

Report to the Colorado General Assembly:

**Sunrise and Sunset Recommendations
For 1988**



**Report of the
Joint Legislative Sunrise and Sunset
Review Committee**

**RESEARCH PUBLICATION NO. 319
December, 1987**

RECOMMENDATIONS FOR 1988

JOINT LEGISLATIVE SUNRISE/SUNSET
REVIEW COMMITTEE

Report to the
Colorado General Assembly

Research Publication No. 319
December, 1987

COLORADO GENERAL ASSEMBLY

OFFICERS

Sen. Ted L. Strickland
Chairman
Rep. Carl B. "Bev" Bledsoe
Vice Chairman

STAFF

Charles S. Brown
Director
David Hite
Assistant Director



LEGISLATIVE COUNCIL

ROOM 029 STATE CAPITOL
DENVER, COLORADO 80203-1784
(303) 866-3521

Members

Sen. Wayne Allard
Sen. Harold McCormick
Sen. Jana Mendez
Sen. Ray Peterson
Sen. Ray Powers
Sen. Jeffrey Wells
Rep. Vickie Armstrong
Rep. Charles Berry
Rep. Chris Paulson
Rep. Gilbert Romero
Rep. Paul Schauer
Rep. Ruth Wright

To Members of the Fifty-sixth 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 November 18, 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-sixth General Assembly was also approved.

Respectfully submitted,

/s/ Senator Ted Strickland
Chairman
Colorado Legislative Council

TABLE OF CONTENTS

	<u>Page</u>
LETTER OF TRANSMITTAL.....	iii
TABLE OF CONTENTS.....	v
LIST OF BILLS.....	vii
 JOINT LEGISLATIVE SUNRISE AND SUNSET REVIEW COMMITTEE	
Members of Committee.....	1
Summary of Recommendations.....	3
Sunset Review of Existing Boards.....	7
State Board of Registration for Professional Engineers and Professional Land Surveyors.....	7
Colorado Mobile Home Licensing Board.....	9
Colorado State Electrical Board.....	9
Colorado State Examining Board of Plumbers.....	11
Colorado Outfitters Licensing Board.....	12
Colorado State Board of Examiners of Architects...	13
Sunrise Review.....	15
Hearing Aid Dealers.....	15
Respiratory Therapists.....	15
Athletic Trainers.....	16
Private Investigators.....	16
Community Living Specialists.....	18
Occupational Therapists.....	19
Sunset Review of Advisory Committees.....	21
Victims Assistance and Law Enforcement (VALE).....	22
State Jail Advisory Committee.....	22
Correctional Industries Advisory Committee.....	22
Energy Impact Assistance Advisory Committees.....	23
Council of Advisors on Consumer Credit.....	23
Mined Land Reclamation Advisory Committee.....	24
Child Care Licensing Board.....	24
Personal Care Board Advisory Committee.....	25
Sunset Review of Office of Consumer Counsel.....	26
Sunset Review of Occupations Relating to Mental Health.	28
Review of the Necessity of Rules.....	31
Bills 1 through 11.....	33

LIST OF BILLS

Page

Bill 1	--	Concerning the Regulation of the Practice of Engineering and Land Surveying, and, in Connection Therewith, Providing for the Continuation of the State Board of Registration for Professional Engineers and Professional Land Surveyors and Repealing Certain Rules of the Board.....	33
Bill 2	--	Concerning Regulation of the Manufactured Housing Industry, and in Connection Therewith, Providing for the Continuation of the Colorado Mobile Home Licensing Board and Repealing Various Rules and Regulations of Such Board.....	51
Bill 3	--	Concerning the Practice of Electricians, and in Connection Therewith Providing for the Continuation of the Colorado Electrical Board and Repealing Various Rules and Regulations of Such Board.....	55
Bill 4	--	Concerning the Practice of Plumbing, and in Connection Therewith Providing for the Continuation of the Examining Board of Plumbers and Repealing Various Rules and Regulations of Such Board.....	69
Bill 5	--	Concerning Registration of Outfitters and Guides.....	81
Bill 6	--	Concerning Regulation of the Practice of Architecture, and in Connection Therewith Providing for the Continuation of the Colorado State Board of Examiners of Architects and Repealing Various Rules and Regulations of Such Board.....	89
Bill 7	--	Concerning Exceptions to Licensure Requirements for Persons Who Administer Medications in Residential Care Facilities.....	97
Bill 8	--	Concerning the Sunset Review of Advisory Committees.....	99
Bill 9	--	Concerning an Extension of the Termination Date of the Office of Consumer Counsel.....	105
Bill 10	--	Concerning the Practice of Occupations Relating to Mental Health, and in Connection Therewith Creating Regulatory Agencies for the Licensing and Discipline of Practitioners Thereof and Making an Appropriation.....	107

Page

Bill 11 -- Concerning Sexual Assault on Clients by
Psychotherapists.....145

Bill 12 -- Concerning the Deletion, Pursuant to 24-34-913
(4.5), Colorado Revised Statutes, as Amended, of
Provisions in Administrative Rules and Regulations
Which Are Unnecessary for the Administrative
Functions of the Affected Agencies.....147

JOINT LEGISLATIVE
SUNRISE AND SUNSET REVIEW COMMITTEE

Members of the Committee

Sen. Harold McCormick, Chairman	Rep. Jerry Kopel
Sen. Bob DeNier	Rep. Bill Owens
Sen. Bob Martinez	Rep. Mary Anne Tebedo

Legislative Council Staff

Carl E. Jarrett, Jr.
Sr. Research Assistant

Legislative Drafting Office Staff

Matthew Flora Senior Staff Attorney	Diane Eret Staff Attorney
--	------------------------------

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 specified divisions, boards, and agencies, and to consider proposals for the new regulation of occupations and professions not presently regulated.

In carrying out its directives, the committee held eleven days of meetings. Findings and recommendations prepared by the Department of Regulatory Agencies (DORA) were reviewed and the committee heard public testimony concerning regulation of proposed and existing licensing boards. Specifically, the committee considered recommendations regarding the following six areas of committee activity. Twelve bills were recommended for action in the 1988 session.

(a) Sunset Review of Existing Boards

- State Board of Registration for Professional Engineers and Professional Land Surveyors

RECOMMENDATION: Bill 1 -- CONCERNING THE REGULATION OF THE PRACTICE OF ENGINEERING AND LAND SURVEYING, AND, IN CONNECTION THEREWITH, PROVIDING FOR THE CONTINUATION OF THE STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS AND REPEALING CERTAIN RULES OF THE BOARD.

- Colorado Mobile Home Licensing Board

RECOMMENDATION: Bill 2 -- CONCERNING REGULATION OF THE MANUFACTURED HOUSING INDUSTRY, AND IN CONNECTION THEREWITH PROVIDING FOR THE CONTINUATION OF THE COLORADO MOBILE HOME LICENSING BOARD AND REPEALING VARIOUS RULES AND REGULATIONS OF SUCH BOARD.

- Colorado State Electrical Board

RECOMMENDATION: Bill 3 -- CONCERNING THE PRACTICE OF ELECTRICIANS, AND IN CONNECTION THEREWITH PROVIDING FOR THE CONTINUATION OF THE COLORADO ELECTRICAL BOARD AND REPEALING VARIOUS RULES AND REGULATIONS OF SUCH BOARD.

-- Colorado Examining Board of Plumbers

RECOMMENDATION: Bill 4 -- CONCERNING THE PRACTICE OF PLUMBING, AND IN CONNECTION THEREWITH PROVIDING FOR THE CONTINUATION OF THE EXAMINING BOARD OF PLUMBERS AND REPEALING VARIOUS RULES AND REGULATIONS OF SUCH BOARD.

-- Colorado State Outfitters Licensing Board

RECOMMENDATION: Bill 5 -- CONCERNING REGISTRATION OF OUTFITTERS AND GUIDES.

-- Colorado State Board of Examiners of Architects

RECOMMENDATION: Bill 6 -- CONCERNING REGULATION OF THE PRACTICE OF ARCHITECTURE, AND IN CONNECTION THEREWITH PROVIDING FOR THE CONTINUATION OF THE COLORADO STATE BOARD OF EXAMINERS OF ARCHITECTS AND REPEALING VARIOUS RULES AND REGULATIONS OF SUCH BOARD.

The statutory directive for review of these boards is found in section 24-34-104, C.R.S.

(b) Sunrise Review of Occupations Requesting Licensure

-- Athletic Trainers

RECOMMENDATION: The committee's recommendation is that athletic trainers not be granted licensure.

-- Private Investigators

RECOMMENDATION: The committee's recommendation is that private investigators not be granted licensure.

-- Community Living Specialists

RECOMMENDATION: Even though the committee recommended against licensure of community living specialists, the following bill was recommended by the committee. Bill 7 -- CONCERNING EXCEPTIONS TO LICENSURE REQUIREMENTS FOR PERSONS WHO ADMINISTER MEDICATIONS IN RESIDENTIAL CARE FACILITIES.

-- Occupational Therapists

RECOMMENDATION: The committee's recommendation is that occupational therapists not be granted licensure.

-- Hearing Aid Dealers -- application was withdrawn prior to committee hearing.

-- Respiratory Therapists -- application was withdrawn prior to committee hearing.

Applications for licensure were submitted pursuant to section 2-3-1201, C.R.S.

(c) Sunset Review of Advisory Committees

-- Victims Assistance and Law Enforcement Advisory Committee;

-- State Jail Advisory Committee (the committee recommended this advisory committee not be continued);

-- Correctional Industries Advisory Committee;

-- Energy Impact Assistance Advisory Committee (pursuant to section 34-63-102, C.R.S.);

-- Energy Impact Assistance Advisory Committee (pursuant to section 39-29-110, C.R.S.);

-- Council of Advisors on Consumer Credit;

-- Mined Land Reclamation Advisory Committee;

-- Child Care Licensing Advisory Committee; and

-- Personal Care Board Advisory Committee.

RECOMMENDATION: Bill 8 -- CONCERNING THE 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.

(d) Sunset Review of the Office of Consumer Counsel

The committee also conducted the sunset review of the Office of Consumer Counsel (OCC) this interim. Pursuant to section 40-6.5-108, C.R.S., the Attorney General performed the review of OCC and reported

his findings to the committee. A copy of the report is available in the Legislative Council office.

RECOMMENDATION: Bill 9 -- CONCERNING AN EXTENSION OF THE TERMINATION DATE OF THE OFFICE OF CONSUMER COUNSEL.

(e) Review of the Occupations Relating to Mental Health

As authorized in the omnibus study resolution, the committee again reviewed the regulation of occupations relating to mental health (HJR 1032, 1987 session). Last year, the committee reported a bill to continue the State Board of Psychologist Examiners and the State Board of Social Work Examiners, and to establish a State Board of Counselor and Therapist Examiners. The two newly established boards were to perform administrative duties related to the regulation of professional counselors and marriage and family therapists. The bill failed in the 1987 session and the issue was again reviewed during this year's interim.

This year's bill relating to mental health repeals and reenacts the statutory provisions relating to the Colorado State Board of Psychologist Examiners and the State Board of Social Work Examiners. Two new boards are created to act as the licensing agencies for their respective professions: the State Board of Marriage and Family Therapists and the State Board of Licensed Professional Counselor Examiners. A grievance board is established separately from the licensing boards.

RECOMMENDATION: Bill 10 -- CONCERNING THE PRACTICE OF OCCUPATIONS RELATING TO MENTAL HEALTH, AND IN CONNECTION THEREWITH CREATING REGULATORY AGENCIES FOR THE LICENSING AND DISCIPLINE OF PRACTITIONERS THEREOF AND MAKING AN APPROPRIATION; and Bill 11 -- CONCERNING SEXUAL ASSAULT ON CLIENTS BY PSYCHOTHERAPISTS.

(f) Review of the Necessity of Rules

House Bill 1009, 1987 legislative session, directed the Office of Regulatory Reform (ORR) to notify the committee of any proposed rules which ORR believes are unnecessary for the administrative functions of a particular agency. The committee then reviews such rules and prepares legislation to rescind such rules in whole or in part.

RECOMMENDATION: Bill 12 -- CONCERNING THE DELETION, PURSUANT TO 24-34-913 (4.5), COLORADO REVISED STATUTES, AS AMENDED, OF PROVISIONS IN ADMINISTRATIVE RULES AND REGULATIONS WHICH ARE UNNECESSARY FOR THE ADMINISTRATIVE FUNCTIONS OF THE AFFECTED AGENCIES.

(a) Sunset Review of Existing Boards

Statutory Authority and Responsibility

The General Assembly, finding that the state had 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 was 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.

Six regulatory boards were reviewed:

- State Board of Registration for Professional Engineers and Professional Land Surveyors;
- Colorado Mobile Home Licensing Board;
- Colorado State Electrical Board;
- Colorado Examining Board of Plumbers;
- Colorado State Outfitters Licensing Board; and
- Colorado State Board of Examiners of Architects.

Committee Recommendations

State Board of Registration for Professional Engineers and Professional Land Surveyors

The board was created in 1921 as a nine-member board responsible for licensing two distinct occupations -- engineers (15,000) and surveyors (1,600). Many years ago both engineers and surveyors could practice as surveyors. Because engineering programs no longer include a surveying curriculum, engineers may now practice as a surveyor only if they have a surveyor's license. Continuation of the state board through July 1, 1994, with statutory changes, is recommended.

Currently, requirements for engineer members of the board are that a member be a resident of the state of Colorado for three years, shall have engaged in the practice of engineering for at least twelve years, shall have been in responsible charge for at least eight years,

and shall have been registered or licensed as a professional engineer for at least ten years. The committee recommends engineer members be a resident of the state of Colorado for at least one year and have been registered as a professional engineer for at least five years. In addition, board appointees will be limited to two full terms instead of the current three, and appointees will no longer be required to file a written oath regarding the discharge of his duties as a board member.

The board is charged with providing written examinations in the fundamentals of engineering and the principles and practice of engineering. Currently, the board is directed to determine the acceptable grade on examinations. The bill directs the board to ensure that the passing score for any examination shall be set to measure the level of minimum competency.

The bill adds, deletes, and modifies grounds and standards for disciplinary action. The board will be able to suspend, revoke or deny licensure, or put on probation any professional engineer or engineer-in-training who is found guilty of certain actions. Such actions have been modified to include: a) misrepresentation or attempting to obtain a certificate of registration or enrollment; b) any act or omission which fails to meet the generally accepted standards of engineering practice (current law says any substandard practice, act of incompetence, or misconduct); c) conviction of or pleading guilty to a felony that is related to the ability to practice engineering (current law says any felony or any crime deemed by the board to render the registrant unfit to practice engineering); d) violation of or helping to violate any provision of the engineering statute or any rule or regulation adopted by the board; e) performing services beyond a licensee's competency or training; and f) failure to report to the board any registered engineer known to have violated any provision of the engineering statute. In addition, the board will be given the power to issue letters of admonition to an engineer based on any of the disciplinary grounds in the statute. The bill also gives the board the power to reconsider and review any board disciplinary action.

Under the bill, engineers who are employed by and perform engineering services solely for the federal government are exempt from the provisions of the engineering licensure statute. This provision merely recognizes the existing situation involving these federal employees.

The statute currently allows the board to require a personal interview of an applicant for licensure. The committee recommends the board require a personal interview only if the application fails to demonstrate minimum qualifications necessary to sit for the examination. In addition, the board will no longer be able to judge an applicant's character when considering an application for licensure.

In addition, the bill: a) modifies endorsement and experience requirements for engineers; b) adds provisions regarding the use of the professional engineer seal; c) requires insurance companies to report malpractice settlements or judgments to the board; d) changes certain technical provisions concerning surveys and boundaries; and e) makes the same changes to the statute concerning surveyors regarding disciplinary actions, consideration of an application, and modifications to endorsement and experience requirements .

Colorado Mobile Home Licensing Board

Mobile home dealers were first regulated under the Colorado Motor Vehicle Dealer Licensing Board. As the demand for mobile or manufactured homes increased in the 1970s, the Colorado Mobile Home Licensing Board was established in 1975 under the jurisdiction of the Division of Registrations. The board consists of seven members: two are public members, one of which must be a mobile home owner and resident at the time of appointment; four are licensed mobile home dealers; and one is a person from a financial institution engaged in financing mobile homes.

DORA recommended that the board be continued but said it will continue to study the feasibility of merging the mobile home licensing board and the real estate commission into one board. DORA considered this possibility because of the decreasing number of dealers, the increasing cost of licensure, similarities with the real estate law, and the increasing percentage of mobile home licensees who are also licensed by the real estate commission.

After reviewing DORA's recommendations, the committee decided to continue the board through July 1, 1989 with very few changes. The committee plans to review the board again during the summer of 1988 along with the sunset review of the real estate commission.

In the meantime, the committee's bill: a) eliminates the board's ability to certify the good character of an applicant for licensure as a dealer or salesman; b) gives the board and certain other individuals good faith immunity from liability in civil actions; and c) makes changes in the recovery fund provisions including changing the grounds for payment eligibility, eliminating payment eligibility for corporate surety making license revocation automatic upon final court order, and adding a provision concerning attempted discharges in bankruptcy.

Colorado State Electrical Board

The Colorado State Electrical Board was first created in 1959. The original law licensed only master and journeyman electricians as well as electrical contractors. Residential wiremen, apprentices, and trainees were not licensed until 1971. The original board was under the jurisdiction of the Division of Registrations within the Department of State. The board was later transferred to the

Department of Labor and Employment and, in 1975, was transferred to the Department of Regulatory Agencies.

The nine-member board is composed of four electricians, two utility company employees, one building official, one general contractor, and one public-at-large member. The board is currently responsible for the licensure of about 1,400 contractors, 2,700 master electricians, 6,000 journeyman electricians, and 400 residential wiremen.

The committee recommends continuation of the electrical board through July 1, 1998 and makes various changes to the current statute.

The current electrical law provides for no limitation on the number of terms an appointee may serve. The committee's bill will limit all appointees to two full terms and will also allow the Governor to remove any member of the board for misconduct, incompetence, or neglect of duty.

The board is given additional investigatory powers such as the ability to subpoena records and documents and to compel the attendance of witnesses pursuant to an investigation or a hearing of the board, and will permit injunctions to be issued without a showing that other remedies are inadequate. In addition, the bill requires that board disciplinary action be taken pursuant to the "State Administrative Procedure Act" and allows the board to appoint an administrative law judge when conducting hearings.

Currently, only a candidate for a master's license receives credit for graduating from an electrical engineering program or a trade school. No credit is extended for graduating from community college programs when an application for the licensing exam is being considered. The bill approves these additional means of obtaining credit towards any class of licensure.

Electrical contractors are now required to be licensed to engage in electrical contracting. Electrical contractors are the only contractors in the state who are licensed. The bill provides for the registration of electrical contractors with the board instead of licensure.

Additional grounds for disciplinary action by the board are specified and the board is authorized to issue letters of admonition when an instance of misconduct does not warrant formal action by the board but does warrant some action. In addition, the board will be able to place violators on probation and will also be able, on its own motion or upon application, to reconsider its prior action and reinstate or restore a license, terminate probation, or reduce the severity of its prior disciplinary action.

The bill declares any member of the board and any witness appearing before the board or in any criminal proceeding involving a party who is the subject of disciplinary action, immune from suit in

any civil action brought by the party who is the subject of such disciplinary action. In addition, the court of appeals is given initial jurisdiction to review all final actions and orders of the board that are subject to judicial review.

Colorado State Examining Board of Plumbers

The Colorado State Examining Board of Plumbers was first created in 1893 with the board of county commissioners in each county functioning as a board of health. In cities with a population of over 50,000, a board of examiners of plumbers was established. The regulation of plumbing became a state function in 1917 and statewide examinations were given.

Currently, the Examining Board of Plumbers is an eight member board made up of one journeyman, one master, two plumbing contractors, one general contractor, one employee of a local government agency doing plumbing inspections, one public member, and one non-voting member from the State Department of Health.

The committee recommends continuation of the board through July 1, 1998 and makes various changes in the statutes concerning the practice of plumbers.

Currently, the Uniform Plumbing Code covers fuel gas piping, but the board has no authority to enforce such standards. The bill defines "gas piping" and gives the board authority to conduct inspections of gas pipe installations within the board's jurisdiction. The definition of "plumbing" is changed to include items located within the building or extending from the building to the property line instead of within or adjacent to the building.

Members of the board are not now subject to any limitation on the number of terms served and the committee's bill limits appointees to the board to two terms. In addition, the Governor will have the power to remove any member of the board for misconduct, incompetence, or neglect of duty.

The bill allows the board new investigatory authority such as the ability to subpoena records and documents and to compel the testimony of witnesses pursuant to an investigation or a hearing of the board. The board may appoint an administrative law judge to conduct such hearing. When seeking an injunction, the board will no longer be required to prove that an adequate remedy at law does not exist or that substantial or irreparable damages would result if an injunction is not granted.

Current law gives no experience credit for graduation from a trade school or community college program. The bill allows an applicant for a residential, journeyman, or master plumber's license to substitute evidence that he is a graduate from either a trade school or community college plumbing program for one of the years of

work experience required for licensure. In addition, the examination passing grade to be set by the board will be required to reflect a minimum level of competency.

As with the other boards reviewed, this bill adds additional grounds for disciplinary action by the board and authorizes the board to issue letters of admonition when a complaint or investigation discloses misconduct which does not warrant formal action but which should not be dismissed as being without merit. The plumbers board will also be able to reconsider its prior action and reinstate or restore a license, terminate probation, or reduce the severity of its prior disciplinary action.

The plumbers board and witnesses against a person who is the subject of disciplinary action will be provided good faith immunity from suit in any civil action brought by a person who is the subject of disciplinary action.

Other provisions of the bill: a) allow for licensure of plumbers from another state by endorsement upon presentation of evidence that the applicant possesses credentials and qualifications which are substantially equivalent to requirements in Colorado for licensure by examination; b) allow for a temporary permit to be issued to any applicant who furnishes evidence to the board that he qualifies for a master's license; c) provide an exemption to the licensure requirements for persons who are approved by the Department of Health and who are engaged in the business of inspecting, testing, and repairing backflow prevention devices, and for employees of the federal government who perform plumbing work on federal property; d) allow the Director of the Division of Registrations to appoint or employ competent persons as state plumbing inspectors; and e) require insurance companies engaged in the writing of insurance for plumbers to report to the board regarding malpractice claims against a licensed plumber in which a settlement or judgment is rendered against the licensee.

Colorado Outfitters Licensing Board

The Colorado Outfitters Licensing Board was created in 1903 when the wildlife commissioner was granted the power to issue licenses based on the reliability and competency of the guide. The law remained essentially the same until 1967 when the statute was repealed and a more detailed outfitter and guide statute was enacted. Few changes have been made to the statute since 1967.

The current board has five members -- three outfitters and two public members. According to DORA, the number of licensed outfitters has dropped consistently from 710 licensees in 1985 to 277 as of April, 1987. One reason DORA gives for the drop is the ineffectiveness of the current regulatory law. DORA also says the board is not needed for the public protection, a requirement for creation of a licensing board. DORA recommended the outfitters board

not be continued. However, the recommendation is to provide for the registration of outfitters and guides through July 1, 1991.

Under the bill, persons operating as outfitters or guides are required to register and to pay a nonrefundable fee determined by DORA. DORA is allowed to promulgate rules and regulations to govern the registration of outfitters and guides and aid in any hearing or investigation instigated pursuant to the statute. DORA also has the power to issue subpoenas to compel testimony of witnesses and the production of any records or documentation relevant to the activities of any guide or outfitter. All actions taken by DORA will be subject to the Colorado "Administrative Procedure Act".

Circumstances under which DORA is allowed to deny or revoke an outfitter's or guide's registration or application for registration are listed in the bill. In addition, DORA will have the authority to use an administrative law judge to conduct hearings.

Criminal penalties are set out in the bill. A fine of not less than \$300 but not more than \$500 per violation will be assessed during the first administrative proceeding. In subsequent administrative proceedings, a fine of not less than \$1000 but not more than \$2000 will be assessed.

The bill requires registered outfitters and guides to provide written contracts to clients for services to be provided and specifies items to be listed in the contract. The bill makes contracts for services with unregistered outfitters or guides unenforceable and declares equipment used in such transactions to be a public nuisance subject to seizure, confiscation, and forfeiture or destruction.

The bill establishes a recovery fund to be created through fees paid by outfitters and guides. Payment is made from the fund upon a final court order against a registered outfitter or guide for breach of contract for a failure to perform a contract. Various individuals are given good faith immunity from liability in civil actions for actions taken under the act if certain conditions are met.

Colorado State Board of Examiners of Architects

The Colorado State Board of Examiners of Architects was first created in 1909. The definitions of architect and architecture, however, along with licensure requirements and disciplinary provisions, have changed significantly over the years. These statutes have been repealed and reenacted several times.

The board has seven members appointed by the Governor for four year terms. Four of the board members must be licensed architects who are Colorado residents and have practiced architecture in Colorado for at least five years. Two members must be residents who have never practiced architecture, and one member must be a licensed general

building contractor who is a Colorado resident. About 4,800 architects are licensed by the board.

The committee recommends continuation of the board through July 1, 1998 and makes several changes to the board.

The bill changes the qualifications for board membership. Board members will no longer be required to have been engaged in the practice of architecture in the state of Colorado for at least five years and will only be required to be a resident of the state of Colorado. The bill also provides good faith immunity for the board and certain other parties in any civil action.

Limits are set on the amount of education and experience the board may require of applicants and the board is required to examine and modify examination requirements and practices. The board is required to ensure that the passing score for any examination is set to measure the level of minimum competency. Beginning January 1, 1990, the licensure examination is to be given at least twice a year.

Grounds for disciplinary actions are modified and expanded. The board is authorized to issue letters of admonition without conducting a hearing. In addition, the board is allowed to assess fines as the result of administrative proceedings against a licensee of not less than \$500 and not more than \$1000 in the first administrative proceeding. In subsequent administrative proceedings, the board is allowed to assess fines of not less than \$1000 and not more than \$2000. The board is authorized to reconsider and review any action it has taken and may reinstate or restore a license, terminate probation, or reduce the severity of its prior disciplinary action.

The bill also exempts employees of the federal government from this law if the employee is practicing architecture as an employee of the government. Finally, insurance companies are required to report to the board within 90 days any licensed architect who has had a malpractice claim settled or a judgment decided against him.

(b) Sunrise Review of Occupations Requesting Licensure

Statutory Authority and Responsibility

The Joint Legislative Sunrise/Sunset Review Committee is responsible for reviewing the necessity of regulating an occupation or profession when such occupation or profession, any individual, or any other interested party requests new regulation. Any professional or occupational group or organization, any individual, or any other interested party which proposes the regulation of any unregulated professional or occupational group is required to submit the following information to the committee:

- a description of the group proposed for regulation including a list of associations, organizations, and other groups representing the practitioners in this state, and an estimate of the number of practitioners in each group;
- a definition of the problem and the reasons why regulation is deemed necessary;
- the reasons why certification, registration, licensure, or other type of regulation is being proposed and why that regulatory alternative was chosen;
- the benefit to the public that would result from the proposed regulation; and
- the cost of the proposed regulation.

The committee received six applications for new regulation.

Hearing Aid Dealers

An application was submitted by the Colorado Hearing Aid Society requesting registration but was withdrawn by the society prior to the scheduling of interim committee meetings.

Respiratory Therapists

The Colorado Society for Respiratory Therapy requested licensure for the practice of respiratory therapy as it did in 1986. DORA noted that the society provided no new information in its 1987 application. DORA therefore again recommended against the regulation of respiratory therapy. Upon receiving that information, the society, prior to its scheduled hearing date, requested that its application be withdrawn.

Athletic Trainers

The application for regulation submitted by the Colorado Athletic Trainers Association (CATA) sought state certification for athletic trainers. According to CATA, athletic trainers implement conditioning and preventative injury programs and also provide immediate treatment and rehabilitation for injured athletes, all upon the direction of a licensed physician. Clients for athletic trainers are professional, high school, college, and recreational athletes. Athletic trainers are employed by professional teams, college systems, high schools, health clubs, and similar entities.

In documenting the public protection as a result of the regulation of athletic trainers, CATA noted regulation will give the public the ability to "make a logical determination as to who would be qualified to provide this care." CATA's objective is to "assure that persons who use the term 'Certified Athletic Trainer' have met the qualifications set, therefore, providing the public with the knowledge of who can provide this service."

In documenting the harm to the public as the result of non-regulation of athletic trainers, CATA related the case of an athlete who suffered a head injury. "The severity of the head injury he suffered was minimized only by the skills of the practitioners at the game." CATA said that athletic trainers are also prepared to deal with an athlete's emotional response to an injury.

In its report, DORA recommended against the certification of athletic trainers. The report noted that, while there is documentation of harm from improper care and there are benefits to the athlete from having a qualified trainer in athletic programs, certification would not prevent those not competent from practicing and the benefits of such regulation to the consuming public would be minimal.

DORA made two recommendations: 1) athletic trainers who function as physician extenders should be registered as such with the Colorado State Board of Medical Examiners and practice in compliance with the Colorado Medical Practice Act; and 2) athletic trainers functioning in the capacity of physical therapy assistants are adequately covered by physical therapy registration and should be in compliance with rules promulgated by the Division of Registrations.

In response to DORA's recommendations, the committee: 1) wrote letters to the Board of Medical Examiners and the Division of Registrations reiterating DORA's recommendations; and 2) voted against the certification of athletic trainers.

Private Investigators

The Professional Private Investigators Association of Colorado (PPIAC) submitted an application to the committee for the licensure of

private investigators. According to PPIAC, states which license private investigators define the private investigator as:

any person, firm, company, association, partnership, or corporation, who, for any consideration, engages in business or accepts employment to furnish, or agrees to make or makes, any investigation for the purpose of obtaining information with reference to: Crimes or wrongs done or threatened against the United States or any state or territory of the United States; the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person; the location, disposition, or recovery of lost or stolen property; the cause of or responsibility for fires, losses, accidents, or damage or injury to persons or to property; securing evidence to be used before any court, board, officer, or investigative committee; or the integrity, honesty, compliance with rules, or other performance of the employees of any private employer.

Private investigators work in public and private offices, courtrooms, and are also hired by individuals.

In stating the public need for licensure, PPIAC noted that law enforcement agencies are overburdened in the state of Colorado. This is especially true in the areas of civil cases and domestic issues such as families in search of missing children, men and women in search of missing spouses, and corporations in search of missing funds. PPIAC believes the general public will gain "in terms of protection from unscrupulous or unqualified persons who may currently pass themselves off as professionals". PPIAC also noted some states require a license from the home state before a private investigator can practice in another state.

PPIAC documented the harm to the public from lack of regulation by relating several incidents in which persons claiming to be private investigators were convicted of robbery, extortion, grand theft, kidnapping, unlawful possession of explosives, fraud, and other felonies. PPIAC claims that actual losses to clients resulting from documented illegal activities on the part of those claiming to be private investigators exceeds \$2.5 million in Colorado.

In its report to the committee, DORA noted that private investigators have not been licensed in the state of Colorado since 1977 when the Colorado Supreme Court declared the licensing law in effect at that time unconstitutional. DORA also mentioned the discrepancy between PPIAC's claim that only five states do not currently license private investigators, and information from the National Association of Investigative Specialists' which claims that

14 states do not license private investigators. Testimony and further research found that about nine states allow localities to license rather than state licensure.

DORA's report also noted an application for regulation was submitted by PPIAC in 1985. DORA found there had been no significant increase in harm to the public as a result of deregulation in 1977. The report also said the current application from PPIAC provided no new information to document the kind of harm to consumers that could be addressed through licensure and again recommended against licensure of private investigators.

After discussing different regulatory options such as certification or registration, and discussing the problem of private investigators who are not able to practice in other states which require a license from the home state, the committee voted against the licensure of private investigators.

Community Living Specialists

The Colorado Board of Nursing submitted an application to the committee for the licensure of community living specialists (CLSs). CLSs staff community living settings such as group homes, boarding homes, board and care homes, adult foster homes and other settings in which care and supervision for persons who are unable to assume total responsibility for their lives is provided. Certain facilities are under the jurisdiction of the Colorado Department of Health. Other facilities have no supervision. Client groups generally include the developmentally disabled, the chronically mentally ill, and the aged. Staff provide supervision of activities of daily living, administer medications, and instruct clients in the self-administration of medication. Additional treatments include catheter care and irrigations, and changing dressings.

In documenting the demand for licensure, the board reported the approximately 3,200 developmentally disabled and 2,100 chronically mentally ill and aged persons are housed in group home settings. The board estimates these numbers will increase by five percent per year.

In documenting the harm to clients as a result of the lack of licensure, the board noted: "The improper administration of medications can result in a resident receiving the incorrect medication or an incorrect dosage or having the medication administered in such a way as to be ineffective."

DORA found that there is no documentation of client harm due to the absence of licensure of CLSs. In addition, DORA found that: a) it is true that a problem exists with certain group home residents who cannot self-administer medications; b) unlicensed persons in group home settings are administering medications; and c) residents who cannot self-administer could be forced into more expensive settings such as nursing homes if facilities were to comply with existing laws.

DORA's recommendation, however, was against licensure of CLSs. DORA also recommended the Department of Health be given statutory authority to adopt regulations to address the qualifications of community living specialists as they relate to the administration of medications.

The committee voted against the licensure of community living specialists but recommended a bill which creates exceptions to the medical and nurses' practice acts to address the qualifications of community living specialists as they relate to the administration of medications.

Occupational Therapists

The Occupational Therapy Association (OTA) of Colorado submitted an application requesting the licensure of occupational therapists. The primary focus of occupational therapy is to: 1) evaluate clients/patients in order to plan and implement treatment; 2) develop treatment plans; 3) implement the planned treatment or supervise the treatment; 4) monitor the patient's/client's progress and response to treatment while also modifying treatment as necessary; and 5) develop home or community programs to maintain and enhance the performance of the patient/client in his own environment. Occupational therapists implement programs in the following areas:

- activities of daily living;
- work simplification;
- recommend and fabricate assistive/adaptive equipment (such as hand splints for a burn victim);
- environmental adaptations (installing ramps, bars);
- joint protection/preservation;
- muscle re-education; and
- perceptual motor evaluation and training.

Occupational therapists also work on improving the psycho/social skills of a patient/client by helping to increase interpersonal skills by, for instance, helping the emotionally disturbed patient to adjust to and live in the community by learning independent living and coping skills or by involving a child with severe burns in a variety of play activities specifically chosen or designed to increase range of motion and muscle strength and to decrease the child's fears about using the involved parts of his body.

Clients/patients for occupational therapists include those with spinal cord injuries, burn victims, stroke victims, those with Parkinson's or Guillian Barre disease, those with muscular dystrophies,

respiratory disease victims, those with psychiatric disorders, those with diseases of the bones and joints, those with sensory impairments, and geriatrics.

In documenting the demand or public need for the services of occupational therapists, OTA noted that hospitals, nursing facilities, schools and other settings report significant demands for occupational therapists. In addition, a federal government manpower report indicates demographic changes in the age composition of the United States population will result in a significant demand for rehabilitative services and those who can provide those services. Lastly, a federally funded study of rehabilitation providers showed 53 percent of the respondents indicated an inadequate pool of qualified occupational therapists.

In documenting the harm to the public resulting from lack of licensure of occupational therapists, OTA stated: "Individual consumers are deprived of the services they need to make a full recovery when treated by an unqualified person and facilities claim to provide Occupational Therapy services when, in fact, no qualified therapist is employed." OTA also related a case at Ohio State University Hospital in which a burn victim, after three months of proper care in the hospital, was transferred to a hospital privately funded by his employer. The individual employed by the second hospital as an occupational therapist was not a qualified therapist and as a result of improper care and therapy, the patient is no longer capable of taking care of his personal hygiene or feeding himself.

In its report to the committee, DORA found: 1) certain functions performed by occupational therapists are a part of the practice of medicine and any occupational therapist not registered as a physician extender is in violation of the statute; 2) there is no documented public harm as a result of the lack of licensure of occupational therapists in Colorado; and 3) most hospitals and other health institutions hire only registered occupational therapists and certified occupational therapy assistants. For these reasons, DORA recommended against licensure for occupational therapists.

The committee voted against the licensure of occupational therapists but did address a letter, again, to the medical board regarding the registration of occupational therapists who perform certain functions but are not registered as physician extenders.

(c) Sunset Review of Advisory Committees

This is the first year in which the sunrise/sunset committee is responsible for the sunset review of advisory committees. This duty was assigned pursuant to House Bill 1101, 1986 session (section 2-3-1203, C.R.S.). The committee is responsible for the review of advisory committees to ascertain which have outlived their usefulness and which are beneficial to government in helping involve private citizens in the daily operations of government.

Eight advisory committees were reviewed:

- Victims Assistance and Law Enforcement Advisory Committee;
- State Jail Advisory Committee (the committee recommended this advisory committee not be continued);
- Correctional Industries Advisory Committee;
- Energy Impact Assistance Advisory Committee (pursuant to section 34-63-102, C.R.S.);
- Energy Impact Assistance Advisory Committee (pursuant to section 39-29-110, C.R.S.);
- Council of Advisors on Consumer Credit;
- Mined Land Reclamation Advisory Committee;
- Child Care Licensing Advisory Committee; and
- Personal Care Board Advisory Committee.

Each advisory committee is required to submit the following information to the sunrise/sunset committee:

- the names of the current members of the advisory committee;
- all revenues and all expenditures, 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.

Victims Assistance and Law Enforcement (VALE) Advisory Committee

The VALE board is under the Department of Public Safety (DPS) and is charged with advising the Division of Criminal Justice (DCJ) concerning the evaluation of grant applications and administration of the VALE fund. The VALE board reported it had three active members and two vacant positions. Revenues were placed at \$432,269 and expenditures were reported to be \$215,220. The board reported it had held five meetings at which seven proposals were adopted.

The sunrise/sunset committee expressed concern for the way the revenues were being spent. It appeared that not enough money went to victim restitution and that too much money went to police department equipment funds. The DCJ explained that the statute allows the evaluation of grant applications to the fund as well as the administration of fund moneys to police departments. Further, in the last round of grant application submissions, only one application was received. The DCJ plans to educate local VALE boards on how to apply for grant funds which will go to victims.

The committee recommendation is for continuation of the VALE board through July 1, 1994.

State Jail Advisory Committee

The State Jail Advisory Committee is also under DPS and is charged with reviewing and providing written comments regarding plans submitted to the director of DPS for the expansion of jails or the construction of new jails. However, DPS reported that county governments have assumed responsibility for these activities and that Advisory committee members have never been appointed. DPS requested the advisory committee's statutory authority be repealed and that action is recommended by the committee.

Correctional Industries Advisory Committee

The Correctional Industries Advisory Committee is under the Department of Corrections. The committee is responsible for considering the establishment of any industry that will utilize the services of prisoners, for considering the effect of such establishment on similar industries already established in the state, and for making recommendations to the Executive Director of the department. The eleven member advisory board had seven members as of July 23, 1987 and the Governor appointed four new members on August

19, 1987. No expenditures were reported. In two meetings held, the board recommended no proposals.

The department explained that few meetings of the advisory committee have been held because of the financial problems of the Division of Correctional Industries two years ago. Also, there have been no new industries for the advisory committee to consider. The division has been profitable this year for the first time since its inception in 1977. The advisory committee also has new statutory responsibilities with the passage of SB 207, 1987 session, which charged the advisory committee with looking at joint ventures with the private sector.

The committee recommends continuation of the Correctional Industries Advisory Committee through July 1, 1994.

Energy Impact Assistance Advisory Committees

The Energy Impact Assistance Advisory Committees are under the Department of Local Affairs. There are two advisory committees (sections 34-63-102 (5)(b), and 39-29-110 (2), C.R.S.). Both are charged with reviewing and making recommendations to the department on the impact of the development, processing, or energy conversion of minerals and mineral fuels in the state and on the problems local governments face regarding local tax resources and energy impact problems. One committee is specifically charged with looking at these areas as they relate to the severance tax, the other as related to mineral leasing. Nine members serve on both committees. Expenditures were reported to be \$3,200 to \$5,000 per year. The advisory committees met two to three times per year. Two proposals were recommended by the advisory committee and acted upon by the department.

The committee questioned the need for two separate committees with basically the same responsibilities. Department officials indicated there may be no problem with combining the two, as long as both areas of responsibility are delineated in statute.

The committee recommends a single advisory committee in section 34-63-102 (5)(b), C.R.S., and continuation of the committee through July 1, 1994.

Council of Advisors on Consumer Credit

The Council of Advisors is under the Department of Law. The council advises and consults with the assistant Attorney General who is the Uniform Consumer Credit Code (UCCC) administrator concerning the exercise of his powers and makes recommendations to him relative to UCCC. The nine-member council may also assist the administrator in obtaining compliance with UCCC. In four meetings, the council

recommended seven proposals of which two were adopted by the department.

The committee heard from a retailer who advocated continuation of the council. The department indicated one of the areas to be addressed by the council in the coming year is the issue of checks returned to retailers because of insufficient funds. Creditors sometimes do not follow the intent of the law regarding such checks.

Continuation of the council is recommended through July 1, 1994.

Mined Land Reclamation Advisory Committee

The Mined Land Reclamation Advisory Committee was created in the Department of Natural Resources (DONR) to assist in establishing a data base and inventory system for surface coal mining operations. The interim committee was told that the advisory committee has never been utilized. However, DONR advocated retention of the statute authorizing the advisory committee.

This statute apparently was enacted in anticipation of extensive coal mining in the state. Because the level of mining did not meet expectations, there has been no need for the committee. Questioned as to the need for the committee, DONR was not able to guarantee that the committee would be utilized in the near future though there is speculation there may be more coal mining in the state, possibly within the next five years. *

Since formation of the committee is discretionary upon the part of the Mined Land Reclamation Board, the recommendation is for continuation of the statute through July 1, 1994.

Child Care Licensing Board

The Child Care Licensing Board is under the Department of Social Services and is charged with advising and consulting with the department in the administration and enforcement of the child care licensing statutes. The board has nine members and has held 16 meetings. Of eight proposals recommended by the board, the department has adopted five.

The only topic of concern to the committee was the appointment of vacancies on the board. The department reported names had been submitted to the Governor to fill the vacancies.

The recommendation is for continuing the board through July 1, 1994.

Personal Care Board Advisory Committee

The Personal Care Board Advisory Committee is under the Department of Health and is responsible for making recommendations to the department and reporting to the General Assembly concerning: 1) the regulations promulgated by the State Board of Health regarding personal care boarding homes; and 2) implementation of the board home licensing program, the impact of the program, and the effectiveness of enforcement. In eleven meetings, the eleven-member committee has recommended four proposals, all of which have been implemented by the department.

The department addressed its concern for funding of the inspection program for personal care boarding homes. The inspection program is funded from license fees which appear to be inadequate at this point. The department is reluctant, however, to increase fees for licensing personal care boarding homes which in some cases are prohibitive.

The committee addressed a letter to the interim Committee on Long-Term Health Care Needs regarding the inadequacy of the fee structure for personal care boarding homes. The committee recommends a bill to continue the advisory committee through July 1, 1994.

(d) Sunset Review of the Office of Consumer Counsel

The Office of Consumer Counsel (OCC) was created by the General Assembly in 1984 as a division within the Department of Law. The OCC is charged with providing competent and professional testimony on behalf of residential, small business, and agricultural consumers before the Public Utilities Commission (PUC) in rate issues which affect those consumers.

Section 40-6.5-104 (1), C.R.S., mandates that OCC meet the following charge:

"by appearing in proceedings before the commission and appeals therefrom in matters which involve proposed changes in a public utility's rates and charges, in matters involving rule-making which have an impact on the charges, the provision of services, or the rates to consumers, and in matters which involve certificates of public convenience and necessity for facilities employed in the provision of utility service, the construction of which would have a material effect on the utility's rates and charges".

Created with OCC was the Utility Consumer Advisory Board (UCAB) which is responsible for assisting OCC. UCAB is comprised of consumer representatives from throughout the state who reflect the diversity of utility consumers.

Section 40-6.5-108, C.R.S., subjects OCC to termination on a date given by the General Assembly and charges the Attorney General with reviewing OCC and reporting to the General Assembly on such review prior to its termination date. In addition, section 40-6.5-109 requires OCC to report to the General Assembly on savings to consumers as a result of OCC's involvement in cases before the PUC.

OCC Review

OCC reported it had been involved in 19 major utility cases and 17 telecommunications utility cases. OCC also estimated it was solely responsible for about \$4.7 million in annual savings to utility consumers and primarily responsible for almost \$50 million more in annual savings, and \$73 million more in one-time savings. OCC stated that it shared responsibility for about \$79 million in annual savings with other parties to utility cases.

The Attorney General's report to the committee contained four recommendations:

- OCC should be continued;

- the General Assembly should clearly define the position of OCC as the state agency responsible for consumer advocacy in public utility regulation and that of PUC staff as exclusively advisory to the commission;
- OCC should be given explicit authority to intervene in cases before federal agencies and in appeals of such decisions when Colorado's residential, small business or agricultural consumer interests are at stake; and
- the General Assembly should examine whether to transfer the function of consumer affairs (consumer complaints) from PUC to OCC.

Approximately 15 interested parties testified to the sunrise/sunset committee, including representatives from the American Association of Retired Persons, Western Colorado Congress, League of Women Voters, Public Service, Public Utilities Commission, and Mountain Bell. All were in favor of continuation of OCC. The committee voted to recommend continuation of OCC with a discussion of issues relating to expansion of its role to continue at a later date.

Final Committee Recommendation

At the meeting at which its legislation was to be discussed, the OCC director testified that OCC was withdrawing all of its recommendations regarding expansion of its powers. Most of the duties that OCC wanted to expand could be accomplished administratively with cooperation from PUC. Therefore, OCC's only request was for continuation for a period of six to ten years. The bill recommends OCC be continued for another five years through July 1, 1993.

(e) Sunset Review of Occupations Relating to Mental Health

There have been several efforts over the past three years to license those occupations relating to mental health, in addition to the practice of psychology and the practice of social work. In 1985, the Joint Legislative Sunrise/Sunset Review Committee, then in its first year of existence, heard a request to license professional counselors and marriage and family therapists. The committee was told that the mental health care profession is subject to varying degrees of regulation and that professional counselors and marriage and family therapists are restricted in their practices because they are not regulated.

The 1985 committee decided not to recommend regulation of professional counselors and marriage and family therapists. The committee, instead, chose to seek more testimony and hear another request from professional counselors and marriage and family therapists during the 1986 interim when the Board of Psychologist Examiners and the Board of Social Work Examiners would be up for sunset review.

After spending a substantial portion of the 1986 interim studying the various areas of the practice of occupations relating to mental health, the committee recommended what was introduced as Senate Bill 38 (1987 session). After disagreements arose during the session between the various occupational groups subject to the bill, SB 38 was not enacted. The licensing boards for psychologists and social workers were in their wind-down year. Legislation to continue these boards needs to be adopted by the General Assembly before the end of the wind-down period, June 30, 1988, if regulation is to be continued.

For these reasons, the committee again discussed the regulation of occupations related to mental health, using SB 38 as a reference point. The committee again met with the five occupational groups involved: psychologists; social workers; marriage and family therapists; school psychologists; and professional counselors.

The bill recommended for 1988 concerning the regulation of occupations related to mental health is similar in many respects to SB 38 (1987 session). The provisions of the new bill are as follows:

- repeals and reenacts statutory provisions relating to the Colorado State Board of Psychologist Examiners and the State Board of Social Work Examiners;
- creates two separate new boards -- State Board of Marriage and Family Therapist Examiners and the State Board of Licensed Professional Counselor Examiners;
- authorizes the licensing boards to deny an applicant a license or deny reinstatement of a license if a board determines that an applicant does not possess the

applicable qualifications required by statute or is unable to demonstrate continued professional competence;

- creates a grievance board which may, after a hearing, deny, revoke, or suspend a license, place a licensee on probation or issue a letter of admonition where appropriate, and may also issue subpoenas in order to compel the attendance of witnesses and the production of any books, client records, and papers;
- requires a licensing board to refer a decision to grant or deny an application or reinstatement to the grievance board if the licensing board has reason to believe or receives any information that an applicant or renewal applicant has done any of the acts set forth as grounds for discipline;
- allows the grievance board to reconsider and review its action taken as well as reinstate a license, terminate probation, or reduce the severity of prior disciplinary action;
- authorizes the grievance board to seek injunctive relief against any licensed or unlicensed person, including a certified school psychologist, for violation of any provision listed as grounds for disciplinary action or any other provision of the statute regarding the practice of occupations relating to mental health;
- provides good faith immunity for any person participating in a complaint or report or in any investigatory or administrative proceeding before the grievance board; and
- allows certified school psychologists to use the title "certified school psychologist" outside of the school setting.

One of the underlying problems of this board is that pursuing disciplinary action is very expensive. The inability of the board to pay for attorney time for hearings has been a contributing factor in the backlog of cases. About \$50,000 would be needed over the next two years to handle the backlog.

In addressing this problem, the committee again considered creating a grievance board to handle disciplinary actions. The bill clarifies that cases which have been initiated, formally referred to hearing, or dismissed prior to July 1, 1988, shall be completed by the licensing board and a decision shall be rendered by that board. All

actions taken and decisions rendered by the licensing board prior to July 1, 1988 are ratified.

The grievance board under the new bill will consist of either eight or eleven members, depending on the action to be taken. First, eight members of the grievance board are appointed as follows: four members from the general public to be appointed by the Governor; and four members who are licensed members of their respective licensing boards (one member from each board) and appointed by the Governor. Second, if the grievance board is conducting a disciplinary proceeding against a licensed practitioner, three additional members are to be appointed by the Governor, all of whom shall possess the same license as the person under disciplinary consideration.

Sexual Assault on Clients by Psychotherapists

Another issue considered was that of sexual assault of a patient by a mental health practitioner, either licensed or unlicensed. The committee first discussed why the problem of sexual abuse of clients cannot be covered under existing criminal law. Usually, a practitioner must be accused of having sex with a minor patient or must have told a client that sex was part of treatment before a prosecution can be obtained under current statutes. In this sense, present law is very restrictive.

Persons testifying recommended that all sexual contact in the context of a patient and psychotherapist be grounds for revocation of a license and subject to a criminal sexual assault penalty. Because of the relationship between a patient, who is most often a weaker and dependent personality, and the psychotherapist, who is seen as the authoritative figure by the patient, such contact is abusive and may be considered to be the equivalent of rape.

The committee was told that five to fourteen percent of psychotherapists surveyed admitted to having sexual contact with patients. Results of another survey reported that 65 percent of psychiatrists responding were treating clients who had been sexually involved with previous therapists. Of the therapists with whom their clients had been involved, 48 percent were psychiatrists, 27 percent were psychologists and the rest were social workers, clergy, and other psychotherapists.

The committee recommends creating two new criminal offenses. Sexual penetration or intrusion between a psychotherapist and a client or former client who is emotionally dependent on the psychotherapist is a class 4 felony; and sexual contact between a psychotherapist and client or former client is a class 1 misdemeanor.

(f) Review of the Necessity of Rules

The Office of Regulatory Reform (ORR), pursuant to House Bill 1009, 1987 legislative session, reported to the committee on existing and proposed rules which are unnecessary. House Bill 1009 further authorizes the sunrise/sunset committee to introduce legislation to strike such rules. Rules which are considered to be unnecessary are those which: a) duplicate statute; b) are not necessary to protect the public's health, safety or welfare; c) are not necessary to implement a statute; or d) involve administrative detail.

The committee was presented with letters from the ORR to the Department of Social Services, the Health Data Commission, the Outfitters Licensing Board, and the Water Quality Control Commission regarding rules which are unnecessary. The committee's recommendation was to statutorily delete these unnecessary rules and regulations.

authorizing the board to promulgate all necessary rules and regulations; requiring insurance companies to report malpractice settlements or judgments; and changing certain technical provisions concerning surveys and boundaries.

Repeals certain rules and regulations of the board.

A BILL FOR AN ACT

1 CONCERNING THE REGULATION OF THE PRACTICE OF ENGINEERING AND
2 LAND SURVEYING, AND, IN CONNECTION THEREWITH, PROVIDING
3 FOR THE CONTINUATION OF THE STATE BOARD OF REGISTRATION
4 FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND
5 SURVEYORS AND REPEALING CERTAIN RULES OF THE BOARD.

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 state board of registration for professional engineers and professional land surveyors and makes various changes in the statutes concerning the practice of engineering and the practice of land surveying, including the following: Exempting persons who are employed by the federal government from coverage by this law while so employed; changing the requirements for board membership, limiting appointments to two full terms, and eliminating the need to file a written oath; requiring that examinations measure the level of minimum competency; changing the number of board members constituting a quorum; adding and modifying grounds for disciplinary action, authorizing the board to issue letters of admonition and to reconsider its decisions; requiring charges to be referred to hearing within five years of filing; permitting the board to require personal interviews only under certain circumstances; eliminating "good character" requirements for licensure, registration, and enrollment; modifying the endorsement and experience requirements; adding provisions concerning the use of the professional engineer seal; clarifying the function of the surveyor quorum;

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

2 SECTION 1. 12-25-103 (1) (g) and (1) (h), Colorado
3 Revised Statutes, 1985 Repl. Vol., are amended, and the said
4 12-25-103 (1) is further amended BY THE ADDITION OF A NEW
5 PARAGRAPH, to read:

6 12-25-103. Exemptions. (1) (g) Any person who is
7 employed by and performs engineering services solely for a
8 county, city and county, or municipality; or

9 (h) Other legally recognized professions; OR

10 (i) Any person who is employed by and performs
11 engineering services solely for the federal government.

12 SECTION 2. 12-25-106 (3), (4), (5), (6), and (7),
13 Colorado Revised Statutes, 1985 Repl. Vol., are amended to
14 read:

15 12-25-106. State board of registration - subject to
16 termination. (3) The board shall consist of nine members.

17 Four members shall be professional engineers with no more than
18 two engaged in the same discipline of engineering service or
19 practice, one member shall be a professional engineer and
20 professional land surveyor (PE-PLS), two members shall be
21 practicing professional land surveyors, and two members shall
22 be citizens of the United States and residents of this state
23 for at least ~~three-years~~ ONE YEAR who have not been engaged in

1 engineering or land surveying.

2 (4) Each professional engineer member of the board shall
 3 be a citizen of the United States and a resident of this state
 4 for at least ~~three years, shall have been engaged in the~~
 5 ~~practice of engineering for at least twelve years, shall have~~
 6 ~~been in responsible charge for at least eight years~~ ONE YEAR
 7 and shall have been registered or licensed as a professional
 8 engineer for at least ~~ten~~ FIVE years. Professional land
 9 surveyor members of the board shall have the qualifications
 10 outlined in section 12-25-206.

11 (5) Appointments to the board shall be made by the
 12 governor and shall be made to provide for staggering of terms
 13 of members so that not more than three members' terms expire
 14 each year. Thereafter appointments shall be for terms of four
 15 years. Each board member shall hold office until the
 16 expiration of the term for which he is appointed or until a
 17 successor has been duly appointed and qualified. Appointees
 18 shall be limited to ~~three~~ TWO FULL terms. The governor may
 19 remove any member of the board for misconduct, incompetence,
 20 or neglect of duty.

21 (6) Each appointee shall receive a certificate of his
 22 appointment from the governor. ~~Before beginning his term of~~
 23 ~~office, he shall file with the secretary of state his written~~
 24 ~~oath or affirmation for the faithful discharge of his official~~
 25 ~~duties.~~

26 (7) ~~After consultation with the board,~~ The director of
 27 the division of registrations shall appoint a program

1 administrator for the board and such other personnel as are
 2 deemed necessary for the board to perform its statutory
 3 duties, pursuant to section 13 of article XII of the state
 4 constitution.

5 SECTION 3. 12-25-107 (1) (g) and (1) (1), Colorado
 6 Revised Statutes, 1985 Repl. Vol., are amended to read:

7 12-25-107. Powers and duties of the board.

8 (1) (g) Provide for written examinations in the "fundamentals
 9 of engineering" and the "principles and practice of
 10 engineering". Examinations shall be given at such times and
 11 locations as the board shall determine. The board shall
 12 ~~determine the acceptable grade on examinations~~ ENSURE THAT THE
 13 PASSING SCORE FOR ANY EXAMINATION SHALL BE SET TO MEASURE THE
 14 LEVEL OF MINIMUM COMPETENCY. An applicant who fails to pass
 15 the prescribed examination may be reexamined at the next
 16 regularly scheduled examination.

17 (i) Hold at least six regular meetings each year.
 18 Special meetings shall be held at such ~~time~~ TIMES as the
 19 bylaws of the board may provide. The board shall elect
 20 annually a chairman, a vice-chairman, and a secretary. A
 21 quorum of the board shall consist of not less than ~~four~~ FIVE
 22 members.

23 SECTION 4. 12-25-108, Colorado Revised Statutes, 1985
 24 Repl. Vol., is amended to read:

25 12-25-108. Disciplinary actions - grounds for
 26 discipline. (1) The board has the power to DENY, suspend,
 27 revoke, or refuse to renew the license and certificate of

1 registration of, or ~~reprimand--any--registrant~~ PLACE ON
2 PROBATION, ANY PROFESSIONAL ENGINEER OR ENGINEER-IN-TRAINING
3 who is found guilty of:

4 (a) The practice of any fraud, MISREPRESENTATION, or
5 deceit in obtaining OR ATTEMPTING TO OBTAIN a certificate of
6 registration OR ENROLLMENT;

7 (b) Any ~~substandard--practice,--two--or--more--acts--of~~
8 ~~negligence,--an--act--of--incompetence,--or--misconduct-in-the~~
9 ~~practice-of-his-profession~~ ACT OR OMISSION WHICH FAILS TO MEET
10 THE GENERALLY ACCEPTED STANDARDS OF ENGINEERING PRACTICE;

11 (c) ~~Any-felony-or-any--crime--deemed--by--the--board--to~~
12 ~~render--the--registrant--unfit--to--practice--engineering;--or~~
13 CONVICTION OF OR PLEADING GUILTY TO A FELONY. HOWEVER, THE
14 BOARD SHALL BE GOVERNED BY THE PROVISIONS OF SECTION 24-5-101,
15 C.R.S., IN CONSIDERING SUCH CONVICTION OR PLEA. A CERTIFIED
16 COPY OF THE JUDGMENT OF A COURT OF COMPETENT JURISDICTION OF
17 SUCH CONVICTION OR PLEA SHALL BE PRESUMPTIVE EVIDENCE OF SUCH
18 CONVICTION OR PLEA FOR THE PURPOSES OF ANY HEARING UNDER THIS
19 PART 1. A PLEA OF NOLO CONTENDERE, OR ITS EQUIVALENT,
20 ACCEPTED BY THE COURT SHALL BE CONSIDERED AS A CONVICTION.

21 (d) Violation of the rules of professional conduct for
22 professional engineers adopted and promulgated by the board;

23 (e) VIOLATION OF, OR AIDING OR ABETTING IN THE VIOLATION
24 OF, THE PROVISIONS OF THIS PART 1, ANY RULE OR REGULATION
25 ADOPTED BY THE BOARD IN CONFORMANCE WITH THE PROVISIONS OF
26 THIS PART 1, OR ANY ORDER OF THE BOARD ISSUED IN CONFORMANCE
27 WITH THE PROVISIONS OF THIS PART 1;

1 (f) USE OF FALSE, DECEPTIVE, OR MISLEADING ADVERTISING;

2 (g) PERFORMING SERVICES BEYOND ONE'S COMPETENCY,
3 TRAINING, OR EDUCATION;

4 (h) FAILURE TO REPORT TO THE BOARD ANY REGISTERED
5 PROFESSIONAL ENGINEER KNOWN OR, UPON INFORMATION AND BELIEF,
6 BELIEVED TO HAVE VIOLATED ANY PROVISION OF THIS PART 1 OR ANY
7 BOARD ORDER OR RULE OR REGULATION;

8 (i) HABITUAL INTEMPERANCE TO OR EXCESSIVE USE OF ANY
9 HABIT-FORMING DRUG, AS DEFINED IN SECTION 12-22-102 (13), ANY
10 CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), OR
11 ANY ALCOHOLIC BEVERAGE; OR

12 (j) ANY USE OF A SCHEDULE I CONTROLLED SUBSTANCE, AS SET
13 FORTH IN SECTION 12-22-309.

14 (2) ~~The--board-has-the-power-to-revoke-the-enrollment-of~~
15 ~~or-reprimand-any-engineer-in-training-who-is-found-guilty--of;~~

16 (a) ~~The---practice--of--fraud--or--deceit--in--obtaining~~
17 ~~enrollment-as-an-engineer-in-training;~~

18 (b) ~~Any--substandard--practice,--two--or--more--acts--of~~
19 ~~negligence,--an--act--of--incompetence,--or--misconduct-in-the~~
20 ~~practice-of-his-profession;~~

21 (c) ~~Any-felony-or-crime-deemed-by-the--board--to--render~~
22 ~~the-engineer-in-training-unfit-to-practice-engineering;--or~~

23 (d) ~~Violation--of--the-rules-of-professional-conduct-for~~
24 ~~professional----engineers----which----are----applicable-----to~~
25 ~~engineers-in-training.~~ THE BOARD MAY ISSUE A LETTER OF
26 ADMONITION TO A PROFESSIONAL ENGINEER OR AN
27 ENGINEER-IN-TRAINING BASED ON ANY OF THE GROUNDS SPECIFIED IN

1 SUBSECTION (1) OF THIS SECTION WITHOUT CONDUCTING A HEARING AS
2 SPECIFIED IN SECTION 12-25-109 (4). SUCH LETTER SHALL BE SENT
3 TO THE LICENSEE BY CERTIFIED MAIL AND SHALL ADVISE HIM THAT HE
4 MAY, WITHIN TWENTY DAYS AFTER RECEIPT OF THE LETTER, MAKE A
5 WRITTEN REQUEST TO THE BOARD TO INSTITUTE FORMAL DISCIPLINARY
6 PROCEEDINGS AS PROVIDED IN SECTION 12-25-109 IN ORDER TO
7 FORMALLY ADJUDICATE THE CONDUCT OR ACTS ON WHICH THE LETTER
8 WAS BASED.

9 (3) ANY DISCIPLINARY ACTION CONCERNING LICENSURE OR
10 ENROLLMENT IN ANOTHER STATE OR JURISDICTION ON GROUNDS
11 SUBSTANTIALLY SIMILAR TO THOSE THAT WOULD CONSTITUTE A
12 VIOLATION UNDER THIS PART 1 SHALL BE PRIMA FACIE EVIDENCE OF
13 GROUNDS FOR DISCIPLINARY ACTION, INCLUDING DENIAL OF
14 LICENSURE, UNDER THIS PART 1.

15 SECTION 5. 12-25-109 (2) and (3), Colorado Revised
16 Statutes, 1985 Repl. Vol., are amended to read:

17 12-25-109. Disciplinary proceedings. (2) EXCEPT FOR
18 LETTERS OF ADMONITION ISSUED WITHOUT HEARING AS PROVIDED IN
19 SECTION 12-25-108 (2) AND STIPULATED AGREEMENTS, complaints of
20 record on file with the board and the results of investigation
21 shall be closed to public inspection during the investigatory
22 period and until dismissed or until notice of hearing and
23 charges are served on a professional engineer or an
24 engineer-in-training. The board's records and papers shall be
25 subject to the provisions of sections 24-72-203 and 24-72-204,
26 C.R.S., regarding public records and confidentiality.

27 (3) All charges, unless dismissed by the board, shall be

1 referred to an administrative hearing by the board within ~~one~~
2 year FIVE YEARS after the date on which they were filed.

3 SECTION 6. Part 1 of article 25 of title 12, Colorado
4 Revised Statutes, 1985 Repl. Vol., as amended, is amended BY
5 THE ADDITION OF A NEW SECTION to read:

6 12-25-109.5. Reconsideration and review of board action.
7 The board, on its own motion or upon application, at any time
8 after the imposition of any discipline as provided in section
9 12-25-109, may reconsider its prior action and reinstate or
10 restore such license or terminate probation or reduce the
11 severity of its prior disciplinary action. The taking of any
12 such further action, or the holding of a hearing with respect
13 thereto, shall rest in the sole discretion of the board.

14 SECTION 7. 12-25-110 (3) and (4), Colorado Revised
15 Statutes, 1985 Repl. Vol., are amended, and the said 12-25-110
16 is further amended BY THE ADDITION OF A NEW SUBSECTION, to
17 read:

18 12-25-110. Application for license and certificates.
19 (3) When considering applications, personal interviews may be
20 required by the board ONLY IF THE APPLICATION FAILS TO
21 DEMONSTRATE THAT THE APPLICANT POSSESSES THE MINIMUM
22 QUALIFICATIONS NECESSARY TO QUALIFY TO TAKE THE WRITTEN
23 EXAMINATION.

24 (4) Whenever the board ~~is required to determine an~~
25 applicant's ~~character or~~ is reviewing or considering the
26 conviction of a crime, it shall be governed by the provisions
27 of section 24-5-101, C.R.S.

1 (5) No person whose license or enrollment has been
2 revoked shall be allowed to reapply for licensure earlier than
3 two years after the effective date of the revocation.

4 SECTION 8. 12-25-111, Colorado Revised Statutes, 1985
5 Repl. Vol., is amended to read:

6 12-25-111. Eligibility for engineer-in-training. To be
7 eligible for enrollment as an engineer-in-training, an
8 applicant ~~must-be-of-good-character,--The-engineer-in-training~~
9 ~~applicant--shall--submit-references-as-required-by-board-rules~~
10 ~~and-regulations--which shall provide documentation of the~~
11 ~~applicant's-character-and HIS technical competence.~~

12 SECTION 9. 12-25-112 (1) (a), Colorado Revised Statutes,
13 1985 Repl. Vol., is amended to read:

14 12-25-112. Qualifications for engineer-in-training.
15 (1) (a) An applicant may qualify for enrollment as an
16 engineer-in-training by endorsement if he possesses-a-valid
17 ~~endorsement-as-an-engineer-in-training--issued--by--a--proper~~
18 ~~authority-in-another-jurisdiction,--Evidence-must-be-presented~~
19 ~~to--the--board--showing-that-such-enrollment-was-issued-on-the~~
20 ~~basis-of-requirements-not-in-conflict-with-the--provisions--of~~
21 ~~this--part--1--and-standards-which-were-comparable-to-those-in~~
22 ~~effect-in-this-state-at-the-time-the-enrollment-was-issued~~ IS
23 ENROLLED IN GOOD STANDING IN ANOTHER JURISDICTION REQUIRING
24 QUALIFICATIONS SUBSTANTIALLY EQUIVALENT TO THOSE CURRENTLY
25 REQUIRED OF APPLICANTS UNDER THIS PART 1 OR IF, AT THE TIME OF
26 INITIAL ENROLLMENT IN SUCH JURISDICTION, HE MET THE
27 REQUIREMENTS FOR ENROLLMENT THEN IN EXISTENCE UNDER COLORADO

1 LAW.

2 SECTION 10. 12-25-113, Colorado Revised Statutes, 1985
3 Repl. Vol., is amended to read:

4 12-25-113. Eligibility for professional engineer. To be
5 eligible for licensing and registration as a professional
6 engineer, an applicant ~~must--be--of--good--character,---The~~
7 ~~professional-engineer-applicant--shall--submit--references--as~~
8 ~~required--by--board--rules-and-regulations-which shall provide~~
9 ~~documentation of the-applicant's-character-and HIS technical~~
10 ~~competence.~~

11 SECTION 11. 12-25-114 (1) (a), (2) (a) (IV) (B), and (4)
12 Colorado Revised Statutes, 1985 Repl. Vol., are amended to
13 read:

14 12-25-114. Qualifications for professional engineer.
15 (1) (a) An applicant may qualify for licensing and
16 registration as a professional engineer by endorsement if he
17 possesses---a---valid---license---or---registration---to---practice
18 ~~engineering--issued--by--a---proper---authority---in---another~~
19 ~~jurisdiction,--Evidence-must-be-presented-to-the-board-showing~~
20 ~~that--such--license-or-registration-was-issued-on-the-basis-of~~
21 ~~requirements-not-in-conflict-with-the-provisions-of-this--part~~
22 ~~1--and--standards--which-were-comparable-to-those-in-effect-in~~
23 ~~this-state-at-the-time-the-license-was-issued, IS LICENSED IN~~
24 GOOD STANDING IN ANOTHER JURISDICTION REQUIRING QUALIFICATIONS
25 SUBSTANTIALLY EQUIVALENT TO THOSE CURRENTLY REQUIRED OF
26 APPLICANTS UNDER THIS PART 1 OR IF, AT THE TIME OF INITIAL
27 LICENSURE IN SUCH JURISDICTION, HE MET THE REQUIREMENTS FOR

1 LICENSURE THEN IN EXISTENCE UNDER COLORADO LAW.

2 (2) (a) (IV) (B) Have twenty years of progressive
3 engineering experience, of which educational study may be a
4 part. ~~and-of-which-ten-years-must-be-experience-in-responsible~~
5 ~~charge-of-engineering-projects.~~

6 (4) A professional engineer who has been duly registered
7 and licensed to practice engineering in this state and who is
8 over sixty-five years of age, upon application, may be listed
9 SEPARATELY in the roster of engineers as a retired
10 professional engineer. Persons who are so listed shall lose
11 their registration and shall not practice engineering but
12 shall be required to pay the required fee for a roster listing
13 as a retired professional engineer. A retired professional
14 engineer shall be reinstated to the status of a professional
15 engineer upon payment of the registration fee for the current
16 year, and no other fee shall be assessed against him as a
17 penalty, nor shall he be required to take any oral, written,
18 or practical examination for such reinstatement.

19 SECTION 12. 12-25-115 (3), Colorado Revised Statutes,
20 1985 Repl. Vol., is amended to read:

21 12-25-115. Licenses - certificates. (3) A license may
22 be issued at any time but shall expire ~~in--staggered--times~~
23 ~~throughout---the---year,~~ as determined by the board, in
24 conformance with section 24-34-102 (8), C.R.S. A license
25 shall ~~expire--biennially--and~~ shall be renewed at the time of
26 such expiration.

27 SECTION 13. 12-25-117, Colorado Revised Statutes, 1985

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

3 12-25-117. Professional engineer seal. (4) The use of
4 an engineer's seal shall be subject to the following:

5 (a) The seal and the signature of the engineer whose
6 name appears on the seal shall be placed on reproductions of
7 drawings to establish a record set of contract documents. The
8 record set shall be prominently identified and shall be for
9 the permanent record of the engineer, the project owner, and
10 the regulatory authorities who have jurisdiction over the
11 project.

12 (b) The seal shall be placed on each reproduction of
13 drawings which is prepared under the complete direction and
14 control of the engineer and on the cover, title page, and
15 table of contents of specifications. Subsequent issues of
16 addenda, revisions, clarifications, or other modifications
17 shall be properly identified for the record set. Where
18 consultant drawings and specifications are incorporated into
19 the record set, they shall be clearly identified by consultant
20 stamps or other means in accordance with law to distinguish
21 proper reference to origination.

22 (c) The seal shall not be placed on reproducible
23 drawings which are used for multiple copies or on reproducible
24 drawings which are transferred away from the engineer's
25 possession and supervision.

26 (d) The record set retained in possession of the
27 engineer shall be held for a minimum of three years following

1 beneficial occupancy or beneficial use of the project by the
2 owner or occupant.

3 SECTION 14. 12-25-202 (12), Colorado Revised Statutes,
4 1985 Repl. Vol., is amended to read:

5 12-25-202. Definitions. (12) "Surveyor quorum of the
6 board" means not less than the two professional land surveyor
7 members of the board, the A professional engineer and
8 professional land surveyor member of the board, and one of the
9 non-engineering, non-land surveyor members of the board.

10 SECTION 15. 12-25-203 (1) (b), Colorado Revised
11 Statutes, 1985 Repl. Vol., is amended to read:

12 12-25-203. Exemptions. (1) (b) The practice of duly
13 authorized employees of the ~~federal-bureau-of-land-management~~
14 ~~while-engaged-within-the-state-in-the--practice--of--surveying~~
15 ~~the-public-domain-for~~ the federal government; or

16 SECTION 16. 12-25-206 (1), (2), (3), and (4), Colorado
17 Revised Statutes, 1985 Repl. Vol., are amended to read:

18 12-25-206. Board - composition - appointments - terms.

19 (1) A professional land surveyor who is a member of the board
20 shall be a citizen of the United States and a resident of
21 Colorado FOR AT LEAST ONE YEAR.

22 (2) A professional land surveyor who is designated as a
23 land surveyor member of the board shall not be licensed and
24 registered as a professional engineer but shall have been
25 actively engaged in the lawful practice of surveying for at
26 least ten years and shall have been registered as a land
27 surveyor in Colorado for at least five years.

1 (3) The state board of registration for professional
2 engineers and professional land surveyors, created in section
3 12-25-106, shall have a surveyor quorum of the board, as
4 defined in section 12-25-202 (12). ~~which-shall-administer-the~~
5 ~~provisions-of-this-part-2-for-the-board.~~ THE SURVEYOR QUORUM
6 SHALL ADVISE THE BOARD CONCERNING ISSUES RELATING TO LAND
7 SURVEYORS.

8 (4) The governor, in making appointments of professional
9 land surveyors to the board, shall endeavor to select the
10 highest qualified members of the profession willing to serve
11 on the board. Staggered appointments shall be made so that
12 not more than one member's term expires in any one year, and
13 thereafter appointments shall be for terms of four years each.
14 Appointees shall be limited to three TWO FULL terms each.
15 Each board member shall hold office until the expiration of
16 the term for which he is appointed or until a successor has
17 been duly appointed.

18 SECTION 17. The introductory portion to 12-25-207 and
19 12-25-207 (1) (e), Colorado Revised Statutes, 1985 Repl. Vol.,
20 are amended to read:

21 12-25-207. Powers and duties of the board. (1) In
22 ~~order--to-carry-into-effect-the-provisions-of-this-part-2,-the~~
23 ~~board-shall;~~ IN ADDITION TO ALL OTHER POWERS AND DUTIES
24 CONFERRED OR IMPOSED UPON THE BOARD BY THIS ARTICLE OR ANY
25 OTHER ARTICLE, THE BOARD SHALL ADOPT AND PROMULGATE, UNDER THE
26 PROVISIONS OF SECTION 24-4-103, C.R.S., SUCH RULES AND
27 REGULATIONS AS IT MAY DEEM NECESSARY OR PROPER TO CARRY OUT

1 THE PROVISIONS OF THIS PART 2 AND SHALL:

2 (e) Provide for and administer written examinations to
3 be given at such times and locations as the board shall
4 designate. Written examination papers shall be identified
5 only by numbers and shall be anonymously graded. After review
6 and approval by the board, all examination results shall be
7 recorded, and each examinee's examination results shall be
8 sent to him by first-class mail. ~~The passing grade on~~
9 ~~surveying examinations shall be determined by the board.~~ THE
10 BOARD SHALL ENSURE THAT THE PASSING SCORE ON SURVEYING
11 EXAMINATIONS SHALL BE SET TO MEASURE THE LEVEL OF MINIMUM
12 COMPETENCY. The board shall publish and make available to
13 interested applicants a list of the subjects included in the
14 surveying examinations which are developed by the board, such
15 subjects being consistent and related to the various aspects
16 of surveying.

17 SECTION 18. 12-25-208, Colorado Revised Statutes, 1985
18 Repl. Vol., is amended to read:

19 12-25-208. Disciplinary actions - grounds for
20 discipline. (1) The board has the power to DENY, suspend,
21 revoke, or refuse to renew the license and certificate of
22 registration of, ~~reprimand,~~ OR PLACE ON PROBATION, limit the
23 scope of practice of, or require additional training of any
24 professional land surveyor OR SURVEYOR-IN-TRAINING who is
25 found guilty of:

26 (a) The practice of any fraud, MISREPRESENTATION, or
27 deceit in obtaining OR ATTEMPTING TO OBTAIN a LICENSE AND

1 certificate of registration OR ENROLLMENT;

2 (b) Any ~~substandard practice, two or more acts of~~
3 ~~negligence, an act of incompetence, or misconduct in the~~
4 ~~practice of his profession~~ ACT OR OMISSION THAT FAILS TO MEET
5 THE GENERALLY ACCEPTED STANDARDS OF THE PRACTICE OF LAND
6 SURVEYING;

7 (c) Any ~~felony or any crime deemed by the board to~~
8 ~~render the registrant unfit to practice surveying; or~~
9 CONVICTION OF OR PLEADING GUILTY TO A FELONY THAT IS RELATED
10 TO THE ABILITY TO PRACTICE LAND SURVEYING. A CERTIFIED COPY
11 OF THE JUDGMENT OF A COURT OF COMPETENT JURISDICTION OF SUCH
12 CONVICTION OR PLEA SHALL BE PRESUMPTIVE EVIDENCE OF SUCH
13 CONVICTION OR PLEA FOR THE PURPOSES OF ANY HEARING UNDER THIS
14 PART 2. A PLEA OF NOLO CONTENDERE, OR ITS EQUIVALENT,
15 ACCEPTED BY THE COURT SHALL BE CONSIDERED AS A CONVICTION.

16 (d) ~~Violation of the rules of conduct for professional~~
17 ~~land surveyors adopted and promulgated by the board.~~

18 (e) VIOLATION OF, ATTEMPTING TO VIOLATE, OR AIDING OR
19 ABETTING IN THE VIOLATION OR ATTEMPTED VIOLATION OF THE
20 PROVISIONS OF THIS PART 2, ANY RULE OR REGULATION ADOPTED BY
21 THE BOARD IN CONFORMANCE WITH THE PROVISIONS OF THIS PART 2,
22 OR ANY ORDER OF THE BOARD ISSUED IN CONFORMANCE WITH THE
23 PROVISIONS OF THIS PART 2 OR ARTICLE 50, 51, 52, OR 53 OF
24 TITLE 38, C.R.S.;

25 (f) USE OF FALSE, DECEPTIVE, OR MISLEADING ADVERTISING;

26 (g) PERFORMING SERVICES BEYOND ONE'S COMPETENCY,
27 TRAINING, OR EDUCATION; OR

1 (h) FAILURE TO REPORT TO THE BOARD ANY REGISTERED
2 PROFESSIONAL LAND SURVEYOR KNOWN OR, UPON INFORMATION AND
3 BELIEF, BELIEVED TO HAVE VIOLATED ANY PROVISION OF THIS PART 2
4 OR ANY BOARD ORDER OR RULE OR REGULATION.

5 (2) ~~The board has the power to revoke the certification
6 of or to reprimand a certificant who is found guilty of:~~

7 ~~(a) The practice of any fraud or deceit in obtaining
8 certification;~~

9 ~~(b) Any substandard practice, two or more acts of
10 negligence, an act of incompetence, or misconduct in the
11 practice of his profession;~~

12 ~~(c) Any felony or any crime deemed by the board to
13 render the certificant unfit to practice surveying; or~~

14 ~~(d) Violation of the rules of conduct for professional
15 land surveyors which are applicable to surveyors in training.~~

16 THE BOARD MAY ISSUE A LETTER OF ADMONITION TO A PROFESSIONAL
17 LAND SURVEYOR OR SURVEYOR-IN-TRAINING BASED ON ANY OF THE
18 GROUNDS SPECIFIED IN SUBSECTION (1) OF THIS SECTION WITHOUT
19 CONDUCTING A HEARING AS SPECIFIED IN SECTION 12-25-109 (4).
20 SUCH LETTER SHALL BE SENT TO THE LICENSEE BY CERTIFIED MAIL
21 AND SHALL ADVISE HIM THAT HE MAY, WITHIN TWENTY DAYS AFTER
22 RECEIPT OF THE LETTER, MAKE A WRITTEN REQUEST TO THE BOARD TO
23 INSTITUTE FORMAL DISCIPLINARY PROCEEDINGS AS PROVIDED IN
24 SECTION 12-25-209 IN ORDER TO FORMALLY ADJUDICATE THE CONDUCT
25 OR ACTS ON WHICH THE LETTER WAS BASED.

26 (3) ANY DISCIPLINARY ACTION CONCERNING LICENSURE OR
27 ENROLLMENT IN ANOTHER STATE OR JURISDICTION ON GROUNDS

1 SUBSTANTIALLY SIMILAR TO THOSE THAT WOULD CONSTITUTE A
2 VIOLATION UNDER THIS PART 2 SHALL BE PRIMA FACIE EVIDENCE OF
3 GROUNDS FOR DISCIPLINARY ACTION, INCLUDING DENIAL OF
4 LICENSURE, UNDER THIS PART 2.

5 SECTION 19. 12-25-209 (2) and (3), Colorado Revised
6 Statutes, 1985 Repl. Vol., are amended to read:

7 12-25-209. Disciplinary proceedings. (2) EXCEPT FOR
8 LETTERS OF ADMONITION ISSUED WITHOUT HEARING AS PROVIDED IN
9 SECTION 12-25-208 (2) AND STIPULATED AGREEMENTS, complaints of
10 record on file with the board and the results of investigation
11 shall be closed to public inspection during the investigatory
12 period and until dismissed or until notice of hearing and
13 charges are served on a registrant or certificant. The
14 board's records and papers shall be subject to the provisions
15 of sections 24-72-203 and 24-72-204, C.R.S., regarding public
16 records and confidentiality.

17 (3) All charges, unless dismissed by the board, shall be
18 referred to administrative hearing by the board within one
19 year FIVE YEARS after the date on which said charges were
20 filed.

21 SECTION 20. Part 2 of article 25 of title 12, Colorado
22 Revised Statutes, 1985 Repl. Vol., as amended, is amended BY
23 THE ADDITION OF A NEW SECTION to read:

24 12-25-209.5. Reconsideration and review of board
25 actions. The board, on its own motion or upon application, at
26 any time after the imposition of any discipline as provided in
27 section 12-25-209, may reconsider its prior action and

1 reinstate or restore such license or terminate probation or
2 reduce the severity of its prior disciplinary action. The
3 taking of any such further action, or the holding of a hearing
4 with respect thereto, shall rest in the sole discretion of the
5 board.

6 SECTION 21. 12-25-210 (2) and (3), Colorado Revised
7 Statutes, 1985 Repl. Vol., are amended, and the said
8 12-25-210 is further amended BY THE ADDITION OF A NEW
9 SUBSECTION, to read:

10 12-25-210. Application for licensing and registration or
11 certification. (2) When considering applications, personal
12 interviews may be required by the board ONLY IF THE
13 APPLICATION FAILS TO DEMONSTRATE THAT THE APPLICANT POSSESSES
14 THE MINIMUM QUALIFICATIONS NECESSARY TO QUALIFY TO TAKE THE
15 WRITTEN EXAMINATION.

16 (3) Whenever the board ~~is--required--to--determine-an~~
17 ~~applicant's-character--or~~ is reviewing or considering the
18 conviction of a crime, it shall be governed by the provisions
19 of section 24-5-101, C.R.S.

20 (4) No person whose license has been revoked shall be
21 allowed to reapply for licensure or enrollment earlier than
22 two years after the effective date of the revocation.

23 SECTION 22. 12-25-211, Colorado Revised Statutes, 1985
24 Repl. Vol., is amended to read:

25 12-25-211. Eligibility for surveyor-in-training. To be
26 eligible for certification as a surveyor-in-training, an
27 applicant ~~must-be-of-good-character,--The-surveyor-in-training~~

1 ~~applicant--shall--submit-references-as-required-by-board-rules~~
2 ~~and-regulations--which~~ shall provide documentation of the
3 ~~applicant's-character-and~~ HIS technical competence.

4 SECTION 23. 12-25-212 (1) (a), Colorado Revised
5 Statutes, 1985 Repl. Vol., is amended to read:

6 12-25-212. Qualifications for surveyors-in-training.
7 (1) (a) An applicant may qualify for certification as a
8 surveyor-in-training by comity if he possesses--a---valid
9 ~~certification--as--a--surveyor-in-training--issued-by-a-proper~~
10 ~~authority-in-another-jurisdiction,--Evidence-must-be-presented~~
11 ~~to-the-board-showing-that-such-certification-was-issued-on-the~~
12 ~~basis-of-requirements-not-in-conflict-with-the--provisions--of~~
13 ~~this--part--2--and-standards-which-were-comparable-to-these-in~~
14 ~~effect-in-this-state-at-the-time-the-certification-was--issued~~
15 IS ENROLLED IN GOOD STANDING IN ANOTHER JURISDICTION REQUIRING
16 QUALIFICATIONS SUBSTANTIALLY EQUIVALENT TO THOSE CURRENTLY
17 REQUIRED OF APPLICANTS UNDER THIS PART 2 OR IF, AT THE TIME OF
18 INITIAL ENROLLMENT IN SUCH JURISDICTION, HE MET THE
19 REQUIREMENTS FOR ENROLLMENT THEN IN EXISTENCE UNDER COLORADO
20 LAW.

21 SECTION 24. 12-25-213, Colorado Revised Statutes, 1985
22 Repl. Vol., is amended to read:

23 12-25-213. Eligibility for professional land surveyor.
24 To be eligible for licensing and registration as a
25 professional land surveyor, an applicant ~~must--be-of-good~~
26 ~~character,--The-professional--land--surveyor--applicant--shall~~
27 ~~submit--references--as-required-by-board-rules-and-regulations~~

1 which shall provide documentation of the applicant's character
2 and HIS technical competence.

3 SECTION 25. 12-25-214 (1) (a), Colorado Revised
4 Statutes, 1985 Repl. Vol., is amended to read:

5 12-25-214. Qualifications for professional land
6 surveyor. (1) (a) An applicant may qualify for licensing and
7 registration as a professional land surveyor by comity and
8 examination if he passes the legal aspects of THE surveying
9 examination. In order to be admitted to such examination, the
10 applicant must possess a valid registration or license to
11 practice land surveying issued by a proper authority in
12 another jurisdiction. Evidence must be presented to the board
13 showing that such registration or license was issued on the
14 basis of requirements not in conflict with the provisions of
15 this part 2 and standards which were comparable to those in
16 effect in this state at the time the registration or license
17 was issued BE LICENSED IN GOOD STANDING IN ANOTHER
18 JURISDICTION REQUIRING QUALIFICATIONS SUBSTANTIALLY EQUIVALENT
19 TO THOSE CURRENTLY REQUIRED OF APPLICANTS UNDER THIS PART 2
20 OR, AT THE TIME OF INITIAL LICENSURE IN SUCH JURISDICTION,
21 HAVE MET THE REQUIREMENTS FOR LICENSURE THEN IN EXISTENCE
22 UNDER COLORADO LAW.

23 SECTION 26. 12-25-215 (3), Colorado Revised Statutes,
24 1985 Repl. Vol., is amended to read:

25 12-25-215. Licenses - certificates. (3) A license may
26 be issued at any time but shall expire in staggered times
27 throughout the year as determined by the board, in conformance

1 with section 24-34-102, C.R.S. A license shall expire
2 biennially and shall be renewed at the time of such
3 expiration.

4 SECTION 27. Article 1 of title 10, Colorado Revised
5 Statutes, 1987 Repl. Vol., is amended BY THE ADDITION OF A
6 NEW SECTION to read:

7 10-1-124.8. Reporting of malpractice claims against
8 professional engineers and professional land surveyors. Each
9 insurance company licensed to do business in this state and
10 engaged in the writing of malpractice insurance for
11 professional engineers or professional land surveyors shall
12 send to the state board of registration for professional
13 engineers and professional land surveyors, in the form
14 prescribed by the commissioner, information relating to each
15 malpractice claim against a registered professional engineer
16 or a certified professional land surveyor which is settled or
17 in which judgment is rendered against the insured within
18 ninety days of the effective date of such settlement or
19 judgment.

20 SECTION 28. 24-34-104 (23), Colorado Revised Statutes,
21 1982 Repl. Vol., as amended, is amended to read:

22 24-34-104. General assembly review of regulatory
23 agencies for termination, continuation, or reestablishment.

24 (23) (a) The following divisions in the department of
25 regulatory agencies shall terminate on July 1, 1994:

26 {a} (I) The division of banking, created by article 2 of
27 title 11, C.R.S.;

-44-

1 {b} (II) The division of savings and loan, created by
2 article 44 of title 11, C.R.S.;

3 {c} (III) The division of securities, created by article
4 51 of title 11, C.R.S.

5 (b) THE FOLLOWING BOARD IN THE DEPARTMENT OF REGULATORY
6 AGENCIES SHALL TERMINATE ON JULY 1, 1994: THE STATE BOARD OF
7 REGISTRATION FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND
8 SURVEYORS, CREATED BY PART 1 OF ARTICLE 25 OF TITLE 12, C.R.S.

9 SECTION 29. 38-50-101, Colorado Revised Statutes, 1982
10 Repl. Vol., is amended to read:

11 38-50-101. Procedure for subdividing section. Whenever
12 a land surveyor conducts a survey for the purpose of locating
13 a parcel of land which is described in terms of the
14 nomenclature of the public land survey system, he shall
15 proceed according to the applicable rules contained in the
16 CURRENT "Manual of Instructions for the Survey of the Public
17 Lands of the United States" 1973" published by the United
18 States government printing office; except that monumentation
19 shall conform to section 38-51-101. A section may be
20 subdivided by surveying all necessary aliquot lines in the
21 field or by computing the location of the required aliquot
22 corners after making a field survey which includes all
23 required control corners of the section, but in either case
24 all such control corners THAT WERE ORIGINALLY MONUMENTED BY
25 THE UNITED STATES GOVERNMENT must either be found or ~~must~~ be
26 ~~established or restored~~ REESTABLISHED in the field according
27 to the standards set forth in section 38-51-101, and monument

1 records must be filed pursuant to section 38-53-103,
2 describing each such corner. In all cases, the location of
3 original aliquot corners of, and procedures used in, the
4 governing official United States government survey, where
5 applicable, shall take precedence.

6 SECTION 30. 38-51-100.3 (5), Colorado Revised Statutes,
7 1982 Repl. Vol., is amended to read:

8 38-51-100.3. Definitions. (5) "Land survey plat" means
9 a plat which shows the information developed by a monumented
10 land survey ~~including any conflicting boundary evidence, which~~
11 ~~plat is suitable for recording pursuant to section 38-51-102~~
12 AND SHALL INCLUDE ALL INFORMATION REQUIRED BY SECTION
13 38-51-102.

14 SECTION 31. 38-51-101 (7) and (8), Colorado Revised
15 Statutes, 1982 Repl. Vol., are amended to read:

16 38-51-101. Monumentation of land surveys. (7) If any
17 monument required by this section marks the location of an
18 ~~aliquot corner as defined by section 38-53-102-(2)~~ A SECTION
19 CORNER, QUARTER CORNER, OR SIXTEENTH CORNER, the monument
20 shall meet the physical standards ~~for similar monuments set by~~
21 ~~the United States bureau of land management and shall be~~
22 ~~marked as specified in chapter IV of the "Manual of~~
23 ~~Instructions for the Survey of the Public Lands of the United~~
24 ~~States, 1973" published by the United States government~~
25 ~~printing office~~ SPECIFIED BY RULE AND REGULATION PROMULGATED
26 PURSUANT TO SECTION 24-4-103, C.R.S., BY THE STATE BOARD OF
27 REGISTRATION FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND

1 SURVEYORS.

2 (8) If any corner required by this section falls within
3 the traffic area of a PUBLICLY NAMED street, road, or highway,
4 the top of the monument shall be placed one-half foot below
5 the roadway surface, and, if such surface is any form of
6 pavement TWO INCHES THICK OR GREATER, the monument shall be
7 provided with a monument box the top of which shall be set
8 flush with the surface of the pavement.

9 SECTION 32. The introductory portion to 38-51-102 (1)
10 and 38-51-102 (1) (i) and (1) (j), Colorado Revised Statutes,
11 1982 Repl. Vol., are amended, and the said 38-51-102 (1) is
12 further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

13 38-51-102. Land survey plats. (1) All land survey plats
14 ~~or maps recorded in any county of this state~~ PREPARED on and
15 after ~~July 1, 1967,~~ JULY 1, 1988, shall include ~~in addition to~~
16 ~~any information required by local authorities,~~ at least the
17 following items:

- 18 (i) Title description or reference thereto; and
19 (j) Signature and seal of the land surveyor; AND
20 (k) Any conflicting boundary evidence.

21 SECTION 33. Article 52 of title 38, Colorado Revised
22 Statutes, 1982 Repl. Vol., as amended, is REPEALED AND
23 REENACTED, WITH AMENDMENTS, to read:

24 ARTICLE 52

25 Colorado Coordinate System

26 38-52-101. Colorado coordinate system zones defined.

27 (1) The system of plane coordinates which have been

1 established by the national ocean service/national geodetic
2 survey (formerly the United States coast and geodetic survey)
3 or its successors for defining and stating the geographic
4 positions or locations of points on the surface of the earth
5 within the state of Colorado are, on and after July 1, 1988,
6 to be known and designated as the Colorado coordinate system
7 of 1927 and the Colorado coordinate system of 1983.

8 (2) For the purpose of the use of these systems, the
9 state is divided into a north zone, a central zone, and a
10 south zone.

11 (3) The area now included in the following counties
12 shall constitute the north zone: Moffat, Routt, Jackson,
13 Larimer, Weld, Logan, Sedgwick, Rio Blanco, Grand, Boulder,
14 Gilpin, Adams, Morgan, Washington, Phillips, and Yuma.

15 (4) The area now included in the following counties
16 shall constitute the central zone: Garfield, Eagle, Summit,
17 Clear Creek, Jefferson, Denver, Arapahoe, Lincoln, Kit Carson,
18 Mesa, Delta, Pitkin, Gunnison, Lake, Chaffee, Park, Fremont,
19 Teller, Douglas, El Paso, Elbert, and Cheyenne.

20 (5) The area now included in the following counties
21 shall constitute the south zone: Montrose, Ouray, Hinsdale,
22 Saguache, Custer, Pueblo, Crowley, Kiowa, San Miguel, San
23 Juan, Mineral, Rio Grande, Alamosa, Huerfano, Otero, Bent,
24 Prowers, Dolores, Montezuma, La Plata, Archuleta, Conejos,
25 Costilla, Las Animas, and Baca.

26 38-52-102. Colorado coordinate system names defined.

27 (1) As established for use in the north zone, the Colorado

1 coordinate system of 1927 or the Colorado coordinate system of
2 1983 shall be named; and, in any land description in which it
3 is used, it shall be designated the Colorado coordinate system
4 of 1927 north zone or the Colorado coordinate system of 1983
5 north zone.

6 (2) As established for use in the central zone, the
7 Colorado coordinate system of 1927 or the Colorado coordinate
8 system of 1983 shall be named; and, in any land description in
9 which it is used, it shall be designated the Colorado
10 coordinate system of 1927 central zone or the Colorado
11 coordinate system of 1983 central zone.

12 (3) As established for use in the south zone, the
13 Colorado coordinate system of 1927 or the Colorado coordinate
14 system of 1983 shall be named; and, in any land description in
15 which it is used, it shall be designated the Colorado
16 coordinate system of 1927 south zone or the Colorado system of
17 1983 south zone.

18 38-52-103. Colorado coordinate system defined. (1) The
19 plane coordinate values for a point on the earth's surface,
20 used to express the geographic position or location of such
21 point in the appropriate zone of this system, shall consist of
22 two distances expressed in United States survey feet and
23 decimals of a foot when using the Colorado coordinate system
24 of 1927 and expressed in meters and decimals of a meter when
25 using the Colorado coordinate system of 1983. One of these
26 distances, to be known as the x-coordinate, shall give the
27 position in an east-west direction; the other, to be known as

1 the y-coordinate, shall give the position in a north-south
2 direction. These coordinates shall be made to depend upon and
3 conform to plane rectangular coordinate values for the
4 monumented points of the North American horizontal geodetic
5 control network as published by the national ocean
6 service/national geodetic survey (formerly the United States
7 coast and geodetic survey), or its successors, and the plane
8 coordinates of which have been computed on the systems defined
9 in this article. Any such station may be used for
10 establishing a survey connection to either Colorado coordinate
11 system.

12 (2) For the purposes of converting coordinates of the
13 Colorado coordinate system of 1983 from meters to feet, the
14 international survey foot shall be used. The conversion
15 factor is: One foot equals 0.3048 meter exactly.

16 38-52-104. Federal and state coordinate description same
17 tract - federal precedence. (1) Whenever coordinates based
18 on the Colorado coordinate system are used to describe any
19 tract of land which in the same document is also described by
20 reference to any subdivision, line, or corner of the United
21 States public land surveys, the description by coordinates
22 shall be construed as supplemental to the basic description of
23 such subdivision, line, or corner contained in the official
24 plats and field notes filed of record, and, in the event of
25 any conflict, the description by reference to the subdivision,
26 line, or corner of the United States public land surveys shall
27 prevail over the description by coordinates, unless said

1 coordinates are upheld by adjudication, at which time the
2 coordinate description will prevail.

3 (2) Nothing in this article shall require any purchaser
4 or mortgagee to rely on a description, any part of which
5 depends exclusively upon the Colorado coordinate system,
6 unless such description has been adjudicated as provided in
7 this section.

8 38-52-105. Colorado coordinate system origins defined.

9 (1) For the purposes of more precisely defining the Colorado
10 coordinate system of 1927, the following definitions by the
11 United States coast and geodetic survey (now the national
12 ocean service/national geodetic survey) are adopted:

13 (a) The "Colorado coordinate system of 1927 north zone"
14 is a Lambert conformal conic projection of the Clarke spheroid
15 of 1866, having standard parallels at north latitudes 39
16 degrees 43 minutes and 40 degrees 47 minutes along which
17 parallels the scale shall be exact. The origin of coordinates
18 is at the intersection of the meridian 105 degrees 30 minutes
19 west of Greenwich and the parallel 39 degrees 20 minutes north
20 latitude. This origin is given the coordinates: x - 2,000,000
21 feet and y - 0 feet.

22 (b) The "Colorado coordinate system of 1927 central
23 zone" is a Lambert conformal conic projection of the Clarke
24 spheroid of 1866, having standard parallels at north latitudes
25 38 degrees 27 minutes and 39 degrees 50 minutes north
26 latitude. This origin is given the coordinates: x - 2,000,000
27 feet and y - 0 feet.

1 (c) The "Colorado coordinate system of 1927 south zone"
2 is a Lambert conformal conic projection of the Clarke spheroid
3 of 1866, having standard parallels at north latitudes 37
4 degrees 14 minutes and 38 degrees 26 minutes along which
5 parallels the scale shall be exact. The origin of coordinates
6 is at the intersection of the meridian 105 degrees 30 minutes
7 west of Greenwich and the parallel 36 degrees 40 minutes north
8 latitude. This origin is given the coordinates: x -
9 2,000,000 feet and y - 0 feet.

10 (2) For the purposes of more precisely defining the
11 Colorado coordinate system of 1983, the following definition
12 by the national ocean service/national geodetic survey is
13 adopted:

14 (a) The "Colorado coordinate system of 1983 north zone"
15 is a Lambert conformal conic projection of the North American
16 datum of 1983, having standard parallels at north latitude of
17 39 degrees 43 minutes and 40 degrees 47 minutes along which
18 parallels the scale shall be exact. The origin of coordinates
19 is at the intersection of the meridian 105 degrees 30 minutes
20 west of Greenwich and the parallel 39 degrees 20 minutes north
21 latitude. This origin is given the coordinates: x -
22 2,133,600.00 meters and y - 1,828,800.00 meters.

23 (b) The "Colorado coordinate system of 1983 central
24 zone" is a Lambert conformal conic projection of the North
25 American datum of 1983, having standard parallels at north
26 latitudes 39 degrees 27 minutes and 39 degrees 45 minutes
27 along which parallels the scale shall be exact. The origin of

1 coordinates is at the intersection of the meridian 105 degrees
2 30 minutes west of Greenwich and the parallel 37 degrees 50
3 minutes north latitude. This origin is given the coordinates:
4 x - 1,524,000.00 meters and y - 1,219,200.00 meters.

5 (c) The "Colorado coordinate system of 1983 south zone"
6 is a Lambert conformal conic projection of the North American
7 datum of 1983, having standard parallels at north latitudes 37
8 degrees 14 minutes and 38 degrees 26 minutes along which
9 parallels the scale shall be exact. The origin of coordinates
10 is at the intersection of the meridian 105 degrees 30 minutes
11 west of Greenwich and the parallel 36 degrees 40 minutes north
12 latitude. This origin is given the coordinates: x -
13 914,400.00 meters and y - 609,600.00 meters.

14 38-52-106. Colorado coordinate system - use of term.
15 The use of the term "Colorado coordinate system of 1927 north
16 zone, central zone, or south zone" or "Colorado coordinate
17 system of 1983 north zone, central zone, or south zone" on any
18 map, report of survey, or other document shall be limited to
19 coordinates based on the Colorado coordinate systems as
20 defined in this article.

21 38-52-107. Severability. If any provision of this
22 article is declared invalid, such invalidity shall not affect
23 any other portion of this article, which can be given effect
24 without the invalid provision; and, to this end, the
25 provisions of this article are declared severable.

26 SECTION 34. 38-53-103, Colorado Revised Statutes, 1982
27 Repl. Vol., is amended to read:

1 38-53-103. Filing of monument record required. Whenever
2 a land surveyor conducts a survey which uses as a control
3 corner any public land survey monument or any United States
4 geological survey or United States coast and geodetic survey
5 (NOW THE NATIONAL OCEAN SERVICE/NATIONAL GEODETIC SURVEY)
6 monument, he shall file with the board a monument record
7 describing such monument, but said monument record need not be
8 filed if the monument and its accessories are substantially as
9 described in an existing monument record previously filed
10 pursuant to this section. A surveyor shall also file a
11 monument record whenever he establishes, restores, or
12 rehabilitates any public land survey monument or ~~aligns~~
13 ~~corner~~ SECTION CORNER, QUARTER SECTION CORNER, OR SIXTEENTH
14 SECTION CORNER AS DEFINED BY THE NOMENCLATURE OF THE UNITED
15 STATES PUBLIC LAND SURVEY SYSTEM. Each monument record shall
16 describe at least two accessories or reference points.
17 Monument records must be filed within six months of the date
18 on which the monument was used as control or was established,
19 restored, or rehabilitated.

20 SECTION 35. Repeal. 12-25-102 (9), 12-25-105 (8),
21 12-25-109 (5), (6), and (9), 12-25-115 (5) and (6), 12-25-116
22 (3) and (4), 12-25-117 (2), 12-25-202 (5), 12-27-207 (1) (c)
23 (VIII), 12-25-209 (5), (6), and (9), 12-25-214 (2) (a) (I) (D)
24 and (2) (a) (II) (D), 12-25-215 (5), and 12-25-216 (3),
25 Colorado Revised Statutes, 1985 Repl. Vol., 24-34-104 (17)
26 (c), Colorado Revised Statutes, 1982 Repl. Vol., as amended,
27 and 38-50-103 and 38-53-102 (2), Colorado Revised Statutes,

1 1982 Repl. Vol., are repealed.

2 SECTION 36. Repeal of rules. (1) To further the
3 general assembly's intent as expressed in section 24-34-913
4 (4.5), Colorado Revised Statutes, the following rules and
5 regulations of the state board of registration for
6 professional engineers and professional land surveyors are
7 hereby expressly repealed:

8 (a) Rule VII E. of the rules of procedure, concerning
9 notarization of statements that unavoidable causes resulted in
10 the failure of an applicant to attend an examination (4 CCR
11 730-1); and

12 (b) Rule V of the rules of professional conduct,
13 concerning registrants' improper solicitation of professional
14 employment (4 CCR 730-1).

15 SECTION 37. Effective date. This act shall take effect
16 July 1, 1988.

17 SECTION 38. Safety clause. The general assembly hereby
18 finds, determines, and declares that this act is necessary
19 for the immediate preservation of the public peace, health,
20 and safety.

A BILL FOR AN ACT

1 CONCERNING REGULATION OF THE MOBILE HOME INDUSTRY, AND, IN
2 CONNECTION THEREWITH, PROVIDING FOR THE CONTINUATION OF
3 THE COLORADO MOBILE HOME LICENSING BOARD AND REPEALING
4 VARIOUS RULES AND REGULATIONS OF SUCH BOARD.

Bill Summary

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

Provides for the continuation of the Colorado mobile home licensing board. Eliminates the board's ability to require that dealers certify to the good character of salesmen. Gives the board and various other individuals immunity from liability in civil actions if certain conditions are met. Makes certain changes in the recovery fund provisions, including changing the grounds for payment eligibility, eliminating payment eligibility for corporate sureties, making license revocation automatic upon final court order, and adding a provision concerning attempted discharges in bankruptcy.

Repeals certain rules and regulations of the board.

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

6 SECTION 1. 12-51.5-103 (3) (n), Colorado Revised
7 Statutes, 1985 Repl. Vol., is amended to read:

8 12-51.5-103. Board - oath - meetings - powers and

1 duties. (3) (n) To require all mobile home dealer licensees
2 to ~~certify to the good character and reputation of each~~
3 ~~salesman applicant employed by such dealer and~~ supervise and
4 train such EACH mobile home salesman EMPLOYED BY SUCH DEALER;

5 SECTION 2. Part 1 of article 51.5 of title 12, Colorado
6 Revised Statutes, 1985 Repl. Vol., as amended, is amended BY
7 THE ADDITION OF A NEW SECTION to read:

8 12-51.5-103.5. Immunity. Any member of the board, any
9 person acting as a consultant to the board, any witness
10 testifying in a proceeding authorized by this article, and any
11 person who lodges a complaint with the board shall be immune
12 from liability in any civil action brought against him for
13 acts occurring while acting in his capacity as a board member,
14 consultant, witness, or complainant, respectively, if such
15 individual was acting in good faith within the scope of his
16 respective capacity, made a reasonable effort to obtain the
17 facts of the matter as to which he acted, and acted in the
18 reasonable belief that the action taken by him was warranted
19 by the facts.

20 SECTION 3. 12-51.5-204 (1), Colorado Revised Statutes,
21 1985 Repl. Vol., is amended to read:

22 12-51.5-204. Application for payments out of fund.
23 (1) When any person who has purchased a mobile home for a
24 personal, family, or household residential purpose obtains a
25 final judgment in any court of competent jurisdiction against
26 any mobile home dealer or salesman licensed under part 1 of
27 this article on the grounds of ~~failure to honor warranties or~~

1 guarantees, fraud; willful misrepresentation of the kind or
 2 quality of the product sold; MISUSE OF DOWN PAYMENTS, EARNEST
 3 MONEYS, OR DESIGNATED-PURPOSE MONEYS THAT SHOULD BE DEPOSITED
 4 IN A TRUST OR ESCROW ACCOUNT PURSUANT TO SECTION 12-51.5-125;
 5 DAMAGE TO THE MOBILE HOME THAT IS IN THE CARE OF A DEALER WHO
 6 IS ACTING AS A BROKER OR AGENT; or any violation of this
 7 article or article 1 or 2 of title 6, C.R.S., arising directly
 8 out of any transaction which occurred on or after May 16,
 9 1977, when said dealer or salesman was licensed and in which
 10 such dealer or salesman performed acts for which a license is
 11 required by part 1 of this article, such person, upon
 12 termination of all proceedings including appeals, may file a
 13 verified application in the court in which the judgment was
 14 entered for an order directing payment out of the fund of the
 15 amount of actual and direct loss, EXCLUDING LOSS FOR PAIN AND
 16 SUFFERING AND MENTAL ANGUISH, in such transaction, including
 17 court costs and reasonable attorney fees not to exceed fifteen
 18 percent of the judgment, which remains unpaid upon the
 19 judgment. Nothing in this section shall obligate the fund for
 20 more than twenty-five thousand dollars with respect to any one
 21 claim or fifty thousand dollars with respect to any one
 22 licensed dealer if the transaction out of which the claim
 23 arises occurs after July 1, 1981, or twenty-five thousand
 24 dollars with respect to any one dealer if such transactions
 25 occur prior to July 1, 1981. Claims against the fund based on
 26 the act of a licensed salesman shall be subject to the
 27 limitation on payment out of the fund with respect to the

1 licensed dealer by which the salesman is employed at the time
 2 of the transaction out of which the claim arises. Claims
 3 against a licensed salesman shall be brought against the
 4 licensed dealer by which he is employed. No person applying
 5 for recovery from the fund shall apply for judgment on any
 6 bond issued prior to May 16, 1977.

7 SECTION 4. 12-51.5-205, Colorado Revised Statutes, 1985
 8 Repl. Vol., is amended to read:

9 12-51.5-205. Revocation of license. If the board is
 10 required to make any payment from the fund in settlement of a
 11 claim or toward the satisfaction of a judgment pursuant to the
 12 provisions of this part 2, ~~the board shall give notice of~~
 13 ~~hearing and order to show cause why the judgment debtor's~~
 14 ~~license should not be suspended or revoked pursuant to section~~
 15 ~~12-51.5-117 or 12-51.5-119 and article 4 of title 24, C.R.S.~~
 16 ~~If the~~ LICENSE OF THE JUDGMENT DEBTOR SHALL BE AUTOMATICALLY
 17 REVOKED UPON THE DATE OF A FINAL ORDER BY THE COURT AS
 18 DESCRIBED IN SECTION 12-51.5-204. WHEN A license is suspended
 19 or revoked, the judgment debtor shall not be eligible to be
 20 licensed again as either a dealer or a salesman until he has
 21 repaid in full the amount paid from the fund with interest
 22 thereon of twelve percent per annum. If the judgment debtor
 23 whose license is ~~suspended or~~ revoked is a corporate or a
 24 partnership licensee, no officer, director, or controlling
 25 shareholder of such judgment debtor shall be eligible for
 26 licensure as a dealer or salesman, and no business entity in
 27 which such person possesses a management or ownership interest

1 shall be eligible for licensure under this article, until the
2 full amount paid from the fund, with interest thereon, is
3 repaid with interest at the rate of twelve percent per annum.
4 A DISCHARGE IN BANKRUPTCY SHALL NOT RELIEVE A PERSON FROM THE
5 PENALTIES AND DISABILITIES PROVIDED IN THIS PART 2.

6 SECTION 5. 12-51.5-206 (1) and (2), Colorado Revised
7 Statutes, 1985 Repl. Vol., are amended to read:

8 12-51.5-206. Subrogation of rights. (1) When, upon
9 order of any court, the board has caused payment to be made
10 from the fund to a judgment creditor, ~~or to a corporate surety~~
11 ~~which has complied with the provisions of section 12-51.5-207,~~
12 the board and any mobile home dealer subject to fund
13 assessment under this part 2 shall be subrogated to the rights
14 of the judgment creditor ~~or corporate surety~~ with respect to
15 the amount so paid.

16 (2) Up to an amount equal to ten percent of the payment
17 to a judgment creditor ~~or corporate surety~~ may be drawn from
18 the fund and expended by the board, for the purpose of
19 enforcing the rights of a particular judgment creditor ~~or~~
20 ~~corporate--surety~~ to which the board is subrogated pursuant to
21 this section. The board, with the approval of the attorney
22 general, may employ such private counsel as will enable the
23 board to efficiently enforce the subrogation rights granted
24 under this section. Subrogation recoveries effected under
25 this section shall be deposited to the credit of the fund for
26 payment or distribution under this part 2; except that the
27 board may, in its discretion, authorize payment of legal costs

1 and attorney fees incurred by a subrogated mobile home dealer
2 or group of mobile home dealers effecting fund recovery under
3 this section, which payment shall in no event exceed the
4 amount recovered in the particular recovery proceeding for
5 which payment is sought.

6 SECTION 6. 24-34-104 (18), Colorado Revised Statutes,
7 1982 Repl. Vol., as amended, is amended to read:

8 24-34-104. General assembly review of regulatory
9 agencies for termination, continuation, or reestablishment.
10 (18) (a) The following divisions in the department of
11 regulatory agencies shall terminate on July 1, 1989:

12 {a} (I) The division of civil rights, including the
13 Colorado civil rights commission, created by part 3 of this
14 article;

15 {b} (II) The real estate commission, created by part 1
16 of article 61 of title 12, C.R.S.

17 (b) THE FOLLOWING BOARD IN THE DIVISION OF REGISTRATIONS
18 SHALL TERMINATE ON JULY 1, 1989: THE COLORADO MOBILE HOME
19 LICENSING BOARD, CREATED BY ARTICLE 51.5 OF TITLE 12, C.R.S.

20 SECTION 7. Repeal. 12-51.5-207, Colorado Revised
21 Statutes, 1985 Repl. Vol., and 24-34-104 (17) (d), Colorado
22 Revised Statutes, 1982 Repl. Vol., as amended, are repealed.

23 SECTION 8. Repeal of rules. (1) To further the general
24 assembly's intent as expressed in section 24-34-913 (4.5),
25 Colorado Revised Statutes, the following rules and regulations
26 of the Colorado mobile home licensing board are hereby
27 expressly repealed:

1 (a) Rule C-2f., concerning location of the business site
2 in a commercial area or mobile home park (3 CCR 714-1);

3 (b) Rule C-2j., concerning facilities for servicing and
4 repairing mobile homes (3 CCR 714-1);

5 (c) Rule E-3, concerning a mobile home dealer's
6 qualifying examination (3 CCR 714-1);

7 (d) Rule E-4, concerning a mobile home salesman's
8 qualifying examination (3 CCR 714-1).

9 SECTION 9. Effective date. This act shall take effect
10 July 1, 1988.

11 SECTION 10. 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.

A BILL FOR AN ACT

1 CONCERNING THE PRACTICE OF ELECTRICIANS, AND IN CONNECTION
 2 THEREWITH PROVIDING FOR THE CONTINUATION OF THE COLORADO
 3 ELECTRICAL BOARD AND REPEALING VARIOUS RULES AND
 4 REGULATIONS OF SUCH BOARD.

Bill Summary

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

Provides for the continuation of the Colorado electrical board and makes various changes in the statutes concerning the practice of electricians including the following: Limits tenure on the board and permits the governor to remove members for various types of behavior; gives the board additional investigatory authority and permits injunctions to be issued without a showing that other remedies are inadequate; requires that disciplinary action by the board be taken pursuant to the "State Administrative Procedure Act"; permits the board to appoint an administrative law judge to conduct hearings if so desired; removes directives regarding examinations and license and registration renewals; specifies additional means of obtaining credit toward licensure; describes supervision requirements by licensees over apprentices; makes electrical contractors subject to registration rather than licensure; adds additional grounds for disciplinary action by the board and authorizes it to issue letters of admonition, to place violators on probation, and to reconsider its decisions; gives the board and various other individuals immunity against legal actions by a licensee for actions taken in good faith; and gives the court of appeals initial jurisdiction over final actions by the board. In addition, makes various changes in

regard to electrical inspectors and the inspection of electrical installations.

Repeals rules and regulations of the board which conflict with or exceed its statutory authority.

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

2 SECTION 1. 12-23-101 (1), Colorado Revised Statutes,
 3 1985 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS,
 4 to read:

5 12-23-101. Definitions. (1) "Apprentice" means a
 6 person who is required to be registered as such under section
 7 12-23-110.5 (3) (a), who is in compliance with the provisions
 8 of this article, and who is working at the trade in the
 9 employment of a registered electrical contractor, and is under
 10 the direct supervision of a licensed master electrician,
 11 journeyman electrician, or residential wireman.

12 SECTION 2. 12-23-101, Colorado Revised Statutes, 1985
 13 Repl. Vol., is amended BY THE ADDITION OF THE FOLLOWING NEW
 14 SUBSECTIONS to read:

15 12-23-101. Definitions. (1.2) "Board" means the state
 16 electrical board.

17 (1.7) "Electrical work" means wiring for, installing,
 18 and repairing electrical apparatus and equipment for light,
 19 heat, and power.

20 SECTION 3. 12-23-102, Colorado Revised Statutes, 1985
 21 Repl. Vol., is amended to read:

22 12-23-102. State electrical board. There is hereby
 23 established a state electrical board which shall consist of

1 nine members appointed by the governor, with the consent of
2 the senate, who shall be residents of the state of Colorado.
3 Two of said members shall be electrical contractors who have
4 masters' licenses, two shall be master or journeymen
5 electricians who are not electrical contractors, two shall be
6 representatives of private, municipal, or cooperative electric
7 utilities rendering electric service to the ultimate public,
8 one shall be a building official from a political subdivision
9 of the state performing electrical inspections, one shall be a
10 general contractor actively engaged in the building industry,
11 and one shall be appointed from the public at large.
12 Effective July 1, 1975, all members shall serve for three-year
13 terms, but of the appointments to be made effective July 1,
14 1975, one master or journeyman electrician shall be appointed
15 for a three-year term, one electric utility member shall be
16 appointed for a three-year term and one for a two-year term,
17 and one new at-large member shall be appointed for a
18 three-year term. All other present members shall serve the
19 terms for which originally appointed, but their successors
20 shall be appointed for three-year terms. ALL APPOINTEES SHALL
21 BE LIMITED TO TWO FULL TERMS EACH. Any vacancy occurring in
22 the membership of the board shall be filled by the governor by
23 appointment for the unexpired term of such member. THE
24 GOVERNOR MAY REMOVE ANY MEMBER OF THE BOARD FOR MISCONDUCT,
25 INCOMPETENCE, OR NEGLECT OF DUTY.

26 SECTION 4. 12-23-104, Colorado Revised Statutes, 1985
27 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH

1 AMENDMENTS, to read:

2 12-23-104. Oath - meetings - powers. (1) (a) The
3 board, annually in the month of July, shall elect from the
4 membership thereof a president, vice-president, and
5 secretary-treasurer. The board shall meet at least once a
6 month and at such other times as it deems necessary.

7 (b) A majority of the board shall constitute a quorum
8 for the transaction of all business.

9 (2) In addition to all other powers and duties conferred
10 or imposed upon the board by this article, the board is
11 authorized to:

12 (a) Adopt, and from time to time revise, such rules and
13 regulations not inconsistent with the law as may be necessary
14 to enable it to carry into effect the provisions of this
15 article. In adopting such rules and regulations, the board
16 shall be governed when appropriate by the standards in the
17 most current edition of the national electrical code or by any
18 modifications to such standards made by the board after a
19 hearing is held, pursuant to the provisions of article 4 of
20 title 24, C.R.S. These standards are adopted as the minimum
21 standards governing the planning, laying out, and installing
22 or the making of additions, alterations, and repairs in the
23 installation of wiring apparatus and equipment for electric
24 light, heat, and power in this state. A copy of such code
25 shall be kept in the office of the board and open to public
26 inspection. Nothing contained in this section shall prohibit
27 any city, town, county, or city and county from making and

1 enforcing any such standards that are more stringent than the
 2 minimum standards adopted by the board, and any city, town,
 3 county, or city and county which adopts such more stringent
 4 standards shall furnish a copy thereof to the board. The
 5 standards adopted by the board shall be prima facie evidence
 6 of minimum approved methods of construction for safety to life
 7 and property. The affirmative vote of two-thirds of all
 8 appointed members of the board shall be required to set any
 9 standards that are different from those set forth in the
 10 national electrical code. If requested in writing, the board
 11 shall send a copy of newly adopted standards and rules and
 12 regulations to any interested party at least thirty days
 13 before the implementation and enforcement of such standards or
 14 rules and regulations. Such copies may be furnished for a fee
 15 established pursuant to section 24-34-105, C.R.S.

16 (b) Adopt a seal, and the secretary shall have the care
 17 and custody thereof;

18 (c) Register and renew the registration of apprentices
 19 and qualified electrical contractors and examine, license, and
 20 renew licenses of journeymen electricians, master
 21 electricians, and residential wiremen as provided in this
 22 article;

23 (d) Subpoena records and documents and compel the
 24 attendance of witnesses pursuant to an investigation or a
 25 hearing of the board;

26 (e) Cause the prosecution and enjoinder, in any court of
 27 competent jurisdiction, of all persons violating this article

1 and incur necessary expenses therefor. When seeking an
 2 injunction the board shall not be required to prove that an
 3 adequate remedy at law does not exist or that substantial or
 4 irreparable damages would result if an injunction is not
 5 granted.

6 (f) Inspect and approve or disapprove the installation
 7 within this state of electrical wiring, apparatus, or
 8 equipment for electrical light, heat, or power, according to
 9 the minimum standards in the national electrical code or
 10 prescribed in this article;

11 (g) Review and approve or disapprove requests for
 12 exceptions to the national electrical code in unique
 13 construction situations where a strict interpretation of the
 14 code would result in unreasonable operational conditions or
 15 unreasonable economic burdens, as long as public safety is not
 16 compromised;

17 (h) Conduct hearings in accordance with the provisions
 18 of section 24-4-105, C.R.S.; except that the board may appoint
 19 an administrative law judge pursuant to part 10 of article 30
 20 of title 24, C.R.S., to conduct such hearings.

21 SECTION 5. Article 23 of title 12, Colorado Revised
 22 Statutes, 1985 Repl. Vol., as amended, is amended BY THE
 23 ADDITION OF A NEW SECTION to read:

24 12-23-104.5. Program administrator. The director of the
 25 division of registrations may appoint a program administrator
 26 pursuant to section 13 of article XII of the state
 27 constitution to work with the board in carrying out its duties

1 under this article.

2 SECTION 6. 12-23-105 (1), Colorado Revised Statutes,
3 1985 Repl. Vol., is amended to read:

4 12-23-105. Electrician must have license - control and
5 supervision. (1) No person shall engage in or work at the
6 business, trade, or calling of a journeyman electrician,
7 master electrician, or residential wireman in this state until
8 he has received a license from the division of registrations
9 upon written notice from the board, or the ~~director~~ PROGRAM
10 ADMINISTRATOR, acting as the agent thereof, or a temporary
11 permit from the board, the ~~state-electrical-director~~ PROGRAM
12 ADMINISTRATOR, or his agent.

13 SECTION 7. 12-23-106, Colorado Revised Statutes, 1985
14 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
15 read:

16 12-23-106. License requirements. (1) An applicant for
17 a master electrician's license shall furnish written evidence
18 that he is a graduate electrical engineer of an accredited
19 college or university and has one year of practical electrical
20 experience in the construction industry, or that he is a
21 graduate of an electrical trade school or community college
22 and has at least four years of practical experience in
23 electrical work, or that he has had at least one year of
24 practical experience in planning, laying out, supervising, and
25 installing wiring, apparatus, or equipment for electrical
26 light, heat, and power beyond the practical experience
27 requirements for the journeyman's license. Each applicant for

1 a license as a master electrician shall file an application on
2 forms prepared and furnished by the board, together with the
3 examination fee provided in section 12-23-112. The board, not
4 less than thirty days prior to a scheduled written
5 examination, shall notify each applicant that the evidence
6 submitted with his application is sufficient to qualify him to
7 take such written examination or that such evidence is
8 insufficient and the application is rejected. In the event
9 the application is rejected, the board shall set forth the
10 reasons therefor in the notice to the applicant and shall
11 forthwith return such applicant's examination fee. The place
12 of examination shall be designated in advance by the board,
13 and examinations shall be held not less often than twice a
14 year and at such other times as, in the opinion of the board,
15 the number of applicants warrants.

16 (2) An applicant for a journeyman electrician's license
17 shall furnish written evidence that he has had at least four
18 years' apprenticeship in the electrical trade or four years'
19 practical experience in wiring for, installing, and repairing
20 electrical apparatus and equipment for light, heat, and power
21 and shall further establish that at least two of such years'
22 experience has been in commercial or industrial work. Any
23 applicant for such license shall be permitted to substitute
24 evidence that he is either a graduate electrical engineer of
25 an accredited college or university or that he is a graduate
26 of an electrical trade school or community college for one of
27 the years of work experience required for licensure.

1 Applications for a license and notice to the applicant shall
2 be made and given as provided for in the case of master
3 electricians' licenses.

4 (3) (a) An applicant for a residential wireman's license
5 shall furnish written evidence that he has at least two years
6 of accredited training or two years of practical experience in
7 wiring one-, two-, three-, and four-family dwellings. Any
8 applicant for such license shall be permitted to substitute
9 evidence that he is either a graduate electrical engineer of
10 an accredited college or university or that he is a graduate
11 of an electrical trade school or community college for one of
12 the years of work experience required for licensure.

13 (b) Any residential wireman's license issued under this
14 section shall be clearly marked as such across its face.

15 (4) (a) Any examination which is given for master
16 electricians, journeymen electricians, and residential wiremen
17 shall be subject to board approval. The board, or its
18 designee, shall conduct and grade the examination and shall
19 set the passing score to reflect a minimum level of
20 competency. If it is determined that the applicant has passed
21 the examination, the division of registrations, upon written
22 notice from the board or the program administrator, acting as
23 an agent thereof, and upon payment by the applicant of the fee
24 provided in section 12-23-112, shall issue to the applicant a
25 license which shall authorize him to engage in the business,
26 trade, or calling of a master electrician, journeyman
27 electrician, or residential wireman.

1 (b) All license and registration expiration and renewal
2 schedules shall be in accord with the provisions of section
3 24-34-102. Fees in regard to such renewals shall be those set
4 forth in section 12-23-112.

5 (c) Any license that has lapsed shall be deemed to have
6 expired. In such instances the board is authorized to require
7 the licensee to demonstrate competency after two years if the
8 board determines that such a showing is necessary and to
9 require the payment of the appropriate fee.

10 (5) (a) No person, firm, copartnership, association, or
11 combination thereof shall engage in the business of an
12 electrical contractor without having first registered with the
13 board. The board shall register such contractor upon payment
14 of the fee as provided in section 12-23-112, presentation of
15 evidence that the applicant has complied with the applicable
16 workmen's compensation and unemployment compensation laws of
17 this state, and satisfaction of the requirements of paragraph
18 (b) or (c) of this subsection (5).

19 (b) If either the owner or the part owner of any firm,
20 copartnership, corporation, association, or combination
21 thereof has been issued a master electrician's license by the
22 division of registrations and is in charge of the supervision
23 of all electrical work performed by such contractor, upon
24 written notice from the board or the program administrator,
25 acting as the agent thereof, the division shall promptly, upon
26 payment of the fee as provided in section 12-23-112, register
27 such licensee as an electrical contractor.

1 (c) If any person, firm, copartnership, corporation,
 2 association, or combination thereof engages in the business of
 3 an electrical contractor and does not comply with paragraph
 4 (b) of this subsection (5), it shall employ at least one
 5 licensed master electrician who shall be in charge of the
 6 supervision of all electrical work performed by such
 7 contractor.

8 SECTION 8. Article 23 of title 12, Colorado Revised
 9 Statutes, 1985 Repl. Vol., as amended, is amended BY THE
 10 ADDITION OF A NEW SECTION to read:

11 12-23-106.5. Credit for experience exempted from
 12 licensure. The board shall give all applicants seeking work
 13 experience credit for licensure credit for work performed
 14 under supervision in facilities where such work is exempt
 15 from licensure under this article unless the board can show
 16 that the training or supervision received at such location is
 17 inadequate.

18 SECTION 9. 12-23-109, Colorado Revised Statutes, 1985
 19 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
 20 read:

21 12-23-109. License by endorsement. The board may issue
 22 an electrical license by endorsement in this state to any
 23 person who is licensed to practice in another jurisdiction if
 24 such person presents proof satisfactory to the board that, at
 25 the time of application for a Colorado license by endorsement,
 26 the person possesses credentials and qualifications which are
 27 substantially equivalent to requirements in Colorado for

1 licensure by examination. The board may specify by rule and
 2 regulation what shall constitute substantially equivalent
 3 credentials and qualifications.

4 SECTION 10. 12-23-110, Colorado Revised Statutes, 1985
 5 Repl. Vol., is amended to read:

6 12-23-110. Temporary permits. The board, or the state
 7 ~~electrical-director~~ PROGRAM ADMINISTRATOR or his agent, as
 8 provided in the rules and regulations promulgated by the
 9 board, shall issue temporary permits to engage in the work of
 10 a master electrician in cases where an electrical contractor
 11 no longer has the services of any master electrician as
 12 required under this article and shall issue temporary permits
 13 to engage in the work of a journeyman electrician or
 14 residential wireman to any applicant who furnishes evidence
 15 satisfactory to the board that he has the required experience
 16 to qualify for the examination provided in this article and
 17 who pays the fee provided in section 12-23-112 for such
 18 permits. IN ADDITION, AND IN A SIMILAR MANNER, THE BOARD, OR
 19 THE PROGRAM ADMINISTRATOR OR HIS AGENT, SHALL ISSUE TEMPORARY
 20 PERMITS TO ANY APPLICANT WHO FURNISHES EVIDENCE SATISFACTORY
 21 TO THE BOARD THAT HE QUALIFIES FOR A MASTER ELECTRICIAN'S
 22 LICENSE AND WHO PAYS THE REQUIRED FEE. Temporary permits shall
 23 continue in effect only until the next examination is given
 24 and may be revoked by the board at any time. If the applicant
 25 is granted a license, any fee paid for the temporary permit
 26 shall be applied to the fee required for a license.

27 SECTION 11. Article 23 of title 12, Colorado Revised

1 Statutes, 1985 Repl. Vol., as amended, is amended BY THE
2 ADDITION OF A NEW SECTION to read:

3 12-23-110.5. Apprentices - supervision - registration -
4 discipline. (1) Any person may work as an apprentice working
5 at the trade but shall not do any electrical wiring for or
6 installation of electrical apparatus or equipment for light,
7 heat, or power except under the supervision of a licensed
8 electrician or residential wireman. The degree of supervision
9 required at the jobsite shall vary with the experience of the
10 apprentice. A licensed electrician or residential wireman
11 shall supervise only one apprentice who is in the first or
12 second year of apprenticeship. Such licensee shall be
13 permitted to supervise up to two apprentices at one time if at
14 least one such apprentice is in the third or fourth year of an
15 apprenticeship.

16 (2) Any electrical contractor, journeyman electrician,
17 master electrician, or residential wireman who is the employer
18 or supervisor of any electrical apprentice working at the
19 trade shall be responsible for the work performed by such
20 apprentice. The registration of any such contractor or the
21 license of any such electrician or residential wireman may be
22 suspended or revoked under the provisions of section 12-23-118
23 for any improper work performed by an electrical apprentice
24 working at the trade during the time of his employment while
25 under the supervision of such person. The registration of
26 such apprentice may also be subject to suspension or
27 revocation under the provisions of section 12-23-118.

1 (3) (a) Upon employing an electrical apprentice to work
2 at the trade, the electrical contractor, within thirty days
3 after such initial employment, shall register such apprentice
4 with the board. The employer shall also notify the board
5 within thirty days after the termination of such employment.

6 (b) Such apprentice shall be under the supervision of
7 either a licensed electrician or residential wireman as set
8 forth in subsection (1) of this section.

9 SECTION 12. 12-23-111 (15), Colorado Revised Statutes,
10 1985 Repl. Vol., is amended, and the said 12-23-111 is further
11 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12 12-23-111. Exemptions. (1.5) Nothing in this article
13 shall be construed to require either that employees of the
14 federal government who perform electrical work on federal
15 property shall be required to be licensed before doing
16 electrical work on such property or that the electrical work
17 performed on such property shall be regulated pursuant to this
18 article.

19 (15) Inasmuch as electrical licensing and the
20 examination of persons performing electrical work is a matter
21 of statewide concern, no ~~examination,--certification,--or~~
22 ~~licensing--of--electrical--contractors--nor--any~~ examination,
23 certification, licensing, or registration of ELECTRICAL
24 CONTRACTORS, master electricians, journeymen electricians,
25 residential wiremen, OR apprentices ~~or--trainees~~ who are
26 licensed, REGISTERED, or certified under this article shall be
27 required by any city, town, county, or city and county.

-61-

BILL 3

1 however, any such local governmental authority may impose
2 reasonable registration requirements on any electrical
3 contractor as a condition of performing services within the
4 jurisdiction of such authority. Registration fees charged by
5 any such local governmental authority to any such electrical
6 contractor shall not exceed those costs associated with such
7 registration requirements and functions.

8 SECTION 13. 12-23-112 (1) (g), (1) (h), (1) (l), and (1)
9 (m), Colorado Revised Statutes, 1985 Repl. Vol., are amended
10 to read:

11 12-23-112. Fees. (1) (g) Electrical contractor's
12 license CONTRACTOR REGISTRATION;

13 (h) Annual renewal of electrical contractor's license
14 CONTRACTOR REGISTRATION;

15 (l) Apprentice or trainee registration;

16 (m) Annual renewal of apprentice or trainee
17 registration.

18 SECTION 14. The introductory portion to 12-23-115 (1)
19 (a) (I), and 12-23-115 (1) (a) (II), Colorado Revised
20 Statutes, 1985 Repl. Vol., are amended to read:

21 12-23-115. Inspectors - qualifications.

22 (1) (a) (I) The board DIRECTOR OF THE DIVISION OF
23 REGISTRATIONS is hereby authorized to appoint or employ, with
24 the power of removal, competent persons licensed under this
25 article as journeymen or master electricians with six years'
26 or more experience in the electrical trade or who have passed
27 either the journeyman or the master electrician written

1 examination described in section 12-23-106 as state electrical
2 inspectors. The board DIVISION DIRECTOR is also authorized to
3 appoint or employ, with the power of removal, for the purpose
4 of inspecting one-, two-, three-, or four-family dwellings,
5 competent persons with the following qualifications:

6 (II) Such inspectors may be employed either on a
7 full-time or on a part-time basis as the circumstances in each
8 case shall warrant; except that the board DIVISION DIRECTOR
9 may contract with any electrical inspector regularly engaged
10 as such and certify him to make inspections in a designated
11 area, at such compensation as shall be fixed by the board
12 DIVISION DIRECTOR. State electrical inspectors have the right
13 of ingress and egress to and from all public and private
14 premises during reasonable working hours where this law
15 applies for the purpose of making electrical inspections or
16 otherwise determining compliance with the provisions of this
17 article. In order to avoid conflict of interests, a state
18 electrical inspector hired under this section shall not
19 inspect any electrical work in which such inspector has any
20 financial or other personal interest and shall not be engaged
21 in the electrical business by contracting, supplying material,
22 or performing electrical work as defined in this article.

23 SECTION 15. 12-23-116 (2), (9) (a), (9) (b), and (9)
24 (c), Colorado Revised Statutes, 1985 Repl. Vol., are amended
25 to read:

26 12-23-116. Inspection - application - standards.
27 (2) Any electrical installation in any new construction or

1 remodeling or repair, other than ~~mobile housing inspected in~~
2 ~~accordance with the provisions of parts 7 and 9 of article 32~~
3 ~~of title 24, C.R.S.~~ MANUFACTURED UNITS CERTIFIED BY THE
4 DIVISION OF HOUSING PURSUANT TO SECTION 24-32-715.5, C.R.S.,
5 except in any incorporated town or city, any county, or any
6 city and county having its own electrical code and inspection
7 equal to the minimum standards as are provided in this
8 article, shall be inspected by a state electrical inspector.
9 A state electrical inspector shall inspect any new
10 construction, remodeling, or repair subject to the provisions
11 of this subsection (2) within three working days after the
12 receipt of the application for inspection. If the inspection
13 is not performed within five working days, work may resume on
14 any such construction, repair, or remodeling. Prior to the
15 commencement of any such electrical installation, the person
16 making such installation shall make application for inspection
17 and pay the required fee therefor. Every mobile home or
18 movable structure owner shall have the electric utility hookup
19 for such mobile home or movable structure inspected prior to
20 obtaining new or different utility service; except that
21 nothing in this subsection (2) shall require a reinspection of
22 electrical hookup facilities of any mobile home park or any
23 mobile home or other movable structure by reason of the
24 relocation of a mobile home or other movable structure within
25 the park where a previous inspection has been performed,
26 unless construction or remodeling or repair of such mobile
27 home park hookup facilities or of the mobile home or other

1 movable structure involving the electrical system has been
2 performed, and except that, if such mobile home or movable
3 structure has a valid state electrical board approval sticker
4 in the panel of the mobile home or movable structure with the
5 number of the unit listed, the date inspected, and the
6 inspector's signature and if the wiring thereof has not been
7 altered, the occupant of the mobile home or movable structure
8 may call the board with this information, and the board will
9 authorize the reinstallation of the meter by the utility
10 company.

11 (9) (a) Any person claiming to be aggrieved by the
12 failure of a state electrical inspector to inspect his
13 property after proper application or by notice of disapproval
14 without setting forth the reasons for denying the inspection
15 permit may request the ~~state electrical director~~ PROGRAM
16 ADMINISTRATOR to review the actions of the state electrical
17 inspector or the manner of the inspection. Such request may be
18 made by his authorized representative and shall be in writing.

19 (b) Upon the filing of such a request, the ~~state~~
20 ~~electrical director~~ PROGRAM ADMINISTRATOR shall cause a copy
21 thereof to be served upon the state electrical inspector
22 complained of, together with an order requiring such inspector
23 to answer the allegations of said request within a time fixed
24 by the ~~state electrical director~~ PROGRAM ADMINISTRATOR.

25 (c) If the request is not granted within ten days after
26 it is filed, it may be treated as rejected. Any person
27 aggrieved by the action of the ~~state electrical director~~

1 PROGRAM ADMINISTRATOR in refusing the review requested or in
2 failing or refusing to grant all or part of the relief
3 requested may file a written complaint and request for a
4 hearing with the board, specifying the grounds relied upon.

5 SECTION 16. 12-23-118, Colorado Revised Statutes, 1985
6 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
7 read:

8 12-23-118. Disciplinary action by board - licenses or
9 registrations denied, suspended, or revoked. (1) The board
10 may deny, suspend, revoke, or refuse to renew any license or
11 registration issued or applied for under the provisions of
12 this article or may place a licensee or registrant on
13 probation for any of the following reasons:

14 (a) Violation of any of the provisions of this article;
15 (b) Violation of the rules and regulations or orders
16 promulgated by the board in conformity with the provisions of
17 this article or aiding or abetting in such violation.

18 (c) Failure or refusal to remove within a reasonable
19 time the cause of the disapproval of any electrical
20 installation as reported on the notice of disapproval, but
21 such reasonable time shall include time for appeal to and a
22 hearing before the board;

23 (d) Failure or refusal to maintain or adhere to the
24 minimum standard set forth in rules and regulations adopted by
25 the board pursuant to section 12-23-104 (2) (a);

26 (e) Any cause for which the issuance of the license
27 could have been refused had it then existed and been known to

1 the board;

2 (f) Commitment of one or more acts or omissions that do
3 not meet generally accepted standards of electrical practice;

4 (g) Conviction of or acceptance of a plea of guilty or
5 nolo contendere by a court to a felony. In considering the
6 disciplinary action, the board shall be governed by the
7 provisions of section 24-5-101, C.R.S.

8 (h) Advertising by any licensee or registrant which is
9 false or misleading;

10 (i) Deception, misrepresentation, or fraud in obtaining
11 or attempting to obtain a license;

12 (j) Failure of a master electrician who is charged with
13 supervising all electrical work performed by a contractor
14 pursuant to section 12-23-106 (5) (c) to adequately supervise
15 such work or failure of any licensee to adequately supervise
16 an apprentice who is working at the trade pursuant to section
17 12-23-110.5;

18 (k) Employment of any person required by this article to
19 be licensed or registered or to obtain a permit who has not
20 obtained such license, registration, or permit;

21 (l) Disciplinary action against an electrician's license
22 in another jurisdiction. Evidence of such disciplinary action
23 shall be prima facie evidence for denial of licensure or other
24 disciplinary action if the violation would be grounds for such
25 disciplinary action in this state.

26 (2) When a complaint or an investigation discloses an
27 instance of misconduct which, in the opinion of the board,

1 does not warrant formal action by the board but which should
 2 not be dismissed as being without merit, a letter of
 3 admonition may be sent by certified mail to the licensee or
 4 registrant against whom a complaint was made and a copy
 5 thereof to the person making the complaint, but when a letter
 6 of admonition is sent by certified mail by the board to a
 7 licensee or registrant complained against, such person shall
 8 be advised that he has the right to request in writing, within
 9 twenty days after proven receipt of the letter, that formal
 10 disciplinary proceedings be initiated against him to
 11 adjudicate the propriety of the conduct upon which the letter
 12 of admonition is based. If such request is timely made, the
 13 letter of admonition shall be deemed vacated, and the matter
 14 shall be processed by means of formal disciplinary
 15 proceedings.

16 (3) Any disciplinary action taken by the board and
 17 judicial review of such action shall be in accordance with the
 18 provisions of article 4 of title 24, C.R.S., and the hearing
 19 and opportunity for review shall be conducted pursuant to said
 20 article by the board or an administrative law judge at the
 21 board's discretion.

22 SECTION 17. Article 23 of title 12, Colorado Revised
 23 Statutes, 1985 Repl. Vol., as amended, is amended BY THE
 24 ADDITION OF THE FOLLOWING NEW SECTIONS to read:

25 12-23-118.1. Reapplication after revocation of
 26 licensure. No person whose license has been revoked shall be
 27 allowed to reapply for licensure earlier than two years from

1 the effective date of the revocation.

2 12-23-118.2. Reconsideration and review of board action.

3 The board, on its own motion or upon application, at any time
 4 after the imposition of any discipline as provided for in
 5 section 12-23-118, may reconsider its prior action and
 6 reinstate or restore such license or terminate probation or
 7 reduce the severity of its prior disciplinary action. The
 8 taking of any such further action, or the holding of a hearing
 9 with respect thereto, shall rest in the sole discretion of the
 10 board.

11 12-23-118.3. Immunity. Any member of the board, and any

12 witness appearing before the board or in any criminal
 13 proceeding involving the person who is the subject of
 14 disciplinary action, shall be immune from suit in any civil
 15 action brought by the person who is the subject of the
 16 disciplinary action if such member or witness acts in good
 17 faith. The immunity provided by this section shall also
 18 extend to any person, including consultants and complainants,
 19 participating in good faith in any investigative proceeding
 20 pursuant to this article.

21 SECTION 18. 12-23-119, Colorado Revised Statutes, 1985
 22 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
 23 read:

24 12-23-119. Judicial review. The court of appeals shall
 25 have initial jurisdiction to review all final actions and
 26 orders of the board that are subject to judicial review. Such
 27 proceedings shall be conducted in accordance with section

1 24-4-106 (11), C.R.S.

2 SECTION 19. Part 7 of article 32 of title 24, Colorado
3 Revised Statutes, 1982 Repl. Vol., as amended, is amended BY
4 THE ADDITION OF A NEW SECTION to read:

5 24-32-715.5. Inspections of electrical work -
6 manufactured units. In addition to any other inspection
7 responsibilities, the division shall have the responsibility
8 for the electrical inspections of any manufactured units in
9 plants which are certified by the division pursuant to this
10 part 7.

11 SECTION 20. 24-34-104, Colorado Revised Statutes, 1982
12 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
13 SUBSECTION to read:

14 24-34-104. General assembly review of regulatory
15 agencies for termination, continuation, or reestablishment.
16 (27) The following board in the division of registrations
17 shall terminate on July 1, 1998: The state electrical board,
18 created by article 23 of title 12, C.R.S.

19 SECTION 21. 13-4-102 (2), Colorado Revised Statutes,
20 1987 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH
21 to read:

22 13-4-102. Jurisdiction. (2) (q) Review final actions
23 and orders appropriate for judicial review of the state
24 electrical board, as provided in article 23 of title 12,
25 C.R.S.

26 SECTION 22. Repeal. 12-23-101 (5), 12-23-111 (7), (8),
27 and (9), and 12-23-115 (2), Colorado Revised Statutes, 1985

1 Repl. Vol., as amended, and 24-34-104 (17) (b), Colorado
2 Revised Statutes, 1982 Repl. Vol., as amended, are repealed.

3 SECTION 23. Repeal of rules. (1) To further the
4 general assembly's intent as expressed in section 24-34-913
5 (4.5), Colorado Revised Statutes, the following rules and
6 regulations of the state electrical board are hereby expressly
7 repealed:

8 (a) Rule I.A., concerning dates for board meetings (3
9 CCR 710-1);

10 (b) Rule II.A.1., concerning examination dates (3 CCR
11 710-1);

12 (c) Rule II.B., concerning restrictions of reexamination
13 (3 CCR 710-1);

14 (d) Rule II.C., concerning examination failure (3 CCR
15 710-1);

16 (e) Rule II.D., concerning examination review (3 CCR
17 710-1);

18 (f) Rule III.A.4., concerning eligibility for temporary
19 permits (3 CCR 710-1);

20 (g) Rule IV.D., concerning applications for electrical
21 contractor licenses (3 CCR 710-1);

22 (h) Rule IV.E., concerning notarization of documents
23 submitted for verification of work experience (3 CCR 710-1);

24 (i) Rule V.B., concerning low voltage and signal systems
25 (3 CCR 710-1).

26 SECTION 24. Effective date. This act shall take effect
27 July 1, 1988.

1 SECTION 25. Safety clause. The general assembly hereby
2 finds, determines, and declares that this act is necessary
3 for the immediate preservation of the public peace, health,
4 and safety.

A BILL FOR AN ACT

1 CONCERNING THE PRACTICE OF PLUMBING, AND IN CONNECTION
2 THEREWITH PROVIDING FOR THE CONTINUATION OF THE EXAMINING
3 BOARD OF PLUMBERS AND REPEALING VARIOUS RULES AND
4 REGULATIONS OF SUCH BOARD.

Bill Summary

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

Provides for the continuation of the examining board of plumbers and makes various changes in the statutes concerning the practice of plumbers, including the following: Amends the definition of "plumbing"; limits tenure on the board and permits the governor to remove members for various types of behavior; gives the board additional investigatory authority and permits injunctions to be issued without a showing that other remedies are inadequate; makes the Colorado plumbing code the standard upon which all local plumbing codes must be based; requires that disciplinary action by the board be taken pursuant to the "State Administrative Procedure Act"; permits the board to appoint an administrative law judge to conduct hearings if so desired; removes directives regarding license renewals; specifies additional means of obtaining credit toward licensure; adds several exemptions to regulation under the article; adds additional grounds for disciplinary action by the board and authorizes it to issue letters of admonition, to place violators on probation, and to reconsider its decisions; gives the board and various other individuals immunity against legal actions by a licensee for actions taken in good faith; authorizes the board to assess fines for violations; and gives the court of appeals initial

jurisdiction over final actions by the board. In addition, establishes a program for the inspection of plumbing and gas piping installations which includes the issuing of permits, the collection of inspection fees, and the use of state and local inspectors.

Repeals rules and regulations of the board which conflict with or exceed its statutory authority.

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

2 SECTION 1. 12-58-102 (5) and (7), Colorado Revised
3 Statutes, 1985 Repl. Vol., are amended, and the said
4 12-58-102 is further amended BY THE ADDITION OF A NEW
5 SUBSECTION, to read:

6 12-58-102. Definitions. (1.5) "Gas piping" means any
7 arrangement of piping used to convey fuel gas, supplied by one
8 meter, and each arrangement of gas piping serving a building,
9 structure, or premises, whether individually metered or not.
10 "Gas piping" or "gas piping system" does not include the
11 installation of gas appliances where existing service
12 connections are already installed, nor does such term include
13 the installations, alterations, or maintenance of gas
14 utilities owned by a public utility certified pursuant to
15 article 5 of title 40, C.R.S., or a public utility owned or
16 acquired by a city or town pursuant to article 32 of title 31,
17 C.R.S.

18 (5) (a) "Plumbing" includes the following items located
19 within ~~or adjacent to~~ the building OR EXTENDING FROM THE
20 BUILDING TO THE PROPERTY LINE: All potable water supply and
21 distribution pipes and piping, all plumbing fixtures and
22 traps, all drainage and vent pipes, and all building drains,

1 including their respective joints and connections, devices,
 2 receptacles, and appurtenances. "Plumbing" does not include:
 3 The installation, extension, alteration, or maintenance,
 4 including the related water piping and the indirect waste
 5 piping therefrom, of domestic appliances equipped with
 6 backflow preventers, including lawn sprinkling systems,
 7 residential ice makers, humidifiers, electrostatic filter
 8 washers, water heating appliances, water conditioning
 9 appliances not directly connected to the sanitary sewer
 10 system, building heating appliances and systems, fire
 11 protection systems, air conditioning installations, process
 12 and industrial equipment and piping systems, or indirect
 13 drainage systems not a part of a sanitary sewer system or the
 14 repair and replacement of garbage disposal units and
 15 dishwashers directly connected to the sanitary sewer system,
 16 including the necessary replacement of all tail pipes and
 17 traps, or the repair, maintenance, and replacement of sinks,
 18 faucets, drains, showers, tubs, and toilets.

19 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
 20 THIS SUBSECTION (5), THE FOLLOWING SHALL NOT BE INCLUDED
 21 WITHIN THE DEFINITION OF "PLUMBING":

22 (I) INSTALLATIONS, EXTENSIONS, IMPROVEMENTS, REMODELING,
 23 ADDITIONS, AND ALTERATIONS IN WATER AND SEWER SYSTEMS OWNED OR
 24 ACQUIRED BY COUNTIES PURSUANT TO ARTICLE 20 OF TITLE 30,
 25 C.R.S., CITIES AND TOWNS PURSUANT TO ARTICLE 35 OF TITLE 31,
 26 C.R.S., OR WATER AND SANITATION DISTRICTS PURSUANT TO ARTICLE
 27 4 OF TITLE 32 C.R.S.; OR

1 (II) INSTALLATIONS, EXTENSIONS, IMPROVEMENTS,
 2 REMODELING, ADDITIONS, AND ALTERATIONS PERFORMED BY
 3 CONTRACTORS EMPLOYED BY COUNTIES, CITIES, TOWNS, OR WATER AND
 4 SEWER DISTRICTS WHICH CONNECT TO THE PLUMBING SYSTEM WITHIN A
 5 PROPERTY LINE; OR

6 (III) PERFORMANCE, LOCATION, CONSTRUCTION, ALTERATION,
 7 INSTALLATION, AND USE OF INDIVIDUAL SEWAGE DISPOSAL SYSTEMS
 8 PURSUANT TO ARTICLE 10 OF TITLE 25, C.R.S., WHICH ARE LOCATED
 9 WITHIN A PROPERTY LINE.

10 (7) "Plumbing contractor" means any person, firm,
 11 partnership, corporation, association, or other organization
 12 who undertakes or offers to undertake for another the
 13 planning, laying out, supervising, installing, or making of
 14 additions, alterations, and repairs in the installation of
 15 plumbing. In order to act as a plumbing contractor, the
 16 person, firm, partnership, corporation, association, or other
 17 organization must either be or employ full-time a master
 18 plumber.

19 SECTION 2. 12-58-103 (2) and (3), Colorado Revised
 20 Statutes, 1985 Repl. Vol., are amended to read:

21 12-58-103. Examining board of plumbers - creation -
 22 termination. (2) (a) The board shall consist of seven
 23 appointed members, one of whom shall be a journeyman plumber,
 24 one a master plumber, two engaged in the construction of
 25 residential or commercial buildings as plumbing contractors,
 26 one engaged in the construction of residential or commercial
 27 buildings as a general contractor, one a member or employee of

1 a local government agency conducting plumbing inspections, and
2 one appointed from the public at large, and a representative
3 of the department of health as an ex officio nonvoting member.

4 At least ~~two of such members~~ ONE MEMBER shall be residents A
5 RESIDENT of the western slope of the state, defined as that
6 western part of the state separated from the eastern part of
7 the state by the continental divide.

8 (b) ALL APPOINTEES SHALL BE LIMITED TO TWO FULL TERMS
9 EACH.

10 (c) A MAJORITY OF THE BOARD SHALL CONSTITUTE A QUORUM
11 FOR THE TRANSACTION OF ALL BUSINESS.

12 (3) (a) The governor, with power of removal, shall
13 appoint the members of the board, subject to confirmation by
14 the senate; except that the five members serving on June 30,
15 1982, shall continue to serve until the expiration of their
16 respective terms of office. The governor shall appoint one
17 additional member to serve until July 1, 1983, and another
18 additional member to serve until July 1, 1986. Thereafter,
19 members shall be appointed for four-year terms. Any vacancy
20 occurring in the membership of the board shall be filled by
21 the governor by appointment for the unexpired term of such
22 member.

23 (b) THE GOVERNOR MAY REMOVE ANY MEMBER OF THE BOARD FOR
24 MISCONDUCT, INCOMPETENCE, OR NEGLECT OF DUTY.

25 SECTION 3. The introductory portion to 12-58-104 (1),
26 and 12-58-104 (1) (e), Colorado Revised Statutes, 1985 Repl.
27 Vol., are amended, and the said 12-58-104 (1) is further

1 amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to
2 read:

3 12-58-104. Powers of board. (1) IN ADDITION TO ALL
4 OTHER POWERS AND DUTIES CONFERRED OR IMPOSED UPON THE BOARD BY
5 THIS ARTICLE, the board is authorized and empowered to:

6 (e) In accordance with the provisions of article 4 of
7 title 24, C.R.S., prescribe, enforce, amend, and repeal rules
8 and regulations governing the plumbing, drainage, sewerage,
9 and plumbing ventilation of all buildings in this state; and
10 ~~establish--a--Colorado--plumbing--code--as--defined--in--section~~
11 ~~12-58-102-(4),--except--in--those--local--jurisdictions--which--have~~
12 ~~adopted--their--own--plumbing--code;~~

13 (g) Subpoena records and documents and compel the
14 attendance of witnesses pursuant to an investigation or a
15 hearing of the board;

16 (h) Conduct hearings in accordance with the provisions
17 of section 24-4-105, C.R.S.; except that the board may appoint
18 an administrative law judge pursuant to part 10 of article 30
19 of title 24, C.R.S., to conduct such hearings;

20 (i) Cause the enjoinder, in any court of competent
21 jurisdiction, of all persons violating this article. When
22 seeking an injunction, the board shall not be required to
23 prove that an adequate remedy at law does not exist or that
24 substantial or irreparable damages would result if an
25 injunction is not granted.

26 (j) Inspect gas pipe installations pursuant to the
27 provisions of section 12-58-114.5.

-72-

1 SECTION 4. Article 58 of title 12, Colorado Revised
2 Statutes, 1985 Repl. Vol., as amended, is amended BY THE
3 ADDITION OF THE FOLLOWING NEW SECTIONS to read:
4 12-58-104.5. Colorado plumbing code - amendments -
5 variances. (1) In accordance with the provisions of article
6 4 of title 24, C.R.S., the board shall establish a Colorado
7 plumbing code as defined in section 12-58-102 (4). Such code
8 shall represent the minimum standards for installation,
9 alteration, and repair of plumbing equipment and systems
10 throughout the state.
11 (2) Local governments shall be permitted to amend the
12 code when adopting a plumbing code for their jurisdictions as
13 long as amendments are not less stringent than the minimum
14 requirements set forth in the Colorado plumbing code.
15 (3) If petitioned, the board shall annually hold public
16 hearings to consider amendments to the Colorado plumbing code.
17 (4) The board is authorized to review and approve
18 requests for exceptions to the code in unique construction
19 situations where a strict interpretation of the code would
20 result in unreasonable operational conditions or unreasonable
21 economic burdens.
22 12-58-104.6. Program administrator. The director of the
23 division of registrations may appoint a program administrator
24 pursuant to section 13 of article XII of the state
25 constitution to work with the board in carrying out its duties
26 under this article.
27 SECTION 5. 12-58-105 (2), Colorado Revised Statutes,

1 1985 Repl. Vol., as amended, is amended to read:
2 12-58-105. Plumber must have license - control and
3 supervision. (2) (a) All plumbing apprentices working for
4 plumbing contractors pursuant to this article AND ALL
5 APPRENTICES WORKING UNDER THE SUPERVISION OF ANY LICENSED
6 PLUMBER PURSUANT TO SECTION 12-58-117 shall, within thirty
7 days after the date of actual INITIAL employment, register BE
8 REGISTERED with the board. ~~upon payment of the registration~~
9 ~~fee determined by the board.~~
10 (b) THE EMPLOYER OF A PLUMBING APPRENTICE SHALL BE
11 RESPONSIBLE FOR SUCH APPRENTICE'S REGISTRATION WITH THE BOARD.
12 (c) NO APPRENTICE SHALL BE REGISTERED UNTIL PAYMENT OF A
13 REGISTRATION OR REGISTRATION RENEWAL FEE, AS DETERMINED BY THE
14 BOARD, HAS BEEN MADE.
15 SECTION 6. 12-58-106, Colorado Revised Statutes, 1985
16 Repl. Vol., is amended to read:
17 12-58-106. Unauthorized use of title of plumber. No
18 person shall advertise in any manner or use the title or
19 designation of master plumber, journeyman plumber, or
20 residential plumber unless he is qualified and licensed under
21 this article. ~~and unless he is identified by the number of the~~
22 ~~license issued to him by the board.~~
23 SECTION 7. 12-58-107 (1) and (3), Colorado Revised
24 Statutes, 1985 Repl. Vol., are amended to read:
25 12-58-107. License issuance - examination. (1) (a) The
26 board shall issue licenses to persons who have by examination
27 and experience shown themselves fit, competent and qualified

1 to engage in the business, trade, or calling of a residential
 2 plumber, journeyman plumber, or master plumber. The board
 3 shall establish the minimum level of experience required for
 4 an applicant to receive a residential, journeyman, or master
 5 plumber's license. The maximum experience the board may
 6 require for an applicant to qualify to receive a residential
 7 plumber's license is two years or three thousand four hundred
 8 hours of practical experience. The maximum experience the
 9 board may require for an applicant to qualify to receive a
 10 journeyman plumber's license is four years or six thousand
 11 eight hundred hours of practical experience. An applicant for
 12 a master plumber's license shall furnish evidence that he has
 13 ~~one--year~~ FIVE YEARS of practical experience. ~~as-a-journeyman~~
 14 ~~plumber-in-addition-to-the-practical--experience--requirements~~
 15 ~~for-the-journeyman's-license.~~

16 (b) ANY APPLICANT FOR A RESIDENTIAL, JOURNEYMAN, OR
 17 MASTER PLUMBER'S LICENSE SHALL BE PERMITTED TO SUBSTITUTE
 18 EVIDENCE THAT HE IS A GRADUATE FROM EITHER A TRADE SCHOOL OR
 19 COMMUNITY COLLEGE PLUMBING PROGRAM FOR ONE YEAR OF THE WORK
 20 EXPERIENCE REQUIRED FOR LICENSURE.

21 (c) NO LICENSE SHALL ISSUE UNTIL THE APPLICANT HAS PAID
 22 A LICENSE FEE SET BY THE BOARD PURSUANT TO SECTION 24-34-105,
 23 C.R.S.

24 (3) The contents of the examinations provided for in
 25 this section shall be determined by the board. The
 26 examination shall be administered by the board or its
 27 authorized agent pursuant to rules prescribed by the board.

1 Each examination shall be designed and given in such a manner
 2 as to fairly test the applicant's knowledge of plumbing and
 3 rules and regulations governing plumbing. Examinations may
 4 include written tests and applied tests of the practices which
 5 the license will qualify the applicant to perform and such
 6 related studies or subjects as the board may determine are
 7 necessary for the proper and efficient performance of such
 8 practices. Such examinations shall be consistent with current
 9 practical and theoretical requirements of the practice of
 10 plumbing and shall be reviewed, revised, and updated on an
 11 annual basis by the board. THE BOARD SHALL ENSURE THAT THE
 12 EXAMINATION PASSING GRADE REFLECTS A MINIMUM LEVEL OF
 13 COMPETENCY.

14 SECTION 8. Article 58 of title 12, Colorado Revised
 15 Statutes, 1985 Repl. Vol., as amended, is amended BY THE
 16 ADDITION OF A NEW SECTION to read:

17 12-58-107.5. Credit for experience exempted from
 18 licensure. The board shall give all applicants seeking work
 19 experience credit for licensure credit for work performed
 20 under supervision in facilities where such work is exempt from
 21 licensure under this article unless the board can show that
 22 the training or supervision received at such location is
 23 inadequate.

24 SECTION 9. 12-58-108, Colorado Revised Statutes, 1985
 25 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
 26 read:

27 12-58-108. License renewal - reinstatement. (1) All

1 license renewal and renewal fees shall be in accordance with
2 the provisions of sections 24-34-102 and 24-34-105, C.R.S.

3 (2) Any license that has lapsed shall be deemed to have
4 expired. Prior to reinstatement, the board is authorized to
5 require the licensee to demonstrate competency after two years
6 if the board determines that such a showing is necessary and
7 to require the payment of the appropriate fee.

8 SECTION 10. 12-58-110, Colorado Revised Statutes, 1985
9 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
10 read:

11 12-58-110. Disciplinary action by board - licenses or
12 registrations denied, suspended, or revoked. (1) The board
13 may deny, suspend, revoke, or refuse to renew any license or
14 registration issued or applied for under the provisions of
15 this article or place a licensee on probation for any of the
16 following reasons:

17 (a) Violation of any of the provisions of this article;

18 (b) Violation of the rules and regulations or orders
19 promulgated by the board in conformity with the provisions of
20 this article or aiding or abetting in such violation;

21 (c) Failure or refusal to remove within a reasonable
22 time the cause for disapproval of any plumbing installation as
23 reported on the notice of disapproval, but such reasonable
24 time shall include time for appeal to and a hearing before the
25 board;

26 (d) Any cause for which the issuance of the license
27 could have been refused had it then existed and been known to

1 the board;

2 (e) Commitment of any act or omission that does not meet
3 generally accepted standards of plumbing practice;

4 (f) Conviction of or acceptance of a plea of guilty or
5 nolo contendere by a court to a felony. In considering the
6 disciplinary action, the board shall be governed by the
7 provisions of section 24-5-101, C.R.S.

8 (g) Advertising by any licensee or registrant which is
9 false or misleading;

10 (h) Deception, misrepresentation, or fraud in obtaining
11 or attempting to obtain a license;

12 (i) Failure of any such licensee to adequately
13 supervise an apprentice who is working at the trade pursuant
14 to section 12-58-117;

15 (j) Failure of any licensee to report to the board:

16 (I) Known violations of this article;

17 (II) Civil judgments and settlements which arose from
18 such licensee's work performance;

19 (k) Employment of any person required by this article to
20 be licensed or to obtain a permit who has not obtained such
21 license or permit;

22 (l) Habitual intemperance to or excessive use of any
23 habit-forming drug, as defined in section 12-22-102 (13), any
24 controlled substance, as defined in section 12-22-303 (7), or
25 any alcoholic beverage;

26 (m) Any use of a schedule I controlled substance, as
27 defined in section 12-22-309;

1 (n) Disciplinary action against a plumber's license in
 2 another jurisdiction. Evidence of such disciplinary action
 3 shall be prima facie evidence for denial of licensure or other
 4 disciplinary action if the violation would be grounds for such
 5 disciplinary action in this state.

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

23 (3) Any disciplinary action taken by the board and
 24 judicial review of such action shall be in accordance with the
 25 provisions of article 4 of title 24, C.R.S., and the hearing
 26 and opportunity for review shall be conducted pursuant to said
 27 article by the board or an administrative law judge at the

1 board's discretion.

2 SECTION 11. Article 58 of title 12, Colorado Revised
 3 Statutes, 1985 Repl. Vol., as amended, is amended BY THE
 4 ADDITION OF THE FOLLOWING NEW SECTIONS to read:

5 12-58-110.1. Reapplication after revocation of
 6 licensure. No person whose license has been revoked shall be
 7 allowed to reapply for licensure earlier than two years from
 8 the effective date of the revocation.

9 12-58-110.2. Reconsideration and review of board action.
 10 The board, on its own motion or upon application, at any time
 11 after the imposition of any discipline as provided for in
 12 section 12-58-110, may reconsider its prior action and
 13 reinstate or restore such license or terminate probation or
 14 reduce the severity of its prior disciplinary action. The
 15 taking of any such further action, or the holding of a hearing
 16 with respect thereto, shall rest in the sole discretion of the
 17 board.

18 12-58-110.3. Immunity. Any member of the board, and any
 19 witness appearing before the board or in any criminal
 20 proceeding involving the person who is the subject of
 21 disciplinary action, shall be immune from suit in any civil
 22 action brought by the person who is the subject of the
 23 disciplinary action if such member or witness acts in good
 24 faith. The immunity provided by this section shall also
 25 extend to any person, including consultants and complainants,
 26 participating in good faith in any investigative proceeding
 27 pursuant to this article.

1 12-58-110.4. Judicial review. The court of appeals
2 shall have initial jurisdiction to review all final actions
3 and orders that are subject to judicial review of the board.
4 Such proceedings shall be conducted in accordance with section
5 24-4-106 (11), C.R.S.

6 SECTION 12. 12-58-111, Colorado Revised Statutes, 1985
7 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
8 read:

9 12-58-111. License by endorsement. The board may issue
10 a plumber's license by endorsement in this state to any person
11 who is licensed to practice in another jurisdiction if such
12 person presents proof satisfactory to the board that, at the
13 time of application for a Colorado license by endorsement, the
14 person possesses credentials and qualifications which are
15 substantially equivalent to requirements in Colorado for
16 licensure by examination. The board may specify by rule and
17 regulation what shall constitute substantially equivalent
18 credentials and qualifications.

19 SECTION 13. 12-58-112 (1) and (4), Colorado Revised
20 Statutes, 1985 Repl. Vol., are amended to read:

21 12-58-112. Temporary permits. (1) The board or its
22 authorized agent may issue a temporary permit to engage in the
23 work of a journeyman plumber or a residential plumber to any
24 applicant who has furnished satisfactory evidence to the board
25 that he has the required experience to qualify for the
26 examination, as provided in the rules and regulations
27 promulgated by the board, and who has applied for an

1 examination to entitle him to such license. IN ADDITION, AND
2 IN A SIMILAR MANNER, THE BOARD OR ITS AUTHORIZED AGENT SHALL
3 ISSUE A TEMPORARY PERMIT TO ANY APPLICANT WHO FURNISHES
4 EVIDENCE SATISFACTORY TO THE BOARD THAT HE QUALIFIES FOR A
5 MASTER PLUMBER'S LICENSE AND WHO PAYS THE REQUIRED FEE.

6 (4) Notwithstanding the requirements set forth in
7 section 12-58-107 (1), a temporary master permit may be issued
8 to an existing plumbing contractor who has lost the services
9 of his master plumber for completion of a current project
10 underway as long as he has a journeyman plumber in his
11 ~~full-time~~ employ. This shall only be valid until the next
12 regularly scheduled examination.

13 SECTION 14. 12-58-113, Colorado Revised Statutes, 1985
14 Repl. Vol., is amended BY THE ADDITION OF THE FOLLOWING NEW
15 SUBSECTIONS to read:

16 12-58-113. Exemptions. (4) Persons who are approved by
17 the department of health pursuant to section 25-1-114, C.R.S.,
18 and who are engaged in the business of inspecting, testing,
19 and repairing backflow prevention devices shall be exempt from
20 licensure under this article, except when such persons engage
21 in the installation and removal of such devices.

22 (5) Nothing in this article shall be construed to
23 require either that employees of the federal government who
24 perform plumbing work on federal property shall be required to
25 be licensed before doing plumbing work on such property or
26 that the plumbing work performed on such property shall be
27 regulated pursuant to this article.

1 SECTION 15. Article 58 of title 12, Colorado Revised
2 Statutes, 1985 Repl. Vol., as amended, is amended BY THE
3 ADDITION OF THE FOLLOWING NEW SECTIONS to read:

4 12-58-114.2. State plumbing inspectors. (1) The
5 director of the division of registrations is authorized to
6 appoint or employ competent persons as state plumbing
7 inspectors.

8 (2) Such inspectors may be employed either on a
9 full-time or on a part-time basis as the circumstances in each
10 case warrant. State plumbing inspectors have the right of
11 ingress and egress to and from all public and private premises
12 during reasonable working hours where this article applies for
13 the purpose of making plumbing inspections or otherwise
14 determining compliance with the provisions of this article.

15 12-58-114.5. Inspection - application - standards.
16 (1) Any plumbing or gas piping installation in any new
17 construction or remodeling or repair, other than manufactured
18 units inspected in accordance with the provisions of part 7 of
19 article 32 of title 24, C.R.S., except in any incorporated
20 town or city, any county, or any city and county having its
21 own plumbing code and inspection equal to the minimum
22 standards as are provided in this article, shall be inspected
23 by a state plumbing inspector. A state plumbing inspector
24 shall inspect any new construction, remodeling, or repair
25 subject to the provisions of this subsection (1) within three
26 working days after the receipt of the application for
27 inspection. If the inspection is not performed within five

1 working days, work may resume on any such construction,
2 repair, or remodeling. Prior to the commencement of any such
3 plumbing or gas piping installation, the person making such
4 installation shall make application for inspection and pay the
5 required fee therefor. Every mobile home or movable structure
6 owner shall have the plumbing and gas piping hookup for such
7 mobile home or movable structure inspected prior to obtaining
8 new or different plumbing or gas service.

9 (2) A state plumbing inspector shall inspect the work
10 performed, and, if such work meets the minimum standards set
11 forth in the Colorado plumbing code referred to in section
12 12-58-104.5, a certificate of approval shall be issued by the
13 inspector. If such installation is disapproved, written
14 notice thereof together with the reasons for such disapproval
15 shall be given by the inspector to the applicant. If such
16 installation is hazardous to life or property, the inspector
17 disapproving it may order the plumbing or gas service thereto
18 discontinued until such installation is rendered safe. The
19 applicant may appeal such disapproval to the board and shall
20 be granted a hearing by the board within seven days after
21 notice of appeal is filed with the board. After removal of
22 the cause of such disapproval, the applicant shall make
23 application for reinspection in the same manner as for the
24 original inspection and pay the required reinspection fee.

25 (3) (a) All inspection permits issued by the board
26 shall be valid for a period of twelve months, and the board
27 shall cancel the permit and remove it from its files at the

1 end of the twelve-month period, except in the following
2 circumstances:

3 (I) If an applicant makes a showing at the time of
4 application for a permit that the plumbing or gas piping work
5 is substantial and is likely to take longer than twelve
6 months, the board may issue a permit to be valid for a period
7 longer than twelve months, but not exceeding three years.

8 (II) If the applicant notifies the board prior to the
9 expiration of the twelve-month period of extenuating
10 circumstances, as determined by the board, during the
11 twelve-month period, the board may extend the validity of the
12 permit for a period not to exceed six months.

13 (b) If an inspection is requested by an applicant after
14 a permit has expired or has been cancelled, a new permit must
15 be applied for and granted before an inspection is performed.

16 (4) Each application, certificate of approval, and
17 notice of disapproval shall contain the name of the property
18 owner, if known, the location and a brief description of the
19 installation, the name of the general contractor if any, the
20 name of the plumbing contractor or licensed plumber and state
21 license number, the state plumbing inspector, and the
22 inspection fee charged for the inspection. The original of a
23 notice of disapproval and written reasons for disapproval and
24 corrective actions to be taken shall be mailed to the board,
25 and a copy of such notice shall be mailed to the plumbing
26 contractor, within two working days after the date of
27 inspection, and a copy of the notice shall be posted at the

1 installation site. Such forms shall be furnished by the
2 board, and a copy of each application, certificate, and notice
3 made or issued shall be filed with the board.

4 (5) Notwithstanding the fact that any incorporated town
5 or city, any county, or any city and county in which a public
6 school is located or is to be located has its own plumbing
7 code and inspection authority, any plumbing or gas piping
8 installation in any new construction or remodeling or repair
9 of a public school shall be inspected by a state plumbing
10 inspector.

11 (6) In the event that any incorporated town or city, any
12 county, or any city and county intends to commence or cease
13 performing plumbing or gas piping inspections in its
14 respective jurisdiction, written notice of such intent shall
15 be given to the board.

16 (7) (a) Any person claiming to be aggrieved by the
17 failure of a state plumbing inspector to inspect his property
18 after proper application or by notice of disapproval without
19 setting forth the reasons for denying the inspection permit,
20 may request the program administrator to review the actions of
21 the plumbing inspector or the manner of the inspection. Such
22 request may be made by his authorized representative and shall
23 be in writing.

24 (b) Upon the filing of such a request, the program
25 administrator shall cause a copy thereof to be served upon
26 the state plumbing inspector complained of, together with an
27 order requiring such inspector to answer the allegations of

1 said request within a time fixed by the program administrator.

2 (c) If the request is not granted within ten days after
3 it is filed, it may be treated as rejected. Any person
4 aggrieved by the action of the program administrator in
5 refusing the review requested or in failing or refusing to
6 grant all or part of the relief requested may file a written
7 complaint and request for a hearing with the board, specifying
8 the grounds relied upon.

9 (d) Any hearing before the board shall be held pursuant
10 to the provisions of section 24-4-105, C.R.S.

11 SECTION 16. 12-58-115, Colorado Revised Statutes, 1985
12 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
13 read:

14 12-58-115. Municipal and county regulations. (1) Any
15 city, town, county, or city and county of this state may
16 provide for the licensing of plumbing contractors.

17 (2) No local government agency may promulgate rules or
18 regulations or provide for licenses which would preclude the
19 holder of a valid license issued under this article from
20 practicing his trade.

21 SECTION 17. Article 58 of title 12, Colorado Revised
22 Statutes, 1985 Repl. Vol., as amended, is amended BY THE
23 ADDITION OF A NEW SECTION to read:

24 12-58-116.5. Violation - fines. (1) Notwithstanding
25 the provisions of section 12-58-116, the board shall have
26 authority to assess a fine for any violation of the provisions
27 of this article or any standard, rule, or regulation adopted

1 by the board.

2 (2) Such fine shall not be less than five hundred
3 dollars or greater than one thousand dollars and shall be
4 transmitted to the state treasurer, who shall credit the same
5 to the general fund.

6 (3) All fines shall be imposed in accordance with the
7 provisions of section 24-4-105, C.R.S.

8 SECTION 18. Article 1 of title 10, Colorado Revised
9 Statutes, 1987 Repl. Vol., is amended BY THE ADDITION OF A NEW
10 SECTION to read:

11 10-1-124.6. Reporting of claims against plumbers. Each
12 insurance company licensed to do business in this state and
13 engaged in the writing of insurance for plumbers shall send
14 within ninety days to the examining board of plumbers, in the
15 form prescribed by the commissioner, information relating to
16 each malpractice claim against a licensed plumber which is
17 settled or in which judgment is rendered against the insured.

18 SECTION 19. 13-4-102 (2), Colorado Revised Statutes,
19 1987 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH
20 to read:

21 13-4-102. Jurisdiction. (2) (q) Review final actions
22 and orders appropriate for judicial review of the examining
23 board of plumbers.

24 SECTION 20. 24-34-104, Colorado Revised Statutes, 1982
25 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
26 SUBSECTION to read:

27 24-34-104. General assembly review of regulatory

1 agencies for termination, continuation, or reestablishment.

2 (27) The following board in the division of registrations
3 shall terminate on July 1, 1998: The examining board of
4 plumbers, created by article 58 of title 12, C.R.S.

5 SECTION 21. Repeal. 12-58-109, Colorado Revised
6 Statutes, 1985 Repl. Vol., and 23-34-104 (17) (e), Colorado
7 Revised Statutes, 1982 Repl. Vol., as amended, are repealed.

8 SECTION 22. Repeal of rules. (1) To further the
9 general assembly's intent as expressed in section 24-34-913
10 (4.5), Colorado Revised Statutes, the following rules and
11 regulations of the examining board of plumbers are hereby
12 expressly repealed:

13 (a) Rule IV.A.1., concerning examination dates (3 CCR
14 720-1);

15 (b) Rule VI.C.3., concerning notarization of documents
16 submitted for verification of work experience (3 CCR 720-1);

17 (c) Rule VII.5., concerning the simultaneous possession
18 of both a journeyman and master license (3 CCR 720-1);

19 (d) Rule IX, concerning reciprocal licensing (3 CCR
20 720-1).

21 SECTION 23. Effective date. This act shall take effect
22 July 1, 1988.

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

A BILL FOR AN ACT

1 CONCERNING REGISTRATION OF OUTFITTERS AND GUIDES.

Bill Summary

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

Provides for registration of outfitters and guides to be administered by the department of regulatory agencies and prohibits acting as an outfitter or guide without registration. Excludes those persons acting as outfitters on their own land from coverage under the law. Requires payment of certain fees, first aid training, and liability insurance for registration. Authorizes the department to promulgate rules and regulations, to utilize compulsory process, to apply for injunctive relief against violators of the act, and to appoint an advisory committee. Lists grounds for denial or revocation of registration. Provides criminal penalties for violation of the article and authorizes the department to fine violators. Requires agreements for outfitting services to be written and to include certain information. Makes contracts for outfitting services with unregistered outfitters or guides unenforceable and declares equipment used in such transactions to be a public nuisance subject to seizure, confiscation, and forfeiture or destruction. Authorizes peace officers to enforce the act.

Establishes a recovery fund to be created through fees paid by outfitters and provides for payment from the fund upon final court order against a registered outfitter for breach of contract for a failure to perform a contract for outfitting services. Gives various individuals immunity from liability in civil actions for actions taken under the act if certain conditions are met.

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

2 SECTION 1. Article 55.5 of title 12, Colorado Revised
3 Statutes, 1985 Repl. Vol., as amended, is REPEALED AND
4 REENACTED, WITH AMENDMENTS, to read:

5 ARTICLE 55.5

6 Outfitters and Guides

7 PART 1

8 GENERAL PROVISIONS

9 12-55.5-101. Legislative declaration. It is the intent
10 of the general assembly to promote and encourage residents and
11 nonresidents alike to participate in the enjoyment and use of
12 the mountains, rivers, and streams of Colorado and the state's
13 fish and game and, to that end, in the exercise of the police
14 power of this state for the purpose of safeguarding the
15 health, safety, welfare, and freedom from injury or danger of
16 such residents and nonresidents, to register and regulate
17 those persons who, for compensation, provide equipment or
18 personal services to such residents and nonresidents for the
19 purpose of hunting and fishing. It is neither the intent of
20 the general assembly to interfere in any way with the business
21 of livestock operations or to prevent such livestock operators
22 or owners from loaning or leasing buildings or animals to
23 persons, nor is it intended to prevent said owner or operator
24 from accompanying a person or persons on land that he owns or
25 operates, nor is it the intent of the general assembly to
26 interfere in any way with the general public's ability to
27 enjoy the recreational value of Colorado's mountains, rivers,

1 and streams when the services of commercial outfitters are not
2 utilized nor to interfere with the right of the United States
3 to manage the public lands under its control.

4 12-55.5-102. Definitions. As used in this article,
5 unless the context otherwise requires:

6 (1) "Department" means the department of regulatory
7 agencies.

8 (2) "Guide" means any individual employed for
9 compensation by an outfitter for the purpose of guiding,
10 leading, or assisting any other individual to and from a given
11 place.

12 (3) "Outfitter" means any individual soliciting to
13 provide or providing, for compensation, facilities, guide
14 services, or transportation for the purpose of hunting or
15 fishing on land he does not own. "Outfitter" does not include
16 an individual whose only service is providing motor vehicles,
17 horses, or other equipment for rent.

18 (4) "Person" means an individual, firm, association,
19 partnership, corporation, or other legal entity.

20 12-55.5-103. Registration required - fees. (1) No
21 individual shall engage in activities as an outfitter or as a
22 guide or advertise in any publication or represent himself as
23 an outfitter or guide unless he first obtains a certificate of
24 registration from the department and unless such certificate
25 of registration is in full force and effect and in such
26 individual's immediate possession. No individual shall
27 continue to act as an outfitter or guide if such registration

1 has been revoked or has expired.

2 (2) An applicant for registration as an outfitter or
3 guide shall follow the procedures provided in section
4 12-55.5-105 and any other procedures required by the
5 department. All applicants shall pay a nonrefundable
6 registration fee to be determined by the department, which fee
7 shall be adequate to cover the direct and indirect expenses
8 incurred for implementation of the provisions of this article.
9 Such registration shall be renewed upon payment of said fee.
10 In addition, the outfitter applicant or registrant shall pay
11 an additional fee to be credited to the outfitting recovery
12 fund, as provided in part 2 of this article.

13 12-55.5-104. Powers and duties of the department.

14 (1) In addition to all other powers and duties conferred or
15 imposed upon the department by this article or by any other
16 law, the department:

17 (a) May promulgate rules and regulations to govern the
18 registration of outfitters and guides and to carry out the
19 purposes of this article;

20 (b) To aid in any hearing or investigation instituted
21 pursuant to this article, shall have the power to issue
22 subpoenas to compel the attendance and testimony of witnesses
23 and the production of books, client records, and papers and
24 shall also have the power to issue subpoenas commanding the
25 production of copies of any records containing information
26 relevant to the outfitting activities of any guide or
27 outfitter;

1 (c) Is authorized to apply for injunctive relief, in the
2 manner provided by the Colorado rules of civil procedure, to
3 enforce the provisions of this part 1 or to restrain any
4 violation thereof. In such proceedings, it shall not be
5 necessary to allege or prove either that an adequate remedy at
6 law does not exist or that substantial or irreparable damage
7 would result from the continued violation thereof.

8 12-55.5-105. Issuance of certificate of registration -
9 violations. (1) The department shall issue an initial or
10 renewed certificate of registration as an outfitter to any
11 individual who pays the required fee and furnishes evidence
12 satisfactory to the department that he:

13 (a) Is twenty-one years of age or older;

14 (b) Holds a valid instructor's card in first aid or a
15 standard first aid card issued by the American Red Cross, or
16 evidence of equivalent training;

17 (c) Possesses minimum liability insurance coverage in
18 the amount of fifty thousand dollars for bodily injury to one
19 person in any single accident and one hundred thousand dollars
20 for bodily injury to all persons in any single accident; and

21 (d) Has complied with the provisions of part 2 of this
22 article and paid the appropriate additional fee authorized by
23 said part 2.

24 (2) The department shall issue an initial or renewed
25 certificate of registration as a guide to any individual who
26 pays the required fee and furnishes evidence satisfactory to
27 the department that he:

1 (a) Is sixteen years of age or older; and

2 (b) Holds a valid instructor's card in first aid or
3 standard first aid card issued by the American Red Cross, or
4 evidence of equivalent training.

5 (3) Any person who violates the provisions of this
6 section is guilty of a misdemeanor and, upon conviction
7 thereof, shall be punished by a fine of not less than one
8 thousand dollars nor more than five thousand dollars, or by
9 imprisonment in the county jail for not more than one year, or
10 by both such fine and imprisonment. Upon a second or
11 subsequent conviction, such person commits a class 5 felony
12 and shall be punished as provided in section 18-1-105, C.R.S.

13 12-55.5-106. Denial or revocation of registration.

14 (1) The department may deny or revoke an outfitter's or a
15 guide's registration if the applicant or holder:

16 (a) Violates any order of the department or any
17 provision of this article or the rules and regulations
18 established under this article;

19 (b) Fails to meet the requirements of section
20 12-55.5-105 or uses fraud, misrepresentation, or deceit in
21 applying for or attempting to apply for registration;

22 (c) Violates any local, state, or federal law related to
23 public land management, wildlife, health, or cruelty to
24 animals;

25 (d) Is convicted of or has entered a plea of nolo
26 contendere or guilty to a felony, but the department shall be
27 governed by the provisions of section 24-5-101, C.R.S., in

1 considering such conviction or plea;

2 (e) Uses false, deceptive, or misleading advertising;

3 (f) Misrepresents his services, facilities, or equipment
4 to a client or prospective client;

5 (g) Is addicted to or dependent upon alcohol or any
6 controlled substance, within the meaning of part 3 of article
7 22 of this title, or is a habitual user of said controlled
8 substance, if the use, addiction, or dependency is a danger to
9 clients or prospective clients; or

10 (h) Has incurred disciplinary action related to the
11 practice of outfitting in another jurisdiction. Evidence of
12 such disciplinary action shall be prima facie evidence for
13 denial of registration or other disciplinary action if the
14 violation would be grounds for such disciplinary action in
15 this state.

16 (2) Any proceeding to deny or revoke a registration
17 shall be conducted pursuant to sections 24-4-104 and 24-4-105,
18 C.R.S. The department may use an administrative law judge
19 employed by the division of administrative hearings in the
20 department of administration to conduct hearings.

21 12-55.5-107. Penalties. (1) Any person who violates
22 the provisions of this article other than section 12-55.5-105
23 or the rules and regulations of the department promulgated
24 under this article may be penalized by the department upon a
25 finding of a violation pursuant to article 4 of title 24,
26 C.R.S., as follows:

27 (a) In the first administrative proceeding against any

1 person, a fine of not less than three hundred dollars but not
2 more than five hundred dollars per violation;

3 (b) In any subsequent administrative proceeding against
4 any person for transactions occurring after a final agency
5 action determining that a violation of this article has
6 occurred, a fine of not less than one thousand dollars but not
7 more than two thousand dollars.

8 (2) In addition to the penalties provided in subsection
9 (1) of this section, the department, upon a finding of a
10 violation, may revoke a registration.

11 (3) Any person who engages in activities as an outfitter
12 or as a guide shall produce all applicable documents, records,
13 and any other items required to be maintained by this article
14 or rules or regulations of the department when requested to do
15 so by any peace officer. Any such person who refuses to
16 permit the inspection of such documents commits of a class 1
17 misdemeanor and shall be punished as provided in section
18 18-1-106, C.R.S.

19 (4) All fines collected pursuant to this section shall
20 be distributed as follows:

21 (a) Twenty-five percent to any federal, state, or local
22 law enforcement agency assisting with an investigation;

23 (b) Seventy-five percent to the department for the cost
24 of administering this article.

25 12-55.5-108. Contracts for outfitting services - writing
26 required. (1) Prior to engaging in any activity as an
27 outfitter, an outfitter shall provide a written contract to

1 the client stating at least the following terms:
 2 (a) Type of services to be provided;
 3 (b) Dates of service;
 4 (c) Location and condition of hunting and camping areas;
 5 (d) Transportation arrangements;
 6 (e) Costs of the services;
 7 (f) Ratio of clients to guides;
 8 (g) Qualifications and experience of guides; and
 9 (h) The outfitter's policy regarding cancellation of the
 10 contract and inability of the outfitter to meet contractual
 11 obligations due to conditions beyond his control.

12 (2) No action may be maintained by an outfitter or guide
 13 for breach of a contract or agreement to provide outfitting
 14 services, or for the recovery of compensation for services
 15 rendered under such contract or agreement, if the outfitter
 16 has failed to comply with the provisions of this article.

17 12-55.5-109. Other remedies - contracts void - public
 18 nuisance - seizure of equipment. (1) Every agreement or
 19 contract for the services of an outfitter or guide shall be
 20 void and unenforceable by the outfitter or guide unless such
 21 outfitter or guide is duly registered with the department
 22 under the provisions of this article when such services are
 23 performed.

24 (2) (a) Every motor vehicle, trailer, vessel, firearm,
 25 weapon, trap, equipment, livestock, or other personal property
 26 used in the provision of outfitting services in violation of
 27 the provisions of this article is declared to be a public

1 nuisance. Every such item shall be subject to seizure,
 2 confiscation, and forfeiture or destruction as provided in
 3 this section, unless the owner of said property was not a
 4 party to the violation.

5 (b) The several district courts of this state shall have
 6 original jurisdiction of proceedings under this subsection
 7 (2).

8 (c) An action to abate a public nuisance under this
 9 subsection (2) shall be brought in the judicial district in
 10 which the subject matter of the action, or some part thereof,
 11 is located or found.

12 (d) Except as otherwise provided in this subsection (2),
 13 the practice and procedure to abate a public nuisance shall be
 14 governed by the Colorado rules of civil procedure.

15 (e) An action to abate a public nuisance under this
 16 subsection (2) may be brought by the district attorney in the
 17 name of the people of the state of Colorado.

18 (3) (a) Any personal property subject to seizure under
 19 this section, which is seized as a part of or incident to a
 20 criminal proceeding for violation of this article and for
 21 which disposition is not provided by another statute of this
 22 state, shall be disposed of as provided in this section.

23 (b) The court may order any such property sold by the
 24 department in the manner provided for sales on execution.

25 (c) The proceeds of such sale shall be applied as
 26 follows:

27 (1) To the fees and costs of removal and sale;

1 (II) To the payment of any costs the state has incurred
2 from such action; and

3 (III) The balance, if any, to the office of the district
4 attorney who has brought such action.

5 12-55.5-110. Advisory committee. The department may
6 appoint an advisory committee to make recommendations
7 concerning outfitters and guides, which committee shall serve
8 at the request and pleasure of the department.

9 12-55.5-111. Immunity. Any person acting as a
10 consultant to the department, any witness testifying in a
11 proceeding authorized under this article, and any person who
12 lodges a complaint pursuant to this article shall be immune
13 from liability in any civil action brought against him for
14 acts occurring while acting in his capacity as a consultant,
15 witness, or complainant, respectively, if such individual was
16 acting in good faith within the scope of his respective
17 capacity, made a reasonable effort to obtain the facts of the
18 matter as to which he acted, and acted in the reasonable
19 belief that the action taken by him was warranted by the
20 facts.

21 12-55.5-112. Enforcement. Every peace officer, as
22 defined in section 18-1-901, C.R.S., is hereby authorized to
23 assist the department in the enforcement of the provisions of
24 this article and the rules and regulations prescribed by the
25 department.

26 12-55.5-113. Fees - cash fund. (1) Except as provided
27 in part 2 of this article and section 12-55.5-109, all fees

1 collected pursuant to this article shall be transmitted to the
2 state treasurer, who shall credit the same to the outfitting
3 cash fund, which fund is hereby created.

4 (2) The general assembly shall make annual
5 appropriations from the outfitting cash fund for expenditures
6 of the department incurred in the performance of its duties
7 under this article.

8 PART 2

9 OUTFITTING RECOVERY FUND

10 12-55.5-201. Outfitting recovery fund - fees.

11 (1) There is created in the state treasury an outfitting
12 recovery fund, which shall be used under the direction of the
13 department in the manner prescribed in this article.

14 (2) (a) When obtaining or renewing a registration under
15 this article on or after July 1, 1988, each outfitter
16 registrant shall pay, in addition to the registration or
17 renewal fee, an additional fee, which shall be deposited in
18 the outfitting recovery fund.

19 (b) The department shall annually determine how much
20 money must be credited to the outfitting recovery fund to
21 insure an adequate balance in the fund for the following
22 fiscal year. Based upon this determination, the additional
23 fee for application for outfitter registration and for renewal
24 of outfitter registration shall be set by the department. The
25 amount of such fee shall remain in effect throughout the
26 following fiscal year.

27 (3) All fees collected by the department pursuant to

1 subsection (2) of this section shall be transmitted to the
 2 state treasurer, who shall credit the same to the outfitting
 3 recovery fund. Any interest earned on investment of moneys in
 4 the outfitting recovery fund shall be credited at least
 5 annually to said fund. No moneys shall be appropriated from
 6 the general fund for payment of any expenses incurred under
 7 this part 2, and no such expenses shall be charged against the
 8 state.

9 12-55.5-202. Application for payments out of fund.

10 (1) A person who obtains a final judgment in any court of
 11 competent jurisdiction against any outfitter registered under
 12 part 1 of this article on the grounds of breach of contract
 13 for a failure to perform which occurred on or after July 1,
 14 1988, while such registrant was registered under the
 15 provisions of part 1 of this article, may file a verified
 16 application in that court for an order directing payment out
 17 of the outfitting recovery fund. For the purposes of this
 18 part 2, "breach of contract for a failure to perform" means a
 19 failure of the outfitter or his designee to appear at the
 20 designated time or place or to carry out the terms of the
 21 contract to provide the client with services, equipment, or
 22 facilities. The order in the underlying civil action shall
 23 contain findings that the outfitter breached the contract.

24 (2) The outfitting recovery fund shall be liable for the
 25 amount deposited by such person with the outfitter to
 26 guarantee performance and for reimbursement of actual and
 27 direct loss excluding loss for pain and suffering and mental

1 anguish, but including court costs and reasonable attorney
 2 fees which remain unpaid upon the judgment. Nothing in this
 3 part 2 shall obligate the outfitting recovery fund for more
 4 than fifty thousand dollars with respect to any one registrant
 5 or transaction, nor shall said fund be liable for payment of
 6 more than fifteen thousand dollars to any one claimant
 7 inclusive of attorney fees. Attorney fees recoverable
 8 pursuant to this section shall not include more than
 9 twenty-five percent of any recovery fund payout.

10 (3) Any outfitter who is registered or renews his
 11 registration under part 1 of this article and upon whom
 12 personal service cannot be made with reasonable diligence
 13 shall be deemed to have appointed the secretary of state as
 14 his agent for service of process for purposes of actions filed
 15 against him pursuant to the provisions of this section.
 16 Service of process pursuant to this subsection (3) shall be
 17 made as nearly as practicable in the manner prescribed by
 18 section 7-3-112, C.R.S.

19 (4) The outfitting recovery fund shall not be subject to
 20 a claim by a claimant involving a transaction in which the
 21 registrant performed acts for which registration as an
 22 outfitter is not required.

23 (5) The outfitting recovery fund shall not be liable for
 24 a claim against a corporation, but such nonliability shall not
 25 relate to the individual outfitter acting on behalf of the
 26 corporation.

27 (6) Upon a final order of the court directing that

1 payment be made out of the outfitting recovery fund, the
2 controller is authorized to draw a warrant for the payment of
3 the same upon a voucher approved by the department, and the
4 state treasurer is authorized to pay the same out of the
5 outfitting recovery fund.

6 12-55.5-203. Time for commencing action - copy of
7 application to department. (1) No order for payment from the
8 outfitting recovery fund shall be issued unless the suit in
9 which such order subsequently results was commenced within the
10 time period prescribed in section 13-80-103, C.R.S. When any
11 person commences an action for a judgment which may result in
12 an order for payment from said fund, the person shall notify
13 the department in writing of the commencement of the action.

14 (2) When any person files an application for an order
15 directing payment from the outfitting recovery fund with a
16 court, a copy of the verified application shall be served upon
17 the department.

18 12-55.5-204. Revocation of registration. If the
19 department is required to make any payment from the outfitting
20 recovery fund toward the satisfaction of a judgment pursuant
21 to the provisions of this part 2, the department shall revoke
22 the outfitter's registration. After revocation of
23 registration, the outfitter shall not be eligible to be
24 registered again for two years from the effective date of the
25 revocation and until he has repaid in full the amount paid
26 from the outfitting recovery fund on his behalf with interest
27 thereon at the statutory rate.

1 12-55.5-205. Subrogation of rights. (1) When, upon
2 order of any court, the department has caused payment to be
3 made from the outfitting recovery fund to an injured party,
4 the department shall be subrogated to the rights of the
5 injured party with respect to the amount so paid.

6 (2) An amount no greater than five percent of the
7 payment to an injured party may be drawn from the outfitting
8 recovery fund and expended by the department for the purpose
9 of enforcing the rights of a particular injured party to which
10 the department is subrogated pursuant to this section.

11 12-55.5-206. Repeal - review of functions. Unless
12 continued by the general assembly, this article is repealed,
13 effective July 1, 1991, and those powers, duties, and
14 functions of the department specified in this article are
15 abolished. The provisions of section 24-34-104 (5) to (12),
16 C.R.S., concerning a windup period, an analysis and
17 evaluation, public hearings, and claims by or against an
18 agency shall apply to the powers, duties, and functions of the
19 department specified in this article.

20 SECTION 2. Repeal. 24-1-122 (4) (e) and 24-34-104 (17)
21 (f), Colorado Revised Statutes, 1982 Repl. Vol., as amended,
22 are repealed.

23 SECTION 3. Effective date. This act shall take effect
24 July 1, 1988.

25 SECTION 4. Safety clause. The general assembly hereby
26 finds, determines, and declares that this act is necessary
27 for the immediate preservation of the public peace, health,
28 and safety.

A BILL FOR AN ACT

1 CONCERNING REGULATION OF THE PRACTICE OF ARCHITECTURE, AND IN
2 CONNECTION THEREWITH PROVIDING FOR THE CONTINUATION OF
3 THE COLORADO STATE BOARD OF EXAMINERS OF ARCHITECTS AND
4 REPEALING VARIOUS RULES AND REGULATIONS OF SUCH BOARD.

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 Colorado state board of examiners of architects and makes various changes in the statutes concerning the practice of architecture including the following: Changes the qualifications for board membership and gives the board and various other individuals immunity in civil actions if certain conditions are met; sets limits on the amount of education and experience the board may require of applicants; requires the board to examine and modify examination requirements and practices; adds grounds for disciplinary action and authorizes the board to issue letters of admonition, to reconsider its decisions, and to assess fines for violations; prohibits application for relicensure for two years after revocation; and makes final actions or orders of the board appealable to the court of appeals.

Repeals certain rules and regulations of the board.

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

6 SECTION 1. 12-4-103 (1), Colorado Revised Statutes, 1985

1 Repl. Vol., is amended to read:

2 12-4-103. State board of examiners - subject to
3 termination. (1) There is created in the division of
4 registrations in the department of regulatory agencies a
5 Colorado state board of examiners of architects, consisting of
6 seven members, four of whom are licensed architects in the
7 state of Colorado are AND residents of the state of Colorado,
8 ~~and--have--been--engaged--in--the--practice--of--architecture--in--the~~
9 ~~state--of--Colorado--for--at--least--five--years--prior--to--their~~
10 ~~appointment,~~ two of whom are residents but are not and have
11 not been licensed architects in the state of Colorado or any
12 other state or engaged in the practice of architecture in the
13 state of Colorado, and one who is a licensed general building
14 contractor in the state of Colorado and is a resident of the
15 state of Colorado. Board members shall be appointed by the
16 governor to serve for not more than two four-year terms of
17 office, expiring February 15. Each board member shall hold
18 office until the expiration of the appointed term or until a
19 successor is duly appointed. Persons holding office on June
20 15, 1987, are subject to the provisions of section 24-1-137,
21 C.R.S. Any vacancy occurring in the membership of the board
22 shall be filled by the governor by appointment for the
23 remainder of an unexpired term. The governor may remove any
24 member of the board for misconduct, incompetency, or neglect
25 of duty.

26 SECTION 2. 12-4-104 (1), Colorado Revised Statutes, 1985

27 Repl. Vol., is amended to read:

1 12-4-104. Board - powers. (1) (a) IN ADDITION TO ALL
2 OTHER POWERS AND DUTIES CONFERRED OR IMPOSED UPON THE BOARD BY
3 THIS ARTICLE OR BY ANY OTHER LAW, THE BOARD SHALL HAVE THE
4 FOLLOWING POWERS:

5 (I) ~~The board shall annually~~ TO elect ANNUALLY from its
6 membership a president, a vice-president, and a secretary; AND

7 (II) ~~The board shall~~ TO meet at such times as it deems
8 necessary.

9 (b) A majority of the board shall constitute a quorum at
10 any meeting or hearing.

11 SECTION 3. Article 4 of title 12, Colorado Revised
12 Statutes, 1985 Repl. Vol., as amended, is amended BY THE
13 ADDITION OF A NEW SECTION to read:

14 12-4-104.5. Immunity. Any member of the board, any
15 person acting as a consultant to the board, any witness
16 testifying in a proceeding authorized under this article, and
17 any person who lodges a complaint pursuant to this article
18 shall be immune from liability in any civil action brought
19 against him for acts occurring while acting in his capacity as
20 board member, consultant, witness, or complainant,
21 respectively, if such individual was acting in good faith
22 within the scope of his respective capacity, made a reasonable
23 effort to obtain the facts of the matter as to which he acted,
24 and acted in the reasonable belief that the action taken by
25 him was warranted by the facts.

26 SECTION 4. 12-4-105 (1) and (2), Colorado Revised
27 Statutes, 1985 Repl. Vol., are amended to read:

1 12-4-105. Disposition of fees - expenses of board.

2 (1) All moneys collected under this article, EXCEPT AS
3 PROVIDED IN SECTION 12-4-111 (5), shall be transmitted to the
4 state treasurer, who shall credit the same pursuant to section
5 24-34-105, C.R.S., and the general assembly shall make annual
6 appropriations pursuant to said section for expenditures of
7 the board.

8 (2) The ~~board~~ DIVISION DIRECTOR may employ such
9 technical, clerical, investigative, or other assistance as is
10 necessary for the proper performance of ~~its~~ THE BOARD'S work,
11 subject to the provisions of section 13 of article XII of the
12 state constitution, and may make expenditures for any purpose
13 which is reasonably necessary for the proper performance of
14 ~~its~~ THE BOARD'S duties under this article.

15 SECTION 5. 12-4-107, Colorado Revised Statutes, 1985
16 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to
17 read:

18 12-4-107. Licensure - application - education and
19 experience. (1) Application. An applicant shall submit an
20 application that includes evidence of education and practical
21 experience as required by this section and the rules and
22 regulations of the board. Such application shall also include
23 a signed statement that the applicant has never been denied
24 licensure as an architect or been disciplined with regard to
25 the practice of architecture or practiced architecture in
26 violation of the law. If the board determines that any
27 applicant has committed any of the acts specified as grounds

1 for discipline under section 12-4-111 (2), it may deny an
 2 application for examination or licensure. In making such a
 3 determination, the board shall be governed by the provisions
 4 of section 24-5-101, C.R.S. If the applicant has not complied
 5 with the provisions of section 12-4-111 (7), the board shall
 6 deny an application for examination or licensure.

7 (2) Education and experience. The board shall set
 8 minimum educational and experience requirements for applicants
 9 within the following guidelines.

10 (a) The board may require:

11 (I) No more than three years of practical experience
 12 under the direct supervision of a licensed architect or an
 13 architect exempt under the provisions of section 12-4-112 (4)
 14 and either:

15 (A) A professional degree from a program accredited by
 16 the national architectural accrediting board; or

17 (B) Substantially equivalent education or experience
 18 approved by the board, with the board requiring no more than
 19 five years of such education and experience; or

20 (II) No more than ten years of practical experience
 21 under the direct supervision of a licensed architect or an
 22 architect exempt under the provisions of section 12-4-112 (4);
 23 or

24 (III) A combination of such practical experience and
 25 education, which combination shall not exceed ten years.

26 (b) Up to one year of the required experience may be in
 27 on-site building construction operations, physical analyses of

1 existing buildings, or teaching or research in a program
 2 accredited by the national architectural accreditation board.

3 (c) Full credit shall be given for education obtained in
 4 four-year baccalaureate programs in architecture or
 5 environmental design.

6 (3) Examination. (a) An applicant shall pass an
 7 examination or examinations developed or adopted by the board.
 8 The board shall ensure that the passing score for any
 9 examination is set to measure the level of minimum competency.

10 (b) Beginning January 1, 1990, the examination shall be
 11 given at least twice a year. The board shall designate a time
 12 and location for examinations and notify applicants of this
 13 time and location in a timely fashion.

14 (c) By December 31, 1988, the board shall submit to the
 15 joint legislative sunrise and sunset review committee of the
 16 general assembly a report concerning the actions taken to
 17 modify the structure, content, and frequency of administration
 18 of the examination specified in this subsection (3).

19 (4) Other standards. The board may adopt the
 20 examinations, recommended grading procedures, and educational
 21 and practical experience requirements and equivalents of the
 22 national council of architectural registration boards to the
 23 extent that such examinations, procedures, and requirements
 24 and equivalents are not in conflict with the provisions of
 25 this article.

26 (5) Licensure by endorsement. An applicant for
 27 licensure by endorsement must hold a license in good standing

1 in a jurisdiction requiring qualifications substantially
 2 equivalent to those currently required for licensure by
 3 examination as provided in subsections (1), (2), and (3) of
 4 this section and must file an application as prescribed by the
 5 board. The board shall provide procedures for an applicant to
 6 apply directly to the board. The board may also provide an
 7 alternative application procedure, so that an applicant may,
 8 at his option, instead apply to a national clearinghouse
 9 designated by the board, such as the national council of
 10 architectural registration; such national clearinghouse shall
 11 then forward the application to the board.

12 (6) Issuance of license. The board shall issue a
 13 license signed by the president of the board whenever an
 14 applicant for a license to practice architecture in Colorado
 15 successfully qualifies for such license as provided in this
 16 article.

17 SECTION 6. 12-4-108 (2), Colorado Revised Statutes, 1985
 18 Repl. Vol., is amended to read:

19 12-4-108. License renewal - expiration - reinstatement.

20 (2) The license of any architect who fails to pay the license
 21 renewal fee shall expire. An expired license may be renewed
 22 within two years after expiration upon payment of all fees in
 23 arrears; thereafter, the board shall require payment of a
 24 reinstatement fee established pursuant to section 24-34-105,
 25 C.R.S., and may require reexamination, ~~or recertification by~~
 26 ~~the national council of architectural registration boards, as~~
 27 ~~applicable, pursuant to subsection (1) or (2) of section~~

1 12-4-107, unless the architect has maintained an active
 2 architectural practice in another jurisdiction or otherwise
 3 satisfies the board of his continued competence.

4 SECTION 7. 12-4-111, Colorado Revised Statutes, 1985
 5 Repl. Vol., as amended, is amended to read:

6 12-4-111. Discipline. (1) The board upon its own
 7 motion may, and upon the receipt of a signed complaint in
 8 writing from any person shall, investigate the activities of
 9 any licensee or other person which present grounds for
 10 disciplinary action as specified in this article.

11 (2) Grounds for disciplinary action include:

12 (a) Fraud, misrepresentation, deceit, or material
 13 misstatement of fact in procuring or attempting to procure a
 14 license; or

15 (b) ~~Unworthiness or incompetency to practice~~
 16 ~~architecture as evidenced by conduct which endangers life,~~
 17 ~~health, property, or the public welfare~~ ANY ACT OR OMISSION
 18 WHICH FAILS TO MEET THE GENERALLY ACCEPTED STANDARDS OF THE
 19 PRACTICE OF ARCHITECTURE; or

20 (c) Mental incompetency; or

21 (d) Fraud or deceit in the practice of architecture; or

22 (e) Affixing a seal or allowing a seal to be affixed to
 23 any document of which the architect was neither the author nor
 24 in responsible charge of preparation; or

25 (f) Violation of OR AIDING OR ABETTING IN THE VIOLATION
 26 OF the provisions of this article or any adopted rule or
 27 regulation promulgated by the board in conformance with the

1 provisions of this article or ANY ORDER OF THE BOARD ISSUED IN
2 CONFORMANCE WITH THE PROVISIONS OF THIS ARTICLE; OR

3 (g) ~~Suspension--or--revocation--of--licensure--in--another~~
4 ~~state--or--jurisdiction;~~ or

5 (h) ~~Conviction--of--any--crimes--specified--in--part--4--of~~
6 ~~article--4--of--title--18, C.R.S., or in part 1, 2, 3, or 5 of~~
7 ~~article 5 of title 18, C.R.S., or any similar crime under the~~
8 ~~jurisdiction--of--any--federal--court--or--court--of--another--state~~
9 CONVICTION OF OR PLEADING GUILTY TO A FELONY. A certified copy
10 of the judgment of a court of competent jurisdiction of such
11 conviction OR PLEA shall be presumptive evidence of such
12 conviction OR PLEA in any hearing under this article; for THE
13 purposes of this paragraph (h), a plea of nolo contendere, or
14 its equivalent, accepted by the court shall be considered as a
15 conviction; HOWEVER, THE DEPARTMENT SHALL BE GOVERNED BY THE
16 PROVISIONS OF SECTION 24-5-101, C.R.S., IN CONSIDERING SUCH
17 CONVICTION OR PLEA; OR

18 (i) USE OF FALSE, DECEPTIVE, OR MISLEADING ADVERTISING;
19 OR

20 (j) HABITUAL INTEMPERANCE TO OR EXCESSIVE USE OF ANY
21 HABIT-FORMING DRUG, AS DEFINED IN SECTION 12-22-102 (13), ANY
22 CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), OR
23 ANY ALCOHOLIC BEVERAGE; OR

24 (k) ANY USE OF A SCHEDULE I CONTROLLED SUBSTANCE, AS
25 DEFINED IN SECTION 12-22-309; OR

26 (l) FAILURE TO REPORT TO THE BOARD ANY ARCHITECT KNOWN,
27 OR UPON INFORMATION AND BELIEF BELIEVED, TO HAVE VIOLATED ANY

1 PROVISION OF THIS ARTICLE OR ANY BOARD ORDER OR RULE OR
2 REGULATION; OR

3 (m) ACCEPTANCE, OFFER, OR GIVING OF COMMISSIONS,
4 REBATES, OR OTHER FORMS OF REMUNERATION FOR THE REFERRAL OF
5 CLIENTS; OR

6 (n) FAILURE TO RENDER ADEQUATE PROFESSIONAL SUPERVISION
7 OF PERSONS PRACTICING ARCHITECTURE UNDER SUPERVISION ACCORDING
8 TO GENERALLY ACCEPTED STANDARDS OF PRACTICE; OR

9 (o) PERFORMING SERVICES BEYOND ONE'S COMPETENCY,
10 TRAINING, OR EDUCATION.

11 (2.5) ANY DISCIPLINARY ACTION IN ANOTHER STATE OR
12 JURISDICTION ON GROUNDS SUBSTANTIALLY SIMILAR TO THOSE THAT
13 WOULD CONSTITUTE A VIOLATION UNDER THIS ARTICLE SHALL BE PRIMA
14 FACIE EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION, INCLUDING
15 DENIAL OF LICENSURE, UNDER THIS SECTION.

16 (3) (a) The board shall conduct disciplinary hearings in
17 accordance with the provisions of article 4 of title 24,
18 C.R.S. Upon proof of grounds for disciplinary action, the
19 board may suspend the license of, reprimand, place on
20 probation, or limit the practice of a licensee or, with the
21 concurrence of at least four board members, may revoke the
22 license of a licensee.

23 (b) THE BOARD MAY ISSUE A LETTER OF ADMONITION TO A
24 LICENSEE WITHOUT CONDUCTING A HEARING AS SPECIFIED IN
25 PARAGRAPH (a) OF THIS SUBSECTION (3). SUCH LETTER SHALL BE
26 SENT TO THE LICENSEE BY CERTIFIED MAIL AND SHALL ADVISE HIM
27 THAT HE MAY, WITHIN TWENTY DAYS AFTER RECEIPT OF THE LETTER,

1 MAKE A WRITTEN REQUEST TO THE BOARD TO INSTITUTE FORMAL
2 DISCIPLINARY PROCEEDINGS AS PROVIDED IN PARAGRAPH (a) OF THIS
3 SUBSECTION (3) IN ORDER TO FORMALLY ADJUDICATE THE CONDUCT OR
4 ACTS ON WHICH THE LETTER WAS BASED.

5 (4) If, as a result of a proceeding held pursuant to
6 article 4 of title 24, C.R.S., the board determines that a
7 person licensed to practice architecture pursuant to this
8 article has acted in such a manner as to be subject to
9 disciplinary action, the board may, in lieu of or in addition
10 to other forms of disciplinary action that may be authorized
11 by this section, require a licensee to take courses of
12 training or education relating to his profession. The board
13 shall determine the conditions which may be imposed on such
14 licensee, including, but not limited to, the type and number
15 of hours of training or education. All training or education
16 courses are subject to approval by the board, and the licensee
17 shall be required to furnish satisfactory proof of completion
18 of any such training or education. ~~The training or education~~
19 ~~required by this section shall be in addition to any mandatory~~
20 ~~continuing education requirements for the profession.~~

21 (5) FINES. (a) IN ADDITION TO THE PENALTIES PROVIDED
22 FOR IN SUBSECTION (3) OF THIS SECTION, ANY PERSON VIOLATING
23 ANY PROVISION OF THIS ARTICLE OR ANY STANDARDS OR RULES OR
24 REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE MAY BE
25 PUNISHED UPON A FINDING OF MISCONDUCT BY THE BOARD, MADE
26 PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., AS FOLLOWS:

27 (I) IN THE FIRST ADMINISTRATIVE PROCEEDING AGAINST A

1 LICENSEE, A FINE OF NOT LESS THAN FIVE HUNDRED DOLLARS NOR
2 MORE THAN ONE THOUSAND DOLLARS;

3 (II) IN ANY SUBSEQUENT ADMINISTRATIVE PROCEEDING AGAINST
4 A LICENSEE FOR TRANSACTIONS OCCURRING AFTER A FINAL AGENCY
5 ACTION DETERMINING THAT A VIOLATION OF THIS ARTICLE HAS
6 OCCURRED, A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS NOR
7 MORE THAN TWO THOUSAND DOLLARS.

8 (b) ALL FINES COLLECTED PURSUANT TO THIS SECTION SHALL
9 BE CREDITED TO THE GENERAL FUND.

10 (6) RECONSIDERATION AND REVIEW OF ACTION OF BOARD. THE
11 BOARD, ON ITS OWN MOTION OR UPON APPLICATION, AT ANY TIME
12 AFTER THE IMPOSITION OF ANY DISCIPLINE AS PROVIDED IN THIS
13 SECTION, MAY RECONSIDER ITS PRIOR ACTION AND REINSTATE OR
14 RESTORE SUCH LICENSE OR TERMINATE PROBATION OR REDUCE THE
15 SEVERITY OF ITS PRIOR DISCIPLINARY ACTION. THE TAKING OF ANY
16 SUCH FURTHER ACTION, OR THE HOLDING OF A HEARING WITH RESPECT
17 THERETO, SHALL REST IN THE SOLE DISCRETION OF THE BOARD.

18 (7) REAPPLICATION AFTER REVOCATION OF LICENSURE. NO
19 LICENSEE WHOSE LICENSE IS REVOKED SHALL BE ALLOWED TO APPLY
20 FOR LICENSURE EARLIER THAN TWO YEARS AFTER THE EFFECTIVE DATE
21 OF THE REVOCATION.

22 SECTION 8. 12-4-112 (4) and (5), Colorado Revised
23 Statutes, 1985 Repl. Vol., are amended to read:

24 12-4-112. Exemptions. (4) Nothing in this article
25 shall be construed as prohibiting the practice of architecture
26 by any ~~legally-qualified-architect-of-this-state-or-another~~
27 ~~state-who-is-employed-by~~ EMPLOYEE OF the United States

1 government or any bureau, division, or agency thereof while in
2 the discharge of his official duties.

3 (5) Nothing in this article shall be construed to
4 prevent the independent employment of a registered
5 professional engineer ~~for any professional service related~~
6 ~~solely to site development, structural, mechanical,~~
7 ~~electrical, or sanitary engineering in connection with any~~
8 ~~building or building project~~ PRACTICING PURSUANT TO PART 1 OF
9 ARTICLE 25 OF THIS TITLE.

10 SECTION 9. 12-4-114, Colorado Revised Statutes, 1985
11 Repl. Vol., is amended to read:

12 12-4-114. Judicial review. Any person aggrieved by any
13 final action or order of the board and affected thereby is
14 entitled to judicial review pursuant to the provisions of
15 section ~~24-4-106, C.R.S.~~ 24-4-106 (11), C.R.S.

16 SECTION 10. 10-1-124.5, Colorado Revised Statutes, 1987
17 Repl. Vol., is amended to read:

18 10-1-124.5. Reporting of malpractice claims against
19 architects. Each insurance company licensed to do business in
20 this state and engaged in the writing of malpractice insurance
21 for architects shall send to the Colorado state board of
22 examiners of architects, in the form prescribed by the
23 commissioner, information relating to each malpractice claim
24 against a licensed architect WHICH IS SETTLED OR in which
25 judgment is rendered against the insured WITHIN NINETY DAYS
26 AFTER THE EFFECTIVE DATE OF SUCH SETTLEMENT OR JUDGMENT.

27 SECTION 11. 13-4-102 (2) (o) and (2) (p), Colorado

1 Revised Statutes, 1987 Repl. Vol., are amended, and the said
2 13-4-102 (2) is further amended BY THE ADDITION OF A NEW
3 PARAGRAPH, to read:

4 13-4-102. Jurisdiction. (2) (o) Review all final
5 actions and orders appropriate for judicial review of the
6 passenger tramway safety board, as provided in section
7 25-5-715, C.R.S.; and

8 (p) Review decisions of the state personnel board, as
9 provided in section 24-50-125.4, C.R.S.; AND

10 (q) Review all final actions and orders appropriate for
11 judicial review of the Colorado state board of examiners of
12 architects, as provided in section 12-4-114, C.R.S.

13 SECTION 12. 24-34-104, Colorado Revised Statutes, 1982
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 for termination, continuation, or reestablishment.

18 (27) The following board in the division of registrations
19 shall terminate on July 1, 1998: The Colorado state board of
20 examiners of architects, created by article 4 of title 12,
21 C.R.S.

22 SECTION 13. Repeal. 12-4-110 (6) and (7), Colorado
23 Revised Statutes, 1985 Repl. Vol., as amended, and 24-34-104
24 (17) (a), Colorado Revised Statutes, 1982 Repl. Vol., as
25 amended, are repealed.

26 SECTION 14. Repeal of rules. (1) To further the
27 general assembly's intent as expressed in section 24-34-913

1 (4.5), Colorado Revised Statutes, the following rules and
2 regulations of the Colorado state board of examiners of
3 architects are hereby expressly repealed:

4 (a) Rule 4.a., concerning application for license by
5 reciprocity (3 CCR 706-1);

6 (b) Rule 4. (b), concerning action on applications for
7 license by reciprocity (3 CCR 706-1);

8 (c) Rule 5.c., concerning failure to renew a license (3
9 CCR 706-1);

10 (d) Rule 5.e., concerning the practice of architecture
11 by a professional service corporation (3 CCR 706-1);

12 (e) Rule 6.d. (3), concerning influencing a client
13 regarding employment (3 CCR 706-1); and

14 (f) Rule 7., concerning disciplinary proceedings (3 CCR
15 706-1).

16 SECTION 15. Effective date. This act shall take effect
17 July 1, 1988.

18 SECTION 16. Safety clause. The general assembly hereby
19 finds, determines, and declares that this act is necessary
20 for the immediate preservation of the public peace, health,
21 and safety.

A BILL FOR AN ACT

1 CONCERNING EXCEPTIONS TO LICENSURE REQUIREMENTS FOR PERSONS
2 WHO ADMINISTER MEDICATIONS IN RESIDENTIAL CARE
3 FACILITIES.

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 persons, under the direction of a licensed doctor or nurse, to administer certain medications to adults in residential care facilities without being licensed under the "Colorado Medical Practice Act" or "Nurse Practice Act".

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
9 from licensing requirements. (3) (o) The administration of
10 medications in residential care facilities by persons
11 qualified by education, experience, or training under the

1 responsible direction of a person licensed under the laws of
2 this state to practice medicine. It is the responsibility of
3 the licensed person to determine if the person administering
4 such medication is qualified to do so. The board shall
5 promulgate rules and regulations to implement the provisions
6 of this paragraph (o). As used in this paragraph (o):

7 (I) "Administration" means assisting a person in the
8 ingestion, application, or inhalation of medication. It does
9 not include injection of medications.

10 (II) "Residential care facility" means a place which
11 provides room and board for compensation to an adult or adults
12 not related by blood or marriage who are in need of some
13 degree of assistance in conducting daily life activities,
14 including the administration of medication.

15 (III) "Responsible direction" means pursuant to explicit
16 instruction and does not mean direct supervision.

17 SECTION 2. 12-38-125(1), Colorado Revised Statutes, 1985
18 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to
19 read:

20 12-38-125. Exclusions. (1) (h) The administration of
21 medications in residential care facilities by persons
22 qualified by education, experience, or training under the
23 responsible direction of a person licensed under the laws of
24 this state to engage in the practice of nursing. It is the
25 responsibility of the licensed person to determine if the
26 person administering such medication is qualified to do so.
27 The board shall promulgate rules and regulations to implement

1 the provisions of this paragraph (h). As used in this
2 paragraph (h):

3 (I) "Administration" means assisting a person in the
4 ingestion, application, or inhalation of medication. It does
5 not include injection of medications.

6 (II) "Residential care facility" means a place which
7 provides room and board for compensation to an adult or adults
8 not related by blood or marriage who are in need of some
9 degree of assistance in conducting daily life activities,
10 including the administration of medication.

11 (III) "Responsible direction" means pursuant to explicit
12 instruction and does not means direct supervision.

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

A BILL FOR AN ACT

1 CONCERNING THE SUNSET REVIEW 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.)

Extends the statutory authorization of certain executive agency advisory committees scheduled to be repealed July 1, 1988. Allows the state jail advisory committee to terminate. Adds several new executive agency advisory committees to the sunset review process. Conforms a statutory provision relating to the energy impact assistance advisory committee to a similar statutory provision which is being repealed as duplicative.

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

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

6 2-3-1203. Sunset of advisory committees. (3)(g) July
7 1, 1994:

8 (I) The council of advisors on consumer credit,
9 appointed pursuant to section 5-6-301, C.R.S.;

10 (II) The medical fee schedule advisory committee,

1 appointed pursuant to section 8-49-101 (3), C.R.S.;

2 (III) The correctional industries advisory committee,
3 appointed pursuant to section 17-24-104, C.R.S.;

4 (IV) The victims assistance and law enforcement advisory
5 board, appointed pursuant to section 24-33.5-508, C.R.S.;

6 (V) The advisory committee to the department of health
7 concerning personal care boarding homes, appointed pursuant to
8 section 25-27-110, C.R.S.;

9 (VI) The advisory committee on licensing of child care
10 facilities, appointed pursuant to section 26-6-109 (1),
11 C.R.S.;

12 (VII) Any advisory committee to the mined land
13 reclamation board concerning surface coal mining, appointed
14 pursuant to section 34-33-130 (3), C.R.S.;

15 (VIII) The energy impact assistance advisory committee,
16 appointed pursuant to section 34-63-102 (5) (b), C.R.S.;

17 (IX) The nuclear materials transportation advisory
18 committee, appointed pursuant to section 40-2.2-213, C.R.S.

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

22 2-3-1203. Sunset of advisory committees.
23 (3) (c) (VII.5) The advisory committee concerning standards
24 for the eligibility and certification of providers of
25 alternative care services, appointed pursuant to section
26 26-4.5-113 (6), C.R.S.;

27 SECTION 3. 2-3-1203 (3) (d), Colorado Revised Statutes,

1 1980 Repl. Vol., as amended, is amended BY THE ADDITION OF
2 THE FOLLOWING NEW SUBPARAGRAPHS to read:

3 2-3-1203. Sunset of advisory committees.

4 (3) (d) (I.5) The advisory committee concerning basic
5 requirements for training and certification in the area of
6 property and casualty insurance, appointed pursuant to section
7 10-2-207 (17), C.R.S.;

8 (I.6) The advisory committee on physical therapists,
9 appointed pursuant to section 12-41-108 (3), C.R.S.;

10 (XI) The office of regulatory reform advisory committee,
11 appointed pursuant to section 24-34-904 (1) (1), C.R.S.;

12 SECTION 4. 2-3-1203 (3) (f), Colorado Revised Statutes,
13 1980 Repl. Vol., as amended, is amended BY THE ADDITION OF A
14 NEW SUBPARAGRAPH to read:

15 2-3-1203. Sunset of advisory committees.

16 (3) (f) (VIII.5) The passenger tramway safety advisory
17 committee, appointed pursuant to section 25-5-719, C.R.S.;

18 SECTION 5. 5-6-304 (1), Colorado Revised Statutes, as
19 amended, is amended to read:

20 5-6-304. Sunset review. (1) This part 3 is repealed,
21 effective ~~July 1, 1988~~ JULY 1, 1994.

22 SECTION 6. 8-49-101 (3), Colorado Revised Statutes, 1986
23 Repl. Vol., as amended, is amended to read:

24 8-49-101. Employer must furnish medical aid - approval

25 of plan. (3) (a) The director has the power to establish a
26 schedule fixing the fees for which all medical, surgical,
27 hospital, dental, nursing, and vocational rehabilitation

1 treatment rendered to employees under this section shall be
2 compensated, and it is unlawful, void, and unenforceable as a
3 debt for any physician, chiropractor, hospital, person, or
4 institution to contract with, bill, or charge any patient for
5 services, rendered in connection with injuries coming within
6 the purview of this article or an applicable fee schedule,
7 which are or may be in excess of said fee schedule unless such
8 charges are approved by the director. Fee schedules shall be
9 reviewed on or before July 1 of each year by the director,
10 and appropriate health care practitioners shall be given a
11 reasonable opportunity to be heard as required pursuant to
12 section 24-4-103, C.R.S., prior to fixing the fees. The
13 director shall promulgate rules and regulations concerning
14 reporting requirements, penalties for failure to report
15 correctly or in a timely manner, and utilization control
16 requirements for services provided under this section. The
17 director may appoint a committee to advise him concerning such
18 requirements. Members of the committee shall serve without
19 compensation.

20 (b) (I) THE STATUTORY AUTHORIZATION FOR THE ADVISORY
21 COMMITTEE AUTHORIZED BY PARAGRAPH (a) OF THIS SUBSECTION (3)
22 IS REPEALED, EFFECTIVE JULY 1, 1994.

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

25 SECTION 7. 12-41-108 (3), Colorado Revised Statutes,
26 1985 Repl. Vol., as amended, is amended to read:

27 12-41-108. Powers and duties of director - reports -

1 publications. (3) (a) In addition to any other powers and
 2 duties given the director by this article, the director shall
 3 appoint at least one advisory committee of at least five
 4 members who are registered physical therapists to assist in
 5 the performance of his duties; members of advisory committees
 6 shall receive no compensation for their services but shall be
 7 reimbursed for actual and necessary expenses which they may
 8 incur in the performances of their duties. Such reimbursement
 9 shall be cash funded and shall not exceed the amount
 10 anticipated to be raised from fees collected by the director,
 11 pursuant to section 24-34-105 (2) (c), C.R.S.

12 (b) (I) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY
 13 1, 1991.

14 (II) PRIOR TO SAID REPEAL, THE ADVISORY COMMITTEE ON
 15 PHYSICAL THERAPISTS SHALL BE REVIEWED AS PROVIDED FOR IN
 16 SECTION 2-3-1203, C.R.S.

17 SECTION 8. 17-24-104 (3) (b), Colorado Revised Statutes,
 18 1986 Repl. Vol., is amended to read:

19 17-24-104. Creation of division of correctional
 20 industries and advisory committee - sunset review of
 21 committee. (3) (b) This subsection (3) is repealed,
 22 effective ~~July 1, 1988~~ JULY 1, 1994.

23 SECTION 9. 24-33.5-508 (4) (a), Colorado Revised
 24 Statutes, 1982 Repl. Vol., as amended, is amended to read:

25 24-33.5-508. Advisory board - sunset review.
 26 (4) (a) This section is repealed, effective ~~July 1, 1988~~ JULY
 27 1, 1994.

1 SECTION 10. 24-34-904 (1) (1), Colorado Revised
 2 Statutes, 1982 Repl. Vol., as amended, is amended to read:

3 24-34-904. Powers and duties. (1) (1) (I) To appoint
 4 an advisory committee to assist in the performance of its
 5 duties.

6 (II) (A) THIS PARAGRAPH (1) IS REPEALED, EFFECTIVE JULY
 7 1, 1991.

8 (B) PRIOR TO SAID REPEAL, THE OFFICE OF REGULATORY
 9 REFORM ADVISORY COMMITTEE SHALL BE REVIEWED AS PROVIDED FOR IN
 10 SECTION 2-3-1203, C.R.S.

11 SECTION 11. 25-5-710 (1) (h), Colorado Revised Statutes,
 12 1982 Repl. Vol., is amended to read:

13 25-5-710. Powers and duties of the board.
 14 (1) (h) (I) To establish standing or temporary technical and
 15 safety committees composed of persons with expertise in
 16 tramway-related fields to review, as the board deems
 17 necessary, the design, construction, maintenance, and
 18 operation of passenger tramways and to make recommendations to
 19 the board concerning their findings. Committees established
 20 pursuant to this paragraph (h) shall meet as deemed necessary
 21 by the board or the supervisory tramway engineer.

22 (II) (A) THE STATUTORY AUTHORITY FOR THE ESTABLISHMENT
 23 OF STANDING OR TEMPORARY TECHNICAL AND SAFETY COMMITTEES
 24 PURSUANT TO THIS PARAGRAPH (h) IS REPEALED, EFFECTIVE JULY 1,
 25 1993.

26 (B) PRIOR TO SAID REPEAL, ANY SUCH COMMITTEES SHALL BE
 27 REVIEWED AS PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

1 SECTION 12. 25-27-110 (3) (a), Colorado Revised
2 Statutes, 1982 Repl. Vol., as amended, is amended to read:

3 25-27-110. Advisory committee - sunset review.
4 (3) (a) This section is repealed, effective ~~July-17-1988~~ JULY
5 1, 1994.

6 SECTION 13. 26-4.5-113 (6), Colorado Revised Statutes,
7 1982 Repl. Vol., as amended, is amended to read:

8 26-4.5-113. Definitions - program to provide alternative
9 care services - responsibility of state department - creation
10 of fund. (6) (a) There is hereby established an advisory
11 committee to the state department for the purpose of making
12 recommendations to the state department concerning the
13 standards for the eligibility and certification of providers
14 of alternative care services and of reporting to the general
15 assembly concerning the program, including the certification
16 process for and the operation of alternative care facilities.
17 The advisory committee shall present a report to the general
18 assembly prior to March 1 of each year. The advisory
19 committee shall consist of not less than nine members to be
20 appointed by the executive director of the state department.
21 The committee shall elect its own chairperson. Such members
22 shall be representatives from the affected population of
23 elderly, blind, and disabled persons and from the nursing home
24 industry, personal care boarding homes, the home health care
25 industry, the Colorado commission on the aging, and other
26 agencies involved in the provision of care services for
27 elderly, blind, and disabled persons. Members of the advisory

1 committee shall serve on a voluntary basis and shall serve
2 without compensation.

3 (b) (I) THIS SUBSECTION (6) IS REPEALED, EFFECTIVE JULY
4 1, 1990.

5 (II) PRIOR TO SAID REPEAL, THE ADVISORY COMMITTEE ON
6 ALTERNATIVE CARE SERVICES PROVIDERS SHALL BE REVIEWED AS
7 PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

8 SECTION 14. 26-6-109 (1) (e) (I), Colorado Revised
9 Statutes, 1982 Repl. Vol., as amended, is amended to read:

10 26-6-109. Advisory committee - sunset review -
11 institutes. (1) (e) (I) This subsection (1) is repealed,
12 effective ~~July-17-1988~~ JULY 1, 1994.

13 SECTION 15. 34-33-130 (3) (b), Colorado Revised
14 Statutes, 1984 Repl. Vol., as amended, is amended to read:

15 34-33-130. Data inventory. (3) (b) This subsection
16 (3) is repealed, effective ~~July-17-1988~~ JULY 1, 1994.

17 SECTION 16. 34-63-102 (5) (b) (I) and (5) (b) (II) (A),
18 Colorado Revised Statutes, 1984 Repl. Vol., as amended, are
19 amended to read:

20 34-63-102. Creation of mineral leasing fund -
21 distribution. (5) (b) (I) There is hereby created within the
22 department of local affairs an energy impact assistance
23 advisory committee. The committee shall be composed of the
24 executive director of the department of local affairs, the
25 executive director of the department of natural resources, the
26 commissioner of education, the executive director of the state
27 department of highways, and ~~four~~ FIVE residents of areas

1 impacted by energy conversion or mineral resource development.
 2 The ~~four~~ FIVE residents shall be appointed by the governor for
 3 terms not exceeding four years to serve at the pleasure of the
 4 governor. The executive director of the department of local
 5 affairs shall act as chairman of the committee. Members of
 6 the committee shall serve without additional compensation;
 7 except that the ~~four~~ FIVE members from energy impact areas
 8 shall be entitled to reimbursement for actual and necessary
 9 expenses. Any member of the committee who is a state official
 10 may designate representatives of his agency to serve on the
 11 committee in his absence. The chairman shall convene the
 12 advisory committee from time to time as he deems necessary.
 13 Such advisory committee shall continuously review the existing
 14 and potential impact of the development, processing, or energy
 15 conversion of mineral and fuel resources on various areas of
 16 the state, including those areas indirectly affected, and
 17 shall make continuing recommendations to the department of
 18 local affairs, including, but not limited to, those actions
 19 deemed reasonably necessary and practicable to assist impacted
 20 areas with the problems occasioned by such development,
 21 processing, or energy conversion, the immediate and projected
 22 problems which the local governments are experiencing in
 23 providing governmental services, the extent of local tax
 24 resources available to each unit of local government, the
 25 extent of local tax effort in solving energy impacted
 26 problems, and other problems which the areas have experienced,
 27 such as housing and environmental considerations, which have

1 developed as a direct result of energy impact.

2 (II) (A) This paragraph (b) is repealed, effective July
 3 ~~1, 1988~~ JULY 1, 1994.

4 SECTION 17. 40-2.2-213, Colorado Revised Statutes, 1984
 5 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
 6 SUBSECTION to read:

7 40-2.2-213. Nuclear materials transportation advisory
 8 committee. (3) (a) This section is repealed, effective July
 9 1, 1994.

10 (b) Prior to said repeal, the nuclear materials
 11 transportation advisory committee shall be reviewed as
 12 provided for in section 2-3-1203, C.R.S.

13 SECTION 18. Repeal. 2-3-1203 (3) (a) (I), (3) (a) (II),
 14 (3) (a) (IV), (3) (a) (V), (3) (a) (VI), (3) (a) (VII), (3)
 15 (a) (VIII), and (3) (a) (IX), Colorado Revised Statutes, 1980
 16 Repl. Vol., as amended, and 39-29-110 (2), Colorado Revised
 17 Statutes, 1982 Repl. Vol., as amended, are repealed.

18 SECTION 19. Safety clause. The general assembly hereby
 19 finds, determines, and declares that this act is necessary
 20 for the immediate preservation of the public peace, health,
 21 and safety.

1 CONCERNING AN EXTENSION OF THE TERMINATION DATE OF THE OFFICE
2 OF CONSUMER COUNSEL.

Bill Summary

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

Extends the termination date of the office of consumer counsel to July 1, 1993.

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

4 SECTION 1. 40-6.5-108, Colorado Revised Statutes, 1984
5 Repl. Vol., is amended to read:

6 40-6.5-108. Office of consumer counsel subject to
7 termination. Unless continued by the general assembly, the
8 office of consumer counsel shall terminate on ~~July 1, 1988~~
9 JULY 1, 1993. The provisions of section 24-34-104 (5) to
10 (12), C.R.S., concerning a wind-up period, an analysis and
11 evaluation, public hearings, and claims by or against an
12 agency shall apply to the office of consumer counsel; except
13 that the attorney general shall perform the duties of the

1 executive director of the department of regulatory agencies
2 set forth under such section, and the factors listed in
3 section 24-34-104 (9) (b), C.R.S., which are applicable only
4 to regulatory agencies shall not be considered.

5 SECTION 2. 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.

A BILL FOR AN ACT

1 CONCERNING THE PRACTICE OF OCCUPATIONS RELATING TO MENTAL
2 HEALTH, AND IN CONNECTION THEREWITH CREATING REGULATORY
3 AGENCIES FOR THE LICENSING AND DISCIPLINE OF
4 PRACTITIONERS THEREOF AND MAKING AN APPROPRIATION.

Bill Summary

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

Repeals and reenacts statutory provisions relating to the Colorado state board of psychologist examiners and the state board of social work examiners. Creates the state board of marriage and family therapist examiners for the regulation of marriage and family therapists and the state board of licensed professional counselor examiners for the regulation of licensed professional counselors. Establishes these four boards as the licensing agencies for their respective professions. Authorizes such boards to deny an applicant a license or deny reinstatement of a license. Requires the four boards to refer a decision to grant or deny an application or reinstatement to the grievance board if the former boards have reason to believe or receive any information that an applicant or renewal applicant has done any of the acts set forth as grounds for discipline.

Creates the state grievance board. Authorizes the grievance board to deny, revoke, or suspend a license, place a licensee on probation, or issue a letter of admonition if a licensee has committed an act that is defined as grounds for discipline. Requires the grievance board to conduct a hearing prior to denying, revoking, suspending, or nonrenewing a license or placing a licensee on probation. Authorizes the

grievance board to request injunctive relief against licensed and unlicensed persons, including certified school psychologists, for violating any provision in the grounds for discipline section or any other provision of the act. Authorizes the grievance board to hear appeals for decisions made by the licensing boards.

Extends the Colorado state board of psychologist examiners and the state board of social work examiners under the sunset law. Makes subject to the sunset law the state board of marriage and family therapist examiners, the state board of licensed professional counselor examiners, and the state grievance board. Makes conforming amendments.

Makes an appropriation to implement the act.

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

2 SECTION 1. Article 43 of title 12, Colorado Revised
3 Statutes, 1985 Repl. Vol., as amended, is REPEALED AND
4 REENACTED, WITH AMENDMENTS, to read:

5 ARTICLE 43

6 Mental Health

7 PART 1

8 LEGISLATIVE DECLARATION

9 12-43-101. Legislative declaration. The general
10 assembly hereby finds and declares that, in order to safeguard
11 the public health, safety, and welfare of the people of this
12 state, and in order to protect the people of this state
13 against the unauthorized, unqualified, and improper
14 application of psychotherapy, psychology, clinical social
15 work, marriage and family therapy, professional counseling,
16 and school psychology, it is necessary that the proper
17 regulatory authorities be established and adequately provided
18 for. The general assembly further finds that, in order to
19 best provide such protections and safeguards and to expedite

1 complaints and disciplinary proceedings relating to the
2 practice and delivery of psychotherapy, psychology, clinical
3 social work, marriage and family therapy, professional
4 counseling services, and school psychology, there shall be
5 established a grievance board with the authority to take
6 disciplinary or injunctive actions or both concerning
7 unlicensed psychotherapists, licensed psychologists, licensed
8 clinical social workers, licensed marriage and family
9 therapists, licensed professional counselors, and certified
10 school psychologists.

11 PART 2

12 GENERAL PROVISIONS

13 12-43-201. Definitions. As used in this part 2, unless
14 the context otherwise requires:

15 (1) "Board" includes the Colorado state board of
16 psychologist examiners, the state board of social work
17 examiners, the state board of licensed professional counselor
18 examiners, and the state board of marriage and family
19 therapist examiners.

20 (2) "Certified school psychologist" means a person who
21 practices psychotherapy and who is a school psychologist
22 certified pursuant to the provisions of section 22-60-104 (1)
23 (e), C.R.S.

24 (3) "Grievance board" means the state grievance board
25 created by section 12-43-702.

26 (4) "Licensed clinical social worker" means a person who
27 practices psychotherapy and who is a clinical social worker

1 licensed pursuant to the provisions of this article.

2 (5) "Licensed professional counselor" means a person who
3 practices psychotherapy and who is a professional counselor
4 licensed pursuant to the provisions of this article.

5 (6) "Licensee" means a psychologist, clinical social
6 worker, marriage and family therapist, or licensed
7 professional counselor licensed pursuant to the provisions of
8 this article.

9 (7) "Marriage and family therapist" means a person who
10 practices psychotherapy and who is a marriage and family
11 therapist licensed pursuant to the provisions of this article.

12 (8) "Psychologist" means a person who practices
13 psychotherapy and who is a psychologist licensed pursuant to
14 the provisions of this article.

15 (9) "Psychotherapy" means the treatment, diagnosis,
16 testing, assessment, or counseling in a professional
17 relationship to assist individuals or groups to alleviate
18 mental disorders, understand unconscious or conscious
19 motivation, resolve emotional, relationship, or attitudinal
20 conflicts, or modify behaviors which interfere with effective
21 emotional, social, or intellectual functioning.

22 (10) "Unlicensed psychotherapist" means any unlicensed
23 person whose primary practice is psychotherapy or who holds
24 himself out to the public as being able to practice
25 psychotherapy for compensation and who is not a certified
26 school psychologist.

27 12-43-202. Practice of psychotherapy outside of or

1 beyond training, experience, or competence. Notwithstanding
2 any other provision of this article, no certified school
3 psychologist, licensee, or unlicensed psychotherapist is
4 authorized to practice psychotherapy outside of or beyond his
5 area of training, experience, or competence.

6 12-43-203. Boards - meetings - duties - powers - removal
7 of members. (1) In addition to all other powers and duties
8 conferred or imposed upon each board by this article or by any
9 other law, each board shall have the powers specified in this
10 section.

11 (2) (a) Each board shall annually hold a meeting and
12 elect from its membership a chairperson and vice-chairperson.
13 The state board of marriage and family therapist examiners and
14 the state board of licensed professional counselor examiners
15 shall hold their first meetings within sixty days after July
16 1, 1988. Each board shall meet at such other times as it
17 deems necessary or advisable or as deemed necessary and
18 advisable by the chairperson, a majority of its members, or
19 the governor. Reasonable notice of all meetings shall be
20 given in the manner prescribed by each board. A majority of
21 each board shall constitute a quorum at any meeting or
22 hearing.

23 (b) The proceedings of each board shall be conducted
24 pursuant to article 4 of title 24, C.R.S.

25 (3) Each board is authorized to:

26 (a) Adopt, and from time to time revise, such rules and
27 regulations as may be necessary to carry out its powers and

1 duties;

2 (b) Adopt an examination;

3 (c) Examine for, deny, withhold, or approve the license
4 of an applicant, and renew licenses pursuant to section
5 12-43-212;

6 (d) Appoint advisory committees to assist in the
7 performance of its duties;

8 (e) Conduct hearings as necessary to carry out its
9 powers and duties.

10 (4) Each board shall maintain current lists of the names
11 of all licensees and records of cases and decisions rendered
12 by the board. In addition, each board shall keep an accurate
13 record of the results of all examinations for at least five
14 years subsequent to the date of the examination. The
15 grievance board may request such lists or records if it deems
16 such information necessary to perform its powers and duties.

17 (5) Each board may prepare and transmit annually, in the
18 form and manner prescribed by the heads of the principal
19 departments pursuant to the provisions of section 24-1-136,
20 C.R.S., a report accounting to the governor and the general
21 assembly for the efficient discharge of all responsibilities
22 assigned by law or directive to the board.

23 (6) Publications of each board intended for circulation
24 in quantity outside the board shall be issued in accordance
25 with the provisions of section 24-1-136, C.R.S.

26 (7) (a) Members of each board and consultants to the
27 board, including members of any advisory committee, shall be

1 immune from suit in any action, civil or criminal, for
2 official acts performed in good faith as members of such
3 committee or board or as consultants to such board.

4 (b) Further, any person participating in good faith in
5 the making of a complaint or report, or participating in any
6 investigative or administrative proceeding before the board
7 pursuant to this article, shall be immune from any liability,
8 civil or criminal, that otherwise might result by reason of
9 such action.

10 (8) Each board shall transmit to the grievance board
11 information it receives of any violations of the provisions of
12 this article pertaining to licensees, unlicensed
13 psychotherapists, or certified school psychologists.

14 (9) Any board member having an immediate personal,
15 private, or financial interest in any matter pending before
16 the board shall disclose the fact and shall not vote upon such
17 matter.

18 (10) The governor may remove any board member for
19 misconduct, incompetence, or neglect of duty. Actions
20 constituting neglect of duty shall include, but not be limited
21 to, the failure of board members to attend three consecutive
22 meetings or at least three-quarters of the board's meetings in
23 any one calendar year.

24 (11) (a) A professional review committee may be
25 established pursuant to this subsection (11) to investigate
26 the quality of care being given by a person licensed pursuant
27 to this article. If such a committee is established, it shall

1 include in its membership at least three persons licensed
2 under either part 3, 4, 5, or 6 of this article, whichever is
3 applicable, and such persons shall be licensees in the same
4 profession as the licensee who is the subject of a
5 professional review proceeding, but such committee may be
6 authorized to act only by a society or an association of
7 persons licensed pursuant to this article whose membership
8 includes not less than one-third of the persons licensed
9 pursuant to part 3, 4, 5, or 6 of this article, whichever is
10 applicable, residing in this state if the licensee whose
11 services are the subject of review is a member of such society
12 or association.

13 (b) Any member of the professional review committee and
14 any witness appearing before such professional review
15 committee shall be immune from suit in any civil action
16 brought by a licensee who is the subject of a professional
17 review proceeding if such member or witness acts in good faith
18 within the scope of the function of such committee, has made a
19 reasonable effort to obtain the facts of the matter as to
20 which he acts, and acts in the reasonable belief that the
21 action taken by him is warranted by the facts.

22 12-43-204. Fees - renewal. (1) All fees collected
23 under parts 3, 4, 5, and 6 of this article shall be
24 transmitted to the state treasurer who shall credit the same
25 to the division of registrations cash fund pursuant to section
26 24-34-105, C.R.S.

27 (2) Each board may charge application and examination

1 fees established pursuant to section 24-34-105, C.R.S., to all
2 applicants for licensure under this part 2. No fees received
3 from applicants seeking licensure shall be refunded.

4 (3) Every person licensed to practice psychology,
5 clinical social work, marriage and family therapy, or
6 professional counseling within the state shall pay a renewal
7 fee to be determined pursuant to section 24-34-105, C.R.S.,
8 and shall submit a renewal application upon a form prescribed
9 by each board and shall receive therefor a renewal
10 certificate, if qualified, authorizing him to continue his
11 practice in this state. No fee received from licensees
12 seeking renewal shall be refunded. The board shall establish
13 renewal fees and schedules subject to the provisions of
14 section 24-34-102 (8), C.R.S.

15 (4) Any license issued by a board shall expire by
16 operation of law for failure of the licensee to timely renew
17 his license. Upon compliance with this section and applicable
18 rules and regulations regarding renewal, including the payment
19 of a renewal fee plus a late payment fee established pursuant
20 to section 24-34-105, C.R.S., the expired license shall be
21 reinstated; except that no license to practice psychology,
22 clinical social work, marriage and family therapy, or
23 professional counseling which has not been renewed for a
24 period of time greater than one renewal period shall be
25 reinstated upon application for reinstatement unless the
26 applicant demonstrates his continued professional competence
27 to the board to which such applicant is applying for

1 reinstatement.

2 12-43-205. Records. (1) Each board shall keep a record
3 of its proceedings and a register of all applications for
4 licenses, which shall include:

- 5 (a) The name, age, and residence of each applicant;
- 6 (b) The date of the application;
- 7 (c) The place of business of such applicant;
- 8 (d) A summary of the educational and other
9 qualifications of each applicant;
- 10 (e) Whether or not an examination was required and, if
11 required, the scores of the examination;
- 12 (f) Whether or not licensure was granted;
- 13 (g) The date of the action of the board;
- 14 (h) Such other information as may be deemed necessary or
15 advisable by the board in aid of the requirements of this
16 section.

17 12-43-206. Licensure by endorsement. The board may
18 issue a license by endorsement to engage in the practice of
19 psychology, clinical social work, marriage and family therapy,
20 or professional counseling to any applicant who has a license,
21 registration, or certification in good standing as a
22 psychologist, clinical social worker, marriage and family
23 therapist, or professional counselor under the laws of another
24 jurisdiction if the applicant presents proof satisfactory to
25 the board that, at the time of application for a Colorado
26 license by endorsement, the applicant possesses credentials
27 and qualifications which are substantially equivalent to the

1 requirements of section 12-43-303, 12-43-403, 12-43-503, or
2 12-43-603, whichever is applicable. Each board shall
3 promulgate rules and regulations setting forth the manner in
4 which credentials and qualifications of an applicant will be
5 reviewed by the board.

6 12-43-207. License - issuance. Each board shall issue a
7 certificate of licensure signed by the chairperson and
8 vice-chairperson of the board whenever an applicant for
9 licensure successfully qualifies therefor as provided in this
10 article.

11 12-43-208. Drugs - medicine. Nothing in this article
12 shall be construed as permitting psychologists, clinical
13 social workers, marriage and family therapists, and
14 professional counselors licensed under this article or
15 unlicensed psychotherapists or certified school psychologists
16 to administer or prescribe drugs or in any manner engage in
17 the practice of medicine as defined by the laws of this state.

18 12-43-209. Collaborate with physician. A licensee,
19 unlicensed psychotherapist, or certified school psychologist,
20 in order to make provision for the diagnosis and treatment of
21 medical problems, shall collaborate with a physician licensed
22 under the laws of this state, except when practicing pursuant
23 to the provisions of section 12-43-201 (9). A licensee,
24 unlicensed psychotherapist, or certified school psychologist
25 shall not diagnose, prescribe for, treat, or advise a client
26 with reference to medical problems.

27 12-43-210. Division of registrations to supervise. Each

1 board shall be under the supervision and control of the
2 division of registrations of the department of regulatory
3 agencies as created by section 24-34-102, C.R.S.

4 12-43-211. Professional service corporations for the
5 practice of psychology, clinical social work, marriage and
6 family therapy, and professional counseling. (1) Licensees
7 and certified school psychologists may form professional
8 service corporations for the practice of psychology, clinical
9 social work, marriage and family therapy, or professional
10 counseling under the "Colorado Corporation Code", articles 1
11 to 10 of title 7, C.R.S., if such corporations are organized
12 and operated in accordance with the provisions of this
13 section. The articles of incorporation of such corporations
14 shall contain provisions complying with the following
15 requirements:

16 (a) The name of the corporation shall contain the words
17 "professional company" or "professional corporation" or
18 abbreviations thereof.

19 (b) The corporation shall be organized solely by
20 licensees or certified school psychologists for the purpose of
21 conducting the practice of such licensees or of such certified
22 school psychologists pursuant to this article.

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

26 (d) All shareholders of the corporation shall be
27 licensees or certified school psychologists who at all times

1 own their shares in their own right. They shall be
2 individuals who, except for illness, accident, or time spent
3 in the armed services, on vacations, and on leaves of absence
4 not to exceed one year, are actively engaged in the practice
5 for which they are licensed or certified in the offices of the
6 corporation.

7 (e) Provisions shall be made requiring any shareholder
8 who ceases to be or for any reason is ineligible to be a
9 shareholder to dispose of all his shares forthwith, either to
10 the corporation or to any person having the qualifications
11 described in paragraph (d) of this subsection (1).

12 (f) The president shall be a shareholder and a director;
13 and, to the extent possible, all other directors and officers
14 shall be persons having the qualifications described in
15 paragraph (d) of this subsection (1). Lay directors and
16 officers shall not exercise any authority whatsoever over
17 professional matters.

18 (g) The articles of incorporation shall provide, and all
19 shareholders of the corporation shall agree, that either all
20 shareholders of the corporation shall be jointly and severally
21 liable for all acts, errors, and omissions of the employees of
22 the corporation, or that all shareholders of the corporation
23 shall be jointly and severally liable for all acts, errors,
24 and omissions of the employees of the corporation except
25 during periods of time when the corporation shall maintain in
26 good standing professional liability insurance which meets the
27 following minimum standards:

1 (I) The insurance shall insure the corporation against
2 liability imposed upon the corporation by law for damages
3 resulting from any claim made against the corporation arising
4 out of the performance of professional services for others by
5 those officers and employees of the corporation who are
6 licensed to practice under this article or who are certified
7 school psychologists or by those employees who provide
8 professional services under supervision.

9 (II) Such insurance policies shall insure the
10 corporation against liability imposed upon it by law for
11 damages arising out of the acts, errors, and omissions of all
12 nonprofessional employees.

13 (III) The insurance shall be in an amount for each claim
14 of at least one hundred thousand dollars multiplied by the
15 number of persons licensed to practice under this article, or
16 by the number of certified school psychologists, employed by
17 the corporation; and the policy may provide for an aggregate
18 maximum limit of liability per year for all claims of three
19 hundred thousand dollars also multiplied by the number of
20 licensees or certified school psychologists employed by the
21 corporation; but no firm shall be required to carry insurance
22 in excess of three hundred thousand dollars for each claim
23 with an aggregate maximum limit of liability for all claims
24 during the year of nine hundred thousand dollars.

25 (IV) The insurance policy may provide that it does not
26 apply to: Any dishonest, fraudulent, criminal, or malicious
27 act or omission of the insured corporation or any stockholder

1 or employee thereof; or the conduct of any business enterprise
 2 (as distinguished from the practice of licensees or certified
 3 school psychologists) in which the insured corporation under
 4 this section is not permitted to engage but which nevertheless
 5 may be owned by the insured corporation or in which the
 6 insured corporation may be a partner or which may be
 7 controlled, operated, or managed by the insured corporation in
 8 its own or in a fiduciary capacity, including the ownership,
 9 maintenance, or use of any property in connection therewith,
 10 when not resulting from breach of professional duty of, bodily
 11 injury to, or sickness, disease, or death of any person or to
 12 injury to or destruction of any tangible property, including
 13 the loss of use thereof.

14 (V) The insurance policy may contain reasonable
 15 provisions with respect to policy periods, territory, claims,
 16 conditions, and other usual matters.

17 (2) The corporation shall do nothing which, if done by a
 18 licensee or certified school psychologist and employed by it,
 19 would violate the provisions of section 12-43-704 (1). Any
 20 violation of this section by the corporation shall be grounds
 21 for the grievance board to discipline any licensee or
 22 certified school psychologist pursuant to section 12-43-705.

23 (3) Nothing in this section shall be deemed to diminish
 24 or change the obligation of each licensee or certified school
 25 psychologist employed by the corporation to conduct his
 26 practice so as not to violate the provisions of section
 27 12-43-704 (1). Any licensee or certified school psychologist

1 who by act or omission causes the corporation to act or fail
 2 to act in a way which violates the provisions of section
 3 12-43-704 (1), or any provision of this section, shall be
 4 deemed personally responsible for such act or omission, and
 5 shall be subject to discipline by the grievance board
 6 therefor.

7 (4) A professional service corporation may adopt a
 8 pension, profit sharing (whether cash or deferred), health and
 9 accident, insurance, or welfare plan for all of its employees
 10 including lay employees, if such plan does not require or
 11 result in the sharing of specific or identifiable fees with
 12 lay employees, and if any payments made to lay employees, or
 13 into any such plan in behalf of lay employees, are based upon
 14 their compensation or length of service, or both, rather than
 15 the amount of fees or income received.

16 (5) Nothing in this section shall be deemed to modify
 17 the privileges regarding confidential communications specified
 18 in sections 12-43-218 and 13-90-107 (1) (g), C.R.S.

19 (6) Nothing in this article shall be construed to limit
 20 persons licensed under any part of this article or certified
 21 school psychologists from forming a corporation with persons
 22 licensed under any other part of this article or certified
 23 school psychologists.

24 12-43-212. Denial of license - renewal. (1) Each board
 25 is empowered to determine whether an applicant for licensure
 26 possesses the qualifications for licensure required by this
 27 article.

1 (2) If a board determines that an applicant does not
 2 possess the applicable qualifications required by this article
 3 or is unable to demonstrate his continued professional
 4 competence as required by section 12-43-204 (4), the board may
 5 deny the applicant a license or deny the reinstatement of a
 6 license pursuant to section 12-43-204 (4); and, in such
 7 instance, the board shall provide such applicant with a
 8 statement in writing setting forth the basis of the board's
 9 determination that the applicant does not possess the
 10 qualifications or professional competence required by this
 11 article.

12 (3) If a board has any reason to believe that or
 13 receives any information that an applicant, renewal applicant,
 14 or reinstatement applicant has done any of the acts set forth
 15 in section 12-43-704 (1) as grounds for discipline, the board
 16 shall refer the matter to the grievance board. If the
 17 grievance board finds no basis to deny the license, it shall
 18 notify the board and the board may grant a license to the
 19 applicant, renewal applicant, or reinstatement applicant. The
 20 order of the board to grant or deny such license shall be the
 21 final agency action.

22 (4) A board, on its own motion or upon application, at
 23 any time after the refusal to grant a license, may reconsider
 24 its prior action and grant such license. The taking of any
 25 such further action shall rest in the sole discretion of the
 26 board; except that the board shall not act in contradiction to
 27 a decision of the grievance board.

1 12-43-213. Legislative intent - schools and colleges -
 2 examinations. It is the intent of the general assembly that
 3 the definition relating to full-time courses of study and
 4 institutions of higher education for graduation of persons who
 5 are thereby qualified to take examinations for licensure under
 6 this article be liberally construed by each board under its
 7 rule-making powers to ensure the right to take such
 8 examinations. It is not the intent that technical barriers be
 9 used to deny the ability to take such examination.

10 12-43-214. Mandatory disclosure of information to
 11 clients. (1) Except in emergency situations or in
 12 institutional settings where psychotherapy is being
 13 administered by multiple providers or pursuant to a court
 14 order, every unlicensed psychotherapist, licensee, or
 15 certified school psychologist practicing outside the school
 16 setting shall provide the following information in writing to
 17 each client during the initial client contact:

18 (a) The name, business address, and business phone
 19 number of the unlicensed psychotherapist, licensee, or
 20 certified school psychologist;

21 (b) A listing of any degrees, credentials, and licenses;

22 (c) A statement indicating that the practice of both
 23 licensed and unlicensed persons and certified school
 24 psychologists in the field of psychotherapy is regulated by
 25 the department of regulatory agencies and an address and
 26 telephone number for the grievance board; and

27 (d) A statement indicating that:

1 (I) A client is entitled to receive information about
2 the methods of therapy, the techniques used, the duration of
3 therapy, if known, and the fee structure;

4 (II) The client may seek a second opinion from another
5 therapist or may terminate therapy at any time;

6 (III) In a professional relationship, sexual intimacy is
7 never appropriate and should be reported to the grievance
8 board;

9 (IV) The information provided by the client during
10 therapy sessions is legally confidential in the case of
11 licensed marriage and family therapists, clinical social
12 workers, professional counselors, and psychologists, and
13 certified school psychologists, except as provided in section
14 12-43-218 and except for certain legal exceptions which will
15 be identified by the licensee or certified school psychologist
16 should any such situation arise during therapy.

17 (2) If the client is a child who is consenting to mental
18 health services pursuant to section 27-10-103, C.R.S.,
19 disclosure shall be made to the child. If the client is a
20 child whose parent or legal guardian is consenting to mental
21 health services, disclosure shall be made to the parent or
22 legal guardian.

23 12-43-215. Scope of article. (1) Any person engaged in
24 the practice of religious ministry shall not be required to
25 comply with the provisions of this article; except that such
26 person shall not hold himself out to the public by any title
27 incorporating the terms "psychologist", "licensed clinical

1 social worker", "clinical social worker", "LCSW", "licensed
2 marriage and family therapist", "LMFT", or "licensed
3 professional counselor", "certified school psychologist", or
4 "CSP", unless that person has been licensed pursuant to this
5 article or certified as a certified school psychologist.

6 (2) The provisions of this article shall not apply to
7 the practice of rehabilitation counseling as performed in the
8 private and public sectors; except that the provisions of this
9 article shall apply to rehabilitation counselors practicing
10 psychotherapy in the field of mental health.

11 12-43-216. Title use restrictions. A psychologist,
12 clinical social worker, marriage and family therapist, or
13 professional counselor may only use the title for which he is
14 licensed under this article. Except as provided in section
15 12-43-304 (5), no other person shall hold himself out to the
16 public by any title or description of services incorporating
17 the words "licensed clinical social worker", "clinical social
18 worker", "LCSW", "marriage and family therapist", "LMFT",
19 "professional counselor", "psychologist", "psychological", or
20 "psychology", and he shall not state or imply that he is
21 licensed to practice clinical social work, marriage and family
22 therapy, professional counseling, or psychology. Nothing in
23 this section shall prohibit a person from stating or using the
24 educational degrees which he has obtained.

25 12-43-217. Judicial review of final board actions and
26 orders. Final actions and orders of a board appropriate for
27 judicial review may be judicially reviewed in the court of

1 appeals, and judicial proceedings for the enforcement of a
2 board order may be instituted in accordance with section
3 24-4-106 (11), C.R.S.

4 12-43-218. Disclosure of confidential communications.

5 (1) A licensee or certified school psychologist shall not
6 disclose, without the consent of his client, any confidential
7 communications made by the client to him, or his advice given
8 thereon, in the course of professional employment; nor shall a
9 licensee's or certified school psychologist's employee or
10 associate, whether clerical or professional, disclose any
11 knowledge of said communications acquired in such capacity;
12 nor shall any person who has participated in any therapy
13 conducted under the supervision of a licensee or certified
14 school psychologist, including, but not limited to, group
15 therapy sessions, disclose any knowledge gained during the
16 course of such therapy without the consent of the person to
17 whom the knowledge relates.

18 (2) Subsection (1) of this section shall not apply when:

19 (a) A client or the heirs, executors, or administrators
20 of a client file suit or a complaint against a licensee or
21 certified school psychologist on any cause of action arising
22 out of or connected with the care or treatment of such client
23 by the licensee or certified school psychologist;

24 (b) A licensee or certified school psychologist was in
25 consultation with a physician, registered professional nurse,
26 licensee, or certified school psychologist against whom a suit
27 or complaint was filed based on the case out of which said

1 suit or complaint arises;

2 (c) A review of services of a licensee or certified
3 school psychologist is conducted by any of the following:

4 (I) The grievance board or a person or group authorized
5 by such board to make an investigation on its behalf;

6 (II) The governing board of a hospital licensed pursuant
7 to part 1 of article 3 of title 25, C.R.S., where said
8 licensee or certified school psychologist practices or the
9 medical staff of such hospital if the medical staff operates
10 pursuant to written bylaws approved by the governing board of
11 such hospital; or

12 (III) A peer review committee established pursuant to
13 section 12-43-203 (11) if said person has signed a release
14 authorizing such review.

15 (3) The records and information produced and used in the
16 review provided for in paragraph (c) of subsection (2) of this
17 section shall not become public records solely by virtue of
18 the use of such records and information. The identity of any
19 client whose records are so reviewed shall not be disclosed to
20 any person not directly involved in such review process, and
21 procedures shall be adopted by the grievance board, hospital,
22 association, or society to insure that the identity of the
23 client is concealed during the review process itself and to
24 comply with the provisions of section 12-43-705 (4).

25 (4) Except for any person included within the provisions
26 of section 13-90-107 (1) (g), C.R.S., subsection (1) of this
27 section shall not apply to any delinquency or criminal

1 proceeding.

2 (5) Nothing in this section shall be deemed to prohibit
3 any other disclosures required by law.

4 12-43-219. Article not to restrict other professions.
5 Nothing in this article shall be construed to prohibit any
6 member of any other profession who is duly licensed or
7 certified pursuant to the laws of this state from rendering
8 service consistent with his training and professional ethics
9 so long as he does not hold himself out to the public by any
10 title or description to which he is not entitled pursuant to
11 the provisions of this article.

12 PART 3

13 PSYCHOLOGISTS

14 12-43-301. Definitions. As used in this part 3, unless
15 the context otherwise requires:

16 (1) "Board" means the Colorado state board of
17 psychologist examiners.

18 (2) "Grievance board" means the state grievance board
19 created by section 12-43-702.

20 (3) "Practice of psychology" means the holding out of
21 any person to the public as offering psychological services,
22 based on the scientific study of psychology, to individuals,
23 groups, or organizations for compensation. This includes but
24 is not limited to:

25 (a) The use of psychological methods of interviewing and
26 consulting for the purpose of evaluating the mental or
27 emotional functioning of a person;

1 (b) The construction, administration, and interpretation
2 of tests assessing intellectual abilities, personality
3 characteristics, cognitive skills, psychopathology, and
4 psychophysiological characteristics;

5 (c) The diagnosis and treatment of emotional,
6 behavioral, and mental disorders or the psychological aspects
7 of physical dysfunction;

8 (d) The methods and procedures of psychotherapy and
9 psychological counseling, including but not limited to
10 biofeedback, hypnotherapy, and individual, couple, family, and
11 group therapy;

12 (e) The application of research methodologies,
13 statistics, and experimental design to psychological data.

14 (4) "Psychologist" means a person who practices
15 psychotherapy and engages in the practice of psychology and
16 who is licensed pursuant to the provisions of this part 3.

17 (5) "School or college" means any university or other
18 institution of higher education offering a full-time graduate
19 course of study in psychology which is approved by the
20 American psychological association or which is a substantially
21 equivalent program approved by the board.

22 12-43-302. State board of psychologist examiners -
23 subject to termination. (1) There is hereby created a
24 Colorado state board of psychologist examiners, consisting of
25 seven members who are residents of the state of Colorado and
26 appointed by the governor.

27 (2) The board shall consist of five members who are

1 psychologists licensed under this part 3 and two members who
2 are laypersons.

3 (3) No board member shall serve more than two full
4 consecutive terms.

5 (4) Each member shall hold office until the expiration
6 of his appointed term or until a successor is duly appointed.
7 Thereafter, the term of each member shall be three years. Any
8 vacancy occurring in the board membership other than by
9 expiration of term shall be filled by the governor by
10 appointment for the unexpired term of such member.

11 (5) The terms of existing board members serving on the
12 board which existed on June 30, 1988, shall continue for the
13 remainder of the terms for which such members were originally
14 appointed and shall not be disturbed by the provisions of this
15 section, except as necessary to comply with requirements
16 governing composition of the board.

17 (6) The provisions of section 24-34-104, C.R.S.,
18 concerning the termination schedule for regulatory bodies of
19 the state unless extended as provided in that section, are
20 applicable to the board created by this section.

21 12-43-303. Licensure - examination. (1) The board
22 shall issue a license as a psychologist to each applicant who
23 files an application upon a form and in such manner as the
24 board prescribes, accompanied by a fee as is required by
25 section 12-43-204, and who furnishes evidence satisfactory to
26 the board that he:

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

1 (b) Is not in violation of any of the provisions of this
2 article and the rules and regulations adopted under this
3 article;

4 (c) Holds a doctoral degree with a major in psychology,
5 or the equivalent to such major as determined by the board,
6 from a school or college as defined by section 12-43-301 (5);

7 (d) Has at least one year of postdoctoral experience
8 practicing psychology under supervision approved by the board;
9 and

10 (e) Has demonstrated professional competence by passing
11 an examination in psychology prescribed by the board.

12 (2) Upon investigation of the application and other
13 evidence submitted pursuant to paragraphs (a) to (d) of
14 subsection (1) of this section, the board, not less than
15 thirty days prior to the examination, shall notify each
16 applicant that such application and evidence are satisfactory
17 and accepted or unsatisfactory and rejected. If the
18 application is rejected, said notice shall state the reasons
19 for such rejection.

20 (3) The place of examination shall be designated in
21 advance by the board, and such examination shall be given not
22 less than twice a year at such time and place and under such
23 supervision as the board may determine, if there are
24 applicants desiring to be examined, and shall be given at such
25 other times as, in the opinion of the board, the number of
26 applicants warrants.

27 (4) The examination shall test for knowledge of the

1 following three areas:

- 2 (a) General psychology;
- 3 (b) Clinical and counseling psychology; and
- 4 (c) Application of the practice of clinical and
- 5 counseling psychology, including knowledge of appropriate
- 6 statutes and professional ethics.

7 (5) The board or its designated representatives shall
 8 administer and score the examination. The board shall take
 9 any actions necessary to insure impartiality. The passing
 10 score in each part of the examination shall be determined by
 11 the board based upon a level of minimum competency to engage
 12 in the practice of psychology.

13 (6) In the event an applicant fails to receive a passing
 14 grade on any part of the examination, he may apply for
 15 reexamination on those parts of the examination he did not
 16 pass and shall be allowed to take a subsequent examination on
 17 such parts upon payment of a fee as is required by section
 18 12-43-204.

19 12-43-304. Scope of part 3. (1) Nothing in this part 3
 20 shall be construed to limit the use of an official title on
 21 the part of:

- 22 (a) A student of psychology pursuing an official course
- 23 of graduate study at a school or college or educational
- 24 institution, if after the title "psychology" or "psychologist"
- 25 the word "trainee", "intern", or "extern" appears, and the
- 26 student uses the title only in conjunction with activities and
- 27 services which are a part of his supervised training program;

1 (b) A doctoral level graduate of a psychology program,
 2 or its equivalent, pursuing supervision for licensure, if the
 3 board has reviewed and approved the educational requirements
 4 and the prospective supervision of such person, and if after
 5 the title "psychologist" the phrase "candidate for licensure"
 6 appears, and if the candidate for licensure uses the title
 7 only in conjunction with activities and services which are a
 8 part of his supervised training. The use of the title
 9 "psychologist candidate for licensure" shall be permitted for
 10 a maximum of three years following the award of the doctoral
 11 degree or for two years following establishment of residency
 12 in the state of Colorado.

13 (2) Nothing in this part 3 shall be construed to limit
 14 the activities or use of an official title on the part of any
 15 doctoral level graduate of a psychology program or its
 16 equivalent, employed by an institution of higher education,
 17 including the duties of lecturing to the public based on
 18 academic or research activities, but not including the
 19 clinical practice of psychology unless such practice is under
 20 the supervision of a licensed psychologist.

21 (3) A person who resides out of state who is currently
 22 licensed or certified as a psychologist in that state is not
 23 subject to the provisions of this part 3 as to such activities
 24 and services performed in this state if the activities and
 25 services are within his customary area of practice, do not
 26 exceed twenty days per year in the state of Colorado, and are
 27 not otherwise in violation of this part 3, and the public is

1 informed of the limited nature of his activities and services
2 and that he is not licensed as a psychologist in this state.
3 (4) Out-of-state candidates with qualifications and
4 experience sufficient for licensure under this part 3 may be
5 recruited for positions as psychologists in the employ of
6 federal, state, county, and municipal agencies, or of private
7 nonprofit agencies exempt from federal income tax under
8 section 501 (c) (3) of the "Internal Revenue Code of 1954", as
9 amended, if such persons are approved for licensure by the
10 board within one year of establishing residency in the state
11 of Colorado, and if their activities and services are limited
12 to their duties in the employ of said agencies.

13 (5) (a) A person certified as a school psychologist by
14 the department of education pursuant to section 22-60-104,
15 C.R.S., may properly use the title "certified school
16 psychologist" or the designation "CSP" inside the school
17 setting while employed by a school and outside the school
18 setting when treating clients as authorized in paragraph (b)
19 of this subsection (5) and following three years of full-time
20 professional practice in a school accredited by the Colorado
21 department of education. A certified school psychologist must
22 use the complete title or designation and may not represent or
23 refer to himself as a psychologist unless licensed pursuant to
24 this part 3.

25 (b) The following activities by a certified school
26 psychologist are authorized outside the school setting:
27 (I) Evaluation or test interpretation of intellectual

1 ability, learning patterns, achievement, motivation, or
2 personality factors directly related to learning problems in
3 an educational setting;

4 (II) Professional advisement and interpretive services
5 and counseling with children or adults for amelioration or
6 prevention of educationally related problems;

7 (III) Psychoeducational or vocational consultation or
8 direct psychoeducational services to schools, agencies,
9 organizations, or individuals, if said consultation is
10 directly related to learning problems;

11 (IV) Development of educational programs such as
12 designing more efficient and psychologically sound classroom
13 situations and acting as a catalyst for teacher involvement in
14 adaptations and innovations; and

15 (v) Other such functions that a certified school
16 psychologist normally performs within the school setting.

17 (6) The use of the title "psychologist" may be continued
18 by a nonlicensed person who, as of July 1, 1982, is employed
19 by a federal, state, county, or municipal agency or by other
20 political subdivisions or any educational institution
21 chartered by the state, but only so long as such person
22 remains in the employment of the same institution or agency
23 and only in the course of conducting duties for such agency or
24 institution.

25 (7) Nothing in this part 3 shall be construed to
26 prohibit psychiatrists from administering any psychological
27 test or from performing psychological testing within the

1 limits of their training and experience.
2 (8) Nothing in this article shall be construed to limit
3 use of an official title on the part of any doctoral level
4 graduate of a research psychology program or an
5 industrial/organizational psychology program from a regionally
6 accredited university while engaged in the conduct of
7 psychological research or the provision of psychological
8 consultation to organizations or institutions, provided such
9 services do not include the clinical practice of psychology.

10 PART 4

11 SOCIAL WORKERS

12 12-43-401. Definitions. As used in this part 4, unless
13 the context otherwise requires:

14 (1) "Board" means the state board of social work
15 examiners.

16 (2) "Graduate school of social work" means any
17 university or other institution of higher education offering a
18 full-time graduate course of study in social work approved by
19 the council on social work education, or its predecessor
20 organization, or a substantially equivalent program approved
21 by the board.

22 (3) "Grievance board" means the state grievance board
23 created by section 12-43-702.

24 (4) "Licensed clinical social worker" means a person who
25 practices psychotherapy and social work and who is licensed
26 under the provisions of this part 4.

27 (5) "Social work" means a professional service developed

1 to effect change in human behavior, emotional responses, and
2 social conditions of individuals, couples, families, groups,
3 and communities. "Social work" can only be performed with
4 specialized knowledge and skills related to human development,
5 including an understanding of unconscious motivation, the
6 potential for human growth, the availability of social
7 resources, and the knowledge of social systems. The
8 disciplined application of social work knowledge and skill
9 includes but is not restricted to counseling and the use of
10 applied psychotherapy with individuals, couples, families, and
11 groups for purposes of diagnosis, evaluation, and treatment
12 (applied psychotherapy referring to a variety of treatment
13 methods developing out of generally accepted theories about
14 human behavior and development).

15 12-43-402. State board of social work examiners -
16 subject to termination. (1) There is hereby created the
17 state board of social work examiners, consisting of seven
18 members who are residents of the state of Colorado and
19 appointed by the governor.

20 (2) The board shall consist of five members who are
21 licensed clinical social workers and two members who are
22 laypersons.

23 (3) No board member shall serve more than two full
24 consecutive terms.

25 (4) (a) Each member shall hold his office until the
26 expiration of his appointed term or until a successor is duly
27 appointed. Thereafter the term of each member shall be three

-122-

1 years. Any vacancy occurring in board membership other than
2 by expiration of term shall be filled by the governor by
3 appointment for the unexpired term of such a member.

4 (b) The terms of existing board members serving on the
5 board which existed on June 30, 1988, shall continue for the
6 remainder of the terms for which such members were originally
7 appointed and shall not be disturbed by the provisions of this
8 section.

9 (5) The provisions of section 24-34-104, C.R.S.,
10 concerning the termination schedule for regulatory bodies of
11 the state unless extended as provided in that section, are
12 applicable to the state board of social work examiners created
13 by this section.

14 12-43-403. Licensure - examination. (1) The board
15 shall license as a licensed clinical social worker and issue
16 an appropriate certificate to any person who files an
17 application therefor, accompanied by such fee as is required
18 by section 12-43-204, and who furnishes evidence satisfactory
19 to the board that he:

- 20 (a) Is at least twenty-one years of age;
- 21 (b) Is not in violation of any of the provisions of this
22 article and the rules and regulations adopted under this
23 article;
- 24 (c) Has obtained a master's or doctoral degree from a
25 graduate school of social work or the equivalent educational
26 training as determined by the board;
- 27 (d) Has had two years of post-master's experience or one

1 year of postdoctoral experience under appropriate supervision
2 in applied psychotherapy; and

3 (e) Has demonstrated professional competence by
4 satisfactorily passing an examination, which may be written,
5 oral, or both, as prescribed by the board. This examination
6 shall require demonstration of special knowledge and skill in
7 applied psychotherapy. Applicants shall also be tested on
8 interventive methods and techniques and the underlying
9 theories.

10 (2) Upon investigation of the application for a
11 certificate and the evidence submitted pursuant to paragraphs
12 (a) to (d) of subsection (1) of this section, the board, not
13 less than thirty days prior to the examination, shall notify
14 each applicant that such application and evidence are
15 satisfactory and accepted or unsatisfactory and rejected. If
16 the application is rejected, said notice shall state the
17 reasons for such rejection.

18 (3) The place of examination shall be designated in
19 advance by the board, and such examination shall be held not
20 less than twice a year at such time and place and under such
21 supervision as the board may determine, if there are
22 applicants desiring to be examined, and shall be given at such
23 other times as, in the opinion of the board, the number of
24 applicants warrants.

25 (4) The board or its designated representatives shall
26 administer and score the examination. The board shall take
27 any actions necessary to insure impartiality. The passing

1 score in each part of the examination shall be determined by
2 the board based upon a level of minimum competency to engage
3 in the practice of social work.

4 12-43-404. Rights and privileges of licensure. Any
5 person who possesses a valid unsuspended and unrevoked
6 certificate as a licensed clinical social worker has the right
7 to use the title "licensed clinical social worker", "clinical
8 social worker", and the abbreviation "LCSW". No other person
9 shall assume these titles or use these abbreviations on any
10 work or letter, sign, figure, or device to indicate that the
11 person using the same is a licensed clinical social worker.

12 12-43-405. Compliance period. Any person licensed or
13 registered under section 12-63.5-106 (1) or (3) on June 30,
14 1988, prior to its repeal, shall have until January 1, 1989,
15 to attain compliance with the educational and licensure
16 requirements of this part 4 and shall not be in violation of
17 the provisions of section 12-43-404 until said date. Any
18 person licensed under section 12-63.5-106 (2) on June 30,
19 1988, prior to its repeal, shall be deemed to be in compliance
20 with the requirements of this part 4. All persons subject to
21 this section shall comply with all the other provisions of
22 this article.

23 PART 5

24 MARRIAGE AND FAMILY THERAPISTS

25 12-43-501. Definitions. As used in this part 5, unless
26 the context otherwise requires:

27 (1) "Board" means the state board of marriage and family

1 therapist examiners.

2 (2) "Grievance board" means the state grievance board
3 created by section 12-43-702.

4 (3) "Marriage and family therapist" means a marriage and
5 family therapist who practices psychotherapy and marriage and
6 family therapy and who is licensed pursuant to the provisions
7 of this part 5.

8 (4) "Marriage and family therapy" means the process of
9 providing professional marriage and family psychotherapy to
10 individuals, couples, and family groups, either singly or in
11 groups. The practice of marriage and family therapy utilizes
12 established principles that recognize the interrelated nature
13 of the individual problems and dysfunctions in family members
14 to assess, understand, and treat emotional and mental
15 problems. "Marriage and family therapy" includes premarital,
16 marital, divorce, and family therapy, and is a specialized
17 mode of treatment for the purpose of resolving emotional
18 problems and modifying intrapersonal and interpersonal
19 dysfunction.

20 (5) "School or college" means any university or other
21 institution of higher education offering a full-time graduate
22 course of study in marriage and family therapy accredited by
23 the commission on accreditation for marriage and family
24 therapy education or a substantially equivalent program
25 approved by the board.

26 12-43-502. State board of marriage and family therapist
27 examiners - subject to termination. (1) There is hereby

1 created the state board of marriage and family therapist
2 examiners, which shall be under the supervision and control of
3 the division of registrations as provided in section
4 24-34-102, C.R.S. The board shall consist of seven members
5 who are residents of the state of Colorado.

6 (2) The members of the board shall be appointed by the
7 governor as follows:

8 (a) Two members of the general public, one to serve a
9 term of two years and one to serve a term of three years;

10 (b) Five marriage and family therapists, two to serve a
11 term of one year, one to serve a term of two years, and two to
12 serve a term of three years.

13 (3) Initial appointees under paragraph (b) of subsection
14 (2) of this section shall have met all qualifications for
15 licensure pursuant to 12-43-503 (1) (a) to (1) (d) and shall
16 have been practicing in their professions for at least five
17 years prior to July 1, 1988. Such initial appointees shall
18 become licensed within one year of their appointment or as
19 soon as an examination, developed or acquired pursuant to
20 section 12-43-503 (2) (a), has been successfully taken,
21 whichever comes first. The governor shall remove a board
22 member for failure to comply with the requirements of this
23 subsection (3).

24 (4) No board member shall serve more than two full
25 consecutive terms.

26 (5) Each member shall hold office until the expiration
27 of his appointed term or until a successor is duly appointed.

1 When the term of each board member expires, the governor shall
2 appoint his successor for a term of three years. Any vacancy
3 occurring in the board membership other than by the expiration
4 of a term shall be filled by the governor by appointment for
5 the unexpired term of such member.

6 (6) The provisions of section 24-34-104, C.R.S.,
7 concerning the termination schedule for regulatory bodies of
8 the state unless continued as provided in that section, are
9 applicable to the board.

10 12-43-503. Licensure - examination - marriage and family
11 therapists. (1) The board shall issue a license as a
12 marriage and family therapist to each applicant who files an
13 application upon a form and in such manner as the board
14 prescribes, accompanied by a fee as is required by section
15 12-43-204, and who furnishes evidence satisfactory to the
16 board that he:

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

18 (b) Is not in violation of any of the provisions of this
19 article or the rules and regulations adopted under this
20 article;

21 (c) Holds a master's or doctoral degree from an
22 accredited school or college in marriage and family therapy or
23 its equivalent as determined by the board, such degree to
24 include a board-approved practicum or internship in the
25 principles and practice of marriage and family therapy;

26 (d) Subsequent to receiving his master's or doctoral
27 degree, has had at least two years of post-master's or one

1 year of postdoctoral practice in individual and marriage and
2 family therapy, including at least one thousand hours of
3 face-to-face contact with couples and families for the purpose
4 of assessment and intervention, under board-approved
5 supervision; and

6 (e) Has demonstrated professional competence by passing
7 an examination in marriage and family therapy prescribed by
8 the board, or the director of the division of registrations,
9 whichever is applicable.

10 (2) (a) The director of the division of registrations of
11 the department of regulatory agencies shall prepare and
12 develop or acquire the examination required for licensure by
13 paragraph (e) of subsection (1) of this section. In the
14 developing or acquiring of such examination, the division is
15 authorized to consult with persons or organizations
16 knowledgeable in the requirements necessary for minimal
17 competency in marriage and family counseling.

18 (b) The examination shall be developed and given as soon
19 as possible after July 1, 1988.

20 (c) For purposes of the initial examination only, the
21 director of the division of registrations shall have the
22 following powers and duties:

23 (I) To follow the requirements for applications and
24 notification of applicants in subsection (3) of this section;

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

26 (III) To follow the requirements of subsection (5) of
27 this section for grading the examination and determining a

1 passing score.

2 (d) Initial appointees to the board pursuant to section
3 12-43-502 (3) are prohibited from participation in the
4 development of the initial examination. Any other person who
5 participates in the development of an examination pursuant to
6 this subsection (2) shall be prohibited from taking such
7 examination for a period of two years from the date the
8 examination is first given.

9 (3) Subject to the provisions of subsection (2) of this
10 section, upon investigation of the application and other
11 evidence submitted pursuant to paragraphs (a) to (d) of
12 subsection (1) of this section, the board, not less than
13 thirty days prior to the examination, shall notify each
14 applicant that the application and evidence are satisfactory
15 and accepted or unsatisfactory and rejected. If the
16 application is rejected, said notice shall state any reasons
17 for such rejection.

18 (4) The place of examination shall be designated in
19 advance by the board, and such examination shall be given not
20 less than twice each year at such time and place and under
21 such supervision as the board may determine, if there are
22 applicants desiring to be examined, and shall be given at such
23 other times as, in the opinion of the board, the number of
24 applicants warrants.

25 (5) The board or its designated representatives shall
26 administer and score the examination. The board shall take
27 any actions necessary to insure impartiality. The passing

1 score in each part of the examination shall be determined by
2 the board based upon a level of minimum competency to engage
3 in the practice of marriage and family therapy.

4 12-43-504. Rights and privileges of licensure. Any
5 person who possesses a valid unsuspended and unrevoked
6 certificate as a licensed marriage and family therapist has
7 the right to use the title for which he is licensed pursuant
8 to section 12-43-503. A marriage and family therapist
9 licensed pursuant to section 12-43-503 has the right to use
10 the abbreviation "LMFT". No other person shall assume these
11 titles or use these abbreviations on any work or letter, sign,
12 figure, or device to indicate that the person using the same
13 is a licensed marriage and family therapist.

14 PART 6

15 LICENSED PROFESSIONAL COUNSELORS

16 12-43-601. Definitions. As used in this part 6, unless
17 the context otherwise requires:

18 (1) "Board" means the state board of licensed
19 professional counselor examiners.

20 (2) "Grievance board" means the state grievance board
21 created by section 12-43-702.

22 (3) "Licensed professional counselor" means a
23 professional counselor who practices psychotherapy and
24 professional counseling and who is licensed pursuant to this
25 part 6.

26 (4) "Professional counseling" means:

27 (a) The selecting, administering, scoring, and

1 interpreting of instruments designed to measure aptitudes,
2 attitudes, abilities, achievements, interests, emotions, and
3 other personal characteristics and includes the application of
4 nonstandardized methods, such as interviews, to evaluate a
5 person receiving counseling and to evaluate such person's
6 personal and social functioning;

7 (b) A voluntary, temporary relationship between a
8 counselor and a client in which the counselor assists a
9 person, couple, group, or organization to cope with matters
10 that include relationships, conflicts, problem-solving,
11 decision-making, and competencies by interpreting, reporting
12 on, or applying counseling theory;

13 (c) Those activities which assist the person receiving
14 counseling in developing an understanding of personal,
15 emotional, social, educational, and vocational development and
16 in planning and effecting actions to increase functioning in
17 such areas. Such activities include, but are not limited to,
18 skill-building in communications, decision-making, and
19 problem-solving, clarifying values, promoting adaptation to
20 loss and other life changes, developing social skills,
21 restructuring cognitive patterns, defining educational and
22 career goals, and facilitating adjustment to personal crises
23 and conflicts.

24 (d) Rendering of or offering to render counseling
25 services that facilitate effective personal, emotional,
26 social, educational, and vocational development in
27 individuals, couples, groups, and organizations, with an

1 emphasis on the natural aspects of human development and with
2 an educational orientation. "Mental health counseling"
3 includes assessment, counseling activities, consultation, and
4 referral.

5 (5) "School or college" means any university or other
6 institution of higher education offering a full-time graduate
7 course of study in professional counseling approved by
8 appropriate national organizations accrediting professional
9 counselor education programs or a substantially equivalent
10 program approved by the board.

11 12-43-602. State board of licensed professional
12 counselor examiners - subject to termination. (1) There is
13 hereby created the state board of licensed professional
14 counselor examiners, which shall be under the supervision and
15 control of the division of registrations as provided in
16 section 24-34-102, C.R.S. The board shall consist of seven
17 members who are residents of the state of Colorado.

18 (2) The members of the board shall be appointed by the
19 governor as follows:

20 (a) Two members of the general public, one to serve a
21 term of two years and one to serve a term of three years;

22 (b) Five licensed professional counselors, two to serve
23 a term of one year, one to serve a term of two years, and two
24 to serve a term of three years.

25 (3) Initial appointees under paragraph (b) of subsection
26 (2) of this section shall have met all qualifications for
27 licensure pursuant to section 12-43-603 (1) (a) to (1) (d) and

1 shall have been practicing in their profession for at least
2 five years prior to July 1, 1988. Such initial appointees
3 shall become licensed within one year of their appointment or
4 as soon as an examination, developed or acquired pursuant to
5 section 12-43-603 (2) (a), has been successfully taken,
6 whichever comes first. The governor shall remove a board
7 member for failure to comply with the requirements of this
8 subsection (3).

9 (4) No board member shall serve more than two full
10 consecutive terms.

11 (5) Each member shall hold office until the expiration
12 of his appointed term or until a successor is duly appointed.
13 When the term of each board member expires, the governor shall
14 appoint his successor for a term of three years. Any vacancy
15 occurring in the board membership other than by the expiration
16 of a term shall be filled by the governor by appointment for
17 the unexpired term of such member.

18 (6) The provisions of section 24-34-104, C.R.S.,
19 concerning the termination schedule for regulatory bodies of
20 the state unless continued as provided in that section, are
21 applicable to the board.

22 12-43-603. Licensure - examination - licensed
23 professional counselors. (1) The board shall issue a license
24 as a licensed professional counselor to each applicant who
25 files an application upon a form and in such manner as the
26 board prescribes, accompanied by a fee as is required by
27 section 12-43-204, and who furnishes evidence satisfactory to

1 the board that he:

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

3 (b) Is not in violation of any of the provisions of this
4 article and the rules and regulations adopted under this
5 article;

6 (c) Holds a master's or doctoral degree in professional
7 counseling from an accredited school or college or an
8 equivalent program as determined by the board. Such degree or
9 program shall include a board-approved practicum or internship
10 in the principles and practice of professional counseling.

11 (d) Has at least two years of post-master's practice or
12 one year of postdoctoral practice in applied psychotherapy
13 under supervision approved by the board; and

14 (e) Has demonstrated professional competence by passing
15 an examination in professional counseling demonstrating
16 special knowledge and skill in applied psychotherapy as
17 prescribed by the board or the director of the division of
18 registrations, whichever is applicable.

19 (2) (a) The director of the division of registrations of
20 the department of regulatory agencies shall prepare and
21 develop or acquire the examination required for licensure by
22 paragraph (e) of subsection (1) of this section. In
23 developing or acquiring such examination, the director is
24 authorized to consult with persons or organizations
25 knowledgeable in the requirements necessary for minimal
26 competency in professional counseling.

27 (b) The examination shall be developed and given as soon

1 as possible after July 1, 1988.

2 (c) For purposes of the initial examination only, the
3 director of the division of registrations shall have the
4 following powers and duties:

5 (I) To follow the requirements for applications and
6 notification of applicants in subsection (3) of this section;

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

8 (III) To follow the requirements in subsection (5) of
9 this section for grading the examination and determining a
10 passing score.

11 (d) Initial appointees to the board pursuant to section
12 12-43-602 (3) are prohibited from participation in the
13 development of the initial examination. Any other person who
14 participates in the development of an examination pursuant to
15 this subsection (2) shall be prohibited from taking such
16 examination for a period of two years from the date the
17 examination is first given.

18 (3) Subject to the provisions of subsection (2) of this
19 section, upon investigation of the application and other
20 evidence submitted, the board shall, not less than thirty days
21 prior to the examination, notify each applicant that the
22 application and evidence submitted under paragraphs (a) to (d)
23 of subsection (1) of this section are satisfactory and
24 accepted or unsatisfactory and rejected. If rejected, said
25 notice shall state the reasons for such rejection.

26 (4) Subject to the provisions of subsection (2) of this
27 section, the place of examination shall be designated in

1 advance by the board, and such examination shall be given not
2 less than twice each year at such time and place and under
3 such supervision as the board may determine, if there are
4 applicants desiring to be examined, and shall be given at such
5 other times as, in the opinion of the board, the number of
6 applicants warrants.

7 (5) Subject to the provisions of subsection (2) of this
8 section, the board or its designated representatives shall
9 administer and score the examination. The board shall take
10 any actions necessary to insure impartiality. The passing
11 score in each part of the examination shall be determined by
12 the board based upon a level of minimum competency to engage
13 in the practice of licensed professional counseling.

14 12-43-604. Rights and privileges of licensure. Any
15 person who possesses a valid unsuspended and unrevoked
16 certificate as a licensed professional counselor has the right
17 to use the title for which he is licensed pursuant to section
18 12-43-603. A professional counselor licensed pursuant to
19 section 12-43-603 has the right to use the abbreviation "LPC".
20 No other person shall assume these titles or use these
21 abbreviations on any work or letter, sign, figure, or device
22 to indicate that the person using the same is a licensed
23 professional counselor.

24 PART 7

25 STATE GRIEVANCE BOARD

26 12-43-701. Definitions. As used in this part 7, unless
27 the context otherwise requires:

1 (1) "Certified school psychologist" means a person who
2 practices psychotherapy and who is a school psychologist
3 certified pursuant to the provisions of section 22-60-104 (1)
4 (e), C.R.S.

5 (2) "Grievance board" means the state grievance board
6 created by section 12-43-702.

7 (3) "Independent advertising or marketing agent" means a
8 person, firm, association, or corporation which performs
9 advertising or other marketing services on behalf of
10 licensees, including referrals of patients to licensees
11 resulting from patient-initiated responses to such advertising
12 or marketing services.

13 (4) "Licensed clinical social worker" means a person who
14 practices psychotherapy and who is a clinical social worker
15 licensed pursuant to the provisions of this article.

16 (5) "Licensed marriage and family therapist" or
17 "marriage and family therapist" means a person who practices
18 psychotherapy and who is a marriage and family therapist
19 licensed pursuant to the provisions of this article.

20 (6) "Licensed professional counselor" or "professional
21 counselor" means a person who practices psychotherapy and who
22 is a professional counselor licensed pursuant to the
23 provisions of this article.

24 (7) "Licensed psychologist" or "psychologist" means a
25 person who practices psychotherapy and who is a psychologist
26 licensed pursuant to the provisions of this article.

27 (8) "Licensee" means a psychologist, clinical social

1 worker, marriage and family therapist, or professional
2 counselor licensed pursuant to the provisions of this article.
3 (9) "Psychotherapy" means the treatment, diagnosis,
4 testing, assessment, or counseling in a professional
5 relationship to assist individuals or groups to alleviate
6 mental disorders, understand unconscious or conscious
7 motivation, resolve emotional, relationship, or attitudinal
8 conflicts, or modify behaviors which interfere with effective
9 emotional, social, or intellectual functioning.

10 (10) "Unlicensed psychotherapist" means any unlicensed
11 person whose primary practice is psychotherapy or who holds
12 himself out to the public as being able to practice
13 psychotherapy for compensation and who is not a certified
14 school psychologist.

15 12-43-702. State grievance board - creation - subject to
16 termination. (1) There is hereby created the state grievance
17 board, which shall be under the supervision and control of the
18 division of registrations as provided in section 24-34-102,
19 C.R.S. The grievance board shall consist of eight members or
20 eleven members, as determined pursuant to this section, who
21 are residents of the state of Colorado.

22 (2) Four members of the grievance board shall be
23 appointed by the governor from the general public with a good
24 faith effort to achieve broad-based geographical
25 representation, one to serve a term of one year, one to serve
26 a term of two years, and two to serve a term of three years.

27 (3) Four members of the grievance board shall be

1 licensed members of their respective licensing board and shall
2 be appointed by the governor, as follows:

3 (a) A licensed marriage and family therapist to serve a
4 term of one year;

5 (b) A licensed professional counselor to serve a term of
6 two years;

7 (c) A licensed clinical social worker to serve a term of
8 two years;

9 (d) A licensed psychologist to serve a term of three
10 years.

11 (4) The grievance board shall attempt to schedule
12 disciplinary matters to be heard by the grievance board in a
13 manner so as to reduce the number of additional members needed
14 for any meeting. For disciplinary proceedings of the
15 grievance board, in addition to the eight members appointed to
16 the grievance board under subsections (2) and (3) of this
17 section, three additional members shall be appointed by the
18 governor to the grievance board as follows:

19 (a) If the disciplinary action relates to a licensed
20 psychologist, the three additional members shall be licensed
21 psychologists.

22 (b) If the disciplinary action relates to a licensed
23 clinical social worker, the three additional members shall be
24 licensed clinical social workers.

25 (c) If the disciplinary action relates to a licensed
26 marriage and family therapist, the three additional members
27 shall be licensed marriage and family therapists.

1 (d) If the disciplinary action relates to a licensed
2 professional counselor, the three additional members shall be
3 licensed professional counselors.

4 (e) If the disciplinary action relates to a certified
5 school psychologist, the three additional members shall be
6 certified school psychologists.

7 (5) (a) Five of the persons eligible to serve on the
8 grievance board under subsection (4) of this section shall be
9 appointed by the governor to serve a term of one year, one
10 from each of the professions licensed pursuant to parts 3, 4,
11 5, and 6 of this article and one certified school
12 psychologist.

13 (b) Five of the persons eligible to serve on the
14 grievance board under subsection (4) of this section shall be
15 appointed by the governor to serve a term of two years, one
16 from each of the professions licensed pursuant to parts 3, 4,
17 5, and 6 of this article and one certified school
18 psychologist.

19 (c) Five of the persons eligible to serve on the
20 grievance board under subsection (4) of this section shall be
21 appointed by the governor to serve a term of three years, one
22 from each of the professions licensed pursuant to parts 3, 4,
23 5, and 6 of this article and one certified school
24 psychologist.

25 (6) (a) Members of the grievance board appointed under
26 subsection (2) or (3) of this section may serve two full
27 consecutive terms.

1 (b) The appointees under paragraphs (a) and (b) of
2 subsection (3) of this section and under paragraphs (c) and
3 (d) of subsection (4) of this section shall have met all
4 qualifications for licensure pursuant to section 12-43-503 (1)
5 (a) to (1) (d) or 12-43-603 (1) (a) to (1) (d), and shall have
6 been practicing in their professions for at least five years
7 prior to July 1, 1988. Such appointees shall become licensed
8 within one year of their appointments or as soon as an
9 examination, developed or acquired pursuant to section
10 12-43-503 (2) (a) or 12-43-603 (2) (a), has been successfully
11 taken, whichever comes first. The governor shall remove a
12 board member for failure to comply with the requirements of
13 this section.

14 (7) Each member shall hold office until the expiration
15 of his appointed term or until a successor is duly appointed.
16 When the term of each grievance board member expires, the
17 governor shall appoint his successor for a term of three
18 years. Any vacancy occurring in the grievance board
19 membership other than by the expiration of a term shall be
20 filled by the governor by appointment for the unexpired term
21 of such member. The governor may remove any grievance board
22 member for misconduct, incompetence, or neglect of duty.
23 Actions constituting neglect of duty shall include, but not be
24 limited to, the failure of board members to attend three
25 consecutive meetings or at least three-quarters of the board's
26 meetings in any one calendar year.

27 (8) Members of the grievance board and consultants to

1 the grievance board shall be immune from suit in any action,
2 civil or criminal, based upon any disciplinary proceedings or
3 other official acts performed in good faith as members of such
4 board or as consultants to such board.

5 (9) A majority of the grievance board shall constitute a
6 quorum for the transaction of all business.

7 (10) The provisions of section 24-34-104, C.R.S.,
8 concerning the termination schedule for regulatory bodies of
9 the state unless continued as provided in that section, are
10 applicable to the grievance board.

11 12-43-703. Powers and duties of the grievance board.

12 (1) In addition to all other powers and duties conferred and
13 imposed upon the grievance board by this article, the
14 grievance board has the following powers and duties:

15 (a) To annually elect one of its members as chairman and
16 one as vice-chairman. It may adopt such rules for its
17 government as it deems proper.

18 (b) To make investigations, hold hearings, and take
19 evidence in accordance with the provisions of article 4 of
20 title 24, C.R.S., and this article in all matters relating to
21 the exercise and performance of the powers and duties vested
22 in the grievance board and, in connection with any
23 investigation or hearing and through any member or an
24 administrative law judge, to subpoena witnesses, administer
25 oaths, and compel the testimony of witnesses and the
26 production of books, papers, and records relevant to any
27 inquiry or hearing. Any subpoena issued pursuant to this

1 article shall be enforceable by the district court.

2 (c) To aid the several district attorneys of this state
3 in the enforcement of this article and in the prosecution of
4 all persons, firms, associations, or corporations charged with
5 the violation of any of its provisions and to report to the
6 appropriate district attorney any violation of this article
7 which it reasonably believes involves a criminal violation;

8 (d) To take disciplinary actions in conformity with this
9 article;

10 (e) Through the department of regulatory agencies and
11 subject to appropriations made to the department of regulatory
12 agencies, to employ administrative law judges on a full-time
13 or part-time basis to conduct any hearings required by this
14 article. The administrative law judges shall be appointed
15 pursuant to part 10 of article 30 of title 24, C.R.S.

16 (f) To notify the public of all disciplinary actions
17 taken against licensees or certified school psychologists, and
18 unlicensed psychotherapists, pursuant to this article;

19 (g) To request that any board or individual board member
20 advise it or an administrative law judge it employs in any
21 disciplinary matter. In addition, the grievance board may
22 request the advice of any certified school psychologist when
23 the subject of any disciplinary matter is a certified school
24 psychologist.

25 (2) Pursuant to this part 7 and article 4 of title 24,
26 C.R.S., the grievance board is authorized to adopt and revise
27 such rules and regulations as may be necessary to enable it to

1 carry out the provisions of this part 7.
 2 12-43-704. Grounds for discipline. (1) The grievance
 3 board has the power to deny, revoke, or suspend any license,
 4 to issue a letter of admonition to a licensee or certified
 5 school psychologist outside the school setting, to place a
 6 licensee or certified school psychologist outside the school
 7 setting on probation, or to request an injunction pursuant to
 8 section 12-43-708 to enjoin an unlicensed psychotherapist from
 9 practicing psychotherapy or a licensee or certified school
 10 psychologist outside of the school setting from practicing the
 11 profession for which he is licensed under this article or for
 12 which he is certified or from practicing psychotherapy upon
 13 proof that such person has done any of the following:
 14 (a) Has been convicted of a felony or has had accepted
 15 by a court a plea of guilty or nolo contendere to a felony if
 16 related to the ability to practice psychotherapy. A certified
 17 copy of the judgment of a court of competent jurisdiction of
 18 such conviction or plea shall be conclusive evidence of such
 19 conviction or plea. In considering the disciplinary action,
 20 the grievance board shall be governed by the provisions of
 21 section 24-5-101, C.R.S.
 22 (b) Has violated, or attempted to violate, directly or
 23 indirectly, or assisted or abetted the violation of, or
 24 conspired to violate any provision or term of this article or
 25 rule or regulation promulgated pursuant to this article;
 26 (c) Has used advertising which is misleading, deceptive,
 27 or false;

1 (d) (I) Has committed abuse of health insurance pursuant
 2 to section 18-13-119, C.R.S.;

3 (II) Has advertised through newspapers, magazines,
 4 circulars, direct mail, directories, radio, television, or
 5 otherwise that the person will perform any act prohibited by
 6 section 18-13-119, C.R.S.;

7 (e) Has habitual intemperance to or excessive use of any
 8 habit-forming drug, as defined in section 12-22-102 (13), any
 9 controlled substance, as defined in section 12-22-303 (7), or
 10 any alcoholic beverage;

11 (f) Has a physical or mental disability which renders
 12 him unable to treat with reasonable skill and safety his
 13 clients or which may endanger the health or safety of persons
 14 under his care;

15 (g) Has acted or failed to act in a manner which does
 16 not meet the generally accepted standards of his practice. A
 17 certified copy of a malpractice judgment of a court of
 18 competent jurisdiction shall be conclusive evidence of such
 19 act or omission, but evidence of such act or omission shall
 20 not be limited to a malpractice judgment.

21 (h) Has performed services outside of his area of
 22 training, experience, or competence;

23 (i) Has maintained relationships with clients that are
 24 likely to impair his professional judgment or increase the
 25 risk of client exploitation, such as treating employees,
 26 supervisees, close colleagues, or relatives;

27 (j) Has exercised undue influence on the client,

1 including the promotion of the sale of services, goods,
2 property, or drugs in such a manner as to exploit the client
3 for the financial gain of the practitioner or a third party;

4 (k) Has failed to terminate a relationship with a client
5 when according to generally accepted standards of practice it
6 was reasonably clear that the client was not benefiting from
7 the relationship and is not likely to gain such benefit in the
8 future;

9 (l) Has failed to refer a client to an appropriate
10 practitioner when the problem of the client is beyond his
11 training, experience, or competence;

12 (m) Has failed to render adequate professional
13 supervision of persons practicing psychotherapy under his
14 supervision according to generally accepted standards of
15 practice;

16 (n) Has accepted commissions or rebates or other forms
17 of remuneration for referring clients to other professional
18 persons;

19 (o) Has failed to comply with any of the requirements
20 pertaining to mandatory disclosure of information to clients
21 pursuant to section 12-43-218;

22 (p) Has offered or given commissions, rebates, or other
23 forms of remuneration for the referral of clients.
24 Notwithstanding this provision, a licensee may pay an
25 independent advertising or marketing agent compensation for
26 advertising or marketing services rendered on his behalf by
27 such agent, including compensation which is paid for the

1 results of performance of such services on a per patient
2 basis;

3 (q) Has engaged in sexual contact, sexual intrusion, or
4 sexual penetration, as defined in section 18-3-401, C.R.S.,
5 with a client during the period of time in which a therapeutic
6 relationship exists or for up to six months after the period
7 in which such a relationship exists; or

8 (r) Has resorted to fraud, misrepresentation, or
9 deception in applying for or in securing licensure or taking
10 any examination provided for in this article.

11 (2) A disciplinary action relating to a license to
12 practice a profession licensed under this article or any
13 related occupation in any other state, territory, or country
14 for disciplinary reasons shall be deemed to be prima facie
15 evidence of grounds for disciplinary action, including denial
16 of licensure, by the grievance board. This subsection (2)
17 shall apply only to disciplinary actions based upon acts or
18 omissions in such other state, territory, or country
19 substantially similar to those set out as grounds for
20 disciplinary action pursuant to subsection (1) of this
21 section.

22 (3) The grievance board shall notify the state board of
23 education of any action the grievance board takes against a
24 certified school psychologist pursuant to this part 7, and the
25 state board of education may use evidence of such action in
26 any proceeding related to the certified school psychologist,
27 subject to the requirements of title 22, C.R.S.

1 12-43-705. Disciplinary proceedings - judicial review -
 2 mental and physical examinations. (1) A proceeding for
 3 discipline of a licensee or certified school psychologist may
 4 be commenced when the grievance board has reasonable grounds
 5 to believe that a licensee or certified school psychologist
 6 under the grievance board's jurisdiction has committed any act
 7 or failed to act pursuant to the grounds established in
 8 section 12-43-704.

9 (2) (a) Disciplinary proceedings shall be conducted in
 10 the manner prescribed by the "State Administrative Procedure
 11 Act", article 4 of title 24, C.R.S.

12 (b) The grievance board, through the department of
 13 regulatory agencies, may employ administrative law judges, on
 14 a full-time or part-time basis, to conduct hearings as
 15 provided by this article or on any matter within the grievance
 16 board's jurisdiction upon such conditions and terms as the
 17 grievance board may determine. The grievance board may elect
 18 to refer a case for formal hearing to an administrative law
 19 judge, with or without an assigned advisor from the grievance
 20 board or other board. If the grievance board so elects to
 21 refer a case with an assigned advisor, and such advisor is a
 22 member of the grievance board, he shall be excluded from the
 23 grievance board review of the decision of the administrative
 24 law judge. The advisor shall assist the administrative law
 25 judge in obtaining and interpreting data pertinent to the
 26 hearing.

27 (c) No license or certified school psychologist's right

1 to use of title as provided in section 12-43-304 (5) (a) shall
 2 be denied, revoked, or suspended by the grievance board, nor
 3 shall a licensee or certified school psychologist be placed on
 4 probation pursuant to the grounds established in section
 5 12-43-704, until after a hearing has been conducted if so
 6 required pursuant to section 24-4-105, C.R.S., except as
 7 provided for in emergency situations by section 24-4-104,
 8 C.R.S., or except in the event that a licensee or certified
 9 school psychologist has been adjudicated as mentally ill,
 10 gravely disabled, mentally retarded, mentally incompetent, or
 11 insane by a court of competent jurisdiction, or except in the
 12 event a licensee or certified school psychologist violates
 13 paragraph (e) of this subsection (2), in which case the
 14 grievance board is empowered to summarily suspend his license
 15 or certified school psychologist's right to use title as
 16 provided in section 12-43-304 (5) (a) subject to the
 17 limitation of section 24-4-104, C.R.S.

18 (d) In order to aid the grievance board in any hearing
 19 or investigation instituted pursuant to this article, the
 20 grievance board shall have the power to issue subpoenas which
 21 may be signed by the program administrator to compel the
 22 attendance of witnesses and the production of books, client
 23 records, and papers. The grievance board shall also have the
 24 power to issue subpoenas commanding the production of copies
 25 of any records containing information relevant to the practice
 26 rendered by any licensee. The person providing such copies
 27 shall prepare them from the original record and shall delete

1 from the copy provided pursuant to the subpoena the name of
 2 the client, but he shall identify the client by a numbered
 3 code, to be retained by the custodian of the records from
 4 which the copies were made. Upon certification of the
 5 custodian that the copies are true and complete except for the
 6 client's name, they shall be deemed authentic, subject to the
 7 right to inspect the originals for the limited purpose of
 8 ascertaining the accuracy of the copies. No privilege of
 9 confidentiality shall exist with respect to such copies, and
 10 no liability shall lie against the grievance board or the
 11 custodian for furnishing or using such copies in accordance
 12 with this paragraph (d).

13 (e) If the board has reasonable cause to believe that a
 14 licensee or certified school psychologist is unable to
 15 practice with reasonable skill and safety to patients, it may
 16 require such licensee or certified school psychologist to
 17 submit to mental or physical examinations designated by the
 18 board. Upon the failure of such licensee or certified school
 19 psychologist to submit to such mental or physical
 20 examinations, unless he shows good cause for such failure, the
 21 board may act pursuant to paragraph (c) of this subsection (2)
 22 or enjoin a certified school psychologist or licensee pursuant
 23 to section 12-43-708 until such time as he submits to the
 24 required examinations.

25 (f) Every licensee or certified school psychologist
 26 shall be deemed to have given his consent to submit to mental
 27 or physical examinations when directed in writing by the board

1 and to have waived all objections to the admissibility of the
 2 examiner's testimony or examination reports on the ground of
 3 privileged communication.

4 (g) The results of any mental or physical examination
 5 ordered by the board shall not be used as evidence in any
 6 proceeding other than proceedings before the board.

7 (3) Disciplinary actions may consist of the following:

8 (a) Revocation of a license. (I) Revocation of a
 9 license by the grievance board shall mean that the licensee
 10 shall surrender his license to the grievance board within a
 11 period of thirty days. Similarly, a certified school
 12 psychologist's right to use of title as provided in section
 13 12-43-304 (5) (a) shall cease within a period of thirty days.
 14 Failure to do so will render the licensee or certified school
 15 psychologist liable to prosecution by the district attorney.

16 (II) Any person whose license to practice is revoked is
 17 rendered ineligible to apply for any license issued under this
 18 article until more than three years have elapsed from the date
 19 of surrender of the license. Any reapplication after such
 20 three-year period shall be treated as a new application.

21 (b) Suspension of a license. Suspension of a license or
 22 a certified school psychologist's right to use of title as
 23 provided in section 12-43-304 (5) (a) by the grievance board
 24 shall be for a period to be determined by the grievance board.

25 (c) Probationary status. Probationary status may be
 26 imposed by the grievance board. If the grievance board places
 27 a licensee or certified school psychologist on probation, it

1 may include conditions for continued practice as the grievance
2 board deems appropriate to assure that the licensee or
3 certified school psychologist is physically, mentally, and
4 otherwise qualified to practice in accordance with generally
5 accepted professional standards of practice, including any or
6 all of the following:

7 (I) Submission by the licensee or certified school
8 psychologist to such examinations as the grievance board may
9 order to determine his physical or mental condition or his
10 professional qualifications;

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

14 (III) The review or supervision of his practice as may
15 be necessary to determine the quality of his practice and to
16 correct deficiencies therein; and

17 (IV) The imposition of restrictions upon the nature of
18 his practice to assure that he does not practice beyond the
19 limits of his capabilities.

20 (d) Issuance of letters of admonition. Such letters
21 shall be sent by certified mail to the licensee or certified
22 school psychologist against whom a complaint was made. The
23 letter shall advise the licensee or certified school
24 psychologist that he may, within twenty days after receipt of
25 the letter, make a written request to the grievance board to
26 institute formal disciplinary proceedings in order to formally
27 adjudicate the conduct or acts on which the letter was based.

1 (4) Complaints, investigations, hearings, meetings, or
2 any other proceedings of the grievance board conducted
3 pursuant to the provisions of this article and relating to the
4 disciplinary or injunctive proceedings shall be exempt from
5 the provisions of any law requiring that proceedings of the
6 grievance board be conducted publicly or that the minutes or
7 records of the grievance board with respect to action of the
8 grievance board taken pursuant to the provisions of this
9 article be open to public inspection; except that this
10 exemption shall apply only when the grievance board, or an
11 administrative law judge acting on behalf of the grievance
12 board, specifically determines that it is in the best interest
13 of a complainant or other recipient of services to keep such
14 proceedings or documents relating thereto closed to the public
15 or if the licensee or certified school psychologist is
16 violating section 12-43-704 (1) (e), the licensee or certified
17 school psychologist is participating in good faith in a
18 program approved by the grievance board designed to end such
19 addiction or dependency, and the licensee or certified school
20 psychologist has not violated any provisions of the grievance
21 board order regarding his participation in such a treatment
22 program. If the grievance board determines that it is in the
23 best interest of a complainant or other recipient of services
24 to keep such proceedings or documents relating thereto closed
25 to the public, then the final action of the grievance board
26 must be open to the public without disclosing the name of the
27 client or other recipient.

1 (5) Final grievance board actions and orders appropriate
2 for judicial review may be judicially reviewed in the court of
3 appeals, and judicial proceedings for the enforcement of a
4 grievance board order may be instituted in accordance with
5 section 24-4-106 (11), C.R.S.

6 (6) Any person participating in good faith in the making
7 of a complaint or report or participating in any investigative
8 or administrative proceeding before the grievance board
9 pursuant to this article shall be immune from any liability,
10 civil or criminal, that otherwise might result by reason of
11 such action.

12 (7) Any grievance board member having an immediate
13 personal, private, or financial interest in any matter pending
14 before the grievance board shall disclose the fact to the
15 grievance board and shall not vote upon such matter.

16 (8) Any licensee or certified school psychologist
17 against whom a malpractice claim is settled or a judgment
18 rendered in a court of competent jurisdiction shall notify the
19 grievance board of such judgment or settlement within sixty
20 days of such disposition.

21 (9) Licensees and certified school psychologists have
22 the duty to report to the grievance board any unlicensed
23 psychotherapist, certified school psychologist, or licensee
24 known, or, upon information and belief, believed, to have
25 violated any of the provisions of section 12-43-704, unless
26 such report would violate the prohibition against disclosure
27 of confidential information without client consent pursuant to

1 section 12-43-218.

2 12-43-706. Reconsideration and review of action of
3 grievance board. The grievance board, on its own motion or
4 upon application, at any time after the imposition of any
5 discipline as provided in section 12-43-705, may reconsider
6 its prior action and reinstate or restore such license or
7 terminate probation or reduce the severity of its prior
8 disciplinary action. The taking of any such further action,
9 or the holding of a hearing with respect thereto, shall rest
10 in the sole discretion of the grievance board.

11 12-43-707. Unlawful acts. (1) It is a class 3
12 misdemeanor for any person to violate any provision of this
13 article.

14 (2) Upon conviction, such person shall be punished as
15 provided in section 18-1-106, C.R.S. Each violation shall be
16 a separate offense.

17 (3) Such misdemeanor shall be prosecuted by the district
18 attorney of the judicial district in which the offense was
19 committed, in the name of the people of the state of Colorado.

20 (4) No action may be maintained for the breach of a
21 contract involving the unlawful practice of psychology, social
22 work, professional counseling, marriage and family therapy,
23 psychotherapy, or certified school psychology or for the
24 recovery of compensation for services rendered under such a
25 contract.

26 (5) When an individual has been the recipient of
27 services prohibited by this article whether or not he knew

1 that the rendition of the services were unlawful:

2 (a) He or his personal representative is entitled to
3 recover the amount of any fee paid for the services; and

4 (b) Damages for injury or death occurring as a result of
5 the services may be recovered in an appropriate action without
6 any showing of negligence.

7 12-43-708. Injunctive proceedings. (1) The grievance
8 board may, in the name of the people of the state of Colorado,
9 through the attorney general of the state of Colorado, apply
10 for an injunction in any court of competent jurisdiction to
11 enjoin any person from committing any act prohibited by the
12 provisions of this article, or to enjoin an unlicensed
13 psychotherapist from practicing psychotherapy or a licensee or
14 certified school psychologist from practicing the profession
15 for which he is licensed under this article or for which he is
16 certified or from practicing psychotherapy upon proof that
17 such person has committed any act set forth in section
18 12-43-704 or 12-43-705 (2) (e).

19 (2) If it is established that the defendant has been or
20 is committing any act prohibited by this article, the court
21 shall enter a decree perpetually enjoining said defendant from
22 further committing said act.

23 (3) Such injunctive proceedings shall be in addition to
24 and not in lieu of all penalties and other remedies provided
25 in this article.

26 (4) When seeking an injunction under this section, the
27 grievance board shall not be required to allege or prove

1 either that an adequate remedy at law does not exist or that
2 substantial or irreparable damage would result from a
3 continued violation.

4 12-43-709. Expenses of the grievance board. All
5 reasonable expenses of the grievance board shall be paid as
6 determined by the director of the division of registrations
7 from the fees collected pursuant to section 12-43-204 as
8 provided by law.

9 12-43-710. Grievance board - jurisdiction. All
10 investigations completed or in progress pursuant to sections
11 12-43-111 and 12-63.5-114 as said sections existed on June 30,
12 1988, shall be referred to the grievance board. Hearings
13 which have been initiated by a board, or formally referred to
14 hearing or dismissed pursuant to such sections prior to July
15 1, 1988, shall be completed and a decision rendered by that
16 board. All actions taken and decisions rendered by a board
17 prior to July 1, 1988, are hereby ratified.

18 12-43-711. Records. The grievance board shall maintain
19 records of all cases considered and decisions rendered by said
20 board.

21 SECTION 2. 24-1-122 (3) (v), Colorado Revised Statutes,
22 1982 Repl. Vol., is amended, and the said 24-1-122 (3), as
23 amended, is further amended BY THE ADDITION OF THE FOLLOWING
24 NEW PARAGRAPHS, to read:

25 24-1-122. Department of regulatory agencies - creation.
26 (3) (v) Colorado state board of psychologist examiners,
27 created by PART 3 OF article 43 of title 12, C.R.S.; 1973;

1 (ii) State board of social work examiners, created by
2 part 4 of article 43 of title 12, C.R.S.;

3 (jj) State board of marriage and family therapist
4 examiners, created by part 5 of article 43 of title 12,
5 C.R.S.;

6 (kk) State board of licensed professional counselor
7 examiners, created by part 6 of article 43 of title 12,
8 C.R.S.;

9 (ll) State grievance board, created by part 7 of article
10 43 of title 12, C.R.S.

11 SECTION 3. 24-34-104, Colorado Revised Statutes, 1982
12 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW
13 SUBSECTION to read:

14 24-34-104. General assembly review of regulatory
15 agencies for termination, continuation, or reestablishment.

16 (21) The following boards in the division of registrations
17 shall terminate on July 1, 1992: Boards relating to the
18 licensing of and grievances against any person licensed
19 pursuant to the provisions of article 43 of title 12, C.R.S.,
20 and created pursuant to article 43 of title 12, C.R.S.

21 SECTION 4. 10-8-116 (7) (b), Colorado Revised Statutes,
22 1987 Repl. Vol., is amended to read:

23 10-8-116. Group sickness and accident insurance.

24 (7) (b) In the case of major medical coverage, benefits shall
25 cover outpatient services furnished by: A comprehensive
26 health care service corporation; a hospital; or a community
27 mental health center or other mental health clinics approved

1 by the department of institutions to furnish mental health
2 services or furnished by or under the supervision of a
3 licensed physician or licensed psychologist acting in
4 compliance with PART 3 OF article 43 of title 12, C.R.S. The
5 services provided under this paragraph (b) shall be under the
6 direct supervision of a physician or a licensed psychologist
7 acting in compliance with PART 3 OF article 43 of title 12,
8 C.R.S. The patient records shall show that the attending
9 physician or licensed psychologist acting in compliance with
10 PART 3 OF article 43 of title 12, C.R.S., either saw the
11 patient or had a written summary of consultations or a
12 personal consultation with the therapist at least once every
13 ninety days.

14 SECTION 5. 10-16-135 (1) (b), Colorado Revised Statutes,
15 1987 Repl. Vol., is amended to read:

16 10-16-135. Benefits against mental illness costs.

17 (1) (b) In the case of major medical coverage, benefits shall
18 cover outpatient services furnished by: A comprehensive
19 health care service corporation; a hospital; or a community
20 mental health center or other mental health clinics approved
21 by the department of institutions to furnish mental health
22 services or furnished by or under the supervision of a
23 licensed physician or licensed psychologist acting in
24 compliance with PART 3 OF article 43 of title 12, C.R.S. The
25 services provided under this paragraph (b) shall be under the
26 direct supervision of a physician or a licensed psychologist
27 acting in compliance with PART 3 OF article 43 of title 12,

1 C.R.S. The patient records shall show that the attending
2 physician or licensed psychologist acting in compliance with
3 PART 3 OF article 43 of title 12, C.R.S., either saw the
4 patient or had a written summary of consultations or a
5 personal consultation with the therapist at least once every
6 ninety days.

7 SECTION 6. 13-4-102 (2) (o), Colorado Revised Statutes,
8 1987 Repl. Vol., is amended, and the said 13-4-102 (2) is
9 further amended BY THE ADDITION OF THE FOLLOWING NEW
10 PARAGRAPHS, to read:

11 13-4-102. Jurisdiction. (2) (o) Review all final
12 actions and orders appropriate for judicial review of the
13 passenger tramway safety board as provided in section
14 25-5-715, C.R.S.; and

15 (q) Review final actions and orders appropriate for
16 judicial review of the state grievance board, as provided in
17 section 12-43-705, C.R.S; and

18 (r) Review final actions and orders appropriate for
19 judicial review of the Colorado state board of psychologist
20 examiners, the state board of social work examiners, the state
21 board of marriage and family therapist examiners, and the
22 state board of licensed professional counselor examiners, as
23 provided in section 12-43-217, C.R.S.

24 SECTION 7. 23-2-103, Colorado Revised Statutes, as
25 amended, is amended to read:

26 23-2-103. Awarding degrees. Notwithstanding the
27 provisions of section 7-50-105, C.R.S., or any other law to

1 the contrary, no person, partnership, corporation, company,
2 society, or association doing business in the state of
3 Colorado shall award, bestow, confer, give, grant, convey, or
4 sell to any other person a degree or honorary degree upon
5 which is inscribed, in any language, the word "associate",
6 "bachelor", "baccalaureate", "master", or "doctor" or any
7 abbreviation thereof, or offer courses of instruction or
8 credits purporting to lead to any such degree, except a state
9 college or university, a private college or university, a
10 private occupational school, or a seminary or bible college
11 and except a school, college, or university which offers
12 courses of instruction or study in compliance with standards
13 prescribed by articles 2, 4, 22, 25, 31 to 33, 35, 36, 38, 40,
14 41, 43, ~~63, 57~~, and 64 of title 12, C.R.S.

15 SECTION 8. 27-10-105 (1) (a) and (2), Colorado Revised
16 Statutes, 1982 Repl. Vol., as amended, are amended to read:

17 27-10-105. Emergency procedure. (1) (a) When any
18 person appears to be mentally ill and, as a result of such
19 mental illness, appears to be an imminent danger to others or
20 to himself or appears to be gravely disabled, a peace officer,
21 a professional person, a registered professional nurse as
22 defined in section 12-38-103 (11), C.R.S., who by reason of
23 postgraduate education and additional nursing preparation has
24 gained knowledge, judgment, and skill in psychiatric or mental
25 health nursing, or a licensed CLINICAL social worker ~~if~~
26 licensed under the provisions of ~~article--63-5~~ PART 4 OF
27 ARTICLE 43 of title 12, C.R.S., upon probable cause and with

1 such assistance as may be required, may take the person into
2 custody, or cause him to be taken into custody, and place him
3 in a facility designated or approved by the executive director
4 for a seventy-two-hour treatment and evaluation.

5 (2) Such facility shall require an application in
6 writing, stating the circumstances under which the person's
7 condition was called to the attention of the officer,
8 professional person, registered professional nurse, or
9 licensed CLINICAL social worker ~~¶¶~~ and further stating
10 sufficient facts, obtained from his personal observations or
11 obtained from others which he reasonably believes to be
12 reliable, to establish that the person is mentally ill and, as
13 a result of mental illness, an imminent danger to others or to
14 himself or gravely disabled. The application shall indicate
15 when the person was taken into custody and who brought the
16 person's condition to the attention of the officer,
17 professional person, registered professional nurse, or
18 licensed CLINICAL social worker. ~~¶¶~~ The application shall be
19 kept on file by the seventy-two-hour treatment and evaluation
20 facility for at least five years, and a copy shall be
21 furnished to the person being evaluated.

22 SECTION 9. Repeal. Article 63.5 of title 12, Colorado
23 Revised Statutes, 1985 Repl. Vol., and 24-1-122 (4) (b) and
24 24-34-104 (16) (a) (I) and (16) (a) (II), Colorado Revised
25 Statutes, 1982 Repl. Vol., as amended, are repealed.

26 SECTION 10. No general fund appropriation. The general
27 assembly has determined that no appropriation from the general

1 fund is necessary to carry out the purposes of this act.

2 SECTION 11. Appropriation. In addition to any other
3 appropriation, there is hereby appropriated, out of any moneys
4 in the division of registrations cash fund not otherwise
5 appropriated, to the department of regulatory agencies, for
6 the fiscal year beginning July 1, 1988, the sum of
7 _____ dollars (\$) and _____ FTE, or so
8 much thereof as may be necessary, for the implementation of
9 this act.

10 SECTION 12. Effective date. This act shall take effect
11 July 1, 1988.

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

A BILL FOR AN ACT
CONCERNING SEXUAL ASSAULT ON CLIENTS BY PSYCHOTHERAPISTS.

Bill Summary

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

Makes sexual contact between a psychotherapist and a client or a former client who is emotionally dependent on the psychotherapist a crime. Makes sexual contact between a psychotherapist and client or a former client accomplished by means of therapeutic deception a crime.

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

SECTION 1. Part 4 of article 3 title 18, Colorado Revised Statutes, 1986 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

18-3-405.5. Sexual assault on a client by a psychotherapist. (1) (a) Any actor who knowingly inflicts sexual penetration or sexual intrusion on a victim commits aggravated sexual assault on a client if:

(I) The actor is a psychotherapist and the victim is a client of the psychotherapist; or

(II) The actor is a psychotherapist and the victim is a former client of the psychotherapist and the sexual penetration or intrusion occurred while the former client was emotionally dependent upon the psychotherapist; or

(III) The actor is a psychotherapist and the victim is a client or former client and the sexual penetration or intrusion occurred by means of therapeutic deception.

(b) Aggravated sexual assault on a client is a class 4 felony.

(2) (a) Any actor who knowingly subjects a victim to any sexual contact commits sexual assault on a client if:

(I) The actor is a psychotherapist and the victim is a client of the psychotherapist; or

(II) The actor is a psychotherapist and the victim is a former client of the psychotherapist and the sexual contact occurred while the former client was emotionally dependent upon the psychotherapist; or

(III) The actor is a psychotherapist and the victim is a client or former client and the sexual contact occurred by means of therapeutic deception.

(b) Sexual assault on a client is a class 1 misdemeanor.

(3) For the purposes of subparagraphs (I) and (II) of paragraph (a) of subsection (1) and subparagraphs (I) and (II) of paragraph (a) of subsection (2) of this section, consent by the client to the sexual penetration, intrusion, or contact shall not constitute a defense to such offense.

(4) As used in this section, unless the context requires

otherwise:

(a) "Client" means a person who seeks or receives psychotherapy from a psychotherapist.

(b) "Emotionally dependent" means that the nature of a former client's emotional condition and the nature of the treatment provided by a psychotherapist are such that the psychotherapist knows or reasonably should know that the former client is unable to withhold consent to sexual contact, penetration, or intrusion by the psychotherapist.

(c) "Psychotherapist" means any person who performs or purports to perform psychotherapy, whether or not such person is licensed by the state pursuant to title 12, C.R.S., or certified by the state pursuant to part 5 of article 1 of title 25, C.R.S.

(d) "Psychotherapy" means the treatment, diagnosis, testing, assessment, or counseling in a professional relationship to assist individuals or groups to alleviate mental disorders, understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behaviors which interfere with effective emotional, social, or intellectual functioning.

(e) "Therapeutic deception" means a representation by a psychotherapist that sexual contact, penetration, or intrusion by the psychotherapist is consistent with or part of the client's treatment.

SECTION 2. Effective date - applicability. This act shall take effect July 1, 1988, and shall apply to acts

committed on or after said date.

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

for the administrative functions of the affected state agencies.

SECTION 2. Rule 86-3 III. C. of the health data commission (8 CCR 1305-1) is amended to read as follows:

Rule 86-3. CONCERNING EXEMPTION FROM COLLECTION OF DATA III. Definitions. C. "Director" means the Executive Director of the Colorado Health Data Commission. ~~1313-Sherman Street, Room-518, Denver, Colorado-80203.~~

SECTION 3. Rule 86-4 VII of the health data commission (8 CCR 1305-1) is amended to read as follows:

Rule 86-4. CONCERNING UNIFORM HOSPITAL AND HEALTH CARE PROVIDER BILLING FORMS VII. INCORPORATED MATERIALS. This rule does not include later amendments to or editions of the incorporated material contained hering. The director ~~who is located at 1313-Sherman Street, Room-518, Denver, Colorado 80203,~~ shall provide information regarding how the incorporated material may be obtained.

SECTION 4. Regulation 86-7 VIII of the health data commission (8 CCR 1305-1) is amended to read as follows:

Regulation 86-7. CONCERNING UNIFORM DENTAL, VISION CARE AND PRESCRIPTION DRUG FORMS VIII. INCORPORATED MATERIAL. This rule does not include later amendments to or editions of the incorporated material contained hering. The Director ~~who is located at 1313-Sherman Street, Room-518, Denver, Colorado 80203,~~ shall provide information regarding how the incorporated material may be obtained.

SECTION 5. Forms rescinded. The forms contained in

A BILL FOR AN ACT

CONCERNING THE DELETION, PURSUANT TO 24-34-913 (4.5), COLORADO REVISED STATUTES, AS AMENDED, OF PROVISIONS IN ADMINISTRATIVE RULES AND REGULATIONS WHICH ARE UNNECESSARY FOR THE ADMINISTRATIVE FUNCTIONS OF THE AFFECTED AGENCIES.

Bill Summary

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

Rescinds or deletes certain rules and regulations, or portions of such rules and regulations, of the following regulatory agencies which are either unnecessary or duplicative of statutory provisions: The Colorado health data commission; the department of social services; and the outfitters licensing board.

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

SECTION 1. Intent of general assembly. To further the intent of the general assembly as expressed in section 24-34-913 (4.5), Colorado Revised Statutes, sections 2 through 7 of this act rescind or delete rules and regulations, or portions of such rules and regulations, which are unnecessary

Regulation 86-7, concerning uniform dental, vision care, and prescription drug forms, of the rules and regulations of the health data commission (8 CCR 1305-1) are rescinded.

SECTION 6. Repeal. The following rules of the department of social services are repealed: Rules 9.300.3 B) and 9.303, concerning the independent living rehabilitation services program (12 CCR 2513-1).

SECTION 7. Repeal. The following rules of the outfitters licensing board are repealed: Rules A.5. and A.6., concerning the definitions of "outfitter" and "person", rule C.1., concerning examinations, and rules D.2., D.3., D.4., D.5., and D.6., concerning the issuance of outfitters original license (4 CCR 733-1).

SECTION 8. Effective date. This act shall take effect June 2, 1988.

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