

CHAPTER 14

**PROFESSIONS AND OCCUPATIONS**

**HOUSE BILL 02-1117**

BY REPRESENTATIVE(S) Rhodes, Boyd, Cloer, Stafford, Tochtrop, Coleman, Jameson, Mace, Plant, and Romanoff;  
also SENATOR(S) Hernandez, Epps, Hanna, Phillips, and Tupa.

**AN ACT**

**CONCERNING THE REGULATION OF ACUPUNCTURISTS BY THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES.**

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

**SECTION 1.** 12-29.5-102 (3.2) (c) and (4), Colorado Revised Statutes, are amended, and the said 12-29.5-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**12-29.5-102. Definitions.** As used in this article, unless the context otherwise requires:

(3.2) "Guest acupuncturist" means an acupuncturist who is:

(c) Under the direct supervision of a Colorado ~~registered~~ LICENSED acupuncturist or licensed chiropractor while performing such instruction or education.

(3.3) "LICENSEE" MEANS AN ACUPUNCTURIST LICENSED PURSUANT TO SECTION 12-29.5-104.

(4) ~~"Registrant" means an acupuncturist registered pursuant to section 12-29.5-104.~~

**SECTION 2.** 12-29.5-103 (1) (d), Colorado Revised Statutes, is amended to read:

**12-29.5-103. Mandatory disclosure of information to patients - retention of records of disclosure.** (1) Every acupuncturist shall provide the following information in writing to each patient during the initial patient contact:

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

(d) A listing of the acupuncturist's education, experience, degrees, membership in a professional organization whose membership includes not less than one-third of the persons ~~registered~~ LICENSED pursuant to this article, certificates or credentials related to acupuncture awarded by such organizations, the length of time required to obtain said degrees or credentials, and experience;

**SECTION 3.** 12-29.5-104 (1), the introductory portion to 12-29.5-104 (3), 12-29.5-104 (3) (a), (4), and (5), and the introductory portion to 12-29.5-104 (6), Colorado Revised Statutes, are amended, and the said 12-29.5-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**12-29.5-104. Requirement for licensure with the division of registrations - annual fee - required disclosures.** (1) Every acupuncturist shall ~~register~~ APPLY FOR LICENSURE with the division of registrations by providing an application to the director in the form ~~he~~ THE DIRECTOR shall require. Said application shall include the information specified in section 12-29.5-103 (1) (a) and (1) (d) to (1) (g), and shall include the disclosure of any act ~~which~~ THAT would be grounds for disciplinary action against a ~~registered~~ LICENSED acupuncturist under this article.

(3) In order to qualify to ~~register~~ FOR LICENSURE, an acupuncturist shall have:

(a) Successfully completed an education program for acupuncturists ~~which~~ THAT conforms to standards approved by the director, which standards may be established by utilizing the assistance of any professional organization whose membership includes not less than one-third of the persons ~~registered~~ LICENSED pursuant to this article; or

(4) Every applicant for ~~registration~~ LICENSURE shall pay an annual ~~registration~~ LICENSE fee to be established by the director in the same manner as is authorized by section 24-34-105, C.R.S. The director shall promulgate rules ~~and regulations~~ for the reinstatement of ~~registrations which~~ LICENSES THAT have lapsed due to nonpayment of such annual fee; except that, if a ~~registrant~~ LICENSEE has not applied for reinstatement within two years after the date of lapse, reinstatement is not available and the ~~registrant~~ LICENSEE must reapply as a new applicant.

(5) Every acupuncturist shall report to the director every judgment or administrative action, as well as the terms of any settlement or other disposition of any such judgment or action, against the acupuncturist involving malpractice or improper practice of acupuncture, whether occurring in Colorado or in any other jurisdiction. The acupuncturist shall make such report either within thirty days ~~of~~ AFTER the judgment or action or upon application for ~~registration~~ LICENSURE or reinstatement, whichever occurs earlier.

(6) As a condition of ~~registration~~ LICENSURE, every acupuncturist shall purchase and maintain commercial professional liability insurance with an insurance company authorized to do business in this state in a minimum indemnity amount of:

(7) THE DIRECTOR SHALL ISSUE A LICENSE TO PRACTICE ACUPUNCTURE TO ANY ACUPUNCTURIST WHO IS REGISTERED TO PRACTICE ACUPUNCTURE IN THIS STATE PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (7).

**SECTION 4.** Article 29.5 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**12-29.5-104.5. Licensure by endorsement.** (1) THE DIRECTOR SHALL ISSUE A LICENSE BY ENDORSEMENT TO ENGAGE IN THE PRACTICE OF ACUPUNCTURE IN THIS STATE TO ANY APPLICANT WHO HAS A LICENSE IN GOOD STANDING AS AN ACUPUNCTURIST UNDER THE LAWS OF ANOTHER JURISDICTION IF THE APPLICANT PRESENTS SATISFACTORY PROOF TO THE DIRECTOR THAT, AT THE TIME OF APPLICATION FOR A LICENSE BY ENDORSEMENT, THE APPLICANT POSSESSES SUBSTANTIALLY EQUIVALENT CREDENTIALS AND QUALIFICATIONS TO THOSE REQUIRED FOR LICENSURE PURSUANT TO THIS ARTICLE.

(2) THE DIRECTOR SHALL SPECIFY BY RULE WHAT SHALL CONSTITUTE "SUBSTANTIALLY EQUIVALENT CREDENTIALS AND QUALIFICATIONS" FOR THE PURPOSES OF THIS SECTION.

(3) THE DIRECTOR SHALL ESTABLISH A FEE TO BE PAID BY ANY APPLICANT FOR LICENSURE BY ENDORSEMENT.

(4) FOR THE PURPOSES OF THIS SECTION, "IN GOOD STANDING" MEANS A LICENSE THAT HAS NOT BEEN REVOKED OR SUSPENDED, OR AGAINST WHICH THERE ARE NO DISCIPLINARY OR ADVERSE ACTIONS.

**SECTION 5.** 12-29.5-105 (1.5) and (2), Colorado Revised Statutes, are amended to read:

**12-29.5-105. Unlawful acts - exceptions.** (1.5) (a) It is unlawful for any person to practice acupuncture without a valid and current ~~registration~~ LICENSE on file with the division of registrations, unless the acupuncturist is practicing pursuant to section 12-36-106 (3) (1) or has met the requirements of subsection (2) of this section.

(b) It is unlawful for any person to:

(I) Engage in the practice of acupuncture without being ~~registered~~ LICENSED; or

(II) Use the title "LICENSED ACUPUNCTURIST", "registered acupuncturist", or "diplomate of acupuncture", or use the designation "L.AC.", "R.Ac.", or "Dipl. Ac.", unless such person is practicing pursuant to section 12-36-106 (3).

(2) Notwithstanding the provisions of this section to the contrary, a person in training may practice acupuncture without a valid and current ~~registration~~ LICENSE on file with the division if such practice takes place in the course of a bona fide training program and:

(a) All acupuncture acts and services performed by such persons are performed under the direct, on-site supervision of a ~~registered~~ LICENSED acupuncturist, who shall be responsible for all such acts and services as though the ~~registered~~ LICENSED acupuncturist had personally performed them; and

(b) The names and current residence addresses of all of such persons have been reported to the director by or on behalf of the ~~registered~~ LICENSED acupuncturist

supervising such persons.

**SECTION 6.** The introductory portion to 12-29.5-106 (1), Colorado Revised Statutes, is amended to read:

**12-29.5-106. Grounds for disciplinary action.** (1) The director may deny ~~registration~~ LICENSURE to or take disciplinary action against an acupuncturist pursuant to section 24-4-105, C.R.S., if ~~he~~ THE DIRECTOR finds that the acupuncturist has committed any of the following acts:

**SECTION 7.** 12-29.5-107 (1), (2) (a), (2) (b), and (3), Colorado Revised Statutes, are amended to read:

**12-29.5-107. Disciplinary authority and proceedings.** (1) A proceeding for discipline of a ~~registrant~~ LICENSEE may be commenced by the director when ~~he~~ THE DIRECTOR has reasonable grounds to believe that a ~~registrant~~ LICENSEE has committed any act prohibited by section 12-29.5-106 (1).

(2) Disciplinary actions may consist of the following:

(a) Revocation or suspension of ~~registration~~ LICENSURE;

(b) Placement of the ~~registrant~~ LICENSEE on probation and setting the terms of that probation; and

(3) Complaints of record on file with the director and the results of investigations shall be closed to public inspection during the investigatory period and until dismissed or until notice of hearing and charges are served on a ~~registrant~~ LICENSEE. The director's records and papers shall be subject to the provisions of sections 24-72-203 and 24-72-204, C.R.S.

**SECTION 8.** 12-29.5-110 (1) (b), (1) (c), (1) (f), and (1) (k), Colorado Revised Statutes, are amended to read:

**12-29.5-110. Director - powers and duties.** (1) In addition to any other powers and duties conferred by this article, the director shall have the following powers and duties:

(b) To establish the fees for ~~registration~~ LICENSURE and renewal of ~~registration~~ LICENSES in the same manner as is authorized by section 24-34-105, C.R.S.;

(c) To accept or deny applications for ~~registration~~ LICENSURE and to collect the annual ~~registration~~ LICENSE fees authorized by this article;

(f) To make investigations, hold hearings, and take evidence with respect to any complaint against any ~~registrant~~ LICENSEE when the director has reasonable cause to believe that the ~~registrant~~ LICENSEE is violating any of the provisions of this article and to subpoena witnesses, administer oaths, and compel the testimony of witnesses and the production of books, papers, and records relevant to those investigations or hearings. Any subpoena issued pursuant to this article shall be enforceable by the district court.

(k) To report to the United States department of health and human services, pursuant to applicable federal law and regulations, any adverse action taken against the ~~registration~~ LICENSE of any acupuncturist.

**SECTION 9.** 12-29.5-114, Colorado Revised Statutes, is amended to read:

**12-29.5-114. Division of registrations cash fund.** It is the intention of the general assembly that all direct and indirect costs incurred in the implementation of this article be funded by annual registration AND LICENSE fees. All fees collected by the director shall be transmitted to the state treasurer, who shall credit the same to the division of registrations cash fund, created by section 24-34-105, C.R.S.

**SECTION 10.** 12-29.5-116, Colorado Revised Statutes, is amended to read:

**12-29.5-116. Repeal of article - termination of functions.** (1) This article is repealed, effective July 1, ~~2002~~ 2013.

(2) The ~~registration~~ LICENSING functions of the director of the division of registrations as set forth in this article are terminated on July 1, ~~2002~~ 2013. Prior to such termination, the ~~registration~~ LICENSING functions shall be reviewed as provided for in section 24-34-104, C.R.S.

**SECTION 11. Repeal.** 24-34-104 (31) (b) (II), Colorado Revised Statutes, is repealed as follows:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (31) (b) The following agencies, functions, or both, shall terminate on July 1, 2002:

(II) ~~The registration of persons who practice acupuncture with the director of the division of registrations in accordance with article 29.5 of title 12, C.R.S.;~~

**SECTION 12.** 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.** (44) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE ON JULY 1, 2013: THE LICENSING OF PERSONS WHO PRACTICE ACUPUNCTURE WITH THE DIRECTOR OF THE DIVISION OF REGISTRATIONS IN ACCORDANCE WITH ARTICLE 29.5 OF TITLE 12, C.R.S.

**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: March 13, 2002