock, and, in Connection Therewith, Continuing the Functions of the Department of Agriculture Related to the Licensing of Such Slaughterers of Livestock . . . . .	39
Bill 4 - Concerning the Continuation of the Licensing of Public Livestock Markets Through the State Board of Stock Inspection Commissioners . . . . .	47
Bill 5 - Concerning a One-Year Continuation of the Program in the Department of Health for the Administration of Medications in Residential Care Facilities, and, in connection Therewith, Continuing for One Year the Exemption From Licensure Requirements of Persons Who Administer Medications in Such Residential Care Facilities in Compliance With Said Program . . . . .	53
Bill 6 - Concerning the "Colorado Nursery Act", and, in Connection Therewith, Providing for the Continuation of the Registration Functions of the Commissioner of Agriculture Under Such Act and of the Nursery Advisory Committee . . . . .	55
Bill 7 - Concerning the Practice of Physical Therapy, and, in Connection Therewith, Continuing the Licensing Functions of the Director of the Division of Registrations with Respect Thereto . . . . .	63
Bill 8 - Concerning an Exception to the "Colorado Medical Practice Act" For Certain Services Rendered by Qualified Athletic Trainers . . . . .	83

	<b>Page</b>
Bill 9 - Concerning the Authority of the Colorado Bureau of Investigation to Provide Criminal Data Regarding Persons Employed as Security Guards, and, in Connection Therewith, Authorizing the Bureau to Exchange Fingerprint Data of Persons Employed as Security Guards With the Federal Bureau of Investigation For Purposes of National Criminal History Record Checks and Making an Appropriation . . . . .	85
Bill 10 - Concerning the Sunset of Advisory Committees . . . . .	87
Bill 11 - Concerning a Requirement That an Applicant for Licensure as a Barber or Cosmetologist Furnish Proof That the Applicant Has Attained Certain Educational Requirements . . . . .	91
Bill 12 - Concerning a Requirement That the Board of Barbers and Cosmetologists Issue a License by Endorsement to an Otherwise Qualified Individual Who is Licensed to Practice Outside of the State of Colorado if That Applicant Presents Proof Satisfactory to the Board that the Applicant Possesses Qualifications Which are Substantially Equivalent to Requirements for Licensure by Examination in Colorado . . . . .	93

**LEGISLATIVE COUNCIL**

**JOINT LEGISLATIVE  
SUNRISE SUNSET REVIEW COMMITTEE**

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## **SUMMARY OF RECOMMENDATIONS**

The Joint Legislative Sunrise and Sunset Review Committee was established in 1985 to perform the functions and duties relating to the termination of specific divisions, boards and agencies, and to consider proposals for the new regulation of occupations and professions not presently regulated (section 2-3-1201, et. seq., C.R.S., and Rule 35 of the Joint Rules of the Senate and House of Representatives).

In the 1990 interim, the committee reviewed findings and recommendations prepared by the Department of Regulatory Agencies (DORA), and heard public testimony from concerned citizens, interest groups, and where appropriate, representatives of licensing boards and advisory committees. The committee conducted seven sunrise reviews of applications for occupational licensure, four sunset reviews of licensing functions of state agencies, two sunset reviews of regulatory boards and agencies, and ten advisory committee reviews.

### **A. Sunset Review of Existing Regulatory Boards and Offices**

One regulatory board and one office are recommended for continuation.

#### **State Board of Veterinary Medicine**

**RECOMMENDATION:** Bill 1—Concerning the Regulation of Veterinarians, and, in Connection Therewith, Providing for the Continuation of the State Board of Veterinary Medicine.

#### **Office of Regulatory Reform**

**RECOMMENDATION:** Bill 2—Concerning the Office of Regulatory Reform, and Providing for the Continuation of Such Office and of the Advisory Committee Thereto.

Review of this board and this office is directed in section 24-34-104 (20) (a) and (b), C.R.S.

**B. Sunset Review of  
Licensing Functions of Certain Agencies**

The agencies and functions listed below are recommended for continuation. The statutory directive for review of these licensing functions is found in section 24-34-104 (20.1), C.R.S.

**Butchers and Slaughterers of Livestock Licensing, State Board of Stock Inspection Commissioners**

RECOMMENDATION: Bill 3 – Concerning Slaughterers of Livestock, and, in Connection Therewith, Continuing the Functions of the Department of Agriculture Related to the Licensing of Such Slaughterers of Livestock.

**Public Livestock Market Licensing, State Board of Stock Inspection Commissioners**

RECOMMENDATION: Bill 4 – Concerning the Continuation of the Licensing of Public Livestock Markets Through the State Board of Stock Inspection Commissioners.

**Medication Aide Program, Department of Health**

RECOMMENDATION: Bill 5 – Concerning a One-Year Continuation of the Program in the Department of Health for the Administration of Medications in Residential Care Facilities, and in Connection Therewith, Continuing for One Year the Exemption From Licensure Requirements of Persons Who Administer Medications in Such Residential Care Facilities in Compliance With Said Program.

**Colorado Nursery Act, Department of Agriculture**

RECOMMENDATION: Bill 6 – Concerning the “Colorado Nursery Act”, and, in Connection Therewith, Providing for the Continuation of the Registration Functions of the Commissioner of Agriculture Under Such Act and of the Nursery Advisory Committee.

## **Physical Therapy Registration Functions of the Director of the Division of Registrations, Department of Regulatory Agencies**

RECOMMENDATION: Bill 7 – Concerning the Practice of Physical Therapy, and, in Connection Therewith, Continuing the Licensing Functions of the Director of the Division of Registrations With Respect Thereto.

### **C. Sunrise Review of Occupations Requesting Licensure**

Applications for licensure were submitted pursuant to section 24-34-104.1, C.R.S. Committee recommendations for each occupational group are listed below.

#### **Athletic Trainers**

RECOMMENDATION: Although the committee did not recommend the licensure of athletic trainers, the following bill was recommended: Bill 8 – Concerning an Exception to the “Colorado Medical Practice Act” For Certain Services Rendered by Qualified Athletic Trainers.

#### **Dietitians**

RECOMMENDATION: The committee recommends that dietitians not be licensed.

#### **Locksmiths**

RECOMMENDATION: The committee recommends that locksmiths not be licensed.

#### **Massage Therapists**

RECOMMENDATION: The committee recommends that massage therapists not be licensed.

#### **Mortuary Science Practitioners**

RECOMMENDATION: The committee recommends that mortuary science practitioners not be licensed.

## **Occupational Therapists**

**RECOMMENDATION:** The committee recommends that occupational therapists not be licensed.

## **Private Security Officers**

Although the Committee did not agree to establish a statewide licensing program for security guards, the following bill is recommended.

Bill 9 – Concerning the Authority of the Colorado Bureau of Investigation to Provide Criminal Data Regarding Persons Employed as Security Guards, and, in Connection Therewith, Authorizing the Bureau to Exchange Fingerprint Data of Persons Employed as Security Guards With the Federal Bureau of Investigation For Purposes of National Criminal History Record Checks and Making an Appropriation.

### **D. Sunset Review of Advisory Committees**

The committee recommends the continuation of the following advisory committees.

Review of advisory committees is directed under section 2-3-1203, C.R.S.

- Advisory Board for the Colorado School for the Deaf and Blind;
- Advisory Committee to the Board of Trustees of the State Colleges in Colorado;
- Advisory Committee on Physical Therapists;
- Advisory Committee to the State Board of Education;
- Advisory Committee on Student Loans;
- Advisory Council to the State Board for Community Colleges and Occupational Education;
- Nursery Advisory Committee;
- Office of Regulatory Reform Advisory Committee; and

- State Special Education Advisory Committee;

RECOMMENDATION: Bill 10 – Concerning the Sunset of Advisory Committees.

### **E. OTHER BILLS**

Two bills are recommended for the purpose of clarifying the intent of changes made to the Barbers and Cosmetology Act in 1990.

#### **Barbers and Cosmetologists**

RECOMMENDATION: Bill 11 – Concerning a Requirement that an Applicant for Licensure as a Barber or Cosmetologist Furnish Proof that the Applicant has Attained Certain Educational Requirements.

RECOMMENDATION: Bill 12 – Concerning a Requirement that the Board of Barbers and Cosmetologists Issue a License by Endorsement to an Otherwise Qualified Individual Who is Licensed to Practice Outside of the State of Colorado if that Applicant Presents Proof Satisfactory to the Board that the Applicant Possesses Qualifications Which are Substantially Equivalent to Requirements for Licensure by Examination in Colorado.

## **A. SUNSET REVIEWS OF EXISTING BOARDS AND OFFICES**

### **Statutory Authority and Responsibility**

The General Assembly, finding that the state has produced a substantial increase in numbers of agencies, growth of programs, and proliferation of rules and regulations, established a system for the termination, continuation, or reestablishment of such agencies. The process had developed without sufficient legislative oversight, regulatory accountability, or a system of checks and balances. The Joint Legislative Sunrise Sunset Review Committee was created in 1985 and given the responsibility for such a system. The committee is charged with providing for the analysis and evaluation of such agencies to determine the least restrictive regulation consistent with the public interest.

The Department of Regulatory Agencies (DORA) is required to conduct an analysis and evaluation of the performance of each division, board, agency or each function of an agency that is scheduled for termination (section 24-34-104 et. seq., C.R.S.). In its analysis, DORA is required to consider several factors regarding the need for the entity under review (24-34-104 (8), C.R.S.). The DORA report is completed one year before the termination date and sent to the Joint Legislative Sunrise Sunset Review Committee no later than July 1. The report provides the basis for discussion in public hearings which the Sunrise Sunset Committee schedules for each sunset review during the legislative interim.

One board and one office were reviewed during the 1990 interim:

- State Board of Veterinary Medicine of Colorado; and
- Office of Regulatory Reform.

### **Committee Recommendations**

#### **State Board of Veterinary Medicine**

The Colorado Veterinary Practice Act (Article 64 of Title 12, C.R.S.) was enacted to protect the public against incompetent, dishonest, or unprincipled practitioners of veterinary medicine. The act establishes a five-member State Board of Veterinary Medicine, appointed by the Governor. Four of the board members must be residents of Colorado and licensed to practice veterinary medicine in this state five years preceding appointment to the board. The board is empowered to perform a number

of duties that relate primarily to aspects of licensing persons to practice veterinary medicine in Colorado and regulating artificial insemination of cattle or other animals.

Testimony focused largely on concerns that the board had not been adequately disciplining practicing veterinarians. One board member defended the board's disciplinary record, stating that a lack of subpoena power greatly reduced its ability to obtain crucial information in the course of disciplinary investigations.

The merits of continuing education were also discussed in detail. While DORA contended that there was no proof of concrete benefits from current continuing education requirements, a number of board members and practicing veterinarians testified in favor of mandatory continuing education.

Bill 1 is recommended to continue the State Board of Veterinary Medicine until July 1, 2001. Continuation of the board was urged by DORA to maintain control over the spread of zoonotic diseases from animals to humans. Licensing of artificial inseminators, however, will be discontinued. The board may regulate this practice through promulgation of rules and regulations.

Amendments in Bill 1 address continuing education requirements of licensed veterinarians by requiring that half of the annual required 16 hours of board-approved coursework include a written exam. Criteria for the courses will be established by rules and regulations of the board.

A number of amendments pertain to strengthening the board's disciplinary procedures. Some of the noteworthy changes include:

- allowing disciplinary action when a veterinarian violates or fails to report a known violation of the accepted standards of practice, practices beyond his scope of competence, or administers, dispenses or prescribes any prescription drug in the absence of a veterinarian-client-patient relationship;
- granting the board authority to issue subpoenas;
- granting the board power to issue letters of admonition as an option to harsher alternative disciplinary actions;
- specifying that disciplinary fines must be at least \$100 and no more than \$1000 for each violation;
- granting good faith immunity from civil suits to board members, expert witnesses and complainants; and
- requiring that the Sunrise Sunset Committee, by September 1, 1993, review the number of disciplinary actions taken by the board.

Bill 1 allows the board to issue by endorsement a Colorado veterinary license to a veterinarian licensed in another jurisdiction who possesses qualifications and credentials substantially similar to those required in Colorado. Applicants who are certified by a specialty board of the American Veterinary Medical Association and who meet the Colorado requirements may also be granted a license. Veterinarians who have been on inactive status for less than three years must complete the cumulative annual post graduate courses as a prerequisite for reinstatement. Those who have been inactive for over three years will have to take the practical examination in order to be relicensed. The board is also given the authority to set passing scores on exams at the minimum level of competency. Biennial expiration of licenses is discontinued and DORA is directed to establish an expiration schedule for licenses.

Changes to the board are reflected in the following components of the bill:

- the consumer member of the board is no longer required to be a livestock producer, but cannot have a financial interest in the practice of veterinary medicine;
- the Governor is given power to remove any board member for misconduct, incompetence, or neglect of duty without board approval; and
- the board's authority to issue temporary licenses is revoked.

Bill 1 prohibits non-veterinarians from diagnosing patients as needing prescription drugs. This provision supports the necessity of a veterinarian-client-patient relationship in which a licensed veterinarian must personally handle the diagnosis of the patient as well as the dispensing of any prescriptions. Finally, the bill eliminates the need for a veterinarian to directly supervise veterinary assistants and veterinary students, as long as a licensed veterinarian is on the premises.

## **Office of Regulatory Reform**

---

The Office of Regulatory Reform (ORR) was established within the Department of Regulatory Agencies on July 1, 1981 (24-34-901 et. seq.). ORR is staffed by a director, two administrative officers, and one secretary. Although the office has many functions, it is primarily charged with the promotion of small businesses in Colorado. This is accomplished by providing information and business assistance, and by making recommendations to the legislature and Governor.

Information is provided primarily via ORR's Small Business Hotline, located in the Small Business Office, which received over 20,000 calls during FY 1988-89. Callers may obtain information to assist in the operation or start-up of a small business. Assistance is provided by meeting with individuals to answer questions and offer advice concerning small businesses in Colorado. In addition, the office helps interpret rules and regulations and attempts to recommend changes to statutes and agency rules and regulations that will enable small businesses to operate more

effectively. Part of this function includes ORR's charge of reviewing proposed agency rules and regulations and reporting to the Sunrise Sunset Committee concerning any rules that are deemed unnecessary.

One recommendation in the current DORA report is the continuation of ORR. DORA stated that ORR has been instrumental in facilitating economic development in Colorado. The DORA report stated that ORR's demise would not only send the wrong message to Colorado businesses, but would result in the duties of the office being taken on by another agency that would probably request a considerably larger budget with which to carry out the functions.

The committee agreed with DORA that the office is vital to the promotion of small businesses in the state. Bill 2 continues the Office of Regulatory Reform (ORR) through July 1, 2000 and places the office on a ten-year sunset review cycle. It also continues the seventeen-member ORR Advisory Committee, which is important to the office for providing input on matters under consideration by the office and for business networking.

Additional provisions of Bill 2 include the following:

- It allows ORR to accept and spend moneys from sources other than the state, provided that such receipt and expenditure of money be reported in writing to the Executive Director of DORA prior to the submission of ORR's annual budget request. (Previously, ORR could spend such moneys only after approval by the General Assembly.)
- The bill addresses problems arising from individuals who knowingly offer for sale to the public information created by ORR and who do not disclose that such information is provided by ORR at no cost. Individuals who do not disclose this information in at least 10-point type will be committing a class 3 misdemeanor.
- To avoid confusion, the bill moves to a new section of the statutes the requirement that ORR notify the Sunrise Sunset Committee of any proposed agency rules that are deemed unnecessary.

## **B. Sunset Review of Licensing Functions of Certain Agencies**

### **Butchers and Slaughterers of Livestock Licensing Program**

The Butchers and Slaughterers Act ( Article 11 of Title 12, C.R.S.) is administered by the State Board of Stock Inspection Commissioners (Brand Board). Although the

inspection of brands has been regulated in Colorado for over 100 years, this function has only been in the Colorado Department of Agriculture since 1971.

The purpose of the act is to prevent livestock theft by making it illegal to slaughter livestock unless the slaughterer has complied with provisions of state law. The Brand Board tries to accomplish this through the following activities: 1) registration of all brands in the state; 2) brand inspection of livestock to verify ownership under certain circumstances; 3) return lost or stolen livestock and investigate reports of lost or stolen livestock; 4) license livestock markets and inspect brands of livestock at these markets; and 5) license packinghouses and inspect animals to be slaughtered, the hides of those animals, and records of transactions. The U.S. Department of Agriculture, other divisions of the State Department of Agriculture and local health departments perform all sanitary inspections.

DORA recommended that the licensing of slaughterers by the Brand Board continue and stated that the present regulatory scheme appeared to be working well. Brand Board members and individuals involved in the livestock industry spoke to the following issues addressed in the DORA recommendations: 1) difficulties finding adequate numbers of qualified seasonal brand inspectors; and 2) proposed changes to the composition of the Brand Board.

Bill 3 continues through July 1, 2001 the licensing of slaughterers by the State Board of Brand Commissioners and eliminates the term "butcher" from statutes as the term pertains to such licensing. The board is required to establish standards for qualification of brand inspectors to address problems with meeting demands for seasonal increases in brand inspection requests. Bill 3 allows the board to charge a qualification fee to individuals interested in becoming qualified contract brand inspectors and allows these individuals to seek such employment. The Contract Brand Inspectors Fund is created to help pay administration costs of the brand inspection qualification program.

The bill also contains language which clarifies:

- under what circumstances denial of a slaughterer's license or disciplinary action can be taken; and
- criminal penalties for violation of the act, conforming them to the Colorado Criminal Code.

Authority is given to the board to pursue investigations of violations to the act if the board has received a complaint or has reasonable suspicion that a violation has occurred. When it is cost effective, the board is allowed to hire administrative law judges to conduct disciplinary hearings.

## **Public Livestock Markets Licensing Program**

---

In conjunction with the Butchers and Slaughters Act sunset hearing, the committee also reviewed the licensing of public livestock markets by the Brand Board. Regulation of public livestock markets began in Colorado in 1937 with the regulation of livestock sales rings. The purpose of a licensing program was to establish a system where market operators and/or owners could be assisted in determining ownership of livestock as evidenced by brands, bills of sale, or other documents.

Public livestock markets are defined as those markets conducted or operated for compensation or profit for the public or private sale of horses, mules, cattle, burros, swine, sheep, goats, or poultry (35-55-101 (2) C.R.S.). Operators of a public livestock market must obtain a license from the Brand Board. Requirements for licensure include the filing of a surety bond with the Brand Board unless the applicant has already registered under the federal "Packers and Stockyards Act" of 1921.

DORA recommended the continuation of the licensing of public livestock markets by the Brand Board, along with a number of changes to existing statutes. Many of DORA's recommended changes involved fairly standard updating procedures but DORA's recommendation to increase the Brand Board membership from five to seven members proved to be highly contentious. Representatives of the cattle industry objected to the possibility of adding a livestock market representative to the Brand Board and argued that the addition of a consumer member was inappropriate because the Brand Board addresses industry problems rather than problems of the general public. Cattlemen also questioned whether the committee could change the board membership since the sunset review was focusing only on a licensing function of the board.

The committee recommends Bill 4, to continue the licensing of public livestock markets by the State Board of Stock Inspection Commissioners through July 1, 2001. Although initially voting to change the composition of the board, the committee ultimately withdrew the changes, leaving the board's composition intact.

To enable the licensing program to function more effectively and efficiently, the board will be able to adjust licensing fees to cover administrative costs of providing services. The bill repeals section 35-55-118, C.R.S. regarding licensure which had required an applicant to show how opening a market would provide economic benefit to the livestock economy in the area. Statutory language is clarified which gives the Brand Board authority to deny licensure to applicants who fail to meet all requirements of the act.

Bill 4 strengthens the enforcement of the act by granting the Brand Board additional powers to revoke licenses, put licensees on probation, and issue letters of admonition. Disciplinary actions can be taken against licensees for not complying with decisions of the Brand Board, for aiding and abetting in violation of the federal "Packers and Stockyards Act," and for felony convictions and nolo contendere pleas

related to public livestock market operation. Fines for violations of the act (which have not been increased since 1949) are increased; first offenses will draw a class 3 misdemeanor, and a second offense within three years will result in a class 1 misdemeanor.

The investigation process is updated in section 35-55-108 C.R.S. by allowing the board to investigate public livestock markets upon complaint or reasonable grounds for suspecting there has been violation of the act. The bill requires administrative law judges to conduct the hearings and allows the board to hire these judges.

### **Medication Aide Program (License Exemption)**

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Following the release of a report by DORA, a sunset review of the medication aide program which is administered by the Department of Health was to be conducted in the 1990 interim. Medication aides administer medications in residential care facilities and are exempt from licensure under the "Colorado Controlled Substances Act," the "Colorado Medical Practice Act," and the "Nurse Practice Act". The full review, as well as the program and license exemptions, is to be extended for one year by Bill 5.

### **Colorado Nursery Act**

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The Colorado Nursery Act (Article 26 of Title 35, C.R.S.) requires that nurserymen, other dealers in nursery stock, landscape contractors and agents who place orders for nursery stock become licensed in order to conduct business. All nurseries are inspected at least once each year by inspectors employed by the Colorado Department of Agriculture. Out-of-state nurseries that ship products to Colorado must have a certificate showing that their nursery has been inspected. The act empowers the Commissioner of Agriculture with authority to deny, suspend, or revoke licenses for violations of the act or related regulations. The Commissioner may also issue "stop sales orders" to persons selling nursery stock that is dead or dying, infected or infested with insect pests or plant diseases, or is in violation of any other provision of the act. A ten-person advisory committee, appointed by the State Agriculture Commission, meets periodically and assists the Commissioner in administering the act.

DORA recommended that the Colorado Nursery Act be continued but that a number of changes be made in order to help the industry function optimally while protecting the interests of the public. Among DORA's key suggestions were: 1) replacing the licensing of nurserymen with a registration requirement for nursery businesses; and 2) including greenhouses under the act.

The supervisor of the Department of Agriculture's Plant and Insect Section, as well as a number of nursery industry representatives, testified in general support of the DORA recommendations and voiced concern that problems associated with substandard plants be addressed more effectively through legislation.

Bill 6 continues until July 1, 1996 the functions of the Commissioner of Agriculture under the "Colorado Nursery Act," but replaces the licensing program with a registration system for businesses that buy, sell, or produce nursery stock in Colorado. Testimony indicated that changing to a registration program would be more appropriate and would help to better track operating businesses and provide for their inspection. The Nursery Advisory Committee is retained with substantial changes to its composition including size, terms, and background qualifications of members.

Many changes to the act are recommended to facilitate control over the sale of substandard plant material. Regular inspections can now be supplemented with targeted inspections, primarily of businesses that have received a higher than usual number of "stop-sales-orders" in the past. The Commissioner of Agriculture may also ban the sale of, or seize any future shipments by, a company located outside the state that has been selling substandard plant material to nurseries in Colorado. Advisory alerts may also be distributed to businesses registered in Colorado. Furthermore, no nursery stock may be sold in the state unless the nursery where the product originated is available for inspection.

Bill 6 grants additional powers to the Commissioner including authority to:

- search premises for records to be used in enforcing the act;
- assess civil penalties of up to \$1000 per violation of the act;
- deny, revoke or suspend registration if the applicant or a registration holder does not engage in the sale of nursery stock;
- issue cease and desist orders, obtain restraining orders or injunctions;
- issue administrative subpoenas; and
- delegate powers to a qualified employee of the Department of Agriculture.

DORA recommended including greenhouses under the act but the committee voted to continue the exclusion of such businesses.

### **Physical Therapy Registration Program**

---

Colorado's regulation of physical therapy began in 1959 with the establishment of the State Board of Physical Therapy. The board was abolished on July 1, 1986, and replaced with the current physical therapy registration program (Article 41 of Title 12, C.R.S.), administered by the Division of Registrations within DORA. The Director has the authority to implement rules and regulations to register, examine, and discipline physical therapists. A major 1988 statutory change allowed consumers direct access to physical therapists rather than requiring a prescription from a

physician, dentist, or podiatrist. Additional changes came in 1989 with the expansion of the section defining grounds for disciplinary action against physical therapists.

In its review, DORA recommended the continuation of the registration program and a number of statutory changes addressing current problems in the profession. Some of the most controversial issues discussed included: 1) whether physical therapists should be allowed to perform non-operative wound debridement; 2) the number of physical therapy assistants that physical therapists should be allowed to supervise in the absence of a physician; 3) the definition of "joint mobilization"; and 4) solutions to the shortage of qualified physical therapists in the state.

Bill 7 repeals and reenacts the Physical Therapy Practice Act and continues the program of physical therapist registration through July 1, 2001. To more accurately reflect the actual regulatory mechanism, the term "registration" is deleted and replaced with "licensure."

The bill re-defines a number terms including "physical therapy" and "joint mobilization," the latter of which is included to assure chiropractors that physical therapists would not be performing chiropractic manipulations. Limitations on the authority of physical therapists to perform certain acts are addressed. Although they must seek approval from the Division of Registrations to supervise more than two unlicensed persons in a private practice, physical therapists are given the authority to perform non-operative wound debridement under certain circumstances.

There are also a number of changes in the bill that relate specifically to the physical therapy licensure process:

- changes to the examination;
- authority for the Director of the Division of Registrations to grant temporary licenses to qualified individuals;
- allowance for licensure of foreign-trained physical therapists who can show appropriate credentials and can pass an examination; and
- a change to the definition of an accredited physical therapy program which gives the director discretion to determine if a program is substantially equivalent to one accredited by an official accrediting agency recognized by the United States Office of Education.

This last change was contentious and is submitted to encourage new programs to develop at educational institutions in Colorado and to alleviate the shortage of qualified physical therapists in the state. The committee also included in the bill a requirement that the Colorado Commission on Higher Education (CCHE) review the current statewide system of educating physical therapists and further develop ways

to address the shortage. CCHE is to submit a report containing its findings to the General Assembly on or before March 1, 1992.

The Advisory Committee on Physical Therapists was continued by the bill, but its size was increased from at least five to at least seven members. The two additional members shall not be physical therapists but must have specific knowledge in the health care field.

### **C. Sunrise Review of Occupations Requesting Licensure**

Applications for licensure were submitted pursuant to section 2-3-1202, C.R.S., and the committee recommendations for each occupational group are listed below.

#### **Athletic Trainers**

The application for regulation submitted by the Colorado Athletic Trainers Association (CATA) sought state licensure for athletic trainers. The CATA stated that licensure would protect the public by establishing statewide standards of competency and would provide athletic trainers protection under statute, thereby reducing their risk of losing liability insurance coverage for practicing outside of the law. Lack of state regulation was also cited as a reason athletic trainers are not eligible for third party insurance payments. Persons who testified stressed that an athletic trainer in the traditional setting is quite often the first one to examine an injury and is uniquely qualified to evaluate, treat, and make recommendations for certain sports-related injuries.

DORA recommended against state licensure, certification, or registration of athletic trainers, suggesting that the current regulatory system could be modified to address existing problems. Specifically, DORA indicated that a problem existed with the physician extender clause of the Medical Practice Act being too restrictive to allow compliance by athletic trainers in certain situations.

Responding to DORA's recommendations, the committee rejected the concept of state licensure of athletic trainers but recommends Bill 8 to provide for limited situations in which qualified athletic trainers may be exempted from the "Medical Practice Act" to perform certain services without being placed in jeopardy for practicing medicine without a license. The bill defines "qualified athletic trainer" in terms of educational background and experience. The State Board of Medical Examiners is to determine the types of service that would merit an exemption and promulgate these exemptions through rules and regulations.

## **Dietitians**

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The Colorado Dietetic Association applied for state certification of nutritionists and dietitians. This group was seeking title protection that would allow only persons with certain educational and experiential qualifications to identify themselves as a dietitian or nutritionist or any other term that would imply or indicate that the person was a certified nutritionist or dietitian. In order to obtain certification under the proposal, an individual would have to possess at least a four year degree in certain science-related fields of study and show completion of a supervised internship lasting at least 900 hours. The purpose for seeking certification, according to the applicants, was to protect the health, safety, and welfare of Colorado citizens by: 1) enabling consumers and health professionals wishing to refer patients to dietitians and nutritionists to identify competent nutritional professionals; and 2) restricting unscrupulous nutrition practitioners from providing inappropriate goods or services.

The report released by DORA concluded that the unregulated practice of dietetics and nutrition does not cause significant harm to the public. DORA's findings stated that: 1) there is a growing awareness among consumers in the United States of the importance of proper nutrition; 2) there is no substantial movement of consumers in Colorado requesting state regulation of the practice of Colorado dietitians; 3) there is no indication that dietitians are the source of questionable or harmful practices either in Colorado or in any other state; and 4) laws regulating dietitians enacted by other states are generally weak, ineffective, and poorly staffed. DORA also stated that Colorado's Pure Food and Drug Law "should be strengthened in order to complement the efforts of the United States Food and Drug Administration in reforming food labeling laws and food health claims."

Proponents of the legislation stressed the need for state certification to prevent nutritional quackery which causes significant physical harm to consumers and costs the public billions of dollars per year. Opponents of regulation argued that regulation would limit consumers' freedom of choice in obtaining health information and products and, if implemented, would not adequately protect the public from unqualified practitioners.

As a result of a compromise proposal put forward by Representative Kopel, representatives of opposing groups met and agreed to support language in a bill that would require individuals who work as nutritional counselors to provide disclosure information to clients which would contain the qualifications of the nutritional counselor as well as which state agency to contact to file a complaint. The committee voted against recommending legislation in this area.

## **Locksmiths**

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A group of independent locksmiths filed an application proposing the licensure of their profession. The application and a proposed bill draft were identical to those

submitted by the same group in 1989. The bill detailed licensure of locksmiths and apprentice locksmiths, including the issuance of a permit to key duplicators and the registration of key duplicating machines. The applicants stated that the benefits of regulation would include protection of the public from unethical locksmithing practices, such as misrepresentation of products or the selling and installation of inferior products by unskilled locksmiths. The applicants also stated that regulation would: 1) maintain educational levels for locksmiths; 2) insure that the public is underwritten through the imposition of mandatory insurance requirements on locksmiths, apprentice locksmiths, and key duplicators; and 3) prohibit convicted felons from practicing as locksmiths. Physical, emotional, and financial harm to the public were also mentioned as possible results of incompetent or unethical practice of locksmithing.

The Department of Regulatory Agencies recommended against the regulation of the locksmithing industry, stating that the applicants had produced no evidence of harm to the health, safety, and welfare of the public. There is no indication, according to DORA, that the public would benefit from the regulation of locksmithing and key duplicating, and that the distinct lack of complaints by consumers of such services shows that most locksmiths are providing acceptable services. There have been no complaints against bonded locksmiths in the last five years. Regarding the potential of a locksmith using his trade skills for crime, DORA could find no correlation between illegal entry and locksmiths. Continued operation of the market is the most cost-effective method to protect consumers and eliminate incompetent or unethical practitioners. Specifically, private credentialing currently available allows the public to make comparisons in evaluating the competence and skill of a locksmith.

Segments from a local TV investigative report series on potential criminal problems in the locksmith industry were shown at a committee meeting. While the applicants believed the TV report exposed serious problems in the locksmith industry, others who testified stated that the series did not reflect real-life situations. The Sunrise Sunset Committee voted against regulation of the locksmith industry, concluding that harm to the public from the unregulated practice of locksmithing had not been demonstrated.

## **Massage Therapists**

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Following a hearing in the 1989 interim, the Sunrise Sunset Committee recommended an exemption of qualified massage therapists from the Massage Parlor Act. This bill was enacted during the 1990 session.

Members of the Colorado Chapter of the American Massage Therapy Association returned in the 1990 interim requesting state licensure of massage therapists. Modalities that would have been affected by the applicant's proposal include Swedish and Shiatsu massage, as well as Reflexology, Rolfing, Polarity, Hakomi, Hellerwork, Trigger Point Myotherapy, Tragerwork, and Accupressure. The stated goals of the application were to provide: 1) educational and professional standards for massage

therapists; and 2) effective methods for the public to identify trained, competent massage therapists.

The applicants claimed that untrained and undertrained persons are causing physical and emotional harm to the public. Advocates of regulation pointed out that potential harm from unqualified practitioners has grown along with the large increases of massage therapists in Colorado. Individuals testified that title protection is also sought to protect qualified massage therapists from municipalities that do not enforce exemptions from the Massage Parlor Act.

DORA recommended that massage therapists not be regulated, stating that there had not been a significant number of complaints filed against practitioners. The department added that documented cases in which substandard or inappropriate care was provided had in most cases been dealt with directly and effectively by the consumer.

Committee members raised doubts that consumers would actually examine credentials of massage therapists carefully if state regulation were instituted. The committee voted unanimously against recommending state regulation of massage therapists.

### **Mortuary Science Practitioners**

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A sunrise application for regulation of mortuary science practitioners was submitted by members of the Colorado Funeral Directors and Embalmers Association. This group sought regulation for "all those who would care for dead human bodies, specifically, but not limited to, those firms and individuals who hold themselves out to be mortuaries, funeral homes, funeral directors, embalmers, removal services, crematory, direct disposal services, memorial societies or any other person or firm that arranges for or handles the final disposition of a dead human body."

The applicants claimed that, since the 1983 deregulation of the industry in Colorado, a number of problems have occurred in the industry that justify the reinstatement of state regulation. These include: 1) an increase in the number of unqualified, incompetent individuals in the mortuary science field who pose harm to the public; 2) with the existence of AIDS, the threat of severe public hazard being caused by improper disposal of infectious waste; and 3) the lack of regulation in Colorado may be preventing optimum services by discouraging highly skilled practitioners in other states from moving to Colorado.

A report prepared by DORA recommended against licensing of mortuary science practitioners and the reinstatement of the Colorado Board of Mortuary Science, stating that the applicants had not adequately proven the need for such regulation. Specifically, a DORA representative testified that allegations of problems with infectious waste disposal in Colorado are unfounded and that, although there were instances of malpractice within the profession, no significant pattern of complaints

by consumers against morticians in Colorado had been detected. The DORA representative also stated that a number of agencies are adequately handling problems relating to mortuary science.

It was stated in a committee meeting that during the 70-year existence of the Colorado Board of Mortuary Science, it never imposed a disciplinary action against a mortician. The committee recommends that mortuary science practitioners not be licensed.

## **Occupational Therapists**

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Members of the Occupational Therapy Association of Colorado (OTAC) applied for state registration of occupational therapists and occupational therapy assistants. This health and rehabilitation profession provides services to persons of all ages who are physically, psychologically, or developmentally disabled, including victims of stroke, heart disease, arthritis, diabetes, serious burns, spinal cord injuries, and schizophrenics. Since an unsuccessful application in 1987, OTAC members have identified four factors that have changed and merit state regulation. These include:

- Implications of public harm caused by treatment by unqualified persons claiming to provide occupational therapy services;
- Lack of state regulation enabling persons unqualified to practice occupational therapy in other states to do so in Colorado;
- Occupational therapists in private practice are unsupervised and pose a public threat; and
- Forty-six other states now regulate the profession.

DORA recommended against state licensure, certification, or registration. DORA stated that, although the applicants had demonstrated the potential for public harm, actual harm to the public due to lack of state regulation had not been shown. The agency added that, although there were some legal questions due to the possible overlap of the occupational therapy scope of practice and the scope of practice of other health professions, DORA found no record that other regulatory boards are taking action against occupational therapists.

The committee recommends that occupational therapists not be licensed.

## **Security Guards**

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The committee conducted a sunrise hearing during the 1989 interim to consider the application for state licensure of armed and unarmed private security guards. The applicants asserted that each municipality has different standards for regulation of

this profession which results in unqualified individuals, including convicted felons, sometimes being able to obtain employment as security guards. The committee, agreeing that they needed more information from Colorado cities which regulate security guards before it could make a decision regarding regulation, asked a representative of the Colorado Municipal League (CML) to obtain such information and report back to the committee by June 1, 1990. Detailed information about the original application and hearing can be found in Legislative Council Research Publication No. 339.

In 1990, the CML representative reported on meetings that had been conducted during the past year with law enforcement, county, and municipal representatives and the security industry. These individuals discussed the responses to a survey that had been sent out to Colorado counties and municipalities to determine interest in state regulation of security guards. Although the survey indicated some statewide city and county support for regulation at the state level, committee members raised the following concerns: 1) If the state instituted minimum standards for security guards, some municipalities that adopted stricter standards would not allow reciprocity; 2) The applicant's proposal of requiring security guard companies to be bonded for at least \$500,000 would drive small companies out of business; and 3) No groups that would be affected by state licensing of security guards had been represented at the hearings. A representative of DORA testified that their recommendation against licensure of security guards had not changed, and emphasized that the applicants had not been able to provide the burden of proof that is necessary for state regulation.

Bill 9 is recommended to help prevent convicted felons from obtaining employment as security guards in Colorado. The Colorado Bureau of Investigation (CBI) is directed to implement a system by January 1, 1992 which will provide criminal data on individuals seeking employment as private security guards. An applicant's fingerprints are to be used by CBI and transmitted to the Federal Bureau of Investigation for a national criminal history record check.

The CBI is to establish fees for obtaining this information to sufficiently defray administrative costs. All fees will be transferred into the Security Guard Criminal History Information Cash Fund. Moneys from this fund shall be subject to an annual appropriation by the General Assembly. Bill 9 also makes an appropriation from this fund to the Department of Public Safety for the implementation of this act.

#### **D. Sunset Review of Advisory Committees**

The statutory directive for the sunset review of advisory committees is found in section 2-3-1203, C.R.S. The committee is to ascertain which of these committees have outlived their usefulness and which are beneficial to government by involving private citizens in the daily operations of government.

Each advisory committee is required to submit the following information to the committee:

- the names of current members of the advisory committee;
- all revenues and expenses, including advisory committee expenses, per diem paid to members, and any travel expenses;
- the dates all advisory committee meetings were held and the number of members attending the meetings;
- 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.

The following advisory committees were reviewed this summer with the committee recommendation noted (Bill 10):

<u>Advisory Committee</u>	<u>Committee Recommendations</u>
● Advisory Board for the Colorado School for the Deaf and Blind (section 24-80-104, C.R.S.);	Retain With Amendments
● Advisory Committee Concerning Basic Requirements for Training and Certification in the Area of Property and Casualty Insurance (section 10-2-207, C.R.S.);	Repeal Under Sunset
● Advisory Committee to the Board of Trustees of the State Colleges in Colorado (section 23-50-102, C.R.S.);	Retain
● Advisory Committee on Physical Therapists (section 12-41-108, C.R.S.);	Retain With Amendments (See Bill 7)
● Advisory Committee to the State Board of Education (section 22-7-103, C.R.S.);	Retain
● Advisory Committee on Student Loans (section 23-3.1-105, C.R.S.);	Retain With Amendments

**Advisory Committee**

**Committee Recommendations**

- |  |                        |
|--|------------------------|
| ● Advisory Council to the State Board for Community Colleges and Occupational Education (section 23-60-104 (3), C.R.S.); | Retain With Amendments |
| ● Office of Regulatory Reform Advisory Committee (section 24-34-904 (1) (l), C.R.S.);                                    | Retain                 |
| ● Professional Practices Commission (section 22-65-105 (6), C.R.S.);   | Repeal Under Sunset    |
| ● State Advisory Council for Career Education (section 22-8-106 (1), C.R.S.); and  | Retain                 |
| ● State Special Education Advisory Committee (section 22-20-104 (2), C.R.S.);  | Retain With Amendments |

The Nursery Advisory Committee, although not scheduled for sunset review until the 1991 interim, was reviewed and recommended for continuation in conjunction with the sunset review of the Colorado Nursery Act. (See Bill 6 for further information).

The Advisory Board for the Colorado School for the Deaf and Blind will be increased in number from five to seven, including one blind member, one deaf member, one parent of a blind or deaf student attending the school, one special education professional, one member from the business community, and two members who are experts on sensory handicaps. In addition, at least one member of the advisory board must reside in a rural area of the state. Bill 10 also deletes the thirty dollar per diem for members of the Advisory Committee on Student Loans and requires that membership of the State Board for Community Colleges and Occupational Education accurately reflect geographical areas of the state. In addition to its current membership requirements, the State Special Education Advisory Committee must consist of at least one faculty member from the Colorado School for the Deaf and Blind or a parent of a student attending the school.

A nine-member Pharmacy Advisory Committee is created with a sunset date of July 1, 1996. Committee membership shall consist of four physicians, four pharmacists, and one representative from the pharmaceutical industry.

In addition, Bill 10 adds repealer dates and extends the sunset date for a number of advisory committees from July 1, 1993 to July 1, 1994, in order to give more time for their review.

## **E. ADDITIONAL BILLS**

### **Barbers and Cosmetologists**

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DORA presented recommendations for revisions to the Barbers and Cosmetology Act, stating that present statute is too restrictive regarding endorsement, does not allow examination of students from certain schools, and does not allow for examination of applicants who completed training in another state but did not obtain licensure in that state. The committee recommends Bills 11 and 12 to the Barbers and Cosmetology Act.

Bill 11 provides that individuals applying for a licensing examination must furnish proof of graduation from a state-approved beauty or barber school. If the school is located in another jurisdiction, proof of acceptance by a governmental agency responsible for approving such schools in that state or country must also be furnished. A licensure applicant who has graduated from an approved school must provide evidence that he or she has successfully completed educational requirements equal to those set by the State Board for Community Colleges and Occupational Education.

Bill 12 directs, under certain circumstances, that the State Board of Barbers and Cosmetologists issue a license by endorsement to practice in Colorado to any individual who is licensed to practice in another state, United States territory, or foreign country. An applicant for such license of endorsement must provide proof to the board that he or she possesses credentials and qualifications required for licensure in Colorado.

By SENATOR Schaffer;  
also REPRESENTATIVE Phillips.

A BILL FOR AN ACT

1 CONCERNING THE REGULATION OF VETERINARIANS, AND, IN CONNECTION  
2 THEREWITH, PROVIDING FOR THE CONTINUATION OF THE STATE  
3 BOARD OF VETERINARY MEDICINE.

Bill Summary

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

Changes the name "animal technician" to "veterinary technician". Discontinues the authority of the state board of veterinary medicine to issue temporary permits. Discontinues the requirement that artificial inseminators be licensed by the state board of veterinary medicine but authorizes the board to regulate artificial insemination through the promulgation of rules and regulations. Prohibits the use of prescription drugs in the care and treatment of an animal by its owner in the absence of a veterinarian-client-patient relationship. Requires that one member on the state board of veterinary medicine not only be a consumer of services provided by a licensed veterinarian but also have no financial interest in the practice of veterinary medicine. Includes misconduct and incompetence as grounds for dismissing a member of the state board of veterinary medicine. Grants the board the power to issue cease and desist orders and to issue subpoenas when conducting investigations.

Grants to members of the board, witnesses, and complainants immunity from liability in civil actions. Removes as vague and subjective the requirement that an applicant for a veterinary license be "of good moral character". Allows veterinary students who will graduate within a certain period of time after taking the Colorado

practical examination admittance to take such examination. Discontinues the requirement that an applicant apply at least thirty days before the date of an examination. Requires the board to set the passing score for the veterinary examinations to reflect a standard of minimum competency. Allows the board to issue by endorsement a Colorado veterinary license to a veterinarian who is licensed in another jurisdiction and who possesses credentials and qualifications substantially equivalent to those required in Colorado. Allows the board to issue a Colorado veterinary license to an applicant who is certified by a specialty board of the American veterinary medical association and who meets requirements for certification substantially equivalent to those required in Colorado.

Discontinues the biennial expiration of licenses. Authorizes the department of regulatory agencies to establish an expiration schedule for licenses. Requires that one-half of the hours of annual continuing education required of licensees be subject to testing. Requires a veterinarian who has allowed his license to expire for more than a certain number of years or who has remained on inactive status for more than a certain number of years to retake the Colorado practical examination as a condition for reinstatement. Eliminates the requirement that a veterinarian assistant be under the direct supervision of a veterinarian and substitutes therefor the requirement that a veterinarian assistant be under the on-the-premises supervision of a veterinarian. Authorizes the board to issue letters of admonition for misconduct warranting action other than a more strict form of disciplinary action.

Includes as conduct warranting disciplinary action the following: (1) an act or omission which fails to meet generally accepted standards of veterinary practice; (2) the practice or performance of services beyond a veterinarian's scope of competence; (3) the failure to report a known violation of the veterinarian standards of practice; and (4) the administration, dispensing of, or prescription of any prescription drug in the absence of a veterinarian-client-patient relationship.

Extends the automatic termination date of the state board of veterinary medicine pursuant to the provisions of the sunset law.

- 1 Be it enacted by the General Assembly of the State of Colorado:
- 2 SECTION 1. 12-64-103, Colorado Revised Statutes, 1985
- 3 Repl. Vol., is amended BY THE ADDITION OF THE FOLLOWING NEW
- 4 SUBSECTIONS to read:

1 12-64-103. Definitions. (5.1) "Dispense" means to  
2 provide a drug or device, other than by distribution, bearing  
3 a label stating the name of the veterinarian, the date  
4 dispensed, directions for use, all cautionary statements,  
5 withdrawal time, if appropriate, the identity of the animal,  
6 and the owner's name.

7 (5.2) "Distribute" or "distribution" means to provide a  
8 drug or device in the manufacturer's original package to the  
9 client-patient.

10 (9.5) "OVA transplantation" means a technique by which  
11 fertilized embryos are collected from a donor female and  
12 transferred to a recipient female that serves as a surrogate  
13 mother for the remainder of the pregnancy.

14 (15.5) "Veterinarian-client-patient relationship" means  
15 that relationship established when:

16 (a) The veterinarian has assumed the responsibility for  
17 making medical judgments regarding the health of an animal and  
18 the need for medical treatment, and the owner or other  
19 caretaker has agreed to follow the instruction of the  
20 veterinarian;

21 (b) There is sufficient knowledge of an animal by the  
22 veterinarian to initiate at least a general or preliminary  
23 diagnosis of the medical condition of the animal, which means  
24 that the veterinarian has recently seen and is personally  
25 acquainted with the keeping and care of the animal by virtue  
26 of an examination of the animal or by medically appropriate  
27 and timely visits to the premises where the animal is kept;

1 and

2 (c) The practicing veterinarian is readily available for  
3 follow-up in case of adverse reactions or failure of the  
4 regimen of therapy.

5 (20) "Veterinary technician" means a person who:

6 (a) Has received a degree in animal technology or a  
7 comparable degree from a school, college, or university  
8 recognized by the board; or

9 (b) Has received a diploma as an animal technician on or  
10 before July 1, 1975.

11 SECTION 2. The introductory portion to 12-64-104 (1) and  
12 12-64-104 (1) (b), (1) (f), and (1) (j), Colorado Revised  
13 Statutes, 1985 Repl. Vol., are amended to read:

14 12-64-104. License requirements and exceptions. (1) No  
15 person may practice veterinary medicine in this state who is  
16 not a licensed veterinarian. ~~or--the--holder--of--a--valid~~  
17 ~~temporary--permit--issued--by--the--board.~~ No person may practice  
18 artificial insemination OR OVA TRANSPLANTATION of cattle or  
19 other animal species in this state ~~who-is-not-a-licensed~~  
20 ~~artificial--inseminator~~ EXCEPT IN ACCORDANCE WITH SECTION  
21 12-64-105 (9) (c). This article shall not be construed to  
22 prohibit:

23 (b) A person who is a regular student in an accredited  
24 or approved college SCHOOL of veterinary medicine from  
25 performing duties or actions assigned by his instructors or  
26 working under the direct ON-THE-PREMISES supervision of a  
27 licensed veterinarian;

1 (f) The owner of an animal and the owner's employees  
 2 from caring for and treating the animal belonging to such  
 3 owner, except where the ownership of the animal was  
 4 transferred for purposes of circumventing this article or  
 5 where the primary reason for hiring such employee is to  
 6 circumvent this article. NOTWITHSTANDING THE PROVISIONS OF  
 7 THIS PARAGRAPH (f), A VETERINARIAN-CLIENT-PATIENT RELATIONSHIP  
 8 MUST EXIST WHEN PRESCRIPTION DRUGS ARE ADMINISTERED,  
 9 DISPENSED, OR PRESCRIBED.

10 (j) Any ~~employee of a licensed veterinarian~~ PERSON from  
 11 performing duties other than diagnosis, prescription, surgery,  
 12 or initiating treatment under the direction and  
 13 ON-THE-PREMISES supervision of such A LICENSED veterinarian  
 14 who shall be responsible for ~~his or her~~ SUCH PERSON'S  
 15 performance;

16 SECTION 3. 12-64-105 (2), (5), (9) (b), (9) (c), and (9)  
 17 (e), Colorado Revised Statutes, 1985 Repl. Vol., are amended,  
 18 and the said 12-64-105 (9) is further amended BY THE ADDITION  
 19 OF A NEW PARAGRAPH, to read:

20 12-64-105. Board of veterinary medicine - subject to  
 21 termination. (2) A person is qualified to serve as a member  
 22 of the board if he is a graduate of a school of veterinary  
 23 medicine and a resident of this state and has been licensed to  
 24 practice veterinary medicine in this state for the five years  
 25 preceding the time of his appointment; except that there shall  
 26 always be one member on the board who is a consumer of  
 27 services provided by a licensed veterinarian ~~who, at the time~~

1 ~~of his appointment and during his service on the board, is~~  
 2 ~~actively engaged in livestock production in this state~~ AND WHO  
 3 HAS NO FINANCIAL INTEREST IN THE PRACTICE OF VETERINARY  
 4 MEDICINE.

5 (5) The governor may remove any member of the board for  
 6 MISCONDUCT, INCOMPETENCE, OR neglect of duty or other  
 7 sufficient cause after notice and administrative hearing as  
 8 provided in sections 24-4-105 and 24-4-106, C.R.S.

9 (9) (b) Issue, renew, deny, suspend, or revoke licenses  
 10 ~~and temporary permits~~ to practice veterinary medicine in the  
 11 state or otherwise discipline or fine, or both, ~~licensed~~  
 12 ~~veterinarians~~ LICENSEES consistent with the provisions of this  
 13 article and the rules and regulations adopted under this  
 14 article;

15 (c) Regulate artificial insemination AND OVA  
 16 TRANSPLANTATION of cattle or other animal species by  
 17 establishing RULES AND REGULATIONS FOR standards of practice,  
 18 INCLUDING RULES RELATING TO METHODS AND PROCEDURES FOR SAFE  
 19 ARTIFICIAL INSEMINATION AND OVA TRANSPLANTATION;  
 20 ~~qualifications of applicants, and licensing fees pursuant to~~  
 21 ~~section 24-34-105, C.R.S., and to give examinations to~~  
 22 ~~applicants and issue licenses to persons to perform artificial~~  
 23 ~~insemination of cattle or other animal species when such~~  
 24 ~~persons are found qualified by the board;~~

25 (e) Conduct investigations, SUBPOENA WITNESSES,  
 26 ADMINISTER OATHS, COMPEL THE TESTIMONY OF WITNESSES UNDER  
 27 OATH, COMPEL THE PRODUCTION OF BOOKS, PAPERS, AND RECORDS

1 RELEVANT TO ANY INVESTIGATION OR HEARING, BY SUBPOENA DUCES  
 2 TECUM OR OTHERWISE. THE SHERIFF OF ANY COUNTY SHALL SERVE ANY  
 3 SUBPOENA OR WRITTEN ORDER OF THE BOARD IN THE SAME MANNER AS  
 4 PROCESS IS SERVED IN CIVIL ACTIONS AND ANY SUBPOENA ISSUED  
 5 PURSUANT TO THIS PARAGRAPH (e) SHALL BE ENFORCEABLE BY THE  
 6 DISTRICT COURT.

7 (1) Issue a cease and desist order if the board  
 8 determines, either summarily or after due notice and hearing,  
 9 that a violation of a standard of practice exists. Such order  
 10 shall set forth the standard alleged to have been violated and  
 11 the facts alleged to have constituted the violation and shall  
 12 require that the practice alleged to have been violated cease  
 13 forthwith. This section shall be enforced by the district  
 14 court.

15 SECTION 4. Article 64 of title 12, Colorado Revised  
 16 Statutes, 1985 Repl. Vol., as amended, is amended BY THE  
 17 ADDITION OF A NEW SECTION to read:

18 12-64-105.5. Immunity from civil process. Any member of  
 19 the board, any witness testifying in a proceeding authorized  
 20 under this article, and any person who lodges a complaint  
 21 pursuant to this article shall be immune from liability in any  
 22 civil action brought against him for acts occurring while  
 23 acting in his capacity as a board member, witness, or  
 24 complainant, if such individual was acting in good faith  
 25 within the scope of his respective capacity.

26 SECTION 5. 12-64-107 (1), the introductory portion to  
 27 12-64-107 (3), and 12-64-107 (3) (a), (3) (c), and (4),

1 Colorado Revised Statutes, 1985 Repl. Vol., are amended to  
 2 read:

3 12-64-107. Application for license - qualifications.

4 (1) Any person twenty-one years of age or older ~~and of good~~  
 5 ~~moral-character~~ desiring a license to practice veterinary  
 6 medicine in this state shall make written application to the  
 7 board on forms provided by the board. The application shall  
 8 be accompanied by a fee in an amount established and published  
 9 by the board.

10 (3) The application to take the national ~~of Colorado~~  
 11 ~~practical~~ examination ~~of both~~, shall show that the applicant  
 12 is:

13 (a) A graduate of an approved school of veterinary  
 14 medicine; OR

15 (c) A graduate of a nonapproved school ~~of veterinary~~  
 16 ~~medicine--holding--a--certificate--of--competency--issued--by--the~~  
 17 ~~education--commission--for--foreign--veterinary--graduates~~ FOREIGN  
 18 SCHOOL OF VETERINARY MEDICINE IF SUCH SCHOOL SUBSTANTIALLY  
 19 MEETS THE ACADEMIC REQUIREMENTS OF APPROVED SCHOOLS OF  
 20 VETERINARY MEDICINE OR IF THE APPLICANT PRESENTS PROOF  
 21 SATISFACTORY TO THE BOARD THAT THE APPLICANT POSSESSES  
 22 CREDENTIALS AND QUALIFICATIONS SUBSTANTIALLY EQUIVALENT TO  
 23 REQUIREMENTS IN COLORADO FOR LICENSURE BY EXAMINATION. IN  
 24 MAKING SUCH DETERMINATION OF THE ACADEMIC REQUIREMENTS OF A  
 25 NONAPPROVED SCHOOL OR THE QUALIFICATIONS OF AN APPLICANT, THE  
 26 BOARD MAY CONSIDER THE RELEVANT REPORTS, REQUIREMENTS, OR  
 27 RECOMMENDATIONS OF ANY RECOGNIZED CREDENTIALING ORGANIZATION.

-31-

BILL 1

1 (4) BEFORE TAKING THE COLORADO PRACTICAL EXAMINATION,  
 2 student applicants subject to the provisions of paragraph (b)  
 3 of subsection (3) of this section shall show proof of  
 4 ~~graduation-before-taking-the--Colorado--practical--examination~~  
 5 THAT GRADUATION WILL BE ACCOMPLISHED WITHIN THIRTY DAYS  
 6 FOLLOWING SUCH EXAMINATION; HOWEVER, THE RESULTS OF SAID  
 7 EXAMINATION SHALL BE WITHHELD UNTIL PROOF OF GRADUATION IS  
 8 PROVIDED TO THE BOARD.

9 SECTION 6. 12-64-108 (1), (2), and (4), Colorado Revised  
 10 Statutes, 1985 Repl. Vol., are amended to read:

11 12-64-108. Examinations. (1) The board shall hold at  
 12 least one examination during each year and may hold such  
 13 additional examinations as are necessary. The secretary or an  
 14 authorized employee of the department of regulatory agencies  
 15 shall give public notice of the time and place for each  
 16 examination. A person desiring to take an examination shall  
 17 make application ~~at-least-thirty-days-before-the-date-of-the~~  
 18 ~~examination~~ ON FORMS PROVIDED BY THE BOARD.

19 (2) The preparation, administration, and grading of  
 20 examinations shall be governed by rules prescribed by the  
 21 board. Examinations shall be designed to test the examinee's  
 22 knowledge of and proficiency in the subjects and techniques  
 23 commonly taught in schools of veterinary medicine. To pass  
 24 the examination, the examinee must demonstrate scientific and  
 25 practical knowledge sufficient to prove himself--a THAT SUCH  
 26 PERSON IS competent ~~person~~ to practice veterinary medicine in  
 27 the judgment of the board. All examinees shall be tested by a

1 written examination, supplemented by such oral interviews and  
 2 practical demonstrations as the board may deem necessary. The  
 3 board may adopt and use the examination prepared by the  
 4 national board of veterinary examiners AND SHALL SET THE  
 5 PASSING SCORE FOR ANY REQUIRED EXAMINATION TO REFLECT A  
 6 MINIMUM LEVEL OF COMPETENCY.

7 (4) (a) The board may ~~enter---into---agreements---for~~  
 8 ~~reciprocal--licensing--with--other-states-having-substantially~~  
 9 ~~similar--requirements--for--licensing~~ ISSUE A LICENSE BY  
 10 ENDORSEMENT TO ENGAGE IN THE PRACTICE OF VETERINARY MEDICINE  
 11 IN THIS STATE TO ANY APPLICANT WHO HAS A LICENSE IN GOOD  
 12 STANDING AS A VETERINARIAN UNDER THE LAWS OF ANOTHER  
 13 JURISDICTION IF THE APPLICANT PRESENTS PROOF SATISFACTORY TO  
 14 THE BOARD THAT, AT THE TIME OF APPLICATION FOR A COLORADO  
 15 LICENSE BY ENDORSEMENT, THE APPLICANT POSSESSES CREDENTIALS  
 16 AND QUALIFICATIONS WHICH ARE SUBSTANTIALLY EQUIVALENT TO  
 17 REQUIREMENTS IN COLORADO FOR LICENSURE BY EXAMINATION. THE  
 18 BOARD MAY SPECIFY BY RULE AND REGULATION WHAT SHALL CONSTITUTE  
 19 SUBSTANTIALLY EQUIVALENT CREDENTIALS AND QUALIFICATIONS.

20 (b) THE BOARD MAY ISSUE A LICENSE TO ENGAGE IN THE  
 21 PRACTICE OF VETERINARY MEDICINE IN THIS STATE TO ANY APPLICANT  
 22 WHO IS CERTIFIED BY A SPECIALTY BOARD OF THE AMERICAN  
 23 VETERINARY MEDICAL ASSOCIATION IF THE APPLICANT HAS MET  
 24 REQUIREMENTS FOR CERTIFICATION WHICH ARE SUBSTANTIALLY SIMILAR  
 25 TO REQUIREMENTS IN COLORADO FOR LICENSURE BY EXAMINATION. THE  
 26 BOARD MAY SPECIFY BY RULE AND REGULATION THE CRITERIA WHICH  
 27 SHALL CONSTITUTE SUBSTANTIALLY EQUIVALENT CREDENTIALS AND

1 QUALIFICATIONS.

2 SECTION 7. 12-64-110 (1), (2), and (4) (a), Colorado  
3 Revised Statutes, 1985 Repl. Vol., are amended to read:

4 12-64-110. License renewal. (1) All licenses shall  
5 expire ~~biennially on a date established by the board~~ IN  
6 ACCORDANCE WITH THE PROVISIONS OF SECTION 24-34-102 (8),  
7 C.R.S., but may be renewed by registration with the board and  
8 payment of the registration renewal fee established, pursuant  
9 to section 24-34-105, C.R.S., by the board. The department of  
10 regulatory agencies shall mail a notice to each licensed  
11 veterinarian that his license will expire and provide him with  
12 a form for renewal of registration.

13 (2) (a) Any person who practices veterinary medicine  
14 after the expiration of his license and willfully or by  
15 neglect fails to renew such license shall be practicing in  
16 violation of this article, but any person may renew an expired  
17 license within five THREE years after the date of its  
18 expiration by making written application for renewal,  
19 providing satisfactory proof of the completion of all  
20 delinquent continuing education requirements, and paying the  
21 current renewal fee, all delinquent renewal fees, plus a  
22 delinquency fee as established by the board. The board may  
23 refuse to ~~renew~~ REINSTATE any license which has expired for  
24 conduct which constitutes a violation of the provisions of  
25 section 12-64-111.

26 (b) IF A LICENSEE HAS ALLOWED HIS LICENSE TO EXPIRE FOR  
27 A PERIOD LONGER THAN THREE YEARS, SUCH LICENSEE MAY BE

1 REINSTATED TO AN ACTIVE STATUS BY MAKING WRITTEN APPLICATION  
2 FOR REINSTATEMENT, RETAKING THE COLORADO PRACTICAL  
3 EXAMINATION, AND PAYING THE CURRENT RENEWAL FEE, ALL  
4 DELINQUENT RENEWAL FEES, PLUS A DELINQUENCY FEE AS ESTABLISHED  
5 BY THE BOARD; EXCEPT THAT A LICENSEE WHO, ON OR BEFORE JULY 1,  
6 1991, HAS AN EXPIRED LICENSE FOR MORE THAN THREE YEARS MAY  
7 REINSTATE SUCH LICENSE BY FULFILLING BY JULY 1, 1992, THE  
8 REQUIREMENTS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION  
9 (2).

10 (4) In order to obtain ~~annual~~ license renewal, each  
11 licensee, except as otherwise provided, shall be required to  
12 attend COMPLETE a board-approved veterinary educational  
13 program of at least sixteen hours' duration ~~during the twelve~~  
14 ~~months preceding each renewal date. Post-graduate study of~~  
15 ~~the type and character approved by the board or attendance at~~  
16 ~~an institution or at an educational session approved by the~~  
17 ~~board shall be considered equivalent to such sixteen-hour~~  
18 ~~minimum~~ FOR EACH TWELVE-MONTH PERIOD FOLLOWING LICENSURE. OF  
19 SUCH SIXTEEN HOURS OF COURSES, EIGHT HOURS SHALL BE TAKEN IN  
20 COURSES WHICH SHALL INCLUDE A WRITTEN EXAMINATION TO MEASURE  
21 THE KNOWLEDGE OBTAINED BY A LICENSEE ATTENDING SUCH COURSE.  
22 SUCCESSFUL PASSAGE OF THE EXAMINATION SHALL BE REQUIRED TO  
23 COMPLETE SUCH COURSE. THE CRITERIA FOR SUCH SYSTEM OF TESTING  
24 SHALL BE DETERMINED BY RULE AND REGULATION OF THE BOARD. The  
25 board may, for good cause shown, prescribe the type and  
26 character of ~~post-graduate study to be done~~ CONTINUING  
27 EDUCATION COURSES TO BE TAKEN by any doctor of veterinary

1 medicine in order to comply with the requirements of this  
2 article.

3 SECTION 8. 12-64-110.5, Colorado Revised Statutes, 1985  
4 Repl. Vol., is amended to read:

5 12-64-110.5. Inactive license. (1) A person licensed  
6 to practice veterinary medicine, upon written notice to the  
7 board by first-class mail, shall have his name transferred to  
8 an inactive list. ~~and shall not be required to comply with~~  
9 ~~the postgraduate requirements under section 12-64-110 as long~~  
10 ~~as he remains inactive.~~ Each such inactive licensee shall  
11 continue to meet the registration requirements of section  
12 12-64-110. Such inactive status shall be noted on the face of  
13 any license issued thereafter while the licensee remains  
14 inactive. Should such person wish to resume the practice of  
15 veterinary medicine WITHIN A THREE-YEAR PERIOD after being  
16 placed on an inactive list, he shall file a proper application  
17 therefor, pay the registration renewal fee, and meet any  
18 ~~postgraduate--study-requirements-which-the-board-may-determine~~  
19 THE CUMULATIVE ANNUAL CONTINUING EDUCATION REQUIREMENTS SET  
20 FORTH IN SECTION 12-64-110 (4) (a).

21 (2) IF A LICENSEE WHO REMAINS ON INACTIVE STATUS FOR A  
22 PERIOD LONGER THAN THREE YEARS WISHES TO RESUME THE PRACTICE  
23 OF VETERINARY MEDICINE, SUCH LICENSEE SHALL BE REQUIRED TO  
24 FILE A PROPER APPLICATION, PAY THE REGISTRATION RENEWAL FEE,  
25 AND RETAKE THE COLORADO PRACTICAL EXAMINATION; EXCEPT THAT A  
26 LICENSEE WHO, ON OR BEFORE JULY 1, 1991, HAS BEEN ON INACTIVE  
27 STATUS FOR MORE THAN THREE YEARS MAY RESUME THE PRACTICE OF

1 VETERINARY MEDICINE IF SUCH LICENSEE FULFILLS BY JULY 1, 1992,  
2 THE REQUIREMENTS SET FORTH IN SUBSECTION (1) OF THIS SECTION.

3 (3) A LICENSEE WHO HAS MAINTAINED AN ACTIVE LICENSE IN  
4 GOOD STANDING IN ANOTHER STATE DURING THE PERIOD SAID  
5 LICENSEE'S COLORADO LICENSE IS INACTIVE SHALL NOT BE REQUIRED  
6 TO RETAKE THE COLORADO PRACTICAL EXAMINATION. FOR PURPOSES OF  
7 THIS ARTICLE, "IN GOOD STANDING" MEANS NO DISCIPLINARY ACTIONS  
8 ARE PENDING OR HAVE BEEN INVOKED AGAINST THE LICENSEE.

9 SECTION 9. The introductory portion to 12-64-111 (1) and  
10 12-64-111 (1) (b), (1) (c), (1) (e), (1) (i), (1) (k), (1)  
11 (q), and (1) (v), Colorado Revised Statutes, 1985 Repl. Vol.,  
12 are amended, and the said 12-64-111 (1) is further amended BY  
13 THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

14 12-64-111. Discipline of licensees. (1) Upon signed  
15 complaint by any complainant or upon its own motion, the board  
16 may proceed to a hearing in conformity with section 12-64-112.  
17 After a hearing, and by a concurrence of a majority of  
18 members, the board may revoke or suspend the license of, PLACE  
19 ON PROBATION, or otherwise discipline or fine, any licensed  
20 veterinarian for any of the following reasons:

21 (b) Fraud, misrepresentation, or deception in ATTEMPTING  
22 TO OBTAIN OR IN obtaining a license;

23 (c) ~~Willful~~ Failure to display a license;

24 (e) ~~Willful~~ Misrepresentation in the inspection of food  
25 for human consumption;

26 (i) Refusal to permit the board to inspect veterinary  
27 premises during regular business hours;

1 (k) Incompetence, gross negligence, or other malpractice  
2 in the practice of veterinary medicine;

3 (q) Conviction of a felony in the courts of this state  
4 or of a crime in any other state, any territory, or any other  
5 country ~~which, if committed in this state, would be deemed a~~  
6 ~~felony~~ FOR AN OFFENSE RELATED TO THE CONDUCT REGULATED BY THIS  
7 ARTICLE. FOR THE PURPOSES OF THIS PARAGRAPH (q), A PLEA OF  
8 GUILTY OR A PLEA OF NOLO CONTENDERE ACCEPTED BY THE COURT  
9 SHALL BE CONSIDERED AS A CONVICTION;

10 (v) Addiction to, DEPENDENCE ON, or the habitual use OR  
11 ABUSE of intoxicating liquors, A HABIT-FORMING DRUG, AS  
12 DEFINED IN SECTION 12-22-102 (13), or a controlled substance,  
13 as defined in section 12-22-303 (7); ~~to such an extent as to~~  
14 ~~incapacitate or impair him from the performance of his~~  
15 ~~professional obligations and duties;~~

16 (z) Failing to report a known violation of any of the  
17 provisions of this section;

18 (aa) Administering, dispensing, or prescribing any  
19 prescription drug other than in the course of a  
20 veterinarian-client-patient relationship;

21 (bb) An act or omission which fails to meet generally  
22 accepted standards of veterinary practice;

23 (cc) Practicing or performing services beyond a  
24 licensee's scope of competence;

25 (dd) Engaging in any act prohibited in article 22 of  
26 this title.

27 SECTION 10. 12-64-111, Colorado Revised Statutes, 1985

1 Repl. Vol., is amended BY THE ADDITION OF THE FOLLOWING  
2 SUBSECTIONS to read:

3 12-64-111. Discipline of licensees. (1.5) When a  
4 complaint or an investigation discloses an instance of  
5 misconduct which, in the opinion of the board, does not  
6 warrant formal action but which should not be dismissed as  
7 being without merit, the board may send a letter of admonition  
8 to any licensed veterinarian. Such letter shall be sent to  
9 the veterinarian by certified mail, with a copy to the  
10 complainant, and shall advise such veterinarian that he may,  
11 within twenty days after receipt of the letter, make a written  
12 request to the board to institute a formal hearing pursuant to  
13 section 12-2-125 to determine the propriety of the alleged  
14 misconduct. If such request is timely made, the letter of  
15 admonition shall be deemed vacated, and the matter shall be  
16 processed by means of formal proceedings.

17 (2.5) With respect to denying the issuance of a  
18 veterinary license or to taking disciplinary action against a  
19 veterinarian, the board may accept as prima facie evidence of  
20 grounds for such action any federal or state action taken  
21 against a veterinarian from another jurisdiction if the  
22 violation which prompted the disciplinary action in such  
23 jurisdiction would constitute grounds for disciplinary action  
24 under this section.

25 (4) In addition to any other penalty which may be  
26 imposed pursuant to this section, any person violating any  
27 provision of this article or any rules or regulations

1 promulgated pursuant to this article may be fined not less  
2 than one hundred dollars nor more than one thousand dollars  
3 for any such violation.

4 SECTION 11. Article 64 of title 12, Colorado Revised  
5 Statutes, 1985 Repl. Vol., as amended, is amended BY THE  
6 ADDITION OF A NEW SECTION to read:

7 12-64-111.5. Review of board - disciplinary actions.  
8 After July 1, 1993, but no later than September 1, 1993, the  
9 sunrise and sunset review committee shall review the number of  
10 complaints received by the board from July 1, 1991, through  
11 July 1, 1993, and shall assess the disciplinary action taken  
12 by the board with respect to the disposition of such  
13 complaints.

14 SECTION 12. 12-64-114 (1) and (3), Colorado Revised  
15 Statutes, 1985 Repl. Vol., are amended to read:

16 12-64-114. Enforcement. (1) No person who practices  
17 veterinary medicine without a currently valid license or  
18 ~~temporary-permit~~ may receive any compensation for services so  
19 rendered.

20 (3) The board or any citizen of this state may bring an  
21 action to enjoin any person from practicing veterinary  
22 medicine without a currently valid license. ~~or temporary~~  
23 ~~permit.~~ If the court finds that the person is violating, or  
24 is threatening to violate, this article, it may enter an  
25 injunction restraining him from such unlawful acts.

26 SECTION 13. The introductory portion to 12-64-116,  
27 Colorado Revised Statutes, 1985 Repl. Vol., is amended to

1 read:

2 12-64-116. veterinary students. (i) All duties  
3 performed by a veterinary student must be under direct THE  
4 on-the-premises supervision of a licensed veterinarian. If  
5 the student does not conform to the following requirements,  
6 the licensed veterinarian is in violation of this article. A  
7 veterinary student:

8 SECTION 14. 24-34-104, Colorado Revised Statutes, 1988  
9 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW  
10 SUBSECTION to read:

11 24-34-104. General assembly review of regulatory  
12 agencies and functions for termination, continuation, or  
13 reestablishment. (30) The following board in the  
14 division of registrations shall terminate on July 1,  
15 2001: The state board of veterinary medicine created by  
16 article 64 of title 12, C.R.S.

17 SECTION 15. Repeal. 12-64-103 (2) and (8), 12-64-104  
18 (1) (n), 12-64-105 (4), (7), (9) (g), and (9) (k), 12-64-107  
19 (2), 12-64-109, and 12-64-111 (1) (n), Colorado Revised  
20 Statutes, 1985 Repl. Vol., and 24-34-104 (20) (a), Colorado  
21 Revised Statutes, 1988 Repl. Vol., are repealed.

22 SECTION 16. Effective date - applicability. This act  
23 shall take effect July 1, 1991, and shall apply to licenses  
24 issued, renewed, or reinstated pursuant to article 64 of title  
25 12, Colorado Revised Statutes, and to any acts committed on or  
26 after said date.

27 SECTION 17. Safety clause. The general assembly hereby

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

BY SENATOR Schaffer;  
also REPRESENTATIVES Owen and Phillips.

A BILL FOR AN ACT

1 CONCERNING THE OFFICE OF REGULATORY REFORM, AND PROVIDING FOR  
2 THE CONTINUATION OF SUCH OFFICE AND OF THE ADVISORY  
3 COMMITTEE THERETO.

Bill Summary

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

Clarifies that the provision of law requiring state agencies to submit rules affecting small business to the office of regulatory reform for review applies to rules promulgated pursuant to the "State Administrative Procedure Act".

Continues the office of regulatory reform for a specified period of time. Continues the advisory committee to the office of regulatory reform. Authorizes the office to accept and expend nonstate moneys without legislative appropriation provided such receipt and expenditure is reported in writing to the executive director of the department of regulatory agencies prior to the time of the office's annual budget requests. Requires any person who provides information developed by the office and charges a fee for such information to disclose that such information is available from the office at no charge and makes the violation of such provision punishable as a misdemeanor. Moves the provision of law requiring the office to review and report on any proposed agency rules which the office believes are unnecessary to a separate section of law to eliminate confusion.

Makes conforming amendments and repeals obsolete provisions of law.

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

2 SECTION 1. 24-4-103 (1), Colorado Revised Statutes, 1988  
3 Repl. Vol., is amended to read:

4 24-4-103. Rule-making - procedure. (1) When any agency  
5 is required or permitted by law to make rules, in order to  
6 establish procedures and to accord interested persons an  
7 opportunity to participate therein, the provisions of this  
8 section AND SECTION 24-4-103.5 shall be applicable. Except  
9 when notice or hearing is otherwise required by law, this  
10 section ~~does~~ AND SECTION 24-4-103.5 DO not apply to  
11 interpretative rules or general statements of policy, which  
12 are not meant to be binding as rules, or rules of agency  
13 organization.

14 SECTION 2. 24-34-104, Colorado Revised Statutes, 1988  
15 Repl. Vol, as amended, is amended BY THE ADDITION OF A NEW  
16 SUBSECTION to read:

17 24-34-104. General assembly review of regulatory  
18 agencies and functions for termination, continuation, or  
19 reestablishment. (29.1) The following office in the office  
20 of the executive director of the department of regulatory  
21 agencies shall terminate on July 1, 2000: The office of  
22 regulatory reform, created by part 9 of this article.

23 SECTION 3. 24-34-905 (2), Colorado Revised Statutes,  
24 1988 Repl. Vol., is amended to read:

25 24-34-905. Assistance of others. (2) The office shall  
26 have the authority to accept and expend moneys from sources

-37-

BILL 2

1 other than the state of Colorado for the purpose of performing  
2 specific projects, studies, or procedures, or to provide  
3 assistance. ~~subject-to-appropriation-by-the-general-assembly.~~  
4 THE RECEIPT AND EXPENDITURE OF MONEY SO RECEIVED SHALL BE  
5 REPORTED IN WRITING TO THE EXECUTIVE DIRECTOR OF THE  
6 DEPARTMENT OF REGULATORY AGENCIES PRIOR TO THE TIME OF  
7 SUBMISSION OF THE OFFICE'S ANNUAL BUDGET REQUESTS.

8 SECTION 4. 24-34-907, Colorado Revised Statutes, 1988  
9 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to  
10 read:

11 24-34-907. General permit information - availability to  
12 public. (3) Any person who provides information developed by  
13 the office and charges any fee for such information shall  
14 disclose in at least ten-point type, before any obligation is  
15 incurred, that such information is available at no cost from  
16 the office. Any person who knowingly fails to make the  
17 disclosure required by this subsection (3) commits a class 3  
18 misdemeanor and shall be punished as provided in section  
19 18-1-106, C.R.S.

20 SECTION 5. Part 9 of article 34 of title 24, Colorado  
21 Revised Statutes, 1988 Repl. Vol., as amended, is amended BY  
22 THE ADDITION OF A NEW SECTION to read:

23 24-34-914. Review of unnecessary administrative rules  
24 and regulations - report to legislative sunrise and sunset  
25 review committee. The office shall notify the joint  
26 legislative sunrise and sunset review committee of any  
27 proposed rules which the office believes are unnecessary for

1 the administrative functions of a particular agency. The  
2 committee shall have the authority to review such rules and to  
3 introduce legislation which rescinds or deletes the rules or  
4 portions of such rules which the committee believes to be  
5 unnecessary for the administrative functions of a particular  
6 agency. Only that portion of any rule specifically  
7 disapproved by act of the general assembly shall no longer be  
8 in effect, and that portion of the rule which remains after  
9 deletion of a portion thereof shall retain its character as an  
10 administrative rule. The joint legislative sunrise and sunset  
11 review committee shall notify the secretary of state whenever  
12 a rule published in the Code of Colorado Regulations is  
13 rescinded or a portion thereof is deleted, and the secretary  
14 of state shall direct the removal from the code of material so  
15 deleted or rescinded. It is the intent of the general  
16 assembly that rules deleted or rescinded pursuant to this  
17 section shall not be substantive in nature.

18 SECTION 6. Repeal. 2-3-1203 (3) (d) (XI), Colorado  
19 Revised Statutes, 1980 Repl. Vol., as amended, 24-34-104 (20)  
20 (b), 24-34-904 (1) (1) (II), and 24-34-913 (4.5), as amended,  
21 Colorado Revised Statutes, 1988 Repl. Vol., and 40-16-109,  
22 Colorado Revised Statutes, 1984 Repl. Vol., as amended, are  
23 repealed.

24 SECTION 7. Safety clause. The general assembly hereby  
25 finds, determines, and declares that this act is necessary  
26 for the immediate preservation of the public peace, health,  
27 and safety.

BY REPRESENTATIVES Owen and Phillips;  
also SENATOR Schaffer.

A BILL FOR AN ACT

1 CONCERNING SLAUGHTERERS OF LIVESTOCK, AND, IN CONNECTION  
2 THEREWITH, CONTINUING THE FUNCTIONS OF THE DEPARTMENT OF  
3 AGRICULTURE RELATED TO THE LICENSING OF SUCH SLAUGHTERERS  
4 OF LIVESTOCK.

Bill Summary

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

Provides that the board of stock inspection commissioners shall establish annual slaughterers' license fees. Eliminates the various classes of slaughterers' licenses. Deletes the term "butcher" from the statutes requiring licensure of slaughterers. Requires applications for slaughterers' licenses to conform to the state statute eliminating notarization and substituting perjury penalties. Allows the department of agriculture to suspend or refuse to renew a slaughterer's license or to place a licensee on probation. Authorizes disciplinary action against a licensee for violating or abetting the violation of the slaughterers' statutes or regulations or orders promulgated pursuant to those laws, or for violations of any other laws of Colorado, other states, or the United States. Allows evidence of disciplinary action taken by another state against a slaughterer to be used as evidence of violation of Colorado law.

Requires hearings concerning slaughterers' licenses to be conducted pursuant to the "State Administrative Procedure Act". Allows administrative law judges to conduct such hearings. Authorizes the state board of stock inspection

commissioners to investigate possible violations of the slaughterers' statutes. Directs the state board of stock inspection commissioners to establish standards for qualification of brand inspectors and allows the employment of such brand inspectors. Requires the board to establish a fee to be charged persons seeking qualification as a contract brand inspector.

Standardizes the penalties for most violations of the slaughterers' licensing law.

Continues the functions of the department of agriculture related to the licensing of slaughterers and provides for the sunset of such functions on a certain date.

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

2 SECTION 1. The introductory portion to 12-11-101 (1) and  
3 12-11-101 (1) (a), (1) (d), and (2), Colorado Revised  
4 Statutes, 1985 Repl. Vol., as amended, are amended, and the  
5 said 12-11-101 is further amended BY THE ADDITION OF THE  
6 FOLLOWING NEW SUBSECTIONS, to read:

7 12-11-101. Requirements for slaughterer business.

8 (1) Every person carrying on the trade or business of a  
9 butcher-~~or~~ slaughterer of livestock in this state:

10 (a) Shall obtain a license from the department of  
11 agriculture and shall pay therefor an annual license fee WHICH  
12 SHALL BE ESTABLISHED BY THE STATE BOARD OF STOCK INSPECTION  
13 COMMISSIONERS IN A MANNER CONSISTENT WITH THE PROVISIONS OF  
14 SECTION 24-34-105, C.R.S., AND WHICH, IN THE BOARD'S  
15 DISCRETION, MAY BE based upon the number of animals  
16 slaughtered during the previous calendar year, as determined  
17 from records of the department or the records of the  
18 applicant. The applicant shall maintain accurate records  
19 regarding the number of animals slaughtered during a calendar

1 year, and such records shall be made available to employees of  
 2 the department during normal business hours. Records shall be  
 3 kept for a period of two years. ON AND AFTER JULY 1, 1990,  
 4 EVERY APPLICATION FOR A SLAUGHTERER'S LICENSE AND ACCOMPANYING  
 5 MATERIALS SHALL COMPLY WITH THE PROVISIONS OF SECTION 24-4-104  
 6 (13), C.R.S. A license issued under this article shall not be  
 7 transferable to a lessee. ~~and any such license may be revoked~~  
 8 ~~for a violation of any law or regulation of the commissioner~~  
 9 ~~of agriculture. The classes of licenses and the fees therefor~~  
 10 ~~are as follows:~~

11 (i) ~~Class I slaughterer's license: For not more than one~~  
 12 ~~thousand animals slaughtered in a calendar year, the fee shall~~  
 13 ~~be fifty dollars;~~

14 (ii) ~~Class II slaughterer's license: For more than one~~  
 15 ~~thousand but not more than five thousand animals slaughtered~~  
 16 ~~in a calendar year, the fee shall be seventy-five dollars;~~

17 (iii) ~~Class III slaughterer's license: For more than~~  
 18 ~~five thousand animals slaughtered in a calendar year, the fee~~  
 19 ~~shall be one hundred dollars;~~

20 (iv) ~~If a slaughterer has not been engaged in business~~  
 21 ~~during the previous calendar year, the fee shall be fifty~~  
 22 ~~dollars.~~

23 (d) Shall file evidence of financial responsibility in  
 24 the form of a savings account, deposit, or certificate of  
 25 deposit meeting the requirements of section 11-35-101, C.R.S.,  
 26 or an irrevocable letter of credit meeting the requirements of  
 27 section 11-35-101.5, C.R.S., or an approved surety bond in the

1 sum of not less than two thousand dollars with the state board  
 2 of stock inspection commissioners for the use and benefit of  
 3 any person or the state of Colorado suffering loss or damage  
 4 from violations by the person carrying on the trade or  
 5 business of ~~butcher or~~ slaughterer of livestock or from  
 6 failure on his part to perform such duties or to comply with  
 7 any requirement of law or of the regulations of the state  
 8 board of stock inspection commissioners that he shall keep in  
 9 a special book a true and faithful record of all brands and  
 10 marks on livestock and a record of carcasses or any part of a  
 11 carcass purchased or otherwise acquired by him and a record of  
 12 the bills of sale, but any such person carrying on the trade  
 13 or business of ~~butcher or~~ slaughterer of livestock in this  
 14 state who is registered under the provisions of the federal  
 15 "Packers and Stockyards Act, 1921", as amended, and has  
 16 executed a bond as provided in said act and as required by the  
 17 rules and regulations prescribed by the United States  
 18 secretary of agriculture shall not be required to file the  
 19 evidence of financial responsibility provided for in this  
 20 article if such bond executed pursuant to said act also  
 21 guarantees payment of all brand and sanitary inspection fees  
 22 due this state;

23 (2) ~~Every person carrying on the trade or business of a~~  
 24 ~~butcher or slaughterer of livestock in this state who is~~  
 25 ~~exempt from this law as provided in paragraph (h) of~~  
 26 ~~subsection (1) of this section shall not slaughter any cattle~~  
 27 ~~or horses purchased in Colorado that have not been inspected~~

-41-

BILL 3

1 ~~for brands by an authorized Colorado brand inspector~~  
 2 ~~immediately prior to slaughter.~~ THE DEPARTMENT OF AGRICULTURE  
 3 MAY DENY ANY APPLICATION FOR A LICENSE, OR MAY REFUSE TO RENEW  
 4 A LICENSE, OR MAY REVOKE OR SUSPEND A LICENSE, OR MAY PLACE A  
 5 LICENSEE ON PROBATION, AS THE CASE MAY REQUIRE, IF A LICENSEE:

6 (a) HAS VIOLATED OR ATTEMPTED TO VIOLATE ANY OF THE  
 7 PROVISIONS OF THIS ARTICLE OR ANY OF THE RULES AND REGULATIONS  
 8 OR LAWFUL ORDERS PROMULGATED PURSUANT TO THIS ARTICLE, OR  
 9 ASSISTED IN OR ABETTED ANY SUCH VIOLATION, OR CONSPIRED TO  
 10 COMMIT SUCH A VIOLATION; OR

11 (b) HAS BEEN CONVICTED OF, OR PLED GUILTY OR NOLO  
 12 CONTENDERE TO A FELONY UNDER THE LAWS OF THIS STATE, OR OF ANY  
 13 OTHER STATE, OR OF THE UNITED STATES WHICH IS RELATED TO THE  
 14 ABILITY TO CARRY ON THE BUSINESS OF A SLAUGHTERER.

15 (c) HAS HAD A LICENSE TO OPERATE AS A SLAUGHTERER  
 16 SUSPENDED, REVOKED, OR DENIED IN ANOTHER STATE, OR HAS BEEN  
 17 SUBJECTED TO OTHER DISCIPLINARY ACTION IN ANOTHER STATE, IF  
 18 THE BASIS FOR SUCH SUSPENSION, REVOCATION, DENIAL, OR OTHER  
 19 ACTION IS ALSO A VIOLATION OF COLORADO LAW. FOR PURPOSES OF  
 20 THIS PARAGRAPH (c), EVIDENCE OF ANY ADVERSE OR DISCIPLINARY  
 21 ACTION TAKEN BY ANOTHER STATE AGAINST A PERSON FOR AN ACTION  
 22 CONDUCTED WHILE CARRYING ON THE TRADE OR BUSINESS OF A  
 23 SLAUGHTERER FOR AN ACTION WHICH IS A VIOLATION OF COLORADO LAW  
 24 SHALL BE PRIMA FACIE EVIDENCE OF VIOLATION OF COLORADO LAW.

25 (d) HAS HAD A LICENSE TO OPERATE AS A SLAUGHTERER  
 26 SUSPENDED, REVOKED, OR DENIED, OR WHO HAS BEEN SUBJECTED TO  
 27 OTHER DISCIPLINARY ACTION PURSUANT TO THE FEDERAL "PACKERS AND

1 STOCKYARDS ACT, 1921", AS AMENDED, IF THE BASIS FOR SUCH  
 2 SUSPENSION, REVOCATION, DENIAL, OR OTHER ACTION IS ALSO A  
 3 VIOLATION OF COLORADO LAW.

4 (3) All proceedings concerning the denial, revocation,  
 5 nonrenewal, or suspension of a license or the placing of a  
 6 licensee on probation shall be conducted pursuant to the  
 7 provisions of article 4 of title 24, C.R.S. An administrative  
 8 law judge may be employed to conduct any such hearings. Such  
 9 an administrative law judge shall be appointed pursuant to  
 10 part 10 of article 30 of title 24, C.R.S.

11 (4) The state board of stock inspectors shall have the  
 12 authority to investigate possible violations of any provision  
 13 of this article on the basis of a complaint or when the board  
 14 has other reasonable grounds to believe that any person has  
 15 violated any such provision.

16 (5) Every person carrying on the trade or business of a  
 17 slaughterer of livestock in this state who is exempt from this  
 18 law as provided in paragraph (h) of subsection (1) of this  
 19 section shall not slaughter any cattle or horses purchased in  
 20 Colorado that have not been inspected for brands by an  
 21 authorized Colorado brand inspector immediately prior to  
 22 slaughter.

23 SECTION 2. 12-11-102, Colorado Revised Statutes, 1985  
 24 Repl. Vol., as amended, is amended to read:

25 12-11-102. Operating without evidence of financial  
 26 responsibility. ~~Every person who is found carrying~~ IT IS  
 27 UNLAWFUL FOR ANY PERSON TO CARRY on the business of ~~butcher or~~

1 slaughterer in this state without having filed the evidence of  
2 financial responsibility provided in section 12-11-101. ~~is~~  
3 ~~guilty-of-a-misdemeanor-and-upon-conviction-thereof-shall-be~~  
4 ~~punished-by-a-fine-of-not-less-than-fifty-dollars-nor-more~~  
5 ~~than-one-hundred-dollars-for-every-day-he-carries-on-such~~  
6 ~~business.~~

7 SECTION 3. 12-11-103, Colorado Revised Statutes, 1985  
8 Repl. Vol., is amended to read:

9 12-11-103. No records. The record provided for in  
10 section 12-11-101 and also the hide shall be open to the  
11 inspection of all persons for a period of thirty days, and IT  
12 IS UNLAWFUL FOR any ~~butcher-or~~ slaughterer ~~refusing TO REFUSE~~  
13 to permit such inspection or examination. ~~shall-be-subject-to~~  
14 ~~a-fine-of-not-less-than-ten-dollars-nor-more-than-twenty-five~~  
15 ~~dollars-for-each-offense.~~

16 SECTION 4. 12-11-104, Colorado Revised Statutes, 1985  
17 Repl. Vol., as amended, is amended to read:

18 12-11-104. Sales by persons other than slaughterers -  
19 requirements. It is unlawful for any person, company, or  
20 corporation to sell or offer for sale or to have in his  
21 possession, except as a ~~butcher~~ SLAUGHTERER who has filed  
22 evidence of a savings account, deposit, or certificate of  
23 deposit meeting the requirements of section 11-35-101, C.R.S.,  
24 or an irrevocable letter of credit meeting the requirements of  
25 section 11-35-101.5, C.R.S., or a bond and is licensed as  
26 provided by law and who has a permanent place of business, a  
27 carcass of beef or veal or any portion of such carcass without

1 first exhibiting the hide intact and exposing the brand upon  
2 the hide, if any, to the purchaser. It is the duty of any  
3 such person, company, or corporation selling or offering for  
4 sale any such carcass of beef or veal to preserve the hide of  
5 the same for a period of thirty days, unless the hide from  
6 such a carcass of beef or veal has been previously inspected  
7 and released by a duly authorized Colorado brand inspector,  
8 and to exhibit the same for inspection upon demand of any  
9 person.

10 SECTION 5. 12-11-106, Colorado Revised Statutes, 1985  
11 Repl. Vol., as amended, is amended to read:

12 12-11-106. Inspection of hide. The sheriff or deputy  
13 sheriff of any county in this state and any regular or special  
14 brand inspector appointed by the state board of stock  
15 inspection commissioners of the state of Colorado are hereby  
16 authorized and empowered to require any person, corporation,  
17 or company, other than a ~~butcher~~ SLAUGHTERER having a  
18 permanent place of business who has filed evidence of a  
19 savings account, deposit, or certificate of deposit meeting  
20 the requirements of section 11-35-101, C.R.S., or an  
21 irrevocable letter of credit meeting the requirements of  
22 section 11-35-101.5, C.R.S., or a bond as required by law, who  
23 kills for his own use and consumption any cattle to produce  
24 for inspection the hide of any such animal which has been  
25 killed within thirty days unless the same has been inspected  
26 and tagged prior to such demand for inspection. In the  
27 absence of the owner or proper corporate officer, the person

-43-

BILL 3

1 in charge of the premises where the meat then is shall produce  
2 the hide for inspection upon demand as aforesaid.

3 SECTION 6. 12-11-109, Colorado Revised Statutes, 1985  
4 Repl. Vol., is amended to read:

5 12-11-109. Violation of sections - penalty. (1) EXCEPT  
6 AS OTHERWISE PROVIDED IN THIS ARTICLE, any person, company, or  
7 corporation violating any provisions of ~~sections 12-11-104 and~~  
8 ~~12-11-105 is guilty of~~ THIS ARTICLE COMMITS a CLASS 3  
9 misdemeanor and ~~upon conviction thereof,~~ shall be punished by  
10 ~~a fine of not less than one hundred dollars nor more than five~~  
11 ~~hundred dollars, or by imprisonment in the county jail for not~~  
12 ~~more than twelve months, or by both such fine and imprisonment~~  
13 AS PROVIDED IN SECTION 18-1-106, C.R.S.

14 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, ANY  
15 PERSON, COMPANY, OR CORPORATION WHICH VIOLATES ANY PROVISION  
16 OF THIS ARTICLE WITHIN THREE YEARS AFTER A PREVIOUS VIOLATION  
17 OF ANY PROVISION OF THIS ARTICLE BY THAT SAME PERSON, COMPANY,  
18 OR CORPORATION COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE  
19 PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.

20 (3) Any person informing the proper authorities in  
21 regard to the violation of the provisions of sections  
22 12-11-104 and 12-11-105 is entitled to one-half of the fine  
23 imposed when collected.

24 SECTION 7. 12-11-110, Colorado Revised Statutes, 1985  
25 Repl. Vol., as amended, is amended to read:

26 12-11-110. Records required - unlawfully slaughtering of  
27 another's animals - penalty. (1) Every person, firm, or

1 corporation which carries on the business of a butcher--or  
2 slaughterer of cattle or horses shall keep a true record of  
3 all cattle or horses purchased or slaughtered and of any  
4 carcass or part of a carcass purchased in one or more special  
5 books kept for such purposes. Such records shall include a  
6 complete description of each such animal or carcass, including  
7 the approximate age and weight, breed and color, fire brands,  
8 earmarks, and any other identifying characteristics and the  
9 date of purchase and from whom such animal, carcass, or part  
10 of carcass was purchased.

11 ~~(2) Any person, firm, or corporation which violates the~~  
12 ~~provisions of section 12-11-101 (1) (b) or (1) (c) or of~~  
13 ~~subsection (1) of this section is guilty of a misdemeanor and,~~  
14 ~~upon conviction thereof, shall be punished by a fine of not~~  
15 ~~less than three hundred dollars nor more than three thousand~~  
16 ~~dollars.~~

17 (2) In cases where the animals of another have been  
18 butchered unlawfully, such person commits a class 6-felony 1  
19 MISDEMEANOR and shall be punished as provided in section  
20 ~~18-1-106~~ 18-1-106, C.R.S.

21 SECTION 8. 12-11-113, Colorado Revised Statutes, 1985  
22 Repl. Vol., as amended, is amended to read:

23 12-11-113. Fines paid into county. All fines and  
24 penalties so recovered under FOR VIOLATION OF ANY PROVISION OF  
25 sections 12-11-101 to 12-11-103 and 12-11-110 shall be paid  
26 into the county treasury of the proper county. If the  
27 licensee has filed a bond, the offender and his sureties shall

1 be liable on the bond provided for in section 12-11-101 for  
2 all fines, penalties, and costs adjudged against him. Said  
3 bond may be sued on, in the name of the people of the state of  
4 Colorado, in any court of competent jurisdiction. If the  
5 licensee has filed other evidence of financial responsibility  
6 as set forth in section 12-11-101 (1) (d), such form of  
7 financial responsibility may be recovered, in the name of the  
8 people of the state of Colorado, in any court of competent  
9 jurisdiction.

10 SECTION 9. Article 11 of title 12, Colorado Revised  
11 Statutes, 1985 Repl. Vol., as amended, is amended BY THE  
12 ADDITION OF A NEW SECTION to read:

13 12-11-113.5. Standards for brand inspectors - creation  
14 of fund. The state board of stock inspection commissioners  
15 shall establish by rule and regulation minimum standards for  
16 the qualification of individuals who are authorized to make  
17 inspections of brands or hides as required pursuant to this  
18 article or article 55 of title 35, C.R.S. Persons who meet  
19 such qualifications may be employed by contract to perform  
20 such inspections in order to provide such services in a more  
21 timely and consistent fashion. The board shall establish a  
22 fee to be charged to an individual seeking approval as a  
23 qualified contract brand inspector which shall cover the  
24 direct and indirect costs of qualifying such persons as brand  
25 inspectors. Such fee shall include the issuance of evidence  
26 of qualification, if applicable. Such fees shall be credited  
27 to the contract brand inspectors fund, which fund is hereby

1 created in the state treasury. All interest derived from the  
2 deposit and investment of moneys in the fund shall be credited  
3 to the fund. All moneys in the fund shall be subject to  
4 appropriation by the general assembly for the costs of  
5 qualifying contract brand inspectors pursuant to this section.

6 SECTION 10. 12-11-114, Colorado Revised Statutes, 1985  
7 Repl. Vol., as amended, is amended to read:

8 12-11-114. Termination of functions. The licensing  
9 functions of the department of agriculture as set forth in  
10 this article are terminated on July 1, 1991 2001. Prior to  
11 such termination, the licensing functions shall be reviewed as  
12 provided for in section 24-34-104, C.R.S.

13 SECTION 11. 24-34-104, Colorado Revised Statutes, 1988  
14 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW  
15 SUBSECTION to read:

16 24-34-104. General assembly review of regulatory  
17 agencies and functions for termination, continuation, or  
18 reestablishment. (30) The following functions of the  
19 specified agency shall terminate on July 1, 2001: The  
20 licensing of slaughterers of livestock through the department  
21 of agriculture in accordance with article 11 of title 12,  
22 C.R.S.

23 SECTION 12. Repeal. 12-11-111 (4), Colorado Revised  
24 Statutes, 1985 Repl. Vol., and 24-34-104 (20.1) (a), Colorado  
25 Revised Statutes, 1988 Repl. Vol., are repealed.

26 SECTION 13. Effective date - applicability. This act  
27 shall take effect July 1, 1991, and shall apply to acts

1 committed on and after said date.

2 SECTION 14. Safety clause. The general assembly hereby  
3 finds, determines, and declares that this act is necessary  
4 for the immediate preservation of the public peace, health,  
5 and safety.

BY REPRESENTATIVE Kopel;  
also SENATOR Schaffer.

A BILL FOR AN ACT

1 CONCERNING THE CONTINUATION OF THE LICENSING OF PUBLIC  
2 LIVESTOCK MARKETS THROUGH THE STATE BOARD OF STOCK  
3 INSPECTION COMMISSIONERS.

Bill Summary

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

Discontinues the requirement that an application for a public livestock market license be notarized. Allows the state board of stock inspection commissioners to set the application fee for licensure at an amount which covers the administrative costs of the licensing of public livestock markets. Discontinues the requirement that an applicant show economic benefit to the livestock economy as a requisite for licensure. Authorizes the board to deny the issuance of a livestock market license when all prerequisites for licensure are not met. Grants the board the authority to suspend or revoke a license or place on probation a licensee for conduct warranting disciplinary action. Authorizes the board to issue letters of admonition for misconduct warranting action other than a more strict form of discipline. Includes certain conduct as warranting disciplinary action.

Authorizes the board to initiate proceedings against a licensee for conduct warranting discipline and requires the board to employ administrative law judges to conduct such hearings. Conforms the penalties for conduct warranting disciplinary action with the penalties set forth in the criminal code.

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

2 SECTION 1. The introductory portion to 35-55-102 (1),  
3 Colorado Revised Statutes, 1984 Repl. Vol., is amended, and  
4 the said 35-55-102 (1) is further amended BY THE ADDITION OF  
5 THE FOLLOWING NEW PARAGRAPHS, to read:

6 35-55-102. License requirements. (1) Any person,  
7 partnership, or corporation may procure a license to establish  
8 and operate, for a term of one year, a public livestock market  
9 within the state of Colorado by making a--sworn written  
10 application to the state board of stock inspection  
11 commissioners, ~~containing~~ WHICH APPLICATION SHALL PROVIDE the  
12 following:

13 (e) Proof of the ability of the applicant to comply with  
14 the federal "Packers and Stockyards Act", as amended (7 U.S.C.  
15 181 et seq.);

16 (f) Proof of the financial stability, business  
17 integrity, and fiduciary responsibility of the applicant.

18 SECTION 2. 35-55-103, Colorado Revised Statutes, 1984  
19 Repl. Vol., is amended to read:

20 35-55-103. License fee. No person, partnership, or  
21 corporation shall engage in the operation of a public  
22 livestock market within the state of Colorado without first  
23 procuring a license from the state board of stock inspection  
24 commissioners and paying therefor a fee or tax of one--hundred  
25 dollars PRESCRIBED BY THE BOARD IN AN AMOUNT SUFFICIENT TO

-47-

BILL 4

1 COVER THE ADMINISTRATIVE COSTS OF THE LICENSING PROVISIONS OF  
2 THIS ARTICLE. Said license shall be renewed by eligible  
3 applicants prior to May first 1 in each calendar year  
4 thereafter, upon like application and payment of a like fee.  
5 An application for a license to establish and operate public  
6 livestock markets shall be in writing upon a blank form to be  
7 furnished by the state board of stock inspection commissioners  
8 and shall be accompanied by the fee above prescribed BY THE  
9 BOARD PURSUANT TO THIS SECTION. If the board does not issue a  
10 license or renewal, the fee or tax must be returned to the  
11 applicant.

12 SECTION 3. The introductory portion to 35-55-107 (1),  
13 Colorado Revised Statutes, 1984 Repl. Vol., is amended, and  
14 the said 35-55-107 (1) is further amended BY THE ADDITION OF  
15 THE FOLLOWING NEW PARAGRAPHS, to read:

16 35-55-107. Discipline of licensees. (1) Any violation  
17 of the provisions of this article or of any rule or regulation  
18 adopted and published by the state board of stock inspection  
19 commissioners shall be deemed sufficient cause for the  
20 ~~cancellation of~~ STATE BOARD OF STOCK INSPECTION COMMISSIONERS  
21 TO REVOKE OR SUSPEND the license of the offending operator of  
22 such public livestock market OR TO PLACE ON PROBATION SUCH  
23 LICENSEE, and the following shall also be specific grounds for  
24 ~~the--cancellation-of-such-license~~ THE IMPOSITION OF ANY OF THE  
25 DISCIPLINARY ACTIONS SPECIFIED IN THIS INTRODUCTORY PORTION:

26 (h) If the state board of stock inspection commissioners

1 finds that the licensee attempted to obtain or obtained a  
2 livestock market license by fraud or misrepresentation;

3 (i) If the state board of stock inspection commissioners  
4 finds that the licensee is engaging in or has engaged in  
5 advertising which is misleading, deceptive, or false;

6 (j) If the state board of stock inspection commissioners  
7 finds that the licensee has violated or has aided or abetted  
8 in the violation of any order of the state board of stock  
9 inspection commissioners;

10 (k) If the state board of stock inspection commissioners  
11 finds that the licensee has aided or abetted in the violation  
12 of any provision of this article or of any rule or regulation  
13 adopted by the state board of stock inspection commissioners  
14 pursuant to this article;

15 (l) If the state board of stock inspection commissioners  
16 finds that the licensee has violated or has aided or abetted  
17 in the violation of the federal "Packers and Stockyards Act",  
18 as amended (7 U.S.C. 181 et seq.);

19 (m) If the state board of stock inspection commissioners  
20 finds that the licensee has been convicted of or has entered a  
21 plea of nolo contendere to a felony for an offense related to  
22 the conduct regulated by this article.

23 SECTION 4. 35-55-107, Colorado Revised Statutes, 1984  
24 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION TO  
25 read:

26 35-55-107. Discipline of licensees. (2) When a

1 complaint or an investigation discloses an instance of  
2 misconduct which, in the opinion of the state board of stock  
3 inspection commissioners, does not warrant formal action but  
4 which should not be dismissed as being without merit, the  
5 board may send a letter of admonition to any licensed public  
6 livestock market operator. Such letter shall be sent to the  
7 licensee by certified mail, and a copy thereof sent to the  
8 complainant, advising the operator that the operator may,  
9 within twenty days after receipt of the letter, make a written  
10 request to the board to institute a formal hearing pursuant to  
11 section 33-55-108 to determine the propriety of the alleged  
12 misconduct. If such request is timely made, the letter of  
13 admonition shall be deemed vacated, and the matter shall be  
14 processed by means of formal proceedings.

15 SECTION 5. 35-55-108, Colorado Revised Statutes, 1984  
16 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to  
17 read:

18 35-55-108. Investigation - hearing - administrative law  
19 judge. (1) The state board of stock inspection commissioners,  
20 upon its own motion on the basis of reasonable cause or upon  
21 the complaint in writing of any person, shall investigate the  
22 activities of any licensed livestock market operator or any  
23 person who assumes to act in such capacity within the state.  
24 Based on the findings of such investigation, the board may  
25 initiate proceedings under this article for the discipline of  
26 a licensee.

1 (2) The board shall, through the department of  
2 agriculture, employ administrative law judges appointed  
3 pursuant to part 10 of article 30 of title 24, C.R.S., to  
4 conduct hearings for placing a licensee on probation or for  
5 revoking or suspending a license on behalf of the board. The  
6 administrative law judges shall conduct such hearings pursuant  
7 to the provisions of sections 24-4-104 and 24-4-105, C.R.S.

8 SECTION 6. 35-55-117, Colorado Revised Statutes, 1984  
9 Repl. Vol., is amended to read:

10 35-55-117. Penalty. Any person, partnership, or  
11 corporation who violates any provision or requirement of this  
12 article or any rule or regulation adopted by the state board  
13 of stock inspection commissioners is guilty of a misdemeanor  
14 ~~and, upon conviction thereof, shall be punished by a fine of~~  
15 ~~not less than twenty-five dollars nor more than one hundred~~  
16 ~~dollars~~ CLASS 3 MISDEMEANOR, AND ANY PERSON, PARTNERSHIP, OR  
17 CORPORATION WHO COMMITS A SECOND OR SUBSEQUENT VIOLATION OF  
18 ANY PROVISION OR REQUIREMENT OF THIS ARTICLE OR ANY RULE OR  
19 REGULATION ADOPTED BY THE STATE BOARD OF STOCK INSPECTION  
20 COMMISSIONERS COMMITS A CLASS 1 MISDEMEANOR AND ANY SUCH  
21 OFFENDER SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106,  
22 C.R.S. It is the duty of the district attorney of the district  
23 in which such offense is committed, upon complaint of any  
24 private person, or of a sanitary or brand inspector, or of the  
25 state board of stock inspection commissioners, to prosecute  
26 the same if, after investigation, he believes a violation has

1 occurred. The state board of stock inspection commissioners,  
2 upon its own initiative, or upon complaint of any person,  
3 through the attorney general may bring an action in the  
4 district court of the district where such offense is committed  
5 in the name of the people of this state for an injunction  
6 against any person violating any of the provisions of this  
7 article or of any rule or regulation adopted by the state  
8 board of stock inspection commissioners.

9 SECTION 7. 35-55-118, Colorado Revised Statutes, 1984  
10 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to  
11 read:

12 35-55-118. Denial of license - hearing. (1) The state  
13 board of stock inspection commissioners is empowered to  
14 determine summarily whether an applicant for a license to  
15 establish and operate a public livestock market meets the  
16 requirements set forth in this article or whether there is  
17 probable cause to believe that an applicant has committed any  
18 of the acts set forth in section 35-55-107 as grounds for  
19 discipline. As set forth in this section, "applicant" does  
20 not include a renewal applicant.

21 (2) If the board determines that an applicant does not  
22 meet the requirements for licensure set forth in this article  
23 or that probable cause exists to believe that an applicant has  
24 committed any of the acts set forth in section 35-55-107, the  
25 board may withhold or deny the applicant a license. In such  
26 instance, the board shall provide such applicant with a

1 statement in writing setting forth the basis of the board's  
2 determination.

3 (3) Should reasonable grounds for controversy over the  
4 board's action in issuing or refusing to issue a license  
5 develop, a hearing may be conducted by four members of the  
6 board. Following such hearing, the board shall affirm,  
7 modify, or reverse its prior action in accordance with its  
8 findings at such hearing.

9 SECTION 8. 35-55-119, Colorado Revised Statutes, 1984  
10 Repl. Vol., as amended, is amended to read:

11 35-55-119. Termination of functions. The licensing  
12 functions of the state board of stock inspection commissioners  
13 as set forth in this article are terminated on ~~July 1, 1991~~  
14 JULY 1, 2001. Prior to such termination, the licensing  
15 functions shall be reviewed as provided for in section  
16 24-34-104, C.R.S.

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

20 24-34-104. General assembly review of regulatory  
21 agencies and functions for termination, continuation, or  
22 reestablishment. (30) The following function of the specified  
23 agency shall terminate on July 1, 2001: The licensing of  
24 public livestock markets through the state board of stock  
25 inspection commissioners in accordance with article 55 of  
26 title 35, C.R.S.

-50-

BILL 4

1 SECTION 10. Repeal. 35-55-102 (1) (d) and (4), Colorado  
2 Revised Statutes, 1984 Repl. Vol., and 24-34-104 (20.1) (e),  
3 Colorado Revised Statutes, 1988 Repl. Vol., are repealed.

4 SECTION 11. Effective date - applicability. This act  
5 shall take effect July 1, 1991, and shall apply to licenses  
6 issued, renewed, or reinstated pursuant to article 55 of title  
7 35, Colorado Revised Statutes, and to any acts committed on or  
8 after said date.

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

BY SENATOR Schaffer;  
also REPRESENTATIVES Owen and Philips.

A BILL FOR AN ACT

1 CONCERNING A ONE-YEAR CONTINUATION OF THE PROGRAM IN THE  
 2 DEPARTMENT OF HEALTH FOR THE ADMINISTRATION OF  
 3 MEDICATIONS IN RESIDENTIAL CARE FACILITIES, AND, IN  
 4 CONNECTION THEREWITH, CONTINUING FOR ONE YEAR THE  
 5 EXEMPTION FROM LICENSURE REQUIREMENTS OF PERSONS WHO  
 6 ADMINISTER MEDICATIONS IN SUCH RESIDENTIAL CARE  
 7 FACILITIES IN COMPLIANCE WITH SAID PROGRAM.

Bill Summary

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

Continues for one year the program in the department of health for the administration of medications in residential care facilities and the exemption from licensure under the "Colorado Controlled Substances Act", the "Colorado Medical Practice Act", and the "Nurse Practice Act" for persons who administer medications in residential care facilities in compliance with the program.

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

9 SECTION 1. 25-1-107 (1) (ee) (VI), Colorado Revised  
 10 Statutes, 1989 Repl. Vol., is amended to read:

1 25-1-107. Powers and duties of the department.  
 2 (1) (ee) (VI) This paragraph (ee) is repealed, effective July  
 3 ~~1, 1991~~ JULY 1, 1992. Prior to such repeal, the program  
 4 established by this paragraph (ee) shall be subject to review  
 5 by the sunrise and sunset review committee, as set forth in  
 6 section 2-3-1201, C.R.S., and the provisions of section  
 7 24-34-104 (5) to (12), C.R.S., concerning a windup period, an  
 8 analysis and evaluation, public hearings, and claims by or  
 9 against an agency shall apply to the operation of the program  
 10 specified in this paragraph (ee).

11 SECTION 2. 12-22-304 (5) (e) (II), Colorado Revised  
12 Statutes, 1985 Repl. Vol., as amended, is amended to read:

13 12-22-304. License required - controlled substances -  
 14 drug precursors - fund created. (5) (e) (II) This paragraph  
 15 (e) is repealed, effective July ~~1, 1991~~ JULY 1, 1992. Prior  
 16 to such repeal, the exception to the licensure requirement set  
 17 forth in this paragraph (e) shall be subject to review  
 18 pursuant to the provisions of section 2-3-1201, C.R.S., by the  
 19 sunrise and sunset review committee.

20 SECTION 3. 12-36-106 (3) (o) (II), Colorado Revised  
21 Statutes, 1985 Repl. Vol., as amended, is amended to read:

22 12-36-106. Practice of medicine defined - exemptions  
 23 from licensing requirements. (3) (o) (II) This paragraph (o)  
 24 is repealed, effective July ~~1, 1991~~ JULY 1, 1992. Prior to  
 25 such repeal, the exemption set forth in this paragraph (o)  
 26 shall be subject to review pursuant to the provisions of  
 27 section 2-3-1201, C.R.S., by the sunrise and sunset review

1 committee, as set forth in section 2-3-1201, C.R.S.

2 SECTION 4. 12-38-125 (1) (h) (II), Colorado Revised  
3 Statutes, 1985 Repl. Vol., as amended, is amended to read:

4 12-38-125. Exclusions. (1) (h) (II) This paragraph (h)  
5 is repealed, effective ~~July 1, 1991~~ JULY 1, 1992. Prior to  
6 such repeal, the exclusion set forth in this paragraph (h)  
7 shall be subject to review pursuant to the provisions of  
8 section 2-3-1201, C.R.S., by the sunrise and sunset review  
9 committee.

10 SECTION 5. 24-34-104, Colorado Revised Statutes, 1988  
11 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW  
12 SUBSECTION to read:

13 24-34-104. General assembly review of regulatory  
14 agencies and functions for termination, continuation, or  
15 reestablishment. (21.5) (a) The program for the  
16 administration of medications in residential care facilities  
17 authorized under section 25-1-107 (1) (ee), C.R.S., shall  
18 terminate on July 1, 1992.

19 (b) The exemption from licensure under the "Colorado  
20 Controlled Substance Act" provided in section 12-22-304 (5)  
21 (e) (I), C.R.S., for persons who administer medications in  
22 residential care facilities in compliance with the program  
23 authorized in section 25-1-107 (1) (ee), C.R.S., shall  
24 terminate on July 1, 1992.

25 (c) The exemption from licensure under the "Colorado  
26 Medical Practice Act" provided in section 12-36-106 (3) (o)  
27 (I), C.R.S., for persons who administer medications in

1 residential care facilities in compliance with the program  
2 authorized in section 25-1-107 (1) (ee), C.R.S., shall  
3 terminate on July 1, 1992.

4 (d) The exemption from licensure under the "Nurse  
5 Practice Act" provided in section 12-38-125 (1) (h) (I),  
6 C.R.S., for persons who administer medications in residential  
7 care facilities in compliance with the program authorized in  
8 section 25-1-107 (1) (ee), C.R.S., shall terminate on July 1,  
9 1992.

10 SECTION 6. Safety clause. The general assembly hereby  
11 finds, determines, and declares that this act is necessary  
12 for the immediate preservation of the public peace, health,  
13 and safety.

BY SENATOR Martinez;  
also REPRESENTATIVE Phillips.

A BILL FOR AN ACT

1 CONCERNING THE "COLORADO NURSERY ACT", AND, IN CONNECTION  
2 THEREWITH, PROVIDING FOR THE CONTINUATION OF THE  
3 REGISTRATION FUNCTIONS OF THE COMMISSIONER OF AGRICULTURE  
4 UNDER SUCH ACT AND OF THE NURSERY ADVISORY COMMITTEE.

Bill Summary

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

Continues the functions of the commissioner of agriculture under the "Colorado Nursery Act" and the nursery advisory committee for a specified period of time.

Makes the following changes to the "Colorado Nursery Act": Updates definitions; allows inspections to be supplemented by targeted inspections and inspections upon complaint by the commissioner and authorized agents of the department of agriculture; clarifies that no person shall sell in this state nursery stock except from sources available for inspection; authorizes the issuance of advisory alerts by the commissioner after a finding that a specific nursery is selling substandard plant material; establishes civil penalties which may be imposed by the commissioner of agriculture for violation of the act; discontinues licensing and replaces the scheme with a simple registration system for businesses; reconstitutes the nursery advisory committee and staggers the terms of its members; clarifies provisions giving the commissioner of agriculture authority to search premises and obtain records for purposes of enforcing the act; clarifies provisions related to the commissioner's authority to delegate duties to other qualified employees of the

department of agriculture; specifies the enforcement authority of the commissioner of agriculture, including disciplinary actions against registrants and applicants for such registration, cease and desist orders, administrative subpoenas, and injunctions; provides that investigations may be kept confidential until formal disciplinary action is begun; specifies the grounds for disciplinary action against registrants.

Makes conforming repeals.

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

2 SECTION 1. 2-3-1203 (3) (1), Colorado Revised Statutes,  
3 1980 Repl. Vol., as amended, is amended BY THE ADDITION OF A  
4 NEW SUBPARAGRAPH to read:

5 2-3-1203. Sunset review of advisory committees.  
6 (3) (i) (III) The nursery advisory committee, appointed  
7 pursuant to section 35-26-107, C.R.S.

8 SECTION 2. 24-34-104, Colorado Revised Statutes, 1988  
9 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW  
10 SUBSECTION to read:

11 24-34-104. General assembly review of regulatory  
12 agencies and functions for termination, continuation, or  
13 reestablishment. (25.1) The function of the issuance of  
14 registrations relating to nurseries through the commissioner  
15 of agriculture and the department of agriculture in accordance  
16 with article 26 of title 35, C.R.S., shall terminate on July  
17 1, 1996.

18 SECTION 3. 35-26-102 (1), (5), (7), (10), (12), and  
19 (20), Colorado Revised Statutes, 1984 Repl. Vol., are amended  
20 to read:

21 35-26-102. Definitions. (1) "Advertisement" includes

-55-

BILL 6

1 MEANS the attempt by publication, dissemination, solicitation,  
2 or circulation, visual, oral, or written, to induce directly  
3 or indirectly any person to enter into any obligation or to  
4 acquire any title or interest in any property.

5 (5) "Commissioner" means the commissioner of  
6 agriculture. ~~for-the-state-of-Colorado.~~

7 (7) "Dead or dying condition" means a condition in which  
8 a plant is without living tissue, or is weakened to a point  
9 that it ~~will-not~~ IS UNLIKELY TO grow with reasonable vigor  
10 when given reasonable care.

11 (10) "Insect pests" means ~~insects-of-other-arthropods~~  
12 ~~injurious-to-nursery-stock~~ THE SMALL INVERTEBRATE ANIMAL IN  
13 THE PHYLUM ANTHROPODA COMPRISING THE CLASS INSECTA WHICH  
14 GENERALLY HAVE SEGMENTED BODIES, ARE SIX-LEGGED, AND ARE  
15 USUALLY WINGED, SUCH AS BEETLES, BUGS, BEES, AND FLIES,  
16 INCLUDING A SIMILAR CLASS OF ARTHROPODS WHOSE MEMBERS ARE  
17 WINGLESS AND GENERALLY HAVE MORE THAN SIX LEGS, SUCH AS  
18 SPIDERS, MITES, TICKS, CENTIPEDES, AND WOOD LICE WHICH ARE  
19 INJURIOUS TO NURSERY STOCK.

20 (12) "Nursery" means any grounds or premises on or in  
21 which nursery stock is propagated, HELD, or grown for sale  
22 purposes. ~~The-term-"nursery"-shall-not-be-construed-to-mean-a~~  
23 ~~dealer's-premises-or-healing-in-grounds-on-or-in-which-nursery~~  
24 ~~stock--is--held-for-purposes-other-than-propagation-or-growth.~~

25 (20) "Stop-sale order" means a written order prohibiting  
26 the sale of nursery stock. ~~and-shall-show-the-quantity,--kind,~~  
27 ~~and--variety--of-such-stock-and-the-reason-for-the-issuance-of~~

1 MEANS the attempt by publication, dissemination, solicitation,  
2 or circulation, visual, oral, or written, to induce directly  
3 or indirectly any person to enter into any obligation or to  
4 acquire any title or interest in any property.

5 (5) "Commissioner" means the commissioner of  
6 agriculture. ~~for-the-state-of-Colorado.~~

7 (7) "Dead or dying condition" means a condition in which  
8 a plant is without living tissue, or is weakened to a point  
9 that it ~~will-not~~ IS UNLIKELY TO grow with reasonable vigor  
10 when given reasonable care.

11 (10) "Insect pests" means ~~insects-of-other-arthropods~~  
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13 THE PHYLUM ANTHROPODA COMPRISING THE CLASS INSECTA WHICH  
14 GENERALLY HAVE SEGMENTED BODIES, ARE SIX-LEGGED, AND ARE  
15 USUALLY WINGED, SUCH AS BEETLES, BUGS, BEES, AND FLIES,  
16 INCLUDING A SIMILAR CLASS OF ARTHROPODS WHOSE MEMBERS ARE  
17 WINGLESS AND GENERALLY HAVE MORE THAN SIX LEGS, SUCH AS  
18 SPIDERS, MITES, TICKS, CENTIPEDES, AND WOOD LICE WHICH ARE  
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21 which nursery stock is propagated, HELD, or grown for sale  
22 purposes. ~~The-term-"nursery"-shall-not-be-construed-to-mean-a~~  
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24 ~~stock--is--held-for-purposes-other-than-propagation-or-growth.~~

25 (20) "Stop-sale order" means a written order prohibiting  
26 the sale of nursery stock. ~~and-shall-show-the-quantity,--kind,~~  
27 ~~and--variety--of-such-stock-and-the-reason-for-the-issuance-of~~

1 QUALIFYING SUCH INDIVIDUALS AS INSPECTORS PURSUANT TO THIS  
2 SUBSECTION (3). SUCH FEE SHALL BE IN AN AMOUNT SUFFICIENT TO  
3 DEFRAY THE COSTS OF QUALIFYING INSPECTORS PURSUANT TO THIS  
4 SUBSECTION (3).

5 SECTION 5. 35-26-105 (1) (b), Colorado Revised Statutes,  
6 1984 Repl. Vol., is amended, and the said 35-26-105 is  
7 further amended BY THE ADDITION OF THE FOLLOWING NEW  
8 SUBSECTIONS, to read:

9 35-26-105. Prohibited acts - removal from sale -  
10 advisory alerts. (1) (b) Nursery stock infested or infected  
11 with insect pests or plant diseases; ~~in order to prevent the~~  
12 ~~further spread of such infestation or infection;~~ or

13 (3) Failure to comply with any stop-sale order may  
14 result in penalties as set forth in section 35-26-109.

15 (4) If the commissioner makes a finding, after notice  
16 and opportunity for a hearing, that substandard plant material  
17 is being sold by a nursery outside of Colorado to any nursery  
18 in this state, the commissioner may ban any products from said  
19 nursery from sale or distribution in Colorado and any further  
20 shipments of nursery stock from said nursery may be seized and  
21 destroyed. Upon such banning, the commissioner shall issue an  
22 alert to all persons registered under this article setting  
23 forth the commissioner's finding and advising registrants that  
24 the purchase of plant material from such offending nursery  
25 constitutes a violation of this article.

26 SECTION 6. 35-26-106 (1), (2), and (3), Colorado Revised  
27 Statutes, 1984 Repl. Vol., as amended, are REPEALED AND

1 REENACTED, WITH AMENDMENTS, to read:

2 35-26-106. Registrations and fees - Colorado nursery  
3 fund created. (1) A person shall not engage in the business  
4 of selling nursery stock in this state, nor shall he advertise  
5 with the intent and purpose of selling nursery stock in this  
6 state, without having first obtained a registration issued by  
7 the commissioner. Such registration shall expire on December  
8 31 of each year. Application for registration shall be  
9 submitted on a form prescribed by the commissioner. The  
10 commissioner shall, by rule or regulation, establish a  
11 registration fee for each place of business. Such fee shall  
12 not exceed one hundred fifty dollars. Applicants for a  
13 registration who were at any time during the calendar year  
14 immediately preceding the year for which application is made  
15 shall apply for a registration by March 1 or pay an amount  
16 double the registration fee. No registration is transferable.  
17 All registrants shall inform the commissioner in writing of  
18 any change of address prior to any such change of address.  
19 All registrants shall meet the requirements of this article  
20 and the rules and regulations promulgated pursuant to this  
21 article.

22 (2) Collectors shall produce upon demand, written  
23 evidence of authorization to have collected any and all  
24 nursery stock held or offered for sale. Such evidence of  
25 authorization shall provide information as required by rule  
26 and regulation promulgated pursuant to this article.

27 (3) A charge for the actual cost incurred in making

1 inspections shall be collected to defray the costs of  
 2 inspections made pursuant to this article. The commissioner  
 3 shall, by rule or regulation, establish a minimum charge per  
 4 inspection, and shall determine the actual cost incurred in  
 5 making inspections and establish the charge therefor.

6 SECTION 7. 35-26-107 (1), Colorado Revised Statutes,  
 7 1984 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS,  
 8 to read:

9 35-26-107. Advisory committee - sunset review.

10 (1) Effective July 1, 1991, the terms of the members of the  
 11 nursery advisory committee serving immediately prior to said  
 12 date are terminated. The commissioner shall appoint a nursery  
 13 advisory committee of eight members to advise the commissioner  
 14 in formulating rules and regulations governing the production,  
 15 sale, and distribution of nursery stock. The committee shall  
 16 include one member representing both the Colorado state  
 17 university cooperative extension and experiment station, six  
 18 members registered under this article who are residents of  
 19 this state, and one member representing the general public who  
 20 is a resident of this state. Of the members of the advisory  
 21 committee initially appointed, one registrant member and the  
 22 Colorado state university cooperative extension and experiment  
 23 station member shall serve for a term ending June 30, 1992,  
 24 three registrant members shall serve for a term ending June  
 25 30, 1993, and the member representing the general public and  
 26 two registrant members shall serve for terms ending June 30,  
 27 1994. Thereafter members of the advisory committee shall

1 serve for terms of three years, and no member of the advisory  
 2 committee shall serve more than two consecutive terms.

3 SECTION 8. 35-26-107 (3) (a), Colorado Revised Statutes,  
 4 1984 Repl. Vol., as amended, is amended to read:

5 35-26-107. Advisory committee - sunset review.

6 (3) (a) This section is repealed, effective July 1, 1992  
 7 1996.

8 SECTION 9. 35-26-108, Colorado Revised Statutes, 1984  
 9 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to  
 10 read:

11 35-26-108. Access to locations and records -  
 12 administrative subpoena - complaints and investigations.

13 (1) (a) At any time during regular business hours, the  
 14 commissioner shall have free and unimpeded access upon consent  
 15 or upon issuing or obtaining an administrative search warrant  
 16 to all buildings, yards, warehouses, and storage facilities  
 17 owned or operated by a registrant in which any nursery stock  
 18 is kept, stored, handled, processed, or transported for the  
 19 purpose of carrying out any provision of this article or any  
 20 rule made pursuant to this article.

21 (b) At any time during regular business hours, the  
 22 commissioner shall have free and unimpeded access upon consent  
 23 or upon issuing or obtaining an administrative search warrant  
 24 to all records required to be kept at any reasonable time and  
 25 may make copies of such records for the purpose of carrying  
 26 out any provision of this article or any rule made pursuant to  
 27 this article.

-59-

1 - (2) The commissioner, upon his own motion or upon the  
2 complaint of any person, may make any and all investigations  
3 necessary to insure compliance with this article.

4 SECTION 10. 35-26-109, Colorado Revised Statutes, 1984  
5 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to  
6 read:

7 35-26-109. Penalties. (1) Any person who intentionally  
8 violates any provision of this article or the rules or  
9 regulations promulgated pursuant to this article commits a  
10 class 3 misdemeanor and shall be punished as provided in  
11 section 18-1-106, C.R.S.

12 (2) Any person who violates any provision of this  
13 article, or any rule or regulations made pursuant to this  
14 article is subject to a civil penalty, as determined by the  
15 commissioner. The maximum penalty shall not exceed one  
16 thousand dollars per violation.

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

20 (4) If the commissioner is unable to collect such civil  
21 penalty or if any person fails to pay all of the civil penalty  
22 or a set portion as determined by the commissioner, the  
23 commissioner may bring suit to recover such amount plus costs  
24 and attorney fees by action in any court of competent  
25 jurisdiction.

26 (5) Before imposing any civil penalty under this  
27 section, the commissioner may consider the effect of such

1 penalty on the ability of the person charged to stay in  
2 business.

3 SECTION 11. 35-26-110 (1), Colorado Revised Statutes,  
4 1984 Repl. Vol., is amended to read:

5 35-26-110. Out-of-state nurseries. (1) The  
6 commissioner shall require out-of-state nurseries selling  
7 nursery stock in the state of Colorado to deliver to the  
8 department COMMISSIONER a certified copy of the "state of  
9 origin" certificate of inspection of the nursery. This  
10 requirement may be satisfied by delivering to the department  
11 COMMISSIONER a list of ~~officially~~ inspected and certified  
12 nurseries from the "state of origin" in lieu of individual  
13 certificates of inspection from each nursery. Each shipment  
14 of nursery stock entering the state of Colorado shall be  
15 accompanied by a certificate of inspection which states that  
16 the nursery stock has the appearance of freedom from insect  
17 pests and plant diseases.

18 SECTION 12. 35-26-112, Colorado Revised Statutes, 1984  
19 Repl. Vol., is amended to read:

20 35-26-112. Delegation of duties. ~~The commissioner may,~~  
21 ~~in his discretion, delegate his authority to an employee to~~  
22 ~~execute the provisions of this article.~~ THE POWERS AND DUTIES  
23 VESTED IN THE COMMISSIONER BY THIS ARTICLE MAY BE DELEGATED TO  
24 QUALIFIED EMPLOYEES OF THE DEPARTMENT.

25 SECTION 13. 35-26-113 (1) and (3), Colorado Revised  
26 Statutes, 1984 Repl. Vol., are amended to read:

27 35-26-113. Bodies politic. (1) All growing fields and

BILL 6

1 all other premises in this state on which nursery stock is  
 2 being grown or held by bodies politic for the purpose of  
 3 planting on public or private grounds shall be ~~officially~~  
 4 inspected at least once each year by the commissioner or his  
 5 authorized agents.

6 (3) A body politic shall be subject to the inspection  
 7 fees set forth in section 35-26-106 {2} (3).

8 SECTION 14. 35-26-114, Colorado Revised Statutes, 1984  
 9 Repl. Vol., is amended to read:

10 35-26-114. Enforcement. (1) After an investigation,  
 11 the commissioner may, through the attorney general, institute  
 12 and prosecute the proper proceedings for the enforcement of  
 13 any of the provisions of this article, or for the recovery of  
 14 any money due the department, or any penalty provided for in  
 15 this article, and shall defend in like manner all suits,  
 16 actions, or proceedings brought against the commissioner or  
 17 the department.

18 (2) THE COMMISSIONER MAY DENY, SUSPEND, OR REVOKE A  
 19 REGISTRATION IF THE APPLICANT OR HOLDER THEREOF DOES NOT  
 20 ENGAGE IN THE SALE OF NURSERY STOCK.

21 (3) (a) WHENEVER THE COMMISSIONER HAS REASONABLE CAUSE  
 22 TO BELIEVE A VIOLATION OF ANY PROVISION OF THIS ARTICLE OR ANY  
 23 RULE MADE PURSUANT TO THIS ARTICLE HAS OCCURRED AND IMMEDIATE  
 24 ENFORCEMENT IS DEEMED NECESSARY, HE MAY ISSUE A CEASE AND  
 25 DESIST ORDER, WHICH MAY REQUIRE ANY PERSON TO CEASE VIOLATING  
 26 ANY PROVISION OF THIS ARTICLE OR ANY RULE MADE PURSUANT TO  
 27 THIS ARTICLE. SUCH CEASE AND DESIST ORDER SHALL SET FORTH THE

1 PROVISIONS ALLEGED TO HAVE BEEN VIOLATED, THE FACTS ALLEGED TO  
 2 HAVE CONSTITUTED THE VIOLATION, AND THE REQUIREMENT THAT ALL  
 3 ACTIONS BE CEASED FORTHWITH.

4 (b) IN THE EVENT THAT ANY PERSON FAILS TO COMPLY WITH A  
 5 CEASE AND DESIST ORDER WITHIN TWENTY-FOUR HOURS, THE  
 6 COMMISSIONER MAY BRING A SUIT FOR A TEMPORARY RESTRAINING  
 7 ORDER AND INJUNCTIVE RELIEF TO PREVENT ANY FURTHER OR  
 8 CONTINUED VIOLATION OF SUCH ORDER.

9 (c) NO STAY OF A CEASE AND DESIST ORDER SHALL BE ISSUED  
 10 BEFORE A HEARING THEREON INVOLVING BOTH PARTIES.

11 (d) MATTERS BROUGHT BEFORE A COURT PURSUANT TO THIS  
 12 SECTION SHALL HAVE PREFERENCE OVER OTHER MATTERS ON THE  
 13 COURT'S CALENDAR.

14 (4) THE COMMISSIONER SHALL HAVE FULL AUTHORITY TO  
 15 ADMINISTER OATHS AND TAKE STATEMENTS, TO ISSUE ADMINISTRATIVE  
 16 SUBPOENAS REQUIRING THE ATTENDANCE OF WITNESSES BEFORE HIM AND  
 17 THE PRODUCTION OF ALL BOOKS, MEMORANDA, PAPERS, AND OTHER  
 18 DOCUMENTS, ARTICLES, OR INSTRUMENTS, AND TO COMPEL THE  
 19 DISCLOSURE BY SUCH WITNESSES OF ALL FACTS KNOWN TO THEM  
 20 RELATIVE TO THE MATTERS UNDER INVESTIGATION. UPON THE FAILURE  
 21 OR REFUSAL OF ANY WITNESS TO OBEY AN ADMINISTRATIVE SUBPOENA,  
 22 THE COMMISSIONER MAY PETITION THE DISTRICT COURT, AND, UPON A  
 23 PROPER SHOWING, THE COURT MAY ENTER AN ORDER COMPELLING THE  
 24 WITNESS TO APPEAR AND TESTIFY OR PRODUCE DOCUMENTARY EVIDENCE.  
 25 FAILURE TO OBEY SUCH AN ORDER OF THE COURT SHALL BE PUNISHABLE  
 26 AS A CONTEMPT OF COURT.

27 (5) WHENEVER IT APPEARS TO THE COMMISSIONER, UPON

1 SUFFICIENT EVIDENCE SATISFACTORY TO THE COMMISSIONER, THAT ANY  
2 PERSON HAS ENGAGED IN OR IS ABOUT TO ENGAGE IN ANY ACT OR  
3 PRACTICE CONSTITUTING A VIOLATION OF ANY PROVISION OF THIS  
4 ARTICLE OR OF ANY RULE OR OF ANY ORDER PROMULGATED UNDER THIS  
5 ARTICLE, HE MAY APPLY TO ANY COURT OF COMPETENT JURISDICTION  
6 TO TEMPORARILY OR PERMANENTLY RESTRAIN OR ENJOIN THE ACT OR  
7 PRACTICE IN QUESTION AND TO ENFORCE COMPLIANCE WITH THIS  
8 ARTICLE OR ANY RULE OR ORDER PROMULGATED UNDER THIS ARTICLE.  
9 IN ANY SUCH ACTION, THE COMMISSIONER SHALL NOT BE REQUIRED TO  
10 PLEAD OR PROVE IRREPARABLE INJURY OR THE INADEQUACY OF THE  
11 REMEDY AT LAW. UNDER NO CIRCUMSTANCES SHALL THE COURT REQUIRE  
12 THE COMMISSIONER TO POST A BOND.

13 (6) COMPLAINTS OF RECORD MADE TO THE COMMISSIONER AND  
14 THE RESULTS OF HIS INVESTIGATIONS MAY, IN THE DISCRETION OF  
15 THE COMMISSIONER, BE CLOSED TO PUBLIC INSPECTION, EXCEPT AS  
16 PROVIDED BY COURT ORDER, DURING THE INVESTIGATORY PERIOD AND  
17 UNTIL DISMISSED OR UNTIL NOTICE OF HEARING AND CHARGES ARE  
18 SERVED ON A REGISTRANT.

19 (7) THE COMMISSIONER MAY DENY, REVOKE, OR SUSPEND ANY  
20 REGISTRATION FOR THE ANY OF THE FOLLOWING:

21 (a) IF THE PARTY HAS VIOLATED ANY PROVISION OF THIS  
22 ARTICLE OR ANY RULES PROMULGATED PURSUANT TO THIS ARTICLE;

23 (b) IF THE PARTY HAS HAD A FELONY CONVICTION RELATED TO  
24 THE CONDUCT REGULATED BY THIS ARTICLE;

25 (c) IF THERE HAS BEEN FRAUD OR DECEPTION IN THE  
26 PROCUREMENT OR ATTEMPTED PROCUREMENT OF A REGISTRATION;

27 (d) IF THE PARTY HAS FAILED TO COMPLY WITH A LAWFUL

1 ORDER OF THE COMMISSIONER;

2 (e) IF THE PARTY HAS KNOWINGLY MISREPRESENTED  
3 INFORMATION ON HIS APPLICATION;

4 (f) IF THE PARTY HAS HAD AN EQUIVALENT REGISTRATION OR  
5 LICENSE REVOKED OR SUSPENDED BY ANY AUTHORITY; AND

6 (g) IF THE PARTY HAS FORGED OR OTHERWISE FALSIFIED A  
7 CERTIFICATE OF INSPECTION.

8 SECTION 15. 35-26-115, Colorado Revised Statutes, 1984  
9 Repl. Vol., as amended, is amended to read:

10 35-26-115. Termination of functions. The ~~licensing~~  
11 REGISTRATION functions of the commissioner and the department  
12 as set forth in this article are terminated on July 1, ~~1991~~  
13 1996. Prior to such termination, the ~~licensing~~ REGISTRATION  
14 functions shall be reviewed as provided for in section  
15 24-34-104, C.R.S.

16 SECTION 16. Repeal. 2-3-1203 (3) (e) (VIII), Colorado  
17 Revised Statutes, 1980 Repl. Vol., 24-34-104 (20.1) (c),  
18 Colorado Revised Statutes, 1988 Repl. Vol., 35-26-102 (1.5),  
19 (8), and (15), and 35-26-110 (2), Colorado Revised Statutes,  
20 1984 Repl. Vol., as amended, are repealed.

21 SECTION 17. Effective date - applicability. This act  
22 shall take effect July 1, 1991, and shall apply to acts  
23 committed on and after said date.

24 SECTION 18. Safety clause. The general assembly hereby  
25 finds, determines, and declares that this act is necessary  
26 for the immediate preservation of the public peace, health,  
27 and safety.

BY REPRESENTATIVE Philips;  
also SENATOR Martinez.

A BILL FOR AN ACT

1 CONCERNING THE PRACTICE OF PHYSICAL THERAPY, AND, IN  
2 CONNECTION THEREWITH, CONTINUING THE LICENSING FUNCTIONS  
3 OF THE DIRECTOR OF THE DIVISION OF REGISTRATIONS WITH  
4 RESPECT THERETO.

Bill Summary

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

Requires that any person practicing physical therapy or holding oneself out as being able to practice physical therapy possess a valid license issued by the director in accordance with this act. Defines terms, and restricts the use of the title "physical therapist" and other terms. Limits the authority of the physical therapist to perform certain acts. Specifies the qualifications and procedures for the licensing of applicants by examination and by endorsement and for the licensing of foreign-trained physical therapists. Authorizes the director of the division of registrations in the department of regulatory agencies to issue temporary permits or temporary licenses to qualified applicants for licensure. Specifies the procedures and requirements for renewing licenses issued under this act. Permits a physical therapist to utilize unlicensed persons in a physical therapy practice pursuant to rules and regulations to be adopted by the director, to administer certain medications, and to perform nonoperative wound debridement under certain circumstances.

Excludes certain acts from the licensing requirements of the act. Sets forth the grounds for disciplinary action, the types of disciplinary actions which may be taken against a

licensee, and the procedures to be followed in disciplinary proceedings. Provides that the director, under certain circumstances, may require a licensee to take a mental or physical examination and establishes certain safeguards and procedures with respect to the use of such examination. Authorizes the use of professional review committees and provides for immunity from civil suit for the director, any member of a professional review committee, and any witness appearing before them, if certain conditions are met. Requires insurance companies engaged in writing malpractice insurance to make certain reports to the director and to the secretary of health and human services.

Provides that certain acts are unlawful and specifies the penalties for them. Authorizes the director to seek an injunction against any person committing an act declared to be a misdemeanor by the act. Authorizes the establishment of professional service corporations. Sets forth the powers and duties of the director. Establishes an advisory committee. Provides for the determination, collection, and appropriation of certain fees.

Repeals certain rules and regulations. Requires the Colorado commission on higher education to submit a report regarding possible solutions to alleviate the shortage of physical therapists in the state. Makes conforming amendments.

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

SECTION 1. Article 41 of title 12, Colorado Revised Statutes, 1985 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

ARTICLE 41

Physical Therapists

12-41-101. Short title. This article shall be known and may be cited as the "Physical Therapy Practice Act".

12-41-102. Legislative declaration. (1) The general assembly hereby finds and declares that the practice of physical therapy by any person who does not possess a valid license issued under the provisions of this article is inimical to the general public welfare. It is not, however,

1 the intent of this article to restrict the practice of any  
2 person duly licensed under other laws of this state from  
3 practicing within such person's scope of competency and  
4 authority under such laws.

5 (2) The general assembly further finds and declares that  
6 there is a shortage of physical therapists in the state which  
7 must be overcome to protect the health and well-being of the  
8 people of Colorado.

9 12-41-103. Definitions. As used in this article, unless  
10 the context otherwise requires:

11 (1) "Accredited physical therapy program" means a  
12 program of instruction in physical therapy which is accredited  
13 as set forth in section 12-41-107 (1) (a) (II).

14 (2) "Director" means the director of the division of  
15 registrations in the department of regulatory agencies.

16 (3) "Executive director" means the executive director of  
17 the department of regulatory agencies.

18 (4) "Physical therapist" means a person who is licensed  
19 to practice physical therapy. The terms "physiotherapist" and  
20 "physical therapy technician" are synonymous with the term  
21 "physical therapist".

22 (5) (a) (I) "Physical therapy" means the examination,  
23 treatment, or instruction of human beings to detect, assess,  
24 prevent, correct, alleviate, or limit physical disability,  
25 movement dysfunction, bodily malfunction, or pain from injury,  
26 disease, and other bodily conditions.

27 (II) For purposes of this article "physical therapy"

1 includes:

2 (A) The administration, evaluation, and interpretation  
3 of tests and measurements of bodily functions and structures;

4 (B) The planning, administration, evaluation, and  
5 modification of treatment and instruction;

6 (C) The use of physical agents, measures, activities,  
7 and devices for preventive and therapeutic purposes, subject  
8 to the requirements of section 12-41-113;

9 (D) The administration of topical and aerosol  
10 medications consistent with the scope of physical therapy  
11 practice subject to the requirements of section 12-41-113; and

12 (E) The provision of consultative, educational, and  
13 other advisory services for the purpose of reducing the  
14 incidence and severity of physical disability, movement  
15 dysfunction, bodily malfunction, and pain.

16 (b) For the purposes of subparagraph (II) of paragraph  
17 (a) of this subsection (5):

18 (I) "Physical agents" includes, but is not limited to,  
19 heat, cold, water, air, sound, light, compression,  
20 electricity, and electromagnetic energy.

21 (II) (A) "Physical measures, activities, and devices"  
22 includes, but is not limited to, resistive, active, and  
23 passive exercise, with or without devices; joint mobilization;  
24 mechanical stimulation; biofeedback; postural drainage;  
25 traction; positioning; massage; splinting; training in  
26 locomotion; other functional activities, with or without  
27 assistive devices; and correction of posture, body mechanics,

1 and gait.

2 (B) "Biofeedback", as used in this subparagraph (II),  
3 means the use of monitoring instruments by a physical  
4 therapist to detect and amplify internal physiological  
5 processes for the purpose of neuromuscular rehabilitation.

6 (C) "Joint mobilization", as used in this subparagraph  
7 (II), means skilled passive movements to a joint, including  
8 arthrokinematic movements performed at a joint for the purpose  
9 of examination or treatment. "Joint mobilization" does not  
10 include "chiropractic adjustment". For the purposes of this  
11 sub-subparagraph (C), "chiropractic adjustment" means the  
12 application, by hand, by a trained chiropractor who has  
13 fulfilled the educational and licensing requirements of  
14 article 33 of this title, of adjustive force to correct  
15 subluxations, fixations, structural distortions, abnormal  
16 tensions, and disrelated structures, or to remove interference  
17 with the transmission of nerve force. The application of the  
18 dynamic adjustive thrust is designed and intended to produce  
19 and usually elicits audible and perceptible release of  
20 tensions and movement of tissues or anatomical parts for the  
21 purpose of removing or correcting interference to nerve  
22 transmission and expression.

23 (III) "Tests and measurements" includes, but is not  
24 limited to, tests of muscle strength, force, endurance, and  
25 tone; reflexes and automatic reactions; movement skill and  
26 accuracy; joint motion, mobility, and stability; sensation and  
27 perception; peripheral nerve integrity; locomotor skill,

1 stability, and endurance; activities of daily living; cardiac,  
2 pulmonary, and vascular functions; fit, function, and comfort  
3 of prosthetic, orthotic, and other assistive devices; posture  
4 and body mechanics; limb length, circumference, and volume;  
5 thoracic excursion and breathing patterns; vital signs; nature  
6 and locus of pain and conditions under which pain varies;  
7 photosensitivity; and physical home and work environments.

8 12-41-104. Use of titles restricted. A person licensed  
9 as a physical therapist may use the title "physical therapist"  
10 or the letters "P.T." or any other generally accepted terms,  
11 letters, or figures which indicate that the person is a  
12 physical therapist. No other person shall be so designated or  
13 shall use the terms "physical therapist", "licensed physical  
14 therapist", "physiotherapist", or "physical therapy  
15 technician", or the letters "P.T." or "L.P.T.".

16 12-41-105. Limitations on authority. (1) Nothing in  
17 this article shall be construed as authorizing a physical  
18 therapist to perform any of the following acts:

19 (a) Practice of medicine, surgery, or any other form of  
20 healing except as authorized by the provisions of this  
21 article; or

22 (b) Use of roentgen rays and radioactive materials for  
23 therapeutic purposes; the use of electricity for surgical  
24 purposes or lifesaving measures; or the diagnosis of disease.

25 12-41-106. License required. Except as otherwise  
26 provided by this article, any person who practices physical  
27 therapy or who represents oneself as being able to practice

1 physical therapy in this state must possess a valid license  
2 issued by the director in accordance with this article and any  
3 rules and regulations adopted under this article.

4 12-41-107. Licensure by examination. (1) Every  
5 applicant for a license by examination shall:

6 (a) (I) Successfully complete an accredited physical  
7 therapy program;

8 (II) An accredited physical therapy program means a  
9 program of instruction in physical therapy which is not less  
10 than twelve months in duration and which is accredited by an  
11 official accrediting agency as determined by the United States  
12 office of education or which the director has determined to be  
13 substantially equivalent. It is the intent of the general  
14 assembly that such determination be liberally construed to  
15 ensure qualified applicants seeking licensure under this  
16 article the right to take the qualifying examination  
17 authorized under this article. It is not the intent of the  
18 general assembly that technical barriers be used to deny such  
19 applicants the right to take such examination.

20 (b) Pass a written examination administered by the  
21 director in accordance with subsection (2) of this section;

22 (c) Submit an application in the form and manner  
23 designated by the director; and

24 (d) Pay a fee in an amount determined by the director.

25 (2) (a) The director shall prepare and develop or  
26 acquire the examination required for licensing. In developing  
27 or acquiring such examination, the director or the director's

1 designee is authorized to consult with persons or  
2 organizations knowledgeable in the requirements necessary for  
3 minimal competency in the practice of physical therapy.

4 (b) The examination shall be held within the state at  
5 least twice a year and at such other times and places as the  
6 director shall determine.

7 (c) The director shall determine the passing score to  
8 reflect a standard of minimum competency for the practice of  
9 physical therapy.

10 (d) The director may refuse to examine an applicant if  
11 the application is incomplete, if it indicates that the  
12 applicant is not qualified to sit for the examination, or if  
13 the applicant has committed any act which would be grounds for  
14 disciplinary action under section 12-41-115.

15 (e) Written notice stating whether the applicant passed  
16 or failed the examination shall be mailed to each applicant  
17 who takes the examination.

18 (3) When the applicant has fulfilled all the  
19 requirements of subsection (1) of this section, the director  
20 shall issue a license to the applicant; except that the  
21 director may refuse to issue such license if the applicant has  
22 committed any act which would be grounds for disciplinary  
23 action under section 12-41-115.

24 12-41-108. Temporary permit. (1) The director may  
25 issue a temporary permit to an applicant who has fulfilled the  
26 requirements of section 12-41-107 (1) (a), (1) (c), and (1)  
27 (d) or section 12-41-111 (1) (a), (1) (b), (1) (d), and (1)

1 be licensed by endorsement.  
2 (3) If the applicant, prior to July 1, 1991, practiced  
3 physical therapy as a registered physical therapist or, on or  
4 after July 1, 1991, has practiced as a licensed physical  
5 therapist:  
6 (a) For at least two of the five years immediately  
7 preceding the date of the application, the director shall  
8 issue a license to a qualified applicant without  
9 reexamination.  
10 (b) For two years or more, but has not practiced for at  
11 least two years within the past five years, the director shall  
12 require such applicant to demonstrate competency prior to  
13 issuing a license to the applicant. If the applicant  
14 demonstrates such competency, the director shall issue a  
15 license to the applicant.  
16 (4) The director shall notify the applicant, in writing,  
17 of the denial or approval of the application.  
18 (5) The director may refuse to issue such license if the  
19 applicant has committed any act which would be grounds for  
20 disciplinary action under section 12-41-115.  
21 12-41-110. Temporary license. (1) The director may  
22 issue a temporary license to an applicant who has submitted an  
23 application and fee and presented evidence of an active, valid  
24 license in good standing as specified in section 12-41-109.  
25 Such temporary license shall be valid until the director  
26 issues a license to the applicant or denies the request for  
27 licensure by endorsement, but, in any case, such license shall

1 (e) if:  
2 (a) The director determines that the applicant is  
3 qualified to take the examination pursuant to section  
4 12-41-107; and  
5 (b) The applicant agrees to engage in the practice of  
6 physical therapy only under the personal and responsible  
7 supervision and direction of a physical therapist.  
8 (2) The temporary permit authorizes the applicant to  
9 perform physical therapy under the personal and responsible  
10 supervision and direction of a physical therapist.  
11 (3) Such temporary permit shall be valid from the date  
12 of its issuance until the publication of the results of the  
13 examination for which the applicant is scheduled to sit.  
14 (4) A temporary permit shall not be renewed.  
15 (5) The director may revoke a temporary permit if the  
16 applicant has committed any act which would be grounds for  
17 disciplinary action under section 12-41-115.  
18 12-41-109. Licensure by endorsement. (1) An applicant  
19 for licensure by endorsement shall:  
20 (a) Possess an active, valid license in good standing  
21 from another state or territory of the United States;  
22 (b) Submit an application in the form and manner  
23 designated by the director; and  
24 (c) Pay a fee in an amount determined by the director.  
25 (2) Upon receipt of all documents required by subsection  
26 (1) of this section, the director shall review the application  
27 and make a determination of the applicant's qualification to

not be valid for longer than four months.

(2) The director may deny the request for such temporary license or revoke such temporary license if the applicant commits any acts which would be grounds for disciplinary action under section 12-41-115.

(3) The temporary license authorizes the applicant to practice physical therapy only during the period such temporary license is valid.

12-41-111. Licensing of foreign trained applicants.

(1) Every foreign-trained applicant for licensing by examination shall:

(a) Have received education and training in physical therapy;

(b) Possess an active, valid license in good standing or other authorization to practice physical therapy from an appropriate authority in the country where the foreign-trained applicant is practicing or has practiced;

(c) Pass a written examination administered by the director in accordance with section 12-41-107 (2);

(d) Submit an application in the form and manner designated by the director; and

(e) Pay an application fee in an amount determined by the director.

(2) When the director has verified the credentials and documents required to be submitted by the foreign-trained applicant pursuant to paragraphs (a), (b), (d), and (e) of subsection (1) of this section, he shall qualify such

applicant to take the examination required in paragraph (c) of subsection (1) of this section.

(3) When the applicant has fulfilled all requirements of subsection (1) of this section, the director shall issue a license to the applicant; except that the director may deny the application if the applicant has committed any act which would be grounds for disciplinary action under section 12-41-115.

12-41-112. Expiration and renewal of licenses.

(1) Licenses issued pursuant to sections 12-41-107, 12-41-109, and 12-41-111 shall be valid for a period not to exceed three years. Such period shall be established by the director. The executive director of the department of regulatory agencies, upon the recommendation of the director, may change the period of validity of any such license.

(2) A licensee shall be required to renew the license issued under this article according to a schedule of renewal dates to be established by the director. Upon the recommendation of the director, the executive director may change the renewal date of any such license so that approximately the same number of licenses are scheduled for renewal in each month of the year.

(3) The applicant for renewal of any such license shall submit an application in the form and manner designated by the director and pay a renewal fee in an amount to be determined by the director.

(4) If any licensee fails to renew such license prior to

1 its expiration date, the license shall automatically expire.  
2 A licensee may reinstate a license which has expired for a  
3 period not to exceed five years by paying a fee in an amount  
4 determined by the director and submitting an application in  
5 the form and manner designated by the director.

6 (5) A former licensee or registered physical therapist  
7 who practiced physical therapy for more than two years may  
8 reinstate a license or convert an expired registration to a  
9 license if such license or registration expired more than five  
10 years prior to the application date by demonstrating  
11 competency in the practice of physical therapy to the director  
12 or by successfully completing an internship as required by the  
13 director. The director may also require such former licensee  
14 or registered physical therapist to take the examination  
15 administered pursuant to section 12-41-107 (2).

16 12-41-113. Special practice authorities and  
17 requirements. (1) Utilization of unlicensed persons. (a) A  
18 physical therapist may utilize the services of not more than  
19 two unlicensed individuals to assist in that therapist's  
20 practice. Such individuals shall at all times be under the  
21 personal and responsible direction and supervision of the  
22 licensee.

23 (b) If a physical therapist wishes to utilize more than  
24 two unlicensed persons in a physical therapy practice, such  
25 therapist shall first obtain the director's approval by  
26 applying in the form and manner designated by the director.

27 (c) The director shall promulgate rules and regulations

1 regarding the supervision of practice by unlicensed persons  
2 utilized by a physical therapist. Such rules and regulations  
3 shall take into account the experience, education, and  
4 training of such unlicensed persons.

5 (2) Administration of medications. Physical therapists  
6 may administer topical and aerosol medications when they are  
7 consistent with the scope of physical therapy practice and  
8 when any such medication is prescribed by a licensed health  
9 care practitioner who is authorized to prescribe such  
10 medication. A prescription or order shall be required for  
11 each such administration.

12 (3) Wound debridement. A physical therapist is  
13 authorized to perform nonoperative wound debridement under a  
14 physician's order and, at the discretion of the physician, may  
15 perform such debridement without the direct and immediate  
16 supervision of the physician.

17 12-41-114. Scope of article - exclusions. (1) Nothing  
18 contained in this article shall prohibit:

19 (a) The practice of physical therapy by students  
20 enrolled in an accredited physical therapy program and  
21 performing under the direction and immediate supervision of a  
22 physical therapist currently licensed in this state;

23 (b) Any person who has successfully completed an  
24 accredited physical therapy program within twelve months prior  
25 to filing an application with the director for licensure to  
26 practice physical therapy and who has paid the required fees  
27 from practicing physical therapy under the personal and

1 responsible direction and supervision of a licensed physical  
2 therapist between the date of the filing of such application  
3 and the publication of the results of the next examination;  
4 (c) The practice of physical therapy in this state by  
5 any legally qualified physical therapist from another state or  
6 country whose employment requires such physical therapist to  
7 accompany and care for a patient temporarily residing in this  
8 state, but such physical therapist shall not provide physical  
9 therapy services for any other individuals nor shall such  
10 person represent or hold himself out as a physical therapist  
11 licensed to practice in this state;  
12 (d) The administration of massage, external baths, or  
13 exercise that is not a part of a physical therapy regimen;  
14 (e) Any person registered, certified, or licensed in  
15 this state under any other law from engaging in the practice  
16 for which such person is registered, certified, or licensed;  
17 (f) The practice of physical therapy in this state by  
18 any legally qualified physical therapist from another state or  
19 country when providing services in the absence of a physical  
20 therapist licensed in this state, so long as said unlicensed  
21 physical therapist is acting in accordance with rules and  
22 regulations established by the director. Such unlicensed  
23 practice shall not be of more than four weeks' duration, and  
24 no person shall be authorized by the director to undertake  
25 such practice more than once in any twelve-month period.  
26 (g) The practice of physical therapy in this state by  
27 any legally qualified physical therapist from another state or

1 country for the purpose of participating in an educational  
2 program of not more than six weeks' duration. Prior notice of  
3 intent to participate shall be given to the director and is  
4 subject to the director's approval. Upon written application  
5 by the participant, an extension may be granted by the  
6 director.

7 (h) The provision of physical therapy services in this  
8 state by any individual from another country who is engaged in  
9 a physical therapy related educational program if said program  
10 is sponsored by an institution, agency, or individual approved  
11 by the director, if said program is under the direction and  
12 supervision of a physical therapist licensed in this state and  
13 if said program does not exceed twelve consecutive months'  
14 duration without the specific approval of the director.

15 12-41-115. Grounds for disciplinary action. (1) The  
16 director is authorized to take disciplinary action in  
17 accordance with section 12-41-116 if the licensee has:

18 (a) Committed any act which does not meet generally  
19 accepted standards of physical therapy practice or failed to  
20 perform an act necessary to meet generally accepted standards  
21 of physical therapy practice;  
22 (b) Engaged in a sexual act with a patient during the  
23 course of patient care. For the purposes of this paragraph  
24 (b), "sexual act" means sexual contact, sexual intrusion, or  
25 sexual penetration as defined in section 18-3-401, C.R.S.

26 (c) Failed to refer a patient to the appropriate  
27 licensed health care practitioner when the services required

1 by the patient are beyond the level of competence of the  
2 physical therapist or beyond the scope of physical therapy  
3 practice;

4 (d) Abandoned a patient by any means, including but not  
5 limited to failure to provide a referral to another physical  
6 therapist or to other appropriate health care practitioners  
7 when the provision of such referral was necessary to meet  
8 generally accepted standards of physical therapy care;

9 (e) Failed to provide adequate or proper supervision  
10 when utilizing unlicensed persons in a physical therapy  
11 practice;

12 (f) Failed to make essential entries on patient records  
13 or falsified or made incorrect entries of an essential nature  
14 on patient records;

15 (g) Engaged in any of the following activities and  
16 practices: Ordering or performance, without clinical  
17 justification, of demonstrably unnecessary laboratory tests or  
18 studies; the administration, without clinical justification,  
19 of treatment which is demonstrably unnecessary; or ordering or  
20 performing, without clinical justification, any service,  
21 X ray, or treatment which is contrary to recognized standards  
22 of the practice of physical therapy as interpreted by the  
23 director;

24 (h) (I) Committed abuse of health insurance as set forth  
25 in section 18-13-119 (3), C.R.S.; or

26 (II) Advertised through newspapers, magazines,  
27 circulars, direct mail, directories, radio, television, or

1 otherwise that the licensee will perform any act prohibited by  
2 section 18-13-119 (3), C.R.S.;

3 (i) Committed a fraudulent insurance act, as defined in  
4 section 10-1-127, C.R.S.;

5 (j) Offered, given, or received commissions, rebates, or  
6 other forms of remuneration for the referral of clients.  
7 Notwithstanding this provision, a licensee may pay an  
8 independent advertising or marketing agent compensation for  
9 advertising or marketing services rendered on his behalf by  
10 such agent, including compensation for referrals of clients  
11 identified through such services on a per client basis.

12 (k) Falsified information in any application or  
13 attempted to obtain or obtained a license, temporary permit,  
14 or temporary license by fraud, deception, or  
15 misrepresentation;

16 (l) A dependence on or addiction to alcohol or any habit  
17 forming drug, as defined in section 12-22-102 (13), or abuses  
18 or engages in the habitual or excessive use of any such habit  
19 forming drug or any controlled substance, as defined in  
20 section 12-22-303 (7);

21 (m) A physical or mental condition or disability which  
22 renders such licensee unable to treat patients with reasonable  
23 skill and safety, or which may endanger the health or safety of  
24 persons under the licensee's care;

25 (n) Refused to submit to a physical or mental  
26 examination when so ordered by the director pursuant to  
27 section 12-41-118;

1 (o) Failed to notify the director, in writing, of the  
 2 entry of a final judgment by a court of competent jurisdiction  
 3 in favor of any party and against the licensee for malpractice  
 4 of physical therapy or any settlement by the licensee in  
 5 response to charges or allegations of malpractice of physical  
 6 therapy. Such notice shall be given within ninety days of the  
 7 entry of such judgment or such settlement and, in the case of  
 8 a judgment, shall contain the name of the court, the case  
 9 number, and the names of all parties to the action.

10 (p) Violated or aided or abetted a violation of any  
 11 provision of this article, any rule or regulation adopted  
 12 under this article, or any lawful order of the director; or

13 (q) Been convicted of a felony or pled guilty or nolo  
 14 contendere to a felony related to the performance of the  
 15 physical therapy profession.

16 12-41-116. Disciplinary actions. (1) (a) The director,  
 17 pursuant to the provisions of article 4 of title 24, C.R.S.,  
 18 may issue letters of admonition, or may deny, refuse to renew,  
 19 suspend, or revoke any license, temporary permit, or temporary  
 20 license, or may impose public censure or a fine, if, after  
 21 notice and hearing, the director or his designee, determines  
 22 that the licensee or permittee has committed any of the acts  
 23 specified in section 12-41-115.

24 (b) The denial of an application to renew an existing  
 25 license shall be treated in all respects as a revocation. If  
 26 an application to renew a license is denied, the applicant,  
 27 within sixty days after the date of the notice of such action,

1 may request a hearing as provided in section 24-4-105, C.R.S.

2 (c) The director may take disciplinary action on an  
 3 emergency basis as provided in section 24-4-105, C.R.S.

4 (2) When a complaint or an investigation discloses an  
 5 instance of misconduct by a licensee which, in the opinion of  
 6 the director, does not warrant formal action but which should  
 7 not be dismissed as being without merit, the director may  
 8 issue a letter of admonition to be sent by certified mail to  
 9 such licensee with a copy thereof to the person making the  
 10 complaint. When such a letter of admonition is issued, the  
 11 licensee shall be advised that such licensee has the right to  
 12 request in writing, within twenty days after proven receipt of  
 13 the letter, that formal disciplinary proceedings be initiated  
 14 to adjudicate the propriety of the conduct upon which the  
 15 letter of admonition is based. If such request is timely  
 16 made, the letter of admonition shall be deemed vacated, and  
 17 the matter shall be processed by means of formal disciplinary  
 18 proceedings.

19 (3) In addition to the disciplinary actions listed in  
 20 subsection (1) of this section, the director may also impose  
 21 or require any of the following:

22 (a) A period of probation in connection with any  
 23 disciplinary action other than revocation of a license; except  
 24 that the person on probation may be allowed to practice  
 25 physical therapy during the period of probation;

26 (b) In any disciplinary order which allows a physical  
 27 therapist to continue to practice, such conditions as the

1 director deems appropriate to insure that the physical  
2 therapist is physically, mentally, and professionally  
3 qualified to practice physical therapy in accordance with  
4 generally accepted professional standards. Such conditions  
5 may include any or all of the following:

6 (I) Examination of the physical therapist to determine  
7 his mental or physical condition, as provided in section  
8 12-41-118, or to determine professional qualifications;  
9 (II) Any therapy, training, or education which the  
10 director believes to be necessary to correct deficiencies  
11 found either pursuant to a hearing or through an examination  
12 pursuant to subparagraph (I) of this paragraph (b);

13 (III) Any review or supervision of a licensee's practice  
14 which the director finds necessary to identify and correct  
15 deficiencies therein;

16 (c) Restrictions upon the nature and scope of practice  
17 to ensure that the licensee does not practice beyond the  
18 limits of such licensee's capabilities.

19 (4) The director may take disciplinary action against a  
20 physical therapist for failure to comply with any of the  
21 conditions imposed by the director pursuant to subsection (3)  
22 of this section.

23 12-41-117. Disciplinary proceedings - investigations -  
24 judicial review. (1) The director may commence a proceeding  
25 for the discipline of a licensee when the director has  
26 reasonable grounds to believe that a licensee has committed an  
27 act enumerated in section 12-41-115.

1 (2) In any proceeding held under this section, the  
2 commissioner may accept as prima facie evidence of grounds for  
3 disciplinary action any disciplinary action taken against a  
4 licensee from another jurisdiction if the violation which  
5 prompted the disciplinary action in that jurisdiction would be  
6 grounds for disciplinary action under this article.

7 (3) (a) The director may investigate potential grounds  
8 for disciplinary action upon his own motion or when such  
9 director is informed of dismissal of any person licensed  
10 pursuant to this article if such dismissal was for a matter  
11 which would constitute a violation of this article.

12 (b) Any person who supervises a physical therapist shall  
13 report to the director when such physical therapist has been  
14 dismissed because of incompetence in physical therapy or  
15 failure to comply with this article. Any physical therapist  
16 who is aware that another physical therapist is violating any  
17 of the provisions of this article shall report such violation  
18 to the director.

19 (4) The director may compel the attendance of witnesses  
20 and the production of books, patient records, papers, and  
21 other pertinent documents at any proceeding authorized under  
22 this article by subpoenas issued by the director, which shall  
23 be served in the manner provided by the Colorado rules of  
24 civil procedure.

25 (5) In order to aid the director in any hearing or  
26 investigation instituted pursuant to this section, the  
27 director shall have the power to issue subpoenas compelling

1 production of copies of any records containing information  
2 relevant to the practice of physical therapy. The person  
3 providing such copies shall prepare them from the original  
4 record and shall delete from the copy provided pursuant to the  
5 subpoena the name of the patient, but he shall identify the  
6 patient by a numbered code, to be retained by the custodian of  
7 the records from which the copies were made. Upon  
8 certification of the custodian that the copies are true and  
9 complete except for the patient's name, they shall be deemed  
10 authentic, subject to the right to inspect the originals for  
11 the limited purpose of ascertaining the accuracy of the  
12 copies. No privilege of confidentiality shall exist with  
13 respect to such copies, and no liability shall lie against the  
14 director or the custodian for furnishing or using such copies  
15 in accordance with this subsection (5).

16 (6) The director may keep any investigation authorized  
17 under this article closed until the results of such  
18 investigation are known and either the complaint is dismissed  
19 or notice of hearing and charges are served upon the licensee.

20 (7) Any person participating in good faith in the making  
21 of a complaint or report or participating in any investigative  
22 or administrative proceeding pursuant to this section shall be  
23 immune from any liability, civil or criminal, that otherwise  
24 might result by reason of such action.

25 (8) The director, through the department of regulatory  
26 agencies, may employ administrative law judges appointed  
27 pursuant to part 10 of article 30 of title 24, C.R.S., on a

1 full-time or part-time basis, to conduct hearings as provided  
2 by this article or on any matter within the director's  
3 jurisdiction upon such conditions and terms as such director  
4 may determine.

5 (9) Final action of the director may be judicially  
6 reviewed by the court of appeals by appropriate proceedings  
7 under section 24-4-106 (11), C.R.S., and judicial proceedings  
8 for the enforcement of an order of the director may be  
9 instituted in accordance with section 24-4-106, C.R.S.

10 12-41-118. Mental and physical examination of licensees.

11 (1) If the director has reasonable cause to believe that a  
12 licensee is unable to practice with reasonable skill and  
13 safety, the director may require such person to take a mental  
14 or physical examination by a physician designated by said  
15 director. If such licensee refuses to undergo such a mental  
16 or physical examination, unless due to circumstances beyond  
17 the licensee's control, the director may suspend such  
18 licensee's license until the results of any such examination  
19 are known, and the director has made a determination of the  
20 licensee's fitness to practice. The director shall proceed  
21 with any such order for examination and such determination in  
22 a timely manner.

23 (2) An order to a licensee pursuant to subsection (1) of  
24 this section to undergo a mental or physical examination shall  
25 contain the basis of the director's reasonable cause to  
26 believe that the licensee is unable to practice with  
27 reasonable skill and safety. For the purposes of any

1 persons licensed pursuant to this article and residing in this  
2 state if the licensee whose services are the subject of review  
3 is a member of such society or association.

4 (2) The director, any member of a professional review  
5 committee authorized by the director or authorized pursuant to  
6 paragraph (b) of subsection (1) of this section, and any  
7 witness appearing before the director or any such professional  
8 review committee shall be immune from suit in any civil action  
9 brought by a licensee who is the subject of a professional  
10 review proceeding under these conditions: The director, any  
11 such member, or such witness acts in good faith and within the  
12 scope of the professional review, makes a reasonable effort  
13 to obtain the facts of the matter as to which he acts, and  
14 acts in the reasonable belief that the action taken by him is  
15 warranted by the facts.

16 12-41-120. Reports by insurance companies.  
17 (1) (a) Each insurance company licensed to do business in  
18 this state and engaged in the writing of malpractice insurance  
19 for physical therapists, hospitals, physicians, dentists,  
20 podiatrists, or other health care persons or facilities  
21 licensed or registered in this state shall send to the  
22 director any information relating to any malpractice claim  
23 which:

- 24 (I) Involves physical therapy or a physical therapist;
- 25 and
- 26 (II) Is settled or in which judgment is rendered against
- 27 the insured.

1 disciplinary proceeding authorized under this article, the  
2 licensee shall be deemed to have waived all objections to the  
3 admissibility of the examining physician's testimony or  
4 examination reports on the ground that they are privileged  
5 communications.

6 (3) The licensee may submit to the director testimony or  
7 examination reports from a physician chosen by such licensee  
8 and pertaining to any condition which the director has alleged  
9 may preclude the licensee from practicing with reasonable  
10 skill and safety. These may be considered by the director in  
11 conjunction with, but not in lieu of, testimony and  
12 examination reports of the physician designated by the  
13 director.

14 (4) The results of any mental or physical examination  
15 ordered by the director shall not be used as evidence in any  
16 proceeding other than one before the director and shall not be  
17 deemed public records nor made available to the public.

18 12-41-119. Professional review committees - immunity.  
19 (1) A professional review committee may be established  
20 pursuant to this section to investigate the quality of care  
21 being given by a person licensed under this article. It shall  
22 include in its membership at least three persons licensed  
23 under this article, but such committee may be authorized to  
24 act only by:

- 25 (a) The director; or
- 26 (b) A society or an association of physical therapists
- 27 whose membership includes not less than one-third of the

1 (b) In addition, the insurance company shall submit  
2 supplementary reports regarding the disposition of any such  
3 claim as it is disposed. This information shall be submitted  
4 to the director within ninety days of any settlement or  
5 judgment.

6 (2) Regardless of the disposition of any claim, said  
7 insurance company shall provide such information as the  
8 director finds necessary to conduct said director's own  
9 investigation and hearing.

10 12-41-121. Unlawful acts - criminal penalties. (1) It  
11 is unlawful and a violation of this article for any person,  
12 including but not limited to any individual, corporation,  
13 association, or partnership, to:

14 (a) Fraudulently obtain, furnish, or sell any physical  
15 therapy diploma, certificate, license, renewal of license, or  
16 record, or to aid or abet any such act;

17 (b) Advertise, represent, or hold oneself out, in any  
18 manner, as a physical therapist or to practice physical  
19 therapy unless licensed or otherwise authorized under this  
20 article;

21 (c) Use in connection with such person's name any  
22 designation tending to imply that such person is a physical  
23 therapist without being licensed under this article; or

24 (d) Practice physical therapy during the time such  
25 person's license is suspended or revoked.

26 (2) Any person who commits any act specified in  
27 subsection (1) of this section commits a class 3 misdemeanor

1 and shall be punished as provided in section 18-1-106, C.R.S.

2 (3) It is necessary to prove in any prosecution under  
3 this article only a single act prohibited by this article  
4 including, but not limited to, a single holding out, without  
5 proving a general course of conduct, in order to constitute a  
6 violation.

7 (4) Such misdemeanor shall be prosecuted by the district  
8 attorney of the judicial district in which the offense is  
9 committed in the name of the people of the state of Colorado.

10 12-41-122. Injunctive proceedings. The director may, in  
11 the name of the people of the state of Colorado, through the  
12 attorney general of the state of Colorado, apply for an  
13 injunction in any court of competent jurisdiction to enjoin  
14 any person from committing any act declared to be a  
15 misdemeanor by this article. If it is established that the  
16 defendant has been or is committing an act declared to be a  
17 misdemeanor by this article, the court shall enter a decree  
18 perpetually enjoining said defendant from further committing  
19 such act. In case of violation of any injunction issued under  
20 the provisions of this section, the court may try and punish  
21 the offender for contempt of court. Such injunction  
22 proceedings shall be in addition to, and not in lieu of, all  
23 penalties and other remedies provided in this article.

24 12-41-123. Professional service corporations for the  
25 practice of physical therapy. (1) Persons licensed to  
26 practice physical therapy by the director may form  
27 professional service corporations for the practice of physical

1 therapy under the "Colorado Corporation Code", articles 1 to  
2 10 of title 7, C.R.S., if such corporations are organized and  
3 operated in accordance with the provisions of this section.  
4 The articles of incorporation of such corporations shall  
5 contain provisions complying with the following requirements:

6 (a) The name of the corporation shall contain the words  
7 "professional company" or "professional corporation" or  
8 abbreviations thereof.

9 (b) The corporation shall be organized solely for the  
10 purposes of conducting the practice of physical therapy only  
11 through persons licensed by the director to practice physical  
12 therapy in the state of Colorado.

13 (c) The corporation may exercise the powers and  
14 privileges conferred upon corporations by the laws of Colorado  
15 only in furtherance of and subject to its corporate purpose.

16 (d) All shareholders of the corporation shall be persons  
17 licensed by the director to practice physical therapy in the  
18 state of Colorado and who at all times own their shares in  
19 their own right. They shall be individuals who, except for  
20 illness, accident, or time spent in the armed services, on  
21 vacations, or on leaves of absence not to exceed one year, are  
22 actively engaged in the practice of physical therapy in the  
23 offices of the corporation.

24 (e) Provisions shall be made requiring any shareholder  
25 who ceases to be or for any reason is ineligible to be a  
26 shareholder to dispose of all such shares forthwith, either to  
27 the corporation or to any person having the qualifications

1 described in paragraph (d) of this subsection (1).

2 (f) The president shall be a shareholder and a director,  
3 and, to the extent possible, all other directors and officers  
4 shall be persons having the qualifications described in  
5 paragraph (d) of this subsection (1). Lay directors and  
6 officers shall not exercise any authority whatsoever over  
7 professional matters.

8 (g) The articles of incorporation shall provide, and all  
9 shareholders of the corporation shall agree, that all  
10 shareholders of the corporation shall be jointly and severally  
11 liable for all acts, errors, and omissions of the employees of  
12 the corporation or that all shareholders of the corporation  
13 shall be jointly and severally liable for all acts, errors,  
14 and omissions of the employees of the corporation except  
15 during periods of time when the corporation shall maintain in  
16 good standing professional liability insurance which shall  
17 meet the following minimum standards:

18 (I) The insurance shall insure the corporation against  
19 liability imposed upon the corporation by law for damages  
20 resulting from any claim made against the corporation arising  
21 out of the performance of professional services for others by  
22 those officers and employees of the corporation who are  
23 licensed by the director to practice physical therapy.

24 (II) Such policies shall insure the corporation against  
25 liability imposed upon it by law for damages arising out of  
26 the acts, errors, and omissions of all nonprofessional  
27 employees.

1 (III) The insurance policy may provide for an aggregate  
 2 top limit of liability per year for all claims of one hundred  
 3 fifty thousand dollars with a top limit of liability for all  
 4 claims during the year of three hundred thousand dollars.

5 (IV) The policy may provide that it does not apply to:  
 6 Any dishonest, fraudulent, criminal, or malicious act or  
 7 omission of the insured corporation or any stockholder or  
 8 employee thereof; the conduct of any business enterprise, as  
 9 distinguished from the practice of physical therapy, in which  
 10 the insured corporation under this section is not permitted to  
 11 engage out which nevertheless may be owned by the insured  
 12 corporation, or in which the insured corporation may be a  
 13 partner, or which may be controlled, operated, or managed by  
 14 the insured corporation in its own or in a fiduciary capacity,  
 15 including the ownership, maintenance, or use of any property  
 16 in connection therewith, when not resulting from breach of  
 17 professional duty, bodily injury to, or sickness, disease, or  
 18 death of any person, or to injury to or destruction of any  
 19 tangible property, including the loss of use thereof; and the  
 20 policy may contain reasonable provisions with respect to  
 21 policy periods, territory, claims, conditions, and other usual  
 22 matters.

23 (2) The corporation shall do nothing which, if done by a  
 24 person licensed to practice physical therapy in the state of  
 25 Colorado and employed by it, would constitute any ground for  
 26 disciplinary action, as set forth in section 12-41-115. Any  
 27 violation by the corporation of this section shall be grounds

1 for the director to terminate or suspend its right to practice  
 2 physical therapy.

3 (3) Nothing in this section shall be deemed to diminish  
 4 or change the obligation of each person licensed to practice  
 5 physical therapy employed by the corporation to conduct his  
 6 practice in accordance with the standards of professional  
 7 conduct provided for in this article and any rules and  
 8 regulations adopted under this article. Any person licensed  
 9 by the director to practice physical therapy who by act or  
 10 omission causes the corporation to act or fail to act in a way  
 11 which violates such standards of professional conduct,  
 12 including any provision of this section, shall be deemed  
 13 personally responsible for such act or omission and shall be  
 14 subject to discipline therefor.

15 (4) A professional service corporation may adopt a  
 16 pension, profit sharing (whether cash or deferred), health and  
 17 accident insurance, or welfare plan for all or part of its  
 18 employees, including lay employees, if such plan does not  
 19 require or result in the sharing of specific or identifiable  
 20 fees with lay employees and if any payments made to lay  
 21 employees or into any such plan on behalf of lay employees are  
 22 based upon their compensation or length of service, or both,  
 23 rather than the amount of fees or income received.

24 (5) Except as provided in this section, corporations  
 25 shall not practice physical therapy.

26 12-41-124. Powers and duties of director - reports -  
 27 publications. (1) The director is authorized to administer

1 and enforce the provisions of this article and any rules and  
2 regulations adopted under this article.

3 (2) In addition to any other powers and duties given the  
4 director by this article, the director shall have the  
5 following powers and duties:

6 (a) To evaluate the qualifications of applicants for  
7 licensure, administer examinations, issue and renew the  
8 licenses and permits authorized under this article, and to  
9 take the disciplinary actions authorized under this article;

10 (b) To adopt all reasonable and necessary rules and  
11 regulations for the administration and enforcement of this  
12 article, including, but not limited to, rules regarding the  
13 supervision of unlicensed persons by physical therapists;

14 (c) To conduct hearings upon charges for discipline of a  
15 licensee, issue subpoenas, compel attendance of witnesses,  
16 compel the production of books, records, papers, and  
17 documents, administer oaths to persons giving testimony at  
18 hearings, and cause the prosecution and enjoinder of all  
19 persons violating this article;

20 (d) To maintain a register listing the name of every  
21 physical therapist licensed to practice in this state,  
22 including the last-known place of business, last-known place  
23 of residence, and the license number of each licensee;

24 (e) At least once a year, to compile a list of physical  
25 therapists currently licensed to practice in this state, such  
26 list to be available to any person upon application to the  
27 director and the payment of such charge as may be fixed by

1 said director;

2 (f) Subject to the provisions of section 12-41-127 and  
3 section 24-34-105, C.R.S., to set fees and make such  
4 expenditures as the director may deem necessary for the  
5 administration of the provisions of this article;

6 (g) To prepare and transmit annually, in the form and  
7 manner prescribed by the heads of the principal departments  
8 pursuant to the provisions of section 24-1-136, C.R.S., a  
9 report accounting to the governor and the general assembly for  
10 the efficient discharge of all responsibilities assigned by  
11 law or directive to the director;

12 (h) To insure that publications issued or circulated by  
13 the director in quantity outside the executive branch are in  
14 accordance with the provisions of section 24-1-136, C.R.S.;

15 (i) To promote consumer protection and consumer  
16 education by such means as the director finds appropriate; and

17 (j) To appoint advisory committees to assist in the  
18 performance of the director's duties. Members of any such  
19 advisory committee shall receive no compensation for their  
20 services but shall be reimbursed for actual and necessary  
21 expenses which they may incur in the performance of their  
22 duties. Such reimbursement shall be cash funded and shall not  
23 exceed the amount anticipated to be raised from fees collected  
24 pursuant to this article.

25 12-41-125. Advisory committee. The director shall  
26 appoint at least one advisory committee of at least seven  
27 members to assist in the performance of the director's duties

1 under this article. Five of these members shall be physical  
 2 therapists and two shall not be physical therapists but shall  
 3 be persons having specific knowledge in the health care field.  
 4 Such committee shall meet at least twice a year and at  
 5 additional times at the discretion of the director. Members  
 6 of such advisory committee shall receive no compensation for  
 7 their services but shall be reimbursed for actual and  
 8 necessary expenses which they may incur in the performance of  
 9 their duties. Such reimbursement shall be cash funded and  
 10 shall not exceed the amount anticipated to be raised from fees  
 11 collected pursuant to this article.

12 12-41-126. Limitation on authority. The authority  
 13 granted the director under the provisions of this article  
 14 shall not be construed to authorize the director to arbitrate  
 15 or adjudicate fee disputes between licensees or between a  
 16 licensee and any other party.

17 12-41-127. Fees and expenses. All fees collected under  
 18 this article shall be determined, collected, and appropriated  
 19 in the same manner as set forth in section 24-34-105, C.R.S.

20 12-41-128. Physical therapists - registered prior to  
 21 July 1, 1991. (1) Any physical therapist who was registered  
 22 by the director prior to July 1, 1991, shall be licensed by  
 23 the director as of July 1, 1991, and shall thereafter be  
 24 subject to the requirements of this article. Any such license  
 25 shall expire according to the provisions of section 12-41-112  
 26 and shall thereafter be subject to the provisions of that  
 27 section.

1 (2) Any proceeding under this article which is pending  
 2 before the director on July 1, 1991, shall remain in full  
 3 force and effect on and after said date.

4 12-41-129. Repeal of article. This article is repealed,  
 5 effective July 1, 2001. The licensing functions of the  
 6 director of the division of registrations as set forth in this  
 7 article are terminated July 1, 2001. Prior to such  
 8 termination, the licensing functions shall be reviewed as  
 9 provided for in section 24-34-104, C.R.S.

10 SECTION 2. Article 1 of title 10, Colorado Revised  
 11 Statutes, 1987 Repl. Vol., as amended, is amended BY THE  
 12 ADDITION OF A NEW SECTION to read:

13 10-1-124.2. Reporting of malpractice claims against  
 14 physical therapists. (1) Each insurance company licensed to  
 15 do business in this state and engaged in the writing of  
 16 malpractice insurance for physical therapists licensed under  
 17 article 41 of title 12, C.R.S., shall send to the director of  
 18 the division of registrations, in the department of regulatory  
 19 agencies, in the form prescribed by the commissioner of  
 20 insurance, information relating to each claim involving  
 21 physical therapy malpractice or against any such physical  
 22 therapist which is settled or in which judgment is rendered  
 23 against the insured.

24 (2) On and after July 1, 1991, every insurance company  
 25 licensed to do business in this state which makes payment  
 26 under a policy of insurance in settlement of a claim of  
 27 physical therapy malpractice, or in satisfaction of a judgment

1 for such malpractice, shall report to the secretary of health  
2 and human services, in accordance with 42 U.S.C. secs. 11131  
3 and 11134, the following information:

4 (a) The name of any physical therapist for whose benefit  
5 the payment is made;

6 (b) The amount of the payment;

7 (c) The name, if known, of any hospital with which the  
8 physical therapist is affiliated or associated;

9 (d) A description of the acts or omissions and injuries  
10 or illnesses upon which the action or claim was based; and

11 (e) Such other information as the secretary of health  
12 and human services determines is required for appropriate  
13 interpretation of the information so reported.

14 SECTION 3. 12-36-106 (3), Colorado Revised Statutes,  
15 1985 Repl. Vol., as amended, is amended BY THE ADDITION OF A  
16 NEW PARAGRAPH to read:

17 12-36-106. Practice of medicine defined - exemptions  
18 from licensing requirements. (3) (q) The administration of  
19 medications within the scope of physical therapy practice as  
20 provided in section 12-41-113 (2).

21 SECTION 4. 12-38-125 (1), Colorado Revised Statutes,  
22 1985 Repl. Vol., as amended, is amended BY THE ADDITION OF A  
23 NEW PARAGRAPH to read:

24 12-38-125. Exclusions. (1) (i) The administration of  
25 medications within the scope of physical therapy practice as  
26 provided in section 12-41-113 (2).

27 SECTION 5. 24-34-104, Colorado Revised Statutes, 1988

1 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW  
2 SUBSECTION to read:

3 24-34-104. General assembly review of regulatory  
4 agencies and functions for termination, continuation, or  
5 reestablishment. (30) The following functions of the  
6 specified agency shall terminate on July 1, 2001: The  
7 licensing of physical therapists by the director of the  
8 division of registrations in accordance with article 41 of  
9 title 12, C.R.S.

10 SECTION 6. Repeal. 2-3-1203 (3) (d) (1.6), Colorado  
11 Revised Statutes, 1980 Repl. Vol., as amended, is repealed.

12 SECTION 7. Repeal of rules. To further the general  
13 assembly's intent as expressed in section 24-34-913 (4.5),  
14 Colorado Revised Statutes, the rules and regulations of the  
15 former state board of physical therapy, pp. 1-23 of 4 CCR  
16 732-1, are hereby expressly repealed.

17 SECTION 8. Colorado commission on higher education -  
18 study. The Colorado commission on higher education shall  
19 review the state's current system for educating physical  
20 therapists and shall develop possible solutions to alleviate  
21 the shortage of physical therapists in this state. The  
22 commission shall submit a report containing its findings to  
23 the general assembly on or before March 1, 1992.

24 SECTION 9. Effective date. This act shall take effect  
25 July 1, 1991, and shall apply to acts committed on and after  
26 said date.

27 SECTION 10. Safety clause. The general assembly hereby

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

BY REPRESENTATIVE Phillips;  
also SENATOR Martinez.

A BILL FOR AN ACT

1 CONCERNING AN EXCEPTION TO THE "COLORADO MEDICAL PRACTICE ACT"  
2 FOR CERTAIN SERVICES RENDERED BY QUALIFIED ATHLETIC  
3 TRAINERS.

Bill Summary

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

Allows qualified athletic trainers to render certain services the performance of which would otherwise require a license to practice medicine. Directs the state board of medical examiners to promulgate rules and regulations specifying the types of services which a qualified athletic trainer may provide pursuant to the exception from the medical licensing statute. Defines "qualified athletic trainer" based on educational requirements and experience. Requires the state board of medical examiners to report to the sunrise and sunset review committee if the rules required to be promulgated have not been issued by a certain date.

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

5 SECTION 1. 12-36-106 (3), Colorado Revised Statutes,  
6 1985 Repl. Vol., as amended, is amended BY THE ADDITION OF A  
7 NEW PARAGRAPH to read:

8 12-36-106. Practice of medicine defined - exemptions

1 from licensing requirements. (3) (q) The rendering of  
2 services by an athletic trainer subject to the conditions and  
3 limitations provided in subsection (3.5) of this section.

4 SECTION 2. 12-36-106. Colorado Revised Statutes, 1985  
5 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW  
6 SUBSECTION to read:

7 12-36-106. Practice of medicine defined - exemptions  
8 from licensing requirements. (3.5) (a) The state board of  
9 medical examiners shall promulgate rules and regulations  
10 specifying the types of services which a qualified athletic  
11 trainer may render pursuant to paragraph (q) of subsection (3)  
12 of this section. In order to qualify for the exception  
13 allowed pursuant to said paragraph (q), such services must be  
14 rendered only by qualified athletic trainers who render the  
15 services in the course of participation in an educational  
16 institution's sports program, an organized amateur sports  
17 organization, a professional sports organization, a  
18 recreational program of a county, municipal, or special  
19 district government, or an organized community sports event.

20 (b) For purposes of this subsection (3.5), "qualified  
21 athletic trainer" means a person:

22 (1) Who has a baccalaureate degree granted by an  
23 accredited college or university or a college or university  
24 approved by the state educational board or department in  
25 another state, which degree is in a field related to athletic  
26 training as defined by the college or university which granted  
27 the degree, and who has completed a minimum of one thousand

-83-

BILL 8

1 five hundred actual hours of supervised clinical experience or  
2 internship training in athletic training; or

3 (II) Who has a baccalaureate degree with a major in  
4 athletic training which was granted through a college or  
5 university program which is accredited by a national athletic  
6 training standards organization designated by the state board  
7 of medical examiners and who has completed a minimum of eight  
8 hundred actual hours of supervised clinical experience or  
9 internship in athletic training.

10 (c) The state board of medical examiners shall seek the  
11 voluntary assistance of physicians and athletic trainers in  
12 developing and formulating the rules and regulations required  
13 to be promulgated pursuant to this subsection (3.5). If such  
14 rules and regulations have not been promulgated by June 1,  
15 1992, the board shall report to the sunrise and sunset review  
16 committee created by joint rule of the senate and house of  
17 representatives during the interim after the 1992 regular  
18 session of the general assembly concerning the reasons that  
19 those rules and regulations have not been promulgated.

20 SECTION 3. Safety clause. The general assembly hereby  
21 finds, determines, and declares that this act is necessary  
22 for the immediate preservation of the public peace, health,  
23 and safety.

BY REPRESENTATIVES Owen and Philips;  
also SENATOR Martinez.

A BILL FOR AN ACT

1 CONCERNING THE AUTHORITY OF THE COLORADO BUREAU OF  
 2 INVESTIGATION TO PROVIDE CRIMINAL DATA REGARDING PERSONS  
 3 EMPLOYED AS SECURITY GUARDS, AND, IN CONNECTION  
 4 THEREWITH, AUTHORIZING THE BUREAU TO EXCHANGE FINGERPRINT  
 5 DATA OF PERSONS EMPLOYED AS SECURITY GUARDS WITH THE  
 6 FEDERAL BUREAU OF INVESTIGATION FOR PURPOSES OF NATIONAL  
 7 CRIMINAL HISTORY RECORD CHECKS AND MAKING AN  
 8 APPROPRIATION.

Bill Summary

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

Requires the Colorado bureau of investigation to implement, by a certain date, a system for providing criminal data regarding persons employed as security guards in this state. Requires the bureau to fingerprint applicants applying for criminal history information from the bureau and an investigation for a national criminal history record check by the identification division of the federal bureau of investigation.

Authorizes the bureau to establish fees to cover the direct and indirect costs of the administration of the act. Creates the security guard criminal history information cash fund for the deposit of moneys collected pursuant to the act.

Makes an appropriation from the security guard criminal

history information cash fund to the Colorado bureau of investigation for the implementation of this act.

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

2 SECTION 1. Part 4 of article 33.5 of title 24, Colorado  
 3 Revised Statutes, 1988 Repl. Vol., as amended, is amended BY  
 4 THE ADDITION OF A NEW SECTION to read:

5 24-33.5-415.4. Security guard clearance - national  
 6 criminal history record checks. (1) As used in this section,  
 7 unless the context otherwise requires:

8 (a) "Contract security agency" means any business which,  
 9 for a fee or other consideration, agrees to furnish a  
 10 uniformed security guard to protect persons, property,  
 11 information, or other assets.

12 (b) "Proprietary security organization" means any  
 13 internal functional organizational unit of a company which  
 14 provides uniformed security guards for the exclusive use of  
 15 such employing company.

16 (c) "Security guard" means any private uniformed  
 17 security officer, armored car service officer, alarm response  
 18 runner, watchman, lobby attendant, or other person who is  
 19 engaged in the protection of persons, property, information,  
 20 or other assets.

21 (2) By January 1, 1992, the bureau shall implement a  
 22 system for providing criminal data regarding any security  
 23 guard employed by any contract security agency or proprietary  
 24 security organization in this state which requests such

1 information. The bureau shall require each person applying  
2 for criminal history information pursuant to this section to  
3 be fingerprinted. Such fingerprints shall be available for  
4 use by the bureau in its investigation and for transmittal to  
5 the identification division of the federal bureau of  
6 investigation for a national criminal history record check.

7 (3) The information obtained from the investigation  
8 conducted pursuant to subsection (2) of this section may be  
9 used by the contract security agency or proprietary security  
10 organization to determine whether or not to employ a person as  
11 a security guard.

12 (4) The bureau by rule and regulation shall establish  
13 fees for obtaining information as specified in this section.  
14 Such fees shall be in an amount sufficient to defray the  
15 direct and indirect costs of the administration of this  
16 section. All fees collected pursuant to this subsection (5)  
17 shall be transmitted to the state treasurer, who shall credit  
18 the same to the security guard criminal history information  
19 cash fund, which fund is hereby created. All interest derived  
20 from the deposit and investment of moneys in the fund shall be  
21 credited to the fund. The moneys in the fund shall be subject  
22 to annual appropriation by the general assembly for the direct  
23 and indirect costs of the administration of this section.

24 SECTION 2. Appropriation. In addition to any other  
25 appropriation, there is hereby appropriated, out of any moneys  
26 in the security guard criminal history information cash fund  
27 not otherwise appropriated, to the department of public safety

1 for allocation to the Colorado bureau of investigation, for  
2 the fiscal year beginning July 1, 1992, the sum of  
3 \_\_\_\_\_ dollars (\$ \_\_\_\_\_), or so much thereof as  
4 may be necessary, for the implementation of this act.

5 SECTION 3. Safety clause. The general assembly hereby  
6 finds, determines, and declares that this act is necessary  
7 for the immediate preservation of the public peace, health,  
8 and safety.

BY REPRESENTATIVES Kopel and Phillips;  
also SENATOR Schaffer.

A BILL FOR AN ACT

1 CONCERNING THE SUNSET OF ADVISORY COMMITTEES.

Bill Summary

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

Continues various advisory committees scheduled to sunset July 1, 1991.

Places the pharmacy advisory committee on the sunset review schedule.

Makes the following changes to certain advisory committees: Adds additional members to the state special education advisory committee; specifies the members of the advisory board for the Colorado school for the deaf and the blind, increases the membership of this board, and requires that at least one member of such board reside in a rural area of the state; deletes per diem compensation for members of the advisory committee on student loans; requires the membership of the council advising the state board for community colleges and occupational education to reflect adequate geographical representation of all areas in the state.

Adds a repealer to the substantive law which creates the advisory committee for factory-built nonresidential structures. Repeals the statutory authority permitting the director of the division of labor to appoint an advisory committee for the purpose of assisting the director in setting payment schedules. Moves sunset reviews of certain advisory committees from 1993 to 1994.

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

1 SECTION 1. 2-3-1203 (3) (g), Colorado Revised Statutes,  
2 1980 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH  
3 AMENDMENTS, to read:

4 2-3-1203. Sunset review of advisory committees.  
5 (3) (g) July 1, 1994:

6 (I) The advisory committee to advise and consult on  
7 matters concerning the law enforcement radio system, which  
8 committee is appointed pursuant to section 24-30-904, C.R.S.;

9 (II) The advisory committee to the director of the  
10 division of commerce and development, appointed pursuant to  
11 section 24-32-304, C.R.S.;

12 (III) The motion picture and television advisory  
13 committee, appointed pursuant to section 24-32-308, C.R.S.;

14 (IV) The population advisory council, appointed pursuant  
15 to section 24-40-103, C.R.S.;

16 (V) The telecommunications advisory committee appointed  
17 pursuant to section 24-30-1802, C.R.S.

18 SECTION 2. 2-3-1203 (3) (i), Colorado Revised Statutes,  
19 1980 Repl. Vol., as amended, is amended BY THE ADDITION OF A  
20 NEW SUBPARAGRAPH to read:

21 2-3-1203. Sunset review of advisory committees.  
22 (3) (i) (III) The pharmacy advisory committee, appointed  
23 pursuant to section 26-4-120.1 (2), C.R.S.

24 SECTION 3. 22-20-104 (2) (a), Colorado Revised  
25 Statutes, 1988 Repl. Vol., is amended to read:

26 22-20-104. Administration. (2) (a) In order to assist  
27 the state board in the performance of its responsibilities for

1 the implementation of this article, a state special education  
 2 advisory committee of an appropriate size shall be appointed  
 3 by the state board. The members of the advisory committee  
 4 shall include at least one special education teacher from each  
 5 of the handicapped conditions set forth in section 22-20-103  
 6 (4), at least two administrators with experience in special  
 7 education, at least two parents of children presently or  
 8 formerly enrolled in special education programs, one  
 9 representative from the department of institutions, at least  
 10 one handicapped adult, eighteen years of age or older, AT  
 11 LEAST ONE FACULTY MEMBER FROM THE COLORADO SCHOOL FOR THE DEAF  
 12 AND THE BLIND OR A PARENT OF A STUDENT ATTENDING THE COLORADO  
 13 SCHOOL FOR THE DEAF AND THE BLIND, and at least one regular  
 14 classroom teacher. Members shall be appointed for one-year or  
 15 two-year terms. Any additions to the composition of the  
 16 advisory committee shall be made pursuant to the rules and  
 17 regulations of the state board.

18 SECTION 4. 22-80-104 (2), Colorado Revised Statutes,  
 19 1988 Repl. Vol., is amended to read:

20 22-80-104. Advisory board created - terms - compensation  
 21 - sunset review. (2) The advisory board shall consist of  
 22 ~~five~~ SEVEN members to be appointed by the governor for terms  
 23 of four years each; except that, in the case of a vacancy, the  
 24 appointment shall be for the remainder of the unexpired term.  
 25 Persons holding office on June 15, 1987, are subject to the  
 26 provisions of section 24-1-137, C.R.S. THE ADVISORY  
 27 COMMITTEE SHALL BE COMPOSED OF ONE BLIND MEMBER, ONE DEAF

1 MEMBER, ONE PARENT OF A BLIND OR DEAF STUDENT ATTENDING THE  
 2 COLORADO SCHOOL FOR THE DEAF AND THE BLIND, ONE SPECIAL  
 3 EDUCATION PROFESSIONAL, ONE MEMBER FROM THE BUSINESS  
 4 COMMUNITY, AND TWO MEMBERS WHO ARE EXPERTS ON SENSORY  
 5 HANDICAPS. AT LEAST ONE MEMBER OF THE ADVISORY BOARD SHALL  
 6 RESIDE IN A RURAL AREA OF THE STATE. Neither the  
 7 superintendent of the Colorado school for the deaf and the  
 8 blind nor any other employee of said school shall be a member  
 9 of the advisory board. The members of the advisory board  
 10 shall serve without compensation but shall be reimbursed for  
 11 actual and necessary expenses incurred in the performance of  
 12 their duties. The advisory board shall advise and consult  
 13 with the state board of education on matters of policy.

14 SECTION 5. 23-3.1-105 (2), Colorado Revised Statutes,  
 15 1988 Repl. Vol., is amended to read:

16 23-3.1-105. Advisory committee established - duties -  
 17 membership - sunset review. (2) Members of the advisory  
 18 ~~committee not otherwise compensated by the state or a public~~  
 19 ~~educational institution shall receive thirty dollars per diem~~  
 20 ~~for attendance at official meetings and~~ shall be reimbursed  
 21 for actual and necessary expenses incurred in the conduct of  
 22 official business.

23 SECTION 6. 23-60-104 (3), Colorado Revised Statutes,  
 24 1988 Repl. Vol., is amended to read:

25 23-60-104. State board for community colleges and  
 26 occupational education - student advisory council - state  
 27 advisory council. (3) The governor shall appoint a state

1 council as provided in federal law to advise the board in  
2 carrying out its responsibilities regarding occupational  
3 education and THE BOARD may appoint such other advisory groups  
4 as it deems necessary. The council shall include, but shall  
5 not be limited to, representatives of agriculture, business,  
6 labor, and educational institutions. THE MEMBERSHIP OF THE  
7 COUNCIL SHALL ASSURE ADEQUATE REPRESENTATION OF ALL  
8 GEOGRAPHICAL AREAS OF THE STATE.

9 SECTION 7. 24-30-904 (2) (a), Colorado Revised Statutes,  
10 1988 Repl. Vol., is amended to read:

11 24-30-904. Advisory committee - sunset review.  
12 (2) (a) This section is repealed, effective July 1, 1993  
13 1994.

14 SECTION 8. 24-30-1802 (3) (a), Colorado Revised  
15 Statutes, 1988 Repl. Vol., as amended, is amended to read:

16 24-30-1802. Advisory commission on telecommunications.  
17 (3) (a) This section is repealed, effective July 1, ~~1993~~  
18 1994.

19 SECTION 9. 24-32-304 (3) (a), Colorado Revised Statutes,  
20 1988 Repl. Vol., is amended to read:

21 24-32-304. Advisory committee - responsibilities -  
22 sunset review. (3) (a) This section is repealed, effective  
23 July 1, ~~1993~~- 1994.

24 SECTION 10. 24-32-308, Colorado Revised Statutes, 1988  
25 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to  
26 read:

27 24-32-308. Motion picture and television advisory

1 commission abolished - reestablished. (4) (a) This section  
2 is repealed, effective July 1, 1994.

3 (b) Prior to said repeal, the advisory committee  
4 appointed pursuant to this section shall be reviewed as  
5 provided for in section 2-3-1203, C.R.S.

6 SECTION 11. 24-32-1903 (2), Colorado Revised Statutes,  
7 1988 Repl. Vol., as amended, is amended to read:

8 24-32-1903. Rules - advisory committee - sunset review -  
9 enforcement. (2) (a) The board shall appoint, consult with,  
10 and obtain the advice of an advisory committee, to serve at  
11 the pleasure of the board, on factory-built nonresidential  
12 structures in drafting such rules and regulations. The  
13 advisory committee shall consist of at least three members and  
14 shall be composed of persons knowledgeable in the field of the  
15 manufacturing of factory-built nonresidential structures, and  
16 members shall be reimbursed for actual and necessary expenses  
17 incurred while engaged in official duties.

18 (b) (I) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY  
19 1, 1993.

20 (II) PRIOR TO SAID REPEAL, SUCH ADVISORY COMMITTEE SHALL  
21 BE REVIEWED AS PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

22 SECTION 12. 24-40-103, Colorado Revised Statutes, 1988  
23 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to  
24 read:

25 24-40-103. Population advisory council. (4) (a) This  
26 section is repealed, effective July 1, 1994.

27 (b) Prior to said repeal, the advisory committee

1 (II) PRIOR TO SAID REPEAL, SUCH ADVISORY COMMITTEE SHALL  
2 BE REVIEWED AS PROVIDED IN SECTION 2-3-1203, C.R.S.

3 SECTION 14. Repeal. 2-3-1203 (3) (d) (II), (3) (d)  
4 (IV), (3) (d) (VI), (3) (d) (VII), (3) (d) (VIII), (3) (d)  
5 (IX), (3) (f) (I), (3) (f) (II), (3) (f) (III), (3) (f) (VI),  
6 and (3) (f) (XII), Colorado Revised Statutes, 1980 Repl. Vol.,  
7 as amended, 8-42-101 (3) (b), Colorado Revised Statutes, 1986  
8 Repl. Vol., as amended, and 22-7-103 (7), 22-20-104 (2) (b),  
9 22-80-104 (3), 23-3.1-105 (3), and 23-50-102 (1) (b) (II),  
10 Colorado Revised Statutes, 1988 Repl. Vol., are repealed.

11 SECTION 15. Safety clause. The general assembly hereby  
12 finds, determines, and declares that this act is necessary  
13 for the immediate preservation of the public peace, health,  
14 and safety.

1 appointed pursuant to this section shall be reviewed as  
2 provided for in section 2-3-1203, C.R.S.

3 SECTION 13. 26-4-120.1 (2), Colorado Revised Statutes,  
4 1989 Repl. Vol., as amended, is amended to read:

5 26-4-120.1. Prescription drugs - drug formulary -  
6 pharmacy advisory committee - sunset review. (2) (a) There  
7 is hereby created in the state department a pharmacy advisory  
8 committee which shall consist of nine members appointed by the  
9 executive director based upon recommendations of relevant  
10 professional associations. Membership on the committee shall  
11 consist of four physicians, four pharmacists, and one  
12 representative from the pharmaceutical industry. All initial  
13 appointments shall be completed by June 1, 1990. The pharmacy  
14 advisory committee shall have the following duties:

15 (a) (I) To review recommendations and findings of the  
16 drug utilization review program and to aid the state  
17 department in formulating policies when necessary to address  
18 problems identified through the drug utilization review  
19 process;

20 (b) (II) To advise the state department on maintaining  
21 the drug formulary for this article;

22 (c) (III) To monitor provider and recipient compliance  
23 with program objectives;

24 (d) (IV) To communicate state program objectives with  
25 private and public sector providers.

26 (b) (I) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY  
27 1, 1996.

BY SENATOR MARTINEZ;  
also REPRESENTATIVES  
Kopel and Phillips.

A BILL FOR AN ACT

1 CONCERNING A REQUIREMENT THAT AN APPLICANT FOR LICENSURE AS A  
2 BARBER OR COSMETOLOGIST FURNISH PROOF THAT THE APPLICANT  
3 HAS ATTAINED CERTAIN EDUCATIONAL REQUIREMENTS.

Bill Summary

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

Requires an applicant for licensure as a barber or  
cosmetologist to furnish proof of graduation from a barber  
school or a beauty school approved by a governmental agency  
and to furnish proof of having successfully completed the  
educational requirements established by the state board of  
barbers and cosmetologists or of having completed education  
substantially equal to those requirements if the applicant  
attended a barber or beauty school outside of Colorado.

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

5 SECTION 1. 12-8-114 (2), Colorado Revised Statutes, 1985

6 Repl. Vol., as amended, is amended to read:

7 12-8-114. Qualifications of applicants - requirements.

8 (2) An applicant for examination shall furnish proof of

9 graduation from a barber school or beauty school approved by

10 THE PRIVATE OCCUPATIONAL SCHOOL DIVISION pursuant to article

1 59 of this title AND PART 7 OF ARTICLE 60 OF TITLE 23, C.R.S.;  
2 APPROVED BY THE STATE BOARD FOR COMMUNITY COLLEGES AND  
3 OCCUPATIONAL EDUCATION PURSUANT TO ARTICLE 60 OF TITLE 23,  
4 C.R.S.; OR, IF THE SCHOOL IS LOCATED IN ANOTHER STATE OR  
5 COUNTRY, APPROVED BY THE GOVERNMENTAL AGENCY RESPONSIBLE FOR  
6 APPROVING SUCH SCHOOLS IN THAT STATE OR COUNTRY. THE  
7 APPLICANT SHALL ALSO FURNISH PROOF THAT THE APPLICANT HAS  
8 SUCCESSFULLY COMPLETED EDUCATIONAL REQUIREMENTS EQUAL TO THOSE  
9 SET BY THE BOARD. IF THE APPLICANT HAS GRADUATED FROM A  
10 SCHOOL LOCATED OUTSIDE COLORADO, THE APPLICANT SHALL FURNISH  
11 PROOF THAT THE APPLICANT HAS SUCCESSFULLY COMPLETED  
12 EDUCATIONAL REQUIREMENTS SUBSTANTIALLY EQUAL TO THOSE SET BY  
13 THE BOARD.  
14 SECTION 2. Safety clause. The general assembly hereby  
15 finds, determines, and declares that this act is necessary  
16 for the immediate preservation of the public peace, health,  
17 and safety.

BY SENATOR Martinez;  
also REPRESENTATIVES Kopel and Philips.

A BILL FOR AN ACT

1 CONCERNING A REQUIREMENT THAT THE BOARD OF BARBERS AND  
2 COSMETOLOGISTS ISSUE A LICENSE BY ENDORSEMENT TO AN  
3 OTHERWISE QUALIFIED INDIVIDUAL WHO IS LICENSED TO  
4 PRACTICE OUTSIDE OF THE STATE OF COLORADO IF THAT  
5 APPLICANT PRESENTS PROOF SATISFACTORY TO THE BOARD THAT  
6 THE APPLICANT POSSESSES QUALIFICATIONS WHICH ARE  
7 SUBSTANTIALLY EQUIVALENT TO REQUIREMENTS FOR LICENSURE BY  
8 EXAMINATION IN COLORADO.

Bill Summary

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

Requires the state board of barbers and cosmetologists to license a barber or cosmetologist licensed in another state or country if the board finds that the applicant possesses qualifications which are substantially equivalent to requirements for licensure by examination in Colorado and if the applicant meets all other requirements for licensure.

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

10 SECTION 1. 12-8-118, Colorado Revised Statutes, 1985

11 Repl. Vol., as amended, is amended to read:

12 12-8-118. Licensure by endorsement. The--board,--in--its

1 discretion,--may--waive--the--examination--of--and--may--issue--  
2 license--to--any--applicant,--upon--the--payment--of--a--fee,--who--is  
3 the--holder--of--a--license--under--the--laws--of--another--state,--  
4 territorial--possession--of--the--United--States,--the--District--of  
5 Columbia,--the--commonwealth--of--Puerto--Rico,--or--a--province--of  
6 Canada--if--the--requirements--for--such--license--or--certification  
7 were,--at--the--time--issued,--equal--to--or--greater--than--the  
8 requirements--for--licensure--set--forth--in--this--article THE BOAR  
9 SHALL ISSUE A LICENSE BY ENDORSEMENT TO ENGAGE IN THE PRACTICE  
10 OF BARBERING, COSMETOLOGY, MANICURING, OR COSMETICIAN SERVICE  
11 IN THIS STATE TO AN INDIVIDUAL WHO IS LICENSED TO PRACTICE IN  
12 THAT PROFESSION IN ANOTHER STATE OR A TERRITORY OF THE UNITED  
13 STATES OR IN A FOREIGN COUNTRY IF THE APPLICANT PRESENTS PROOF  
14 SATISFACTORY TO THE BOARD THAT, AT THE TIME OF APPLICATION FOR  
15 A COLORADO LICENSE BY ENDORSEMENT, THE APPLICANT POSSESSES  
16 CREDENTIALS AND QUALIFICATIONS WHICH ARE SUBSTANTIALLY  
17 EQUIVALENT TO REQUIREMENTS IN COLORADO FOR LICENSURE BY  
18 EXAMINATION AND MEETS ALL OTHER REQUIREMENTS FOR LICENSURE  
19 PURSUANT TO THIS ARTICLE. THE BOARD MAY SPECIFY BY RULE AND  
20 REGULATION WHAT SHALL CONSTITUTE SUBSTANTIALLY EQUIVALENT  
21 CREDENTIALS AND QUALIFICATIONS.  
22 SECTION 2. Safety clause. The general assembly hereby  
23 finds, determines, and declares that this act is necessary  
24 for the immediate preservation of the public peace, health  
25 and safety.

-93-

BILL 12