

CHAPTER 176

HEALTH AND ENVIRONMENT

HOUSE BILL 98-1015

BY REPRESENTATIVES Leyba, K. Alexander, Epps, Hefley, Mace, and Reeser;
also SENATORS Wham and Tebedo.

AN ACT

CONCERNING CONTINUATION OF THE AUTHORITY OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO REGULATE THE ADMINISTRATION AND MONITORING OF MEDICATIONS IN FACILITIES BY QUALIFIED UNLICENSED PERSONS.

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

SECTION 1. 12-22-304 (5) (e), Colorado Revised Statutes, is amended to read:

12-22-304. License required - controlled substances - drug precursors - fund created - repeal. (5) The following persons need not be licensed by the department or by the board to lawfully possess controlled substances under this part 3:

(e) (I) Employees of facilities who are administering and monitoring medications to persons under the care or jurisdiction thereof pursuant to the provisions of section 25-1-107 (1) (ee), C.R.S.

(II) This paragraph (e) is repealed, effective ~~July 1, 1998~~ JULY 1, 2009. Prior to such repeal, the exception to the licensure requirement set forth in this paragraph (e) shall be subject to review pursuant to the provisions of section 2-3-1201, C.R.S., by ~~the sunrise and sunset review committee~~ BY A LEGISLATIVE COMMITTEE OF REFERENCE DESIGNATED PURSUANT TO SECTION 2-3-1201, C.R.S., TO CONDUCT THE REVIEW PURSUANT TO SECTION 24-34-104, C.R.S., AND THE PROVISIONS OF SECTION 24-34-104 (5) TO (12), C.R.S., CONCERNING A WIND-UP PERIOD, AN ANALYSIS AND EVALUATION, PUBLIC HEARINGS, AND CLAIMS BY OR AGAINST AN AGENCY SHALL APPLY TO THE OPERATION OF THE PROGRAM SPECIFIED IN THIS PARAGRAPH (e).

SECTION 2. 12-36-106 (3) (o), Colorado Revised Statutes, is amended to read:

12-36-106. Practice of medicine defined - exemptions from licensing

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

requirements - repeal. (3) Nothing in this section shall be construed to prohibit, or to require a license under this article with respect to, any of the following acts:

(o) (I) The administration and monitoring of medications in facilities as provided in section 25-1-107 (1) (ee), C.R.S.

(II) This paragraph (o) is repealed, effective ~~July 1, 1998~~ JULY 1, 2009. Prior to such repeal, the exemption to licensure requirement set forth in this paragraph (o) shall be subject to review by a legislative committee of reference designated pursuant to section 2-3-1201, C.R.S., to conduct the review pursuant to section 24-34-104, C.R.S., and the provisions of section 24-34-104 (5) to (12), C.R.S., concerning a wind-up period, an analysis and evaluation, public hearings, and claims by or against an agency shall apply to the operation of the program specified in this paragraph (o).

SECTION 3. 12-38-125 (1) (h), Colorado Revised Statutes, is amended to read:

12-38-125. Exclusions. (1) No provision of this article shall be construed to prohibit:

(h) (I) The administration and monitoring of medications in facilities pursuant to section 25-1-107 (1) (ee), C.R.S.

(II) This paragraph (h) is repealed, effective ~~July 1, 1998~~ JULY 1, 2009. Prior to such repeal, the exclusion set forth in this paragraph (h) shall be subject to review by a legislative committee of reference designated pursuant to section 2-3-1201, C.R.S., to conduct the review pursuant to section 24-34-104, C.R.S., and the provisions of section 24-34-104 (5) to (12), C.R.S., concerning a wind-up period, an analysis and evaluation, public hearings, and claims by or against an agency shall apply to the operation of the program specified in this paragraph (h).

SECTION 4. 25-1-107 (1) (ee) (I.5), (1) (ee) (II.5) (I), (1) (ee) (III) (B), and (1) (ee) (VI), Colorado Revised Statutes, are amended, and the said 25-1-107 (1) (ee) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

25-1-107. Powers and duties of the department - repeal. (1) The department has, in addition to all other powers and duties imposed upon it by law, the following powers and duties:

(ee) (I.5) Medication reminder boxes or systems may be used if such containers have been filled and properly labeled by a pharmacist licensed pursuant to article 22 of title 12, C.R.S., a nurse licensed pursuant to article 38 of title 12, C.R.S., AN UNLICENSED PERSON TRAINED PURSUANT TO THIS SUBPARAGRAPH (I.5), or filled and properly labeled through the gratuitous care by members of one's family or friends. NOTHING IN THIS SUBPARAGRAPH (I.5) AUTHORIZES OR SHALL BE CONSTRUED TO AUTHORIZE THE PRACTICE OF PHARMACY, AS DEFINED IN SECTION 12-22-102 (26), C.R.S. ~~Unlicensed persons may physically assist a person who is physically impaired if such impairment affects the ability of the person to use the medication reminder, if such unlicensed person is trained pursuant to the provisions of this paragraph (ee).~~ NO UNLICENSED PERSON SHALL FILL AND LABEL MEDICATION REMINDER BOXES PURSUANT TO THIS SUBPARAGRAPH (I.5) UNTIL SUCH PERSON HAS COMPLETED APPROPRIATE TRAINING APPROVED BY THE DEPARTMENT OF PUBLIC HEALTH AND

ENVIRONMENT, AND NO FACILITY SHALL USE AN UNLICENSED PERSON TO PERFORM SUCH SERVICES UNLESS SUCH FACILITY HAS A QUALIFIED MANAGER TO OVERSEE THE WORK OF SUCH UNLICENSED PERSON OR PERSONS. EVERY UNLICENSED PERSON AND QUALIFIED MANAGER DESCRIBED IN THIS SUBPARAGRAPH (I.5) SHALL SIGN A DISCLOSURE STATEMENT UNDER PENALTY OF PERJURY STATING THAT HE OR SHE NEVER HAD A PROFESSIONAL LICENSE TO PRACTICE NURSING, MEDICINE, OR PHARMACY REVOKED IN THIS OR ANY OTHER STATE FOR REASONS DIRECTLY RELATED TO THE ADMINISTRATION OF MEDICATIONS. FOR PURPOSES OF THIS SUBPARAGRAPH (I.5), A "QUALIFIED MANAGER" MEANS A PERSON WHO:

(A) IS THE OWNER OR OPERATOR OF THE FACILITY OR A SUPERVISOR DESIGNATED BY THE OWNER OR OPERATOR OF THE FACILITY FOR THE PURPOSE OF IMPLEMENTING THIS SUBPARAGRAPH (I.5); AND

(B) HAS COMPLETED TRAINING IN THE ADMINISTRATION OF MEDICATIONS PURSUANT TO THIS SUBPARAGRAPH (I.5) OR IS A LICENSED NURSE PURSUANT TO ARTICLE 38 OF TITLE 12, C.R.S., A LICENSED PHYSICIAN PURSUANT TO ARTICLE 36 OF TITLE 12, C.R.S., OR A LICENSED PHARMACIST PURSUANT TO ARTICLE 22 OF TITLE 12, C.R.S. EVERY UNLICENSED PERSON WHO IS A "QUALIFIED MANAGER" WITHIN THE MEANING OF THIS SUBPARAGRAPH (I.5) SHALL, EVERY FOUR YEARS, SUCCESSFULLY COMPLETE A TEST APPROVED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PERTAINING TO THE ADMINISTRATION OF MEDICATIONS.

(I.6) TO DEVELOP AND IMPLEMENT POLICIES AND PROCEDURES WITH RESPECT TO THE PROVISIONS IN SUBPARAGRAPH (I.5) OF THIS PARAGRAPH (ee) CONCERNING THE ADMINISTRATION OF MEDICATION REMINDER BOXES.

(II.5) For purposes of this paragraph (ee), "facility" means:

(I) ~~Residential and day care programs providing services~~ ALL SERVICES FUNDED THROUGH AND REGULATED BY THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO ARTICLE 10.5 OF TITLE 27, C.R.S., in support of persons with developmental disabilities; ~~pursuant to article 10.5 of title 27, C.R.S.;~~ and

(III) (B) The executive directors of the departments ~~which~~ THAT control the "facilities" defined in sub-subparagraphs (A) and (B) of subparagraph (II.5) of this paragraph (ee) may direct the unlicensed staff of any such facility to monitor medications in any part of any such facility. Administration of medications in any such facility shall be allowed only in those areas of any such facility ~~which~~ THAT have a licensed physician or other licensed practitioner on duty. NOTWITHSTANDING OTHER TRAINING REQUIREMENTS ESTABLISHED IN SUBPARAGRAPH (I.5) OF THIS PARAGRAPH (ee), THE OPERATOR OR ADMINISTRATOR OF EVERY FACILITY THAT HIRES AN UNLICENSED PERSON TO ADMINISTER MEDICATIONS PURSUANT TO THIS PARAGRAPH (ee) SHALL PROVIDE ON-THE-JOB TRAINING FOR SUCH PERSON, AND ALL SUCH UNLICENSED PERSONS HIRED ON OR AFTER JULY 1, 1998, SHALL BE ADEQUATELY SUPERVISED UNTIL THEY HAVE COMPLETED SUCH TRAINING. SUCH ON-THE-JOB TRAINING SHALL BE APPROPRIATE TO THE JOB RESPONSIBILITIES OF EACH TRAINEE. FACILITY OPERATORS AND ADMINISTRATORS SHALL DOCUMENT EACH UNLICENSED PERSON'S SATISFACTORY COMPLETION OF ON-THE-JOB TRAINING IN THEIR PERMANENT PERSONNEL FILE.

(VI) (A) This paragraph (ee) is repealed, effective ~~July 1, 1998~~ JULY 1, 2009.

(B) Prior to such repeal, the program established by this paragraph (ee) shall be subject to review by a legislative committee of reference designated pursuant to section 2-3-1201, C.R.S., to conduct the review pursuant to section 24-34-104, C.R.S., and the provisions of section 24-34-104 (5) to (12), C.R.S., concerning a wind-up period, an analysis and evaluation, public hearings, and claims by or against an agency shall apply to the operation of the program specified in this paragraph (ee). SUCH REVIEW SHALL INCLUDE AN EXAMINATION OF THE REGULATORY PROCESS THAT GOVERNS FACILITIES USING TRAINED BUT UNLICENSED PERSONS TO MONITOR AND ADMINISTER MEDICATION.

SECTION 5. Repeal. 24-34-104 (27.5) (a), (27.5) (b), (27.5) (c), and (27.5) (d), Colorado Revised Statutes, are repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. ~~(27.5) (a) The program for the administration and monitoring of medications in facilities authorized pursuant to section 25-1-107 (1) (ee), C.R.S., shall terminate on July 1, 1998.~~

~~(b) The exemption from licensure under the "Uniform Controlled Substances Act of 1992", article 18 of title 18, C.R.S., pursuant to section 12-22-304 (5) (e) (I), C.R.S., for persons who administer or monitor medications in facilities in compliance with the program authorized in section 25-1-107 (1) (ee), C.R.S., shall terminate on July 1, 1998.~~

~~(c) The exemption from licensure under the "Colorado Medical Practice Act" pursuant to section 12-36-106 (3) (o) (I), C.R.S., for persons who administer and monitor medications in facilities in compliance with the program authorized in section 25-1-107 (1) (ee), C.R.S., shall terminate on July 1, 1998.~~

~~(d) The exemption from licensure under the "Nurse Practice Act" pursuant to section 12-38-125 (1) (h) (I), C.R.S., for persons who administer and monitor medications in facilities in compliance with the program authorized in section 25-1-107 (1) (ee), C.R.S., shall terminate on July 1, 1998.~~

SECTION 6. 24-34-104, Colorado Revised Statutes, is 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. (40) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE ON JULY 1, 2009:

(a) THE PROGRAM FOR THE ADMINISTRATION AND MONITORING OF MEDICATIONS IN FACILITIES AUTHORIZED PURSUANT TO SECTION 25-1-107 (1) (ee), C.R.S.

(b) THE EXEMPTION FROM LICENSURE UNDER THE "UNIFORM CONTROLLED SUBSTANCES ACT OF 1992", ARTICLE 18 OF TITLE 18, C.R.S., PURSUANT TO SECTION 12-22-304 (5) (e) (I), C.R.S., FOR PERSONS WHO ADMINISTER OR MONITOR MEDICATIONS IN FACILITIES IN COMPLIANCE WITH THE PROGRAM AUTHORIZED IN SECTION 25-1-107 (1) (ee), C.R.S.

(c) THE EXEMPTION FROM LICENSURE UNDER THE "COLORADO MEDICAL PRACTICE ACT" PURSUANT TO SECTION 12-36-106 (3) (o) (I), C.R.S., FOR PERSONS WHO ADMINISTER AND MONITOR MEDICATIONS IN FACILITIES IN COMPLIANCE WITH THE PROGRAM AUTHORIZED IN SECTION 25-1-107 (1) (ee), C.R.S.

(d) THE EXEMPTION FROM LICENSURE UNDER THE "NURSE PRACTICE ACT" PURSUANT TO SECTION 12-38-125 (1) (h) (I), C.R.S., FOR PERSONS WHO ADMINISTER AND MONITOR MEDICATIONS IN FACILITIES IN COMPLIANCE WITH THE PROGRAM AUTHORIZED IN SECTION 25-1-107 (1) (ee), C.R.S.

SECTION 7. Effective date - applicability. This act shall take effect July 1, 1998, and shall apply to services provided on or after said date.

SECTION 8. 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 30, 1998