

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

March 26, 2019

Committee on Health & Insurance.

After consideration on the merits, the Committee recommends the following:

HB19-1242 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

1 Amend printed bill, page 20, strike line 21 and substitute:

2 "SECTION 19. In Colorado Revised Statutes, 12-42.5-102,
3 amend (30), (39), and (39.5)(a)(IV); and add (6.3), (6.4), and (30.5) as
4 follows:

5 **12-42.5-102. Definitions.** As used in this article 42.5, unless the
6 context otherwise requires or the term is otherwise defined in another part
7 of this article 42.5:

8 (6.3) "CERTIFICATION" MEANS A CERTIFICATION TO PRACTICE AS
9 A PHARMACY TECHNICIAN ISSUED BY THE BOARD IN ACCORDANCE WITH
10 SECTION 12-42.5-113.5 (2) AND INCLUDES A PROVISIONAL CERTIFICATION
11 ISSUED IN ACCORDANCE WITH SECTION 12-42.5-113.5 (3).

12 (6.4) "CERTIFYING ORGANIZATION" MEANS A BOARD-APPROVED,
13 NATIONALLY RECOGNIZED ORGANIZATION THAT CERTIFIES PHARMACY
14 TECHNICIANS.

15 (30) "Pharmacy technician" OR "CERTIFICANT" means ~~an~~
16 ~~unlicensed~~ A person who performs those functions set forth in paragraph
17 ~~(b) of subsection (31) of this section under the supervision of a~~
18 ~~pharmacist~~ IS CERTIFIED BY THE BOARD TO PRACTICE AS A PHARMACY
19 TECHNICIAN AND INCLUDES A PERSON ISSUED A PROVISIONAL
20 CERTIFICATION PURSUANT TO SECTION 12-42.5-113.5 (3).

21 (30.5) "PRACTICE AS A PHARMACY TECHNICIAN" MEANS ENGAGING
22 IN ANY OF THE FOLLOWING ACTIVITIES INVOLVED IN THE PRACTICE OF
23 PHARMACY, UNDER THE SUPERVISION AND DELEGATION OF A SUPERVISING
24 PHARMACIST:

- 1 (a) RECEIVING AND INITIALLY INPUTTING NEW WRITTEN,
2 FACSIMILE, OR ELECTRONIC ORDERS;
3 (b) PREPARING, MIXING, ASSEMBLING, PACKAGING, OR LABELING
4 A DRUG OR DEVICE;
5 (c) PROPERLY AND SAFELY STORING DRUGS OR DEVICES;
6 (d) MAINTAINING PROPER RECORDS FOR DRUGS AND DEVICES;
7 (e) TRANSFERRING PRESCRIPTIONS; AND
8 (f) OTHER ACTIVITIES AS AUTHORIZED AND DEFINED BY THE
9 BOARD BY RULE.

10 (39) "Supervision" means that a licensed pharmacist is on the
11 location and readily available to consult with and assist ~~unlicensed~~
12 CERTIFICANTS PRACTICING AS PHARMACY TECHNICIANS AS DESCRIBED IN
13 SUBSECTION (30.5) OF THIS SECTION OR UNREGULATED personnel
14 performing tasks ~~described in paragraph (b) of subsection (31) of this~~
15 ~~section~~ AT THE DIRECTION OF THE LICENSED PHARMACIST. If the
16 ~~unlicensed~~ person is a pharmacy technician located at a registered
17 telepharmacy outlet, the licensed pharmacist need not be physically
18 present at the telepharmacy outlet as long as the licensed pharmacist is
19 connected to the telepharmacy outlet via computer link, video link, and
20 audio link, or via other telecommunication equipment of equivalent
21 functionality, and is readily available to consult with and assist the
22 pharmacy technician in performing tasks described in ~~paragraph (b) of~~
23 ~~subsection (31)~~ SUBSECTION (30.5) of this section.

24 (39.5) (a) "Telepharmacy outlet" means a remote pharmacy site
25 that:

26 (IV) Has a pharmacy technician on site who, under the remote
27 supervision of a licensed pharmacist located at the central pharmacy,
28 performs the tasks described in ~~paragraph (b) of subsection (31)~~
29 SUBSECTION (30.5) of this section.

30 **SECTION 20.** In Colorado Revised Statutes, 12-42.5-103,
31 **amend** (3)(b) as follows:

32 **12-42.5-103. State board of pharmacy - creation - subject to**
33 **termination - repeal of parts.** (3) (b) Parts 1 to 3 of this ~~article~~ ARTICLE
34 42.5 are repealed, effective September 1, 2021. ~~Prior to~~ BEFORE the
35 repeal, ~~the department of regulatory agencies shall review~~ the board and
36 the regulation of the practice of pharmacy pursuant to parts 1 to 3 of this
37 ~~article as provided in~~ ARTICLE 42.5, INCLUDING THE REGULATION OF THE
38 PRACTICE AS A PHARMACY TECHNICIAN, ARE SCHEDULED FOR REVIEW IN
39 ACCORDANCE WITH section 24-34-104. ~~C.R.S.~~

40 **SECTION 21.** In Colorado Revised Statutes, 12-42.5-104,
41 **amend** (1)(a) as follows:

1 **12-42.5-104. Membership of board - removal - compensation**
2 - **meetings.** (1) (a) The board is composed of:

3 (I) Five licensed pharmacists, each having at least five years'
4 experience in this state and actively engaged in the practice of pharmacy
5 in this state; and

6 (II) Two ~~nonpharmacists~~ MEMBERS WHO ARE NOT PHARMACISTS
7 AND who have no financial interest in the practice of pharmacy; EXCEPT
8 THAT, UPON THE EXPIRATION OF THE TERM OF OFFICE OF ONE OF THE
9 MEMBERS APPOINTED PURSUANT TO THIS SUBSECTION (1)(a)(II) ON OR
10 AFTER OCTOBER 1, 2019, OR UPON A VACANCY IN A POSITION APPOINTED
11 UNDER THIS SUBSECTION (1)(a)(II) ON OR AFTER OCTOBER 1, 2019,
12 WHICHEVER OCCURS FIRST, THE GOVERNOR SHALL APPOINT ONE
13 PHARMACY TECHNICIAN CERTIFIED IN ACCORDANCE WITH SECTION
14 12-42.5-113.5 (2) WHO HAS AT LEAST FIVE YEARS OF EXPERIENCE
15 PRACTICING AS A PHARMACY TECHNICIAN TO SERVE ON THE BOARD, AND
16 THEREAFTER THE COMPOSITION OF THE BOARD MUST CONTINUE TO
17 REFLECT THIS CHANGE.

18 **SECTION 22.** In Colorado Revised Statutes, 12-42.5-106,
19 **amend** (1)(b), (1)(c), (1)(e), and (1)(f)(I) as follows:

20 **12-42.5-106. Powers and duties.** (1) The board shall:

21 (b) Prescribe forms and receive applications for licensure,
22 CERTIFICATION, and registration and grant, renew, reactivate, and reinstate
23 licenses and registrations;

24 (c) Deny, suspend, or revoke licenses, CERTIFICATIONS, or
25 registrations;

26 (e) Administer examinations to, and determine the qualifications
27 and fitness of, applicants for licensure, CERTIFICATION, or registration;

28 (f) Keep a record of:

29 (I) All licenses, CERTIFICATIONS, registrations, and license,
30 CERTIFICATION, and registration renewals, reactivations, and
31 reinstatements for a reasonable period;

32 **SECTION 23.** In Colorado Revised Statutes, 12-42.5-110,
33 **amend** (1) introductory portion; **add** (1)(r), (1)(s), (1)(t), and (1)(u) as
34 follows:

35 **12-42.5-110. Fees.** (1) The director of the division of professions
36 and occupations shall determine, and the board shall collect, fees pursuant
37 to section 24-34-105, ~~C.R.S.~~, for the following licenses, CERTIFICATIONS,
38 and registrations:

39 (r) FOR THE INITIAL CERTIFICATION OR PROVISIONAL
40 CERTIFICATION AS A PHARMACY TECHNICIAN, AS PROVIDED IN SECTION
41 12-42.5-113.5;

1 (s) FOR THE RENEWAL OF A CERTIFICATION AS A PHARMACY
2 TECHNICIAN PURSUANT TO SECTION 12-42.5-113.5 (2), AS PROVIDED IN
3 SECTION 12-42.5-114 (1);

4 (t) FOR REINSTATEMENT AS A PHARMACY TECHNICIAN, AS
5 PROVIDED IN SECTION 12-42.5-114 (2);

6 (u) FOR THE ISSUANCE OF A DUPLICATE CERTIFICATE TO A
7 PHARMACY TECHNICIAN.

8 **SECTION 24.** In Colorado Revised Statutes, 12-42.5-112,
9 **amend** (2)(a), (3), (6), and (7); and **add** (2)(c) as follows:

10 **12-42.5-112. Licensure or registrations - applicability -**
11 **applications - licensure requirements - rules.** (2) (a) Every applicant
12 for a license OR CERTIFICATION under this ~~article~~ ARTICLE 42.5 must read
13 and write the English language, or if the applicant is a partnership, each
14 member of the partnership must read and write the English language. If
15 the applicant is a Colorado corporation, the corporation must be in good
16 standing, and if the applicant is a foreign corporation, it must be qualified
17 to do business in this state.

18 (c) THE BOARD SHALL ISSUE A CERTIFICATION TO AN APPLICANT TO
19 PRACTICE AS A PHARMACY TECHNICIAN WHO SATISFIES THE
20 REQUIREMENTS OF THIS ARTICLE 42.5, THIS SECTION, AND SECTION
21 12-42.5-113.5.

22 (3) Every applicant for a license, CERTIFICATION, or registration
23 under this ~~article~~ ARTICLE 42.5 shall make written application in the
24 manner and form prescribed by the board, setting forth the applicant's
25 name and address, the applicant's qualifications for the license,
26 CERTIFICATION, or registration, and other information required by the
27 board. The applicant shall submit with the application the required fee,
28 and, if the applicant is required to take an examination, the applicant shall
29 appear for examination at the time and place fixed by the board.

30 (6) No applicant shall exercise the privileges of licensure,
31 CERTIFICATION, or registration until the board grants the license,
32 CERTIFICATION, or registration.

33 (7) The board may require any applicant for licensure OR
34 CERTIFICATION to display written or oral competency in English. The
35 board may utilize a standardized test to determine language proficiency.

36 **SECTION 25.** In Colorado Revised Statutes, **add** 12-42.5-113.5
37 as follows:

38 **12-42.5-113.5. Certification of pharmacy technicians -**
39 **requirements - provisional certification - criminal history record**
40 **check.** (1) ON OR AFTER JUNE 15, 2020, A PERSON SHALL NOT ENGAGE IN
41 THE PRACTICE AS A PHARMACY TECHNICIAN UNLESS THE PERSON HAS

1 OBTAINED A CERTIFICATION OR PROVISIONAL CERTIFICATION FROM THE
2 BOARD IN ACCORDANCE WITH THIS SECTION.

3 (2) IN ADDITION TO ANY OTHER REQUIREMENTS SPECIFIED IN
4 SECTION 12-42.5-112 OR THIS ARTICLE 42.5, TO BE CERTIFIED AS A
5 PHARMACY TECHNICIAN, AN APPLICANT MUST:

6 (a) PROVIDE PROOF SATISFACTORY TO THE BOARD THAT THE
7 APPLICANT HAS OBTAINED AND MAINTAINS IN GOOD STANDING
8 CERTIFICATION AS A PHARMACY TECHNICIAN FROM A CERTIFYING
9 ORGANIZATION; AND

10 (b) SUBMIT TO A CRIMINAL HISTORY RECORD CHECK IN THE FORM
11 AND MANNER AS DESCRIBED IN SUBSECTION (4) OF THIS SECTION OR
12 PROVIDE PROOF SATISFACTORY TO THE BOARD THAT THE APPLICANT
13 SUBMITTED TO A CRIMINAL HISTORY RECORD CHECK AS A CONDITION OF
14 EMPLOYMENT AT A PHARMACY OR OTHER OUTLET OR AS REQUIRED BY THE
15 APPLICANT'S CURRENT EMPLOYER.

16 (3) (a) IF AN APPLICANT FOR CERTIFICATION AS A PHARMACY
17 TECHNICIAN HAS NOT SATISFIED THE REQUIREMENTS OF SUBSECTION (2)(a)
18 OF THIS SECTION AT THE TIME OF APPLICATION TO THE BOARD, THE BOARD
19 MAY GRANT THE APPLICANT A PROVISIONAL CERTIFICATION UPON
20 SATISFACTION OF ALL OTHER REQUIREMENTS FOR CERTIFICATION
21 SPECIFIED IN THIS SECTION AND SECTION 12-42.5-112.

22 (b) (I) EXCEPT AS PROVIDED IN SUBSECTION (3)(b)(II) OF THIS
23 SECTION, A PROVISIONAL CERTIFICATION IS VALID FOR NOT MORE THAN
24 EIGHTEEN MONTHS AFTER THE DATE OF ISSUANCE AND IS NOT RENEWABLE.
25 IF A PERSON WHO IS GRANTED A PROVISIONAL CERTIFICATION PURSUANT
26 TO THIS SUBSECTION (3) FAILS TO SATISFY THE REQUIREMENTS OF
27 SUBSECTION (2)(a) OF THIS SECTION WITHIN EIGHTEEN MONTHS AFTER THE
28 DATE THE PROVISIONAL CERTIFICATION IS ISSUED OR WITHIN AN EXTENDED
29 PERIOD GRANTED BY THE BOARD PURSUANT TO SUBSECTION (3)(b)(II) OF
30 THIS SECTION, THE PROVISIONAL CERTIFICATION EXPIRES AND THE PERSON
31 SHALL NOT PRACTICE AS A PHARMACY TECHNICIAN UNTIL THE PERSON
32 APPLIES FOR AND RECEIVES A CERTIFICATION IN ACCORDANCE WITH
33 SUBSECTION (2) OF THIS SECTION.

34 (II) THE BOARD SHALL ADOPT RULES TO ESTABLISH A PROCESS FOR
35 A PROVISIONAL CERTIFICANT TO APPLY FOR A HARDSHIP EXTENSION TO
36 EXTEND THE VALIDITY OF THE PROVISIONAL CERTIFICATION BEYOND
37 EIGHTEEN MONTHS. THE BOARD SHALL ESTABLISH CRITERIA FOR
38 QUALIFYING FOR A HARDSHIP EXTENSION BASED ON:

39 (A) THE NEGATIVE EFFECTS ON ACCESS TO CARE IN THE
40 COMMUNITY SERVED BY THE PROVISIONAL CERTIFICANT OR THE
41 EMPLOYER OF THE PROVISIONAL CERTIFICANT;

1 (B) FINANCIAL HARDSHIP; OR
2 (C) HEALTH CIRCUMSTANCES.

3 (c) A PERSON WHOSE PROVISIONAL CERTIFICATION EXPIRES IS NOT
4 PRECLUDED FROM APPLYING TO THE BOARD FOR CERTIFICATION AS A
5 PHARMACY TECHNICIAN IN ACCORDANCE WITH SUBSECTION (2) OF THIS
6 SECTION.

7 (4) (a) AN APPLICANT FOR CERTIFICATION OR PROVISIONAL
8 CERTIFICATION PURSUANT TO SUBSECTION (2) OR (3) OF THIS SECTION
9 MUST HAVE THE APPLICANT'S FINGERPRINTS TAKEN BY A LOCAL LAW
10 ENFORCEMENT AGENCY OR ANY THIRD PARTY APPROVED BY THE
11 COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF OBTAINING
12 A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. IF AN
13 APPROVED THIRD PARTY TAKES THE PERSON'S FINGERPRINTS, THE
14 FINGERPRINTS MAY BE ELECTRONICALLY CAPTURED USING COLORADO
15 BUREAU OF INVESTIGATION-APPROVED LIVESCAN EQUIPMENT.
16 THIRD-PARTY VENDORS SHALL NOT KEEP THE APPLICANT INFORMATION
17 FOR MORE THAN THIRTY DAYS UNLESS REQUESTED TO DO SO BY THE
18 APPLICANT. THE APPLICANT SHALL SUBMIT PAYMENT FOR THE
19 FINGERPRINTS AND FOR THE ACTUAL COSTS OF THE RECORD CHECK AT THE
20 TIME THE FINGERPRINTS ARE SUBMITTED TO THE COLORADO BUREAU OF
21 INVESTIGATION. UPON RECEIPT OF FINGERPRINTS AND RECEIPT OF THE
22 PAYMENT FOR COSTS, THE COLORADO BUREAU OF INVESTIGATION SHALL
23 CONDUCT A STATE AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY
24 RECORD CHECK UTILIZING RECORDS OF THE COLORADO BUREAU OF
25 INVESTIGATION AND THE FEDERAL BUREAU OF INVESTIGATION AND SHALL
26 FORWARD THE RESULTS OF THE CRIMINAL HISTORY RECORD CHECK TO THE
27 BOARD.

28 (b) THE BOARD SHALL USE THE INFORMATION RESULTING FROM
29 THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK TO
30 INVESTIGATE AND DETERMINE WHETHER AN APPLICANT IS QUALIFIED TO
31 HOLD A CERTIFICATION OR PROVISIONAL CERTIFICATION PURSUANT TO
32 THIS SECTION.

33 **SECTION 26.** In Colorado Revised Statutes, 12-42.5-114,
34 **amend** (1) and (2) as follows:

35 **12-42.5-114. Expiration and renewal of licenses or**
36 **registrations.** (1) All licenses, CERTIFICATIONS, and registrations,
37 EXCEPT PROVISIONAL CERTIFICATIONS ISSUED PURSUANT TO SECTION
38 12-42.5-113.5 (3), expire pursuant to a schedule established by the
39 director of the division of professions and occupations within the
40 department of regulatory agencies and must be renewed or reinstated
41 pursuant to section 24-34-102 (8). ~~C.R.S.~~ The director of the division of

1 professions and occupations may establish renewal fees and delinquency
2 fees for reinstatement pursuant to section 24-34-105. ~~C.R.S.~~ If a person
3 fails to renew his or her license, CERTIFICATION, or registration pursuant
4 to the schedule established by the director of the division of professions
5 and occupations, the license, CERTIFICATION, or registration expires. Any
6 person whose license, CERTIFICATION, or registration expires is subject to
7 the penalties provided in this ~~article~~ ARTICLE 42.5 or section 24-34-102
8 (8). ~~C.R.S.~~

9 (2) A pharmacist who fails to renew his or her license OR A
10 PHARMACY TECHNICIAN WHO FAILS TO RENEW HIS OR HER CERTIFICATION
11 ISSUED PURSUANT TO SECTION 12-42.5-113.5 (2) on or before the
12 applicable renewal time may have his or her license OR CERTIFICATION,
13 AS APPLICABLE, reinstated for the remainder of the current renewal period
14 by filing a proper application, satisfying the board that the pharmacist OR
15 PHARMACY TECHNICIAN is fully qualified to practice, and paying the
16 reinstatement fee as provided in section 12-42.5-110 (1)(e) OR (1)(t), AS
17 APPLICABLE, and all delinquent fees.

18 **SECTION 27.** In Colorado Revised Statutes, **add** 12-42.5-115.5
19 as follows:

20 **12-42.5-115.5. Continuing education for pharmacy technicians**
21 **- exceptions - inactive status.** (1) EXCEPT AS PERMITTED IN SUBSECTION
22 (2) OF THIS SECTION, THE BOARD SHALL NOT RENEW, REINSTATE, OR
23 REACTIVATE THE CERTIFICATION OF A PHARMACY TECHNICIAN THAT WAS
24 ISSUED PURSUANT TO SECTION 12-42.5-113.5 (2) UNTIL THE PHARMACY
25 TECHNICIAN PRESENTS EVIDENCE THAT THE PHARMACY TECHNICIAN HAS
26 SATISFACTORILY COMPLETED THE CONTINUING EDUCATION AND RENEWAL
27 REQUIREMENTS OF, AND MAINTAINS ACTIVE CERTIFICATION WITH, A
28 CERTIFYING ORGANIZATION. SUBJECT TO SUBSECTION (3) OF THIS SECTION,
29 THE EVIDENCE MAY BE PROVIDED BY AN ATTESTATION ON THE
30 CERTIFICATION RENEWAL APPLICATION.

31 (2) THE BOARD MAY RENEW THE CERTIFICATION FOR THE FIRST
32 RENEWAL PERIOD FOLLOWING THE ISSUANCE OF THE ORIGINAL
33 CERTIFICATION WITHOUT REQUIRING A PHARMACY TECHNICIAN TO
34 COMPLETE ANY CONTINUING PHARMACY TECHNICIAN EDUCATION IF THE
35 PHARMACY TECHNICIAN OBTAINS A CERTIFICATION WITHIN ONE YEAR
36 AFTER OBTAINING NATIONAL CERTIFICATION AS SPECIFIED IN SECTION
37 12-42.5-113.5 (2)(a).

38 (3) THE BOARD MAY ANNUALLY AUDIT UP TO FIVE PERCENT OF THE
39 PHARMACY TECHNICIANS CERTIFIED AND RESIDING IN COLORADO TO
40 DETERMINE COMPLIANCE WITH THIS SECTION.

41 (4) IF A PHARMACY TECHNICIAN FAILS TO COMPLETE THE

1 CONTINUING EDUCATION AND RENEWAL REQUIREMENTS OF, AND
2 MAINTAIN ACTIVE CERTIFICATION WITH, A CERTIFYING ORGANIZATION,
3 THE PHARMACY TECHNICIAN'S STATE CERTIFICATION BECOMES INACTIVE.
4 AN INACTIVE CERTIFICANT IS NOT REQUIRED TO COMPLY WITH ANY
5 CONTINUING PHARMACY TECHNICIAN EDUCATION REQUIREMENT SO LONG
6 AS THE CERTIFICANT REMAINS INACTIVE, BUT THE CERTIFICANT MUST
7 CONTINUE TO PAY APPLICABLE FEES, INCLUDING RENEWAL FEES. THE
8 BOARD SHALL NOTE "INACTIVE STATUS" ON THE FACE OF ANY
9 CERTIFICATION IT ISSUES TO A CERTIFICANT WHILE THE CERTIFICANT
10 REMAINS INACTIVE. BEFORE AN INACTIVE PHARMACY TECHNICIAN
11 RESUMES PRACTICE AS A PHARMACY TECHNICIAN AFTER BEING PLACED ON
12 AN INACTIVE LIST, THE PHARMACY TECHNICIAN MUST FILE AN
13 APPLICATION TO ACTIVATE THE CERTIFICATION, PAY THE CERTIFICATION
14 RENEWAL FEE, AND, SUBJECT TO SUBSECTION (2) OF THIS SECTION, MEET
15 THE CONTINUING EDUCATION REQUIREMENTS OF THIS SECTION. IF A
16 PHARMACY TECHNICIAN ENGAGES IN PRACTICE AS A PHARMACY
17 TECHNICIAN WHILE ON INACTIVE STATUS, THAT CONDUCT IS GROUNDS FOR
18 CERTIFICATION REVOCATION UNDER THIS ARTICLE 42.5.

19 **SECTION 28.** In Colorado Revised Statutes, 12-42.5-116,
20 **amend** (3)(b) and (5) as follows:

21 **12-42.5-116. Prescription drug outlet under charge of**
22 **pharmacist.** (3) (b) An outlet as recognized in section 12-42.5-117
23 (1)(d) need not be under the direct charge of a pharmacist, but a licensed
24 pharmacist shall either initially interpret all prescription orders
25 compounded or dispensed from the outlet or provide written protocols for
26 compounding and dispensing by ~~unlicensed persons~~ PHARMACY
27 TECHNICIANS. An outlet qualifying for registration under this ~~paragraph~~
28 ~~(b)~~ SUBSECTION (3)(b) may also apply to the board for a waiver of the
29 requirements concerning physical space, equipment, inventory, or
30 business hours as necessary and consistent with the outlet's limited public
31 welfare purpose. In determining the granting or denial of a waiver
32 application, the board shall ensure that the public interest criteria set forth
33 in section 12-42.5-101 are satisfied. All other provisions of this ~~article~~
34 ARTICLE 42.5, except as specifically waived by the board, apply to the
35 outlet.

36 (5) (a) EXCEPT AS SPECIFIED IN SUBSECTION (5)(b) OF THIS
37 SECTION, the pharmacist responsible for the prescription order or chart
38 order may delegate ~~certain specific tasks described in section 12-42.5-102~~
39 ~~(31)(b) to a~~ THE FOLLOWING TASKS TO THE FOLLOWING INDIVIDUALS IF, IN
40 THE PHARMACIST'S PROFESSIONAL JUDGMENT, THE DELEGATION IS
41 APPROPRIATE:

1 (I) SPECIFIC TASKS SPECIFIED IN BOARD RULES TO AN
2 UNREGULATED person who is not a pharmacist or pharmacy intern ~~but~~
3 AND who is ~~an unlicensed assistant~~ under the pharmacist's supervision; ~~if,~~
4 ~~in the pharmacist's professional judgment, the delegation is appropriate;~~
5 ~~except that~~ OR

6 (II) SPECIFIC TASKS DESCRIBED IN SECTION 12-42.5-102 (30.5) OR
7 IN BOARD RULES ADOPTED PURSUANT TO SECTION 12-42.5-102 (30.5)(f)
8 TO A PHARMACY TECHNICIAN WHO IS UNDER THE PHARMACIST'S
9 SUPERVISION.

10 (b) The pharmacist shall not make ~~the~~ A delegation DESCRIBED IN
11 SUBSECTION (5)(a) OF THIS SECTION if the delegation jeopardizes the
12 public health, safety, or welfare, is prohibited by rule of the board, or
13 violates section 12-42.5-126 (1).

14 **SECTION 29.** In Colorado Revised Statutes, 12-42.5-119,
15 **amend** (1) and (3) as follows:

16 **12-42.5-119. Limited authority to delegate activities**
17 **constituting practice of pharmacy to pharmacy interns or pharmacy**
18 **technicians.** (1) A pharmacist may supervise up to six persons who are
19 either pharmacy interns or pharmacy technicians, of whom no more than
20 two may be pharmacy interns. If three or more pharmacy technicians are
21 on duty, the majority must be certified by a ~~nationally recognized~~
22 ~~certification~~ THE board ~~possess a degree from an accredited pharmacy~~
23 ~~technician training program, or have completed five hundred hours of~~
24 ~~experiential training in duties described in section 12-42.5-102 (31)(b) at~~
25 ~~the pharmacy as certified by the pharmacist manager within eighteen~~
26 ~~months of hire~~ IN ACCORDANCE WITH SECTION 12-42.5-113.5 (2).

27 (3) The supervision ratio specified in subsection (1) of this section
28 does not include other ancillary personnel who may be in the prescription
29 drug outlet but who are not performing duties described in section
30 12-42.5-102 (31)(b) that are delegated to the interns or DUTIES DESCRIBED
31 IN SECTION 12-42.5-102 (30.5) THAT ARE DELEGATED TO pharmacy
32 technicians.

33 **SECTION 30.** In Colorado Revised Statutes, 12-42.5-123,
34 **amend** (1) introductory portion, (1)(a), (1)(d), (1)(f), (1)(g), (1)(j), (1)(k),
35 (1)(q), and (1)(r)(II) as follows:

36 **12-42.5-123. Unprofessional conduct - grounds for discipline.**
37 (1) The board may suspend, revoke, refuse to renew, or otherwise
38 discipline any license or registration issued by it, after a hearing held in
39 accordance with the provisions of this section, upon proof that the
40 licensee, CERTIFICANT, or registrant:

41 (a) Is guilty of misrepresentation, fraud, or deceit in procuring,

1 attempting to procure, or renewing a license, CERTIFICATION, or
2 registration;

3 (d) Is unfit or incompetent by reason of negligence or habits, or
4 for any other cause, to practice pharmacy OR TO PRACTICE AS A
5 PHARMACY TECHNICIAN;

6 (f) Knowingly permits a person not:

7 (I) Licensed as a pharmacist or pharmacy intern to engage in the
8 practice of pharmacy; OR

9 (II) CERTIFIED AS A PHARMACY TECHNICIAN TO ENGAGE IN THE
10 PRACTICE AS A PHARMACY TECHNICIAN;

11 (g) Has had ~~his or her~~ A license to practice pharmacy OR A
12 CERTIFICATION OR OTHER AUTHORIZATION TO PRACTICE AS A PHARMACY
13 TECHNICIAN in another state revoked or suspended, or is otherwise
14 disciplined or has committed acts in any other state that would subject
15 ~~him or her~~ THE PERSON to disciplinary action in this state;

16 (j) Has engaged in the practice of pharmacy OR THE PRACTICE AS
17 A PHARMACY TECHNICIAN while on inactive status;

18 (k) Has failed to meet generally accepted standards of pharmacy
19 OR PHARMACY TECHNICIAN practice;

20 (q) Has failed to notify the board of any discipline, WITHIN THIRTY
21 DAYS AFTER THE DISCIPLINE, against: ~~his or her~~

22 (I) A license in another state; ~~within thirty days after the~~
23 ~~discipline~~; OR

24 (II) A CERTIFICATION OR OTHER AUTHORIZATION IN ANOTHER
25 STATE TO PRACTICE AS A PHARMACY TECHNICIAN;

26 (r) (II) Has failed to act within the limitations created by a
27 physical illness; a physical condition; or a behavioral, mental health, or
28 substance use disorder that renders the person unable to practice
29 pharmacy OR AS A PHARMACY TECHNICIAN with reasonable skill and
30 safety or that may endanger the health or safety of persons under his or
31 her care; or

32 **SECTION 31.** In Colorado Revised Statutes, 12-42.5-124,
33 **amend** (1)(a), (2)(a), (2)(b) introductory portion, (2)(b)(I), (2)(b)(II),
34 (2)(b)(III), (2)(b)(IV), (3), (4), (6), (7)(a), (9)(a), (10)(a), (10)(c)(III), and
35 (11) and as follows:

36 **12-42.5-124. Disciplinary actions.** (1) (a) The board may deny
37 or discipline an applicant, licensee, CERTIFICANT, or registrant when the
38 board determines that the applicant, licensee, CERTIFICANT, or registrant
39 has engaged in activities that are grounds for discipline.

40 (2) (a) Proceedings for the denial, suspension, or revocation of a
41 license, CERTIFICATION, or registration and any judicial review of a

1 suspension or revocation must be conducted in accordance with article 4
2 of title 24, ~~C.R.S.~~, and the board or, at the board's discretion, an
3 administrative law judge, shall conduct the hearing and opportunity for
4 review.

5 (b) Upon finding that grounds for discipline pursuant to section
6 12-42.5-123 exist, the board may impose one or more of the following
7 penalties on a person who holds or is seeking a new or renewal license,
8 CERTIFICATION, or registration:

9 (I) Suspension of the offender's license, CERTIFICATION, or
10 registration for a period to be determined by the board;

11 (II) Revocation of the offender's license, CERTIFICATION, or
12 registration;

13 (III) Restriction of the offender's license, CERTIFICATION, or
14 registration to prohibit the offender from performing certain acts or from
15 practicing pharmacy OR THE PRACTICE AS A PHARMACY TECHNICIAN in a
16 particular manner for a period to be determined by the board;

17 (IV) Refusal to renew the offender's license, CERTIFICATION, or
18 registration;

19 (3) The board may also include in any disciplinary order that
20 allows the licensee, CERTIFICANT, or registrant to continue to practice
21 conditions that the board deems appropriate to assure that the licensee,
22 CERTIFICANT, or registrant is physically, mentally, morally, and otherwise
23 qualified to practice pharmacy in accordance with the generally accepted
24 professional standards of practice, including any or all of the following:

25 (a) Requiring the licensee, CERTIFICANT, or registrant to submit to
26 examinations that the board may order to determine the licensee's OR
27 CERTIFICANT'S physical or mental condition or professional qualifications;

28 (b) Requiring the licensee OR CERTIFICANT to take therapy courses
29 of training or education that the board deems necessary to correct
30 deficiencies found either in the hearing or by examinations required
31 pursuant to ~~paragraph (a) of this subsection~~ (3) SUBSECTION (3)(a) OF THIS
32 SECTION;

33 (c) Requiring the review or supervision of the licensee's OR
34 CERTIFICANT'S practice to determine the quality of and correct
35 deficiencies in his or her practice; and

36 (d) Imposing restrictions upon the nature of the licensee's OR
37 CERTIFICANT'S practice to assure that he or she does not practice beyond
38 the limits of his or her capabilities.

39 (4) Upon failure of the licensee, CERTIFICANT, or registrant to
40 comply with any conditions imposed by the board pursuant to subsection
41 (3) of this section, unless due to conditions beyond the licensee's,

1 CERTIFICANT'S, or registrant's control, the board may order suspension of
2 the license, CERTIFICATION, or registration in this state until the licensee,
3 CERTIFICANT, or registrant complies with the conditions.

4 (6) (a) When a complaint or an investigation discloses an instance
5 of misconduct that, in the opinion of the board, does not warrant formal
6 action by the board but should not be dismissed as being without merit,
7 the board may send a letter of admonition by certified mail to the licensee,
8 CERTIFICANT, or registrant against whom the complaint was made or who
9 was the subject of investigation and, in the case of a complaint, may send
10 a copy of the letter of admonition to the person making the complaint.

11 (b) When the board sends a letter of admonition to a licensee or
12 registrant complained against, the board shall include in the letter a
13 statement advising the licensee, CERTIFICANT, or registrant that the
14 licensee, CERTIFICANT, or registrant has the right to request in writing,
15 within twenty days after receipt of the letter, that the board initiate formal
16 disciplinary proceedings to adjudicate the propriety of the conduct upon
17 which the letter of admonition is based.

18 (c) If the licensee, CERTIFICANT, or registrant timely requests
19 adjudication, the letter of admonition is vacated, and the board shall
20 process the matter by means of formal disciplinary proceedings.

21 (7) (a) When a complaint or an investigation discloses an instance
22 of conduct that does not warrant formal action by the board but the board
23 determines that the conduct could warrant action if continued, the board
24 may send a confidential letter of concern to the licensee, CERTIFICANT, or
25 registrant against whom the complaint was made or who was the subject
26 of investigation. If a complaint precipitated the investigation, the board
27 shall send a response to the person making the complaint.

28 (9) (a) If it appears to the board, based upon credible evidence as
29 presented in a written complaint by any person, that a licensee,
30 CERTIFICANT, or registrant is acting in a manner that is an imminent threat
31 to the health and safety of the public or a person is acting or has acted
32 without the required license, CERTIFICATION, or registration, the board
33 may issue an order to cease and desist the activity. The board shall set
34 forth in the order the statutes and rules alleged to have been violated, the
35 facts alleged to have constituted the violation, and the requirement that all
36 unlawful acts or unlicensed, UNCERTIFIED, or unregistered practices
37 immediately cease.

38 (10) (a) If it appears to the board, based upon credible evidence
39 as presented in a written complaint by any person, that a person has
40 violated any other portion of this ~~article~~ ARTICLE 42.5, then, in addition
41 to any specific powers granted pursuant to this ~~article~~ ARTICLE 42.5, the

1 board may issue to the person an order to show cause as to why the board
2 should not issue a final order directing the person to cease and desist from
3 the unlawful act or unlicensed, UNCERTIFIED, or unregistered practice.

4 (c) (III) If the board reasonably finds that the person against
5 whom the order to show cause was issued is acting or has acted without
6 the required license, CERTIFICATION, or registration or has or is about to
7 engage in acts or practices constituting violations of this ~~article~~ ARTICLE
8 42.5, the board may issue a final cease-and-desist order directing the
9 person to cease and desist from further unlawful acts or unlicensed,
10 UNCERTIFIED, or unregistered practices.

11 (11) If it appears to the board, based upon credible evidence
12 presented to the board, that a person has engaged in or is about to engage
13 in any unlicensed, UNCERTIFIED, or unregistered act or practice, any act
14 or practice constituting a violation of this ~~article~~ ARTICLE 42.5, any rule
15 promulgated pursuant to this ~~article~~ ARTICLE 42.5, ~~or~~ any order issued
16 pursuant to this ~~article~~ ARTICLE 42.5, or any act or practice constituting
17 grounds for administrative sanction pursuant to this ~~article~~ ARTICLE 42.5,
18 the board may enter into a stipulation with the person.

19 **SECTION 32.** In Colorado Revised Statutes, 12-42.5-126,
20 **amend** (1)(d) and (2); and **add** (1)(n) as follows:

21 **12-42.5-126. Unlawful acts - civil fines.** (1) It is unlawful:

22 (d) To falsely assume the title of or falsely represent that one is a
23 pharmacist, PHARMACY TECHNICIAN, practitioner, or registered outlet;

24 (n) TO PRACTICE AS A PHARMACY TECHNICIAN WITHOUT A
25 CERTIFICATION.

26 (2) (a) In addition to any other penalties that may be imposed
27 under this part 1, a person who engages in an unlawful act under this
28 section may be punished by a civil fine of not less than one thousand
29 dollars and not more than ten thousand dollars for each violation. Fines
30 imposed and paid under this section shall be deposited in the general
31 fund.

32 (b) THIS SUBSECTION (2) DOES NOT APPLY TO A PHARMACY
33 TECHNICIAN.

34 **SECTION 33.** In Colorado Revised Statutes, **amend** 12-42.5-127
35 as follows:

36 **12-42.5-127. Unauthorized practice - penalties.** (1) Any person
37 who practices or offers or attempts to practice pharmacy without an active
38 license issued under this ~~article~~ ARTICLE 42.5 commits a class 2
39 misdemeanor and shall be punished as provided in section 18-1.3-501
40 ~~C.R.S.~~, for the first offense, and any person committing a second or
41 subsequent offense commits a class 6 felony and shall be punished as

1 provided in section 18-1.3-401. ~~C.R.S.~~

2 (2) ANY PERSON WHO PRACTICES OR OFFERS OR ATTEMPTS TO
3 PRACTICE AS A PHARMACY TECHNICIAN WITHOUT AN ACTIVE
4 CERTIFICATION ISSUED UNDER THIS ARTICLE 42.5 COMMITS A CLASS 2
5 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION
6 18-1.3-501 FOR THE FIRST OFFENSE, AND ANY PERSON COMMITTING A
7 SECOND OR SUBSEQUENT OFFENSE COMMITS A CLASS 6 FELONY AND SHALL
8 BE PUNISHED AS PROVIDED IN SECTION 18-1.3-401.

9 **SECTION 34.** In Colorado Revised Statutes, **amend** 12-42.5-134
10 as follows:

11 **12-42.5-134. Confidential agreement to limit practice -**
12 **violation - grounds for discipline.** (1) If a pharmacist, ~~or~~ intern, OR
13 PHARMACY TECHNICIAN has a physical illness, a physical condition, or a
14 behavioral or mental health disorder that renders the person unable to
15 practice pharmacy OR AS A PHARMACY TECHNICIAN with reasonable skill
16 and safety to clients, the pharmacist, ~~or~~ intern, OR PHARMACY TECHNICIAN
17 shall notify the board of the physical illness, ~~the~~ physical condition, or ~~the~~
18 behavioral or mental health disorder in a manner and within a period
19 determined by the board. The board may require the pharmacist, ~~or~~ intern,
20 OR PHARMACY TECHNICIAN to submit to an examination or refer the
21 pharmacist or intern to the pharmacy peer health assistance diversion
22 program established in part 2 of this article 42.5 to evaluate the extent of
23 the physical illness, ~~the~~ physical condition, or ~~the~~ behavioral or mental
24 health disorder and its impact on the pharmacist's, ~~or~~ intern's, OR
25 PHARMACY TECHNICIAN'S ability to practice pharmacy OR AS A PHARMACY
26 TECHNICIAN with reasonable skill and safety to clients.

27 (2) (a) Upon determining that a pharmacist, ~~or~~ intern, OR
28 PHARMACY TECHNICIAN with a physical illness, a physical condition or a
29 behavioral or mental health disorder is able to render limited services
30 with reasonable skill and safety to clients, the board may enter into a
31 confidential agreement with the pharmacist, ~~or~~ intern, OR PHARMACY
32 TECHNICIAN in which the pharmacist, ~~or~~ intern, OR PHARMACY
33 TECHNICIAN agrees to limit his or her practice based on the restrictions
34 imposed by the physical illness, ~~the~~ physical condition, or ~~the~~ behavioral
35 or mental health disorder, as determined by the board.

36 (b) As part of the agreement, the pharmacist, ~~or~~ intern, OR
37 PHARMACY TECHNICIAN is subject to periodic reevaluations or monitoring
38 as determined appropriate by the board. The board may refer the
39 pharmacist or intern to the pharmacy peer health assistance diversion
40 program for reevaluation or monitoring.

41 (c) The parties may modify or dissolve the agreement as necessary

1 based on the results of a reevaluation or of monitoring.
2 (3) By entering into an agreement with the board pursuant to this
3 section to limit his or her practice, a pharmacist, ~~or~~ intern, OR PHARMACY
4 TECHNICIAN is not engaging in activities prohibited pursuant to section
5 12-42.5-123. The agreement does not constitute a restriction or discipline
6 by the board. However, if the pharmacist, ~~or~~ intern, OR PHARMACY
7 TECHNICIAN fails to comply with the terms of an agreement entered into
8 pursuant to this section, the failure constitutes a prohibited activity
9 pursuant to section 12-42.5-123 (1)(r), and the pharmacist, ~~or~~ intern, OR
10 PHARMACY TECHNICIAN is subject to discipline in accordance with section
11 12-42.5-124.

12 (4) This section does not apply to a pharmacist, ~~or~~ intern, OR
13 PHARMACY TECHNICIAN subject to discipline for prohibited activities as
14 described in section 12-42.5-123 (1)(e).

15 **SECTION 35. Act subject to petition - effective date.**

16 (1) Except as otherwise provided in subsection (2) of this section, this
17 act".

18 Page 21, after line 3 insert:

19 "(2) (a) Sections 1 through 18 of this act take effect only if House
20 Bill 19-1172 becomes law.

21 (b) Sections 19 through 34 of this act take effect only if House
22 Bill 19-1172 does not become law."

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