

CHAPTER 314

PROFESSIONS AND OCCUPATIONS

SENATE BILL 01-113

BY SENATOR(S) Hernandez, Evans, Hagedorn, and Hanna;
also REPRESENTATIVE(S) Clapp, Boyd, Cloer, Coleman, Hefley, Hoppe, Jameson, Mace, Marshall, Tapia, and Tochtrop.

AN ACT

CONCERNING REGULATION OF PHYSICAL THERAPISTS, AND, IN CONNECTION THEREWITH, CONTINUING THE REGULATION OF PHYSICAL THERAPISTS BY THE DIRECTOR OF THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES.

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

SECTION 1. Repeal. 12-41-102 (2), Colorado Revised Statutes, is repealed as follows:

~~12-41-102. Legislative declaration. (2) The general assembly further finds and declares that there is a shortage of physical therapists in the state which must be overcome to protect the health and well-being of the people of Colorado.~~

SECTION 2. 12-41-107 (2) (b), Colorado Revised Statutes, is amended to read:

12-41-107. Licensure by examination. (2) (b) The examination shall be held within the state at least twice a year and at such other times and places as the director shall determine.

SECTION 3. Repeal. 12-41-108, Colorado Revised Statutes, is repealed as follows:

~~12-41-108. Temporary permit. (1) The director may issue a temporary permit to an applicant who has fulfilled the requirements of section 12-41-107 (1) (a), (1) (c), and (1) (d) or section 12-41-111 (1) (a), (1) (b), (1) (d), and (1) (e) if:~~

~~(a) The director determines that the applicant is qualified to take the examination pursuant to section 12-41-107; and~~

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) The applicant agrees to engage in the practice of physical therapy only under the personal and responsible supervision and direction of a physical therapist.~~

~~(2) The temporary permit authorizes the applicant to perform physical therapy under the personal and responsible supervision and direction of a physical therapist.~~

~~(3) Such temporary permit shall be valid from the date of its issuance until the publication of the results of the examination for which the applicant is scheduled to sit.~~

~~(4) A temporary permit shall not be renewed.~~

~~(5) The director may revoke a temporary permit if the applicant has committed any act which would be grounds for disciplinary action under section 12-41-115.~~

SECTION 4. 12-41-109 (3) (b) and the introductory portion to 12-41-109 (3) (c), Colorado Revised Statutes, are amended to read:

12-41-109. Licensure by endorsement. (3) The director shall issue a license if the applicant fulfills the requirements of subsection (1) of this section and meets any one of the following qualifying standards enumerated in paragraphs (a) to (c) of this subsection (3):

(b) The applicant has practiced as a ~~registered or~~ licensed physical therapist for at least two of the five years immediately preceding the date of the application;

(c) The applicant has not practiced as a ~~registered or~~ licensed physical therapist at least two of the last five years immediately preceding the date of the application and either:

SECTION 5. Repeal. 12-41-110, Colorado Revised Statutes, is repealed as follows:

12-41-110. Temporary license. ~~(1) The director may issue a temporary license to an applicant who has submitted an application and fee and presented evidence of an active, valid license in good standing as specified in section 12-41-109. Such temporary license shall be valid until the director issues a license to the applicant or denies the request for licensure by endorsement, but, in any case, such license shall not be valid for longer than four months.~~

~~(2) The director may deny the request for such temporary license or revoke such temporary license if the applicant has committed any act which would be grounds for disciplinary action under section 12-41-115.~~

~~(3) The temporary license authorizes the applicant to practice physical therapy only during the period such temporary license is valid.~~

SECTION 6. 12-41-111 (1) (a), Colorado Revised Statutes, is amended to read:

12-41-111. Licensing of foreign-trained applicants. (1) Every foreign-trained applicant for licensing by examination shall:

(a) Have received education and training in physical therapy SUBSTANTIALLY EQUIVALENT TO THE EDUCATION AND TRAINING REQUIRED AT ACCREDITED PHYSICAL THERAPY PROGRAMS IN THE UNITED STATES;

SECTION 7. 12-41-112 (2), (4), and (5), Colorado Revised Statutes, are amended to read:

12-41-112. Expiration and renewal of licenses. (2) A licensee shall be required to renew the license issued under this article according to a schedule of renewal dates to be established by the director. ~~Upon the recommendation of the director, the executive director may change the renewal date of any such license so that approximately the same number of licenses are scheduled for renewal in each month of the year.~~

(4) If any licensee fails to renew such license prior to its expiration date, the license shall automatically expire. A physical therapist formerly licensed ~~or registered~~ in this state may reinstate a license ~~or registration which~~ THAT has expired. Such reinstatement shall only occur during the five-year period following such license expiration. Reinstatement shall require the submission of an application in the form and manner designated by the director and the payment of a fee in an amount determined by the director.

(5) A physical therapist formerly licensed ~~or registered~~ in this state who practiced physical therapy for more than two years may reinstate a license ~~or convert an expired registration to a license~~ if such license ~~or registration~~ expired more than five years prior to the application date by demonstrating competency in the practice of physical therapy to the director or by successfully completing an internship as required by the director. The director may also require such former licensee ~~or registered physical therapist~~ to take the examination administered pursuant to section 12-41-107 (2).

SECTION 8. 12-41-113, Colorado Revised Statutes, is amended to read:

12-41-113. Special practice authorities and requirements. (1) **Utilization of unlicensed persons.** A physical therapist may utilize the services of not more than three unlicensed individuals to assist in that therapist's practice. Such individuals shall at all times be under the direct supervision of the physical therapist unless such individuals are physical therapist assistants who shall be under responsible direction and supervision of the physical therapist. For purposes of this subsection (1) a "physical therapist assistant" means a person who has successfully completed a physical therapist assistant program ~~that has been approved by the director~~ ACCREDITED BY THE COMMISSION ON ACCREDITATION IN PHYSICAL THERAPY EDUCATION OR ANY COMPARABLE SUCCESSOR ENTITY; WHO IS REGISTERED, LICENSED, OR CERTIFIED AS A PHYSICAL THERAPIST ASSISTANT IN ANOTHER STATE; OR WHO HAS OTHERWISE QUALIFIED TO TAKE THE PHYSICAL THERAPY EXAMINATION. For purposes of this subsection (1), "direct supervision" shall mean supervision ~~which~~ THAT is on the premises where any such unlicensed individuals are practicing.

(2) **Administration of medications.** Physical therapists OR PHYSICAL THERAPIST ASSISTANTS UNDER THE DIRECT SUPERVISION OF A PHYSICAL THERAPIST may administer topical and aerosol medications when they are consistent with the scope

of physical therapy practice and when any such medication is prescribed by a licensed health care practitioner who is authorized to prescribe such medication. A prescription or order shall be required for each such administration.

(3) **Wound debridement.** A physical therapist is authorized to perform wound debridement under a physician's order when such debridement is consistent with the scope of physical therapy practice. ~~and, at the discretion of the physician, may perform such debridement without the direct and immediate supervision of the physician.~~ The performance of such wound debridement shall not be deemed to violate the prohibition against performing surgery pursuant to section 12-41-105 (1) (a).

SECTION 9. 12-41-114 (1) (a) and (1) (b), Colorado Revised Statutes, are amended, and the said 12-41-114 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-41-114. Scope of article - exclusions. (1) Nothing contained in this article shall prohibit:

(a) The practice of physical therapy by students enrolled in an accredited physical therapy OR PHYSICAL THERAPIST ASSISTANT program and performing under the direction and immediate supervision of a physical therapist currently licensed in this state;

~~(b) Any person who has successfully completed an accredited physical therapy program within twelve months prior to filing an application with the director for licensure to practice physical therapy and who has paid the required fees for practicing physical therapy under the personal and responsible direction and supervision of a licensed physical therapist between the date of the filing of such application and the publication of the results of the next examination;~~

(i) THE PRACTICE OF ANY PHYSICAL THERAPIST LICENSED IN THIS STATE OR ANY OTHER STATE OR TERRITORY OF THE UNITED STATES WHO IS EMPLOYED BY THE UNITED STATES GOVERNMENT OR ANY BUREAU, DIVISION, OR AGENCY THEREOF WHILE WITHIN THE COURSE AND SCOPE OF THE PHYSICAL THERAPIST'S OFFICIAL DUTIES.

SECTION 10. 12-41-115 (1) (k), Colorado Revised Statutes, is amended to read:

12-41-115. Grounds for disciplinary action. (1) The director is authorized to take disciplinary action in accordance with section 12-41-116 if the licensee has:

~~(k) Falsified information in any application or attempted to obtain or obtained a license temporary permit, or temporary license by fraud, deception, or misrepresentation;~~

SECTION 11. 12-41-116 (1) (a), Colorado Revised Statutes, is amended to read:

12-41-116. Disciplinary actions. (1) (a) The director, pursuant to the provisions of article 4 of title 24, C.R.S., may issue letters of admonition, or may deny, refuse to renew, suspend, or revoke any license, ~~temporary permit, or temporary license,~~

may place a licensee on probation, or may impose public censure or a fine, if, after notice and hearing, the director or ~~his~~ THE DIRECTOR'S designee determines that the licensee ~~or permittee~~ has committed any of the acts specified in section 12-41-115.

SECTION 12. 12-41-124 (1) (g) (III), Colorado Revised Statutes, is amended to read:

12-41-124. Professional service corporations, limited liability companies, and registered limited liability partnerships for the practice of physical therapy - definitions. (1) Persons licensed to practice physical therapy by the director may form professional service corporations for the practice of physical therapy under the "Colorado Business Corporation Act", articles 101 to 117 of title 7, C.R.S., if such corporations are organized and operated in accordance with the provisions of this section. The articles of incorporation of such corporations shall contain provisions complying with the following requirements:

(g) The articles of incorporation shall provide, and all shareholders of the corporation shall agree, that all shareholders of the corporation shall be jointly and severally liable for all acts, errors, and omissions of the employees of the corporation or that all shareholders of the corporation shall be jointly and severally liable for all acts, errors, and omissions of the employees of the corporation except during periods of time when the corporation shall maintain in good standing professional liability insurance which shall meet the following minimum standards:

(III) The insurance policy ~~may~~ SHALL provide for ~~an aggregate top limit of liability per year for all claims of one hundred fifty thousand dollars with a top limit of liability for all claims during the year of three hundred thousand dollars~~ AN AMOUNT FOR EACH CLAIM OF AT LEAST ONE HUNDRED THOUSAND DOLLARS MULTIPLIED BY THE NUMBER OF PERSONS LICENSED TO PRACTICE PHYSICAL THERAPY EMPLOYED BY THE CORPORATION. THE POLICY SHALL PROVIDE FOR AN AGGREGATE TOP LIMIT OF LIABILITY PER YEAR FOR ALL CLAIMS OF THREE HUNDRED THOUSAND DOLLARS ALSO MULTIPLIED BY THE NUMBER OF PERSONS LICENSED TO PRACTICE PHYSICAL THERAPY EMPLOYED BY THE CORPORATION, BUT NO FIRM SHALL BE REQUIRED TO CARRY INSURANCE IN EXCESS OF THREE HUNDRED THOUSAND DOLLARS FOR EACH CLAIM WITH AN AGGREGATE TOP LIMIT OF LIABILITY FOR ALL CLAIMS DURING THE YEAR OF NINE HUNDRED THOUSAND DOLLARS.

SECTION 13. 12-41-124 (6), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-41-124. Professional service corporations, limited liability companies, and registered limited liability partnerships for the practice of physical therapy - definitions. (6) As used in this section, unless the context otherwise requires:

(d.5) "PRESIDENT" INCLUDES ALL MANAGERS, IF ANY, OF A LIMITED LIABILITY COMPANY AND ALL PARTNERS IN A REGISTERED LIMITED LIABILITY PARTNERSHIP.

SECTION 14. Repeal. 12-41-125 (2) (e), Colorado Revised Statutes, is repealed as follows:

12-41-125. Powers and duties of director - reports - publications. (2) In

addition to any other powers and duties given the director by this article, the director shall have the following powers and duties:

(e) ~~At least once a year, to compile a list of physical therapists currently licensed to practice in this state, such list to be available to any person upon application to the director and the payment of such charge as may be fixed by said director;~~

SECTION 15. 12-41-126, Colorado Revised Statutes, is amended to read:

12-41-126. Advisory committee. The director shall appoint at least one advisory committee of at least seven members to assist in the performance of the director's duties under this article. Five of these members shall be physical therapists and two shall not be physical therapists but shall be persons having specific knowledge in the health care field. Such committee shall meet at least twice a year and at additional times at the discretion of the director. Members of such advisory committee shall receive ~~no~~ compensation for their services ~~but~~ PURSUANT TO SECTION 24-34-102 (13), C.R.S., AND shall be reimbursed for actual and necessary expenses ~~which~~ THAT they may incur in the performance of their duties. Such reimbursement shall be cash funded and shall not exceed the amount anticipated to be raised from fees collected pursuant to this article.

SECTION 16. Repeal. 12-41-129, Colorado Revised Statutes, is repealed as follows:

12-41-129. Physical therapists - registered prior to July 1, 1991. ~~(1) Any physical therapist who was registered by the director prior to July 1, 1991, shall be licensed by the director as of July 1, 1991, and shall thereafter be subject to the requirements of this article. Any such license shall expire according to the provisions of section 12-41-112 and shall thereafter be subject to the provisions of that section.~~

~~(2) Any proceeding under this article which is pending before the director on July 1, 1991, shall remain in full force and effect on and after said date.~~

SECTION 17. 12-41-130 (1) and (2) (a), Colorado Revised Statutes, are amended to read:

12-41-130. Repeal of article. (1) This article is repealed, effective July 1, 2001+ 2011.

(2) (a) The licensing functions of the director of the division of registrations as set forth in this article are terminated July 1, 2001+ 2011.

SECTION 18. 12-36-106 (3) (r), Colorado Revised Statutes, is amended to read:

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

(r) (I) The administration of topical and aerosol medications within the scope of physical therapy practice as provided in section 12-41-113 (2);

(II) THE PERFORMANCE OF WOUND DEBRIDEMENT UNDER A PHYSICIAN'S ORDER WITHIN THE SCOPE OF PHYSICAL THERAPY PRACTICE AS PROVIDED IN SECTION 12-41-113 (3);

SECTION 19. Repeal. 24-34-104 (30) (a) (II), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (30) (a) The following functions of the specified agency shall terminate on July 1, 2001:

~~(II) The licensing of physical therapists by the director of the division of registrations in accordance with article 41 of title 12, C.R.S.;~~

SECTION 20. 24-34-104 (42), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (42) The following agencies, functions, or both, shall terminate on July 1, 2011:

(c) THE LICENSING OF PHYSICAL THERAPISTS BY THE DIRECTOR OF THE DIVISION OF REGISTRATIONS IN ACCORDANCE WITH ARTICLE 41 OF TITLE 12, C.R.S.

SECTION 21. Effective date - applicability. This act shall take effect July 1, 2001, and shall apply to licenses issued or renewed on or after said date.

SECTION 22. 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: June 5, 2001