

CHAPTER 188

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 93-1244

BY REPRESENTATIVES George, Foster, Dyer, Eisenach, Entz, Jerke, Morrison, Owen, Williams, Acquafresca, Allen, Chlouber, Coffman, Fleming, Gordon, R. Hernandez, T. Hernandez, Kaufman, Moellenberg, Shoemaker, and Taylor; also SENATORS Rizzuto, Ament, Casey, Gallagher, Hopper, L. Powers, Tebedo, Traylor, Trujillo, Wattenberg, Feeley, Groff, Johnson, Mares, Martinez, Peterson, and Schroeder.

AN ACT

CONCERNING THE EMPLOYMENT OF HEALTH CARE PROFESSIONALS BY LICENSED OR CERTIFIED HOSPITALS LOCATED IN COUNTIES WITH LOW POPULATION, AND, IN CONNECTION THEREWITH, REQUIRING THAT SUCH HOSPITALS NOT LIMIT OR CONTROL PHYSICIANS' INDEPENDENT PROFESSIONAL JUDGMENT CONCERNING THE PRACTICE OF MEDICINE.

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

SECTION 1. 12-36-134 (7), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-36-134. Professional service corporations for the practice of medicine.

(7) Except as provided in this section, corporations shall not practice medicine. EMPLOYMENT OF A PHYSICIAN IN ACCORDANCE WITH SECTION 25-3-103.7, C.R.S., SHALL NOT BE CONSIDERED THE CORPORATE PRACTICE OF MEDICINE.

SECTION 2. Part 1 of article 3 of title 25, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

25-3-103.7. Employment of physicians - when permissible - conditions.

(1) FOR PURPOSES OF THIS SECTION:

(a) "HOSPITAL" MEANS A HOSPITAL CURRENTLY LICENSED OR CERTIFIED BY THE DEPARTMENT OF HEALTH PURSUANT TO THE DEPARTMENT'S AUTHORITY UNDER SECTION 25-1-107 (1) (1) AND LOCATED IN A COUNTY WITH A POPULATION OF LESS THAN ONE HUNDRED THOUSAND AS DETERMINED BY THE MOST RECENT AVAILABLE ESTIMATE BY THE DIVISION OF PLANNING IN THE DEPARTMENT OF LOCAL AFFAIRS.

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) "PHYSICIAN" MEANS A PERSON DULY LICENSED TO PRACTICE UNDER ARTICLE 32, 35, OR 36 OF TITLE 12, C.R.S.

(2) A HOSPITAL MAY EMPLOY PHYSICIANS, SUBJECT TO THE LIMITATIONS SET FORTH IN SUBSECTIONS (3) TO (6) OF THIS SECTION.

(3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALLOW ANY HOSPITAL WHICH EMPLOYS A PHYSICIAN TO LIMIT OR OTHERWISE EXERCISE CONTROL OVER THE PHYSICIAN'S INDEPENDENT PROFESSIONAL JUDGMENT CONCERNING THE PRACTICE OF MEDICINE OR DIAGNOSIS OR TREATMENT OR TO REQUIRE PHYSICIANS TO REFER EXCLUSIVELY TO THE HOSPITAL. ANY HOSPITAL WHICH KNOWINGLY SO LIMITS OR CONTROLS A PHYSICIAN OR ATTEMPTS TO DO SO SHALL BE DEEMED TO HAVE VIOLATED HOSPITAL STANDARDS OF OPERATION AND SHALL BE HELD LIABLE FOR SUCH VIOLATIONS, INCLUDING PROXIMATELY CAUSED DAMAGES.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALLOW A HOSPITAL WHICH EMPLOYS A HEALTH CARE PROFESSIONAL TO OFFER THE HEALTH CARE PROFESSIONAL ANY PERCENTAGE OF FEES CHARGED TO PATIENTS BY THE HOSPITAL OR OTHER FINANCIAL INCENTIVE TO ARTIFICIALLY INCREASE SERVICES PROVIDED TO PATIENTS.

(5) THE BYLAWS OF ANY HOSPITAL WHICH EMPLOYS PHYSICIANS SHALL NOT DISCRIMINATE WITH REGARD TO CREDENTIALS OR STAFF PRIVILEGES ON THE BASIS OF WHETHER A PHYSICIAN IS AN EMPLOYEE OF, OR A CONTRACTING PHYSICIAN WITH, THE HOSPITAL.

(6) EVERY HOSPITAL WHICH EMPLOYS A PHYSICIAN SHALL REPORT TO THE DEPARTMENT OF HEALTH, WHEN APPLYING FOR INITIAL FACILITY LICENSURE AND UPON EACH APPLICATION FOR LICENSE RENEWAL, THE NUMBER OF PHYSICIANS ON THE HOSPITAL'S MEDICAL STAFF AND SHALL SEPARATELY IDENTIFY THE NUMBER OF SUCH PHYSICIANS WHO ARE EMPLOYED BY THE HOSPITAL, UNDER SEPARATE CONTRACT TO THE HOSPITAL, AND INDEPENDENT OF THE HOSPITAL.

SECTION 3. 12-32-107 (3) (j), Colorado Revised Statutes, 1991 Repl. Vol., is 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:

(j) EXCEPT AS OTHERWISE PROVIDED IN SECTION 25-3-103.7, C.R.S., practicing podiatry as the partner, agent, or employee of, or in joint venture with, any person who does not hold a license to practice podiatry within this state, or practicing podiatry as an employee of, or in joint venture with, any partnership or association any of whose partners or associates do not hold a license to practice podiatry within this state, or practicing podiatry as an employee of, or in joint venture with, any corporation other than a professional service corporation for the practice of podiatry as provided for in sections 12-32-109 (4) and 12-32-109.5. Any licensee holding a license to practice podiatry in this state may accept employment from any person, partnership, association, or corporation to examine and treat the employees of such person, partnership, association, or corporation.

SECTION 4. 12-35-118 (1) (g), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-35-118. Causes for denial of issuance or renewal - suspension or revocation of licenses - other disciplinary action - unprofessional conduct defined - immunity in professional review. (1) The board may deny the issuance or renewal of, suspend for a specified time period of not more than one year, or revoke any license provided for by this article or may reprimand, censure, or place on probation any licensed dentist or dental hygienist after notice and hearing, which may be conducted by an administrative law judge, pursuant to the provisions of article 4 of title 24, C.R.S., or it may issue a letter of admonition without a hearing (except that any licensed dentist or dental hygienist to whom such a letter of admonition is sent may, within thirty days after receipt thereof, request in writing to the board a formal hearing thereon, and the letter of admonition shall be deemed vacated, and the board shall, upon such request, hold such a hearing) for any of the following causes:

(g) EXCEPT AS OTHERWISE PROVIDED IN SECTION 25-3-103.7, C.R.S., practicing dentistry as a partner, agent, or employee of or in joint venture with any person who does not hold a license to practice dentistry within this state or practicing dentistry as an employee of or in joint venture with any partnership, association, or corporation except as provided in section 12-35-112. Any licensee holding a license to practice dentistry in this state may accept employment from any person, partnership, association, or corporation to examine, prescribe, and treat the employees of such person, partnership, association, or corporation.

SECTION 5. 12-36-117 (1) (m), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-36-117. Unprofessional conduct. (1) "Unprofessional conduct" as used in this article means:

(m) EXCEPT AS OTHERWISE PROVIDED IN SECTION 25-3-103.7, C.R.S., practicing medicine as the partner, agent, or employee of, or in joint adventure with, any person who does not hold a license to practice medicine within this state, or practicing medicine as an employee of, or in joint adventure with, any partnership or association any of whose partners or associates do not hold a license to practice medicine within this state, or practicing medicine as an employee of or in joint adventure with any corporation other than a professional service corporation for the practice of medicine as defined in section 12-36-134. Any licensee holding a license to practice medicine in this state may accept employment from any person, partnership, association, or corporation to examine and treat the employees of such person, partnership, association, or corporation.

SECTION 6. 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: May 6, 1993