

CHAPTER 220

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 98-1217

BY REPRESENTATIVES T. Williams, Epps, and Sullivant;
also SENATOR Hopper.

AN ACT

CONCERNING THE REGULATION OF THE PRACTICE OF PHARMACY BY THE STATE BOARD OF PHARMACY, AND, IN CONNECTION THEREWITH, REGULATING THE SUPERVISION OF NONPHARMACIST PERSONNEL BY PHARMACISTS AND ALLOWING THE STATE BOARD OF PHARMACY TO IMPOSE FINES AGAINST LICENSEES FOR VIOLATIONS OF STATUTES REGULATING PHARMACISTS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 12-22-102, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

12-22-102. Definitions. As used in this part 1, unless the context otherwise requires:

(24.1) "PHARMACIST MANAGER" MEANS AN INDIVIDUAL, LICENSED IN THIS STATE AS A PHARMACIST, WHO HAS DIRECT CONTROL OF THE PHARMACEUTICAL AFFAIRS OF A PRESCRIPTION DRUG OUTLET, AND WHO IS NOT THE MANAGER OF ANY OTHER PRESCRIPTION DRUG OUTLET.

(33.5) (a) "UNLICENSED ASSISTANT" MEANS AN UNLICENSED PERSON WHO PERFORMS THOSE FUNCTIONS SET FORTH IN PARAGRAPH (b) OF SUBSECTION (26) OF THIS SECTION UNDER THE SUPERVISION OF A PHARMACIST. A PHARMACIST MANAGER OF A PRESCRIPTION DRUG OUTLET EMPLOYING AN UNLICENSED ASSISTANT SHALL FILE WITH THE BOARD THE NAME AND DATE OF BIRTH OF EACH UNLICENSED ASSISTANT WHO IS EMPLOYED BY THE OUTLET.

(b) THIS SUBSECTION (33.5) IS REPEALED, EFFECTIVE JULY 1, 2002.

SECTION 2. The introductory portion 12-22-114 (1), Colorado Revised Statutes,

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

is amended, and the said 12-22-114 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-22-114. Fees. (1) Fees shall be determined and collected pursuant to section 24-34-105 for the following licenses AND REGISTRATIONS:

(r) FOR THE INITIAL AND RENEWAL REGISTRATION OF ALL NONRESIDENT PRESCRIPTION DRUG OUTLETS UNDER SECTION 12-22-130.

SECTION 3. Part 1 of article 22 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

12-22-130. Nonresident prescription drug outlet - registration. (1) ANY PRESCRIPTION DRUG OUTLET LOCATED OUTSIDE THIS STATE THAT SHIPS, MAELS, OR DELIVERS, IN ANY MANNER, DRUGS OR DEVICES INTO THIS STATE SHALL BE CONSIDERED A NONRESIDENT PRESCRIPTION DRUG OUTLET, SHALL BE REGISTERED WITH THE BOARD, AND SHALL DISCLOSE TO THE BOARD THE FOLLOWING:

(a) THE LOCATION, NAMES, AND TITLES OF ALL PRINCIPAL ENTITY OFFICERS AND ALL PHARMACISTS WHO ARE DISPENSING DRUGS OR DEVICES TO THE RESIDENTS OF THIS STATE. A REPORT CONTAINING THIS INFORMATION SHALL BE MADE ON AN ANNUAL BASIS AND WITHIN THIRTY DAYS AFTER ANY CHANGE OF OFFICE, OFFICER, OR PHARMACIST.

(b) THAT IT COMPLIES WITH ALL LAWFUL DIRECTIONS AND REQUESTS FOR INFORMATION FROM THE REGULATORY OR LICENSING AGENCY OF THE STATE IN WHICH IT IS LICENSED AS WELL AS WITH ALL REQUESTS FOR INFORMATION MADE BY THE BOARD PURSUANT TO THIS SECTION. THE NONRESIDENT PRESCRIPTION DRUG OUTLET SHALL MAINTAIN AT ALL TIMES A VALID, UNEXPIRED LICENSE, PERMIT, OR REGISTRATION TO CONDUCT THE PHARMACIST OUTLET IN COMPLIANCE WITH THE LAWS OF THE STATE IN WHICH IT IS A RESIDENT. AS A PREREQUISITE TO REGISTERING WITH THE BOARD, THE NONRESIDENT PRESCRIPTION DRUG OUTLET SHALL SUBMIT A COPY OF THE MOST RECENT INSPECTION REPORT RESULTING FROM AN INSPECTION CONDUCTED BY THE REGULATORY OR LICENSING AGENCY OF THE STATE IN WHICH IT IS LOCATED.

(2) THE REGISTRATION REQUIREMENTS OF THIS SECTION SHALL APPLY ONLY TO A NONRESIDENT PRESCRIPTION DRUG OUTLET WHICH ONLY SHIPS, MAELS, OR DELIVERS DRUGS, IN ANY MANNER, AND DEVICES INTO THIS STATE PURSUANT TO A PRESCRIPTION ORDER.

(3) A NONRESIDENT PRESCRIPTION DRUG OUTLET DOING BUSINESS IN THIS STATE THAT HAS NOT OBTAINED A REGISTRATION SHALL NOT CONDUCT THE BUSINESS OF SELLING OR DISTRIBUTING DRUGS IN THIS STATE WITHOUT FIRST REGISTERING AS A NONRESIDENT PRESCRIPTION DRUG OUTLET. APPLICATIONS FOR NONRESIDENT PRESCRIPTION DRUG OUTLET REGISTRATION SHALL BE MADE ON A FORM FURNISHED BY THE BOARD. THE BOARD MAY REQUIRE SUCH INFORMATION AS IT DEEMS NECESSARY TO CARRY OUT THE PURPOSE OF THIS SECTION.

(4) (a) THE BOARD MAY DENY, REVOKE, OR SUSPEND A NONRESIDENT PRESCRIPTION DRUG OUTLET REGISTRATION FOR FAILURE TO COMPLY WITH ANY

PROVISION OF THIS SECTION OR WITH ANY REASONABLE RULE PROMULGATED BY THE BOARD.

(b) THE BOARD MAY DENY, REVOKE, OR SUSPEND A NONRESIDENT PRESCRIPTION DRUG OUTLET REGISTRATION IF SUCH PRESCRIPTION DRUG OUTLET'S LICENSE OR REGISTRATION HAS BEEN REVOKED OR NOT RENEWED FOR NONCOMPLIANCE WITH THE LAWS OF THE STATE IN WHICH IT IS A RESIDENT.

SECTION 4. 12-22-119 (1) (a) and (5), Colorado Revised Statutes, are amended to read:

12-22-119. Prescription drug outlet under charge of pharmacist. (1) (a) A prescription drug outlet shall be under the direct charge of a PHARMACIST manager. ~~who is a pharmacist, who is not the manager of any other prescription drug outlet, and who has direct control of the pharmaceutical affairs of said prescription drug outlet.~~ A proprietor who is not a pharmacist shall comply with this requirement and shall provide a manager who is a pharmacist.

(5) (a) (I) The pharmacist responsible for the prescription order or chart order may delegate certain specific tasks, as provided in section 12-22-102 (26) (b), to a person who is not a pharmacist or pharmacist intern and who is under such pharmacist's supervision if, in his or her professional judgment, such delegation is appropriate; except that no such delegation may be made if the delegation jeopardizes the public health, safety, or welfare, is prohibited by rule or regulation of the board, or violates the provisions of section 12-22-126 (1).

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE FEBRUARY 1, 1999.

(b) (I) THE PHARMACIST RESPONSIBLE FOR THE PRESCRIPTION ORDER OR CHART ORDER MAY DELEGATE CERTAIN SPECIFIC TASKS, AS PROVIDED IN SECTION 12-22-102 (26) (b), TO A PERSON WHO IS NOT A PHARMACIST OR PHARMACY INTERN BUT WHO IS AN UNLICENSED ASSISTANT UNDER SUCH PHARMACIST'S SUPERVISION IF, IN THE PHARMACIST'S PROFESSIONAL JUDGMENT, SUCH DELEGATION IS APPROPRIATE; EXCEPT THAT NO SUCH DELEGATION MAY BE MADE IF THE DELEGATION JEOPARDIZES THE PUBLIC HEALTH, SAFETY, OR WELFARE, IS PROHIBITED BY RULE OR REGULATION OF THE BOARD, OR VIOLATES THE PROVISIONS OF SECTION 12-22-126 (1).

(II) THIS PARAGRAPH (b) IS EFFECTIVE FEBRUARY 1, 1999.

SECTION 5. Repeal. 12-22-121 (14), Colorado Revised Statutes, is repealed as follows:

12-22-121. Compounding, dispensing, and sale of drugs and devices. (14) ~~The board by regulation, and subject to the restrictions of section 12-22-119 (5), shall determine a uniform standard number of unlicensed persons for whom a pharmacist may have the responsibility when the pharmacist and unlicensed persons are engaged in dispensing.~~

SECTION 6. 12-22-121.7, Colorado Revised Statutes, is amended to read:

12-22-121.7. Limited authority to delegate activities constituting practice of

pharmacy to unlicensed personnel. (1) (a) A pharmacist may supervise up to two unlicensed personnel for those duties described in section 12-22-102 (26) (b) that a pharmacist may choose to delegate to unlicensed personnel. This supervision ratio does not include other ancillary personnel that may be in the prescription drug outlet, but are not performing duties described in section 12-22-102 (26) (b) that are delegated to such unlicensed personnel.

(b) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE FEBRUARY 1, 1999.

(2) (a) A PHARMACIST MAY SUPERVISE UP TO TWO PERSONS WHO ARE EITHER PHARMACY INTERNS OR UNLICENSED ASSISTANTS. THIS SUPERVISION RATIO DOES NOT INCLUDE OTHER ANCILLARY PERSONNEL THAT MAY BE IN THE PRESCRIPTION DRUG OUTLET, BUT ARE NOT PERFORMING DUTIES DESCRIBED IN SECTION 12-22-102 (26) (b) THAT ARE DELEGATED TO SUCH INTERNS OR UNLICENSED ASSISTANTS.

(b) THIS SUBSECTION (2) IS EFFECTIVE FEBRUARY 1, 1999.

SECTION 7. Appropriation - adjustment in 1998 long bill. For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 1998, shall be adjusted as follows: The appropriation made to the department of regulatory agencies, division of registrations, personal services, is increased by six thousand six hundred eighty-one dollars (\$6,681). Said sum shall be out of moneys in the division of registrations cash fund not otherwise appropriated.

SECTION 8. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to acts committed on or after the applicable effective date of this act.

Approved: May 22, 1998