

CHAPTER 254

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 02-1447

BY REPRESENTATIVE(S) Alexander, Borodkin, Boyd, Coleman, Groff, Hefley, Mace, Madden, Marshall, Romanoff, Sanchez, Stafford, Tapia, Tochtrop, and Williams S.;
also SENATOR(S) Isgar, Hanna, Phillips, Taylor, and Tupa.

AN ACT

CONCERNING THE DIRECT CARE PROVIDER CAREER PATH PILOT PROGRAM, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Article 38.1 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 2
DIRECT CARE PROVIDER CAREER PATH PILOT PROGRAM

12-38.1-201. Short title. THIS PART 2 SHALL BE KNOWN AND MAY BE CITED AS THE "DIRECT CARE PROVIDER CAREER PATH PILOT PROGRAM".

12-38.1-202. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

(a) THE POPULATION OF COLORADO, AS WELL AS THE NATION, IS AGING AT AN UNPRECEDENTED RATE;

(b) THE UNITED STATES BUREAU OF CENSUS ESTIMATES THE PROPORTION OF CITIZENS OVER SIXTY-FIVE YEARS OF AGE WILL DOUBLE FROM TEN PERCENT IN 1995 TO APPROXIMATELY TWENTY PERCENT IN 2025;

(c) MEANWHILE, NURSING AND ENTRY-LEVEL HEALTH CARE STAFFING SHORTAGES FOR LONG-TERM CARE PROVIDERS, HOSPITALS, AND OTHER HEALTH CARE PROVIDERS ARE ALREADY REACHING A CRITICAL POINT IN COLORADO;

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) COLORADO HAS AN UNEMPLOYMENT RATE OF LESS THAN FIVE AND SEVEN-TENTHS PERCENT AND A COMPETITIVE LABOR MARKET IN A GENERALLY STRONG ECONOMY;

(e) AS A RESULT OF THESE AND OTHER FACTORS, THE RECRUITMENT AND RETENTION OF TRAINED AND CAPABLE DIRECT CARE WORKERS AMONG HEALTH CARE PROVIDERS IS AT A CRISIS STATE IN COLORADO;

(f) THE GOVERNOR APPOINTED A BLUE RIBBON PANEL TO STUDY THE WORKFORCE ISSUES RELATED TO LONG-TERM CARE, WHICH PANEL SUBMITTED AN EXTENSIVE AND THOROUGH REPORT, DATED JUNE 25, 2001, IDENTIFYING THESE ISSUES AND MAKING RECOMMENDATIONS TO ADDRESS THE STATE'S LONG-TERM CARE STAFFING SHORTAGE; AND

(g) AMONG THE RECOMMENDATIONS OF THE GOVERNOR'S BLUE RIBBON PANEL ON WORKFORCE ISSUES IN HEALTH CARE WAS THE DEVELOPMENT OF A DEMONSTRATION PROPOSAL FOR A TIERED CERTIFIED NURSING ASSISTANT POSITION.

(2) THE GENERAL ASSEMBLY THEREFORE DETERMINES AND DECLARES THAT, IN ORDER TO APPROPRIATELY MEET THE LONG-TERM AND OTHER DIRECT CARE NEEDS OF A GROWING POPULATION OF VULNERABLE COLORADANS NOW AND IN THE FUTURE, TO ASSIST HEALTH CARE PROVIDERS IN ATTRACTING INDIVIDUALS TO CAREERS IN DIRECT CARE, AND TO INCREASE EMPLOYMENT SATISFACTION AND RETENTION AMONG INDIVIDUALS WORKING IN THE DIRECT CARE FIELD, IT IS APPROPRIATE AND ADVISABLE TO:

(a) DEVELOP AND ADOPT A TIERED PARAPROFESSIONAL DIRECT CARE PROVIDER CAREER PATH TAILORED TO ENCOURAGE INDIVIDUALS ENTERING THE LABOR MARKET INTO THIS IMPORTANT AND SATISFYING CAREER AND TO BETTER REWARD SUCH INDIVIDUALS AS THEIR SKILL LEVELS INCREASE;

(b) ENHANCE EDUCATION AND TRAINING OPPORTUNITIES IN THE DIRECT CARE FIELD AND TO INCREASE ACCESSIBILITY TO SUCH EDUCATION AND TRAINING IN BOTH URBAN AND RURAL SETTINGS, AS WELL AS IMPROVE OUTREACH TO INDIVIDUALS WITH LANGUAGE AND OTHER BARRIERS TO SUCH EDUCATION AND TRAINING; AND

(c) ESTABLISH A COLLABORATIVE ENVIRONMENT AMONG INSTITUTIONS OF HIGHER EDUCATION, VOCATIONAL EDUCATION INSTITUTIONS, EDUCATORS, INDIVIDUALS SEEKING ENTRY-LEVEL EMPLOYMENT, COLORADO WORKS PARTICIPANTS, COUNTY DEPARTMENTS OF SOCIAL SERVICES, COLORADO WORK FORCE INVESTMENT PROGRAMS, JOB-TRAINING PROFESSIONALS, AND POTENTIAL HEALTH CARE EMPLOYERS TO IMPROVE COMMUNICATION AMONG SUCH STAKEHOLDERS, AND ULTIMATELY TO PLACE MORE INDIVIDUALS IN AND STABILIZE THE FIELD OF DIRECT CARE THROUGH THE SUCCESSFUL DEVELOPMENT AND IMPLEMENTATION OF A TIERED LONG-TERM HEALTH CARE PARAPROFESSIONAL CAREER PATH.

12-38.1-203. Pilot program - authorization. (1) THERE IS HEREBY CREATED THE DIRECT CARE PROVIDER CAREER PATH PILOT PROGRAM, REFERRED TO IN THIS PART 2 AS THE "PILOT PROGRAM", THE PURPOSE OF WHICH SHALL BE TO BRING TOGETHER, IN A COLLABORATIVE ENVIRONMENT, INSTITUTIONS OF HIGHER EDUCATION AND OTHER APPROPRIATE EDUCATORS, INDIVIDUALS SEEKING ENTRY-LEVEL

EMPLOYMENT INCLUDING BUT NOT LIMITED TO COLORADO WORKS PARTICIPANTS, COUNTY DEPARTMENTS OF SOCIAL SERVICES, COLORADO WORK FORCE INVESTMENT PROGRAMS, JOB-TRAINING PROFESSIONALS, AND POTENTIAL EMPLOYERS IN THE SUB-ACUTE AND LONG-TERM HEALTH CARE PROVIDER INDUSTRY TOWARD THE ACHIEVEMENT OF THE COMMON GOAL OF IMPROVED RECRUITMENT AND RETENTION OF WORKERS IN THE DIRECT HEALTH CARE PROFESSION. THE PILOT PROGRAM SHALL CONTINUE FOR A PERIOD OF THREE YEARS AND SHALL BE IMPLEMENTED IN SOUTHWEST COLORADO.

(2) IT SHALL BE THE RESPONSIBILITY OF THE STATE BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION ESTABLISHED PURSUANT TO SECTION 23-60-104, C.R.S., UNDER THE PILOT PROGRAM TO COORDINATE COMMUNICATION AND COLLABORATION AMONG INTERESTED STAKEHOLDERS IN THE PILOT PROGRAM, INCLUDING BUT NOT LIMITED TO THE COMMUNITY COLLEGES IN SOUTHWEST COLORADO, THE VOCATIONAL EDUCATION INSTITUTIONS IN SOUTHWEST COLORADO, LOCAL WORK FORCE INVESTMENT BOARDS IN SOUTHWEST COLORADO, ESTABLISHED PURSUANT TO PART 2 OF ARTICLE 71 OF TITLE 8, C.R.S., COUNTY DEPARTMENTS OF SOCIAL SERVICES' COLORADO WORKS PROGRAMS, INDIVIDUALS SEEKING ENTRY-LEVEL EMPLOYMENT, COLORADO WORKS PARTICIPANTS, AND POTENTIAL EMPLOYERS IN THE HEALTH CARE INDUSTRY TO ACHIEVE THE COMMON GOAL OF IMPROVED RECRUITMENT AND RETENTION OF PARAPROFESSIONALS WORKING IN THE LONG-TERM CARE FIELD.

(3) THE BOARD SHALL ESTABLISH AND SEEK INPUT FROM A DIRECT CARE ADVISORY COMMITTEE, WHICH SHALL INCLUDE INTERESTED STAKEHOLDER REPRESENTATIVES FROM SOUTHWEST COLORADO, CONCERNING THE DEVELOPMENT AND IMPLEMENTATION OF THE DIRECT CARE PROVIDER CAREER PATH PILOT PROGRAM.

(4) (a) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL SEEK THE NECESSARY WAIVERS, IF ANY, TO ALLOW THE BOARD TO IMPLEMENT THE PILOT PROGRAM.

(b) THE IMPLEMENTATION OF THIS PART 2 IS CONDITIONED UPON THE APPROVAL OF NECESSARY WAIVERS BY THE FEDERAL GOVERNMENT. THIS PART 2 SHALL BE IMPLEMENTED ON JANUARY 1 OF THE YEAR FOLLOWING THE RECEIPT OF ALL REQUIRED FEDERAL WAIVERS.

12-38.1-204. Rule-making - training - education. (1) CONDITIONED UPON THE NECESSARY FEDERAL WAIVERS BEING APPROVED, THE BOARD SHALL PROMULGATE RULES TO IMPLEMENT THE DIRECT CARE PROVIDER CAREER PATH PILOT PROGRAM, CONSISTENT WITH WAIVERS RECEIVED FROM THE FEDERAL GOVERNMENT, WHICH RULES SHALL PROVIDE FOR A THREE-TIERED CERTIFICATION FOR INDIVIDUALS PERFORMING THE TASKS OF A NURSE AIDE PARAPROFESSIONAL, WHICH SHALL BE DEFINED BY THE TASKS TO BE PERFORMED BY THE INDIVIDUAL AND THE TRAINING OR EDUCATION OF THE INDIVIDUAL. PRIOR TO PROMULGATING RULES IMPLEMENTING THE PILOT PROGRAM, THE BOARD SHALL FIRST CONSULT WITH THE PARTIES IDENTIFIED IN SECTION 12-38.1-203 (2) AND (3). THE THREE TIERS OF PARAPROFESSIONAL CERTIFICATION SHALL BE FOR:

(a) A CERTIFIED PERSONAL CARE PROVIDER, WHO POSSESSES SOME OF THE TRAINING AND PERFORMS A LIMITED NUMBER OF THE TASKS OF A NURSE AIDE

CERTIFIED PURSUANT TO PART 1 OF THIS ARTICLE, AS DETERMINED BY THE BOARD;

(b) A CERTIFIED NURSE AIDE - LEVEL I, WHO IS FULLY TRAINED AND IN COMPLIANCE WITH THE PROVISIONS OF PART 1 OF THIS ARTICLE AND ALL APPLICABLE REGULATIONS; AND

(c) A CERTIFIED NURSE AIDE WITH A SPECIALTY OR ADVANCED TRAINING - LEVEL II, WHO IS FULLY TRAINED AND IN COMPLIANCE WITH THE PROVISIONS OF PART 1 OF THIS ARTICLE AND ALL APPLICABLE REGULATIONS AND, IN ADDITION, MEETS MENTOR OR PRECEPTOR STANDARDS OR ANY OTHER SPECIALTY OR ADVANCED TRAINING REQUIREMENTS SPECIFIED BY THE BOARD.

(2) THE BOARD SHALL CONDUCT THE DIRECT CARE PROVIDER CAREER PATH PILOT PROGRAM IN SOUTHWEST COLORADO. THE BOARD IS AUTHORIZED TO DETERMINE, BY RULE, THE GEOGRAPHIC PARAMETERS OF THE PILOT PROGRAM WITHIN SOUTHWEST COLORADO.

(3) THE RULES PROMULGATED BY THE BOARD TO IMPLEMENT THE PILOT PROGRAM SHALL SPECIFY THE PILOT PROGRAM'S REQUIREMENTS AND RESTRICTIONS, WHICH SHALL INCLUDE BUT SHALL NOT BE LIMITED TO:

(a) DEFINING THE TASKS TO BE PERFORMED BY EACH PARAPROFESSIONAL CERTIFICATION LEVEL;

(b) DEFINING THE TRAINING AND EDUCATIONAL REQUIREMENTS FOR EACH PARAPROFESSIONAL CERTIFICATION LEVEL;

(c) PROVIDING FOR APPROPRIATE OVERSIGHT OF AND ACCOUNTABILITY FROM INDIVIDUALS PERFORMING NURSING ASSISTANT TASKS UNDER THE PILOT PROGRAM;

(d) REQUIRING A CRIMINAL HISTORY BACKGROUND CHECK TO BE CONDUCTED AND SUBMITTED WITH THE INDIVIDUAL'S APPLICATION FOR CERTIFICATION;

(e) RESTRICTING RECERTIFICATION, CONSISTENT WITH THE PROVISIONS OF PART 1 OF THIS ARTICLE, OF AN INDIVIDUAL WHOSE CERTIFICATION HAS BEEN REVOKED OR SURRENDERED;

(f) PROVIDING FOR A TIERED APPLICATION FEE STRUCTURE FOR PILOT PROGRAM APPLICANTS THAT IS CONSISTENT WITH THE PARAPROFESSIONAL CERTIFICATION TIERS;

(g) PROVIDING FOR A DISCIPLINARY STRUCTURE FOR PILOT PROGRAM PARTICIPANTS THAT IS CONSISTENT WITH THE DISCIPLINARY PROVISIONS OF PART 1 OF THIS ARTICLE; AND

(h) ANY OTHER REQUIREMENT OR RESTRICTION, CONSISTENT WITH THE PROVISIONS OF PART 1 OF THIS ARTICLE, THAT IS NECESSARY TO IMPLEMENT THE PILOT PROGRAM.

(4) THE BOARD SHALL APPROVE EDUCATION PROGRAMS IN SOUTHWEST COLORADO FOR THE EDUCATION AND TRAINING OF INDIVIDUALS PARTICIPATING IN THE PILOT PROGRAM. THE BOARD SHALL COORDINATE THESE EDUCATION AND TRAINING EFFORTS WITH THE STATE BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL

EDUCATION ESTABLISHED PURSUANT TO SECTION 23-60-104, C.R.S., AND THE LOCAL WORK FORCE INVESTMENT BOARDS ESTABLISHED PURSUANT TO PART 2 OF ARTICLE 71 OF TITLE 8, C.R.S.

12-38.1-205. Applicability. NOTHING IN THIS PART 2 SHALL BE CONSTRUED TO CHANGE OR AFFECT THE REGULATION OR CERTIFICATION OF NURSE AIDES AS PROVIDED IN PART 1 OF THIS ARTICLE.

12-38.1-206. Report. (1) THE BOARD AND THE DIRECT CARE ADVISORY COMMITTEE, ESTABLISHED PURSUANT TO SECTION 12-38.1-203 (3), SHALL REPORT TO THE MEMBERS OF THE HEALTH, ENVIRONMENT, CHILDREN AND FAMILIES COMMITTEE OF THE SENATE AND TO THE MEMBERS OF THE HEALTH, ENVIRONMENT, WELFARE, AND INSTITUTIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES OF THE GENERAL ASSEMBLY, AS WELL AS TO THE GOVERNOR, WITHIN TWO MONTHS OF THE COMPLETION OF THE PILOT PROGRAM, CONCERNING THE EFFECTIVENESS OF THE PILOT PROGRAM IN RECRUITING NEW ENTRY-LEVEL WORKERS INTO THE LONG-TERM CARE PROFESSION AND IN RETAINING CURRENT AND NEW LONG-TERM CARE WORKERS THROUGH ENHANCED EMPLOYMENT SATISFACTION. THE REPORT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

(a) THE NUMBER OF PERSONS PARTICIPATING IN THE PILOT PROGRAM;

(b) THE NUMBER OF ENTRY-LEVEL WORKERS ENTERING THE DIRECT CARE PROFESSION DURING THE COURSE OF THE PILOT PROGRAM AND WHETHER SUCH PERSONS ARE OR WERE COLORADO WORKS PARTICIPANTS OR WORK FORCE INVESTMENT PROGRAM PARTICIPANTS, OR WHETHER THEY LEARNED ABOUT THE PILOT PROGRAM THROUGH AN INSTITUTION OF HIGHER EDUCATION;

(c) CHANGES THAT WERE INSTITUTED IN THE EDUCATION AND TRAINING OF NURSE AIDE PARAPROFESSIONALS; AND

(d) ANY OTHER ADDITIONAL INFORMATION THAT THE BOARD AND THE DIRECT CARE ADVISORY COMMITTEE DEEM APPROPRIATE AND INFORMATIVE.

12-38.1-207. Funding. FUNDING FOR CERTIFICATION UNDER THIS PILOT PROGRAM SHALL BE PROVIDED BY FEDERAL MEDICAID AND MEDICARE PROGRAMS IN THE SAME MANNER AS ESTABLISHED IN SECTION 12-38.1-103 (6).

12-38.1-208. Repeal of part. THIS PART 2 IS REPEALED, EFFECTIVE JULY 1, 2008, UNLESS OTHERWISE REPEALED PURSUANT TO SECTION 12-38.1-120.

SECTION 2. 12-38.1-102 (1), Colorado Revised Statutes, is amended to read:

12-38.1-102. Definitions - repeal. As used in this article, unless the context otherwise requires:

(1) "Approved education program" means:

(a) A course of training conducted by an educational or health care institution which implements the basic nurse aide curriculum prescribed and approved by the board; OR

(b) (I) A COURSE OF TRAINING CONDUCTED BY AN EDUCATIONAL OR HEALTH CARE INSTITUTION THAT IS APPROVED BY THE BOARD FOR THE PURPOSES OF THE DIRECT CARE PROVIDER CAREER PATH PILOT PROGRAM ESTABLISHED IN PART 2 OF THIS ARTICLE.

(II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2008.

SECTION 3. 12-38.1-104 (3), Colorado Revised Statutes, is amended to read:

12-38.1-104. Application for certification - fee. (3) (a) Every applicant seeking certification pursuant to this section shall submit a criminal HISTORY 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 HISTORY background checks must be able to include information on convictions.

SECTION 4. 12-38.1-105 (1) (c), Colorado Revised Statutes, 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:

(c) Has had a criminal HISTORY background check conducted within the ninety-day period prior to submittal.

SECTION 5. 12-38.1-106 (1) (e), Colorado Revised Statutes, is amended 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 HISTORY background check conducted within the ninety-day period prior to submittal.

SECTION 6. Article 60 of title 23, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

23-60-108. Board responsibilities - direct care provider career path pilot program - repeal. (1) THE STATE BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION, IN COORDINATION WITH THE DIRECT CARE PROVIDER CAREER PATH PILOT PROGRAM ESTABLISHED IN PART 2 OF ARTICLE 38.1 OF TITLE 12, C.R.S., SHALL COORDINATE COMMUNICATION AND COLLABORATION AMONG INTERESTED STAKEHOLDERS IN THE PILOT PROGRAM, INCLUDING BUT NOT LIMITED TO THE COMMUNITY COLLEGES, VOCATIONAL EDUCATION INSTITUTIONS, LOCAL WORK FORCE INVESTMENT BOARDS, COUNTY DEPARTMENTS OF SOCIAL SERVICES' COLORADO WORKS PROGRAMS, INDIVIDUALS SEEKING ENTRY-LEVEL EMPLOYMENT, COLORADO WORKS PARTICIPANTS, AND POTENTIAL EMPLOYERS IN THE HEALTH CARE INDUSTRY TO ACHIEVE THE COMMON GOAL OF IMPROVED RECRUITMENT AND RETENTION OF PARAPROFESSIONALS WORKING IN THE DIRECT CARE FIELD.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2008.

SECTION 7. Appropriation. In addition to any other appropriation, there is hereby appropriated, to the department of regulatory agencies, division of registrations, for the fiscal year beginning July 1, 2002, the sum of one thousand six hundred sixty-seven dollars (\$1,667), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from application fees.

SECTION 8. Effective date. This act shall take effect July 1, 2002.

SECTION 9. 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 1, 2002