

CHAPTER 172

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 10-1128

BY REPRESENTATIVE(S) Loooper, Gerou, Kerr J., Labuda, Vigil;
also SENATOR(S) Hudak and Bacon, Boyd, Newell, Williams.

AN ACT

CONCERNING MEASURES TO INCREASE THE EFFICIENCY OF THE ACTIVITIES OF ENTITIES IN THE DIVISION OF REGISTRATIONS RELATING TO THE SUPERVISION OF REGULATED PROFESSIONALS, AND, IN CONNECTION THEREWITH, MAKING THE "COLORADO LICENSING OF CONTROLLED SUBSTANCES ACT" AND THE SUNSET LAW CONSISTENT WITH PROVISIONS ENACTED IN 2009 TO CONTINUE THE REGULATION OF ADMINISTRATION OF MEDICATION BY UNLICENSED PERSONS, CLARIFYING THAT MONEYS COLLECTED ON BEHALF OF ADMINISTERING ENTITIES OF PROFESSIONAL PEER REVIEW PROGRAMS DO NOT CONSTITUTE STATE FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, CLARIFYING EXEMPTIONS FROM THE "DENTAL PRACTICE LAW OF COLORADO", AUTHORIZING THE DIRECTOR OF THE DIVISION OF REGISTRATIONS TO TAKE DISCIPLINARY ACTION UNDER THE "MESSAGE THERAPY PRACTICE ACT" AGAINST PERSONS CONVICTED OF UNLAWFUL SEXUAL BEHAVIOR OR PROSTITUTION-RELATED OFFENSES, REPEALING DUPLICATIVE REGULATORY REQUIREMENTS FOR MEDICAL DOCTORS, REPLACING LIMITED TEMPORARY LICENSE REQUIREMENTS FOR MEDICAL DOCTORS AND CHIROPRACTORS, AND REPEALING REGULATORY FUNCTIONS OF THE DIVISION OF REGISTRATIONS WITH RESPECT TO ATHLETE AGENTS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 12-22-304 (5) (e), Colorado Revised Statutes, is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

12-22-304. License required - controlled substances - 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) EMPLOYEES OF FACILITIES, AS DEFINED IN SECTION 25-1.5-301, C.R.S., WHO ARE ADMINISTERING AND MONITORING MEDICATIONS TO PERSONS UNDER THE CARE OR JURISDICTION OF SUCH FACILITIES PURSUANT TO PART 3 OF ARTICLE 1.5 OF TITLE 25, C.R.S.

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

SECTION 2. 12-22-603 (3) (e) (I), Colorado Revised Statutes, is amended, and the said 12-22-603 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-22-603. Pharmacy peer health assistance fund. (3) (e) The responsibilities of the administering entity shall be:

(I) To collect the required annual payments, DIRECTLY OR THROUGH THE BOARD;

(f) THE BOARD, AT ITS DISCRETION, MAY COLLECT THE REQUIRED ANNUAL PAYMENTS PAYABLE TO THE ADMINISTERING ENTITY FOR THE BENEFIT OF THE ADMINISTERING ENTITY AND SHALL TRANSFER ALL SUCH PAYMENTS TO THE ADMINISTERING ENTITY. ALL REQUIRED ANNUAL PAYMENTS COLLECTED OR DUE TO THE BOARD FOR EACH FISCAL YEAR SHALL BE DEEMED CUSTODIAL FUNDS THAT ARE NOT SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY, AND SUCH FUNDS SHALL NOT CONSTITUTE STATE FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

SECTION 3. Repeal. 12-33-112.5, Colorado Revised Statutes, is repealed as follows:

12-33-112.5. Temporary licensure. ~~(1) An applicant who lawfully practices chiropractic in another state or territory may be granted a temporary license to practice chiropractic in this state if:~~

~~(a) Such applicant has been invited by the United States olympic committee to provide chiropractic services at the olympic training center in Colorado Springs or at an event in this state which is sanctioned by such committee;~~

~~(b) The United States olympic committee certifies the name of the applicant, the state or territory which issued the applicant a license to practice chiropractic, and the dates within which the applicant has been invited to provide chiropractic services in this state; and~~

~~(c) Such applicant's practice in this state is limited to that required by the United States olympic committee.~~

~~(2) A temporary license issued pursuant to this section shall remain in effect only as long as the licensee provides chiropractic services at the invitation of the United States olympic committee. In no event, however, shall such a license remain in effect after the period certified by the committee pursuant to paragraph (b) of subsection (1) of this section, unless the board has granted an extension. The board shall not grant an extension in excess of ninety days.~~

~~(3) A temporary licensee shall provide chiropractic services only to athletes or team personnel who are registered to train at the olympic training center or compete in an event sanctioned by the United States olympic committee.~~

~~(4) The board may establish and charge a fee for temporary licenses pursuant to section 24-34-105, C.R.S. Such fee shall not exceed one-half of the amount~~

~~charged by the board for a two-year renewal of a chiropractor's license. No chiropractor shall be required to pay more than one temporary license fee in a calendar year.~~

~~(5) A temporary licensee shall be subject to discipline by the board for unprofessional conduct, as defined in section 12-33-117 (2).~~

SECTION 4. 12-33-120 (1), Colorado Revised Statutes, is amended, and the said 12-33-120 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-33-120. Unauthorized practice - penalties - exemption. (1) Except as specified in subsection (2) OR (3) of this section, any person who practices or offers or attempts to practice chiropractic without an active license issued under this article commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., for the first offense, and, for the second or any subsequent offense, the person commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

(3) A CHIROPRACTOR WHO LAWFULLY PRACTICES CHIROPRACTIC IN ANOTHER STATE OR TERRITORY MAY PROVIDE CHIROPRACTIC SERVICES TO ATHLETES OR TEAM PERSONNEL REGISTERED TO TRAIN AT THE UNITED STATES OLYMPIC TRAINING CENTER IN COLORADO SPRINGS OR TO PROVIDE CHIROPRACTIC SERVICES AT AN EVENT IN THIS STATE SANCTIONED BY THE UNITED STATES OLYMPIC COMMITTEE. THE CHIROPRACTOR'S SERVICES SHALL BE CONTINGENT UPON THE REQUIREMENTS AND APPROVALS OF THE UNITED STATES OLYMPIC COMMITTEE AND SHALL NOT EXCEED NINETY DAYS PER CALENDAR YEAR.

SECTION 5. 12-35-115 (1) (e), (1) (i), and (1) (j), Colorado Revised Statutes, are amended to read:

12-35-115. Persons exempt from operation of this article. (1) Nothing in this article shall apply to the following practices, acts, and operations:

(e) The practice of dental hygiene by instructors and students OR THE PRACTICE OF DENTISTRY BY STUDENTS OR RESIDENTS in schools or colleges of dentistry, schools of dental hygiene, or schools of dental assistant education while such instructors, ~~and~~ students, OR RESIDENTS are participating in accredited programs of such schools or colleges;

(i) The practicing of dentistry or dental hygiene by an examiner representing a testing agency approved by the board, during the administration of an examination;
OR

~~(j) The practice of dentistry by foreign-trained dentists who are licensed or otherwise authorized in another country and employed as teachers at an accredited dental school in Colorado that offers a doctorate in dental surgery or a doctorate in dental medicine when such practice is expressly limited to patients in the dental school clinic or facility; or~~

SECTION 6. 12-35-138 (1) (d) (I), Colorado Revised Statutes, is amended, and

the said 12-35-138 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-35-138. Dentist peer health assistance fund. (1)(d) The responsibilities of the administering entity shall be to:

(I) Collect the required annual payments, DIRECTLY OR THROUGH THE BOARD;

(e) THE BOARD, AT ITS DISCRETION, MAY COLLECT THE REQUIRED ANNUAL PAYMENTS PAYABLE TO THE ADMINISTERING ENTITY FOR THE BENEFIT OF THE ADMINISTERING ENTITY AND SHALL TRANSFER ALL SUCH PAYMENTS TO THE ADMINISTERING ENTITY. ALL REQUIRED ANNUAL PAYMENTS COLLECTED OR DUE TO THE BOARD FOR EACH FISCAL YEAR SHALL BE DEEMED CUSTODIAL FUNDS THAT ARE NOT SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY, AND SUCH FUNDS SHALL NOT CONSTITUTE STATE FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

SECTION 7. 12-35.5-107 (6), Colorado Revised Statutes, is amended to read:

12-35.5-107. Registration - reciprocity - denial of registration application.

(6) Notwithstanding any provision of this section, the director ~~shall~~ MAY deny a registration if the applicant has committed any act that would be grounds for disciplinary action under section 12-35.5-111 or if the director determines, subsequent to the criminal history record check, that the applicant was convicted of or plead guilty to a charge of unlawful sexual behavior as defined in section 16-22-102, C.R.S., or any prostitution-related offense, whether or not the act was committed in Colorado.

SECTION 8. 12-35.5-111 (1) (k) and (1) (l), Colorado Revised Statutes, are amended, and the said 12-35.5-111 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-35.5-111. Grounds for discipline - definitions. (1) The director is authorized to take disciplinary action pursuant to section 12-35.5-112 against any person who has:

(k) Advertised, represented, held himself or herself out in any manner, or used any designation in connection with his or her name as a massage therapist without being registered or exempt pursuant to this article; ~~or~~

(l) Violated or aided or abetted a violation of any provision of this article, any rule adopted under this article, or any lawful order of the director; OR

(m) BEEN CONVICTED OF OR PLEAD GUILTY TO A CHARGE OF UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 16-22-102, C.R.S., OR ANY PROSTITUTION-RELATED OFFENSE, WHETHER OR NOT THE ACT WAS COMMITTED IN COLORADO.

SECTION 9. 12-36-106 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

12-36-106. Practice of medicine defined - exemptions from licensing requirements - unauthorized practice by physician assistants - penalties - repeal. (3) Nothing in this section shall be construed to prohibit, or to require a license or a physician training license under this article with respect to, any of the following acts:

(w) A PHYSICIAN LAWFULLY PRACTICING MEDICINE IN ANOTHER STATE OR TERRITORY PROVIDING MEDICAL SERVICES TO ATHLETES OR TEAM PERSONNEL REGISTERED TO TRAIN AT THE UNITED STATES OLYMPIC TRAINING CENTER AT COLORADO SPRINGS OR PROVIDING MEDICAL SERVICES AT AN EVENT IN THIS STATE SANCTIONED BY THE UNITED STATES OLYMPIC COMMITTEE. THE PHYSICIAN'S MEDICAL PRACTICE SHALL BE CONTINGENT UPON THE REQUIREMENTS AND APPROVALS OF THE UNITED STATES OLYMPIC COMMITTEE AND SHALL NOT EXCEED NINETY DAYS PER CALENDAR YEAR.

(x) A PHYSICIAN LAWFULLY PRACTICING MEDICINE IN ANOTHER STATE OR TERRITORY PROVIDING MEDICAL SERVICES RELATIVE TO THE EVALUATION AND TREATMENT OF CHILDREN IN THIS STATE AS POTENTIAL PATIENTS, PATIENTS, OR OUTPATIENTS OF SHRINERS HOSPITALS FOR CHILDREN. THE PHYSICIAN MUST HAVE BEEN INVITED BY THE ADMINISTRATOR OF A COLORADO HOSPITAL TO PROVIDE SUCH SERVICES ON BEHALF OF SHRINERS HOSPITALS FOR CHILDREN, AND THE PHYSICIAN SHALL BE LICENSED WITHOUT DISCIPLINARY SANCTION IN ANY OTHER STATE OR TERRITORY. SUCH MEDICAL SERVICES SHALL NOT EXCEED NINETY DAYS PER CALENDAR YEAR.

SECTION 10. Repeal. 12-36-107 (4) and (5), Colorado Revised Statutes, are repealed as follows:

12-36-107. Qualifications for licensure. (4) ~~(a) Notwithstanding any other provision of this article, an applicant lawfully practicing medicine in another state or territory may be granted a temporary license to practice medicine in this state, upon application to the board in the manner determined by the board, if:~~

~~(f) The applicant has been invited by the United States olympic committee to provide medical services at the olympic training center at Colorado Springs or to provide medical services at an event in this state sanctioned by such committee; and~~

~~(H) The United States olympic committee certifies to the board the name of the applicant, the state or territory of the applicant's licensure, and the dates within which the applicant has been invited to provide medical services; and~~

~~(Hh) The applicant's practice is limited to that required by the United States olympic committee. Such medical services shall only be provided to athletes or team personnel registered to train at the olympic training center or registered to compete in an event conducted under the sanction of the United States olympic committee.~~

~~(b) Such temporary license shall remain in force while the holder is providing medical services at the invitation of the United States olympic committee and only during the time certified to the board but not longer than ninety days without extension by the board. The board may establish and charge a fee for such~~

~~temporary license pursuant to section 24-34-105, C.R.S., not to exceed one-half the amount of the fee for a two-year renewal of a physician's license. No physician shall be required to pay more than one temporary license fee in each calendar year. Physicians temporarily licensed under this subsection (4) are subject to discipline by the board for unprofessional conduct as defined in section 12-36-117.~~

~~(5) (a) Notwithstanding any other provision of this article, an applicant lawfully practicing medicine in another state or territory may be granted a limited license to practice medicine in this state, upon application to the board in the manner determined by the board, if:~~

~~(f) The applicant has been invited by the administrator of a hospital to provide medical services relative to the evaluation and treatment of children as potential patients, patients, or out-patients of Shriners hospitals for children; and~~

~~(H) The state or territory where the applicant is actively licensed to practice medicine certifies to the board the name of the applicant and that the applicant is licensed in good standing; and~~

~~(Hh) The applicant certifies in the manner prescribed by the board to the board that such applicant's license to practice medicine in any other state or territory has not been restricted, suspended, or revoked; and~~

~~(IV) The applicant's practice is limited to evaluation of children who are potential patients of a Shriners hospital and treatment of children who are patients or out-patients of a Shriners hospital and the applicant shall only provide services to children under twenty-one years of age.~~

~~(b) Such limited license shall remain in force for a period of two years, subject to renewal at the end of each two-year period. The board may establish and charge an application and renewal fee for such limited license pursuant to section 24-34-105, C.R.S., not to exceed one-half the amount of the fee for a two-year renewal of a physician's license and not to exceed the cost of administering the license. Any renewal of a limited license shall be subject to the renewal requirements set forth in section 12-36-123.~~

~~(c) Physicians granted a limited license under this section are subject to discipline by the board for committing unprofessional conduct as defined in section 12-36-117, or any other act prohibited by this article except as otherwise provided in this subsection (5).~~

SECTION 11. Repeal. 12-36-117 (1) (ff), Colorado Revised Statutes, is repealed as follows:

12-36-117. Unprofessional conduct - repeal. (1) "Unprofessional conduct" as used in this article means:

~~(ff) Any violation of the provisions of section 12-36-202 or any rule or regulation of the board adopted pursuant to that section;~~

SECTION 12. Repeal. Part 2 of article 36 of title 12, Colorado Revised

Statutes, is repealed as follows:

PART 2
SAFETY TRAINING FOR UNLICENSED
X-RAY TECHNICIANS

12-36-201. Legislative declaration. ~~(1) The general assembly hereby finds, determines, and declares that public exposure to the hazards of ionizing radiation used for diagnostic purposes should be minimized wherever possible. Accordingly, the general assembly finds, determines, and declares that for any physician licensed to practice medicine to allow an untrained person to operate a machine source of ionizing radiation, including without limitation a device commonly known as an "X-ray machine", or to administer such radiation to a patient for diagnostic purposes is a threat to the public health and safety.~~

~~(2) It is the intent of the general assembly that physicians licensed to practice medicine utilizing unlicensed persons in their practices provide those persons with a minimum level of education and training before allowing them to operate machine sources of ionizing radiation; however, it is not the general assembly's intent to discourage education and training beyond this minimum. It is further the intent of the general assembly that established minimum training and education requirements correspond as closely as possible to the requirements of each particular work setting as determined by the Colorado state board of medical examiners pursuant to this part 2.~~

~~(3) The general assembly seeks to ensure, and accordingly declares its intent, that in promulgating the rules and regulations authorized by this part 2, the board will make every effort, consistent with its other statutory duties, to avoid creating a shortage of qualified individuals to operate machine sources of ionizing radiation for beneficial medical purposes in any area of the state.~~

12-36-202. Board authorized to issue rules. ~~(1)(a) The Colorado state board of medical examiners shall adopt rules and regulations prescribing minimum standards for the qualifications, education, and training of unlicensed persons operating machine sources of ionizing radiation and administering such radiation to patients for diagnostic medical use. No licensed physician shall allow any unlicensed person to operate any machine source of ionizing radiation or to administer any such radiation to any patient unless such person has met the standards then in effect under rules and regulations adopted pursuant to this section. The board may adopt rules and regulations allowing a grace period in which newly hired operators of machine sources of ionizing radiation shall receive the training required pursuant to this section.~~

~~(b) For purposes of this part 2, "unlicensed person" means any person who does not hold a current and active license entitling the person to practice medicine under the provisions of this article.~~

~~(2) The board shall seek the assistance of licensed physicians in developing and formulating the rules and regulations promulgated pursuant to this section.~~

~~(3) The required number of hours of training and education for all unlicensed~~

~~persons operating machine sources of ionizing radiation and administering such radiation to patients shall be established by the board by rule on or before July 1, 1992. This standard shall apply to all persons in medical settings other than hospitals and similar facilities licensed by the department of public health and environment pursuant to section 25-1.5-103, C.R.S. Such training and education may be obtained through programs approved by the appropriate authority of any state or through equivalent programs and training experience including on-the-job training as determined by the board.~~

SECTION 13. 12-36-123.5 (3.5) (e) (I), Colorado Revised Statutes, is amended, and the said 12-36-123.5 (3.5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-36-123.5. Physicians' and physician assistants' peer health assistance fund. (3.5) (e) The responsibilities of the administering entity shall be:

(I) To collect the required annual payments, DIRECTLY OR THROUGH THE BOARD;

(e.5) THE BOARD, AT ITS DISCRETION, MAY COLLECT THE REQUIRED ANNUAL PAYMENTS PAYABLE TO THE ADMINISTERING ENTITY FOR THE BENEFIT OF THE ADMINISTERING ENTITY AND SHALL TRANSFER ALL SUCH PAYMENTS TO THE ADMINISTERING ENTITY. ALL REQUIRED ANNUAL PAYMENTS COLLECTED OR DUE TO THE BOARD FOR EACH FISCAL YEAR SHALL BE DEEMED CUSTODIAL FUNDS THAT ARE NOT SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY, AND SUCH FUNDS SHALL NOT CONSTITUTE STATE FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

SECTION 14. 12-38-131 (3) (d) (I), Colorado Revised Statutes, is amended, and the said 12-38-131 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-38-131. Nursing peer health assistance or nurse alternative to discipline program - fund - rules. (3) (d) The administering entity shall:

(I) ~~Be responsible for the moneys collected pursuant to subsection (1) of this section~~ COLLECT THE REQUIRED ANNUAL PAYMENTS, DIRECTLY OR THROUGH THE BOARD;

(f) THE BOARD, AT ITS DISCRETION, MAY COLLECT THE REQUIRED ANNUAL PAYMENTS PAYABLE TO THE ADMINISTERING ENTITY FOR THE BENEFIT OF THE ADMINISTERING ENTITY AND SHALL TRANSFER ALL SUCH PAYMENTS TO THE ADMINISTERING ENTITY. ALL REQUIRED ANNUAL PAYMENTS COLLECTED OR DUE TO THE BOARD FOR EACH FISCAL YEAR SHALL BE DEEMED CUSTODIAL FUNDS THAT ARE NOT SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY, AND SUCH FUNDS SHALL NOT CONSTITUTE STATE FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

SECTION 15. Repeal. 24-34-102 (2.5), Colorado Revised Statutes, is repealed as follows:

24-34-102. Division of registrations - creation - duties of division and

department heads - definitions - license, registration, or certification renewal and reinstatement. (2.5) ~~The division of registrations shall have supervision of the registration of athlete agents as set forth in the "Uniform Athlete Agents Act", part 2 of article 16 of title 23, C.R.S.~~

SECTION 16. Repeal. 24-34-104 (40) (b), (40) (c), (40) (d), and (45) (f), Colorado Revised Statutes, are repealed as follows:

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:

(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) (c) (I), C.R.S., for persons who administer or monitor medications in facilities in compliance with the program authorized in part 3 of article 1.5 of title 25, 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 part 3 of article 1.5 of title 25, 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 part 3 of article 1.5 of title 25, C.R.S.;~~

(45) The following agencies, functions, or both, shall terminate on July 1, 2014:

(f) ~~The registration of athlete agents by the director of the division of registrations in accordance with part 2 of article 16 of title 23, C.R.S.;~~

SECTION 17. Repeal. 23-16-202 (5) and (11), Colorado Revised Statutes, are repealed as follows:

23-16-202. Definitions. In this part 2:

(5) ~~"Division" means the division of registrations in the department of regulatory agencies.~~

(11) ~~"Registration" means registration as an athlete agent pursuant to this part 2.~~

SECTION 18. Repeal. 23-16-204, Colorado Revised Statutes, is repealed as follows:

23-16-204. Athlete agents - registration required - void contracts. (a) ~~Except as otherwise provided in subsection (b) of this section, on or after January 1, 2009, an individual may not act as an athlete agent in this state without holding a certificate of registration under section 23-16-206.~~

(b) ~~Before being issued a certificate of registration, an individual may act as an~~

~~athlete agent in this state for all purposes except signing an agency contract if:~~

~~(1) The individual is registered or licensed as an athlete agent in good standing by another state and the individual notifies the division, in writing on a form approved by the division, at least five business days prior to acting as an athlete agent in this state;~~

~~(2) A student athlete or another person acting on behalf of the student athlete initiates communication with the individual; and~~

~~(3) Within seven days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in this state.~~

~~(c) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under the contract.~~

SECTION 19. Repeal. 23-16-205, Colorado Revised Statutes, is repealed as follows:

23-16-205. Registration as athlete agent - form - requirements. ~~(a) An applicant for registration shall submit an application for registration to the division in a form prescribed by the division. An application filed under this section is a public record. The application must be in the name of an individual and signed or otherwise authenticated by the applicant under penalty of perjury and state or contain:~~

~~(1) The name of the applicant and the address of the applicant's principal place of business;~~

~~(2) The name of the applicant's business or employer, if applicable;~~

~~(3) Any business or occupation engaged in by the applicant for the five years next preceding the date of submission of the application;~~

~~(4) A description of the applicant's:~~

~~(A) Formal training as an athlete agent;~~

~~(B) Practical experience as an athlete agent; and~~

~~(C) Educational background relating to the applicant's activities as an athlete agent;~~

~~(5) The names and addresses of three individuals not related to the applicant who are willing to serve as references;~~

~~(6) The name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the five years next preceding the date of submission of the application;~~

~~(7) The names and addresses of all persons who are:~~

~~(A) With respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit-sharers of the business; and~~

~~(B) With respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent or greater;~~

~~(8) Whether the applicant or any person named pursuant to paragraph (7) of this subsection (a) has been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony, and identify the crime;~~

~~(9) Whether there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph (7) of this subsection (a) has made a false, misleading, deceptive, or fraudulent representation;~~

~~(10) Any instance in which the conduct of the applicant or any person named pursuant to paragraph (7) of this subsection (a) resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student athlete or educational institution;~~

~~(11) Any sanction, suspension, or disciplinary action taken against the applicant or any person named pursuant to paragraph (7) of this subsection (a) arising out of occupational or professional conduct; and~~

~~(12) Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the applicant or any person named pursuant to paragraph (7) of this subsection (a) as an athlete agent in any state.~~

SECTION 20. Repeal. 23-16-206, Colorado Revised Statutes, is repealed as follows:

23-16-206. Certificate of registration - issuance or denial - renewal.

~~(a) Except as otherwise provided in subsection (b) of this section, the division shall issue a certificate of registration to an individual who complies with section 23-16-205 (a) or 23-16-204 (b).~~

~~(b) The division may refuse to issue a certificate of registration if the division determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the division may consider whether the applicant has:~~

~~(1) Been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony;~~

~~(2) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;~~

~~(3) Engaged in conduct that would disqualify the applicant from serving in a~~

fiduciary capacity;

~~(4) Engaged in conduct prohibited by section 23-16-213;~~

~~(5) Had a registration or licensure as an athlete agent suspended, revoked, or denied or been refused renewal of registration or licensure as an athlete agent in any state;~~

~~(6) Engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student athlete or educational institution; or~~

~~(7) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.~~

~~(c) In making a determination under subsection (b) of this section, the division shall consider:~~

~~(1) How recently the conduct occurred;~~

~~(2) The nature of the conduct and the context in which it occurred; and~~

~~(3) Any other relevant conduct of the applicant.~~

~~(d) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the division. An application filed under this section is a public record. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration.~~

SECTION 21. Repeal. 23-16-207, Colorado Revised Statutes, is repealed as follows:

23-16-207. Suspension, revocation, or refusal to renew registration - disciplinary action against registration - cease-and-desist orders - immunity.

~~(a) The division may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration under section 23-16-206 (b):~~

~~(b) The division may deny, suspend, revoke, or refuse to renew a certificate of registration only after proper notice and an opportunity for a hearing. The "State Administrative Procedure Act", article 4 of title 24, C.R.S., applies to this part 2.~~

~~(c) The director of the division upon direction may, and upon the receipt of a signed complaint in writing from any person shall, investigate the activities of any athlete agent who presents grounds for disciplinary action as specified in this part 2. In accordance with article 4 of title 24, C.R.S., and this part 2, the director is authorized to investigate, hold hearings, and gather evidence in all matters related to the exercise and performance of the powers and duties of the director.~~

~~(d) In order to aid the director of the division in any hearing instituted pursuant~~

to this part 2, the director or an administrative law judge appointed pursuant to part 10 of article 30 of title 24, C.R.S., is authorized to administer oaths, take affirmations of witnesses, and issue subpoenas compelling the attendance of the witnesses and the production of all relevant records, papers, books, documentary evidence, and material in any hearing, investigation, or other matter coming before the director or an administrative law judge:

~~(e) Upon failure of any witness or athlete agent to comply with a subpoena or process, the district court of the county in which the subpoenaed witness or athlete agent resides or conducts business, upon application by the director of the division with notice to the subpoenaed witness or athlete agent, may issue to the witness or athlete agent an order requiring that witness or athlete agent to appear before the director to produce the relevant records, papers, books, documentary evidence, or material.~~

~~(f) (1) When a complaint or investigation discloses an instance of misconduct that, in the opinion of the director of the division, does not warrant formal action by the director but that should not be dismissed as being without merit, a letter of admonition may be issued and sent to the registrant by certified mail.~~

~~(2) When a letter of admonition is sent by the director of the division to a registrant, the registrant shall be advised that he or she has the right to request that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the letter of admonition is based. The registrant shall make the request in writing within twenty days after receipt of the letter.~~

~~(3) If the request for adjudication is timely made, the letter of admonition shall be deemed vacated and the matter shall be processed by means of formal disciplinary proceedings.~~

~~(g) (1) When a complaint or investigation discloses an instance of conduct that does not warrant formal action by the director of the division and, in the opinion of the director the complaint should be dismissed, but the director has noticed indications of possible errant conduct by the registrant that could lead to serious consequences if not corrected, a confidential letter of concern may be issued and sent to the registrant.~~

~~(2) When a complaint or investigation discloses an instance of misconduct that, in the opinion of the director of the division, warrants formal action, the complaint shall not be resolved by a deferred settlement, action, judgment, or prosecution.~~

~~(h) (1) If it appears to the director of the division, based upon credible evidence as presented in a written complaint by any person, that a person has violated any other portion of this part 2, then, in addition to any specific powers granted pursuant to this part 2, the director may issue to such person an order to show cause as to why the director should not issue a final order directing such person to cease and desist from the unlawful act or unregistered practice.~~

~~(2) A person against whom an order to show cause has been issued pursuant to paragraph (1) of this subsection (h) shall be promptly notified by the director of the division of the issuance of the order, along with a copy of the order, the factual and~~

~~legal basis for the order, and the date set by the director for a hearing on the order. Such notice may be served by personal service, by first-class United States mail, postage prepaid, or as may be practicable upon any person against whom such order is issued. Personal service or mailing of an order or document pursuant to this subsection (h) shall constitute notice thereof to the person.~~

~~(3) (A) The hearing on an order to show cause shall be commenced no sooner than ten and no later than forty-five calendar days after the date of transmission or service of the notification by the director of the division as provided in paragraph (2) of this subsection (h). The hearing may be continued by agreement of all parties based upon the complexity of the matter, number of parties to the matter, and legal issues presented in the matter, but in no event shall the hearing commence later than sixty calendar days after the date of transmission or service of the notification.~~

~~(B) If a person against whom an order to show cause has been issued pursuant to paragraph (1) of this subsection (h) does not appear at the hearing, the director of the division may present evidence that notification was properly sent or served upon such person pursuant to paragraph (2) of this subsection (h) and such other evidence related to the matter as the director deems appropriate. The director shall issue the order within ten days after the director's determination related to reasonable attempts to notify the respondent, and the order shall become final as to that person by operation of law. Such hearing shall be conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S.~~

~~(C) If the director of the division reasonably finds that the person against whom the order to show cause was issued is acting or has acted without the required registration or has or is about to engage in acts or practices constituting violations of this part 2, a final cease-and-desist order may be issued directing such person to cease and desist from further unlawful acts or unregistered practices.~~

~~(D) The director of the division shall provide notice, in the manner set forth in paragraph (2) of this subsection (h), of the final cease-and-desist order within ten calendar days after the hearing conducted pursuant to this paragraph (3) to each person against whom the final order has been issued. The final order issued pursuant to subparagraph (C) of this paragraph (3) shall be effective when issued and shall be a final order for purposes of judicial review.~~

~~(i) In any proceeding held under this section, the director of the division may accept as prima facie evidence of grounds for disciplinary action any disciplinary action taken against a registrant in another jurisdiction if the violation that prompted the disciplinary action in the other jurisdiction would be grounds for disciplinary action under this part 2.~~

~~(j) The director of the division, the director's staff, any person acting as a witness or consultant to the director, any witness testifying in a proceeding authorized under this part 2, and any person who lodges a complaint pursuant to this part 2 shall be immune from liability in any civil action brought against him or her for acts occurring while acting in his or her capacity as director, staff, consultant, or witness, respectively, if such individual was acting in good faith within the scope of his or her respective capacity, made a reasonable effort to obtain the facts of the matter as to which he or she acted, and acted in the reasonable belief that the action taken by~~

~~him or her was warranted by the facts:~~

SECTION 22. Repeal. 23-16-208, Colorado Revised Statutes, is repealed as follows:

23-16-208. Registration and renewal fees. ~~(a) The division shall establish fees for the registration. An application for registration must be accompanied by the fee as set by the division:~~

~~(b) All registrations shall expire pursuant to a schedule established by the division and shall be renewed according to a schedule of renewal dates established by the division. The division may establish renewal fees and delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S., and an application for renewal of registration must be accompanied by such fees. If an athlete agent fails to renew his or her registration pursuant to the schedule established by the division, the registration shall expire:~~

~~(c) No athlete agent whose registration has been revoked shall be allowed to reapply for registration earlier than two years after the effective date of the revocation:~~

~~(d) All fees collected under this section shall be determined, collected, and appropriated in the same manner as set forth in section 24-34-105, C.R.S., and periodically adjusted in accordance with section 24-75-402, C.R.S.~~

~~(e) The moneys collected under this section shall be transmitted to the state treasurer and credited to the division of registrations cash fund created in section 24-34-105, C.R.S.~~

SECTION 23. 23-16-209 (b) (2), Colorado Revised Statutes, is amended to read:

23-16-209. Required form of contract. (b) An agency contract must state or contain:

(2) The name of any person ~~not listed in the application for registration or renewal of registration~~ who will be compensated because the student athlete signed the agency contract;

SECTION 24. Repeal. 23-16-212 (b), Colorado Revised Statutes, is repealed as follows:

23-16-212. Required records. (b) ~~Records required by subsection (a) of this section to be retained are open to inspection by the director of the division or his or her designee during normal business hours:~~

SECTION 25. 23-16-213 (a) (3), (b) (1), (b) (3), and (b) (4), Colorado Revised Statutes, are amended to read:

23-16-213. Prohibited conduct. (a) An athlete agent, with the intent to induce a student athlete to enter into an agency contract, may not:

(3) Furnish anything of value to any individual other than the student athlete or another ~~registered~~ athlete agent.

(b) An athlete agent may not intentionally:

(1) ~~Initiate contact with a student athlete unless registered under this part 2;~~

(3) ~~Fail to register when required by section 23-16-204;~~

(4) ~~Provide materially false or misleading information in an application for registration or renewal of registration;~~

SECTION 26. Repeal. 23-16-220, Colorado Revised Statutes, is repealed as follows:

23-16-220. Rules. ~~The director of the division is authorized to promulgate rules that are necessary for the administration of this part 2.~~

SECTION 27. Repeal. 23-16-221, Colorado Revised Statutes, is repealed as follows:

23-16-221. Repeal of part. ~~This part 2 is repealed, effective July 1, 2014, and the powers, duties, and functions of the director of the division specified in this part 2 are repealed on said date. Prior to such repeal, such powers, duties, and functions shall be reviewed as provided in section 24-34-104, C.R.S.~~

SECTION 28. Appropriations in 2010 long bill to be adjusted. For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2010, shall be adjusted as follows:

(1) The appropriation to the department of regulatory agencies, division of registrations, is decreased by thirty-five thousand eight hundred eighty-seven dollars (\$35,887) cash funds. Said sum shall be from the division of registrations cash fund created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes.

(2) The appropriation to the department of law is decreased by nine thousand seven hundred ninety-nine dollars (\$9,799). Said sum shall be from reappropriated funds received from the department of regulatory agencies out of the appropriation made in subsection (1) of this section.

SECTION 29. Specified effective date - applicability. This act shall take effect upon passage and shall apply to acts occurring on or after said date.

SECTION 30. 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 29, 2010