

CHAPTER 365

PROFESSIONS AND OCCUPATIONS

SENATE BILL 09-128

BY SENATOR(S) Carroll M., Newell, Tochtrop, Boyd, Hudak, Williams;
also REPRESENTATIVE(S) Green, Gerou, Kefalas, Labuda, Nikkel, Primavera, Riesberg, Ryden, Stephens, Todd.

AN ACT

CONCERNING CONTINUATION OF THE REGULATION OF ADMINISTRATION OF MEDICATION BY UNLICENSED PERSONS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Repeal. 25-1.5-304, Colorado Revised Statutes, is repealed as follows:

25-1.5-304. Repeal of part. ~~(1) This part 3 is repealed, effective July 1, 2009.~~

~~(2) Prior to such repeal, the program established by this part 3 shall be subject to review by a legislative committee of reference designated pursuant to section 2-3-1201, C.R.S., to conduct the review pursuant to section 24-34-104, C.R.S., and the provisions of section 24-34-104 (5) to (12), C.R.S., concerning a wind-up period, an analysis and evaluation, public hearings, and claims by or against an agency shall apply to the operation of the program specified in this part 3. Such review shall include an examination of the regulatory process that governs facilities using trained but unlicensed persons to monitor and administer medication.~~

SECTION 2. Repeal. 24-34-104 (40) (a), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (40) The following agencies, functions, or both, shall terminate on July 1, 2009:

(a) ~~The program for the administration and monitoring of medications in facilities authorized pursuant to part 3 of article 1.5 of title 25, C.R.S.;~~

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

SECTION 3. Repeal. 12-38-125 (1) (h) (II), Colorado Revised Statutes, is repealed as follows:

12-38-125. Exclusions. (1) No provision of this article shall be construed to prohibit:

~~(h) (II) This paragraph (h) is repealed, effective July 1, 2009. Prior to such repeal, the exclusion set forth in this paragraph (h) shall be subject to review by a legislative committee of reference designated pursuant to section 2-3-1201, C.R.S., to conduct the review pursuant to section 24-34-104, C.R.S., and the provisions of section 24-34-104 (5) to (12), C.R.S., concerning a wind-up period, an analysis and evaluation, public hearings, and claims by or against an agency shall apply to the operation of the program specified in this paragraph (h).~~

SECTION 4. Repeal. 12-36-106 (3) (o) (II), Colorado Revised Statutes, is repealed as follows:

12-36-106. Practice of medicine defined - exemptions from licensing requirements - unauthorized practice by physician assistant - penalties - repeal. (3) Nothing in this section shall be construed to prohibit, or to require a license or a physician training license under this article with respect to, any of the following acts:

~~(o) (II) This paragraph (o) is repealed, effective July 1, 2009. Prior to such repeal, the exemption to licensure requirement set forth in this paragraph (o) shall be subject to review by a legislative committee of reference designated pursuant to section 2-3-1201, C.R.S., to conduct the review pursuant to section 24-34-104, C.R.S., and the provisions of section 24-34-104 (5) to (12), C.R.S., concerning a wind-up period, an analysis and evaluation, public hearings, and claims by or against an agency shall apply to the operation of the program specified in this paragraph (o).~~

SECTION 5. 25-1.5-303 (3), Colorado Revised Statutes, is amended to read:

25-1.5-303. Medication reminder boxes or systems - medication cash fund. (3) The executive directors of the departments that control the "facilities" defined in section 25-1.5-301 (2) (a) and (2) (b) may direct the unlicensed staff of any such facility to monitor medications in any part of any such facility. Administration of medications in any such facility shall be allowed only in those areas of any such facility that have a licensed physician or other licensed practitioner on duty. Notwithstanding other training requirements established in this section, the operator or administrator of every facility that hires an unlicensed person to administer medications pursuant to this section shall provide on-the-job training for such person, and all such unlicensed persons hired on or after July 1, 1998, shall be adequately supervised until they have completed such training. Such on-the-job training shall be appropriate to the job responsibilities of each trainee. FACILITY OPERATORS AND ADMINISTRATORS SHALL REQUIRE EACH UNLICENSED PERSON WHO ADMINISTERS MEDICATION IN THE FACILITY TO PASS THE COMPETENCY EVALUATION DEVELOPED OR APPROVED BY THE DEPARTMENT PURSUANT TO SECTION 25-1.5-302 (2) AS A CONDITION OF EMPLOYMENT IN THAT FACILITY AT LEAST ONCE EVERY FIVE YEARS. Facility operators and administrators shall document each unlicensed

person's satisfactory completion of on-the-job training AND PASSAGE OF THE COMPETENCY EVALUATION in ~~their~~ HIS OR HER permanent personnel file.

SECTION 6. 25-1.5-302 (7) (c), Colorado Revised Statutes, is amended, and the said 25-1.5-302 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

25-1.5-302. Administration of medications - powers and duties of the department - criminal history record checks. (7) (c) All private contractors shall provide the department with a list of all persons who have taken such contractor's approved training sessions or have passed the competency evaluation or both. Such contractors shall also provide the department with any other pertinent information reasonably requested by the department pursuant to its obligations and authority under this section. THE DEPARTMENT SHALL MAINTAIN A LISTING OF ALL PERSONS WHO HAVE PASSED THE COMPETENCY EVALUATION ON ITS WEB SITE.

(8) EACH OWNER, OPERATOR, OR SUPERVISOR OF A FACILITY WHO EMPLOYS A PERSON WHO IS NOT LICENSED TO ADMINISTER MEDICATIONS SHALL CONDUCT A DRUG-RELATED CRIMINAL BACKGROUND CHECK ON EACH EMPLOYEE PRIOR TO EMPLOYMENT.

SECTION 7. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the medication administration cash fund created in section 25-1.5-303 (5) (a), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for allocation to the health facilities and emergency medical services division, for the fiscal year beginning July 1, 2009, the sum of fifteen thousand two hundred eighteen dollars (\$15,218) cash funds and 0.1 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 8. Effective date. This act shall take effect July 1, 2009.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2009