
Colorado Mental Health Practice Act

Colorado Revised Statutes

Title 12
Professions and Occupations

Article 43

Mental Health

Effective July 1, 2009

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PART 1
LEGISLATIVE DECLARATION

12-43-101. Legislative declaration.

The general assembly hereby finds and determines that, in order to safeguard the public health, safety, and welfare of the people of this state and in order to protect the people of this state against the unauthorized, unqualified, and improper application of psychotherapy, psychology, social work, marriage and family therapy, professional counseling, and addiction counseling, it is necessary that the proper regulatory authorities be established and adequately provided for. The general assembly therefore declares that there shall be established a state board of psychologist examiners, a state board of social work examiners, a state board of marriage and family therapist examiners, and a state board of licensed professional counselor examiners with the authority to license and take disciplinary actions or bring injunctive actions, or both, concerning licensed psychologists, psychologist candidates, licensed social workers, licensed marriage and family therapists, and licensed professional counselors, respectively. There shall also be a state grievance board with the authority to take disciplinary actions or bring injunctive actions, or both, concerning unlicensed psychotherapists. Additionally, the director of the division of registrations in the department of regulatory agencies is authorized to certify and license addiction counselors and take disciplinary actions or bring injunctive actions, or both, concerning addiction counselors.

PART 2 GENERAL PROVISIONS

12-43-201. Definitions - repeal.

As used in this part 2, unless the context otherwise requires:

(1) "Board" includes the state board of psychologist examiners, the state board of social work examiners, the state board of licensed professional counselor examiners, the state board of marriage and family therapist examiners, and the state grievance board.

(1.5) "Certified addiction counselor" means a person who is an addiction counselor certified pursuant to this article.

(1.7) "Director" means the director of the division of registrations in the department of regulatory agencies.

(2) (Deleted by amendment, L. 2000, p. 1841, § 17, effective August 2, 2000.)

(3) "Grievance board" means the state grievance board created by section 12-43-702.

(3.5) "Licensed addiction counselor" means a person who is an addiction counselor licensed pursuant to this article.

(4) (Deleted by amendment, L. 98, p. 1107, § 4, effective July 1, 1998.)

(5) "Licensed professional counselor" means a person who is a professional counselor licensed pursuant to this article.

(5.5) "Licensed social worker" means a person who:

- (a) Is a licensed social worker or licensed clinical social worker; and
- (b) Is licensed pursuant to this article.

(6) "Licensee" means a psychologist, social worker, marriage and family therapist, licensed professional counselor, or addiction counselor licensed, certified, or registered pursuant to this article.

(7) "Marriage and family therapist" means a person who is a marriage and family therapist licensed pursuant to this article.

(7.5) "Professional relationship" means an interaction that is deliberately planned or directed, or both, by the psychotherapist toward obtaining specific psychotherapeutic objectives, such as those set forth in subsection (9) of this section.

(7.7) (a) "Provisional license" means a license issued pursuant to section 12-43-206.5.

(b) This subsection (7.7) is repealed, effective July 1, 2011.

(7.8) (a) "Provisional licensee" means a person who holds a provisional license pursuant to section 12-43-206.5.

(b) This subsection (7.8) is repealed, effective July 1, 2011.

(8) "Psychologist" means a person who is a psychologist licensed pursuant to this article.

(9) "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. Psychotherapy follows a planned procedure of intervention which takes place on a regular basis, over a period of time, or in the cases of testing, assessment, and brief psychotherapy, it can be a single intervention. It is the intent of the general assembly that the definition of psychotherapy as used in this part 2 be interpreted in its narrowest sense to regulate only those persons who clearly fall within the definition set forth in this subsection (9).

(9.3) "Registrant" means a psychologist candidate registered pursuant to this article.

(9.5) "Regulated" means a person who is listed in the state grievance board data base.

(9.7) "School psychologist" means a person who practices psychotherapy and who is a school psychologist licensed pursuant to the provisions of section 22-60.5-210, C.R.S.

(10) "Unlicensed psychotherapist" means any person whose primary practice is psychotherapy or who holds himself or herself out to the public as being able to practice psychotherapy for compensation and who is not licensed under this title to practice psychotherapy. "Unlicensed psychotherapist" also means a person who is a licensed school psychologist licensed pursuant to section 22-60.5-210 (1) (b), C.R.S., and who is practicing outside of a school setting.

12-43-202. Practice outside of or beyond professional training, experience, or competence.

Notwithstanding any other provision of this article, no licensee, registrant, certificate holder, or unlicensed psychotherapist is authorized to practice outside of or beyond his or her area of training, experience, or competence.

12-43-203. Boards - meetings - duties - powers - removal of members - immunity.

(1) In addition to all other powers and duties conferred or imposed upon each board by this article or by any other law, each board shall have the powers specified in this section.

(2) (a) (I) Each board shall annually hold a meeting and elect from its membership a chairperson and vice-chairperson. Each board shall meet at such times as it deems necessary or advisable or as deemed necessary and advisable by the chairperson, a majority of its members, or the governor. Each board may conduct meetings by electronic

means. Reasonable notice of all meetings shall be given in the manner prescribed by each board. A majority of each board shall constitute a quorum at any meeting or hearing.

(II) All meetings shall be open to the public, except when a board, or an administrative law judge acting on behalf of a board, specifically determines that the harm to a complainant or other recipient of services to keep such proceedings or documents relating thereto open to the public outweighs the public interest in observing the proceedings; or when the licensee, registrant, or unlicensed psychotherapist is participating in good faith in a program approved by the board designed to end such addiction or dependency and the licensee, registrant, or unlicensed psychotherapist has not violated any provisions of the board's order regarding such person's participation in such treatment program. If the board determines that it is in the best interest of a complainant or other recipient of services to keep such proceedings or documents relating thereto closed to the public, the final action of the board shall be open to the public without disclosing the name of the client or other recipient. In all open meetings, the board shall take reasonable steps not to disclose the names of the recipients of services.

(b) The proceedings of each board shall be conducted pursuant to article 4 of title 24, C.R.S.

(3) Each board is authorized to:

(a) Adopt, and from time to time revise, such rules and regulations as may be necessary to carry out its powers and duties;

(b) Adopt an examination;

(c) Examine for, deny, withhold, or approve the license of an applicant, and renew licenses pursuant to section 12-43-212;

(d) Appoint advisory committees to assist in the performance of its duties;

(e) Conduct hearings as necessary to carry out its powers and duties.

(3.5) In carrying out its duties related to the approval of applications for licensure pursuant to this section, section 12-43-212, and parts 3, 4, 5, 6, and 7 of this article, each board shall delegate the function of the preliminary review and approval of applications to the staff of each such board, with approval of such applications ratified by action of each such board. Each board, in its sole discretion, may individually review any application requiring board consideration prior to the approval thereof pursuant to section 12-43-212 and parts 3, 4, 5, 6, and 7 of this article.

(4) Each board and the director shall maintain current lists of the names of all licensees, registrants, certificate holders, and unlicensed psychotherapists and records of cases and decisions rendered by the board or the director. In addition, each board and the director shall keep an accurate record of the results of all examinations for at least five years subsequent to the date of the examination.

(5) Repealed.

(6) Publications of each board intended for circulation in quantity outside the board shall be issued in accordance with the provisions of section 24-1-136, C.R.S.

(7) (a) The director and any member of a board or of a professional review committee authorized by a board or director, any member of staff to a board, committee, or the director, any person acting as a witness or consultant to a board, committee, or the director, any witness testifying in a proceeding authorized under this article, and any person who lodges a complaint pursuant to this article shall be immune from liability in any civil action brought against him or her for acts occurring while acting in his or her capacity as the director, board or committee member, staff, consultant, or witness, respectively, if such individual was acting in good faith within the scope of his or her respective capacity, made a reasonable effort to obtain the facts of the matter as to which he or she acted, and acted in the reasonable belief that the action taken by him or her was warranted by the facts. Any person participating in good faith in lodging a complaint or participating in any investigative or administrative proceeding pursuant to this article shall be immune from any civil or criminal liability that may result from such participation.

(b) Further, any person participating in good faith in the making of a complaint or report, or participating in any investigative or administrative proceeding before the board or the director, pursuant to this article, shall be immune from any liability, civil or criminal, that otherwise might result by reason of such action.

(8) (Deleted by amendment, L. 98, p. 1108, § 6, effective July 1, 1998.)

(9) Any board member having an immediate personal, private, or financial interest in any matter pending before the board shall disclose the fact and shall not vote upon such matter.

(10) The governor may remove any board member for misconduct, incompetence, or neglect of duty. Actions constituting neglect of duty shall include, but not be limited to, the failure of board members to attend three consecutive meetings or at least three-quarters of the board's meetings in any one calendar year.

(11) (a) A professional review committee may be established pursuant to this subsection (11) to investigate the quality of care being given by a person licensed, registered, certified, or regulated pursuant to this article. If such a committee is established, it shall include in its membership at least three persons licensed, registered, certified, or regulated under either part 3, 4, 5, 6, 7, or 8 of this article, whichever is applicable, and such persons shall be licensees, registrants, certificate holders, or unlicensed psychotherapists in the same profession as the licensee, registrant, certificate holder, or unlicensed psychotherapist who is the subject of a professional review proceeding, but such committee may be authorized to act only by a society or an association of persons licensed, registered, certified, or regulated pursuant to this article whose membership includes not less than one-third of the persons licensed, registered, certified, or regulated pursuant to part 3, 4, 5, 6, 7, or 8 of this article, whichever is applicable, residing in this state if the licensee, registrant, certificate holder, or unlicensed psychotherapist whose services are the subject of review is a member of such society or association.

(b) (Deleted by amendment, L. 2004, p. 1849, § 101, effective August 4, 2004.)

12-43-203.5. Limitation on authority.

The authority granted each board under the provisions of this article shall not be construed to authorize a board to arbitrate or adjudicate fee disputes between licensees or between a licensee and any other party.

12-43-204. Fees - renewal.

(1) All fees collected under parts 3, 4, 5, and 6 of this article shall be transmitted to the state treasurer who shall credit the same to the division of registrations cash fund pursuant to section 24-34-105, C.R.S.

(2) Each board may charge application and examination fees established pursuant to section 24-34-105, C.R.S., to all applicants for licensure under this part 2. No fees received from applicants seeking licensure shall be refunded.

(3) Every person licensed, certified, or registered to practice psychology, social work, marriage and family therapy, professional counseling, or addiction counseling, or listed in the state grievance board data base, within the state shall renew or reinstate his or her license, certification, or registration pursuant to a schedule established by the director, and licenses, certifications, and registrations shall be renewed or reinstated pursuant to section 24-34-102 (8), C.R.S. The director may establish renewal fees and delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S. If a person fails to renew his or her license, certification, or registration pursuant to the schedule established by the director, such license, certification, or registration shall expire. Any person whose license, certification, or registration has expired shall be subject to the penalties provided in this article or section 24-34-102 (8), C.R.S.

(3.5) The director shall coordinate fee setting pursuant to this section so that all licensees, registrants, certificate holders, and unlicensed psychotherapists pay fees as required by this section and section 12-43-702.5 (1).

(4) (Deleted by amendment, L. 2004, p. 1850, § 102, effective August 4, 2004.)

12-43-205. Records.

(1) The director and each board shall keep a record of proceedings and a register of all applications for licenses or certifications, which shall include:

- (a) The name, age, and residence of each applicant;
- (b) The date of the application;
- (c) The place of business of such applicant;
- (d) A summary of the educational and other qualifications of each applicant;

(e) Whether or not an examination was required and, if required, the scores of the examination;

(f) Whether or not licensure was granted;

(g) The date of the action of the director or board;

(h) Such other information as may be deemed necessary or advisable by the director or board in aid of the requirements of this section.

12-43-206. Licensure by endorsement.

The board or the director, as appropriate, may issue a license by endorsement to engage in the practice of psychology, social work, marriage and family therapy, professional counseling, or addiction counseling to any applicant who has a license, registration, or certification in good standing as a psychologist, social worker, marriage and family therapist, professional counselor, or addiction counselor under the laws of another jurisdiction if the applicant presents proof satisfactory to the board or director that, at the time of application for a Colorado license by endorsement, the applicant possesses credentials and qualifications that are substantially equivalent to the requirements of section 12-43-304, 12-43-404, 12-43-504, 12-43-603, or 12-43-804, whichever is applicable. Each board or the director shall promulgate rules setting forth the manner in which credentials and qualifications of an applicant will be reviewed by the board or the director.

12-43-206.5. Provisional license - repeal.

(1) (a) The board or director may issue a provisional license to an applicant who has completed a post-graduate degree that meets the educational requirements for licensure in section 12-43-304, 12-43-403, 12-43-504, 12-43-603, or 12-43-804, as applicable, and who is working in a residential child care facility as defined in section 26-6-102 (8), C.R.S., under the supervision of a licensee.

(b) A provisional license issued pursuant to paragraph (a) of this subsection (1) shall terminate at the earliest of:

(I) Thirty days after termination of the provisional licensee's employment with a qualifying residential child care facility, unless the provisional licensee obtains and submits to the board or director proof of employment with another residential child care facility; or

(II) Thirty days after termination of the provisional licensee's supervision by a licensee unless the provisional licensee obtains and submits to the board or director proof of supervision by another licensee.

(c) A provisional licensee shall notify the board or director of any change in supervision within thirty days after the change.

(2) The director and each board may charge an application fee to an applicant for a provisional license. All fees collected pursuant to this subsection (2) shall be transmitted

to the state treasurer, who shall credit the same to the division of registrations cash fund pursuant to section 24-34-105, C.R.S. An application for a provisional license shall identify the name, contact information, and license number of the licensee providing supervision of the provisional licensure applicant.

(3) This section is repealed, effective July 1, 2011.

12-43-207. License - issuance.

Each board shall issue a certificate of licensure whenever an applicant for licensure successfully qualifies therefor as provided in this article.

12-43-208. Drugs - medicine.

Nothing in this article shall be construed as permitting psychologists, social workers, marriage and family therapists, professional counselors, and addiction counselors licensed, certified, or registered under this article or unlicensed psychotherapists to administer or prescribe drugs or in any manner engage in the practice of medicine as defined by the laws of this state.

12-43-209. Collaborate with physician.

A licensee, registrant, certificate holder, or unlicensed psychotherapist, in order to make provision for the diagnosis and treatment of medical problems, shall collaborate with a physician licensed under the laws of this state, except when practicing pursuant to the provisions of section 12-43-201 (9). A licensee, registrant, certificate holder, or unlicensed psychotherapist shall not diagnose, prescribe for, treat, or advise a client with reference to medical problems.

12-43-210. Division of registrations to supervise.

Each board shall be under the supervision and control of the division of registrations of the department of regulatory agencies as created by section 24-34-102, C.R.S.

12-43-211. Professional service corporations for the practice of psychology, social work, marriage and family therapy, professional counseling, and addiction counseling - definitions.

(1) Licensees may form professional service corporations for the practice of psychology, social work, marriage and family therapy, professional counseling, or addiction counseling under the "Colorado Business Corporation Act", articles 101 to 117 of title 7, C.R.S., if such corporations are organized and operated in accordance with the provisions of this section. The articles of incorporation of such corporations shall contain provisions complying with the following requirements:

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

(b) The corporation shall be organized by licensees for the purpose of conducting the practice of psychology, social work, marriage and family therapy, professional counseling, or addiction counseling by the respective licensees of those practices. The corporation may be organized with any other person, and any person may own shares in such corporation, if the following conditions are met:

(I) The practice of psychology by the professional service corporation is performed by or under the supervision of a licensed psychologist, and any psychologist member of the professional service corporation remains individually responsible for his professional acts and conduct as provided elsewhere in this article; or

(II) (Deleted by amendment, L. 98, p. 1111, § 11, effective July 1, 1998.)

(III) The practice of social work by the professional service corporation is performed by a licensed social worker acting independently or under the supervision of a person licensed pursuant to this article or a licensed social worker. Any licensed social worker member of the professional service corporation remains individually responsible for his or her professional acts and conduct as provided elsewhere in this article; or

(IV) The practice of marriage and family therapy by the professional service corporation is performed by a licensed marriage and family therapist acting independently or under the supervision of a person licensed pursuant to this article or a licensed marriage and family therapist. Any licensed marriage and family therapist member of the professional service corporation remains individually responsible for his professional acts and conduct as provided elsewhere in this article; or

(V) The practice of professional counseling by the professional service corporation is performed by a licensed professional counselor acting independently or under the supervision of a person licensed pursuant to this article or a licensed professional counselor. Any licensed professional counselor member of the professional service corporation remains individually responsible for his professional acts and conduct as provided elsewhere in this article.

(VI) The practice of addiction counseling by the professional service corporation is performed by a licensed addiction counselor acting independently or under the supervision of a person licensed pursuant to this article or a licensed addiction counselor. Any licensed addiction counselor member of the professional service corporation remains individually responsible for his or her professional acts and conduct as provided in this article.

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

(d) and (e) Repealed.

(f) Lay directors and officers shall not exercise any authority whatsoever over professional matters.

(g) The articles of incorporation shall provide, and all shareholders of the corporation shall agree, that either all shareholders of the corporation shall be jointly and severally liable for all acts, errors, and omissions of the employees of the corporation or that all shareholders of the corporation shall be jointly and severally liable for all acts, errors, and omissions of the employees of the corporation except during periods of time when the corporation shall maintain in good standing professional liability insurance which meets the following minimum standards:

(I) The insurance shall insure the corporation against liability imposed upon the corporation by law for damages resulting from any claim made against the corporation arising out of the performance of professional services for others by those officers and employees of the corporation who are licensed to practice under this article or who are certified or licensed school psychologists or by those employees who provide professional services under supervision.

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

(III) The insurance shall be in an amount for each claim of at least one hundred thousand dollars multiplied by the number of persons licensed to practice under this article, or by the number of certified or licensed school psychologists, employed by the corporation; and the policy may provide for an aggregate maximum limit of liability per year for all claims of three hundred thousand dollars also multiplied by the number of licensees or certified or licensed school psychologists employed by the corporation; but no firm shall be required to carry insurance in excess of three hundred thousand dollars for each claim with an aggregate maximum limit of liability for all claims during the year of nine hundred thousand dollars.

(IV) The insurance policy may provide that it does not apply to: Any dishonest, fraudulent, criminal, or malicious act or omission of the insured corporation or any stockholder or employee thereof; or the conduct of any business enterprise (as distinguished from the practice of licensees or certified or licensed school psychologists) in which the insured corporation under this section is not permitted to engage but which nevertheless may be owned by the insured corporation or in which the insured corporation may be a partner or which may be controlled, operated, or managed by the insured corporation in its own or in a fiduciary capacity, including the ownership, maintenance, or use of any property in connection therewith, when not resulting from breach of professional duty of, bodily injury to, or sickness, disease, or death of any person or to injury to or destruction of any tangible property, including the loss of use thereof.

(V) The insurance policy may contain reasonable provisions with respect to policy periods, territory, claims, conditions, and other usual matters.

(2) The corporation shall do nothing that, if done by a licensee and employed by it, would violate the provisions of section 12-43-222 (1). Any violation of this section by the corporation shall be grounds for a board to discipline any licensee pursuant to section 12-43-224.

(3) Nothing in this section shall be deemed to diminish or change the obligation of each licensee employed by the corporation to conduct his or her practice so as not to violate the provisions of section 12-43-222 (1). Any licensee who by act or omission causes the corporation to act or fail to act in a way that violates the provisions of section 12-43-222 (1) or any provision of this section shall be deemed personally responsible for such act or omission and shall be subject to discipline therefor by the board.

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

(5) Nothing in this section shall be deemed to modify the privileges regarding confidential communications specified in sections 12-43-218 and 13-90-107 (1) (g), C.R.S.

(6) Nothing in this article shall be construed to limit persons licensed under any part of this article or certified or licensed school psychologists from forming a corporation with persons licensed under any other part of this article or certified or licensed school psychologists.

(7) As used in this section, unless the context otherwise requires:

(a) "Articles of incorporation" includes operating agreements of limited liability companies and partnership agreements of registered limited liability partnerships.

(b) "Corporation" includes a limited liability company organized under the "Colorado Limited Liability Company Act", article 80 of title 7, C.R.S., and a limited liability partnership registered under section 7-60-144 or 7-64-1002, C.R.S.

(c) "Director" and "officer" of a corporation includes a member and a manager of a limited liability company and a partner in a registered limited liability partnership.

(d) "Employees" includes employees, members, and managers of a limited liability company and employees and partners of a registered limited liability partnership.

(e) "Share" includes a member's rights in a limited liability company and a partner's rights in a registered limited liability partnership.

(f) "Shareholder" includes a member of a limited liability company and a partner in a registered limited liability partnership.

12-43-212. Denial of license - reinstatement.

(1) Each board is empowered to determine whether an applicant for licensure possesses the qualifications for licensure required by this article.

(2) If a board, or the director pursuant to the authority specified in part 8 of this article, determines that an applicant does not possess the applicable qualifications

required by this article or, for a licensed clinical social worker, licensed social worker, licensed marriage and family therapist, licensed professional counselor, licensed addiction counselor, or level II or III certified addiction counselor, is unable to demonstrate his or her continued professional competence as required by section 12-43-411, 12-43-506, 12-43-605, or 12-43-805, respectively, the board, or the director pursuant to the authority specified in part 8 of this article, may deny the applicant a license or deny the reinstatement of a license; and, in such instance, the board or director shall provide the applicant with a statement in writing setting forth the basis of the board's or director's determination that the applicant does not possess the qualifications or professional competence required by this article. The applicant may request a hearing on the determination as provided in section 24-4-104 (9), C.R.S.

(3) If a board has any reason to believe that or receives any information that an applicant, renewal applicant, or reinstatement applicant has done any of the acts set forth in section 12-43-222 (1) as grounds for discipline, the board may deny a license to the applicant, renewal applicant, or reinstatement applicant if the board determines that there is a basis for such denial. The order of the board to grant or deny such license shall be the final agency action.

(4) A board, on its own motion or upon application, at any time after the refusal to grant a license, may reconsider its prior action and grant such license. The taking of any such further action shall rest in the sole discretion of the board; except that the board shall not act in contradiction to a decision of the grievance board.

12-43-213. Legislative intent - schools and colleges - examinations.

It is the intent of the general assembly that the definition relating to full-time courses of study and institutions of higher education for graduation of persons who are thereby qualified to take examinations for licensure under this article be liberally construed by the director and each board under the director's or board's rule-making powers to ensure the right to take such examinations. It is not the intent that technical barriers be used to deny the ability to take such examination.

12-43-214. Mandatory disclosure of information to clients.

(1) Except as otherwise provided in subsection (4) of this section, every unlicensed psychotherapist, licensee, certificate holder, or registrant shall provide the following information in writing to each client during the initial client contact:

- (a) The name, business address, and business phone number of the unlicensed psychotherapist, licensee, certificate holder, or registrant;
- (b) A listing of any degrees, credentials, certifications, and licenses;
- (c) A statement indicating that the practice of both licensed and unlicensed persons and certified or licensed school psychologists in the field of psychotherapy is regulated by the department of regulatory agencies and an address and telephone number for the grievance board; and

(d) A statement indicating that:

(I) A client is entitled to receive information about the methods of therapy, the techniques used, the duration of therapy, if known, and the fee structure;

(II) The client may seek a second opinion from another therapist or may terminate therapy at any time;

(III) In a professional relationship, sexual intimacy is never appropriate and should be reported to the director or the board that regulates, registers, certifies, or licenses such unlicensed psychotherapist, registrant, certificate holder, or licensee;

(IV) The information provided by the client during therapy sessions is legally confidential in the case of licensed marriage and family therapists, social workers, professional counselors, psychologists, licensed or certified addiction counselors, and unlicensed psychotherapists, except as provided in section 12-43-218 and except for certain legal exceptions that will be identified by the licensee, registrant, certificate holder, or unlicensed psychotherapist should any such situation arise during therapy.

(2) If the client is a child who is consenting to mental health services pursuant to section 27-10-103, C.R.S., disclosure shall be made to the child. If the client is a child whose parent or legal guardian is consenting to mental health services, disclosure shall be made to the parent or legal guardian.

(3) In residential, institutional, or other settings where psychotherapy may be provided by multiple providers, disclosure shall be made by the primary therapist. The institution shall also provide a statement to the patient containing the information in paragraphs (c) and (d) of subsection (1) of this section and a statement that the patient is entitled to the information listed in paragraphs (a) and (b) of subsection (1) of this section concerning any psychotherapist in the employ of the institution who is providing psychotherapy services to the patient.

(4) The disclosure of information required by subsection (1) of this section is not required when psychotherapy is being administered in any of the following circumstances:

(a) In an emergency;

(b) Pursuant to a court order or involuntary procedures pursuant to sections 27-10-105 to 27-10-109, C.R.S.;

(c) The sole purpose of the professional relationship is for forensic evaluation;

(d) The client is in the physical custody of either the department of corrections or the department of human services and such department has developed an alternative program to provide similar information to such client and such program has been established through rule or regulation pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S.;

(e) The client is incapable of understanding such disclosure and has no guardian to whom disclosure can be made;

(f) By a social worker practicing in a hospital that is licensed or certified under section 25-1.5-103 (1) (a) (I) or (1) (a) (II), C.R.S.;

(g) By a person licensed or certified pursuant to this article, or by an unlicensed psychotherapist practicing in a hospital that is licensed or certified under section 25-1.5-103 (1) (a) (I) or (1) (a) (II), C.R.S.

(5) If the client has no written language or is unable to read, an oral explanation shall accompany the written copy.

(6) Unless the client, parent, or guardian is unable to write, or refuses or objects, the client, parent, or guardian shall sign the disclosure form required by this section not later than the second visit with the psychotherapist.

12-43-215. Scope of article - exemptions.

(1) Any person engaged in the practice of religious ministry shall not be required to comply with the provisions of this article; except that such person shall not hold himself or herself out to the public by any title incorporating the terms "psychologist", "social worker", "licensed social worker", "LSW", "licensed clinical social worker", "clinical social worker", "LCSW", "licensed marriage and family therapist", "LMFT", "licensed professional counselor", "LPC", "addiction counselor", "licensed addiction counselor", "LAC", "certified addiction counselor", or "CAC" unless that person has been licensed or certified pursuant to this article.

(2) The provisions of this article shall not apply to the practice of employment or rehabilitation counseling as performed in the private and public sectors; except that the provisions of this article shall apply to employment or rehabilitation counselors practicing psychotherapy in the field of mental health.

(3) The provisions of this article shall not apply to employees of the department of human services, employees of county departments of social services, or personnel under the direct supervision and control of the department of human services or any county department of social services for work undertaken as part of their employment.

(4) The provisions of this article shall not apply to persons who are licensed pursuant to section 22-60.5-210, C.R.S., and who are not licensed under this article for work undertaken as part of their employment by, or contractual agreement with, the public schools.

(5) Nothing in this section shall be construed to limit the applicability of the provisions of section 18-3-405.5, C.R.S., which shall apply to any person while he is practicing psychotherapy as defined in this article.

(6) The provisions of this article shall not apply to mediators resolving judicial disputes pursuant to part 3 of article 22 of title 13, C.R.S.

(7) The provisions of this article shall not apply to mental health professionals acting within the scope of a court appointment to undertake custodial evaluations in domestic relations cases in the courts of this state or to mental health professionals acting within

the scope of a court appointment to undertake domestic and child abuse evaluations for purposes of legal proceedings in the courts of this state.

(8) The provisions of section 12-43-702.5 shall not apply to employees of community mental health centers or clinics as those centers or clinics are defined by section 27-1-201, C.R.S., but such persons practicing outside the scope of employment as employees of a facility defined by section 27-1-201, C.R.S., shall be subject to the provisions of section 12-43-702.5.

(9) The provisions of this article shall not apply to a person who resides in another state and who is currently licensed or certified as a psychologist, marriage and family therapist, clinical social worker, professional counselor, or addiction counselor in that state to the extent that the licensed or certified person performs activities or services in this state, if the activities and services are:

- (a) Performed within the scope of the person's license or certification;
- (b) Do not exceed twenty days per year in this state;
- (c) Are not otherwise in violation of this article; and
- (d) Disclosed to the public that the person is not licensed or certified in this state.

(10) The provisions of this article shall not apply to a professional coach who has had coach-specific training and who serves clients exclusively as a coach.

12-43-216. Title use restrictions.

A psychologist, social worker, marriage and family therapist, professional counselor, or addiction counselor may only use the title for which he or she is licensed, certified, or registered under this article. Except as provided in section 12-43-306 (3), no other person shall hold himself or herself out to the public by any title or description of services incorporating the terms "licensed clinical social worker", "clinical social worker", "LCSW", "licensed social worker", "LSW", "marriage and family therapist", "LMFT", "professional counselor", "LPC", "psychologist", "psychologist candidate", "psychology", "psychological", "addiction counselor", "licensed addiction counselor", "LAC", "certified addiction counselor", or "CAC", and no other person shall state or imply that he or she is licensed to practice social work, marriage and family therapy, professional counseling, psychology, or addiction counseling. Nothing in this section shall prohibit a person from stating or using the educational degrees that such person has obtained.

12-43-217. Judicial review of final board actions and orders.

Final actions and orders of a board appropriate for judicial review may be judicially reviewed in the court of appeals, and judicial proceedings for the enforcement of a board order may be instituted in accordance with section [24-4-106](#) (11), C.R.S.

12-43-218. Disclosure of confidential communications.

(1) A licensee, school psychologist, registrant, certificate holder, or unlicensed psychotherapist shall not disclose, without the consent of the client, any confidential communications made by the client, or advice given thereon, in the course of professional employment; nor shall a licensee's, school psychologist's, registrant's, certificate holder's, or unlicensed psychotherapist's employee or associate, whether clerical or professional, disclose any knowledge of said communications acquired in such capacity; nor shall any person who has participated in any therapy conducted under the supervision of a licensee, school psychologist, registrant, certificate holder, or unlicensed psychotherapist, including, but not limited to, group therapy sessions, disclose any knowledge gained during the course of such therapy without the consent of the person to whom the knowledge relates.

(2) Subsection (1) of this section shall not apply when:

(a) A client or the heirs, executors, or administrators of a client file suit or a complaint against a licensee, school psychologist, registrant, certificate holder, or unlicensed psychotherapist on any cause of action arising out of or connected with the care or treatment of such client by the licensee, school psychologist, registrant, certificate holder, or unlicensed psychotherapist;

(b) A licensee, school psychologist, registrant, certificate holder, or unlicensed psychotherapist was in consultation with a physician, registered professional nurse, licensee, school psychologist, registrant, certificate holder, or unlicensed psychotherapist against whom a suit or complaint was filed based on the case out of which said suit or complaint arises;

(c) A review of services of a licensee, school psychologist, registrant, certificate holder, or unlicensed psychotherapist is conducted by any of the following:

(I) A board or the director or a person or group authorized by the board or director to make an investigation on its behalf;

(II) The governing board of a hospital licensed pursuant to part 1 of article 3 of title 25, C.R.S., where said licensee, school psychologist, registrant, certificate holder, or unlicensed psychotherapist practices or the medical staff of such hospital if the medical staff operates pursuant to written bylaws approved by the governing board of such hospital; or

(III) A professional review committee established pursuant to section 12-43-203 (11) if said person has signed a release authorizing such review.

(3) The records and information produced and used in the review provided for in paragraph (c) of subsection (2) of this section shall not become public records solely by virtue of the use of such records and information. The identity of any client whose records are so reviewed shall not be disclosed to any person not directly involved in such review process, and procedures shall be adopted by the director or a board, hospital,

association, or society to ensure that the identity of the client is concealed during the review process itself and to comply with the provisions of section 12-43-224 (4).

(4) Subsection (1) of this section shall not apply to any delinquency or criminal proceeding, except as provided in section 13-90-107, C.R.S., regarding any delinquency or criminal proceeding involving a licensed psychologist.

(5) Nothing in this section shall be deemed to prohibit any other disclosures required by law.

12-43-219. Article not to restrict other professions.

(1) Nothing in this article shall be construed to prohibit any member of any other profession who is duly licensed or certified pursuant to the laws of this state from rendering service consistent with his or her training and professional ethics so long as the professional does not hold himself or herself out to the public by any title or description to which such professional is not entitled pursuant to the provisions of this article.

(2) No person licensed pursuant to article 38 of this title shall be subject to the jurisdiction of a board created pursuant to this article to the extent such person is under the jurisdiction of the state board of nursing.

12-43-220. Data base of licensed and unlicensed psychotherapists - violation - penalty - data collection - report to sunrise and sunset review committee - repeal. (Repealed)

12-43-221. Powers and duties of the boards.

(1) In addition to all other powers and duties conferred and imposed upon the boards, as defined in section 12-43-201 (1), and the director by this article, each board and the director, as appropriate, have the following powers and duties with respect to the licensing, registration, certification, and regulation of the persons licensed, registered, certified, or listed by each individual board pursuant to part 3, 4, 5, 6, or 7 of this article or by the director pursuant to part 8 of this article:

(a) To annually elect one of its members as chairperson and one as vice-chairperson. Each board may meet at such times and adopt such rules for its government as it deems proper.

(b) (I) To make investigations, hold hearings, and take evidence in accordance with the provisions of article 4 of title 24, C.R.S., and this article in all matters relating to the exercise and performance of the powers and duties vested in each board or the director.

(II) The director and each board, or an administrative law judge acting on the director's or board's behalf, shall have the power to administer oaths, take affirmations of witnesses, and issue subpoenas to compel the attendance of witnesses and the production of all relevant papers, books, records, documentary evidence, and materials in any hearing, investigation, accusation, or other matter coming before the director or board. The director and each board may appoint an administrative law judge pursuant to part 10

of article 30 of title 24, C.R.S., to take evidence and to make findings and report them to the director or board pursuant to paragraph (e) of this subsection (1).

(III) Upon failure of any witness to comply with such subpoena or process, the district court of the county in which the subpoenaed person or licensee resides or conducts business, upon application by the board or director with notice to the subpoenaed person or licensee, may issue to the person or licensee an order requiring that person or licensee to appear before the director; to produce the relevant papers, books, records, documentary evidence, or materials if so ordered; or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

(c) To aid the several district attorneys of this state in the enforcement of this article and in the prosecution of all persons, firms, associations, or corporations charged with the violation of any of its provisions and to report to the appropriate district attorney any violation of this article that it reasonably believes involves a criminal violation;

(d) To take disciplinary actions in conformity with this article;

(e) Through the department of regulatory agencies and subject to appropriations made to the department of regulatory agencies, to employ administrative law judges on a full-time or part-time basis to conduct any hearings required by this article. The administrative law judges shall be appointed pursuant to part 10 of article 30 of title 24, C.R.S.

(f) To notify the public of all disciplinary actions taken against licensees, registrants, certificate holders, or unlicensed psychotherapists pursuant to this article.

(2) Pursuant to this part 2 and article 4 of title 24, C.R.S., the director and each board is authorized to adopt and revise such rules as may be necessary to enable the director or board to carry out the provisions of this part 2 with respect to the regulation of the persons licensed, registered, certified, or regulated by each individual board pursuant to part 3, 4, 5, 6, or 7 of this article or by the director pursuant to part 8 of this article.

12-43-222. Prohibited activities - related provisions.

(1) A person licensed, registered, certified, or regulated under part 3, 4, 5, 6, 7, or 8 of this article is in violation of this article if such person:

(a) Has been convicted of a felony or has had accepted by a court a plea of guilty or nolo contendere to a felony if the felony is related to the ability to practice under this article. A certified copy of the judgment of a court of competent jurisdiction of such conviction or plea shall be conclusive evidence of such conviction or plea. In considering the disciplinary action, each board shall be governed by the provisions of section 24-5-101, C.R.S.

(b) Has violated or attempted to violate, directly or indirectly, or assisted or abetted the violation of, or conspired to violate any provision or term of this article or rule promulgated pursuant to this article or any order of a board established pursuant to this article;

(c) Has used advertising that is misleading, deceptive, or false;

(d) (I) Has committed abuse of health insurance pursuant to section 18-13-119, C.R.S.;

(II) Has advertised through newspapers, magazines, circulars, direct mail, directories, radio, television, or otherwise that the person will perform any act prohibited by section 18-13-119, C.R.S.;

(e) Is habitually intemperate or excessively uses any habit-forming drug or is a habitual user of any controlled substance, as defined in section 12-22-303 (7), or any alcoholic beverage, any of which renders him or her unfit to practice pursuant to part 3, 4, 5, 6, 7, or 8 of this article;

(f) Has a physical or mental disability that renders such person unable to treat clients with reasonable skill and safety or that may endanger the health or safety of persons under such person's care;

(g) Has acted or failed to act in a manner that does not meet the generally accepted standards of the professional discipline under which such person practices. A certified copy of a malpractice judgment of a court of competent jurisdiction shall be conclusive evidence of such act or omission, but evidence of such act or omission shall not be limited to a malpractice judgment.

(h) Has performed services outside of such person's area of training, experience, or competence;

(i) Has maintained relationships with clients that are likely to impair such person's professional judgment or increase the risk of client exploitation, such as treating employees, supervisees, close colleagues, or relatives;

(j) Has exercised undue influence on the client, including the promotion of the sale of services, goods, property, or drugs in such a manner as to exploit the client for the financial gain of the practitioner or a third party;

(k) Has failed to terminate a relationship with a client when it was reasonably clear that the client was not benefiting from the relationship and is not likely to gain such benefit in the future;

(l) Has failed to refer a client to an appropriate practitioner when the problem of the client is beyond such person's training, experience, or competence;

(m) Has failed to obtain a consultation or perform a referral when such failure is not consistent with generally accepted standards of care;

(n) Has failed to render adequate professional supervision of persons practicing pursuant to this article under such person's supervision according to generally accepted standards of practice;

(o) Has accepted commissions or rebates or other forms of remuneration for referring clients to other professional persons;

(p) Has failed to comply with any of the requirements pertaining to mandatory disclosure of information to clients pursuant to section 12-43-214;

(q) Has offered or given commissions, rebates, or other forms of remuneration for the referral of clients. Notwithstanding this provision, a licensee, registrant, or unlicensed psychotherapist may pay an independent advertising or marketing agent compensation for advertising or marketing services rendered on such person's behalf by such agent, including compensation that is paid for the results of performance of such services on a per patient basis.

(r) Has engaged in sexual contact, sexual intrusion, or sexual penetration, as defined in section 18-3-401, C.R.S., with a client during the period of time in which a therapeutic relationship exists or for up to two years after the period in which such a relationship exists;

(s) Has resorted to fraud, misrepresentation, or deception in applying for or in securing licensure or taking any examination provided for in this article;

(t) Has engaged in any of the following activities and practices:

(I) Willful and repeated ordering or performance, without clinical justification, of demonstrably unnecessary laboratory tests or studies;

(II) The administration, without clinical justification, of treatment that is demonstrably unnecessary;

(III) Ordering or performing, without clinical justification, any service, X ray, or treatment that is contrary to the generally accepted standards of such person's practice; or

(IV) Using or recommending rebirthing or any therapy technique that may be considered similar to rebirthing as a therapeutic treatment. "Rebirthing" means the reenactment of the birthing process through therapy techniques that involve any restraint that creates a situation in which a patient may suffer physical injury or death. For the purposes of this subparagraph (IV), a parent or legal guardian may not consent to physical, chemical, or mechanical restraint on behalf of a child or ward.

(u) Has falsified or repeatedly made incorrect essential entries or repeatedly failed to make essential entries on patient records;

(v) Has committed a fraudulent insurance act, as set forth in section 10-1-128, C.R.S.;
or

(w) Has sold or fraudulently obtained or furnished a license, certification, or registration to practice as a social worker, marriage and family therapist, professional counselor, psychologist, or addiction counselor or has aided or abetted therein.

(2) A disciplinary action relating to a license, registration, certification, or listing to practice a profession licensed, registered, certified, or listed under part 3, 4, 5, 6, 7, or 8 of this article or any related occupation in any other state, territory, or country for disciplinary reasons shall be deemed to be prima facie evidence of grounds for disciplinary action, including denial of licensure, by a board or the director. This

subsection (2) shall apply only to disciplinary actions based upon acts or omissions in such other state, territory, or country substantially similar to those set out as grounds for disciplinary action pursuant to subsection (1) of this section.

12-43-223. Authority of licensing boards and the grievance board - cease-and-desist orders.

(1) If a licensee, registrant, or unlicensed psychotherapist has violated any of the provisions of section 12-43-222, the board that licenses, registers, or regulates such licensee, registrant, or unlicensed psychotherapist may deny, revoke, or suspend any license or registration or the listing of any unlicensed psychotherapist in the grievance board data base; issue a letter of admonition to a licensee, registrant, or unlicensed psychotherapist; issue a confidential letter of concern to a licensee, registrant, or unlicensed psychotherapist; place a licensee, registrant, or unlicensed psychotherapist on probation; or apply for an injunction pursuant to section 12-43-227 to enjoin a licensee, registrant, or unlicensed psychotherapist from practicing the profession for which such person is licensed, registered, or regulated under this article.

(2) (Deleted by amendment, L. 98, p. 1119, § 18, effective July 1, 1998.)

(3) If an unlicensed psychotherapist violates any of the provisions of section 12-43-222, the grievance board may refuse to include, or permanently or for a set period of time strike the name of such psychotherapist from, the data base maintained pursuant to section 12-43-702.5, issue a letter of admonition to such unlicensed psychotherapist, place such unlicensed psychotherapist on probation, or apply for an injunction pursuant to section 12-43-227 to enjoin such unlicensed psychotherapist from practicing psychotherapy.

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

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

(5) (a) If it appears to a board, based upon credible evidence as presented in a written complaint by any person, that a person has violated any other portion of this article, then, in addition to any specific powers granted pursuant to this article, the board may issue to such person an order to show cause as to why the board should not issue a final order directing such person to cease and desist from the unlawful act or unlicensed or unregistered practice.

(b) A person against whom an order to show cause has been issued pursuant to paragraph (a) of this subsection (5) shall be promptly notified by the board of the issuance of the order, along with a copy of the order, the factual and legal basis for the order, and the date set by the board for a hearing on the order. Such notice may be served by personal service, by first-class United States mail, postage prepaid, or as may be practicable upon any person against whom such order is issued. Personal service or mailing of an order or document pursuant to this subsection (5) shall constitute notice thereof to the person.

(c) (I) The hearing on an order to show cause shall be commenced no sooner than ten and no later than forty-five calendar days after the date of transmission or service of the notification by the board as provided in paragraph (b) of this subsection (5). The hearing may be continued by agreement of all parties based upon the complexity of the matter, number of parties to the matter, and legal issues presented in the matter, but in no event shall the hearing commence later than sixty calendar days after the date of transmission or service of the notification.

(II) If a person against whom an order to show cause has been issued pursuant to paragraph (a) of this subsection (5) does not appear at the hearing, a board may present evidence that notification was properly sent or served upon such person pursuant to paragraph (b) of this subsection (5) and such other evidence related to the matter as the board deems appropriate. The board shall issue the order within ten days after such board's determination related to reasonable attempts to notify the respondent, and the order shall become final as to that person by operation of law. Such hearing shall be conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S.

(III) If a board reasonably finds that the person against whom the order to show cause was issued is acting or has acted without the required license or registration, or has or is about to engage in acts or practices constituting violations of this article, a final cease-and-desist order may be issued, directing such person to cease and desist from further unlawful acts or unlicensed or unregistered practices.

(IV) A board shall provide notice, in the manner set forth in paragraph (b) of this subsection (5), of the final cease-and-desist order within ten calendar days after the hearing conducted pursuant to this paragraph (c) to each person against whom the final order has been issued. The final order issued pursuant to subparagraph (III) of this paragraph (c) shall be effective when issued and shall be a final order for purposes of judicial review.

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

(7) If any person fails to comply with a final cease-and-desist order or a stipulation, a board may request the attorney general or the district attorney for the judicial district in which the alleged violation exists to bring, and if so requested such attorney shall bring,

suit for a temporary restraining order and for injunctive relief to prevent any further or continued violation of the final order.

(8) A person aggrieved by the final cease-and-desist order may seek judicial review of a board's determination or of a board's final order as provided in section 12-43-224 (5).

12-43-224. Disciplinary proceedings - judicial review - mental and physical examinations - multiple licenses.

(1) (a) A proceeding for discipline of a licensee, registrant, or unlicensed psychotherapist may be commenced when the board that licenses, registers, or regulates such licensee, registrant, or unlicensed psychotherapist has reasonable grounds to believe that a licensee, registrant, or unlicensed psychotherapist under such board's jurisdiction has committed any act or failed to act pursuant to the grounds established in section 12-43-222 or 12-43-226.

(b) A licensee, registrant, or unlicensed psychotherapist who holds more than one license, registration, or listing pursuant to this article, who has committed any act or failed to act pursuant to the grounds established in section 12-43-222 or 12-43-226, shall be subject to disciplinary action by all boards that license, register, or regulate such person pursuant to this article. The findings, conclusions, and final agency order of the first board to take disciplinary action pursuant to this section against the licensee, registrant, or unlicensed psychotherapist, or any disciplinary action taken by the state grievance board as it existed prior to July 1, 1998, shall be prima facie evidence against such person in any subsequent disciplinary action taken by another board concerning the same act or series of acts.

(c) If a licensee, registrant, or unlicensed psychotherapist, who makes application for a license, registration, or listing pursuant to this article, has been disciplined by any board created pursuant to this article, or the state grievance board as it existed prior to July 1, 1998, the findings, conclusions, and final agency order of the first board to take disciplinary action pursuant to this section against the licensee, registrant, or unlicensed psychotherapist shall be prima facie evidence against such person in any subsequent application made for a license, registration, or listing to any other board created pursuant to this article.

(2) (a) Disciplinary proceedings shall be conducted in the manner prescribed by the "State Administrative Procedure Act", article 4 of title 24, C.R.S.

(b) Each board, through the department of regulatory agencies, may employ administrative law judges, on a full-time or part-time basis, to conduct hearings as provided by this article or on any matter within the board's jurisdiction upon such conditions and terms as such board may determine. A board may elect to refer a case for formal hearing to an administrative law judge, with or without an assigned advisor from such board. If a board so elects to refer a case with an assigned advisor and such advisor is a member of the board, the advisor shall be excluded from such board's review of the decision of the administrative law judge. The advisor shall assist the administrative law judge in obtaining and interpreting data pertinent to the hearing.

(c) A licensee's or registrant's right to use a title shall not be denied, revoked, or suspended by any board, and a licensee, registrant, or unlicensed psychotherapist shall not be placed on probation by any board pursuant to the grounds established in sections 12-43-222 and 12-43-226, until after a hearing has been conducted if so required pursuant to section 24-4-105, C.R.S., except as provided for in emergency situations by section 24-4-104, C.R.S., or except in the event that a licensee, registrant, or unlicensed psychotherapist has been adjudicated as being gravely disabled, mentally retarded, mentally incompetent, or insane or as having a mental illness by a court of competent jurisdiction, or except in the event that a licensee, registrant, or unlicensed psychotherapist violates paragraph (e) of this subsection (2), in which case, the board that licenses, registers, or regulates such licensee, registrant, or unlicensed psychotherapist pursuant to this article is empowered to summarily suspend such person's license, registration, or listing subject to the limitation of section 24-4-104, C.R.S.

(d) If a board has reasonable cause to believe that a licensee, registrant, or unlicensed psychotherapist whom such board licenses, registers, or regulates pursuant to this article is unable to practice with reasonable skill and safety to patients, it may require such licensee, registrant, or unlicensed psychotherapist to submit to mental or physical examinations designated by the board. Upon the failure of such licensee, registrant, or unlicensed psychotherapist to submit to such mental or physical examinations, unless such person shows good cause for such failure, the board may act pursuant to paragraph (c) of this subsection (2) or enjoin a registrant, unlicensed psychotherapist, or licensee pursuant to section 12-43-227 until such time as such person submits to the required examinations.

(e) Every licensee, registrant, or unlicensed psychotherapist shall be deemed to have given consent to submit to mental or physical examinations when directed in writing by the board that licenses, registers, or regulates such licensee, registrant, or unlicensed psychotherapist pursuant to this article and to have waived all objections to the admissibility of the examiner's testimony or examination reports on the ground of privileged communication.

(f) The results of any mental or physical examination ordered by a board may be used as evidence in any proceeding initiated by a board or within that board's jurisdiction in any forum.

(3) Disciplinary actions may consist of the following:

(a) **Revocation of a license or registration.** (I) Revocation of a license or a registration by a board shall mean that the licensee or registrant shall surrender such person's license or certificate of registration to the board within thirty days.

(II) Any person whose license or registration to practice is revoked or whose listing has been stricken from the data base by the grievance board is rendered ineligible to apply for any license, registration, or listing issued under this article until more than three years have elapsed from the date of surrender of the license or certificate of registration or of the listing being stricken from the data base. Any reapplication after such three-year period shall be treated as a new application.

(b) **Suspension of a license, registration, or listing.** Suspension of a license, registration, or listing by the board that licenses, registers, or regulates such licensee, registrant, or unlicensed psychotherapist pursuant to this article shall be for a period to be determined by such board.

(c) **Probationary status.** Probationary status may be imposed by a board. If a board places a licensee, registrant, or unlicensed psychotherapist on probation, it may include such conditions for continued practice as the board deems appropriate to assure that the licensee, registrant, or unlicensed psychotherapist is physically, mentally, and otherwise qualified to practice in accordance with generally accepted professional standards of practice, including any or all of the following:

(I) Submission by the licensee, registrant, or unlicensed psychotherapist to such examinations as a board may order to determine such person's physical or mental condition or professional qualifications;

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

(III) Such review or supervision of such person's practice as may be necessary to determine the quality of that practice and to correct deficiencies therein; and

(IV) The imposition of restrictions upon the nature of such person's practice to assure that he or she does not practice beyond the limits of his or her capabilities.

(d) **Issuance of letters of admonition.** (I) When a complaint or investigation discloses an instance of misconduct that, in the opinion of the board, does not warrant formal action by the board but that should not be dismissed as being without merit, a letter of admonition may be issued and sent, by certified mail, to the licensee, certificate holder, registrant, or unlicensed psychotherapist.

(II) When a letter of admonition is sent by the board, by certified mail, to a licensee, certificate holder, registrant, or unlicensed psychotherapist, such person shall be advised that he or she has the right to request in writing, within twenty days after receipt of the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the letter of admonition is based.

(III) If the request for adjudication is timely made, the letter of admonition shall be deemed vacated and the matter shall be processed by means of formal disciplinary proceedings.

(e) **Issuance of confidential letters of concern.** Such letters shall be sent by registered mail to the licensee, registrant, or unlicensed psychotherapist against whom a complaint was made. The letter shall advise the licensee, registrant, or unlicensed psychotherapist that the board is concerned about a complaint that the board has received about the licensee, registrant, or unlicensed psychotherapist and what action, if any, the licensee, registrant, or unlicensed psychotherapist should take to assuage the board's concern. Letters of confidential concern shall be confidential and shall not be disclosed to members of the public or in any court action unless the board is a party.

(f) **Deferred settlement or judgment.** When a complaint or an investigation discloses an instance of misconduct that, in the opinion of the board, warrants formal action, the complaint shall not be resolved by a deferred settlement, action, judgment, or prosecution.

(4) Except when a decision to proceed with a disciplinary action has been agreed upon by a majority of the board that licenses, registers, or regulates such licensee, registrant, or unlicensed psychotherapist, and a notice of formal complaint is drafted and served on the licensee, registrant, or unlicensed psychotherapist by first-class mail or upon final agency action unless the complaint is dismissed, investigations, examinations, hearings, meetings, or any other proceedings of the board conducted pursuant to the provisions of this section shall be exempt from the provisions of the open records law, article 72 of title 24, C.R.S., requiring that proceedings of the board be conducted publicly or that the minutes or records of the board with respect to action of the board taken pursuant to the provisions of this section be open to public inspection. Any final agency action or the filing of a formal complaint, when the board determines it is necessary, shall redact all names of clients or other recipients of services to protect such persons' confidentiality.

(5) Final board actions and orders appropriate for judicial review may be judicially reviewed in the court of appeals, and judicial proceedings for the enforcement of a board order may be instituted in accordance with section 24-4-106 (11), C.R.S.

(6) (Deleted by amendment, L. 98, p. 1120, § 18, effective July 1, 1998.)

(7) Any board member having an immediate personal, private, or financial interest in any matter pending before the board shall disclose the fact to the board and shall not vote upon such matter.

(8) Any licensee, registrant, or unlicensed psychotherapist against whom a malpractice claim is settled or a judgment rendered in a court of competent jurisdiction shall notify the board that licenses, registers, or regulates such licensee, registrant, or unlicensed psychotherapist pursuant to this article of such judgment or settlement within sixty days after such disposition.

(9) Any licensee, registrant, or unlicensed psychotherapist, having direct knowledge that an unlicensed psychotherapist, registrant, or licensee has violated any of the provisions of section 12-43-222 or 12-43-226, has a duty to report such knowledge to the board that licenses, registers, or regulates such unlicensed psychotherapist, registrant, or licensee pursuant to this article, unless such report would violate the prohibition against disclosure of confidential information without client consent pursuant to section 12-43-218.

12-43-225. Reconsideration and review of action of a licensing board or the grievance board.

A board, on its own motion or upon application, at any time after the imposition of any discipline as provided in section 12-43-224, may reconsider its prior action and reinstate or restore such license, registration, or listing or terminate probation or reduce

the severity of its prior disciplinary action. The taking of any such further action or the holding of a hearing with respect thereto shall rest in the sole discretion of the board.

12-43-226. Unauthorized practice - penalties.

(1) Repealed.

(2) Any person who practices or offers or attempts to practice as a social worker, marriage and family therapist, professional counselor, addiction counselor, or psychologist without an active license, certification, or registration issued under this article commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., for the first offense. Any person who commits a second or any subsequent offense commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

(3) Repealed.

(4) No action may be maintained for the breach of a contract involving the unlawful practice of psychology, social work, professional counseling, marriage and family therapy, addiction counseling, or psychotherapy or for the recovery of compensation for services rendered under such a contract.

(5) When an individual has been the recipient of services prohibited by this article, whether or not such person knew that the rendition of the services were unlawful:

(a) Such person or such person's personal representative is entitled to recover the amount of any fee paid for the services; and

(b) Damages for injury or death occurring as a result of the services may be recovered in an appropriate action without any showing of negligence.

12-43-227. Injunctive proceedings.

(1) A board may, in the name of the people of the state of Colorado, through the attorney general of the state of Colorado, apply for an injunction in any court of competent jurisdiction:

(a) To enjoin any person licensed, regulated, or registered by that board pursuant to part 3, 4, 5, 6, or 7 of this article from committing any act prohibited by the provisions of this article;

(b) To enjoin a licensee licensed by that board from practicing the profession for which such person is licensed under this article or to enjoin a registered psychologist candidate from practicing the profession for which such person is registered under section 12-43-304, if such person has violated section 12-43-224 (2) (d) or 12-43-222;

(c) To enjoin an unlicensed psychotherapist from practicing psychotherapy if such person has violated the provisions of section 12-43-222.

(2) If it is established that the defendant has been or is committing any act prohibited by this article, the court shall enter a decree perpetually enjoining said defendant from further committing said act or from practicing any profession licensed, registered, or regulated pursuant to this article.

(3) Such injunctive proceedings shall be in addition to and not in lieu of all penalties and other remedies provided in this article.

(4) When seeking an injunction under this section, a board shall not be required to allege or prove either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from a continued violation.

12-43-228. Minimum standards for testing.

(1) Every person licensed, registered, or regulated under this article shall meet the minimum professional preparation standards set forth in this section to engage in the administration, scoring, or interpretation of the following levels of psychometric or electrodiagnostic testing:

(a) **General use.** There is no educational or experience minimum necessary for a licensee, registrant, or unlicensed psychotherapist to administer standardized personnel selection, achievement, general aptitude, or proficiency tests.

(b) **Technical use.** A master's degree in anthropology, psychology, counseling, marriage and family therapy, social work, or sociology from a regionally accredited university or college certified by the accrediting agency or body to award graduate degrees and completion of at least one graduate level course each in statistics, psychometric measurement, theories of personality, individual and group test administration and interpretation, and psychopathology is required in order to administer, score, or interpret tests that require technical knowledge of test construction and use or require the application of scientific and psychophysiological knowledge. Such tests include, but are not limited to, tests of general intelligence, special aptitudes, temperament, values, interests, and personality inventories.

(c) **Advanced use.** A licensee, registrant, or unlicensed psychotherapist shall meet all the requirements of paragraph (b) of this subsection (1) and, in addition, completion, at a regionally accredited university or college certified by the accrediting agency or body to award graduate degrees, of at least one graduate level course in six of the following areas: Cognition, emotion, attention, sensory-perceptual function, psychopathology, learning, encephalopathy, neuropsychology, psychophysiology, personality, growth and development, projective testing, and neuropsychological testing and completion of one year of experience in advanced use practice under the supervision of a person fully qualified under this paragraph (c) in order to practice projective testing, neuropsychological testing, or utilization of a battery of three or more tests to:

(I) Determine the presence, nature, causation, or extent of psychosis, dementia, amnesia, cognitive impairment, influence of deficits on competence, and ability to function adaptively;

(II) Determine the etiology or causative factors contributing to psychological dysfunction, criminal behavior, vocational disability, neurocognitive dysfunction, or competence; or

(III) Predict the psychological responses to specific medical, surgical, and behavioral interventions.

(2) The board licensing, registering, or regulating any person violating any provision of this section may bring disciplinary proceedings or injunctive proceedings against such person pursuant to section 12-43-224 or 12-43-227.

(3) (a) Any person licensed under this article on July 1, 1998, shall not be required to comply with the education requirements of paragraphs (b) and (c) of subsection (1) of this section if such person has, on such date, been licensed under this article for a period of seven consecutive years.

(b) Any person licensed under this article on July 1, 1998, shall not be required to comply with the supervision requirements of paragraph (c) of subsection (1) of this section if such person has, on such date, been licensed under this article for a period of five consecutive years.

12-43-229. Repeal of article.

(1) Parts 1 to 7 of this article are repealed, effective July 1, 2011. Prior to such repeal, all of the boards relating to the licensing of and grievances against any person licensed, registered, or regulated pursuant to the provisions of this article shall be reviewed as provided for in section 24-34-104, C.R.S.

(2) The functions of the director regarding addiction counselors as set forth in part 8 of this article are repealed, effective July 1, 2011. Prior to such repeal, the functions of the director shall be reviewed pursuant to section 24-34-104, C.R.S.

PART 3 PSYCHOLOGISTS

12-43-301. Definitions.

As used in this part 3, unless the context otherwise requires:

(1) "Approved school" means any university or other institution of higher education offering a full-time graduate course of study in psychology and having programs approved by the American psychological association or the board.

(2) "Board" means the state board of psychologist examiners created by section 12-43-302 (1).

(3) "Board certificate" means a certificate of appointment by an individual to the board.

(4) "License" means a certificate of licensure as a licensed psychologist.

(5) "License certificate" means a certificate documenting the licensure of a psychologist.

(6) "Licensed psychologist" means a person licensed under this part 3.

(7) "Licensee" means a licensed psychologist.

(8) "Professional psychological training program" means a doctoral training program that:

(a) Is a planned program of study that reflects an integration of the science and practice of psychology; and

(b) For applicants receiving their terminal degrees after 1990, is designated as a doctoral program in psychology by the association of state and provincial psychology boards or the national register of health service providers in psychology, or is accredited by the American psychological association or Canadian psychological association.

12-43-302. State board of psychologist examiners.

(1) There is hereby created a state board of psychologist examiners under the supervision and control of the division of registrations of the department of regulatory agencies, created in section 24-1-122 (2) (g), C.R.S.

(2) The board shall consist of seven members who are citizens of the United States and residents of the state of Colorado as follows:

(a) Three board members shall be licensed psychologists, at least two of whom shall be engaged in the direct practice of psychology; except that, if, after a good-faith attempt, the governor determines that an applicant for membership on the board pursuant to this

paragraph (a) who is engaged in the direct practice of psychology is not available to serve on the board for a particular term, the governor may appoint a licensed psychologist who is not engaged in the direct practice of psychology.

(b) Four board members shall be representatives of the general public, one of whom may be a mental health consumer or family member of a mental health consumer. These individuals shall have never been psychologists, applicants or former applicants for licensure as psychologists, members of another mental health profession, or members of households that include psychologists or members of another mental health profession or otherwise have conflicts of interest or the appearance of such conflicts with their duties as board members.

(3) (Deleted by amendment, L. 2007, p. 130, § 1, effective August 3, 2007.)

(4) (a) Each board member shall hold office until the expiration of such member's appointed term or until a successor is duly appointed. Except as specified in paragraph (b) of this subsection (4), the term of each member shall be four years, and no board member shall serve more than two full consecutive terms. Any vacancy occurring in board membership other than by expiration of a term shall be filled by the governor by appointment for the unexpired term of such member.

(b) The terms of office of the members on the board as of August 3, 2007, shall be modified as follows in order to ensure staggered terms of office:

(I) The second term of office of the licensed psychologist board member and one of the two board members representing the general public, whose second term would otherwise expire on June 30, 2010, shall expire on May 31, 2008, and the governor shall appoint one new licensed psychologist and one new representative of the general public to serve terms as described in paragraph (a) of this subsection (4) commencing on June 1, 2008.

(II) The initial term of office of the one board member representing the general public whose initial term would otherwise expire on June 30, 2009, shall expire on May 31, 2009, and the board member shall be eligible to serve one additional four-year term commencing on June 1, 2009, and expiring on May 31, 2013. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on June 1 of the applicable year.

(III) The initial term of office of one of the two licensed psychologist board members whose initial term would otherwise expire on June 30, 2010, shall expire on May 31, 2009. This board member shall be eligible to serve one additional four-year term, commencing on June 1, 2009, and expiring on May 31, 2013. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on June 1 of the applicable year.

(IV) The initial terms of office of the remaining licensed psychologist board member and the other board member representing the general public, whose initial terms would

otherwise expire on June 30, 2010, shall expire on May 31, 2010. Each of these board members shall be eligible to serve one additional four-year term commencing on June 1, 2010, and expiring on May 31, 2014. On and after the expiration of these board members' terms, persons appointed to these positions on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on June 1 of the applicable year.

(V) The second term of office of the remaining board member representing the general public whose second term would otherwise expire on June 30, 2010, shall expire on May 31, 2010. The governor shall appoint one new representative of the general public to serve terms as described in paragraph (a) of this subsection (4) commencing on June 1, 2010.

(5) The governor may remove any board member for misconduct, incompetence, or neglect of duty after giving the board member a written statement of the charges and an opportunity to be heard thereon. Actions constituting neglect of duty shall include, but not be limited to, the failure of board members to attend three consecutive meetings or at least three quarters of the total meetings in any calendar year.

(6) Each board member shall receive a certificate of appointment from the governor.

12-43-303. Practice of psychology defined.

(1) For the purposes of this part 3, the "practice of psychology" is defined as the observation, description, evaluation, interpretation, treatment, or modification of behavior, cognitions, or emotions by the application of psychological, behavioral, and physical principles, methods, or procedures, for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior, cognitions, or emotions and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health. Psychologists use any and all psychological principles, methods, and devices to consider the full range of possible causes of patients' illnesses and select and apply the appropriate treatment methods.

(2) The practice of psychology includes, but is not limited to:

(a) Psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, and aptitudes;

(b) Neuropsychological tests, assessments, diagnoses, and treatment of neuropsychological and brain disorders;

(c) Psychotherapy, which may include psychoanalytic, existential, cognitive, and behavioral therapies, hypnosis, and biofeedback;

(d) Clinical and counseling psychology, which are the sciences of diagnosis and treatment of mental, neurological, psychophysiological, and emotional disorder or disability, alcoholism and substance abuse, behavioral abuse including dangerousness to self or others, and disorders of habit or conduct;

(e) Rehabilitation psychology, which is the science of psychology dealing with the psychological aspects of physical illness, accident, injury, or disability and rehabilitation therefrom;

(f) Health psychology, which is the science of psychology dealing with the role of psychological factors in health and illness;

(g) Forensic psychology, which is the science of psychology that deals with the relation and application of psychological research and knowledge to legal issues, including, but not limited to, assessments of competency in civil or criminal matters, legal questions of sanity, or civil commitment proceedings;

(h) Organizational psychology, which is the science of assessment and intervention by an employee within his or her organization or by a consultant retained by such organization;

(i) Community psychology, which is the science of psychology emphasizing prevention and early discovery of potential difficulties, rather than awaiting initiation of therapy by affected individuals or groups, and which is generally practiced outside of an office setting;

(j) Sports psychology, which is the science of psychology dealing with enhancement of athletic performance utilizing principles of psychological research, assessment, and knowledge;

(k) Psychoeducational evaluation, therapy, remediation, and consultation; and

(l) Research psychology, which is the application of research methodologies, statistics, and experimental design to psychological data.

(3) Psychological services may be rendered to individuals, families, groups, organizations, institutions, the public, and the courts.

(4) The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is received for services rendered.

12-43-304. Qualifications - examinations - licensure.

(1) The board shall issue a license as a psychologist, and issue an appropriate license certificate, to each applicant who files an application upon a form and in such manner as the board prescribes, accompanied by such fee as is required by the board, and who furnishes evidence satisfactory to the board that he or she:

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

(b) Is not in violation of any of the provisions of this part 3 and the rules promulgated by the board;

(c) Holds a doctorate degree with a major in psychology, or the equivalent to such major as determined by the board, from an approved school;

(d) Has had at least one year of postdoctoral experience practicing psychology under supervision approved by the board; and

(e) Has demonstrated professional competence by passing a single, written examination in psychology as prescribed by the board and a written, mail-in jurisprudence examination administered by the department of regulatory agencies.

(1.5) (a) The examination by the board described in paragraph (e) of subsection (1) of this section shall be given not less than twice per year at such time and place and under such supervision as the board may determine.

(b) The examination shall test for knowledge of the following three areas:

(I) General psychology;

(II) Clinical and counseling psychology; and

(III) Application of the practice of clinical and counseling psychology, including knowledge of appropriate statutes and professional ethics.

(c) The board or its designated representatives shall administer and score the examination and shall take any actions necessary to ensure impartiality. The passing score for the examination shall be determined by the board based upon a level of minimum competency to engage in the practice of psychology.

(2) to (6) (Deleted by amendment, L. 2007, p. 137, § 1, effective July 1, 2007.)

(7) The board shall register as a psychologist candidate a person who files an application therefor, accompanied by such fee as is required by section 12-43-204, who submits evidence satisfactory to the board that he or she has met the requirements of paragraphs (a), (b), and (c) of subsection (1) of this section, and who has not been previously registered as a psychologist candidate by the board. Such candidate is not required to register with the database of unlicensed psychotherapists, and shall be under the jurisdiction of the state board of psychologist examiners. A person shall complete the requirements of paragraphs (d) and (e) of subsection (1) of this section within four years after initial registration with the psychology board. If such requirements are not met within four years, the registration of the psychologist candidate shall expire. A person whose psychologist candidate registration has expired shall not be precluded from applying for licensure or registration with any other mental health board for which the person is qualified.

12-43-305. Rights and privileges of licensure.

(1) Any person who possesses a valid, unsuspended, and unrevoked license as a licensed psychologist has the right to:

(a) Engage in the private, independent practice of psychology;

(b) Practice and supervise psychology practice; and

(c) Use the title "psychologist" and the terms "psychology" and "psychological". No other person may assume these titles or use these terms on any work or letter, sign, figure, or device to indicate that the person using such title or terms is a licensed psychologist.

(2) Any person duly licensed as a psychologist shall not be required to obtain any other license or certification to practice psychology as defined in section 12-43-303 unless otherwise required by the board.

12-43-306. Exemptions.

(1) Nothing in this part 3 shall be construed to prevent the teaching of psychology, or the conduct of psychological research, if such teaching or research does not involve the delivery or supervision of direct psychological services to individuals who are themselves, rather than a third party, the intended beneficiaries of such services without regard to the source or extent of payment for services rendered. Nothing in this part 3 shall prevent the provision of expert testimony by psychologists who are exempted by this part 3. Persons holding an earned doctoral degree in psychology from an approved school may use the title "psychologist" in conjunction with the activities permitted in this subsection (1).

(2) Nothing in this part 3 shall be construed to prevent members of other professions licensed under the laws of this state from rendering services within the scope of practice as set out in the statutes regulating their professional practices so long as they do not represent themselves to be psychologists or their services as psychological.

(3) The use of the title "psychologist" may be continued by an unlicensed person who, as of July 1, 1982, is employed by a state, county, or municipal agency or by other political subdivisions or any educational institution chartered by the state, but only so long as such person remains in the employment of the same institution or agency and only in the course of conducting duties for such agency or institution.

(4) Nothing in this part 3 shall be construed to limit the use of an official title on the part of any doctoral level graduate of a research psychology program or an industrial or organizational psychology program from a regionally accredited university while engaged in the conduct of psychological research or the provision of psychological consultation to organizations or institutions if such services do not include the clinical practice of psychology.

(5) Nothing in this part 3 shall be construed to require the new regulation of any occupational or professional group that is not currently subject to regulation under state law.

(6) Nothing in this part 3 shall be construed to prevent the practice of psychotherapy by unlicensed persons who are listed with the state grievance board pursuant to section 12-43-702.5.

(7) No person may engage in the practice of psychology as a psychologist, or refer to himself or herself as a psychologist, unless such person is licensed pursuant to this part 3.

PART 4 SOCIAL WORKERS

12-43-401. Definitions.

As used in this part 4, unless the context otherwise requires:

(1) "Approved school" means any university or other institution of higher education offering a full-time undergraduate course of study in social work approved by the council on social work education or its predecessor organization.

(2) "Board" means the state board of social work examiners, created in section 12-43-402.

(3) "Certificate" means a certificate of licensure as a licensed social worker or a licensed clinical social worker.

(4) "Clinical social work practice" shall have the same meaning as "social work practice" as defined in section 12-43-403.

(5) "Graduate school of social work" means any university or other institution of higher education offering a full-time graduate course of study in social work approved by the council on social work education or its predecessor organization.

(5.5) "Independent practice" means practicing independent of supervision.

(6) "Independent private practice" means a practice charging a fee in a setting other than under the auspices of a public or private nonprofit agency exempt from federal income tax under section 501 (c) (3) of the federal "Internal Revenue Code of 1986", as amended.

(7) "Licensed clinical social worker" means any person licensed under the provisions of this part 4 as a clinical social worker.

(8) "Licensed social worker" means a person licensed under the provisions of this part 4.

(9) "Licensee" means a licensed social worker or licensed clinical social worker.

(10) (Deleted by amendment, L. 2004, p. 912, § 10, effective July 1, 2004.)

(11) "Social worker" means a person who possesses an earned master's or bachelor's degree in social work from a social work education program accredited by the council on social work education, or a doctoral degree in social work from a doctoral program within a social work education program accredited by the council on social work education, and who is practicing within the scope of section 12-43-403.

12-43-402. State board of social work examiners.

(1) There is hereby created under the supervision and control of the division of registrations of the department of regulatory agencies the state board of social work examiners, which shall consist of seven members who are citizens of the United States and residents of the state of Colorado.

(2) (a) Three board members shall be licensed clinical social workers, at least two of whom shall be engaged in direct social work practice; except that, if, after a good-faith attempt, the governor determines that an applicant for membership on the board pursuant to this paragraph (a) who is engaged in direct social work practice is not available to serve on the board for a particular term, the governor may appoint a licensed clinical social worker who is not engaged in direct social work practice.

(b) Four board members shall be representatives of the general public. These individuals shall have never been a social worker, an applicant or former applicant for licensure as a social worker, a member of another mental health profession, or a member of a household that includes a social worker or a member of another mental health profession or otherwise have conflicts of interest or the appearance of such conflicts with his or her duties as a board member.

(3) (a) Each board member shall hold office until the expiration of such member's appointed term or until a successor is duly appointed. Except as specified in paragraph (b) of this subsection (3), the term of each member shall be four years, and no board member shall serve more than two full consecutive terms. Any vacancy occurring in board membership other than by expiration of a term shall be filled by the governor by appointment for the remainder of the unexpired term of such member.

(b) The terms of office of the members on the board as of August 3, 2007, shall be modified as follows in order to ensure staggered terms of office:

(I) The second term of office of one of the two licensed clinical social worker board members who, as of July 25, 2010, would have served two four-year terms shall expire on June 30, 2008, and the governor shall appoint a new licensed clinical social worker to serve terms as described in paragraph (a) of this subsection (3) commencing on July 1, 2008.

(II) The initial term of office of one of the board members representing the general public whose initial term would otherwise expire on July 25, 2010, shall expire on June 30, 2008, and the board member shall be eligible to serve one additional four-year term commencing on July 1, 2008, and expiring on June 30, 2012. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (3) commencing on July 1 of the applicable year.

(III) The term of office of the one member representing the general public who, as of July 25, 2009, would have served one full four-year term and one partial four-year term shall expire on June 30, 2009, and the member shall be eligible to serve one additional four-year term commencing on July 1, 2009, and expiring on June 30, 2013. On and after

the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (3) commencing on July 1 of the applicable year.

(IV) The term of office of the one licensed clinical social worker board member who, as of July 25, 2010, would have served one full four-year term and one partial four-year term shall expire on June 30, 2009, and the board member shall be eligible to serve one additional four-year term commencing on July 1, 2009, and expiring on June 30, 2013. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (3) commencing on July 1 of the applicable year.

(V) The initial terms of office of the one remaining licensed clinical social worker board member and the two remaining board members representing the general public whose initial terms would otherwise expire on July 25, 2010, shall expire on June 30, 2010, and each of these board members shall be eligible to serve one additional four-year term, commencing on July 1, 2010, and expiring on June 30, 2014. On and after the expiration of these board members' terms, persons appointed to these positions on the board shall serve terms as described in paragraph (a) of this subsection (3) commencing on July 1 of the applicable year.

(4) (Deleted by amendment, L. 2007, p. 132, § 2, effective August 3, 2007.)

(5) The governor may remove any board member for misconduct, incompetence, or neglect of duty after giving the board member a written statement of the charges and an opportunity to be heard thereon. Actions constituting neglect of duty shall include, but not be limited to, the failure of board members to attend three consecutive meetings or at least three quarters of the total meetings in any calendar year.

(6) Each board member shall receive a certificate of appointment from the governor.

12-43-403. Social work practice defined.

(1) For the purposes of this part 4, "social work practice" means the professional application of social work theory and methods by a graduate with a master's degree in social work, a doctoral degree in social work, or a bachelor's degree in social work from an accredited social work program, for the purpose of prevention, assessment, diagnosis, and intervention with individual, family, group, organizational, and societal problems, including alcohol and substance abuse and domestic violence, based on the promotion of biopsychosocial developmental processes, person-in environment transactions, and empowerment of the client system. Social work theory and methods are based on known accepted principles that are taught in professional schools of social work in colleges or universities accredited by the council on social work education.

(2) Professional social work practice may include, but is not limited to:

- (a) Assessment;
- (b) Differential diagnosis;

- (c) Treatment planning and evaluation;
- (d) Measurement of psychosocial functioning;
- (e) Crisis intervention, out-reach, short- and long-term treatment;
- (f) Therapeutic, individual, marital, and family interventions;
- (g) Client education;
- (h) Case management;
- (i) Mediation;
- (j) Advocacy;
- (k) Discharge, referral, and continuity of care planning and implementation;
- (l) Consultation;
- (m) Supervision;
- (n) Research;
- (o) Management and administration;
- (p) Program evaluation and education;
- (q) Social group work;
- (r) Community organization and development;
- (s) Social policy analysis and development;
- (t) Psychotherapy; and
- (u) Consultation, supervision, and teaching in higher education.

(3) Social work practice may take place in a public or private agency or institutional, educational, or independent setting.

(4) Social work practice is directly based upon an advanced educational program that teaches the practitioner to analyze, intervene, and evaluate in ways that are highly differentiated, discriminating, and self-critical. A practitioner must be able to synthesize and apply a broad range of knowledge as well as practice with a high degree of autonomy and skill. A practitioner must be able to refine and advance the quality of his or her practice as well as that of the larger social work profession. These advanced competencies must be appropriately integrated and reflected in all aspects of a social work practice, including the ability to:

- (a) Apply critical thinking skills within professional contexts, including synthesizing and applying appropriate theories and knowledge to practice interventions;

(b) Practice within the values and ethics of the social work profession and with an understanding of, and respect for, the positive value of diversity;

(c) Demonstrate the professional use of self;

(d) Understand the forms and mechanisms of oppression and discrimination and the strategies and skills of change that advance social and economic justice;

(e) Understand and interpret the history of the social work profession and its current structure and issues;

(f) Apply the knowledge and skills of a generalist social work perspective to practice with systems of all sizes;

(g) Apply the knowledge and skills of advanced social work practice in an area of concentration;

(h) Critically analyze and apply knowledge of biopsychosocial variables that affect an individual's development and behavior and use theoretical frameworks to understand the interactions among and between individuals and social systems;

(i) Analyze the impact of social policies on client systems, workers, and agencies and demonstrate skills for influencing policy formulation and change;

(j) Evaluate relevant research studies and apply findings to practice, and demonstrate skills in quantitative research design, data analysis, and knowledge dissemination;

(k) Conduct empirical evaluations of their own practice interventions and those of other relevant systems; and

(l) Use communication skills differentially with a variety of client populations, colleagues, and members of the community.

12-43-404. Qualifications - examination - licensure and registration.

(1) The board shall license as a licensed social worker, and issue an appropriate certificate to, any person who files an application therefor, accompanied by such fee as is required by section 12-43-204, and who submits evidence satisfactory to the board that he or she:

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

(b) Has obtained a master's degree from a graduate school of social work; and

(c) Demonstrates professional competence by satisfactorily passing an examination in social work and a written, mail-in jurisprudence examination administered by the department of regulatory agencies.

(2) The board shall license as a licensed clinical social worker, and issue an appropriate certificate to, any person who files an application therefor, accompanied by such fee as is required by section 12-43-204, and who submits evidence satisfactory to the board that he or she:

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

(b) Has obtained a master's or doctorate degree from a graduate school of social work;

(c) Has practiced social work for at least two years under the supervision of a licensed clinical social worker; and

(d) Demonstrates professional competence by satisfactorily passing an examination in social work as prescribed by the board and a written, mail-in jurisprudence examination administered by the department of regulatory agencies.

(2.5) (a) The examination by the board described in paragraph (c) of subsection (1) of this section and in paragraph (d) of subsection (2) of this section shall be given not less than twice per year at such time and place and under such supervision as the board may determine.

(b) The board or its designated representatives shall administer and score the examination and shall take any actions necessary to ensure impartiality. The passing score for the examination shall be determined by the board based upon a level of minimum competency to engage in social work practice.

(3) (Deleted by amendment, L. 2004, p. 914, § 13, effective July 1, 2004.)

(4) to (6) (Deleted by amendment, L. 2007, p. 138, § 2, effective July 1, 2007.)

(7) (Deleted by amendment, L. 2004, p. 914, § 13, effective July 1, 2004.)

12-43-405. Rights and privileges of licensure and a social work degree.

(1) Any person who possesses a valid, unsuspended, and unrevoked certificate as a licensed social worker, and who has received a license pursuant to section 12-43-404, has the right to practice social work under supervision and use the title "licensed social worker", "social worker", and the abbreviation "LSW". No other person shall assume these titles or use these abbreviations on any work or letter, sign, figure, or device to indicate that the person using the same is a licensed social worker or a social worker.

(2) Any person who possesses a valid, unsuspended, and unrevoked certificate as a licensed clinical social worker whose license was granted pursuant to the provisions of section 12-43-404 is entitled to engage in the private, independent practice of clinical social work and has the right to practice and supervise clinical social work practice and use the title "licensed clinical social worker", "clinical social worker", "social worker", or "licensed social worker", and the abbreviation "LCSW". No other person shall assume these titles or use these abbreviations on any work or letter, sign, figure, or device to indicate that the person using the same is a licensed clinical social worker or social worker.

(3) (a) (Deleted by amendment, L. 2005, p. 128, § 8, effective August 8, 2005.)

(b) Any person engaged in providing medically related social services in skilled nursing or nursing care facilities shall not be subject to the requirements of this article so

long as that person meets the qualifications of, and provides services in accordance with, the federal regulations governing the medicare and medicaid program participation of these facilities and the Colorado department of public health and environment's regulations for the licensing of these facilities.

(4) Any person duly licensed as a licensed clinical social worker or any person under the supervision of a licensed clinical social worker shall not be required to obtain any other license or certification to practice social work, as defined in section 12-43-403, unless otherwise required by the board of social work examiners.

(5) Any person possessing an earned master's or bachelor's degree in social work from a social work education program accredited by the council on social work education, or a doctoral degree in social work from a doctoral program within a social work education program accredited by the council on social work education has the right to practice social work and to use the title "social worker". Only a person licensed as a clinical social worker or practicing under the supervision of a licensed clinical social worker may assert that he or she is practicing clinical social work or use the title of "clinical social worker".

12-43-406. Scope of part.

(1) The practice of social work includes, but is not limited to, the following professional services: Assessment; differential diagnosis; treatment planning and evaluation; measurement of psychosocial functioning; crisis intervention; out-reach; short- and long-term treatment; psychotherapy; therapeutic intervention; client education; case management; mediation; advocacy; discharge, referral, and continuity of care planning; consultation; supervision; research; administration; education; social-group work; community organization; and social policy analysis and development. Social work practice also may encompass other current or developing modalities and techniques that are consistent with this scope.

(2) No person may state that he or she is engaged in the practice of social work as a social worker, or refer to himself or herself as a social worker, unless such person is licensed or registered pursuant to this part 4, or possesses an earned social work degree, as defined in section 12-43-401 (11). No person may practice as a clinical social worker unless licensed pursuant to section 12-43-404 (2), or licensed or registered to practice social work and supervised pursuant to section 12-43-404 (1) or (2).

(3) No person may supervise the practice of social work for the purpose of licensure compliance or disciplinary proceedings unless licensed pursuant to section 12-43-404; except that, in cases where no LCSW is available for supervision for licensure, the licensee may apply to the board for approval to be supervised by a person with equivalent experience as determined by the board.

(4) Nothing in this part 4 shall be construed to prevent members of other professions licensed under the laws of this state from rendering services within the scope of practice so long as they do not represent themselves to be social workers or their services as social work.

(5) Nothing in this part 4 shall be construed to prevent the practice of psychotherapy by unlicensed persons who are listed with the state grievance board pursuant to section 12-43-702.5.

12-43-407. Exemptions.

Nothing in this part 4 shall be construed to prevent the teaching of social work, or the conduct of social work research, if such teaching or research does not involve the delivery or supervision of direct social work services to individuals who are themselves, rather than a third party, the intended beneficiaries of such services without regard to the source or extent of payment for services rendered. Nothing in this part 4 shall prevent the provision of expert testimony by social workers who are exempted by this part 4. Persons holding an earned doctoral degree in social work from an approved school may use the title "social worker" in conjunction with activities permitted in this section.

12-43-408. School social workers.

(1) Any person who holds a valid master's degree in social work and has obtained the special services license with social work endorsement issued by the department of education pursuant to the "Colorado Educator Licensing Act of 1991", article 60.5 of title 22, C.R.S., shall be issued the "LISW" certificate upon application and payment of said fees and shall be subject to the provisions of this article.

(2) Repealed.

12-43-409. Clinical social work practice of psychotherapy.

For the purpose of licensure, the practice of psychotherapy under this part 4 shall be limited to licensed clinical social workers or licensed social workers supervised by licensed clinical social workers.

12-43-410. Employees of social services.

(1) Notwithstanding the exemption in section 12-43-215 (3), no employee of the department of human services, employee of a county department of social services, or personnel under the direct control or supervision of such departments, shall state that he or she is engaged in the practice of social work as a social worker or refer to himself or herself as a social worker unless such person is licensed or registered pursuant to this part 4 or possesses an earned social work degree, as defined in section 12-43-401 (11).

(2) Notwithstanding the exemption in section 12-43-215 (3), any employee licensed or registered pursuant to the provisions of this article who is terminated from employment by the department of human services or a county department of social services is subject to review and disciplinary action by the board that licenses, registers, or regulates such employee.

(3) An employee of the state department of human services or a county department of social services who has earned a bachelor's or masters degree in social work may apply to the board, for purposes related to licensure under this part 4, for approval for supervision

by a person other than a licensed clinical social worker. The board shall consider input from representatives of the state department of human services and the county departments of social services when promulgating the rule concerning what qualifications or experience a person is required to possess in order to supervise an employee pursuant to this subsection (3).

12-43-411. Continuing professional competency - board rules - repeal.

(1) (a) In accordance with section 12-43-404, the board issues a license to practice as a clinical social worker or a social worker based on whether the applicant satisfies minimum educational and experience requirements that demonstrate professional competency to practice as a licensed clinical social worker or a licensed social worker, respectively. After a license is issued to an applicant, the licensed clinical social worker or licensed social worker shall maintain continuing professional competency to practice as a licensed clinical social worker or licensed social worker, respectively.

(b) The board shall adopt rules establishing a continuing professional competency program that includes, at a minimum, the following elements:

(I) A self-assessment of the knowledge and skills of a licensed clinical social worker or licensed social worker seeking to renew or reinstate a license;

(II) Development, execution, and documentation of a learning plan based on the assessment; and

(III) Periodic demonstration of knowledge and skills through documentation of activities necessary to ensure at least minimal ability to safely practice the profession. Nothing in this subparagraph (III) shall require a licensed clinical social worker or a licensed social worker to retake any examination required pursuant to section 12-43-404 in connection with initial licensure.

(c) The board shall establish that a licensed clinical social worker or licensed social worker is deemed to satisfy the continuing competency requirements of this section if the licensed clinical social worker or licensed social worker meets the continued professional competence requirements of one of the following entities:

(I) A state department, including continued professional competence requirements imposed through a contractual arrangement with a provider;

(II) An accrediting body recognized by the board; or

(III) An entity approved by the board.

(d) (I) After the program is established, licensed clinical social workers and licensed social workers shall satisfy the requirements of the program in order to renew or reinstate a license to practice as a licensed clinical social worker or as a licensed social worker in Colorado.

(II) The requirements of this section apply to individual licensed clinical social workers or licensed social workers who are licensed pursuant to this part 4, and nothing

in this section shall be construed to require a person who employs or contracts with a licensed clinical social worker or licensed social worker to comply with the requirements of this section.

(2) (a) Records of assessments or other documentation developed or submitted in connection with the continuing professional competency program are confidential and not subject to inspection by the public or discovery in connection with a civil action against a licensed clinical social worker or a licensed social worker. The records or documents shall be used only by the board for purposes of determining whether a licensed clinical social worker or licensed social worker is maintaining continuing professional competency to engage in the profession.

(b) Subject to the requirements of paragraph (a) of this subsection (2), nothing in this section shall be construed to restrict the discovery of information or documents that are otherwise discoverable under the Colorado rules of civil procedure in connection with a civil action against a licensed clinical social worker or licensed social worker.

(3) As used in this section, "continuing professional competency" means the ongoing ability of a licensee to learn, integrate, and apply the knowledge, skill, and judgment to practice as a licensed clinical social worker or as a licensed social worker, as applicable, according to generally accepted industry standards and professional ethical standards in a designated role and setting.

(4) This section is repealed, effective July 1, 2014.

PART 5
MARRIAGE AND FAMILY THERAPISTS

12-43-501. Definitions.

As used in this part 5, unless the context otherwise requires:

(1) "Approved school" means any university or other institution of higher education offering a full-time graduate course of study in marriage and family therapy accredited by the commission on accreditation for marriage and family therapy education, a nationally recognized accrediting agency as determined by the board, or a substantially equivalent program approved by the board.

(2) "Board" means the state board of marriage and family therapist examiners created in section 12-43-502.

(3) "Certificate" means a certificate of licensure as a licensed marriage and family therapist.

(4) "Licensed marriage and family therapist" means a person licensed under the provisions of this part 5.

(5) "Licensee" means a licensed marriage and family therapist.

12-43-502. State board of marriage and family therapist examiners.

(1) There is hereby created under the supervision and control of the division of registrations of the department of regulatory agencies, created in section 24-1-122 (2) (g), C.R.S., the state board of marriage and family therapist examiners, which shall consist of seven members who are citizens of the United States and residents of the state of Colorado.

(2) (a) The members of the board shall be appointed by the governor as follows:

(I) Four members of the general public who are not regulated by this article; and

(II) Three marriage and family therapists.

(b) The public members shall have never been a marriage and family therapist, an applicant or former applicant for licensure as a marriage and family therapist, a member of another mental health profession, or a member of a household that includes a marriage and family therapist or a member of another mental health profession or otherwise have conflicts of interest or the appearance of such conflicts with his or her duties as a board member.

(c) (Deleted by amendment, L. 2004, p. 916, § 17, effective July 1, 2004.)

(3) (Deleted by amendment, L. 2007, p. 133, § 3, effective August 3, 2007.)

(4) (a) Each board member shall hold office until the expiration of his or her appointed term or until a successor is duly appointed. Except as specified in paragraph (b) of this subsection (4), members shall serve terms of four years, and no member shall serve more than two full consecutive terms. When the term of each board member expires, the governor shall appoint his or her successor for a term of four years. Any vacancy occurring in the board membership other than by the expiration of a term shall be filled by the governor by appointment for the remainder of the unexpired term of such member.

(b) The terms of office of the members on the board as of August 3, 2007, shall be modified as follows in order to ensure staggered terms of office:

(I) The second term of office of one of the board members representing the general public whose second term would otherwise expire on August 12, 2010, shall expire on July 31, 2008. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on August 1 of the applicable year.

(II) The initial term of office of one of the marriage and family therapist board members whose initial term would otherwise expire on August 12, 2010, shall expire on July 31, 2008, and the board member shall be eligible to serve one additional four-year term commencing on August 1, 2008, and expiring on July 31, 2012. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on August 1 of the applicable year.

(III) The term of office of the one board member representing the general public who, as of August 12, 2009, would have served one full four-year term and one partial four-year term shall expire on July 31, 2009. This board member shall be eligible to serve one additional four-year term commencing on August 1, 2009, and expiring on July 31, 2013. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on August 1 of the applicable year.

(IV) The initial term of office of one of the marriage and family therapist board members whose initial term would otherwise expire on August 12, 2010, shall expire on July 31, 2009, and the board member shall be eligible to serve one additional four-year term commencing August 1, 2009, and expiring on July 31, 2013. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on August 1 of the applicable year.

(V) The initial term of office of one of the marriage and family therapist board members whose initial term of office would otherwise expire on August 12, 2010, shall expire on July 31, 2010, and the board member shall be eligible to serve one additional four-year term commencing on August 1, 2010, and expiring on July 31, 2014. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on August 1 of the applicable year.

(VI) The second term of office of one of the board members representing the general public whose second term would otherwise expire on August 12, 2010, shall expire on July 31, 2010, and the governor shall appoint one new representative of the general public to serve terms as described in paragraph (a) of this subsection (4) commencing on August 1, 2010.

(VII) The term of office of the one board member representing the general public who, as of August 12, 2010, would have served one full four-year term and one partial four-year term shall expire on July 31, 2010. This board member shall be eligible to serve one additional four-year term commencing on August 1, 2010, and expiring on July 31, 2014. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on August 1 of the applicable year.

(5) The governor may remove any board member for misconduct, incompetence, or neglect of duty after giving the board member a written statement of the charges and an opportunity to be heard thereon. Actions constituting neglect of duty shall include, but not be limited to, the failure of board members to attend three consecutive meetings or at least three quarters of the total meetings in any calendar year.

(6) Each board member shall receive a certificate of appointment from the governor.

12-43-503. Marriage and family therapy practice defined.

(1) For the purposes of this part 5, "marriage and family therapy practice" means the rendering of professional marriage and family therapy services to individuals, couples, and families, singly or in groups, whether such services are offered directly to the general public or through organizations, either public or private, for a monetary fee. Marriage and family therapy utilizes established principles that recognize the interrelated nature of individual problems and dysfunctions to assess, understand, diagnose, and treat emotional and mental problems, alcohol and substance abuse, and domestic violence, and modify intrapersonal and interpersonal dysfunctions.

(2) Professional marriage and family therapy practice may include, but is not limited to:

- (a) Assessment and testing;
- (b) Diagnosis;
- (c) Treatment planning and evaluation;
- (d) Therapeutic individual, marital, family, group, or organizational interventions;
- (e) Psychotherapy;
- (f) Client education;
- (g) Consultation; and
- (h) Supervision.

(3) Professional marriage and family therapy practice includes practicing within the values and ethics of the marriage and family therapy profession.

(4) This definition is to be interpreted in a manner that does not impinge upon or otherwise limit the scope of practice of other psychotherapists licensed under this article.

12-43-504. Qualifications - examination - licensure and registration.

(1) The board shall issue a license as a marriage and family therapist to each applicant who files an application upon a form and in such manner as the board prescribes, accompanied by a fee as is required by section 12-43-204, and who furnishes evidence satisfactory to the board that he or she:

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

(b) Is not in violation of any of the provisions of this article or the rule and regulations adopted under this article;

(c) Holds a master's or doctoral degree from an accredited school or college in marriage and family therapy or its equivalent as determined by the board, such degree to include a practicum or internship in the principles and practice of marriage and family therapy;

(d) Subsequent to receiving his or her master's or doctoral degree, has had at least two years of post-master's or one year postdoctoral practice in individual and marriage and family therapy, including at least one thousand five hundred hours of face-to-face direct client contact as determined by the board for the purpose of assessment and intervention under board-approved supervision; and

(e) Has demonstrated professional competence by passing an examination in marriage and family therapy prescribed by the board and a written, mail-in jurisprudence examination administered by the department of regulatory agencies.

(2) (Deleted by amendment, L. 2007, p. 139, § 3, effective July 1, 2007.)

(3) The examination by the board described in paragraph (e) of subsection (1) of this section shall be given not less than twice per year at such time and place and under such supervision as the board may determine.

(4) The board or its designated representatives shall administer and score the examination and shall take any actions necessary to ensure impartiality. The passing score for the examination shall be determined by the board based upon a level of minimum competency to engage in marriage and family therapy practice.

12-43-505. Rights and privileges of licensure and registration.

(1) Any person who possesses a valid, unsuspended, and unrevoked license as a licensed marriage and family therapist pursuant to section 12-43-504 has the right to engage in the private, independent practice of marriage and family therapy and has the right to practice and supervise marriage and family therapy practice and use the title

"licensed marriage and family therapist" and the abbreviation "LMFT". No other person shall assume these titles or use these abbreviations on any work or letter, sign, figure, or device to indicate that the person using the same is a licensed marriage and family therapist.

(2) No person may engage in the practice of marriage and family therapy unless such person is licensed pursuant to this part 5.

(3) Any person duly licensed as a licensed marriage and family therapist shall not be required to obtain any other license or certification to practice marriage and family therapy as defined in section 12-43-503 unless otherwise required by the board of marriage and family therapist examiners.

(4) Nothing in this part 5 shall be construed to prevent members of other professions licensed under the laws of this state from rendering services within the scope of practice as set out in the statutes regulating their professional practices, provided that they do not represent themselves to be marriage and family therapists, or their services as marriage and family therapy.

(5) Nothing in this part 5 shall be construed to prevent the practice of psychotherapy by unlicensed persons who are listed with the state grievance board pursuant to section 12-43-702.5.

12-43-506. Continuing professional competency - board rules - repeal.

(1) (a) In accordance with section 12-43-504, the board issues a license to practice marriage and family therapy based on whether the applicant satisfies minimum educational and experience requirements that demonstrate professional competency to practice marriage and family therapy. After a license is issued to an applicant, the licensed marriage and family therapist shall maintain continuing professional competency to practice marriage and family therapy.

(b) The board shall adopt rules establishing a continuing professional competency program that includes, at a minimum, the following elements:

(I) A self-assessment of the knowledge and skills of a licensed marriage and family therapist seeking to renew or reinstate a license;

(II) Development, execution, and documentation of a learning plan based on the assessment; and

(III) Periodic demonstration of knowledge and skills through documentation of activities necessary to ensure at least minimal ability to safely practice the profession. Nothing in this subparagraph (III) shall require a licensed marriage and family therapist to retake any examination required pursuant to section 12-43-504 in connection with initial licensure.

(c) The board shall establish that a licensed marriage and family therapist is deemed to satisfy the continuing competency requirements of this section if the licensed marriage

and family therapist meets the continued professional competence requirements of one of the following entities:

(I) A state department, including continued professional competence requirements imposed through a contractual arrangement with a provider;

(II) An accrediting body recognized by the board; or

(III) An entity approved by the board.

(d) (I) After the program is established, a licensed marriage and family therapist shall satisfy the requirements of the program in order to renew or reinstate a license to practice marriage and family therapy in Colorado.

(II) The requirements of this section apply to individual marriage and family therapists who are licensed pursuant to this part 5, and nothing in this section shall be construed to require a person who employs or contracts with a licensed marriage and family therapist to comply with the requirements of this section.

(2) (a) Records of assessments or other documentation developed or submitted in connection with the continuing professional competency program are confidential and not subject to inspection by the public or discovery in connection with a civil action against a licensed marriage and family therapist. The records or documents shall be used only by the board for purposes of determining whether a licensed marriage and family therapist is maintaining continuing professional competency to engage in the profession.

(b) Subject to the requirements of paragraph (a) of this subsection (2), nothing in this section shall be construed to restrict the discovery of information or documents that are otherwise discoverable under the Colorado rules of civil procedure in connection with a civil action against a licensed marriage and family therapist.

(3) As used in this section, "continuing professional competency" means the ongoing ability of a licensee to learn, integrate, and apply the knowledge, skill, and judgment to practice as a marriage and family therapist according to generally accepted industry standards and professional ethical standards in a designated role and setting.

(4) This section is repealed, effective July 1, 2014.

PART 6 LICENSED PROFESSIONAL COUNSELORS

12-43-601. Definitions.

As used in this part 6, unless the context otherwise requires:

(1) "Board" means the state board of licensed professional counselor examiners, created in section 12-43-602.

(2) "Clinical mental health counseling" includes:

(a) Assessment, counseling activities, consultation, and referral; and

(b) Treatment, diagnosis, testing, assessment, psychotherapy, or counseling in a professional relationship to assist individuals or groups to alleviate mental and emotional disorders, understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behaviors that interfere with effective emotional, social, or intellectual functioning.

(3) "Grievance board" means the state grievance board created in section 12-43-702.

(4) "Licensed professional counselor" means a professional counselor who practices professional counseling or mental health counseling and who is licensed pursuant to this part 6.

(5) (a) "Professional counseling" means:

(I) Those activities that assist the person receiving counseling in developing an understanding of personal, emotional, social, educational, alcohol and substance abuse, domestic violence, and vocational development and in planning and effecting actions to increase functioning or gain control of his or her behavior in such areas. Such activities include, but are not limited to, skill-building in communications, decision-making, and problem-solving, clarifying values, promoting adaptation to loss and other life changes, developing social skills, restructuring cognitive patterns, defining educational and career goals, and facilitating adjustment to personal crises and conflicts.

(II) The selecting, administering, scoring, and interpreting of instruments designed to measure aptitudes, attitudes, abilities, achievements, interests, emotions, and other personal characteristics and includes the application of nonstandardized methods, such as interviews, to evaluate a person receiving counseling and to evaluate such personal and social functioning;

(III) A voluntary relationship between a counselor and a client in which the counselor assists a person, couple, group, or organization to cope with matters that include relationships, conflicts, problem-solving, decision-making, and competencies by interpreting, reporting on, or applying counseling theory;

(IV) Rendering of or offering to render counseling services that facilitate effective personal, emotional, social, educational, and vocational development in individuals, couples, groups, and organizations, with an emphasis on the natural aspects of human development and with an educational orientation.

(b) Professional counseling follows a planned procedure of intervention that takes place on a regular basis, over a period of time, or in the cases of testing, assessment, and brief professional counseling, it can be a single intervention.

(6) "School or college" means any university or other institution of higher education offering a full-time graduate course of study in professional counseling approved by appropriate national organizations accrediting professional counselor education programs or a substantially equivalent program approved by the board.

12-43-602. State board of licensed professional counselor examiners.

(1) There is hereby created the state board of licensed professional counselor examiners under the supervision and control of the division of registrations of the department of regulatory agencies, created in section 24-1-122 (2) (g), C.R.S. The board shall consist of seven members who are citizens of the United States and residents of the state of Colorado.

(2) (a) The members of the board shall be appointed by the governor as follows:

- (I) Four members of the general public who are not regulated under this article; and
- (II) Three licensed professional counselors.

(b) The public members shall have never been a licensed professional counselor, an applicant or former applicant for licensure as a licensed professional counselor, a member of another mental health profession, or a member of a household that includes a licensed professional counselor or a member of another mental health profession or otherwise have conflicts of interest or the appearance of such conflicts with his or her duties as a board member.

(c) (Deleted by amendment, L. 2004, p. 917, § 19, effective July 1, 2004.)

(3) (Deleted by amendment, L. 2007, p. 135, § 4, effective August 3, 2007.)

(4) (a) Each member shall hold office until the expiration of his or her appointed term or until a successor is duly appointed. Except as specified in paragraph (b) of this subsection (4), members shall serve terms of four years, and no member shall serve more than two full consecutive terms. When the term of each board member expires, the governor shall appoint his or her successor for a term of four years. Any vacancy occurring in the board membership other than by the expiration of a term shall be filled by the governor by appointment for the unexpired term of such member.

(b) The terms of office of the members on the board as of August 3, 2007, shall be modified as follows in order to ensure staggered terms of office:

(I) The terms of office of the one licensed professional counselor board member and one of the board members representing the general public who, as of September 12, 2010, would have served one full four-year term and one partial four-year term shall expire on August 31, 2008. Each of these board members shall be eligible to serve one additional four-year term, commencing on September 1, 2008, and expiring on August 31, 2012. On and after the expiration of these board members' terms, persons appointed to these positions on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on September 1 of the applicable year.

(II) The term of office of the one board member representing the public whose initial term would otherwise expire on September 12, 2009, shall expire on August 31, 2009, and the board member shall be eligible to serve one additional four-year term, commencing on September 1, 2009, and expiring on August 31, 2013. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on September 1 of the applicable year.

(III) The initial term of office of one of the two licensed professional counselor board members whose initial term of office would otherwise expire on September 12, 2010, shall expire on August 31, 2009. This board member shall be eligible to serve one additional four-year term commencing on September 1, 2009, and expiring on August 31, 2013. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on September 1 of the applicable year.

(IV) The initial terms of office of the two remaining board members representing the general public and the one remaining licensed professional counselor whose initial terms would otherwise expire on September 12, 2010, shall expire on August 31, 2010. Each of these board members shall be eligible to serve one additional four-year term commencing on September 1, 2010, and expiring on August 31, 2014. On and after the expiration of these board members' terms, persons appointed to these positions on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on September 1 of the applicable year.

(5) The governor may remove any board member for misconduct, incompetence, or neglect of duty after giving the board member a written statement of the charges and an opportunity to be heard thereon. Actions constituting neglect of duty shall include, but not be limited to, the failure of board members to attend three consecutive meetings or at least three quarters of the total meetings in any calendar year.

(6) Each board member shall receive a certificate of appointment from the governor.

12-43-603. Licensure - examination - licensed professional counselors.

(1) The board shall issue a license as a licensed professional counselor to each applicant who files an application upon a form and in such a manner as the board prescribes, accompanied by a fee as is required by section 12-43-204, and who furnishes evidence satisfactory to the board that he or she:

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

(b) Is not in violation of any of the provisions of this article and the rules and regulations adopted under this article;

(c) Holds a master's or doctoral degree in professional counseling from an accredited school or college or an equivalent program as determined by the board. Such degree or program shall include a practicum or internship in the principles and the practice of professional counseling.

(d) Has at least two years of post-master's practice or one year of postdoctoral practice in applied psychotherapy under supervision approved by the board; and

(e) Has demonstrated professional competence by passing an examination in professional counseling demonstrating special knowledge and skill in applied psychotherapy as prescribed by the board and a written, mail-in jurisprudence examination administered by the department of regulatory agencies.

(2) (Deleted by amendment, L. 2007, p. 140, § 4, effective July 1, 2007.)

(3) The examination by the board described in paragraph (e) of subsection (1) of this section shall be given not less than twice per year at such time and place and under such supervision as the board may determine.

(4) The board or its designated representatives shall administer and score the examination and shall take any actions necessary to ensure impartiality. The passing score for the examination shall be determined by the board based upon a level of minimum competency to engage in the practice of licensed professional counseling.

12-43-604. Rights and privileges of licensure.

(1) Any person who possesses a valid, unsuspended, and unrevoked certificate as a licensed professional counselor has the right to use the title for which he or she is licensed pursuant to section 12-43-603. A professional counselor licensed pursuant to section 12-43-603 has the right to use the abbreviation "LPC". No other person shall assume this title or use this abbreviation on any work or letter, sign, figure, or device to indicate that the person using the same is a licensed professional counselor.

(2) Any person duly licensed as a licensed professional counselor shall not be required to obtain any other license or certification to practice professional counseling as defined in section 12-43-601 unless otherwise required by the board of licensed professional counselor examiners.

(3) Nothing in this act shall be construed to prevent members of other professions licensed under the laws of this state from rendering services within the scope of practice as set out in the statutes regulating their professional practices, provided that they do not represent themselves to be professional counselors, or their services as professional counseling.

(4) Nothing in this part 6 shall be construed to prevent the practice of psychotherapy by unlicensed persons who are listed with the state grievance board pursuant to section 12-43-702.5.

12-43-605. Continuing professional competency - board rules - repeal.

(1) (a) In accordance with section 12-43-603, the board issues a license to practice professional counseling based on whether the applicant satisfies minimum educational and experience requirements that demonstrate professional competency to practice professional counseling. After a license is issued to an applicant, the licensed professional counselor shall maintain continuing professional competency to practice professional counseling.

(b) The board shall adopt rules establishing a continuing professional competency program that includes, at a minimum, the following elements:

(I) A self-assessment of the knowledge and skills of a licensed professional counselor seeking to renew or reinstate a license;

(II) Development, execution, and documentation of a learning plan based on the assessment; and

(III) Periodic demonstration of knowledge and skills through documentation of activities necessary to ensure at least minimal ability to safely practice the profession. Nothing in this subparagraph (III) shall require a licensed professional counselor to retake any examination required pursuant to section 12-43-603 in connection with initial licensure.

(c) The board shall establish that a licensed professional counselor is deemed to satisfy the continuing competency requirements of this section if the licensed professional counselor meets the continued professional competence requirements of one of the following entities:

(I) A state department, including continued professional competence requirements imposed through a contractual arrangement with a provider;

(II) An accrediting body recognized by the board; or

(III) An entity approved by the board.

(d) (I) After the program is established, a licensed professional counselor shall satisfy the requirements of the program in order to renew or reinstate a license to practice professional counseling in Colorado.

(II) The requirements of this section apply to individual professional counselors who are licensed pursuant to this part 6, and nothing in this section shall be construed to require a person who employs or contracts with a licensed professional counselor to comply with the requirements of this section.

(2) (a) Records of assessments or other documentation developed or submitted in connection with the continuing professional competency program are confidential and not

subject to inspection by the public or discovery in connection with a civil action against a licensed professional counselor. The records or documents shall be used only by the board for purposes of determining whether a licensed professional counselor is maintaining continuing professional competency to engage in the profession.

(b) Subject to the requirements of paragraph (a) of this subsection (2), nothing in this section shall be construed to restrict the discovery of information or documents that are otherwise discoverable under the Colorado rules of civil procedure in connection with a civil action against a licensed professional counselor.

(3) As used in this section, "continuing professional competency" means the ongoing ability of a licensee to learn, integrate, and apply the knowledge, skill, and judgment to practice as a professional counselor according to generally accepted industry standards and professional ethical standards in a designated role and setting.

(4) This section is repealed, effective July 1, 2014.

**PART 7
STATE GRIEVANCE BOARD**

12-43-701. Definitions.

As used in this part 7, unless the context otherwise requires:

(1) "Grievance board" means the state grievance board created by section 12-43-702.

(2) "Professional relationship" means an interaction that is deliberately planned or directed, or both, by the psychotherapist toward obtaining specific psychotherapeutic objectives, such as those set forth in subsection (3) of this section.

(3) "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. Psychotherapy follows a planned procedure of intervention which takes place on a regular basis, over a period of time. It is the intent of the general assembly that the definition of psychotherapy as used in this part 7 be interpreted in its narrowest sense to regulate only those persons who clearly fall within the definition set forth in this subsection (3).

(4) "Unlicensed psychotherapist" means any person whose primary practice is psychotherapy or who holds himself or herself out to the public as being able to practice psychotherapy for compensation and who is not licensed under this title to practice psychotherapy. "Unlicensed psychotherapist" also means a person who is a school psychologist licensed pursuant to section 22-60.5-210 (1) (b), C.R.S., and who is practicing outside of a school setting.

12-43-702. State grievance board - creation - subject to termination.

(1) There is hereby created the state grievance board, which shall be under the supervision and control of the division of registrations as provided in section 24-34-102, C.R.S. The grievance board shall consist of seven members who are residents of the state of Colorado.

(2) Four members of the grievance board shall be appointed by the governor from the general public who are not regulated by this article with a good faith effort to achieve broad-based geographical representation. Such members shall serve terms of three years. No such member shall have any direct involvement or interest in the provision of psychotherapy; except that such member may be or may have been a consumer of such services.

(3) Three members of the grievance board shall be unlicensed psychotherapists, shall be appointed by the governor, and shall serve terms of four years.

(4) (Deleted by amendment, L. 2004, p. 917, § 21, effective July 1, 2004.)

(5) Members of the grievance board appointed under subsection (2) or (3) of this section may serve two full consecutive terms.

(6) Each member shall hold office until the expiration of his or her appointed term or until a successor is duly appointed. When the term of each grievance board member expires, the governor shall appoint his or her successor for a term of four years. Any vacancy occurring in the grievance board membership other than by the expiration of a term shall be filled by the governor by appointment for the unexpired term of such member. The governor may remove any grievance board member for misconduct, incompetence, or neglect of duty. Actions constituting neglect of duty shall include, but not be limited to, the failure of board members to attend three consecutive meetings or at least three-quarters of the board's meetings in any one calendar year.

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

12-43-702.5. Data base of unlicensed psychotherapists - unauthorized practice - penalties - data collection.

(1) The grievance board shall maintain a data base of all unlicensed persons practicing psychotherapy in this state. The grievance board shall charge a fee in the same manner as authorized in section 24-34-105, C.R.S., for recording information in the data base as required by this section. Information in the data base maintained pursuant to this section shall be open to public inspection at all times.

(2) Any unlicensed psychotherapist shall record such therapist's name, current address, educational qualifications, disclosure statements, therapeutic orientation or methodology, or both, and years of experience in each specialty area with the grievance board for inclusion in the data base required by subsection (1) of this section. Unlicensed psychotherapists shall be required to update such information at least annually and at such other times and under such conditions as the grievance board shall prescribe by rule and regulation. At the time of recording the information required by this section, the unlicensed psychotherapist shall indicate whether or not the unlicensed psychotherapist has been convicted of or entered a plea of guilty or a plea of nolo contendere to any felony or misdemeanor. Unlicensed psychotherapists recording the information required by this section shall be given a copy of the statutes and a copy of the state grievance board rules.

(3) No unlicensed person may practice psychotherapy if such person is not included in the data base required by this section. Notwithstanding the requirements of this section, no unlicensed psychotherapist may use the term "registered", "regulated", "certified", "clinical", "state-registered", "state-approved", or any other term or abbreviation that would falsely give the impression that the psychotherapist or the service that is being provided is recommended by the state, based solely on inclusion in the data base.

(4) No person may be listed by the grievance board pursuant to this section unless such person has successfully completed a written, mail-in jurisprudence examination developed and approved by the department of regulatory agencies.

(5) Any unlicensed person who practices psychotherapy without first complying with the recording requirements of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., for the first offense, and for the second or any subsequent offense, the person commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

12-43-703. Powers and duties of the grievance board. (Repealed)

12-43-704. Prohibited activities - related provisions. (Repealed)

12-43-704.5. Authority of grievance board - cease-and-desist orders. (Repealed)

12-43-705. Disciplinary proceedings - judicial review - mental and physical examinations. (Repealed)

12-43-706. Reconsideration and review of action of grievance board. (Repealed)

12-43-707. Unlawful acts. (Repealed)

12-43-708. Injunctive proceedings. (Repealed)

12-43-709. Expenses of the grievance board.

All reasonable expenses of the grievance board shall be paid as determined by the director of the division of registrations from the fees collected pursuant to section 12-43-204 as provided by law.

12-43-710. Jurisdiction.

If the licensee, registrant, or unlicensed psychotherapist is regulated by more than one board, the investigation or case being adjudicated shall be referred to the board as determined by the director of the division of registrations for final adjudication.

12-43-711. Records.

The grievance board shall maintain records of all cases considered and decisions rendered by said board.

12-43-712. Repeal of article. (Repealed)

PART 8 ADDICTION COUNSELORS

12-43-801. Definitions.

As used in this part 8, unless the context otherwise requires:

(1) "Certified addiction counselor" means an individual who has a certificate issued by the director to practice addiction counseling.

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

(3) "Licensed addiction counselor" means a person who renders addiction counseling to an individual, group, or organization and who holds a license issued by the director.

12-43-802. Practice of addiction counseling defined.

(1) For the purposes of this part 8, "addiction counseling" consists of the application of general counseling theories and treatment methods adopted specifically for alcohol and drug theory and research for the express purpose of treating alcohol and drug problems. Addiction counseling includes, but is not limited to, the following:

(a) Screening clients by means of a process in which a client is determined to be an appropriate candidate and eligible for admission to a particular program of treatment;

(b) An intake assessment through an administrative and initial interview for admission into a treatment program;

(c) Orientation to describe to the client the general nature and goals of the program and the client's rights in accordance with section 12-43-214;

(d) An assessment including those procedures by which an addiction counselor identifies and evaluates a client's strengths, weaknesses, problems, and needs in preparation of a treatment plan;

(e) A treatment plan that includes identification of the problems necessitating resolution, establishment of short-term and long-term goals, and the establishment of a treatment process;

(f) Counseling that encompasses the use of special skills to assist individuals, families, or groups in achieving objectives established in the treatment plan;

(g) Case management activities that bring together services, agencies, resources, or individuals for the purpose of achieving the goals outlined in the treatment plan;

(h) Crisis intervention that responds to a client's needs during acute emotional or physical distress;

(i) Client education to provide information to an individual or group concerning alcohol or drug abuse and the available services and resources;

(j) Referring a client to support systems, community resources, or health care professionals to assist the client with needs that may not be met by the addiction counselor;

(k) Reporting and record-keeping to chart the results of an assessment and treatment plan, including the preparation of reports, progress notes, discharge summaries, and other client-related data;

(l) Consulting with other addiction counselors, health care professionals, or mental health professionals to ensure comprehensive and quality care for the client; and

(m) The maintenance of the ethical addiction counselor-client relationships pursuant to section 12-43-803 (2) (d).

12-43-803. Licensure or certification of addiction counselors - authority of director - rules.

(1) The director is authorized to certify and discipline certified or licensed addiction counselors. The division of alcohol and drug abuse in the department of human services shall exercise all other rights, powers, duties, functions, and obligations vested in those entities concerning certified or licensed addiction counselors pursuant to part 2 of article 1 of title 25, C.R.S.

(2) The director may promulgate rules, which shall include, but shall not be limited to:

(a) A requirement that addiction counselors, in order to participate in public programs or to provide purchased services and certification requirements therefor, shall meet standards established by the board of human services by rule.

(b) Fees to be charged for addiction counselor certification, licensure, and renewal. The amount assessed shall be sufficient to cover a portion of the costs of administering such certification, licensure, and testing, and the moneys collected shall be deposited in the division of registrations cash fund created in section 24-34-105 (2) (b) (I), C.R.S. Additional funding may be obtained from general, cash, or federal funds otherwise appropriated to the division of registrations in the department of regulatory agencies.

(c) A requirement that addiction counselors shall comply with section 12-43-222 in order to obtain and maintain certification or licensure;

(d) Procedures for disciplinary actions against certified or licensed addiction counselors for prohibited or unlawful acts, consistent with the procedures established in sections 12-43-212, 12-43-217, 12-43-221, 12-43-223, 12-43-224, 12-43-225, 12-43-226, and 12-43-227.

(3) In addition to addiction counselors specifically authorized to be certified or licensed for approved programs pursuant to part 2 of article 1 of title 25, C.R.S., the

director may certify or license addiction counselors, upon individual application, in any alcohol or drug abuse treatment program required as a condition of probation under part 2 of article 1.3 of title 18, C.R.S., any alcohol or drug abuse program administered by the division of adult services under part 1 of article 2 of title 17, C.R.S., any community corrections facility or program administered under article 27 of title 17, C.R.S., and any alcohol or drug abuse treatment program administered by the division of youth corrections under title 19, C.R.S.

12-43-804. Procedures and requirements for license - rules.

(1) Rules promulgated by the director pursuant to this part 8 shall be consistent with the educational requirements necessary to comply with uniform educational standards set by the association for addiction professionals or its successor organization. The requirements shall include:

- (a) Meeting the requirements for a certificate of addiction counseling, level III;
- (b) Possessing a master's degree in the social sciences or an equivalent program, as determined appropriate by the director; and
- (c) Passing a national examination administered by either the association for addiction professionals or the international certification reciprocity consortium, or by the successor of either organization.

(2) (a) The following persons, who shall be in good standing in their professions, may provide addiction counseling without becoming licensed pursuant to this part 8:

- (I) Any person who is licensed or registered as a health care professional pursuant to article 36 or 38 of this title or parts 3, 4, 5, or 6 of this article and is acting within his or her scope of practice;
- (II) School psychologists pursuant to part 2 of article 60.5 of title 22, C.R.S., acting within the scope of their employment as school psychologists; and
- (III) Certified addiction counselors.

(b) A person described in this subsection (2) shall not use the name, title, or designation of a licensed addiction counselor unless such person is also a licensed addiction counselor.

(3) The director shall issue a license to any person who:

- (a) Holds a valid certification issued by the director;
- (b) Is in good standing with the director;
- (c) Has submitted an application and application fee;
- (d) Has satisfied the educational requirements established pursuant to subsection (1) of this section; and
- (e) Agrees to abide by the procedures described in section 12-43-803 (2) (d).

(4) Nothing in this part 8 shall preclude or eliminate professional practice by a person who is certified as an alcohol counselor level I, II, or III that is within the person's scope of practice.

12-43-805. Continuing professional competency - director rules - repeal.

(1) (a) In accordance with sections 12-43-803 and 12-43-804, the director issues a license or certificate to practice addiction counseling based on whether the applicant satisfies minimum educational and experience requirements that demonstrate professional competency to practice addiction counseling. After a license or a certificate as a level II or level III addiction counselor is issued to an applicant, the licensed or level II or level III certified addiction counselor shall maintain continuing professional competency to practice addiction counseling.

(b) The director, in consultation with the alcohol and drug abuse division in the department of human services and other stakeholders, shall adopt rules establishing a continuing professional competency program that includes, at a minimum, the following elements:

(I) A self-assessment of the knowledge and skills of a licensed or level II or level III certified addiction counselor seeking to renew or reinstate a license;

(II) Development, execution, and documentation of a learning plan based on the assessment; and

(III) Periodic demonstration of knowledge and skills through documentation of activities necessary to ensure at least minimal ability to safely practice the profession. Nothing in this subparagraph (III) shall require a licensed or level II or level III certified addiction counselor to retake any examination required pursuant to section 12-43-804 in connection with initial licensure or certification.

(c) The director shall establish that a licensed or level II or level III certified addiction counselor is deemed to satisfy the continuing competency requirements of this section if the licensed or level II or level III certified addiction counselor meets the continued professional competence requirements of one of the following entities:

(I) A state department, including continued professional competence requirements imposed through a contractual arrangement with a provider;

(II) An accrediting body recognized by the director; or

(III) An entity approved by the director.

(d) (I) After the program is established, a licensed or level II or level III certified addiction counselor shall satisfy the requirements of the program in order to renew or reinstate a license or certificate to practice addiction counseling in Colorado.

(II) The requirements of this section apply to individual addiction counselors who are licensed or level II or level III certified pursuant to this part 8, and nothing in this section

shall be construed to require a person who employs or contracts with a licensed or level II or level III certified addiction counselor to comply with the requirements of this section.

(2) (a) Records of assessments or other documentation developed or submitted in connection with the continuing professional competency program are confidential and not subject to inspection by the public or discovery in connection with a civil action against a licensed or certified addiction counselor. The records or documents shall be used only by the board for purposes of determining whether a licensed or level II or level III certified addiction counselor is maintaining continuing professional competency to engage in the profession.

(b) Subject to the requirements of paragraph (a) of this subsection (2), nothing in this section shall be construed to restrict the discovery of information or documents that are otherwise discoverable under the Colorado rules of civil procedure in connection with a civil action against a licensed or certified addiction counselor.

(3) As used in this section, "continuing professional competency" means the ongoing ability of a licensed or level II or level III certified addiction counselor to learn, integrate, and apply the knowledge, skill, and judgment to practice as an addiction counselor according to generally accepted industry standards and professional ethical standards in a designated role and setting.

(4) This section is repealed, effective July 1, 2014.
