

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 19-0377.01 Kristen Forrestal x4217

SENATE BILL 19-193

SENATE SPONSORSHIP

Ginal and Lee, Gardner

HOUSE SPONSORSHIP

Tipper,

Senate Committees

Judiciary
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE "COLORADO MEDICAL**
102 **PRACTICE ACT", AND, IN CONNECTION THEREWITH,**
103 **CONTINUING THE COLORADO MEDICAL BOARD, ELIMINATING**
104 **THE SIXTY-DAY LIMIT ON THE PRO BONO LICENSE, REPEALING**
105 **THE REQUIREMENT THAT A LETTER OF ADMONITION BE SENT TO**
106 **LICENSEES BY CERTIFIED MAIL, AND UPDATING LANGUAGE AND**
107 **MAKING TECHNICAL AMENDMENTS.**

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

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.

SENATE
Amended 2nd Reading
April 23, 2019

Sunset Process - Senate Judiciary Committee. The bill implements some of the recommendations in the 2018 sunset review and report by the department of regulatory agencies by:

- ! Continuing the "Colorado Medical Practice Act" (Act) and the Colorado medical board (board) until September 1, 2026 (**sections 2 and 3 of the bill**);
- ! Eliminating the restriction on the number of days that a physician may practice in a calendar year with a pro bono license (**section 5**);
- ! Repealing the requirement that the board send a letter of admonition to a licensee by certified mail (**section 6**); and
- ! Making technical amendments to the Act (**sections 1, 2, 4, and 7**).

Sections 9 through 14 make conforming amendments to harmonize the bill with the title 12 recodification bill, House Bill 19-1172.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-36-102.5, **amend**
3 the introductory portion and (3)(a)(I) as follows:

4 **12-36-102.5. Definitions.** As used in this ~~article~~ ARTICLE 36,
5 unless the context otherwise requires:

6 (3) (a) "Approved medical college" means a college that:

7 (I) Conforms to the minimum educational standards for medical
8 colleges as established by the Liaison Committee on Medical Education
9 or any successor organization that is the official accrediting body of
10 educational programs leading to the degree of doctor of medicine and
11 recognized for such purpose by the federal department of education and
12 the Council on ~~postsecondary~~ FOR HIGHER EDUCATION Accreditation;

13 **SECTION 2.** In Colorado Revised Statutes, 12-36-103, **amend**
14 (1)(a)(II) and (6)(b) as follows:

15 **12-36-103. Colorado medical board - immunity - subject to**
16 **termination - repeal of article.** (1) (a) (II) The terms of the members of

1 the board shall be four years. For the two physician and one physician
2 assistant appointees added to the board during the calendar year
3 beginning January 1, 2010, the term for one of the physician member
4 appointees shall expire four years after the appointment; the term for the
5 other physician member appointee shall expire three years after the
6 appointment; and the term for the physician assistant appointee shall
7 expire two years after the appointment. Thereafter, the terms of the
8 members of the board shall be four years.

9 (6) (b) This ~~article~~ ARTICLE 36 is repealed, effective July 1, 2019
10 SEPTEMBER 1, 2026. BEFORE THE REPEAL, THIS ARTICLE 36 IS SCHEDULED
11 FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

12 **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **repeal**
13 (16)(a)(VII); and **add** (27)(a)(VIII) as follows:

14 **24-34-104. General assembly review of regulatory agencies**
15 **and functions for repeal, continuation, or reestablishment - legislative**
16 **declaration - repeal.** (16) (a) The following agencies, functions, or both,
17 will repeal on July 1, 2019:

18 (VII) ~~The Colorado medical board created in article 36 of title 12,~~
19 ~~C.R.S.~~

20 (27) (a) The following agencies, functions, or both, are scheduled
21 for repeal on September 1, 2026:

22 (VIII) THE COLORADO MEDICAL BOARD CREATED IN ARTICLE 36
23 OF TITLE 12.

24 **SECTION 4.** In Colorado Revised Statutes, 12-36-107, **amend**
25 (1) introductory portion and (1)(b) as follows:

26 **12-36-107. Qualifications for licensure.** (1) Subject to the other
27 conditions and provisions of this ~~article~~ ARTICLE 36, a license to practice

1 medicine shall be granted by the board to an applicant only upon the basis
2 of:

3 (b) The applicant's passage of examinations conducted by the
4 National Board of Medical Examiners, the National Board of
5 OSTEOPATHIC MEDICAL Examiners, ~~for osteopathic physicians and~~
6 ~~surgeons~~, the Federation of State Medical Boards, or any successor to
7 said organizations, as approved by the board;

8 **SECTION 5.** In Colorado Revised Statutes, 12-36-114.3, **amend**
9 (1) introductory portion as follows:

10 **12-36-114.3. Pro bono license - qualifications - reduced fee -**
11 **rules.** (1) Notwithstanding any other provision of this ~~article~~ ARTICLE 36,
12 the board may issue a pro bono license to a physician to practice medicine
13 in this state ~~for not more than sixty days in a calendar year~~ if the
14 physician:

15 **SECTION 6.** In Colorado Revised Statutes, 12-36-117, **amend**
16 (1)(a); and add (1)(nn) as follows:

17 **12-36-117. Unprofessional conduct.** (1) "Unprofessional
18 conduct" as used in this article 36 means:

19 (a) Resorting to fraud, misrepresentation, or deception in applying
20 for, securing, renewing, or seeking reinstatement of a license to practice
21 medicine or a license to practice as a physician assistant OR AN
22 ANESTHESIOLOGIST ASSISTANT in this state or any other state, in applying
23 for professional liability coverage, required pursuant to section
24 13-64-301, ~~C.R.S.~~, or privileges at a hospital, or in taking the examination
25 provided for in this ~~article~~ ARTICLE 36;

26 (nn) (I) ANY SUSPENSION OF A LICENSE PURSUANT TO SECTION
27 24-4-104 (4) AS A RESULT OF A FORMAL CHARGE FOR A CRIME PURSUANT

1 TO TITLE 18, OR THAT UNDER FEDERAL LAW OR THE LAW OF ANOTHER
2 STATE WOULD CONSTITUTE A CRIME UNDER TITLE 18, WHERE THE BOARD
3 FINDS THE CRIME IS A CONTINUING THREAT TO PATIENT SAFETY.

4 (II) A SUSPENSION ISSUED PURSUANT TO SUBSECTION (1)(nn)(I) OF
5 THIS SECTION MAY BE CONTINUED UNTIL DISMISSAL, ACQUITTAL, OR
6 CONVICTION OF THE CHARGES. A HEARING ON THE SUSPENSION MAY NOT
7 OCCUR UNTIL AFTER THE DISMISSAL, ACQUITTAL, OR CONVICTION OF SUCH
8 CHARGE UNLESS THE LICENSEE OPTS TO PROCEED TO A HEARING
9 REGARDING THE SUSPENSION.

10 **SECTION 7.** In Colorado Revised Statutes, 12-36-118, **amend**
11 (4)(c)(III)(A) and (4)(c)(III)(B) as follows:

12 **12-36-118. Disciplinary action by board - immunity - rules.**

13 (4) (c) On completion of an investigation, the inquiry panel shall make
14 a finding that:

15 (III) (A) When a complaint or investigation discloses an instance
16 of misconduct that, in the opinion of the board, does not warrant formal
17 action by the board but that should not be dismissed as being without
18 merit, a letter of admonition may be issued and sent ~~by certified mail~~, to
19 the licensee.

20 (B) When a letter of admonition is sent by the board ~~by certified~~
21 ~~mail~~, to a licensee, ~~such~~ THE licensee shall be advised that he or she has
22 the right to request in writing, within twenty days after receipt of the
23 letter, that formal disciplinary proceedings be initiated to adjudicate the
24 propriety of the conduct upon which the letter of admonition is based.

25 **SECTION 8.** In Colorado Revised Statutes, 12-36-118.5, **amend**
26 (1) as follows:

27 **12-36-118.5. Confidential agreements to limit practice -**

1 **violation grounds for discipline.** (1) If a physician, physician assistant,
2 or anesthesiologist assistant ~~suffers from~~ HAS a physical illness, a physical
3 condition, or a behavioral or mental health disorder that renders the
4 licensee unable to practice medicine, practice as a physician assistant, or
5 practice as an anesthesiologist assistant with reasonable skill and with
6 safety to patients, the physician, physician assistant, or anesthesiologist
7 assistant shall notify the board of the physical illness, ~~the~~ physical
8 condition, or ~~the~~ behavioral or mental health disorder in a manner and
9 within a period determined by the board. The board may require the
10 licensee to submit to an examination or refer the licensee to a peer health
11 assistance program pursuant to section 12-36-123.5 to evaluate the extent
12 of the physical illness, ~~the~~ physical condition, or ~~the~~ behavioral or mental
13 health disorder and its impact on the licensee's ability to practice with
14 reasonable skill and with safety to patients.

15 **SECTION 9.** In Colorado Revised Statutes, 12-240-104, **amend**
16 **as relocated by House Bill 19-1172** (3)(a)(I) as follows:

17 **12-240-104. Definitions.** As used in this article 240, unless the
18 context otherwise requires:

19 (3) (a) "Approved medical college" means a college that:

20 (I) Conforms to the minimum educational standards for medical
21 colleges as established by the Liaison Committee on Medical Education
22 or any successor organization that is the official accrediting body of
23 educational programs leading to the degree of doctor of medicine and
24 recognized for such purpose by the United States department of education
25 and the Council on Postsecondary FOR HIGHER EDUCATION Accreditation;

26 **SECTION 10.** In Colorado Revised Statutes, 12-240-105, **amend**
27 **as relocated by House Bill 19-1172** (1)(b) and (5) as follows:

1 **12-240-105. Colorado medical board - subject to termination**

2 **- repeal of article.** (1) (b) The terms of the members of the board shall
3 be four years. ~~For the two physician and one physician assistant~~
4 ~~appointees added to the board during the calendar year beginning January~~
5 ~~1, 2010, the term for one of the physician member appointees shall expire~~
6 ~~four years after the appointment; the term for the other physician member~~
7 ~~appointee shall expire three years after the appointment; and the term for~~
8 ~~the physician assistant appointee shall expire two years after the~~
9 ~~appointment. Thereafter, the terms of the members of the board shall be~~
10 ~~four years.~~

11 (5) This article 240 is repealed, effective ~~July 1, 2019~~ SEPTEMBER
12 1, 2026. Before ~~its~~ THE repeal, this article 240, including an analysis of
13 physician responsibilities related to recommendations for medical
14 marijuana and the provisions of section 25-1.5-106, are scheduled for
15 review in accordance with section 24-34-104.

16 **SECTION 11.** In Colorado Revised Statutes, 12-240-110, **amend**
17 **as relocated by House Bill 19-1172** (1)(b) as follows:

18 **12-240-110. Qualifications for licensure.** (1) Subject to the
19 other conditions and provisions of this article 240, a license to practice
20 medicine shall be granted by the board to an applicant only upon the basis
21 of:

22 (b) The applicant's passage of examinations conducted by the
23 National Board of Medical Examiners, the National Board of
24 OSTEOPATHIC MEDICAL Examiners, ~~for Osteopathic Physicians and~~
25 ~~Surgeons~~, the Federation of State Medical Boards, or any successor to
26 those organizations, as approved by the board;

27 **SECTION 12.** In Colorado Revised Statutes, 12-240-118, **amend**

1 as relocated by House Bill 19-1172 (1) introductory portion as follows:

2 12-240-118. Pro bono license - qualifications - reduced fee -
3 rules. (1) Notwithstanding any other provision of this article 240, the
4 board may issue a pro bono license to a physician to practice medicine in
5 this state for not more than sixty days in a calendar year if the physician:

6 SECTION 13. In Colorado Revised Statutes, 12-240-121, amend
7 as relocated by House Bill 19-1172 (1)(a); and add as relocated by
8 House Bill 19-1172 (1)(ee) as follows:

9 12-240-121. Unprofessional conduct - definitions.

10 (1) "Unprofessional conduct" as used in this article 240 means:

11 (a) Resorting to fraud, misrepresentation, or deception in applying
12 for, securing, renewing, or seeking reinstatement of a license to practice
13 medicine or a license to practice as a physician assistant OR AN
14 ANESTHESIOLOGIST ASSISTANT in this state or any other state, in applying
15 for professional liability coverage, required pursuant to section
16 13-64-301, or privileges at a hospital, or in taking the examination
17 provided for in this article 240;

18 (ee) (I) ANY SUSPENSION OF A LICENSE PURSUANT TO SECTION
19 24-4-104 (4) AS A RESULT OF A FORMAL CHARGE FOR A CRIME PURSUANT
20 TO TITLE 18, OR THAT UNDER FEDERAL LAW OR THE LAW OF ANOTHER
21 STATE WOULD CONSTITUTE A CRIME UNDER TITLE 18, WHERE THE BOARD
22 FINDS THE CRIME IS A CONTINUING THREAT TO PATIENT SAFETY.

23 (II) A SUSPENSION ISSUED PURSUANT TO SUBSECTION (1)(ee)(I) OF
24 THIS SECTION MAY BE CONTINUED UNTIL DISMISSAL, ACQUITTAL, OR
25 CONVICTION OF THE CHARGES. A HEARING ON THE SUSPENSION MAY NOT
26 OCCUR UNTIL AFTER THE DISMISSAL, ACQUITTAL, OR CONVICTION OF SUCH
27 CHARGE UNLESS THE LICENSEE OPTS TO PROCEED TO A HEARING

1 REGARDING THE SUSPENSION.

2 **SECTION 14.** In Colorado Revised Statutes, 12-240-125, **amend**
3 **as relocated by House Bill 19-1172 (4)(c)(IV)** as follows:

4 **12-240-125. Disciplinary action by board - rules.** (4) (c) On
5 completion of an investigation, the inquiry panel shall make a finding
6 that:

7 (IV) There is an instance of misconduct that, in the opinion of the
8 board, does not warrant formal action by the board but that should not be
9 dismissed as being without merit. In this case, the board may issue and
10 send a letter of admonition ~~by certified mail~~, to the licensee in accordance
11 with section 12-20-404 (4).

12 **SECTION 15. Effective date.** This act takes effect July 1, 2019;
13 except that sections 9 through 14 take effect only if House Bill 19-1172
14 becomes law, in which case sections 9 through 14 take effect October 1,
15 2019.

16 **SECTION 16. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.