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HOUSE BILL 10-1224

BY REPRESENTATIVE(S) Gerou and Gagliardi, Primavera, Riesberg, Tyler, Apuan, Kefalas, Middleton;
also SENATOR(S) Boyd, Newell, Tochtrop, Williams.

CONCERNING THE CONTINUATION OF THE COLORADO PODIATRY BOARD, AND
MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. Repeal. 24-34-104 (41) (d), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (41) The following agencies, functions, or both, shall terminate on July 1, 2010:

(d) ~~The Colorado podiatry board, created by article 32 of title 12, C.R.S.;~~

SECTION 2. 24-34-104 (50), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and

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

functions for termination, continuation, or reestablishment. (50) The following agencies, functions, or both, shall terminate on July 1, 2019:

(g) THE COLORADO PODIATRY BOARD, CREATED BY ARTICLE 32 OF TITLE 12, C.R.S.

SECTION 3. 12-32-101 (3), Colorado Revised Statutes, is amended, and the said 12-32-101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-32-101. Definitions. As used in this article, unless the context otherwise requires:

(3) (a) "Practice of podiatry" means:

(I) Holding out one's self to the public as being able to treat, prescribe for, palliate, correct, or prevent any disease, ailment, pain, injury, deformity, or physical condition of the human toe, foot, ankle, ~~and~~ tendons that insert into the foot, AND SOFT TISSUE BELOW THE MID-CALF, by the use of any medical, surgical, mechanical, manipulative, or electrical treatment, including complications thereof consistent with such scope of practice;

(II) Suggesting, recommending, prescribing, or administering any podiatric form of treatment, operation, or healing for the intended palliation, relief, or cure of any disease, ailment, injury, condition, or defect of the human toe, foot, ankle, ~~and~~ tendons that insert into the foot, AND SOFT TISSUE WOUNDS BELOW THE MID-CALF, including complications thereof consistent with such scope of practice; ~~with the intention of receiving, either directly or indirectly, any fee, gift, or compensation whatsoever; and~~

(III) Maintaining an office or other place for the purpose of examining and treating persons afflicted with disease, injury, or defect of the human toe, foot, ankle, ~~and~~ tendons that insert into the foot, AND SOFT TISSUE WOUNDS BELOW THE MID-CALF, including the complications thereof consistent with such scope of practice.

(b) The "practice of podiatry" does not include the amputation of the foot or the administration of an anesthetic other than a local anesthetic.

(c) A PODIATRIST MAY ONLY TREAT A SOFT TISSUE WOUND BELOW

THE MID-CALF IF THE PATIENT IS BEING TREATED BY A PHYSICIAN FOR HIS OR HER UNDERLYING MEDICAL CONDITION OR IF THE PODIATRIST REFERS THE PATIENT TO A PHYSICIAN FOR FURTHER TREATMENT OF THE UNDERLYING MEDICAL CONDITION.

(4) "SOFT TISSUE WOUND" MEANS A LESION TO THE MUSCULOSKELETAL JUNCTION THAT INCLUDE DERMAL AND SUB-DERMAL TISSUE THAT DO NOT INVOLVE BONE REMOVAL OR REPAIR OR MUSCLE TRANSFER.

SECTION 4. 12-32-101.5, Colorado Revised Statutes, is amended to read:

12-32-101.5. Podiatric surgery. (1) Surgical procedures on the ankle below the level of the dermis may be performed by a podiatrist licensed BEFORE JULY 1, 2010, in this state who: ~~is:~~

(a) Is certified by the American board of podiatric surgery or ITS SUCCESSOR ORGANIZATION;

(b) Is performing surgery under the direct supervision of a licensed podiatrist certified by the American board of podiatric surgery or ITS SUCCESSOR ORGANIZATION; EXCEPT THAT, IF THE SUPERVISING PODIATRIST IS LICENSED ON OR AFTER JULY 1, 2010, THE SUPERVISING PODIATRIST SHALL BE CERTIFIED IN RECONSTRUCTIVE REARFOOT/ANKLE SURGERY OR FOOT AND ANKLE SURGERY BY THE AMERICAN BOARD OF PODIATRIC SURGERY OR ITS SUCCESSOR ORGANIZATION; OR

(c) Is performing surgery under the direct supervision of a person licensed to practice medicine and certified by the American board of orthopedic surgery OR ITS SUCCESSOR ORGANIZATION or by the American osteopathic board of orthopedic surgery OR ITS SUCCESSOR ORGANIZATION.

(2) SURGICAL PROCEDURES ON THE ANKLE BELOW THE LEVEL OF THE DERMIS MAY BE PERFORMED BY A PODIATRIST LICENSED ON OR AFTER JULY 1, 2010, IN THIS STATE WHO:

(a) IS CERTIFIED IN RECONSTRUCTIVE REARFOOT/ANKLE SURGERY OR FOOT AND ANKLE SURGERY BY THE AMERICAN BOARD OF PODIATRIC SURGERY OR ITS SUCCESSOR ORGANIZATION;

(b) IS PERFORMING SURGERY UNDER THE DIRECT SUPERVISION OF A LICENSED PODIATRIST CERTIFIED BY THE AMERICAN BOARD OF PODIATRIC SURGERY OR ITS SUCCESSOR ORGANIZATION; EXCEPT THAT, IF THE SUPERVISING PODIATRIST IS LICENSED ON OR AFTER JULY 1, 2010, THE SUPERVISING PODIATRIST SHALL BE CERTIFIED IN RECONSTRUCTIVE REARFOOT/ANKLE SURGERY OR FOOT AND ANKLE SURGERY BY THE AMERICAN BOARD OF PODIATRIC SURGERY OR ITS SUCCESSOR ORGANIZATION;

(c) IS PERFORMING SURGERY UNDER THE DIRECT SUPERVISION OF A PERSON LICENSED TO PRACTICE MEDICINE AND CERTIFIED BY THE AMERICAN BOARD OF ORTHOPEDIC SURGERY OR ITS SUCCESSOR ORGANIZATION OR BY THE AMERICAN OSTEOPATHIC BOARD OF ORTHOPEDIC SURGERY OR ITS SUCCESSOR ORGANIZATION; OR

(d) HAS COMPLETED A THREE-YEAR SURGICAL RESIDENCY APPROVED BY THE COLORADO PODIATRY BOARD.

SECTION 5. 12-32-102 (1) and (2) (a), Colorado Revised Statutes, are amended to read:

12-32-102. Podiatry license required - professional liability insurance required - exceptions. (1) It is unlawful for any person to practice podiatry within the state of Colorado who does not hold a license to practice medicine issued by the Colorado state board of medical examiners or a license to practice podiatry issued by the Colorado podiatry board as provided by this article. A podiatry TRAINING license is ~~not~~ required for a person serving a ~~one-year or two-year~~ AN approved residency program. Such persons ~~must register with~~ SHALL BE LICENSED BY the Colorado podiatry board ~~in such manner and form as such board shall prescribe~~ PURSUANT TO SECTION 12-32-107.4. As used in this section, an "approved residency" is a residency in a hospital conforming to the minimum standards for residency training established or approved by the Colorado podiatry board, which has the authority, upon its own investigation, to approve any residency.

(2) It is unlawful for any person to practice podiatry within the state of Colorado unless such person purchases and maintains professional liability insurance as follows:

(a) If such person performs surgical procedures, professional liability insurance shall be maintained in an amount not less than ~~five hundred thousand~~ ONE MILLION dollars per claim and ~~one~~ THREE million ~~five hundred thousand~~ dollars per year for all claims;

SECTION 6. 12-32-103 (1), (2), and (4) (b), Colorado Revised Statutes, are amended to read:

12-32-103. Appointment of members of podiatry board - terms - repeal of article. (1) The governor shall appoint the members of the Colorado podiatry board. The board shall consist of four podiatrist members and one member from the public at large. ~~THE MEMBER FROM THE PUBLIC SHALL NOT BE A LICENSED HEALTH CARE PROFESSIONAL OR BE EMPLOYED BY OR BENEFIT FINANCIALLY FROM THE HEALTH CARE INDUSTRY.~~ The terms of the members of the board shall be four years. The governor may remove any member of the board for misconduct, incompetency, or neglect of duty. ~~MEMBERS OF THE BOARD SHALL REMAIN IN OFFICE UNTIL THEIR SUCCESSORS ARE APPOINTED.~~

(2) The Colorado podiatry board shall elect biennially from its membership a president AND a vice-president. ~~and a secretary. Regular meetings of the board shall be held as scheduled by the board in the state of Colorado. Special meetings of the board may be called by the president or by three members of the board at any time on three days' prior notice by mail or, in case of emergency, on twenty-four hours' notice by telephone, or telegraph, any such meetings to be held at the place designated in the call therefor. A majority of the board shall constitute a quorum for the transaction of all business. All meetings of the board shall be deemed to have been duly called and regularly held, and all decisions, resolutions, and proceedings of the board shall be deemed to have been duly authorized, unless the contrary be proved.~~

(4) (b) This article is repealed, effective July 1, ~~2010~~ 2019.

SECTION 7. Repeal. 12-32-104 (2), Colorado Revised Statutes, is repealed as follows:

12-32-104. Powers and duties of board. (2) ~~The list of licensees described in section 12-32-115 and any other material circulated in quantity outside the executive branch shall be issued in accordance with the~~

~~provisions of section 24-1-136, C.R.S.~~

SECTION 8. 12-32-105, Colorado Revised Statutes, is amended to read:

12-32-105. Examination as to qualifications. (1) Every person desiring to practice podiatry in this state shall be examined as to his or her qualifications, except as otherwise provided in this article. Each applicant ~~at least thirty days before the date of his or her examination, shall present to the secretary of the Colorado podiatry board a written application upon the form provided by said board, which application shall contain~~ SHALL SUBMIT, IN A MANNER APPROVED BY THE COLORADO PODIATRY BOARD, AN APPLICATION CONTAINING satisfactory proof that said applicant:

(a) Is twenty-one years of age;

(b) Is a graduate of a school of podiatry at which not less than a two-year prepodiatry course and a four-year course of podiatry is required and ~~which~~ THAT is recognized and approved by the Colorado podiatry board; and

(c) Has completed ~~an approved~~ ONE YEAR OF A residency ~~pursuant to subsection (3) of this section~~ PROGRAM APPROVED BY THE COLORADO PODIATRY BOARD AS ESTABLISHED BY RULES PROMULGATED BY THE BOARD; AND

(d) IN THE TWO YEARS IMMEDIATELY PRECEDING THE DATE THE APPLICATION IS RECEIVED BY THE COLORADO PODIATRY BOARD, HAS BEEN ENROLLED IN PODIATRIC MEDICAL SCHOOL OR IN A RESIDENCY PROGRAM, HAS PASSED THE NATIONAL EXAMINATION, HAS BEEN ENGAGED IN THE ACTIVE PRACTICE OF PODIATRY AS DEFINED BY THE BOARD, OR CAN OTHERWISE DEMONSTRATE COMPETENCY AS DETERMINED BY THE BOARD.

(2) ~~The examination, if written, shall be written in the English language, but the board, in its discretion, may use supplementary oral or practical examinations. The subjects in which the applicant shall be examined are the basic and clinical sciences and such other subjects as the board may deem advisable, limited in their scope to the treatment of the human foot. Qualification in that portion of the examination relating to the basic sciences shall be established by the applicant submitting proof~~

~~satisfactory to the Colorado podiatry board of successfully passing the examination in the basic sciences given by the national board of podiatry examiners:~~

~~(3) An approved residency is a residency:~~

~~(a) Of at least one year in a hospital conforming to the minimum standards of resident training established by the council on podiatric medical education or any successor organization; or~~

~~(b) That has been approved by the Colorado podiatry board.~~

SECTION 9. Repeal. 12-32-106, Colorado Revised Statutes, is repealed as follows:

12-32-106. Fees for examination - passing grade - date of examination. Every applicant for an examination for a license to practice podiatry, at the time of filing the application, shall pay a fee which shall be determined and collected pursuant to section 24-34-105, C.R.S. Subject to the provisions of section 12-32-104, the Colorado podiatry board shall grade the examination. The board may designate representatives to administer and score the examination. To insure impartiality, the written examination of any applicant shall not contain his name but shall be identified by number, and the board shall not know an applicant's identity when his examination is graded. The passing score in each part of the examination shall be determined by the board, which shall ensure that such score measures the level of minimum competency for the practice of podiatry. If an applicant fails to meet minimum grade requirements, he may be reexamined upon paying a fee to be determined pursuant to section 24-34-105, C.R.S. If he fails in a second examination, further examinations may be taken, but such examinee shall be required to file a new application for each subsequent examination and pay a fee to be determined pursuant to section 24-34-105, C.R.S. No fees remitted with an application shall be refunded, but, in case an applicant is prevented through no fault of his own from taking the examination applied for, he may take a subsequently scheduled examination within one year without payment of another fee or submission of a new application:

SECTION 10. 12-32-107 (1), (3) (b), (3) (f), (3) (y), (3) (bb), and (3.5), Colorado Revised Statutes, are amended, and the said 12-32-107 (3)

is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-32-107. Issuance, revocation, or suspension of license - probation - immunity in professional review. (1) (a) If the Colorado podiatry board determines that an applicant possesses the qualifications required by this article, has paid a fee to be determined and collected pursuant to section 24-34-105, C.R.S., and is entitled to a license to practice podiatry, the board shall issue such license. ~~which shall be signed by its president or vice-president and attested to by its secretary.~~

(b) If the Colorado podiatry board determines that an applicant for a license to practice podiatry does not possess the qualifications required by this article or that he OR SHE has done any of the acts defined in subsection (3) of this section as unprofessional conduct, it may refrain from issuing a license, and the applicant may proceed as provided in section 24-4-104 (9), C.R.S.

(3) "Unprofessional conduct" as used in this article means:

(b) Resorting to fraud, misrepresentation, or material deception, or making a misleading omission, in applying for, securing, renewing, or seeking reinstatement of a license TO PRACTICE PODIATRY IN THIS STATE OR ANY OTHER STATE, IN APPLYING FOR PROFESSIONAL LIABILITY COVERAGE REQUIRED PURSUANT TO SECTION 12-32-109.5 OR FOR PRIVILEGES AT A HOSPITAL OR OTHER HEALTH CARE FACILITY, or in taking the examination required in this article;

(f) Habitual ~~intemperance~~ or excessive use OR ABUSE of ~~any habit-forming drug~~ ALCOHOL or ~~any controlled substance as defined in section 12-22-303(7)~~ SUBSTANCES;

(y) Refusing to complete and submit the renewal questionnaire, or failing to report all of the relevant facts, or falsifying any information on the questionnaire as required pursuant to section ~~12-32-115(2)(b)~~ 12-32-111;

(bb) Failing to report to the COLORADO PODIATRY board WITHIN THIRTY DAYS any adverse action taken against the licensee by another licensing agency in another state, territory, or country, any peer review body, any health care institution, any professional or medical society or

association, any governmental agency, any law enforcement agency, or any court for acts of conduct that would constitute grounds for action as described in this article;

(ff) FAILING TO RESPOND IN AN HONEST, MATERIALLY RESPONSIVE, AND TIMELY MANNER TO A COMPLAINT ISSUED PURSUANT TO SECTION 12-32-108.3.

~~(3.5) Any disciplinary action imposed with respect to the practice of podiatry in any other state, territory, or country for disciplinary reasons shall be deemed to be prima facie evidence of unprofessional conduct~~ THE DISCIPLINE OF A LICENSEE FOR ACTS RELATED TO THE PRACTICE OF PODIATRY IN ANOTHER STATE, TERRITORY, OR COUNTRY SHALL BE DEEMED UNPROFESSIONAL CONDUCT. FOR PURPOSES OF THIS SUBSECTION (3.5), "DISCIPLINE" INCLUDES ANY SANCTION REQUIRED TO BE REPORTED PURSUANT TO 45 CFR 60.8. This subsection (3.5) shall apply only to disciplinary action based upon acts or omissions in such other state, territory, or country substantially as defined as unprofessional conduct pursuant to subsection (3) of this section.

SECTION 11. Article 32 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

12-32-107.2. Volunteer podiatrist license. (1) ANY PERSON LICENSED TO PRACTICE PODIATRY PURSUANT TO THIS ARTICLE MAY APPLY TO THE COLORADO PODIATRY BOARD FOR VOLUNTEER LICENSURE STATUS. ANY SUCH APPLICATION SHALL BE IN THE FORM AND MANNER DESIGNATED BY THE BOARD. THE BOARD MAY GRANT SUCH STATUS BY ISSUING A VOLUNTEER LICENSE, OR IT MAY DENY THE APPLICATION IF THE LICENSEE HAS BEEN DISCIPLINED FOR ANY OF THE CAUSES SET FORTH IN SECTION 12-32-107.

(2) ANY PERSON APPLYING FOR A LICENSE UNDER THIS SECTION SHALL:

(a) ATTEST THAT, AFTER A DATE CERTAIN, THE APPLICANT NO LONGER EARNS INCOME AS A PODIATRIST;

(b) PAY THE LICENSE FEE AUTHORIZED BY SECTION 24-34-105,

C.R.S. THE VOLUNTEER PODIATRIST LICENSE FEE SHALL BE REDUCED FROM THE LICENSE FEE CHARGED PURSUANT TO SECTION 12-32-115.

(c) MAINTAIN LIABILITY INSURANCE AS PROVIDED IN SECTION 12-32-102.

(3) THE VOLUNTEER STATUS OF A LICENSEE SHALL BE PLAINLY INDICATED ON THE FACE OF ANY VOLUNTEER LICENSE ISSUED PURSUANT TO THIS SECTION.

(4) THE COLORADO PODIATRY BOARD IS AUTHORIZED TO CONDUCT DISCIPLINARY PROCEEDINGS PURSUANT TO SECTION 12-32-108.3 AGAINST ANY PERSON LICENSED UNDER THIS SECTION FOR AN ACT COMMITTED WHILE SUCH PERSON WAS LICENSED PURSUANT TO THIS SECTION.

(5) ANY PERSON LICENSED UNDER THIS SECTION MAY APPLY TO THE COLORADO PODIATRY BOARD FOR A RETURN TO ACTIVE LICENSURE STATUS BY FILING AN APPLICATION IN THE FORM AND MANNER DESIGNATED BY THE BOARD. THE BOARD MAY APPROVE SUCH APPLICATION AND ISSUE A LICENSE TO PRACTICE PODIATRY OR MAY DENY THE APPLICATION IF THE LICENSEE HAS BEEN DISCIPLINED FOR OR ENGAGED IN ANY OF THE ACTIVITIES SET FORTH IN SECTION 12-32-107.

(6) A PODIATRIST WITH A VOLUNTEER LICENSE SHALL ONLY PROVIDE PODIATRY SERVICES IF THE SERVICES ARE PERFORMED ON A LIMITED BASIS FOR NO FEE OR OTHER COMPENSATION.

12-32-107.4. Podiatry training license. (1) THE COLORADO PODIATRY BOARD SHALL ISSUE A PODIATRY TRAINING LICENSE TO AN APPLICANT WHO HAS:

(a) GRADUATED FROM A PODIATRIC MEDICAL SCHOOL APPROVED BY THE COLORADO PODIATRY BOARD;

(b) PASSED THE PART I AND PART II EXAMINATIONS BY THE NATIONAL BOARD OF PODIATRIC MEDICAL EXAMINERS OR ITS SUCCESSOR ORGANIZATION; AND

(c) BEEN ACCEPTED INTO A PODIATRIC RESIDENCY PROGRAM IN COLORADO.

(2) AT LEAST THIRTY DAYS PRIOR TO THE DATE THE APPLICANT BEGINS THE RESIDENCY PROGRAM, THE APPLICANT SHALL SUBMIT A STATEMENT TO THE COLORADO PODIATRY BOARD FROM THE RESIDENCY DIRECTOR OF AN APPROVED RESIDENCY PROGRAM IN COLORADO THAT STATES THE APPLICANT MEETS THE NECESSARY QUALIFICATIONS AND THAT THE RESIDENCY PROGRAM ACCEPTS RESPONSIBILITY FOR THE APPLICANT'S TRAINING WHILE IN THE PROGRAM.

(3) WHERE FEASIBLE, THE APPLICANT SHALL SUBMIT A COMPLETED APPLICATION, ON A FORM APPROVED BY THE COLORADO PODIATRY BOARD, ON OR BEFORE THE DATE ON WHICH THE APPLICANT BEGINS THE APPROVED RESIDENCY. A PODIATRY TRAINING LICENSE GRANTED PURSUANT TO THIS SECTION SHALL EXPIRE IF A COMPLETED APPLICATION IS NOT RECEIVED BY THE BOARD WITHIN SIXTY DAYS AFTER THE APPLICANT BEGINS THE APPROVED RESIDENCY.

(4) THE COLORADO PODIATRY BOARD MAY REFUSE TO ISSUE A PODIATRIC TRAINING LICENSE TO AN APPLICANT WHO DOES NOT HAVE THE NECESSARY QUALIFICATIONS, WHO HAS ENGAGED IN UNPROFESSIONAL CONDUCT PURSUANT TO SECTION 12-32-107, OR WHO HAS BEEN DISCIPLINED BY A LICENSING BOARD IN ANOTHER JURISDICTION.

(5) A PERSON WITH A PODIATRIC TRAINING LICENSE SHALL ONLY PRACTICE PODIATRY UNDER THE SUPERVISION OF A LICENSED PODIATRIST OR A PHYSICIAN LICENSED TO PRACTICE MEDICINE WITHIN THE RESIDENCY PROGRAM. A PERSON WITH A PODIATRY TRAINING LICENSE SHALL NOT DELEGATE PODIATRIC OR MEDICAL SERVICES TO A PERSON WHO IS NOT LICENSED TO PRACTICE PODIATRY OR MEDICINE AND SHALL NOT HAVE THE AUTHORITY TO SUPERVISE PHYSICIAN ASSISTANTS.

(6) THE PODIATRY TRAINING LICENSE SHALL NOT BE RENEWED AND SHALL EXPIRE:

(a) NO LATER THAN THREE YEARS AFTER THE DATE THE LICENSE IS ISSUED;

(b) IF THE TRAINING LICENSEE IS NO LONGER PARTICIPATING IN THE RESIDENCY PROGRAM; OR

(c) WHEN THE TRAINING LICENSEE RECEIVES A LICENSE TO PRACTICE

PODIATRY PURSUANT TO SECTION 12-32-107.

SECTION 12. 12-32-108 (1) and (3), Colorado Revised Statutes, are amended to read:

12-32-108. Licensure by endorsement. (1) The Colorado podiatry board may issue a license by endorsement to engage in the practice of podiatry in this state to any applicant who has a license in good standing as a podiatrist under the laws of another jurisdiction if the applicant presents proof satisfactory to the board that, at the time of application for a Colorado license by endorsement, the applicant possesses credentials and qualifications ~~which~~ THAT are substantially equivalent to requirements in Colorado for licensure by examination, AND THAT IN THE TWO YEARS IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION THE APPLICANT HAS BEEN ENGAGED IN THE ACTIVE PRACTICE OF PODIATRY AS DEFINED BY THE BOARD OR CAN OTHERWISE DEMONSTRATE COMPETENCY AS DETERMINED BY THE BOARD. The board may specify by rule ~~and regulation~~ what shall constitute substantially equivalent credentials and qualifications.

(3) "In good standing", as used in subsection (1) of this section, means a license ~~which~~ THAT has not been revoked or suspended or against which there are no CURRENT disciplinary or adverse actions.

SECTION 13. 12-32-108.3 (2) (a), (3), (8), (9), (10), (11) (a), (11) (b), and (13), Colorado Revised Statutes, are amended, and the said 12-32-108.3 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-32-108.3. Disciplinary action by board. (2) (a) Complaints in writing relating to the conduct of any podiatrist licensed or authorized to practice podiatry in this state may be made by any person or may be initiated by the Colorado podiatry board on its own motion. The podiatrist complained of shall be given notice by first-class mail of the nature of all matters complained of WITHIN THIRTY DAYS OF THE RECEIPT OF THE COMPLAINT OR INITIATION OF THE COMPLAINT BY THE COLORADO PODIATRY BOARD and shall be given ~~twenty~~ THIRTY days to make explanation or answer thereto.

(3) (a) All formal complaints seeking disciplinary action against a podiatrist shall be filed with the Colorado podiatry board. A formal

complaint shall set forth the charges with sufficient particularity as to inform the podiatrist clearly and specifically of the acts of unprofessional conduct with which he OR SHE is charged.

(b) The board may include in any disciplinary order placing a podiatrist on probation such conditions as ~~said~~ THE board may deem appropriate to assure that the podiatrist is physically, mentally, and otherwise qualified to practice podiatry in accordance with generally accepted professional standards of practice, including any or all of the following:

(I) Submission by the podiatrist to such examinations as the board may order to determine his OR HER physical or mental condition or his OR HER professional qualifications;

(II) The taking by him OR HER of such therapy or courses of training or education as may be needed to correct deficiencies found either in the hearing or by such examinations;

(III) The review or supervision of his OR HER practice as may be necessary to determine the quality of his OR HER practice and to correct deficiencies therein; and

(IV) The imposition of restrictions upon the nature of his OR HER practice to assure that he OR SHE does not practice beyond the limits of his OR HER capabilities.

~~(8) A majority of the members of the Colorado podiatry board shall constitute a quorum.~~

(9) Upon the expiration of the term of suspension, the license shall be reinstated by the Colorado podiatry board if the holder ~~thereof~~ OF THE LICENSE furnishes the board with evidence that he OR SHE has complied with all terms of the suspension. If ~~such~~ THE evidence shows he OR SHE has not complied with all terms of the suspension, the board shall continue the suspension or revoke the license at a hearing, notice of which and the procedure at which shall be as provided in this section.

(10) ~~In case any~~ IF A person holding a license to practice podiatry in this state is determined to be mentally incompetent or insane by a court of

competent jurisdiction and a court enters, pursuant to part 3 or part 4 of article 14 of title 15 or section 27-10-109 (4) or 27-10-125, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the person holding a license is incapable of continuing to practice podiatry, his OR HER license shall automatically be suspended by the board, and, anything in this article to the contrary notwithstanding, ~~such~~ THE suspension shall continue until the licensee is found by such court to be competent to practice podiatry.

(11) (a) If the Colorado podiatry board has reasonable cause to believe that a person licensed to practice podiatry in this state is unable to practice podiatry with reasonable skill and safety to patients because of a condition described in section 12-32-107 (3) (f) or (3) (p), it may require ~~such~~ THE licensee to submit to mental or physical examinations by physicians designated by ~~said~~ THE board. Upon the failure of ~~such~~ THE licensee to submit to ~~such~~ THE mental or physical examinations, unless due to circumstances beyond his OR HER control, the board may suspend ~~such~~ THE licensee's license to practice podiatry in this state until such time as he OR SHE submits to the required examinations and the board has made a determination on the ability of ~~such~~ THE licensee based on the results ~~thereof~~ OF THE EXAMINATIONS. The board shall ensure that all examinations are conducted and evaluated in a timely manner.

(b) Every person licensed to practice podiatry in this state shall be deemed, by so practicing or by applying for registration of his OR HER license to practice podiatry in this state, to have given his OR HER consent to submit to mental or physical examinations when directed in writing by the board and, further, to have waived all objections to the admissibility of the examining physician's testimony or examination reports on the ground of privileged communication.

(13) A person licensed to practice podiatry or medicine who, at the request of the Colorado podiatry board, examines another person licensed to practice podiatry shall be immune from suit for damages by the person examined if the examining person conducted the examination and made his OR HER findings or diagnosis in good faith.

(20) THE COLORADO PODIATRY BOARD MAY IMPOSE A FINE, NOT TO EXCEED FIVE THOUSAND DOLLARS, FOR A VIOLATION OF THIS ARTICLE. ALL FINES COLLECTED PURSUANT TO THIS SUBSECTION (20) SHALL BE

TRANSFERRED TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEYS TO THE GENERAL FUND.

SECTION 14. 12-32-108.3 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-32-108.3. Disciplinary action by board. (3) (c) UPON THE FAILURE OF A LICENSEE TO COMPLY WITH ANY CONDITIONS IMPOSED BY THE COLORADO PODIATRY BOARD PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3), UNLESS COMPLIANCE IS BEYOND THE CONTROL OF THE LICENSEE, THE BOARD MAY SUSPEND THE LICENSE OF THE LICENSEE UNTIL THE LICENSEE COMPLIES WITH THE CONDITIONS OF THE BOARD.

SECTION 15. 12-32-108.5 (2), Colorado Revised Statutes, is amended to read:

12-32-108.5. Reconsideration and review of action of board. (2) Upon the receipt of ~~such~~ THE application, it may be forwarded to the attorney general for such investigation as may be deemed necessary. A copy of the application and the report of investigation shall be forwarded to the board, which shall consider the same and report its findings and conclusions. The proceedings shall be governed by the applicable provisions governing formal hearings in disciplinary proceedings. The attorney general may present evidence bearing upon the matters in issue, and the burden shall be upon the applicant seeking reinstatement to establish the averments of his OR HER application as specified in section 24-4-105 (7), C.R.S. No application for reinstatement or for modification of a prior order shall be accepted unless the applicant deposits with the board all amounts unpaid under any prior order of the board.

SECTION 16. 12-32-109 (2), (3), and (5), Colorado Revised Statutes, are amended to read:

12-32-109. Unauthorized practice - penalties. (2) No person shall advertise in any form or hold himself OR HERSELF out to the public as a podiatrist, or, in any sign or any advertisement, use the word "podiatrist", "foot specialist", "foot correctionist", "foot expert", "practipedist", "podologist", or any other terms or letters indicating or implying that he OR SHE is a podiatrist or that he OR SHE practices or holds himself OR HERSELF out as practicing podiatry or foot correction in any manner, without having,

at the time of so doing, a valid, unsuspended, and unrevoked license as required by this article.

(3) No podiatrist shall willfully cause the public to believe that he OR SHE has qualifications extending beyond the limits of this article, and no podiatrist shall willfully sign his OR HER name using the prefix "Doctor" or "Dr." without following his OR HER name with "podiatrist", "Doctor of Podiatric Medicine", or "D.P.M.". No podiatrist shall use the title "podiatric physician" unless such title is followed by the words "practice limited to treatment of the foot and ankle".

(5) The provisions of this article shall not apply to any physician licensed to practice medicine or surgery, any regularly commissioned surgeon of the United States ~~Army, Navy, or Marines~~ ARMED FORCES or United States public health service, or any licensed osteopath.

SECTION 17. 12-32-109.3 (1), Colorado Revised Statutes, is amended to read:

12-32-109.3. Use of physician assistants. (1) A person licensed under the laws of this state to practice podiatry may delegate to a physician assistant licensed by the Colorado state board of medical examiners pursuant to section 12-36-106 (5) the authority to perform acts ~~which~~ THAT constitute the practice of podiatry to the extent and in the manner authorized by rules ~~and regulations~~ promulgated by the Colorado podiatry board. ~~including the authority to prescribe, on a case-by-case basis and per-patient-visit basis as approved by the supervising podiatrist, and dispense only such drugs as designated by the Colorado podiatry board.~~ Such acts shall be consistent with sound practices of podiatry. Each prescription issued by a physician assistant shall have ~~imprinted thereon the name of his supervising podiatrist, and under no circumstances shall a physician assistant write prescriptions unless countersigned by the supervising podiatrist~~ THE NAME OF HIS OR HER SUPERVISING PODIATRIST PRINTED ON THE PRESCRIPTION. Nothing in this section shall limit the ability of otherwise licensed health personnel to perform delegated acts. The dispensing of prescription medication by a physician assistant shall be subject to ~~the provisions of section 12-22-121 (6).~~

SECTION 18. 12-32-109.5 (1) (e), the introductory portion to 12-32-109.5 (1) (g), and 12-32-109.5 (3), Colorado Revised Statutes, are

amended to read:

12-32-109.5. Professional service corporations, limited liability companies, and registered limited liability partnerships for the practice of podiatry - definitions. (1) Persons licensed to practice podiatry by the Colorado podiatry board may form professional service corporations for the practice of podiatry under the "Colorado Corporation Code", if such corporations are organized and operated in accordance with the provisions of this section. The articles of incorporation of such corporations shall contain provisions complying with the following requirements:

(e) Provisions shall be made requiring any shareholder who ceases to be or for any reason is ineligible to be a shareholder to dispose of all his OR HER shares forthwith IMMEDIATELY, either to the corporation or to any person having the qualifications described in paragraph (d) of this subsection (1).

(g) The articles of incorporation shall provide and all shareholders of the corporation shall agree that all shareholders of the corporation shall be jointly and severally liable for all acts, errors, and omissions of the employees of the corporation or that all shareholders of the corporation shall be jointly and severally liable for all acts, errors, and omissions of the employees of the corporation except during periods of time when each person licensed by the Colorado podiatry board to practice podiatry in Colorado who is a shareholder or any employee of the corporation has a professional liability policy insuring himself OR HERSELF and all employees who are not licensed to practice podiatry who act at his OR HER direction in the amount of fifty thousand dollars for each claim and an aggregate top limit of liability per year for all claims of one hundred fifty thousand dollars or the corporation maintains in good standing professional liability insurance, which shall meet the following minimum standards:

(3) Nothing in this section shall be deemed to diminish or change the obligation of each person licensed to practice podiatry employed by the corporation to conduct his OR HER practice in accordance with the standards of professional conduct provided for in section 12-32-107 (3). Any person licensed by the Colorado podiatry board to practice podiatry who by act or omission causes the corporation to act or fail to act in a way ~~which~~ THAT violates such standards of professional conduct, including any provision of this section, shall be deemed personally responsible for ~~such~~ THE act or

omission and shall be subject to discipline ~~therefor~~ FOR THE ACT OR OMISSION.

SECTION 19. 12-32-111, Colorado Revised Statutes, is amended to read:

12-32-111. Renewal of license. (1) (a) The Colorado podiatry board shall set reasonable continuing education requirements for renewal of license, but in no event shall the board require more than fourteen hours' credit of continuing education per year. A podiatrist desiring to renew his OR HER license to practice podiatry shall submit to the Colorado podiatry board the information the board believes necessary to show that he OR SHE has fulfilled the board's continuing education requirements and a fee to be determined and collected pursuant to section 24-34-105, C.R.S.

(b) ON OR BEFORE THE 2013 PODIATRIST LICENSE RENEWAL CYCLE, THE COLORADO PODIATRY BOARD SHALL PROMULGATE RULES AND IMPLEMENT AN ONGOING PROFESSIONAL DEVELOPMENT PROGRAM THAT SHALL BE DEVELOPED IN CONJUNCTION WITH STATEWIDE PROFESSIONAL ASSOCIATIONS THAT REPRESENT PODIATRISTS. THE PROFESSIONAL DEVELOPMENT PROGRAM MAY INCLUDE THE CONTINUING EDUCATION REQUIREMENTS IN PARAGRAPH (a) OF THIS SUBSECTION (1).

(1.5) THE BOARD SHALL ESTABLISH A QUESTIONNAIRE TO ACCOMPANY THE RENEWAL FORM. THE QUESTIONNAIRE SHALL BE DESIGNED TO DETERMINE IF THE LICENSEE HAS ACTED IN VIOLATION OF, OR HAS BEEN DISCIPLINED FOR ACTIONS THAT MIGHT BE CONSTRUED AS VIOLATIONS OF, THIS ARTICLE OR THAT MAY MAKE THE LICENSEE UNFIT TO PRACTICE PODIATRY WITH REASONABLE CARE AND SAFETY. THE FAILURE OF AN APPLICANT TO ANSWER THE QUESTIONNAIRE ACCURATELY SHALL CONSTITUTE UNPROFESSIONAL CONDUCT PURSUANT TO SECTION 12-32-107.

(2) No license to practice podiatry ~~which~~ THAT has been delinquent for more than two years shall be renewed unless the applicant demonstrates to the Colorado podiatry board his OR HER continued professional competence.

~~(3) Any license issued by the Colorado podiatry board shall expire for failure of the licensee to timely renew his license pursuant to the rules and regulations established by the board, including the payment of all~~

~~required fees. Upon compliance with the applicable rules and regulations regarding renewal and payment of fees, the expired license shall be reinstated.~~

(4) RENEWAL OR REINSTATEMENT OF A LICENSE SHALL BE PURSUANT TO A SCHEDULE ESTABLISHED BY THE DIRECTOR OF THE DIVISION OF REGISTRATIONS WITHIN THE DEPARTMENT OF REGULATORY AGENCIES, AND A LICENSE SHALL BE RENEWED OR REINSTATED PURSUANT TO SECTION 24-34-102 (8), C.R.S. THE DIRECTOR MAY ESTABLISH RENEWAL FEES AND DELINQUENCY FEES FOR REINSTATEMENT PURSUANT TO SECTION 24-34-105, C.R.S. IF A PERSON FAILS TO RENEW HIS OR HER LICENSE PURSUANT TO THE SCHEDULE ESTABLISHED BY THE DIRECTOR, THE LICENSE SHALL EXPIRE. A PERSON WHOSE LICENSE HAS EXPIRED SHALL BE SUBJECT TO THE PENALTIES PROVIDED IN THIS ARTICLE OR IN SECTION 24-34-102 (8), C.R.S. THE BOARD SHALL ESTABLISH THE CRITERIA FOR REINSTATEMENT OF A LICENSE.

SECTION 20. 12-32-114, Colorado Revised Statutes, is amended to read:

12-32-114. Duplicates of license. The Colorado podiatry board is authorized to issue a duplicate license to any person to whom a license to practice podiatry in this state has been issued, upon application, properly verified by oath, establishing to the satisfaction of the board that the original license has been lost or destroyed and upon payment to the board of a fee to be determined by ~~regulation~~ RULE adopted by the board. No person shall be entitled to a duplicate license unless he OR SHE is a licensee in good standing.

SECTION 21. Repeal. 12-32-115, Colorado Revised Statutes, is repealed as follows:

12-32-115. Procedure - registration - fees. ~~(1)(a) The Colorado podiatry board shall establish procedures for the maintenance of licensee lists and the establishment of renewal fees and schedules, which fees and schedules shall be established subject to the provisions of section 24-34-102 (8), C.R.S. Every licensee shall pay the secretary a registration fee to be determined and collected pursuant to section 24-34-105, C.R.S., and shall obtain a registration certificate for the current calendar year.~~

~~(b) A licensee desiring to obtain a registration certificate shall~~

~~submit the information necessary to show that he has fulfilled the Colorado podiatry board's continuing education requirements. Any licensee aggrieved by a decision relating to such continuing education requirements may ask the executive director of the department of regulatory agencies to review such requirements in accordance with the procedures established by section 24-34-102 (11), C.R.S.~~

~~(2) (a) The secretary shall mail to each such licensee, at his last address as shown by the records of the Colorado podiatry board, notice of the provisions of paragraph (a) of subsection (1) of this section together with such form of application for registration as may be prescribed by the board. Failure of any licensee to pay the registration fee authorized by paragraph (a) of subsection (1) of this section shall cause any such license to lapse, and the name of any lapsed licensee shall be omitted from such list.~~

~~(b) The board shall establish a questionnaire to accompany the renewal form. Said questionnaire shall be designed to determine if the licensee has acted in violation of or has been disciplined for actions that might be construed as violations of this article or that might make the licensee unfit to practice podiatry with reasonable care and safety. Failure of the applicant to answer the questionnaire accurately shall be considered unprofessional conduct as specified in section 12-32-107 (3).~~

~~(3) Renewal or reinstatement of a license shall be pursuant to a schedule established by the director of the division of registrations within the department of regulatory agencies and shall be renewed or reinstated pursuant to section 24-34-102 (8), C.R.S. The director of the division of registrations within the department of regulatory agencies may establish renewal fees and delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S. If a person fails to renew his or her license pursuant to the schedule established by the director of the division of registrations, such license shall expire. Any person whose license has expired shall be subject to the penalties provided in this article or section 24-34-102 (8), C.R.S. The board shall establish the criteria for reinstatement of a license.~~

SECTION 22. Repeal. 12-32-116, Colorado Revised Statutes, is repealed as follows:

12-32-116. Certification of licensing. Upon request therefor and the payment of a fee determined pursuant to section 24-34-105, C.R.S., the

~~secretary of the Colorado podiatry board shall issue its certificate or endorsement with respect to the licensing of, and the official record of the board relating to, any licensee to whom a license to practice podiatry in this state has been issued by this or any prior board; and, upon request therefor and the payment of a fee determined pursuant to section 24-34-105, C.R.S., the secretary shall issue a certificate evidencing that any such licensee is duly licensed to practice podiatry in this state.~~

SECTION 23. 12-32-118, Colorado Revised Statutes, is amended to read:

12-32-118. Recovery of fees illegally paid. If any licensee, in violation of section 12-32-117, divides or agrees to divide any fee or compensation received by him OR HER for services rendered in his OR HER professional capacity with any person, ~~whomsoever~~, the person who has paid such fee or compensation to ~~such~~ THE licensee may recover the amount unlawfully paid or agreed to be paid from either the licensee or from the person to whom ~~such~~ THE fee or compensation has been paid, by an action to be instituted within two years ~~from~~ AFTER the date on which ~~such~~ THE fee or compensation was ~~so~~ divided or agreed to be divided.

SECTION 24. Repeal. 12-32-119, Colorado Revised Statutes, is repealed as follows:

12-32-119. Existing licenses and proceedings. ~~(1) Nothing in the act contained in chapter 105, Session Laws of Colorado 1979, shall be construed to invalidate the license of any person holding a valid, unrevoked, and unsuspended license on June 30, 1979, to practice podiatry in this state or to affect any disciplinary proceeding or appeal pending on June 30, 1979, or any appointment to the Colorado state board of medical examiners or the Colorado podiatry board or an inquiry panel or hearings panel thereof made on or before June 30, 1979.~~

~~(2) Nothing in the act contained in chapter 107, Session Laws of Colorado 1985, shall be construed to invalidate the license of any person holding a valid, unrevoked, and unsuspended license on June 30, 1985, to practice podiatry in this state or to affect any disciplinary proceeding or appeal pending on June 30, 1985, or any appointment to the Colorado state board of medical examiners or the Colorado podiatry board or any inquiry panel or hearings panel thereof made on or before June 30, 1985.~~

SECTION 25. 19-3-304 (2) (h), Colorado Revised Statutes, is amended to read:

19-3-304. Persons required to report child abuse or neglect.

(2) Persons required to report such abuse or neglect or circumstances or conditions shall include any:

(h) ~~Chiropracist or Podiatrist;~~

SECTION 26. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of registrations cash fund created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for allocation to the division of registrations, for the fiscal year beginning July 1, 2010, the sum of three thousand one hundred forty-nine dollars (\$3,149) cash funds, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2010, the sum of two thousand two hundred sixty-one dollars (\$2,261), or so much thereof as may be necessary, for the provision of legal services to the department of regulatory agencies related to the implementation of this act. 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 27. Specified effective date. This act shall take effect July 1, 2010.

SECTION 28. 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.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO