

CHAPTER 220

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 94-1106

BY REPRESENTATIVES Owen and Jerke;
also SENATOR Rizzuto.

AN ACT

CONCERNING THE PEER HEALTH ASSISTANCE PROGRAMS FOR CERTAIN HEALTH CARE PROFESSIONALS.

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

SECTION 1. 12-22-603 (1) (b), (3) (b), and (3) (e) (III), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended to read:

12-22-603. Pharmacy peer health assistance fund. (1) (b) Prior to June 30, 1994, the board shall transfer the balance in the fund, if any, to the administering entity chosen by the board pursuant to paragraphs (d) and (e) of subsection (3) of this section. ~~and the board shall perform the duties and responsibilities of the rehabilitation evaluation committee, as described in section 12-22-606 as said section existed prior to July 1, 1994.~~

(3) (b) Effective July 1, 1994, as a condition of licensure AND LICENSURE RENEWAL in this state, every applicant shall pay to the administering entity that has been selected by the board pursuant to the provisions of paragraphs (d) and (e) of this subsection (3) an amount set by the board not to exceed twenty-eight dollars ~~per year~~ BIENNIALY, which amount shall be used to support designated providers that have been selected by the board to provide assistance to pharmacists needing help in dealing with physical, emotional, ~~or~~ PSYCHIATRIC, psychological, DRUG ABUSE, OR ALCOHOL ABUSE problems which may be detrimental to their ability to practice.

(e) The responsibilities of the administering entity shall be:

(III) To distribute the moneys collected, less expenses, to the designated provider, as directed by the board, AND TO MEMBERS OF THE REHABILITATION EVALUATION

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

COMMITTEE, PURSUANT TO SECTION 12-22-606 (3);

SECTION 2. 12-22-606 (3) and (4), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended to read:

12-22-606. Rehabilitation evaluation committee - created - repeal.

(3) (a) (I) Rehabilitation evaluation committee members shall be reimbursed from the pharmacy peer health assistance fund created in section 12-22-603 for actual and necessary expenses incurred in the performance of their duties under this section and shall be paid from such fund only for time actually spent in the performance of duties under this section in the same manner and at the same rate of per diem compensation or percentage thereof as provided by law for members of boards or commissions within the division of registrations in the department of regulatory agencies as provided in section 24-34-102 (13), C.R.S.

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JULY 1, 1994.

(b) EFFECTIVE JULY 1, 1994, REHABILITATION EVALUATION COMMITTEE MEMBERS SHALL BE REIMBURSED FROM FUNDS COLLECTED BY THE ADMINISTERING ENTITY PURSUANT TO SECTION 12-22-603 (3) (e), FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES UNDER THIS SECTION AND SHALL BE PAID FROM SUCH FUND ONLY FOR TIME ACTUALLY SPENT IN THE PERFORMANCE OF DUTIES UNDER THIS SECTION IN THE SAME MANNER AND AT THE SAME RATE OF PER DIEM COMPENSATION OR PERCENTAGE THEREOF AS PROVIDED BY LAW FOR MEMBERS OF BOARDS OR COMMISSIONS WITHIN THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES AS PROVIDED IN SECTION 24-34-102 (13), C.R.S.

(4) ~~This section is repealed, effective July 1, 1994.~~

SECTION 3. 12-38-131 (4), (5), (7) (a), and (7) (c), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-38-131. Nursing peer health assistance diversion program. (4) Nursing peer health assistance diversion fund - designation as provider. (a) There is hereby created in the state treasury the nursing peer health assistance diversion fund. The fund shall consist of moneys collected by the board and required to be credited to the fund pursuant to paragraph (c) of this subsection (4). Any interest earned on the investment of moneys in the fund shall be credited at least annually to said fund. PRIOR TO JUNE 30, 1995, THE STATE TREASURER SHALL TRANSFER ANY UNEXPENDED AND UNENCUMBERED BALANCE IN THE FUND, IF ANY, TO THE ADMINISTERING ENTITY CHOSEN BY THE BOARD PURSUANT TO PARAGRAPHS (f) AND (g) OF THIS SUBSECTION (4).

(b) It is the intent of the general assembly that the costs of educational and intervention services, services related to the identification of physical, emotional, PSYCHIATRIC, or psychological problems, and the referral to and monitoring and evaluation of treatment of the nurse participant in the nursing peer health assistance diversion program, including reimbursements to committee members pursuant to paragraph (c) of subsection (7) of this section, shall be borne by fees assessed by the board and paid by nursing licensees; except that the cost of treatment shall be the

responsibility of the nurse participant. No moneys shall be appropriated from the general fund for payment of any expenses incurred under this section, and no such expenses of this program shall be charged against the state. ~~Moneys in the fund shall be subject to annual appropriation by the general assembly to the board to be used for the purposes described in this section.~~

(b.5) EFFECTIVE JULY 1, 1995, THE NURSING PEER HEALTH ASSISTANCE DIVERSION FUND SHALL BE TERMINATED AND ANY UNEXPENDED AND UNENCUMBERED BALANCE IN THE FUND SHALL BE TRANSFERRED PRIOR TO JUNE 30, 1995, TO AN ADMINISTERING ENTITY SELECTED BY THE BOARD. THE ADMINISTERING ENTITY SHALL ADMINISTER THE PROGRAM FUNDS OF BOARD SELECTED DESIGNATED PROVIDERS, AND THE FISCAL YEAR BEGINNING JULY 1, 1994, SHALL BE USED BY THE DEPARTMENT OF REGULATORY AGENCIES AS A TRANSITION YEAR TO PLAN FOR THE TRANSFER OF RESPONSIBILITIES OF THE PROGRAM.

(c) (I) Any nursing licensee, when renewing a license, registration, certificate, or other authority to practice, pursuant to this article in the year 1989 or 1990, shall pay, in addition to any application or renewal fee, an additional fee of ten dollars. For applications or renewals in the year 1991 and in each year thereafter, such additional fee shall be paid biennially and shall be in an amount established by the board, but in no case shall such additional fee exceed twenty dollars per nursing licensee for each application or renewal. Any additional fees collected pursuant to this paragraph (c) shall be transmitted to the state treasurer, who shall credit the same to the nursing peer health assistance diversion fund. The board shall annually review and if necessary revise such additional fee credited to the nursing peer health assistance diversion fund.

(II) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE JUNE 30, 1995.

(d) EFFECTIVE JULY 1, 1995, AS A CONDITION OF LICENSURE IN THIS STATE, EVERY APPLICANT SHALL PAY TO THE ADMINISTERING ENTITY THAT HAS BEEN SELECTED BY THE BOARD PURSUANT TO THE PROVISIONS OF PARAGRAPHS (f) AND (g) OF THIS SUBSECTION (4), AN AMOUNT SET BY THE BOARD NOT TO EXCEED TWENTY-EIGHT DOLLARS PER NURSING LICENSEE FOR EACH RENEWAL, WHICH AMOUNT SHALL BE USED TO SUPPORT DESIGNATED PROVIDERS THAT HAVE BEEN SELECTED BY THE BOARD TO PROVIDE ASSISTANCE TO NURSES NEEDING HELP IN DEALING WITH PHYSICAL, PSYCHIATRIC, PSYCHOLOGICAL, OR EMOTIONAL PROBLEMS OR EXCESSIVE ALCOHOL OR DRUG USE OR ADDICTION WHICH MAY BE DETRIMENTAL TO THEIR ABILITY TO PRACTICE NURSING.

(e) AT LEAST BIENNIALY, THE BOARD SHALL SELECT ONE OR MORE PEER HEALTH ASSISTANCE PROGRAMS AS DESIGNATED PROVIDERS TO ASSIST NURSING LICENSEES EXPERIENCING IMPAIRED PRACTICE. TO BE ELIGIBLE TO BE SELECTED AS A DESIGNATED PROVIDER, A PEER HEALTH ASSISTANCE ORGANIZATION'S PROGRAM SHALL MEET THE CRITERIA ESTABLISHED BY THE BOARD THROUGH RULE. STANDARDS FOR SUCH CRITERIA SHALL INCLUDE:

(I) THAT THE PROGRAM PROVIDE SERVICES THAT ASSIST NURSING LICENSEES WHO ARE EXPERIENCING IMPAIRED PRACTICE DUE TO PHYSICAL, PSYCHIATRIC, PSYCHOLOGICAL, OR EMOTIONAL PROBLEMS OR EXCESSIVE ALCOHOL OR DRUG USE OR ADDICTION;

(II) THAT THE PROGRAM PROVIDE THE FOLLOWING: REFERRALS FOR EVALUATION AND TREATMENT OF PHYSICAL, PSYCHIATRIC, PSYCHOLOGICAL, OR EMOTIONAL PROBLEMS OR EXCESSIVE ALCOHOL OR DRUG USE OR ADDICTION; MUTUAL HELP GROUPS; POSTTREATMENT MONITORING AND SUPPORT FOR AN APPROPRIATE PERIOD; INTERVENTION SERVICES; EDUCATIONAL PROGRAMS CONCERNING IMPAIRED PRACTICE ISSUES FOR HEALTH CARE FACILITIES AND PERSONNEL; ASSISTANCE TO AND COUNSELING FOR NURSING LICENSEES WHICH IS AVAILABLE TWENTY-FOUR HOURS PER DAY; AND CASE-FINDING AND OUTREACH SERVICES;

(III) THAT THE PROGRAM REQUIRE A NURSING LICENSEE TO ENTER INTO A WRITTEN AGREEMENT SETTING FORTH CONDITIONS FOR THE LICENSEE TO BE A PARTICIPANT; SET FORTH SPECIFIC REQUIREMENTS AND GOALS TO BE MET BY THE PARTICIPANT, INCLUDING THE CONDITIONS UNDER WHICH THE PROGRAM WILL BE SUCCESSFULLY COMPLETED OR TERMINATED; AND REQUIRE THAT PARTICIPANTS BE NOTIFIED AT THE TIME THE PROGRAM IS BEGUN THAT A FAILURE TO COMPLY WITH SUCH REQUIREMENTS WILL BE REPORTED TO THE BOARD;

(IV) THAT THE PROGRAM PROVIDE THE COMMITTEE AND THE BOARD WITH PERIODIC REPORTS CONTAINING ANONYMOUS DEMOGRAPHIC INFORMATION ABOUT THE PROGRAM'S PARTICIPANTS AND WRITTEN REPORTS ON THE OVERALL OPERATION OF THE PROGRAM AND ON EACH PARTICIPANT'S PROGRESS. ANY REPORTS CONCERNING INDIVIDUAL PARTICIPANTS SHALL BE CONFIDENTIAL, AND FOLLOWING COMPLETION OF THE PROGRAM, A PARTICIPANT'S RECORDS WILL BE MAINTAINED FOR A PERIOD OF THREE YEARS, AT WHICH TIME SUCH RECORDS SHALL BE DESTROYED.

(V) THAT THE PROGRAM IS STAFFED PRIMARILY BY PROFESSIONAL NURSES;

(VI) THAT THE ORGANIZATION BE CAPABLE OF MAKING REFERRALS TO QUALIFIED TREATMENT CENTERS, INSTITUTIONS, OR THERAPISTS WHO ARE PROPERLY ACCREDITED, LICENSED, OR CERTIFIED.

(f) THE ADMINISTERING ENTITY SHALL BE A QUALIFIED, NONPROFIT PRIVATE FOUNDATION THAT IS QUALIFIED UNDER SECTION 501 (c) (3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND SHALL BE DEDICATED TO PROVIDING SUPPORT FOR CHARITABLE, EDUCATIONAL, AND SCIENTIFIC PURPOSES THAT ARE RELATED TO NURSING, NURSING EDUCATION, HEALTH-RELATED PROJECTS, RESEARCH AND SCIENCE, AND OTHER CHARITABLE PURPOSES TO ENHANCE THE NURSING PROFESSION.

(g) THE RESPONSIBILITIES OF THE ADMINISTERING ENTITY SHALL BE TO:

(I) COLLECT THE REQUIRED ANNUAL PAYMENTS;

(II) VERIFY TO THE BOARD, IN A MANNER ACCEPTABLE TO THE BOARD, THE NAMES OF ALL NURSE APPLICANTS WHO HAVE MET THE DESIGNATED PROVIDER'S FEE REQUIREMENTS;

(III) DISTRIBUTE THE MONEYS COLLECTED, LESS EXPENSES, TO THE DESIGNATED PROVIDER, AS DIRECTED BY THE BOARD;

(IV) PROVIDE AN ANNUAL ACCOUNTING TO THE BOARD OF ALL AMOUNTS

COLLECTED, EXPENSES INCURRED, AND AMOUNTS DISBURSED; AND

(V) POST A SURETY PERFORMANCE BOND IN AN AMOUNT SPECIFIED BY THE BOARD TO SECURE PERFORMANCE UNDER THE REQUIREMENTS OF THIS SECTION. THE ADMINISTERING ENTITY MAY RECOVER THE ACTUAL ADMINISTRATIVE COSTS INCURRED IN PERFORMING ITS DUTIES UNDER THIS SECTION IN AN AMOUNT NOT TO EXCEED TEN PERCENT OF THE TOTAL AMOUNT COLLECTED. THE BOARD SHALL ADJUST THE FEE REQUIRED IN PARAGRAPH (d) OF THIS SUBSECTION (4) TO PROVIDE FOR THESE ADMINISTRATIVE COSTS AND TO CONTINUE ADEQUATE FUNDING TO THE DESIGNATED PROVIDERS.

(5) (a) **Eligibility for awards - nursing peer health assistance organization.**

(a) (I) At least biennially, the board shall make awards following state purchasing rules from the nursing peer health assistance diversion fund to one or more recognized peer health assistance organizations assisting nursing licensees experiencing impaired practice.

(b) (II) To be eligible to receive an award under this section, a peer health assistance organization's program shall meet the criteria established by the board through rule and regulation. Standards for such criteria shall include:

(A) That the program of the peer health assistance organization provides services that assist nursing licensees experiencing impaired practice due to PHYSICAL, psychiatric, psychological, or emotional problems or with excessive alcohol or drug use or addiction;

(B) That the program of the peer health assistance organization provides the following: Referrals for evaluation and treatment of PHYSICAL, psychiatric, psychological, or emotional problems or excessive alcohol or drug use or addiction; mutual help groups; posttreatment monitoring and support for an appropriate period; intervention services; educational programs concerning impaired practice issues for health care facilities and personnel; assistance to and counseling for nursing licensees that are available twenty-four hours per day; and case-finding and outreach services;

(C) That the program of the peer health assistance organization requires a nursing licensee to enter into a written agreement setting forth the following conditions in order for the licensee to be a participant: Specific requirements and goals to be met by the participant, including the conditions under which the program will be successfully completed or terminated; and that a participant will be notified at the time the program is begun that a failure to comply with such requirements will be reported to the board and the committee;

(D) That the program of the peer health assistance organization provides the committee with periodic reports containing anonymous demographic information about the program's participants and written reports on the overall operation of the program and on each participant's progress. Any reports concerning individual participants shall be confidential, and, following completion of the program, a participant's records will be maintained for a period of three years, at which time such records shall be destroyed.

(E) That the program of the peer health assistance organization is staffed

primarily by professional nurses;

~~(VI)~~ (F) That the organization is capable of making referrals to qualified treatment centers or institutions or to therapists who are properly accredited, licensed, or certified.

(b) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JUNE 30, 1995.

(7) **Rehabilitation evaluation committee - created.** (a) The board shall establish one or more rehabilitation evaluation committees, each of which shall consist of seven members to be appointed by the board. Each member of such board shall serve for a term of four years, and no member shall serve more than one full term, except the nursing practice consultant for the board. The members shall be selected as follows: One member who is a licensed professional nurse specializing in chemical dependency; two members who are licensed professional nurses specializing in psychiatric nursing; two members who are licensed practical nurses or professional nurses who have recovered from an addiction to alcohol or drugs; one member who is the nursing practice consultant for the board; and one member who is the director of a program provided by a peer health assistance organization. The nursing practice consultant for the board and the ~~peer health assistance program~~ director OF THE DESIGNATED PROVIDER, OR THE DIRECTOR'S DESIGNEE, shall be nonvoting members of the committee.

(c) Rehabilitation evaluation committee members shall be reimbursed ~~from the nursing peer health assistance diversion fund created in subsection (4) of this section~~ BY THE ADMINISTERING ENTITY for actual and necessary expenses incurred in the performance of their duties under this section and shall be paid ~~from such fund~~ BY THE ADMINISTERING ENTITY only for time actually spent in the performance of duties under this section in the same manner and at the same rate of per diem compensation or percentage thereof as provided by law for members of boards or commissions within the division of registrations in the department of regulatory agencies as provided in section 24-34-102 (13), C.R.S.

SECTION 4. Effective date. This act shall take effect July 1, 1994.

SECTION 5. 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 22, 1994