

CHAPTER 77

PROFESSIONS AND OCCUPATIONS

SENATE BILL 95-007

BY SENATORS Mutzebaugh, Martinez, Schroeder, Casey, Gallagher, Rupert, and Weddig;
also REPRESENTATIVES Agler, George, Knox, and Hernandez.

AN ACT

CONCERNING THE REGULATION OF PODIATRISTS BY THE COLORADO PODIATRY BOARD.

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

SECTION 1. 12-32-102, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-32-102. Podiatry license required - professional liability insurance required - exceptions. (1) It is unlawful for any person to practice podiatry within the state of Colorado who does not hold a license to practice medicine issued by the Colorado state board of medical examiners or a license to practice podiatry issued by the Colorado podiatry board as provided by this article. A podiatry license is not required for a person serving a one-year or two-year approved residency program. Such persons must register with the Colorado podiatry board in such manner and form as such board shall prescribe. As used in this section, an "approved residency" is a residency in a hospital conforming to the minimum standards for residency training established or approved by the Colorado podiatry board, which has the authority, upon its own investigation, to approve any residency.

(2) IT IS UNLAWFUL FOR ANY PERSON TO PRACTICE PODIATRY WITHIN THE STATE OF COLORADO UNLESS SUCH PERSON PURCHASES AND MAINTAINS PROFESSIONAL LIABILITY INSURANCE AS FOLLOWS:

(a) IF SUCH PERSON PERFORMS SURGICAL PROCEDURES, PROFESSIONAL LIABILITY INSURANCE SHALL BE MAINTAINED IN AN AMOUNT NOT LESS THAN FIVE HUNDRED THOUSAND DOLLARS PER CLAIM AND ONE MILLION FIVE HUNDRED THOUSAND DOLLARS PER YEAR FOR ALL CLAIMS;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(b) THE COLORADO PODIATRY BOARD SHALL BY RULE ESTABLISH FINANCIAL RESPONSIBILITY STANDARDS FOR PODIATRISTS WHO DO NOT PERFORM PODIATRIC SURGICAL PROCEDURES AND WHO SIGN AN AFFIDAVIT ATTESTING TO SUCH FACT. THE BOARD MAY DETERMINE THAT NO PROFESSIONAL LIABILITY INSURANCE REQUIREMENTS APPLY TO SUCH PERSONS OR MAY IMPOSE STANDARDS WHICH SHALL NOT IN ANY EVENT EXCEED THOSE PRESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2).

SECTION 2. 12-32-103 (4) (b), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-32-103. Appointment of members of podiatry board - terms - repeal of article. (4) (b) This article is repealed, effective ~~July 1, 1995~~ JULY 1, 2010.

SECTION 3. 12-32-107 (3) (b), (3) (e), (3) (s), and (3) (x), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

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

(b) Resorting to fraud, misrepresentation, or MATERIAL deception, OR MAKING A MISLEADING OMISSION, in applying for, ~~or in~~ securing, RENEWING, OR SEEKING REINSTATEMENT OF a license or in taking the examination ~~provided for~~ REQUIRED in this article;

(e) Conviction of a felony or ANY CRIME THAT WOULD CONSTITUTE A VIOLATION OF THIS ARTICLE. FOR PURPOSES OF THIS PARAGRAPH (e), "CONVICTION" INCLUDES THE ENTRY OF a plea of guilty or nolo contendere ~~to a felony~~ OR THE IMPOSITION OF A DEFERRED SENTENCE;

(s) Engaging in a sexual act with a patient during the course of patient care OR DURING THE SIX-MONTH PERIOD IMMEDIATELY FOLLOWING THE TERMINATION OF SUCH CARE. "Sexual act", as used in this paragraph (s), means sexual contact, sexual intrusion, or sexual penetration as defined in section 18-3-401, C.R.S.;

(x) ~~Misstating or omitting a material fact in procuring or attempting to procure a license or in taking the examination provided for in this article;~~

SECTION 4. 12-32-108.3 (2) (c) (V), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

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

(V) The investigation discloses an instance of conduct which, in the opinion of the board, does not warrant formal action but in which the board has noticed indications of possible errant conduct by the licensee that could lead to serious consequences if not corrected, in which case, a CONFIDENTIAL letter of concern shall be sent to the podiatrist against whom a complaint was made. If the board learns of second or subsequent actions of the same or similar nature by the licensee, the board shall not

issue a CONFIDENTIAL letter of concern but shall take such other course of action as it deems appropriate.

SECTION 5. 12-32-108.3 (14), Colorado Revised Statutes, 1991 Repl. Vol., is repealed as follows:

~~**12-32-108.3. Disciplinary action by board.** (14) (a) The executive director of the department of regulatory agencies may direct the Colorado podiatry board to conduct an investigation of a person licensed to practice podiatry about whom the executive director has received complaints:~~

~~(b) The Colorado podiatry board, within sixty days, shall accept or reject the directive of the executive director under paragraph (a) of this subsection (14), and the board shall notify the executive director of its decision. If said board rejects the investigation or if, upon review, the executive director and the attorney general find that the board has not proceeded with a thorough investigation, the executive director may then cause an investigation to be made of the complaints presented to him; but no new investigation shall be made by the executive director for the sole reason of disagreement with the findings and conclusions of the board. In any investigation conducted by the executive director pursuant to this paragraph (b), the executive director may utilize the staff, records, and moneys of the Colorado podiatry board. After an investigation and, if necessary, a hearing, the executive director shall submit to the board the findings of fact and conclusions of law for further action.~~

~~(c) Except as specifically provided in this subsection (14), actions taken by the executive director are subject to the limitations imposed by section 24-1-105 (1), C.R.S., relating to the powers, duties, and functions of the Colorado podiatry board under a **type 1** transfer.~~

SECTION 6. 12-32-115 (3), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-32-115. Procedure - registration - fees. (3) Upon application to the Colorado podiatry board within two years from the date of the lapse of a license by any such licensee on a form prescribed by the board, ~~his~~ THE license shall be reinstated, subject to the payment to the board of the current renewal fee and a reinstatement fee determined by the board pursuant to section 24-34-105, C.R.S. If, before or after such application for reinstatement has been made, charges are preferred against the licensee by the board or by any person, as provided by section 12-32-108.3, the board shall defer action on the pending application for reinstatement, if any, and proceed with a hearing on such charges in accordance with section 12-32-108.3, and thereupon shall impose such disciplinary action as the board deems appropriate. No license to practice podiatry which has been delinquent for more than two years shall be reinstated unless the applicant fulfills and meets the requirements and conditions required ~~of an applicant applying for the issuance of an original license~~ BY THE BOARD. THE BOARD SHALL ESTABLISH THE CRITERIA FOR REINSTATEMENT OF A LICENSE THAT HAS BEEN DELINQUENT FOR MORE THAN TWO YEARS.

SECTION 7. 24-34-104 (24) (e), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (24) The following boards in the division of registrations shall terminate on July 1, 1995:

- (e) ~~The Colorado podiatry board, created by article 32 of title 12, C.R.S.~~

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

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (41) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE ON JULY 1, 2010: THE COLORADO PODIATRY BOARD, CREATED BY ARTICLE 32 OF TITLE 12, C.R.S.

SECTION 9. Effective date - applicability. This act shall take effect July 1, 1995, and shall apply to acts committed on or after said date.

SECTION 10. 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.

Approved: April 17, 1995