ARTICLE 42.295
PSYCHIATRIC TECHNICIANS

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12-295-101. [Formerly 12-42-101] Legislative declaration. It is declared to be the policy of the state of Colorado that, in order to safeguard life, health, property, and the public welfare of the people of the state of Colorado, and in order to protect the people of the state of Colorado against unauthorized, unqualified, and improper application of interpersonal psychiatric nursing relationships, it is necessary that a proper regulatory authority be established, and adequately provided for. Any person who practices as a psychiatric technician without qualifying for proper registration, and without submitting to the regulations provided in this article 295, endangers the public health thereby.

12-295-102. Applicability of common provisions. ARTICLES 1, 20, AND 30 OF THIS TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 295.

12-295-103. [Formerly 12-42-102] Definitions. As used in this article 42 295, unless the context otherwise requires:

(1) "Accredited psychiatric technician education program" means a course of training conducted by a school for the training of psychiatric technicians carrying out the basic curriculum prescribed by this article 295 and accredited by the board.

(2) "Board" means the state board of nursing.

(3) "Person" includes an individual, firm, partnership, association, or corporation.

(4) The practice as a "psychiatric technician" means the performance for compensation of selected acts requiring interpersonal and technical skills and includes the administering of selected treatments and selected medications prescribed by a licensed physician or dentist, in the care of and in the observation and recognition of symptoms and reactions of a patient with a behavioral or mental health disorder or an intellectual and developmental disability under the direction of a licensed physician and the supervision of a registered professional nurse. The selected acts in the care of a patient with a behavioral or mental health disorder or an intellectual and developmental disability must not require the substantial specialized skill, judgment, and knowledge required in professional nursing.

12-295-104. [Formerly 12-42-103] State board of nursing - repeal of article - review of licensing and regulation functions. (1) The licensing and regulation of psychiatric technicians shall be under the control of the board.

(a) This article 295 is repealed, effective July 1, 2019.

(b) Prior to such repeal, the licensure and regulation functions of the state board of nursing shall be reviewed as provided in ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH section 24-34-104, C.R.S.

12-295-105. [Formerly 12-42-104] Application for license. (1) Every applicant for
license as a psychiatric technician shall file a written application on forms provided by the board.

(2) Every applicant shall accompany his THE application with a license fee established pursuant to section 24-34-105, C.R.S: 12-20-105, together with a statement of whether or not the applicant has been convicted of a felony or a misdemeanor involving moral turpitude.

(3) Every person licensed under this article 295 shall be known as a licensed psychiatric technician and may place the letters "L.P.T." after his OR HER name. Said THE term or said THE abbreviation shall not be used to identify anyone not licensed under this article 295. The terms "psychiatric technician", "psychiatric aide", "trained psychiatric technician", or "graduate psychiatric technician" shall for the purposes of this article 295 be deemed synonymous with the term "psychiatric technician", and none of said THE terms shall be used to identify anyone not licensed under this article 295.

12-295-106. [Formerly 12-42-105] License by examination. (1) Every applicant for license by examination shall submit written evidence, verified by oath, and satisfactory to the board that the applicant:

(a) Has not committed an act which THAT would be grounds for disciplinary action against a licensee under this article 295;
(b) Has completed a four-year high school course or the equivalent thereof; and
(c) Has completed the required accredited psychiatric technician educational program and holds a diploma from a state accredited program.

12-295-107. Examinations - issuance of license after examination. (1) [Formerly 12-42-106 (1)] All applicants, unless licensed by endorsement, shall be required to pass a written examination.

(2) [Formerly 12-42-106 (2)] Examinations shall be held within the state, at least once a year, at such times and places as the board shall determine.

(3) [Formerly 12-42-107] The board shall issue a license to each applicant who passes the examination and who is not otherwise disqualified to receive a license under the provisions of this article 295.

12-42-107. Issuance of license after examination. The board shall issue a license to each applicant who passes the examination and who is not otherwise disqualified to receive a license under the provisions of this article. <(Moved to 12-295-107 (3), above.)>

12-42-108. License by waiver and examination. (Repealed)
12-295-108. [Formerly 12-42-109] License by endorsement. The board may issue a license without examination to an applicant who is licensed or otherwise registered as a psychiatric technician by another state or a territory of the United States if the requirements for license or registration in such state or territory are substantially equal to the requirements in this article 295; but in no event shall an applicant be required to meet qualifications higher than those in force in this state at the time of his OR HER application for license in this state. Every applicant under this section shall state under oath that he OR SHE has not committed an act which would be grounds for disciplinary action under this article 295 and that he OR SHE has completed a four-year high school course of study or the equivalent thereof.

12-42-110. Disposition of fees. All fees collected by the board under the provisions of this article shall be transmitted to the state treasurer, who shall credit the same pursuant to section 24-34-105, C.R.S. <{Redundant with disposition of fees common provision, 12-20-105. Recommend repeal.}>

12-295-109. [Formerly 12-42-111] Accredited psychiatric technician educational program. (1) (a) Any institution within the state of Colorado desiring to conduct an accredited preservice psychiatric technician educational program may apply to the board and submit evidence that it is prepared to carry out a psychiatric technician curriculum that contains theoretical content and clinical practice to prepare the psychiatric technician student to care for clients with intellectual and developmental disabilities or behavioral or mental health disorders in institutional and community settings.

(b) Content in a psychiatric technician educational program must include but is not limited to:

(I) Fundamental nursing principles and skills;

(II) Growth and developmental and other physical and behavioral skills;

(III) Intellectual and developmental disabilities theory and rehabilitation nursing principles and skills if the technician is to be licensed to care for clients with intellectual and developmental disabilities; and

(IV) Psychopathology and psychiatric nursing principles and skills if the technician is to be licensed to care for clients with behavioral or mental health disorders.

(2) A survey of the institution and its entire psychiatric technician educational program shall be made by the executive secretary or other authorized board employee. Such survey may be conducted in conjunction with an authorized consultant appointed by the board. The persons making such survey shall submit a written report of the survey to the board. One or more board members may participate in any such survey.

(3) If the requirements of this article 42 295 for an accredited psychiatric technician
educational program are met, the institution must be accredited as a psychiatric technician educational program for psychiatric technicians for work with patients with mental health disorders or intellectual and developmental disabilities, for so long as such THE institution meets the requirements of this article 42 295.

(4) The board shall examine, from time to time, the accredited psychiatric technician educational programs of all institutions in the state having such programs. Such THE examinations shall be made by the executive secretary or other authorized representative of the board, and the results thereof shall be submitted to the board in the form of written reports. If the board determines that an institution having an accredited psychiatric technician educational program is not maintaining the standards required by this article 295, notice thereof in writing specifying the defect shall be served on such THE institution by certified mail, postage prepaid, return receipt requested. If the institution receiving such THE notice fails within one year after mailing of such THE notice to correct the conditions complained of therein, its authority to conduct an accredited psychiatric technician educational program shall be revoked by the board. An institution shall have the right, at any time before the expiration of one year from the date it receives such THE notice, to demand and be granted a hearing before the board. In case of such A demand, no action shall be taken by the board until after the hearing.

12-295-110. [Formerly 12-42-112] Renewal of license. (1) To renew A license issued pursuant to this article a licensee shall submit an application for renewal pursuant to a schedule established by the director of the division of professions and occupations within the department of regulatory agencies, and the license shall be renewed or reinstated pursuant to section 24-34-102 (8), C.R.S. The director of the division of professions and occupations 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 pursuant to the schedule established by the director of the division of professions and occupations, such license shall expire 295 IS SUBJECT TO THE RENEWAL, EXPIRATION, REINSTATEMENT, AND DELINQUENCY FEE PROVISIONS SPECIFIED IN SECTION 12-20-202 (1) AND (2). Any person whose license has expired shall be subject to the penalties provided in this article 295 or section 24-34-102 (8), C.R.S. 12-20-202 (1). <{Redundant with renewal / reinstatement / fees common provision, 12-20-202. Recommend amending as indicated.}> (2) (Deleted by amendment, L. 2004, p. 1848, § 99, effective August 4, 2004.) (3) (2) A person who is not engaged as a psychiatric technician in the state shall not be required to pay a renewal fee for so long as he OR SHE does not so practice, but shall notify the board of his OR HER inactive status in writing. Prior to resumption of the practice as a psychiatric technician such THE person shall be required to notify the board and remit a renewal fee for the current annual period. After a five-year period in an inactive status,
such the license may be renewed only by complying with the provisions in this article 295 relating to the issuance of an original license. <{Start referencing inactive status common provision?}>

12-295-111. [Formerly 12-42-113] Grounds for discipline. (1) "Grounds for discipline", as used in this article 42-295, means any action by any person who:

(a) Has procured or attempted to procure a license by fraud, deceit, misrepresentation, misleading omission, or material misstatement of fact;

(b) (I) Has been convicted of a felony or any crime that would constitute a violation of this article 295.

   (II) (A) For purposes of this paragraph (b) SUBSECTION (1)(b), a conviction includes a plea of guilty or nolo contendere or the imposition of a sentence that is deferred prior to final sentencing or dismissal with prejudice.

   (B) (III) A certified copy of the judgment of a court of competent jurisdiction of such conviction or plea shall be prima facie evidence of such conviction.

(III) Repealed.

(c) Has willfully or negligently acted in a manner inconsistent with the health or safety of persons under his or her care;

(d) Has had a license to practice as a psychiatric technician or any other health care occupation suspended or revoked in any jurisdiction. A certified copy of the order of suspension or revocation shall be prima facie evidence of such suspension or revocation.

(e) Has violated any provision of this article 295 or has aided or knowingly permitted any person to violate any provision of this article 295;

(f) Has negligently or willfully practiced as a psychiatric technician in a manner which fails to meet generally accepted standards for such practice;

(g) Has negligently or willfully violated any order or rule or regulation of the board pertaining to practice or licensure as a psychiatric technician;

(h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on patient records;

(i) Has an alcohol use disorder, as defined in section 27-81-102, or a substance use disorder, as defined in section 27-82-102, is a habitual user of controlled substances, as defined in section 18-18-102 (5), or other drugs having similar effects, or is diverting controlled substances, as defined in section 18-18-102 (5), or other drugs having similar effects from the licensee's place of employment; except that the board has the discretion not to discipline the licensee if the licensee is participating in good faith in an alcohol or substance use disorder treatment program approved by the board;

(j) Has a physical disability or an intellectual and developmental disability that
renders him or her unable to practice as a psychiatric technician with reasonable skill and
safety to the patients and which may endanger the health or safety of persons under his or
her care;
   (k) Has violated the confidentiality of information or knowledge as prescribed by law
concerning any patient;
   (l) Has engaged in any conduct which would constitute a crime as defined in
title 18, C.R.S., and which conduct relates to the person's employment as a psychiatric
technician;
   (m) Willfully fails to respond in a materially factual and timely manner to a
complaint issued pursuant to section 12-38-116.5 (3); 12-255-119 (3);
   (n) Fraudulently obtains, sells, transfers, or furnishes any psychiatric technician
diploma, license, renewal of license, or record, or aids or abets another in such activity;
   (o) Advertises, represents, or holds himself or herself out in any manner as a
psychiatric technician or practices as a psychiatric technician without having a license to
practice as a psychiatric technician issued under this article 295;
   (p) Uses in connection with his or her name any designation tending to imply that
he or she is a licensed psychiatric technician without having a license issued under this
article 295; or
   (q) Practices as a psychiatric technician during the time his or her license is
suspended or revoked.
   (2) to (6) Repealed.

(1) The board is empowered to determine summarily whether an applicant for a license to
practice as a psychiatric technician possesses the qualifications required by this article 295
or whether there is probable cause to believe that an applicant has done any of the acts set
forth in section 12-42-113 12-295-111 as grounds for discipline. As used in this section,
"applicant" does not include a renewal applicant.
(2) If the board determines that an applicant does not possess the qualifications
required by this article 295 or that probable cause exists to believe that an applicant has done
any of the acts set forth in section 12-42-113 12-295-111, the board may withhold or deny
the applicant a license. In such instance, the provisions of section 24-4-104 (9) C.R.S., shall
apply, and the board shall provide the applicant with a statement in writing setting
forth the basis of the board's determination that the applicant does not possess the
qualifications required by this article 295 or the factual basis for probable cause that the
applicant has done any of the acts set forth in section 12-42-113 12-295-111.
(3) If the applicant requests a hearing pursuant to the provisions of section 24-4-104
(9) C.R.S., and fails to appear without good cause at the hearing, the board may affirm
its prior action of withholding or denial without conducting a hearing.

(4) Following a hearing, the board shall affirm, modify, or reverse its prior action in accordance with its findings at such THE hearing.

(5) No action shall lie against the board for the withholding or denial of DENYING a license without a hearing in accordance with the provisions of this section if the board acted reasonably and in good faith.

(6) At such THE hearing, the applicant shall have the burden of proof to show that he OR SHE possesses the qualifications required for licensure under this article 295. The board shall have the burden of proof to show commission of acts set forth in section 12-42-113 12-295-111.

12-42-115. Mental or physical examination of licensees - review of medical records. (Repealed)


12-295-114. [Formerly 12-42-115.5] Immunity in professional review. (1) If a professional review committee is established pursuant to section 12-38-109 12-255-108 to investigate the quality of care being given by a person licensed pursuant to this article 295, it shall include in its membership at least three persons licensed in the same category as the licensee under review, but such THE committee may be authorized to act only by the board.

(2) IN ADDITION TO THE PERSONS SPECIFIED IN SECTION 12-20-402, any member of the board or of a professional review committee, any member of the board's or a committee's staff, AND any person acting as a witness or consultant to the board or a committee 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 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 IS GRANTED THE SAME IMMUNITY, AND IS SUBJECT TO THE SAME CONDITIONS FOR IMMUNITY, AS SPECIFIED IN SECTION 12-20-402. <{(Somewhat redundant with immunity common provision, section 12-20-402. Recommend amending
as indicated.}>

12-295-115. [Formerly 12-42-115.7] Surrender of license. (1) Prior to the initiation of an investigation or hearing, any licensee may surrender his OR HER license to practice as a psychiatric technician.

(2) Following the initiation of an investigation or hearing and upon a finding that to do so would be in the public interest, the board may allow a licensee to surrender his OR HER license to practice.

(3) The board shall not issue a license to a former licensee whose license has been surrendered unless the licensee meets all of the requirements of this article 295 for a new applicant, including the passing of an examination.

(4) The surrender of a license in accordance with this section removes all rights and privileges to practice as a psychiatric technician, including renewal of a license.

12-295-116. [Formerly 12-42-115.9] Judicial review. The court of appeals shall have initial jurisdiction to SECTION 12-20-408 GOVERNS JUDICIAL review OF all final actions and orders of THE BOARD that are subject to judicial review. of the board. Such proceedings shall be conducted in accordance with section 24-4-106 (11), C.R.S. <Redundant with judicial review common provision, 12-20-408. Recommend amending as indicated.}>

12-295-117. Exclusions. (1) [Formerly 12-42-116 (1)] This article 295 does not affect or apply to the gratuitous care of a person with a behavioral or mental health disorder by friends or members of the family or to any person taking care of a person with a behavioral or mental health disorder for hire who does not represent himself or herself or hold himself or herself out to the public as a trained or licensed psychiatric technician; but a person for hire shall not hold himself or herself out as or perform the full duties of a psychiatric technician who is not a psychiatric technician licensed under the provisions of this article 295.

(2) [Formerly 12-42-116 (2)] This article 295 shall not be construed to prohibit:

(a) The practice as a psychiatric technician by students enrolled in an accredited psychiatric technician educational program or by graduates of such an accredited psychiatric technician educational program pending the results of the first licensing examination scheduled by the board following their graduation.

(b) [Formerly 12-42-116 (3)(a)] Practical nursing; subsidiary workers in hospitals or similarly related institutions from assisting in the nursing care of patients where adequate medical and nursing supervision is provided;

(c) [Formerly 12-42-116 (3)(b)] Subsidiary workers in the offices of persons licensed to practice medicine or dentistry in this state from assisting in the care of patients
under the personal and responsible supervision and direction of such THOSE persons; or

(d) [Formerly 12-42-116 (3)(c)] The practice of any legally qualified psychiatric


technician of this state or another state who is employed by the United States government


or any bureau, division, or agency thereof while in the discharge of his OR HER official
duties.

(3) [Formerly 12-42-117] No provision of this article 295 shall be construed as


applying to any sanitarium, nursing home, or rest home conducted in accordance with the


practice of the tenets of any religious denomination in which persons of good faith rely


solely upon spiritual means or prayer in the free exercise of religion to prevent or cure
disease.


12-42-117. Religious exclusions. No provision of this article shall be construed as


applying to any sanitarium, nursing home, or rest home conducted in accordance with the


practice of the tenets of any religious denomination in which persons of good faith rely


solely upon spiritual means or prayer in the free exercise of religion to prevent or cure
disease. <\(\text{Moved to 12-295-117 (3)}\)>}

12-295-118. Unauthorized practice - penalties. (1) [Formerly 12-42-118] The


practice as a psychiatric technician by any person who has not been issued a license under


the provisions of this article 295, or whose license has been suspended or revoked, or has


expired, is hereby declared to be inimical to the general public welfare and to constitute a


public nuisance.


(2) [Formerly 12-42-119 (2)] Any person who practices or offers or attempts to


practice as a psychiatric technician without an active license 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, 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. 295


IS SUBJECT TO PENALTIES PURSUANT TO SECTION 12-20-407 (1)(a). \(<\text{Redundant with unauthorized practice common provision, 12-20-407. Recommend amending as indicated.}>)>


(1) Repealed.

(2) Any person who practices or offers or attempts to practice as a psychiatric


technician without an active license 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, 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.
(3) (Deleted by amendment, L. 2006, p. 93, § 48, effective August 7, 2006.)

<{} 12-42-119 (2) moved to 12-295-118 (2), above>

12-295-119. Professional nursing and the practice of a psychiatric technician - other groups. (1) [Formerly 12-42-120] Nothing in this article shall be construed:

(a) [Formerly 12-42-120] As conferring any authority to practice medicine or professional nursing or to undertake the treatment or care of disease, pain, injury, deformity, or physical or mental condition in violation of the law of this state.

(b) [Formerly 12-42-121] Nothing in this article shall be construed to enlarge or detract from the rights, powers, and duties of any other licensed business, occupation, or profession.

12-42-121. Other groups. Nothing in this article shall be construed to enlarge or detract from the rights, powers, and duties of any other licensed business, occupation, or profession. <{} Moved to 12-295-119 (1)(b), above. >