

CHAPTER 256

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 04-1251

BY REPRESENTATIVE(S) Frangas, Boyd, Cloer, Coleman, Johnson R., Tochtrop, Weissmann, Carroll, McGihon, Merrifield, Romano ff, Salazar, Stafford, Vigil, and Williams S.;
also SENATOR(S) Kester.

AN ACT

CONCERNING CONTINUATION OF THE REGULATION OF MENTAL HEALTH PROFESSIONALS BY THE DEPARTMENT OF REGULATORY AGENCIES, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 12-43-203 (2) (a), Colorado Revised Statutes, is amended to read:

12-43-203. Boards - meetings - duties - powers - removal of members.

(2) (a) (I) Each board shall annually hold a meeting and elect from its membership a chairperson and vice-chairperson. Each board shall meet at such times as it deems necessary or advisable or as deemed necessary and advisable by the chairperson, a majority of its members, or the governor. ~~In order to promote the sharing of information, problems, ideas, research, and potential solutions or policy directions with regard to regulating the practice of psychology, social work, marriage and family therapy, counseling, and psychotherapy in Colorado, the chairpersons of the boards shall coordinate periodic meetings of the boards in joint session for the discussion of policies related to the regulation of the practice of psychotherapy. Such joint meetings shall be held in conjunction with regular meetings of the boards.~~ EACH BOARD MAY CONDUCT MEETINGS BY ELECTRONIC MEANS. Reasonable notice of all meetings shall be given in the manner prescribed by each board. A majority of each board shall constitute a quorum at any meeting or hearing.

(II) ALL MEETINGS SHALL BE OPEN TO THE PUBLIC, EXCEPT WHEN A BOARD, OR AN ADMINISTRATIVE LAW JUDGE ACTING ON BEHALF OF A BOARD, SPECIFICALLY DETERMINES THAT THE HARM TO A COMPLAINANT OR OTHER RECIPIENT OF SERVICES TO KEEP SUCH PROCEEDINGS OR DOCUMENTS RELATING THERETO OPEN TO THE PUBLIC OUTWEIGHS THE PUBLIC INTEREST IN OBSERVING THE PROCEEDINGS; OR WHEN THE

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

LICENSEE, REGISTRANT, OR UNLICENSED PSYCHOTHERAPIST IS PARTICIPATING IN GOOD FAITH IN A PROGRAM APPROVED BY THE BOARD DESIGNED TO END SUCH ADDICTION OR DEPENDENCY AND THE LICENSEE, REGISTRANT, OR UNLICENSED PSYCHOTHERAPIST HAS NOT VIOLATED ANY PROVISIONS OF THE BOARD'S ORDER REGARDING SUCH PERSON'S PARTICIPATION IN SUCH TREATMENT PROGRAM. IF THE BOARD DETERMINES THAT IT IS IN THE BEST INTEREST OF A COMPLAINANT OR OTHER RECIPIENT OF SERVICES TO KEEP SUCH PROCEEDINGS OR DOCUMENTS RELATING THERETO CLOSED TO THE PUBLIC, THE FINAL ACTION OF THE BOARD SHALL BE OPEN TO THE PUBLIC WITHOUT DISCLOSING THE NAME OF THE CLIENT OR OTHER RECIPIENT. IN ALL OPEN MEETINGS, THE BOARD SHALL TAKE REASONABLE STEPS NOT TO DISCLOSE THE NAMES OF THE RECIPIENTS OF SERVICES.

SECTION 2. 12-43-204 (3.5), Colorado Revised Statutes, is amended to read:

12-43-204. Fees - renewal. (3.5) The director of the division of registrations shall coordinate fee setting pursuant to this section so that all licensees, registrants, and unlicensed psychotherapists pay fees as required by this section and section 12-43-702.5 (1). ~~The fees for renewal of licenses or registrations for psychologists, social workers, marriage and family therapists, and professional counselors and for listing in the data base for unlicensed psychotherapists pursuant to this section shall be uniform.~~

SECTION 3. 12-43-214 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-43-214. Mandatory disclosure of information to clients. (4) The disclosure of information required by subsection (1) of this section is not required when psychotherapy is being administered in any of the following circumstances:

(g) BY A PERSON LICENSED OR CERTIFIED PURSUANT TO THIS ARTICLE, OR BY AN UNLICENSED PSYCHOTHERAPIST PRACTICING IN A HOSPITAL THAT IS LICENSED OR CERTIFIED UNDER SECTION 25-1.5-103 (1) (a) (I) OR (1) (a) (II), C.R.S.

SECTION 4. 12-43-215 (1) and (7), Colorado Revised Statutes, are amended, and the said 12-43-215 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-43-215. Scope of article - exemptions. (1) Any person engaged in the practice of religious ministry shall not be required to comply with the provisions of this article; except that such person shall not hold himself or herself out to the public by any title incorporating the terms "psychologist", "social worker", "~~registered social worker~~", "~~RSW~~", "licensed social worker", "LSW", "~~licensed independent social worker~~", "~~LISW~~", "licensed clinical social worker", "clinical social worker", "LCSW", "licensed marriage and family therapist", "LMFT", "licensed professional counselor", or "LPC" unless that person has been licensed pursuant to this article.

(7) The provisions of this article shall not apply to MENTAL HEALTH PROFESSIONALS ACTING WITHIN THE SCOPE OF A COURT APPOINTMENT TO UNDERTAKE custodial evaluations ~~undertaken~~ in domestic relations cases in the courts of this state or TO MENTAL HEALTH PROFESSIONALS ACTING WITHIN THE SCOPE OF A COURT APPOINTMENT TO UNDERTAKE domestic and child abuse evaluations ~~undertaken~~ for

purposes of legal proceedings in the courts of this state.

(10) THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO A PROFESSIONAL COACH WHO HAS HAD COACH-SPECIFIC TRAINING AND WHO SERVES CLIENTS EXCLUSIVELY AS A COACH.

SECTION 5. 12-43-222 (1) (e) and (1) (r), Colorado Revised Statutes, are amended to read:

12-43-222. Prohibited activities - related provisions. (1) A person licensed, registered, or regulated under part 3, 4, 5, 6, or 7 of this article is in violation of this article if such person:

(e) ~~Is addicted to or dependent on alcohol or~~ IS HABITUALLY INTEMPERATE OR EXCESSIVELY USES any habit-forming drug, as defined in section 12-22-102 (13), or is a habitual user of any controlled substance, as defined in section 12-22-303 (7), or any alcoholic beverage, ANY OF WHICH RENDERS HIM OR HER UNFIT TO PRACTICE PURSUANT TO PARTS 3, 4, 5, 6, OR 7 OF THIS ARTICLE;

(r) Has engaged in sexual contact, sexual intrusion, or sexual penetration, as defined in section 18-3-401, C.R.S., with a client during the period of time in which a therapeutic relationship exists or for up to ~~six months~~ TWO YEARS after the period in which such a relationship exists;

SECTION 6. 12-43-229, Colorado Revised Statutes, is amended to read:

12-43-229. Repeal of article. This article is repealed, effective July 1, ~~2004~~ 2011. Prior to such repeal, all of the boards relating to the licensing of and grievances against any person licensed, registered, or regulated pursuant to the provisions of this article shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 7. 12-43-302 (4) and (6), Colorado Revised Statutes, are amended to read:

12-43-302. State board of psychologist examiners. (4) Each board member shall hold office until the expiration of such member's appointed term or until a successor is duly appointed. ~~except as provided in this subsection (4). On or before July 1, 1998, the governor shall remove two of the five licensed psychologists serving on the board that existed on June 30, 1998, in compliance with subsection (2) of this section, and the remaining three shall hold office until the expiration of the member's appointed term or until a successor is duly appointed. On or before July 1, 1998, the governor shall appoint two additional public members to the board. The initial term of one of the additional two public members to be appointed to the board shall be three years and the other public member shall be appointed for a term of four years. Thereafter,~~ The term of each member shall be four years. Any vacancy occurring in board membership other than by expiration of A term shall be filled by the governor by appointment for the unexpired term of such member.

(6) Each board member shall receive a ~~board~~ certificate of appointment from the governor. ~~and, before entering on the discharge of his or her duties and within thirty~~

~~days after the effective date of appointment, the board member shall subscribe to an oath for the faithful performance of his or her official duties before any officer authorized to administer oaths in this state and shall file the same with the secretary of state.~~

SECTION 8. 12-43-304 (1) (e), Colorado Revised Statutes, is amended to read:

12-43-304. Qualifications - examinations - licensure. (1) The board shall issue a license as a psychologist, and issue an appropriate license certificate, to each applicant who files an application upon a form and in such manner as the board prescribes, accompanied by such fee as is required by the board, and who furnishes evidence satisfactory to the board that he or she:

(e) Has demonstrated professional competence by passing ~~an~~ A SINGLE, WRITTEN examination in psychology AS prescribed by the board AND A WRITTEN, MAIL-IN JURISPRUDENCE EXAMINATION ADMINISTERED BY THE DEPARTMENT OF REGULATORY AGENCIES.

SECTION 9. 12-43-304, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-43-304. Qualifications - examinations - licensure. (7) THE BOARD SHALL REGISTER AS A PSYCHOLOGIST CANDIDATE A PERSON WHO FILES AN APPLICATION THEREFOR, ACCOMPANIED BY SUCH FEE AS IS REQUIRED BY SECTION 12-43-204, WHO SUBMITS EVIDENCE SATISFACTORY TO THE BOARD THAT HE OR SHE HAS MET THE REQUIREMENTS OF PARAGRAPHS (a), (b), AND (c) OF SUBSECTION (1) OF THIS SECTION, AND WHO HAS NOT BEEN PREVIOUSLY REGISTERED AS A PSYCHOLOGIST CANDIDATE BY THE BOARD. SUCH CANDIDATE IS NOT REQUIRED TO REGISTER WITH THE DATABASE OF UNLICENSED PSYCHOTHERAPISTS, AND SHALL BE UNDER THE JURISDICTION OF THE STATE BOARD OF PSYCHOLOGIST EXAMINERS. A PERSON SHALL COMPLETE THE REQUIREMENTS OF PARAGRAPHS (d) AND (e) OF SUBSECTION (1) OF THIS SECTION WITHIN FOUR YEARS AFTER INITIAL REGISTRATION WITH THE PSYCHOLOGY BOARD. IF SUCH REQUIREMENTS ARE NOT MET WITHIN FOUR YEARS, THE REGISTRATION OF THE PSYCHOLOGIST CANDIDATE SHALL EXPIRE. A PERSON WHOSE PSYCHOLOGIST CANDIDATE REGISTRATION HAS EXPIRED SHALL NOT BE PRECLUDED FROM APPLYING FOR LICENSURE OR REGISTRATION WITH ANY OTHER MENTAL HEALTH BOARD FOR WHICH THE PERSON IS QUALIFIED.

SECTION 10. 12-43-401 (8), (9), and (10), Colorado Revised Statutes, are amended, and the said 12-43-401 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

12-43-401. Definitions. As used in this part 4, unless the context otherwise requires:

(5.5) "INDEPENDENT PRACTICE" MEANS PRACTICING INDEPENDENT OF SUPERVISION.

(8) "Licensed social worker" ~~or "licensed independent social worker"~~ means a person licensed under the provisions of this part 4.

(9) "Licensee" means a licensed social worker ~~licensed independent social worker,~~ or licensed clinical social worker.

(10) ~~"Registered social worker" means a person registered under the provisions of this part 4.~~

(11) "SOCIAL WORKER" MEANS A PERSON WHO POSSESSES AN EARNED MASTER'S OR BACHELOR'S DEGREE IN SOCIAL WORK FROM A SOCIAL WORK EDUCATION PROGRAM ACCREDITED BY THE COUNCIL ON SOCIAL WORK EDUCATION, OR A DOCTORAL DEGREE IN SOCIAL WORK FROM A DOCTORAL PROGRAM WITHIN A SOCIAL WORK EDUCATION PROGRAM ACCREDITED BY THE COUNCIL ON SOCIAL WORK EDUCATION, AND WHO IS PRACTICING WITHIN THE SCOPE OF SECTION 12-43-403.

SECTION 11. 12-43-402 (2) (a), (3), and (6), Colorado Revised Statutes, are amended to read:

12-43-402. State board of social work examiners. (2) (a) ~~During the period ending July 1, 1999,~~ Three board members shall be licensed clinical social workers engaged primarily in direct practice. ~~Thereafter, one board member shall be a licensed independent social worker and two board members shall be licensed clinical social workers engaged primarily in direct practice.~~

(3) Each board member shall hold office until the expiration of such member's appointed term or until a successor is duly appointed. ~~except as provided in this subsection (3). On or before July 1, 1998, the governor shall remove two of the five licensed clinical social workers serving on the board as it existed on June 30, 1998, in compliance with subsection (2) of this section. On or before July 1, 1998, the governor shall appoint two additional public members to the board. The initial term of one of the additional public members to be appointed to the board shall be three years, and the other additional public member shall be appointed for a term of four years. On or before July 1, 1999, the governor shall remove one of the three licensed clinical social workers serving on the board in compliance with subsection (2) of this section. On or before July 1, 1999, the governor shall appoint a licensed independent social worker to the board. The initial term of the licensed independent social worker to be appointed to the board shall be three years. Thereafter, The term of each member shall be four years. Any vacancy occurring in board membership other than by expiration of A term shall be filled by the governor by appointment for the remainder of the unexpired term of such member.~~

(6) Each board member shall receive a certificate of appointment from the governor. ~~and, before entering on the discharge of his or her duties and within thirty days after the effective date of appointment, the board member shall subscribe to an oath for the faithful performance of his or her official duties before any officer authorized to administer oaths in this state and shall file the same with the secretary of state.~~

SECTION 12. 12-43-403 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-43-403. Social work practice defined. (2) Professional social work practice may include, but is not limited to:

(u) CONSULTATION, SUPERVISION, AND TEACHING IN HIGHER EDUCATION.

SECTION 13. 12-43-404 (1) (c), (2), (3), (4), (6), and (7), Colorado Revised Statutes, are amended to read:

12-43-404. Qualifications - examination - licensure and registration. (1) The board shall license as a licensed social worker, and issue an appropriate certificate to, any person who files an application therefor, accompanied by such fee as is required by section 12-43-204, and who submits evidence satisfactory to the board that he or she:

(c) Demonstrates professional competence by satisfactorily passing an examination IN SOCIAL WORK AND A WRITTEN, MAIL-IN JURISPRUDENCE EXAMINATION ADMINISTERED BY THE DEPARTMENT OF REGULATORY AGENCIES.

(2) The board shall license as a ~~licensed independent social worker~~ or licensed clinical social worker, and issue an appropriate certificate to, any person who files an application therefor, accompanied by such fee as is required by section 12-43-204, and who submits evidence satisfactory to the board that he or she:

(a) Is at least twenty-one years of age;

(b) Has obtained a master's or doctorate degree from a graduate school of social work;

(c) Has practiced social work for at least two years under the supervision of a ~~licensed independent social worker~~ or licensed clinical social worker; and

(d) Demonstrates professional competence by satisfactorily passing an examination IN SOCIAL WORK that may be written, oral, or both, as prescribed by the board AND A WRITTEN, MAIL-IN JURISPRUDENCE EXAMINATION ADMINISTERED BY THE DEPARTMENT OF REGULATORY AGENCIES.

(3) ~~The board shall register as a registered social worker, and issue an appropriate certificate to, any person who files an application therefor, accompanied by such fee as is required by section 12-43-204, and who submits evidence satisfactory to the board that he or she:~~

~~(a) Is at least twenty-one years of age;~~

~~(b) Has obtained a bachelor's degree in social work from an approved school. For licensure, compliance, and disciplinary purposes, a registered social worker shall work under the supervision of a licensed independent social worker or licensed clinical social worker, except that, in cases where no licensed independent social worker or licensed clinical social worker is available for supervision, the registered social worker may apply to the board for approval for supervision by a person with equivalent experience as determined by the board.~~

~~(c) Demonstrates professional competence by satisfactorily passing an examination.~~

(4) Upon investigation of the application for a certificate and other evidence submitted, the board shall, not less than thirty days prior to the examination, notify each applicant that the application and evidence submitted for licensure ~~or registration~~ are satisfactory and accepted or unsatisfactory and rejected. If the application is rejected, said notice shall state the reasons for such rejection and provide suggestions for the preparation of ~~reapplying~~ A NEW APPLICATION.

(6) The director of the division of registrations may review any examination or procedure for granting a certificate by the board prior to the execution of such examination or procedure. After such review, if the director has reason to believe such examination or procedure to be unfair to the applicants or unreasonable in content, the director shall call on five people licensed ~~or registered~~ in the occupation of social work under this part 4 to review the examination or procedure jointly with the director. The director and such licensed ~~or registered~~ persons, acting jointly, may make findings of fact and recommendations to the board concerning any examination or procedure. The findings of fact and recommendations shall be public documents.

~~(7) Any applicant for a license or registration may petition the board to waive an examination and substitute in lieu thereof proof of competency by paying the applicable fees and demonstrating through documentation of supervision and reference that such person is competent in social work practice.~~

SECTION 14. 12-43-405, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-43-405. Rights and privileges of licensure and a social work degree.

(5) ANY PERSON POSSESSING AN EARNED MASTER'S OR BACHELOR'S DEGREE IN SOCIAL WORK FROM A SOCIAL WORK EDUCATION PROGRAM ACCREDITED BY THE COUNCIL ON SOCIAL WORK EDUCATION, OR A DOCTORAL DEGREE IN SOCIAL WORK FROM A DOCTORAL PROGRAM WITHIN A SOCIAL WORK EDUCATION PROGRAM ACCREDITED BY THE COUNCIL ON SOCIAL WORK EDUCATION HAS THE RIGHT TO PRACTICE SOCIAL WORK AND TO USE THE TITLE "SOCIAL WORKER". ONLY A PERSON LICENSED AS A CLINICAL SOCIAL WORKER OR PRACTICING UNDER THE SUPERVISION OF A LICENSED CLINICAL SOCIAL WORKER MAY ASSERT THAT HE OR SHE IS PRACTICING CLINICAL SOCIAL WORK OR USE THE TITLE OF "CLINICAL SOCIAL WORKER".

SECTION 15. 12-43-406 (2) and (3), Colorado Revised Statutes, are amended to read:

12-43-406. Scope of part. (2) No person may state that he or she is engaged in the practice of social work as a social worker, or refer to himself or herself as a social worker, unless such person is licensed or registered pursuant to this part 4, OR POSSESSES AN EARNED SOCIAL WORK DEGREE, AS DEFINED IN SECTION 12-43-401 (11). No person may practice as a clinical social worker unless licensed pursuant to section 12-43-404 (2), or licensed or registered to practice social work and supervised pursuant to section 12-43-404 (1) OR (2). ~~or (3).~~

(3) No person may supervise the practice of social work for the purpose of licensure compliance or disciplinary proceedings unless licensed pursuant to section 12-43-404; except that, in cases where no LCSW ~~or LISW~~ is available for supervision for licensure, the licensee ~~or registrant~~ may apply to the board for

approval to be supervised by a person with equivalent experience as determined by the board.

SECTION 16. 12-43-410 (1), Colorado Revised Statutes, is amended to read:

12-43-410. Employees of social services. (1) Notwithstanding the exemption in section 12-43-215 (3), no employee of the department of human services, employee of a county department of social services, or personnel under the direct control or supervision of such departments, shall state that he or she is engaged in the practice of social work as a social worker or refer to himself or herself as a social worker unless SUCH PERSON IS licensed or registered pursuant to this part 4 OR POSSESSES AN EARNED SOCIAL WORK DEGREE, AS DEFINED IN SECTION 12-43-401 (11).

SECTION 17. 12-43-502 (2) (c), (4), and (6), Colorado Revised Statutes, are amended to read:

12-43-502. State board of marriage and family therapist examiners. (2) (c) ~~On or before July 1, 1998, the governor shall remove two of the five licensed marriage and family therapists serving on the board as it existed on June 30, 1998, in compliance with this subsection (2). On or before July 1, 1998, the governor shall appoint two additional public members to the board. The initial term of one of the additional two public members shall be three years, and the other shall be appointed for a term of four years.~~

(4) Each board member shall hold office until the expiration of his or her appointed term or until a successor is duly appointed, ~~except as provided in subsection (2) of this section;~~ and each member MEMBERS shall thereafter serve terms of four years. When the term of each board member expires, the governor shall appoint his or her successor for a term of four years. Any vacancy occurring in the board membership other than by the expiration of a term shall be filled by the governor by appointment for the remainder of the unexpired term of such member.

(6) Each board member shall receive a certificate of appointment from the governor. ~~and, before entering on the discharge of his or her duties and within thirty days after the effective date of appointment, the board member shall subscribe to an oath for the faithful performance of his or her official duties before any officer authorized to administer oaths in this state and shall file the same with the secretary of state.~~

SECTION 18. 12-43-504 (1) (e), Colorado Revised Statutes, is amended to read:

12-43-504. Qualifications - examination - licensure and registration. (1) The board shall issue a license as a marriage and family therapist to each applicant who files an application upon a form and in such manner as the board prescribes, accompanied by a fee as is required by section 12-43-204 (1), and who furnishes evidence satisfactory to the board that he or she:

(e) Has demonstrated professional competence by passing an examination in marriage and family therapy prescribed by the board AND A WRITTEN, MAIL-IN JURISPRUDENCE EXAMINATION ADMINISTERED BY THE DEPARTMENT OF REGULATORY AGENCIES.

SECTION 19. 12-43-602 (2) (c), (4), and (6), Colorado Revised Statutes, are amended to read:

12-43-602. State board of licensed professional counselor examiners.

~~(2) (c) On or before July 1, 1998, the governor shall remove two of the five licensed professional counselors serving on the board as it existed on June 30, 1998, in compliance with this subsection (2). On or before July 1, 1998, the governor shall appoint two additional public members to the board. The initial terms of one of the additional public members shall be three years, and the other additional member shall be appointed for a term of four years.~~

(4) Each member shall hold office until the expiration of his or her appointed term or until a successor is duly appointed, ~~except as provided in subsection (2) of this section,~~ and each member MEMBERS shall thereafter serve terms of four years. When the term of each board member expires, the governor shall appoint his or her successor for a term of four years. Any vacancy occurring in the board membership other than by the expiration of a term shall be filled by the governor by appointment for the unexpired term of such member.

~~(6) Each board member shall receive a certificate of appointment from the governor. and, before entering on the discharge of his or her duties and within thirty days after the effective date of appointment, the board member shall subscribe to an oath for the faithful performance of his or her official duties before any officer authorized to administer oaths in this state and shall file the same with the secretary of state.~~

SECTION 20. 12-43-603 (1) (e), Colorado Revised Statutes, is amended to read:

12-43-603. Licensure - examination - licensed professional counselors.

(1) The board shall issue a license as a licensed professional counselor to each applicant who files an application upon a form and in such a manner as the board prescribes, accompanied by a fee as is required by section 12-43-204, and who furnishes evidence satisfactory to the board that he or she:

(e) Has demonstrated professional competence by passing an examination in professional counseling demonstrating special knowledge and skill in applied psychotherapy as prescribed by the board AND A WRITTEN, MAIL-IN JURISPRUDENCE EXAMINATION ADMINISTERED BY THE DEPARTMENT OF REGULATORY AGENCIES.

SECTION 21. 12-43-702 (2), (3), and (4), Colorado Revised Statutes, are amended to read:

12-43-702. State grievance board - creation - subject to termination. (2) Four members of the grievance board shall be appointed by the governor ~~on July 1, 1998,~~ from the general public who are not regulated by this article with a good faith effort to achieve broad-based geographical representation. ~~one to serve a term of one year, one to serve a term of two years, and two to serve a term~~ SUCH MEMBERS SHALL SERVE TERMS of three years. No such member shall have any direct involvement or interest in the provision of psychotherapy; except that such member may be or may have been a consumer of such services.

(3) Three members of the grievance board shall be unlicensed psychotherapists, ~~and shall be appointed by the governor, on July 1, 1998. The initial term of one of the three unlicensed psychotherapist members shall be two years, one shall be three years, and one shall be~~ AND SHALL SERVE TERMS OF four years.

(4) ~~The terms of the members serving on the state grievance board as it existed prior to July 1, 1998, shall expire on June 30, 1998.~~

SECTION 22. 12-43-702.5 (3) and (4), Colorado Revised Statutes, are amended to read:

12-43-702.5. Data base of unlicensed psychotherapists - violation - penalty - data collection. (3) ~~On and after July 1, 1998,~~ No unlicensed person may practice psychotherapy if such person is not included in the data base required by this section. Any person who violates the provisions of this subsection (3) commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. Notwithstanding the requirements of this section, no unlicensed psychotherapist may use the term "registered", "regulated", "certified", "clinical", "state-registered", "state-approved", or any other term OR abbreviation ~~or symbol~~ that would falsely give the impression that the psychotherapist or the service that is being provided is recommended ~~or approved~~ by the state, based solely on inclusion in the data base.

(4) ~~On and after July 1, 2000;~~ No person may be listed by the grievance board pursuant to this section unless such person has successfully completed a WRITTEN, MAIL-IN jurisprudence ~~workshop and corresponding~~ examination DEVELOPED AND approved by the ~~board or the equivalent of such workshop and examination as determined by the board~~ DEPARTMENT OF REGULATORY AGENCIES.

SECTION 23. 12-43-710, Colorado Revised Statutes, is amended to read:

12-43-710. Jurisdiction. ~~All investigations completed or in progress pursuant to sections 12-43-703 and 12-43-705 as said sections existed on June 30, 1998, including those cases that have been referred to hearing or are before an administrative law judge, shall be referred to the board that licenses, registers, or regulates the person being investigated or adjudicated. If the licensee, registrant, or unlicensed psychotherapist is regulated by more than one board, the investigation or case being adjudicated shall be referred to the board as determined by the director of the division of registrations for final adjudication. All actions taken and decisions rendered by the grievance board prior to July 1, 1998, are hereby ratified.~~

SECTION 24. 24-34-102 (14) (e) (I) (A), Colorado Revised Statutes, is amended to read:

24-34-102. Division of registrations - creation - duties of division and department heads - definitions. (14) On and after July 1, 1998, the authority vested in the department of human services and the board of human services to certify and discipline certified or licensed addiction counselors is transferred to the director of the division of registrations in the department of regulatory agencies. The department of human services and board of human services shall continue to exercise all other rights, powers, duties, functions, and obligations vested in those entities concerning certified or licensed addiction counselors pursuant to part 2 of article 1

of title 25, C.R.S. The director of the division of registrations may promulgate rules, which shall include, but shall not be limited to:

(e) (I) **Procedures and requirements for licensure for addiction counselors.** Rules promulgated by the director of the division of registrations shall be consistent with the educational requirements necessary to comply with uniform educational standards set by the national association of alcoholism and drug abuse counselors or its successor organization, and such requirements shall include:

(A) ~~Holding a valid~~ MEETING THE REQUIREMENTS FOR A certificate of addiction counseling, level III;

SECTION 25. 13-90-107 (1) (g), Colorado Revised Statutes, is amended to read:

13-90-107. Who may not testify without consent. (1) There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person shall not be examined as a witness in the following cases:

(g) A licensed psychologist, professional counselor, marriage and family therapist, social worker, ~~or~~ unlicensed psychotherapist, OR LICENSED ADDICTION COUNSELOR shall not be examined without the consent of such licensee's or unlicensed psychotherapist's client as to any communication made by the client to such licensee or unlicensed psychotherapist, or such licensee's or unlicensed psychotherapist's advice given thereon in the course of professional employment; nor shall any secretary, stenographer, or clerk employed by a licensed psychologist, professional counselor, marriage and family therapist, social worker, ~~or~~ unlicensed psychotherapist, OR LICENSED ADDICTION COUNSELOR be examined without the consent of the employer of such secretary, stenographer, or clerk concerning any fact, the knowledge of which such employee has acquired in such capacity; nor shall any person who has participated in any psychotherapy, conducted under the supervision of a person authorized by law to conduct such therapy, including but not limited to group therapy sessions, be examined concerning any knowledge gained during the course of such therapy without the consent of the person to whom the testimony sought relates.

SECTION 26. Repeal. 24-34-104 (34) (g), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (34) The following agencies, functions, or both, shall terminate on July 1, 2004:

(g) ~~Notwithstanding paragraph (a) of subsection (11) of this section, boards relating to the licensing of and grievances against any person regulated, registered, or licensed pursuant to the provisions of article 43 of title 12, C.R.S., and created pursuant to article 43 of title 12, C.R.S.;~~

SECTION 27. 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:

(g) NOTWITHSTANDING PARAGRAPH (a) OF SUBSECTION (11) OF THIS SECTION, BOARDS RELATING TO THE LICENSING OF AND GRIEVANCES AGAINST ANY PERSON REGULATED, REGISTERED, OR LICENSED PURSUANT TO THE PROVISIONS OF ARTICLE 43 OF TITLE 12, C.R.S., AND CREATED PURSUANT TO ARTICLE 43 OF TITLE 12, C.R.S.

SECTION 28. 26-20-102 (1) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

26-20-102. Definitions. As used in this article, unless the context otherwise requires:

(1) (a) "Agency" means:

(V) A PERSON REGULATED PURSUANT TO ARTICLE 43 OF TITLE 12, C.R.S.

SECTION 29. 27-10-105 (1) (a), Colorado Revised Statutes, is amended to read:

27-10-105. Emergency procedure. (1) Emergency procedure may be invoked under either one of the following two conditions:

(a) When any person appears to be mentally ill and, as a result of such mental illness, appears to be an imminent danger to others or to himself or herself or appears to be gravely disabled, then a peace officer; a professional person; a registered professional nurse as defined in section 12-38-103 (11), C.R.S., who by reason of postgraduate education and additional nursing preparation has gained knowledge, judgment, and skill in psychiatric or mental health nursing; a licensed marriage and family therapist or licensed professional counselor, licensed under the provisions of part 5 or 6 of article 43 of title 12, C.R.S., OR AN ADDICTION COUNSELOR LICENSED PURSUANT TO SECTION 24-34-102 (14) (e) (IV), C.R.S., who by reason of postgraduate education and additional preparation has gained knowledge, judgment, and skill in psychiatric or clinical mental health therapy, forensic psychotherapy, or the evaluation of mental disorders; ~~or~~ a licensed clinical social worker licensed under the provisions of part 4 of article 43 of title 12, C.R.S., each of whom is referred to in this section as the "intervening professional", upon probable cause and with such assistance as may be required, may take the person into custody, or cause the person to be taken into custody, and placed in a facility designated or approved by the executive director for a seventy-two-hour treatment and evaluation.

SECTION 30. Appropriations in long bill to be adjusted. (1) For the implementation of this act, appropriations made in the annual general appropriation act to the department of regulatory agencies for the fiscal year beginning July 1, 2004, shall be adjusted as follows:

(a) The cash fund appropriation for the division of registrations is decreased by thirteen thousand four hundred four dollars (\$13,404). Said sum shall be from the division of registrations cash fund created pursuant to section 24-34-105, Colorado Revised Statutes.

SECTION 31. Effective date - applicability. This act shall take effect July 1, 2004, and shall apply to acts occurring on or after said date.

SECTION 32. 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: May 21, 2004