

CHAPTER 97

PROFESSIONS AND OCCUPATIONS

SENATE BILL 95-004

BY SENATORS Schroeder and Martinez;
also REPRESENTATIVES George, Agler, Knox, and Entz.

AN ACT

CONCERNING THE REGULATION OF PSYCHIATRIC TECHNICIANS BY THE STATE BOARD OF NURSING.

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

SECTION 1. 12-38-108 (1) (k) (I), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

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

(k) To administer the licensing and regulation of psychiatric technicians pursuant to article 42 of this title and to adopt and revise rules and regulations consistent with the laws of this state as may be necessary:

(I) To renew, grant, suspend, LIMIT THE SCOPE OF, and revoke licenses of psychiatric technicians IN ACCORDANCE WITH ARTICLE 42 OF THIS TITLE;

SECTION 2. 12-42-102 (4), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-42-102. Definitions. As used in this article, unless the context otherwise requires:

(4) The practice as a "psychiatric technician" means the performance for compensation of selected acts requiring interpersonal and technical skills and ~~in a state hospital or other state institutional setting approved by the department of human services, said practice~~ includes the administering of selected treatments and selected

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

medications prescribed by a licensed physician or dentist, in the care of and in the observation and recognition of symptoms and reactions of the mentally ill patient or developmentally disabled individual under the direction of a licensed physician and the supervision of a registered professional nurse. The selected acts in the care of the mentally ill patient or developmentally disabled individual shall not require the substantial specialized skill, judgment, and knowledge required in professional nursing.

SECTION 3. 12-42-103, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

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.

(2) (a) This article is repealed, effective ~~July 1, 1995~~ JULY 1, 2010.

(b) Prior to such repeal, the licensure ANDREGULATION functions of the state board of nursing shall be reviewed as provided in section 24-34-104, C.R.S.

SECTION 4. 12-42-106 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-42-106. Examinations. (1) All applicants, unless licensed by endorsement, shall be required to pass a written examination. ~~in the following subject areas:~~

~~(a) Nursing principles related to health and disease, including human growth and development;~~

~~(b) (i) Basic psychiatric nursing, including social and cultural concepts for psychiatric technicians working with mentally ill patients;~~

~~(ii) Mental retardation theory and practice, human development, and behavior management for psychiatric technicians working with developmentally disabled individuals.~~

SECTION 5. 12-42-108, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is repealed as follows:

12-42-108. License by waiver and examination. (1) ~~The board may issue a license without examination to any person who, not later than July 1, 1980, submits to the board written evidence, verified by oath, that such person:~~

~~(a) Has not committed an act which would be grounds for disciplinary action against a licensee under this article;~~

~~(b) Has practiced in a state hospital or other state institutional setting approved by the department of human services, working with developmentally disabled individuals, for at least twelve consecutive months within the three-year period immediately prior to application pursuant to this section. The board may accept evidence of such practice through written statements, verified by oath, of one~~

~~physician and two registered professional nurses, each licensed to practice in this state, that each has personal knowledge of the applicant's practice working with developmentally disabled individuals.~~

~~(c) Has passed a written examination on nursing service and mental retardation approved by the state board of nursing.~~

SECTION 6. 12-42-111 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

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 ~~including but not limited to:~~ THAT CONTAINS THEORETICAL CONTENT AND CLINICAL PRACTICE TO PREPARE THE PSYCHIATRIC TECHNICIAN STUDENT TO CARE FOR CLIENTS WITH DEVELOPMENTAL DISABILITIES OR MENTAL ILLNESS IN INSTITUTIONAL AND COMMUNITY SETTINGS.

~~(a) Nursing principles which shall include, but not be limited to, learning experiences to develop:~~

~~(I) An understanding of the principles of mental and physical health and the maintenance of health;~~

~~(II) A knowledge of health services and community resources and the role of the psychiatric technician in these health services; and the ability to perform the following functions as required:~~

~~(A) Activities concerned with daily hygiene;~~

~~(B) Activities concerned with prescribed therapeutic measure with understanding of underlying basic principles; and~~

~~(C) Observing the appearance and behavior of patients and reporting to the appropriate persons; and~~

~~(III) Ability to work with licensed physicians, professional nurses, dentists, and other treatment personnel in assisting with nursing situations;~~

~~(b) (I) Psychiatric nursing, for psychiatric technicians working with mentally ill patients, which shall include, but not be limited to, fundamentals of psychiatric and mental health nursing with learning experience planned to develop the following skills: The knowledge, skills, and attitudes necessary to function adequately as a contributing member of the psychiatric team, understanding of self and patient relationship, principles of psychiatric nursing including social and cultural studies, rehabilitation, and special therapies.~~

~~(II) Mental retardation practice, for psychiatric technicians working with developmentally disabled individuals, which shall include, but not be limited to, mental retardation theory and practice, human development, and behavior~~

~~management.~~

(b) CONTENT IN A PSYCHIATRIC TECHNICIAN EDUCATIONAL PROGRAM SHALL INCLUDE BUT SHALL NOT BE LIMITED TO:

(I) FUNDAMENTAL NURSING PRINCIPLES AND SKILLS;

(II) GROWTH AND DEVELOPMENTAL AND OTHER PHYSICAL AND BEHAVIORAL SKILLS;

(III) MENTAL RETARDATION THEORY AND REHABILITATION NURSING PRINCIPLES AND SKILLS IF THE TECHNICIAN IS TO BE LICENSED TO CARE FOR CLIENTS WITH DEVELOPMENTAL DISABILITIES; AND

(IV) PSYCHOPATHOLOGY AND PSYCHIATRIC NURSING PRINCIPLES AND SKILLS IF THE TECHNICIAN IS TO BE LICENSED TO CARE FOR CLIENTS WITH MENTAL ILLNESS.

SECTION 7. 12-42-112 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-42-112. Renewal of license. (1) ~~Each license issued under the provisions of this article shall be renewed annually; except that the period of validity of any license may be changed pursuant to the provisions of section 24-34-102 (7), C.R.S. On or before April 30 of each year, the board shall mail an application for renewal of license to each person to whom a license was issued or renewed during the current year, which application shall be mailed to the most recent address of said person as it appears on the records of the board. Such person shall complete the renewal application and return it to the board with a renewal fee established pursuant to section 24-34-105, C.R.S., before July 1 of the year in which said application was received. Upon receipt of any such application and fee, the board shall verify the accuracy of such application and fee and issue to the applicant a certificate of renewal of license for the current year, beginning July 1 and expiring June 30.~~ TO RENEW A LICENSE ISSUED PURSUANT TO THIS ARTICLE, A LICENSEE SHALL SUBMIT AN APPLICATION FOR RENEWAL ON A FORM PRESCRIBED BY THE BOARD AND PAY A FEE IN AN AMOUNT SET BY THE BOARD IN ACCORDANCE WITH SECTION 24-34-105, C.R.S. UPON RECEIPT BY THE BOARD OF A COMPLETED APPLICATION AND THE REQUISITE FEE, THE BOARD SHALL ISSUE A CERTIFICATE OF RENEWAL OF LICENSURE. NO MORE THAN ONE RENEWAL FEE SHALL BE ASSESSED OR COLLECTED IN CONJUNCTION WITH THE SUBMITTAL OF AN APPLICATION FOR LICENSE RENEWAL.

SECTION 8. The introductory portion to 12-42-113 (1) and 12-42-113 (1) (b) and (1) (i), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-42-113 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-42-113. Grounds for discipline. (1) The board has the power to revoke, suspend, withhold, LIMIT THE SCOPE OF, or refuse to renew any license to practice as a psychiatric technician, to place on probation a licensee, or to issue a letter of admonition to a licensee in accordance with the procedures set forth in subsection (3) of this section, upon proof that such person:

(b) (I) Has been convicted of a felony or ~~has had accepted by a court a plea of guilty or nolo contendere to a felony~~ ANY CRIME THAT WOULD CONSTITUTE A VIOLATION OF THIS ARTICLE.

(II) (A) FOR PURPOSES OF THIS PARAGRAPH (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) 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) In considering the possible revocation, suspension, LIMITING, or nonrenewal of a license or temporary license, the board shall be governed by the provisions of section 24-5-101, C.R.S.

(i) Is addicted to or dependent on alcohol or habit-forming drugs, ~~or~~ is a habitual user of controlled substances, as defined in section 12-22-303 (7), or other drugs having similar effects, OR IS DIVERTING CONTROLLED SUBSTANCES, AS DEFINED IN SECTION 12-22-303 (7), 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 ~~he~~ SUCH LICENSEE is participating in good faith in a program approved by the board designed to end such addiction or dependency;

(6) THE BOARD SHALL NOT DISCIPLINE A LICENSEE BY LIMITING THE SCOPE OF SUCH LICENSEE'S LICENSE BASED UPON A LICENSEE'S VIOLATION OF PARAGRAPH (i) OF SUBSECTION (1) OF THIS SECTION UNTIL THE LICENSEE HAS COMPLETED A PROGRAM APPROVED BY THE BOARD DESIGNED TO END ADDICTION TO OR DEPENDENCY ON ALCOHOL, HABIT-FORMING DRUGS, CONTROLLED SUBSTANCES, AS DEFINED IN SECTION 12-22-303 (7), OR OTHER DRUGS HAVING SIMILAR EFFECTS. UNTIL SUCH TIME AS THE LICENSEE COMPLETES AN APPROVED PROGRAM, THE BOARD MAY IMPOSE ANY OF THE OTHER FORMS OF DISCIPLINE SET FORTH IN SUBSECTION (1) OF THIS SECTION.

SECTION 9. 12-42-115 (2) (a), Colorado Revised Statutes, 1991 Repl. Vol., is amended, and the said 12-42-115 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-42-115. Mental or physical examination of licensees - review of medical records. (2) (a) If the board has reasonable cause to believe that a licensee is unable to practice with reasonable skill and safety to patients because of a condition described in section 12-42-113 (1) (i) or (1) (j), it may require such person to submit to a mental or physical examination by a physician, ~~it designates~~ PSYCHOLOGIST, OR OTHER QUALIFIED PROFESSIONAL. Upon the failure of such person to submit to such mental or physical examination, unless due to circumstances beyond ~~his~~ SUCH PERSON'S control, the board may suspend such person's license until such time as such person submits to the required ~~examinations~~ EXAMINATION.

(e) THE BOARD MAY REQUIRE THAT A LICENSEE SUBMIT MEDICAL RECORDS FOR REVIEW IN CONJUNCTION WITH AN INVESTIGATION MADE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2); EXCEPT THAT SUCH RECORDS SHALL REMAIN CONFIDENTIAL AND SHALL BE REVIEWED BY THE BOARD.

SECTION 10. 12-42-115.3 (6), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-42-115.3. Disciplinary proceedings - administrative law judges. (6) In order to aid the board in any hearing or investigation instituted pursuant to this section, the board, through any member or executive officer thereof, shall have the power to issue subpoenas commanding production of copies of any records containing information relevant to practice as a psychiatric technician rendered by any licensee, including, but not limited to, hospital and physician records. ~~The person providing such copies shall prepare them from the original record and shall delete from the copy provided pursuant to the subpoena the name of the patient, but he shall identify the patient by a numbered code, to be retained by the custodian of the records from which the copies were made.~~ Upon certification of the custodian that the copies are true and complete except for the patient's name, they shall be deemed authentic, subject to the right to inspect the originals for the limited purpose of ascertaining the accuracy of the copies. No privilege of confidentiality shall exist with respect to such copies, and no liability shall lie against the board or the custodian or ~~his~~ THE CUSTODIAN'S authorized employee for furnishing or using such copies in accordance with this subsection (6).

SECTION 11. 24-34-104 (24.1) (h), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended, and the said 24-34-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (24.1) The following functions of the specified agencies shall terminate on July 1, 1995:

(h) ~~The licensing of psychiatric technicians through the state board of nursing in accordance with article 42 of title 12, C.R.S.;~~

(41) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, OF THE SPECIFIED AGENCIES SHALL TERMINATE ON JULY 1, 2010: THE LICENSING AND REGULATION OF PSYCHIATRIC TECHNICIANS BY THE STATE BOARD OF NURSING PURSUANT TO ARTICLE 42 OF TITLE 12, C.R.S.

SECTION 12. Effective date - applicability. This act shall take effect July 1, 1995, and shall apply to acts occurring on or after said date.

SECTION 13. 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: April 21, 1995