

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO
CORRECTED INTRODUCED**

LLS NO. 18-0385.01 Kip Kolkmeier x4510

HOUSE BILL 18-1294

HOUSE SPONSORSHIP

Lontine and Buckner, Esgar, Ginal, Kennedy, Roberts

SENATE SPONSORSHIP

Crowder,

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE REGULATION OF NURSING**
102 **HOME ADMINISTRATORS BY THE BOARD OF EXAMINERS OF**
103 **NURSING HOME ADMINISTRATORS IN THE DIVISION OF**
104 **PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF**
105 **REGULATORY AGENCIES, AND, IN CONNECTION THEREWITH,**
106 **IMPLEMENTING THE DEPARTMENT'S SUNSET REVIEW**
107 **RECOMMENDATIONS AND REQUIRING NURSING HOME**
108 **ADMINISTRATORS TO REPORT POSSIBLE FELONY CONDUCT BY**
109 **NURSING HOME FACILITY EMPLOYEES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sunset Process - House Health, Insurance, and Environment Committee. The bill implements the recommendations of the department of regulatory agencies, as contained in the department's sunset review of nursing home administrators, as follows:

- ! Continues the regulation of nursing home administrators by the board of examiners of nursing home administrators in the division of professions and occupations for 7 years, until September 1, 2025 (**sections 1 and 2**); and
- ! Changes the membership of the 5-member board of examiners from 3 practicing nursing home administrators and 2 members representing the public to 2 practicing nursing home administrators and 3 members representing the public. The board membership change applies to appointments made on or after July 1, 2018 (**section 3**).

The bill requires a nursing home administrator to report to law enforcement possible felony conduct by an employee. If the employee holds a state license, the administrator must also report the conduct to the appropriate occupational board or the director of the division of professions and occupations. Failure to report is grounds for discipline.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 12-39-121 as
3 follows:

4 **12-39-121. Repeal of article.** (1) This ~~article~~ ARTICLE 39 is
5 repealed, effective ~~July 1, 2018~~ SEPTEMBER 1, 2025.

6 (2) Prior to ~~such~~ THE repeal, the licensing functions of the board
7 of examiners of nursing home administrators ~~shall be reviewed as~~
8 ~~provided in~~ ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH section
9 24-34-104. ~~C.R.S.~~

10 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **repeal**
11 (14)(a)(VI); and **add** (26)(a)(VIII) as follows:

12 **24-34-104. General assembly review of regulatory agencies**
13 **and functions for repeal, continuation, or reestablishment - legislative**

1 **declaration - repeal.** (14) (a) The following agencies, functions, or both,
2 are scheduled for repeal on July 1, 2018:

3 (VI) ~~The board of examiners of nursing home administrators~~
4 ~~created in section 12-39-104, C.R.S.;~~

5 (26) (a) The following agencies, functions, or both, are scheduled
6 for repeal on September 1, 2025:

7 (VIII) THE REGULATION OF NURSING HOME ADMINISTRATORS BY
8 THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS IN
9 ACCORDANCE WITH ARTICLE 39 OF TITLE 12.

10 **SECTION 3.** In Colorado Revised Statutes, 12-39-104, **amend**
11 (1)(a) and (2)(a); and **add** (1)(a.5) as follows:

12 **12-39-104. Board of examiners of nursing home**
13 **administrators - creation - subject to termination - repeal.**

14 (1) (a) (I) The board of examiners of nursing home administrators is
15 hereby created in the division of professions and occupations in the
16 department of regulatory agencies. The board is composed of the
17 following members appointed by the governor:

18 ~~(H)~~ (A) Three members who are practicing nursing home
19 administrators duly licensed under this ~~article~~ ARTICLE 39, at least one of
20 whom shall be from nonprofit facility administration.

21 ~~(H)~~ ~~Repealed.~~

22 ~~(HH)~~ (B) Three members shall be representative of the public at
23 large; except that upon the expiration of the term of office of the one
24 member of the board representing the public whose term expires on July
25 1, 2011, the board shall consist of two members representative of the
26 public at large.

27 (II) THIS SUBSECTION (1)(a) IS REPEALED, EFFECTIVE JULY 1, 2018.

1 (a.5) (I) THE BOARD OF EXAMINERS OF NURSING HOME
2 ADMINISTRATORS IS HEREBY CREATED IN THE DIVISION OF PROFESSIONS
3 AND OCCUPATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES. THE
4 BOARD IS COMPOSED OF THE FOLLOWING MEMBERS APPOINTED BY THE
5 GOVERNOR:

6 (A) TWO MEMBERS WHO ARE PRACTICING NURSING HOME
7 ADMINISTRATORS DULY LICENSED UNDER THIS ARTICLE 39, AT LEAST ONE
8 OF WHOM MUST BE FROM NONPROFIT FACILITY ADMINISTRATION; AND

9 (B) THREE MEMBERS WHO REPRESENT THE PUBLIC AT LARGE.

10 (II) THIS SUBSECTION (1)(a.5) APPLIES TO APPOINTMENTS TO THE
11 BOARD MADE ON OR AFTER JULY 1, 2018.

12 (2) (a) The governor shall make appointments to the board. ON OR
13 AFTER JULY 1, 2018, in making an appointment to fill a vacancy on the
14 board in the position of, or to fill the remainder of an unexpired term for,
15 a nursing home administrator who is from nonprofit facility
16 administration, as required by ~~subparagraph (I) of paragraph (a) of~~
17 ~~subsection (1)~~ SUBSECTION (1)(a.5)(I)(A) of this section, if the governor,
18 after a good-faith attempt, is unable to find a nursing home administrator
19 candidate who comes from nonprofit facility administration to fill the
20 vacancy or complete the unexpired term, the governor may appoint any
21 qualified nursing home administrator to complete the unexpired term or
22 fill the vacancy in that board position. If the appointment is to fill a
23 vacancy, the board member may serve the full term and is eligible for
24 appointment for a second term.

25 **SECTION 4.** In Colorado Revised Statutes, 12-39-108, **add** (11)
26 as follows:

27 **12-39-108. Licenses.** (11) (a) A LICENSEE SHALL REPORT TO THE

1 APPROPRIATE LAW ENFORCEMENT AUTHORITY CONDUCT OCCURRING IN A
2 NURSING HOME FACILITY BY AN INDIVIDUAL EMPLOYED BY THAT FACILITY
3 THAT THE NURSING HOME ADMINISTRATOR REASONABLY BELIEVES WOULD
4 CONSTITUTE A FELONY UNDER THE LAWS OF THE STATE OF COLORADO. IF
5 THE EMPLOYEE IS LICENSED BY A COLORADO OCCUPATIONAL BOARD OR
6 THE DIRECTOR OF THE DIVISION OF PROFESSIONS AND OCCUPATIONS IN THE
7 DEPARTMENT OF REGULATORY AGENCIES, THE NURSING HOME
8 ADMINISTRATOR SHALL ALSO REPORT THE CONDUCT TO THE APPROPRIATE
9 OCCUPATIONAL BOARD OR THE DIRECTOR.

10 (b) A NURSING HOME ADMINISTRATOR WHO IN GOOD FAITH
11 REPORTS CONDUCT DESCRIBED BY THIS SUBSECTION (1) IS IMMUNE FROM
12 CIVIL LIABILITY IN AN ACTION ALLEGING DAMAGES RESULTING FROM THE
13 ADMINISTRATOR'S REPORT TO LAW ENFORCEMENT, AN OCCUPATIONAL
14 BOARD, OR THE DIRECTOR.

15 **SECTION 5.** In Colorado Revised Statutes, 12-39-111, **add**
16 (1)(p) as follows:

17 **12-39-111. Grounds for discipline.** (1) The board has the power
18 to revoke, suspend, withhold, or refuse to renew any license, to place on
19 probation a licensee or temporary license holder, or to issue a letter of
20 admonition to a licensee in accordance with the procedures set forth in
21 subsection (3) of this section, upon proof that the person:

22 (p) (I) HAS FAILED TO REPORT TO THE APPROPRIATE LAW
23 ENFORCEMENT AUTHORITY CONDUCT OCCURRING IN A NURSING HOME
24 FACILITY BY AN INDIVIDUAL EMPLOYED BY THAT FACILITY THAT THE
25 NURSING HOME ADMINISTRATOR REASONABLY BELIEVES WOULD
26 CONSTITUTE A FELONY UNDER THE LAWS OF THE STATE OF COLORADO; OR

27 (II) IF THE EMPLOYEE DESCRIBED IN SUBSECTION (1)(p)(I) OF THIS

1 SECTION IS LICENSED BY A COLORADO OCCUPATIONAL BOARD OR THE
2 DIRECTOR OF THE DIVISION OF PROFESSIONS AND OCCUPATIONS, HAS
3 FAILED TO REPORT CONDUCT DESCRIBED IN SUBSECTION (1)(p)(I) OF THIS
4 SECTION TO THE APPROPRIATE OCCUPATIONAL BOARD OR THE DIRECTOR.

5 **SECTION 6. Effective date.** This act takes effect July 1, 2018.

6 **SECTION 7. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.