

CHAPTER 214

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 95-1266

BY REPRESENTATIVES Grampas, Berry, Friednash, Hernandez, and Prinster;
also SENATORS Rizzuto, Casey, Martinez, and Perlmutter.

AN ACT

CONCERNING CRIMINAL BACKGROUND CHECKS ON NURSE AIDES, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 12-38-108 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-38-108. Powers and duties of the board. (1) The board has the following powers and duties:

(I) (I) (A) TO REQUIRE CRIMINAL BACKGROUND CHECKS AS EVIDENCE OF CRIMINAL CONVICTIONS ON APPLICANTS FOR CERTIFICATION AS NURSE AIDES PURSUANT TO SECTION 12-38.1-104.

(B) TO CONDUCT CRIMINAL BACKGROUND CHECKS ON ANY NURSE AIDE AGAINST WHOM A COMPLAINT HAS BEEN FILED.

(II) FOR PURPOSES OF THIS PARAGRAPH (I), "CRIMINAL BACKGROUND CHECK" MEANS A WRITTEN REVIEW OF AN INDIVIDUAL'S CRIMINAL CONVICTION HISTORY PROVIDED BY A COMPANY APPROVED BY THE BOARD.

SECTION 2. 12-38-129, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-38-129. Disposition of fees - appropriation. All fees collected ~~under this article~~ PURSUANT TO THE AUTHORITY OF THE STATE BOARD OF NURSING shall be transmitted to the state treasurer who shall credit the same pursuant to section 24-34-105, C.R.S., and the general assembly shall make annual appropriations

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

pursuant to said section for the expenditures of the board incurred in the performance of its duties. ~~under this article.~~ All vouchers drawn against any such appropriation shall be signed and certified to by the executive officer of the board.

SECTION 3. 12-38.1-104, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-38.1-104. Application for certification - fee. (1) Every applicant for certification as a nurse aide, whether qualifying by competency evaluation or by endorsement, shall ~~accompany his~~ SUBMIT THE application ~~with a fee established pursuant to section 24-34-105, C.R.S., together with~~ ON forms provided by the board.

(2) (a) THE APPLICATION SUBMITTED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE ACCOMPANIED BY AN APPLICATION FEE ESTABLISHED PURSUANT TO SECTION 24-34-105, C.R.S.

(b) The board may reduce ~~such~~ THE APPLICATION fee if federal funds are available. Such fee shall not be subject to the provisions of section 24-34-104.4, C.R.S.

(3) (a) EVERY APPLICANT SEEKING CERTIFICATION PURSUANT TO THIS SECTION SHALL SUBMIT A CRIMINAL BACKGROUND CHECK CONDUCTED WITHIN THE NINETY-DAY PERIOD PRIOR TO SUBMITTAL OF THE APPLICATION FROM A COMPANY APPROVED BY THE BOARD.

(b) COMPANIES APPROVED BY THE BOARD TO CONDUCT CRIMINAL BACKGROUND CHECKS MUST BE ABLE TO INCLUDE INFORMATION ON CONVICTIONS.

SECTION 4. 12-38.1-105, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-38.1-105. Application for certification by competency evaluation.

(1) Every applicant for certification by competency evaluation shall pay the required application fee and shall submit written evidence that said applicant:

(a) Has not committed any act or omission that would be grounds for discipline or denial of certification under this article; ~~and~~

(b) ~~If he applies on or after January 1, 1990,~~ Has successfully completed an approved education program; AND

(c) HAS HAD A CRIMINAL BACKGROUND CHECK CONDUCTED WITHIN THE NINETY-DAY PERIOD PRIOR TO SUBMITTAL.

SECTION 5. 12-38.1-106 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-38.1-106. Application for certification by endorsement. (1) Every applicant for certification by endorsement shall pay the required application fee, shall submit the information required by the board in the manner and form specified by the board, and shall submit written evidence that said applicant:

(e) HAS HAD A CRIMINAL BACKGROUND CHECK CONDUCTED WITHIN THE NINETY-DAY PERIOD PRIOR TO SUBMITTAL.

SECTION 6. 12-38.1-111 (1), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-38.1-111. Grounds for discipline. (1) The board may suspend, revoke, or deny any certification to practice as a nurse aide or issue a letter of admonition to a certified nurse aide upon proof that such person:

(n) HAS ENGAGED IN ANY CONDUCT THAT WOULD CONSTITUTE A CRIME AS DEFINED IN TITLE 18, C.R.S., IF SUCH CONDUCT RELATES TO THE PERSON'S ABILITY TO PRACTICE AS A NURSE AIDE. IN CONSIDERING DISCIPLINE BASED UPON THE GROUNDS SPECIFIED IN THIS PARAGRAPH (n), THE BOARD SHALL BE GOVERNED BY THE PROVISIONS OF SECTION 24-5-101, C.R.S.

SECTION 7. The introductory portion to 12-38.1-112 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-38.1-112. Withholding or denial of certification. (1) If the board determines that an applicant for an initial certificate to practice as a nurse aide does not possess the qualifications specified in section 12-38.1-105 or 12-38.1-106, THAT SECTION 12-38.1-111 (1) (n) IS APPLICABLE, or that there is reasonable cause to believe that the applicant has committed any of the acts set forth in section 12-38.1-111 as grounds for discipline, it may deny the applicant a certificate. When the board denies a certificate, it shall comply with the following procedures:

SECTION 8. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, to the department of public health and environment, for the fiscal year beginning July 1, 1995, the sum of twenty-one thousand eight hundred eighty-two dollars (\$21,882), or so much thereof as may be necessary, for the implementation of this act. This amount shall be from federal funds.

(2) In addition to any other appropriation, there is hereby appropriated, from the division of registrations cash fund, to the department of regulatory agencies, for the fiscal year beginning July 1, 1995, the sum of twelve thousand eight hundred forty-four dollars (\$12,844), or so much thereof as may be necessary, for the implementation of this act.

(3) In addition to any other appropriation, there is hereby appropriated, to the department of health care policy and financing, for the fiscal year beginning July 1, 1995, the sum of twenty-five thousand six hundred eighty-eight dollars (\$25,688), or so much thereof as may be necessary, for the implementation of this act. Of this amount, \$12,844 shall be from cash funds transferred to the department of health care policy and financing by the department of regulatory agencies out of appropriations made in subsection (2) of this section, and \$12,844 shall be from federal funds.

(4) In addition to any other appropriation, there is hereby appropriated, to the department of regulatory agencies, for allocation to the division of registrations, for the fiscal year beginning July 1, 1995, the sum of forty-seven thousand five hundred seventy dollars (\$47,570) and 0.5 FTE, or so much thereof as may be necessary, for

the implementation of this act. Of this amount, \$21,882 shall be from federal funds transferred to the department of regulatory agencies by the department of public health and environment out of appropriations made in subsection (1) of this section and \$25,688 shall be from funds transferred to the department of regulatory agencies by the department of health care policy and financing out of appropriations made in subsection (3) of this section.

(5) In addition to any other appropriation, there is hereby appropriated, to the department of law, for the fiscal year beginning July 1, 1995, the sum of sixteen thousand thirty-two dollars (\$16,032), or so much thereof as may be necessary, for the implementation of this act. Such amount shall be from exempt cash funds received by the department of regulatory agencies out of the appropriation made in subsection (4) of this section.

(6) In addition to any other appropriation, there is hereby appropriated, to the department of administration, for allocation to the division of administrative hearings, for the fiscal year beginning July 1, 1995, the six thousand one hundred six dollars (\$6,106), or so much thereof as may be necessary, for the implementation of this act. Such amount shall be from exempt cash funds received by the department of regulatory agencies out of the appropriation made in subsection (4) of this section.

SECTION 9. Effective date - applicability. This act shall take effect October 1, 1995, and shall apply to any person applying for certification as a nurse aide pursuant to section 12-38.1-104, Colorado Revised Statutes.

SECTION 10. 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 25, 1995