

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 19-153

BY SENATOR(S) Fields, Tate;
also REPRESENTATIVE(S) Kipp and Titone, Bird, Lontine, McLachlan,
Pelton, Valdez D.

CONCERNING THE CONTINUATION OF THE COLORADO PODIATRY BOARD,
AND, IN CONNECTION THEREWITH, IMPLEMENTING THE
RECOMMENDATIONS CONTAINED IN THE 2018 SUNSET REPORT BY THE
DEPARTMENT OF REGULATORY AGENCIES.

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

SECTION 1. In Colorado Revised Statutes, 24-34-104, **repeal** (16)(a)(VI); and **add** (27)(a)(VIII) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (16) (a) The following agencies, functions, or both, will repeal on July 1, 2019:

(VI) ~~The Colorado podiatry board created in article 32 of title 12, C.R.S.;~~

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(27) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2026:

(VIII) THE COLORADO PODIATRY BOARD CREATED IN ARTICLE 32 OF TITLE 12.

SECTION 2. In Colorado Revised Statutes, 12-32-103, **amend** (4) as follows:

12-32-103. Appointment of members of podiatry board - terms - repeal of article. (4) ~~(a) The provisions of section 24-34-104, C.R.S., concerning the termination schedule for regulatory bodies of the state unless extended as provided in that section, are applicable to the Colorado podiatry board created by this section.~~

~~(b) This article is repealed, effective July 1, 2019~~ THIS ARTICLE 32 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2026. BEFORE THE REPEAL, THIS ARTICLE 32 IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

SECTION 3. In Colorado Revised Statutes, 12-32-105, **amend** (1) introductory portion and (1)(c); and **add** (1)(c.5) as follows:

12-32-105. Examination as to qualifications. (1) Every person desiring to practice podiatry in this state shall be examined as to his or her qualifications, except as otherwise provided in this ~~article~~ ARTICLE 32. Each applicant shall submit, in a manner approved by the Colorado podiatry board, an application containing satisfactory proof that ~~said~~ THE applicant:

(c) Has completed one year of a residency program approved by the Colorado podiatry board as established by rules promulgated by the board; **and**

(c.5) HAS PASSED AN EXAMINATION APPROVED BY THE COLORADO PODIATRY BOARD AS ESTABLISHED BY RULES PROMULGATED BY THE BOARD; AND

SECTION 4. In Colorado Revised Statutes, 12-32-107, **amend** (3) introductory portion and (3)(p) as follows:

12-32-107. Issuance, revocation, or suspension of license - probation - immunity in professional review. (3) "Unprofessional conduct" as used in this ~~article~~ ARTICLE 32 means:

~~(p) Such physical or mental disability as to render the licensee unable to perform podiatry with reasonable skill and with safety to the patient;~~ FAILING TO:

(I) NOTIFY THE COLORADO PODIATRY BOARD, AS REQUIRED BY SECTION 12-32-120 (1), OF A PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL HEALTH DISORDER THAT AFFECTS THE PODIATRIST'S ABILITY TO PRACTICE PODIATRIC MEDICINE WITH REASONABLE SKILL AND SAFETY TO PATIENTS;

(II) ACT WITHIN THE LIMITATIONS CREATED BY A PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL HEALTH DISORDER THAT RENDERS THE PODIATRIST UNABLE TO PRACTICE PODIATRIC MEDICINE WITH REASONABLE SKILL AND SAFETY TO PATIENTS; OR

(III) COMPLY WITH THE LIMITATIONS AGREED TO UNDER A CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION 12-32-120 (2);

SECTION 5. In Colorado Revised Statutes, 12-32-108.3, **amend** (2)(c)(III)(A) and (2)(c)(III)(B) as follows:

12-32-108.3. Disciplinary action by board. (2) (c) On completion of an investigation, the board shall make a finding that:

(III) (A) 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, THE BOARD MAY ISSUE a letter of admonition ~~may be issued and sent, by certified mail,~~ to the licensee.

(B) When THE BOARD ISSUES a letter of admonition ~~is sent by the board, by certified mail,~~ to a licensee, ~~such~~ THE BOARD SHALL NOTIFY THE licensee ~~shall be advised that he or she has the~~ OF THE LICENSEE'S 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.

SECTION 6. In Colorado Revised Statutes, **add** 12-32-120 as follows:

12-32-120. Confidential agreements to limit practice - violation grounds for discipline. (1) IF A PODIATRIST SUFFERS FROM A PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL HEALTH DISORDER THAT RENDERS THE PODIATRIST UNABLE TO PRACTICE PODIATRIC MEDICINE WITH REASONABLE SKILL AND SAFETY TO PATIENTS, THE PODIATRIST SHALL NOTIFY THE COLORADO PODIATRY BOARD OF THE PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL HEALTH DISORDER IN A MANNER AND WITHIN A PERIOD DETERMINED BY THE BOARD. THE BOARD MAY REQUIRE THE PODIATRIST TO SUBMIT TO AN EXAMINATION TO EVALUATE THE EXTENT OF THE PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL HEALTH DISORDER AND ITS EFFECT ON THE PODIATRIST'S ABILITY TO PRACTICE WITH REASONABLE SKILL AND SAFETY TO PATIENTS.

(2) (a) UPON DETERMINING THAT A PODIATRIST WITH A PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL HEALTH DISORDER IS ABLE TO RENDER LIMITED PODIATRIC MEDICINE SERVICES WITH REASONABLE SKILL AND SAFETY TO PATIENTS, THE BOARD MAY ENTER INTO A CONFIDENTIAL AGREEMENT WITH THE PODIATRIST IN WHICH THE PODIATRIST AGREES TO LIMIT THE PODIATRIST'S PRACTICE BASED ON THE RESTRICTIONS IMPOSED BY THE PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL HEALTH DISORDER, AS DETERMINED BY THE BOARD.

(b) THE AGREEMENT MUST SPECIFY THAT THE PODIATRIST IS SUBJECT TO PERIODIC REEVALUATIONS OR MONITORING AS DETERMINED APPROPRIATE BY THE BOARD.

(c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR OF MONITORING.

(3) BY ENTERING INTO AN AGREEMENT WITH THE BOARD PURSUANT TO THIS SECTION TO LIMIT THE PODIATRIST'S PRACTICE, THE PODIATRIST IS NOT ENGAGING IN UNPROFESSIONAL CONDUCT. THE AGREEMENT IS AN ADMINISTRATIVE ACTION AND DOES NOT CONSTITUTE A RESTRICTION OR DISCIPLINE BY THE BOARD. HOWEVER, IF THE PODIATRIST FAILS TO COMPLY

WITH THE TERMS OF AN AGREEMENT ENTERED INTO PURSUANT TO THIS SECTION, THE FAILURE CONSTITUTES UNPROFESSIONAL CONDUCT PURSUANT TO SECTION 12-32-107 (3)(p), AND THE PODIATRIST IS SUBJECT TO DISCIPLINE IN ACCORDANCE WITH SECTION 12-32-108.3.

(4) THIS SECTION DOES NOT APPLY TO A PODIATRIST SUBJECT TO DISCIPLINE FOR UNPROFESSIONAL CONDUCT AS DESCRIBED IN SECTION 12-32-107 (3)(f).

SECTION 7. In Colorado Revised Statutes, **add** 12-32-121 as follows:

12-32-121. Bone marrow aspirations from the tibia. (1) THE BOARD MAY PERMIT A PODIATRIST TO PERFORM BONE MARROW ASPIRATIONS FROM THE TIBIA DISTAL TO THE TIBIAL TUBERCLE IF THE PODIATRIST:

(a) HAS SUCCESSFULLY COMPLETED A PODIATRIC SURGERY RESIDENCY WITH THE RECONSTRUCTION REARFOOT/ANKLE SURGERY CERTIFICATION; AND

(b) IS IN GOOD STANDING WITH THE BOARD.

SECTION 8. In Colorado Revised Statutes, **add to article 290 as relocated by House Bill 19-1172** 12-290-124 as follows:

12-290-124. Bone marrow aspirations from the tibia. (1) THE BOARD MAY PERMIT A PODIATRIST TO PERFORM BONE MARROW ASPIRATIONS FROM THE TIBIA DISTAL TO THE TIBIAL TUBERCLE IF THE PODIATRIST:

(a) HAS SUCCESSFULLY COMPLETED A PODIATRIC SURGERY RESIDENCY WITH THE RECONSTRUCTION REARFOOT/ANKLE SURGERY CERTIFICATION; AND

(b) IS IN GOOD STANDING WITH THE BOARD.

SECTION 9. In Colorado Revised Statutes, 12-30-108, **repeal as relocated by House Bill 19-1172** (4)(a)(I)(F) as follows:

12-30-108. Confidential agreement to limit practice - violation grounds for discipline. (4) (a) This section does not apply to:

(I) The following health care professionals:

(F) ~~Podiatrists regulated pursuant to article 290 of this title 12;~~

SECTION 10. In Colorado Revised Statutes, 12-290-105, **amend as relocated by House Bill 19-1172** (4) as follows:

12-290-105. Appointment of members of podiatry board - terms - repeal of article. (4) This article 290 is repealed, effective ~~July 1, 2019~~ SEPTEMBER 1, 2026. Before the repeal, the functions of the board are scheduled for review in accordance with section 24-34-104.

SECTION 11. In Colorado Revised Statutes, 12-290-107, **amend as relocated by House Bill 19-1172** (1)(c); and **add** (1)(c.5) as follows:

12-290-107. Examination as to qualifications - rules. (1) Every person desiring to practice podiatry in this state shall be examined as to the person's qualifications, except as otherwise provided in this article 290. Each applicant shall submit, in a manner approved by the board, an application containing satisfactory proof that the applicant:

(c) Has completed one year of a residency program approved by the board as established by rules promulgated by the board; ~~and~~

(c.5) HAS PASSED AN EXAMINATION APPROVED BY THE BOARD AS ESTABLISHED BY RULES PROMULGATED BY THE BOARD; AND

SECTION 12. In Colorado Revised Statutes, 12-290-108, **amend as relocated by House Bill 19-1172** (3)(j) as follows:

12-290-108. Issuance, revocation, or suspension of license - probation - unprofessional conduct - definitions - immunity in professional review. (3) "Unprofessional conduct" as used in this article 290 means:

(j) ~~The physical or mental disability as to render the licensee unable to perform podiatry with reasonable skill and with safety to the patient;~~
FAILING TO:

(I) NOTIFY THE BOARD OF A PHYSICAL ILLNESS, PHYSICAL

CONDITION, OR BEHAVIORAL OR MENTAL HEALTH DISORDER THAT AFFECTS THE PODIATRIST'S ABILITY TO PRACTICE PODIATRIC MEDICINE WITH REASONABLE SKILL AND SAFETY TO PATIENTS;

(II) ACT WITHIN THE LIMITATIONS CREATED BY A PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL HEALTH DISORDER THAT RENDERS THE PODIATRIST UNABLE TO PRACTICE PODIATRIC MEDICINE WITH REASONABLE SKILL AND SAFETY TO PATIENTS; OR

(III) COMPLY WITH THE LIMITATIONS AGREED TO UNDER A CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION 12-290-123.

SECTION 13. In Colorado Revised Statutes, 12-290-113, **amend as relocated by House Bill 19-1172** (2)(c)(III) as follows:

12-290-113. Disciplinary action by board. (2) (c) On completion of an investigation, the board shall make a finding that:

(III) The 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, in which case the board may ~~send~~ **ISSUE** a letter of admonition ~~by certified mail~~ to the licensee in accordance with section 12-20-404 (4);

SECTION 14. In Colorado Revised Statutes, **add to article 290 as relocated by House Bill 19-1172** 12-290-123 as follows:

12-290-123. Confidential agreements to limit practice - violation grounds for discipline. (1) EXCEPT AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, SECTION 12-30-108 CONCERNING CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE APPLIES TO THIS ARTICLE 290.

(2) THIS SECTION AND SECTION 12-30-108 DO NOT APPLY TO A LICENSEE SUBJECT TO DISCIPLINE UNDER SECTION 12-290-108 (3)(c).

SECTION 15. Effective date. This act takes effect July 1, 2019; except that sections 8 through 14 of this act take effect only if House Bill 19-1172 becomes law, in which case sections 8 through 14 take effect October 1, 2019.

SECTION 16. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Leroy M. Garcia
PRESIDENT OF
THE SENATE

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO