

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 21-0372.02 Richard Sweetman x4333

SENATE BILL 21-092

SENATE SPONSORSHIP

Kolker and Simpson, Buckner, Fields, Ginal, Liston

HOUSE SPONSORSHIP

Jodeh and Soper,

Senate Committees

Health & Human Services

House Committees

Health & Insurance

Finance

Appropriations

A BILL FOR AN ACT

101 CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS
102 WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH,
103 IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE
104 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY
105 AGENCIES.

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/>.)

Sunset Process - Senate Health and Human Services Committee. The bill implements the recommendations of the department

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.

HOUSE
2nd Reading Unamended
May 5, 2021

SENATE
3rd Reading Unamended
March 16, 2021

SENATE
Amended 2nd Reading
March 12, 2021

of regulatory agencies in its sunset review and report on the surgical assistants and surgical technologists registration program. Specifically:

- **Sections 1 and 2** of the bill continue the surgical assistant and surgical technologist registration program for 7 years, until 2028.
- **Section 3** requires a surgical assistant or surgical technologist whose registration is revoked or who has surrendered a registration in lieu of disciplinary action to wait 2 years before reapplying for registration and authorizes the director of the division of professions and occupations within the department of regulatory agencies (director) to issue letters of admonition and confidential letters of concern to surgical assistants and surgical technologists.
- **Section 4** clarifies that a registrant may be disciplined for failing to notify the director of the limitations created by an illness or other health condition, act within such limitations, or act within the limitations imposed under a confidential agreement with the director to limit practice. Section 4 also adds the following as grounds for discipline:
 - Habitual or excessive use of alcohol, a habit-forming drug, or a controlled substance;
 - Failing to notify the director of any disciplinary action;
 - Failing to respond in a materially responsive and timely manner to a complaint;
 - Practicing outside the scope of the practice of a surgical assistant or surgical technologist; and
 - Failing to satisfy generally accepted standards of practice as a surgical assistant or surgical technologist.
- **Sections 5 and 6** allow the director to enter into confidential agreements with surgical assistants or surgical technologists to limit practice based on an illness or other health condition that affects the ability to safely practice the profession.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-104, **repeal**
3 (21)(a)(VIII); and **add** (29)(a)(XIII) as follows:

4 **24-34-104. General assembly review of regulatory agencies**

1 **and functions for repeal, continuation, or reestablishment - legislative**
2 **declaration - repeal.** (21) (a) The following agencies, functions, or both,
3 will repeal on September 1, 2021:

4 (VIII) ~~The registration of surgical assistants and surgical~~
5 ~~technologists pursuant to article 310 of title 12;~~

6 (29) (a) The following agencies, functions, or both, are scheduled
7 for repeal on September 1, 2028:

8 (XIII) THE REGISTRATION OF SURGICAL ASSISTANTS AND
9 SURGICAL TECHNOLOGISTS PURSUANT TO ARTICLE 310 OF TITLE 12.

10 **SECTION 2.** In Colorado Revised Statutes, **amend** 12-310-109
11 as follows:

12 **12-310-109. Repeal of article - subject to review.** This article
13 310 is repealed, effective ~~September 1, 2021~~ SEPTEMBER 1, 2028. Before
14 the repeal, the registration of surgical assistants and surgical technologists
15 is scheduled for review in accordance with section 24-34-104.

16 **SECTION 3.** In Colorado Revised Statutes, 12-20-404, **amend**
17 (3)(a)(II)(M), (3)(a)(II)(N), (3)(c)(VI), (3)(c)(VIII), (4)(c), (5)(b)(III), and
18 (5)(b)(IV); **repeal** (3)(c)(IX) and (5)(b)(V); and **add** (3)(a)(II)(O) as
19 follows:

20 **12-20-404. Disciplinary actions - regulator powers -**
21 **disposition of fines. (3) Waiting period after revocation or surrender.**
22 (a) (II) In addition, the waiting period specified in subsection (3)(a)(I) of
23 this section applies when a person regulated under any of the following
24 articles surrenders a license, certification, or registration to avoid
25 discipline:

26 (M) Article 300 of this title 12 concerning respiratory therapists;
27 **and**

1 (N) Article 305 of this title 12 concerning speech-language
2 pathologists; AND

3 (O) ARTICLE 310 OF THIS TITLE 12 CONCERNING SURGICAL
4 ASSISTANTS AND SURGICAL TECHNOLOGISTS.

5 (c) This subsection (3) does not apply to the following:

6 (VI) Article 215 of this title 12 concerning chiropractors; AND

7 (VIII) Article 295 of this title 12 concerning psychiatric
8 technicians. ~~and~~

9 (IX) ~~Article 310 of this title 12 concerning surgical assistants and~~
10 ~~surgical technologists.~~

11 (4) **Letter of admonition.** (c) This subsection (4) does not apply
12 to the following:

13 (F) ~~article 205 of this title 12 concerning athletic trainers. and~~

14 (H) ~~Article 310 of this title 12 concerning surgical assistants and~~
15 ~~surgical technologists.~~

16 (5) **Confidential letter of concern.** (b) This subsection (5) does
17 not apply to the following:

18 (III) Article 150 of this title 12 concerning passenger tramways;
19 AND

20 (IV) Article 205 of this title 12 concerning athletic trainers. ~~and~~

21 (V) ~~Article 310 of this title 12 concerning surgical assistants and~~
22 ~~surgical technologists.~~

23 **SECTION 4.** In Colorado Revised Statutes, 12-310-106, **amend**
24 (2)(c), (2)(d), (2)(i), (2)(j), and (2)(k); and **add** (2)(l), (2)(m), (2)(n), (12),
25 and (13) as follows:

26 **12-310-106. Grounds for discipline - disciplinary proceedings**
27 **- judicial review.** (2) The director may take disciplinary or other action

1 as authorized in section 12-20-404 against, or issue a cease-and-desist
2 order in accordance with section 12-20-405 to, a registrant in accordance
3 with this section and section 12-20-403, upon proof that the registrant:

4 (c) ~~Has a substance use disorder, as defined in section 27-81-102;~~
5 ~~is an excessive or habitual user or abuser of alcohol or habit-forming~~
6 ~~drugs; or is a habitual user of a controlled substance, as defined in section~~
7 ~~18-18-102 (5), or other drugs having similar effects~~ HABITUALLY OR
8 EXCESSIVELY USES OR ABUSES ALCOHOL, A HABIT-FORMING DRUG, OR A
9 CONTROLLED SUBSTANCE AS DEFINED IN SECTION 18-18-102 (5);

10 (d) Has FAILED TO:

11 (I) NOTIFY THE DIRECTOR , AS REQUIRED BY SECTION 12-30-108
12 (1), OF a physical condition or disability, a behavioral, mental health, or
13 substance use disorder, or an intellectual and developmental disability
14 that renders the registrant unable to perform ~~his or her~~ THE REGISTRANT'S
15 tasks with reasonable skill and safety or that may endanger the health or
16 safety of individuals receiving services;

17 (II) ACT WITHIN THE LIMITATIONS CREATED BY A PHYSICAL
18 CONDITION OR DISABILITY, A BEHAVIORAL, MENTAL HEALTH, OR
19 SUBSTANCE USE DISORDER, OR AN INTELLECTUAL AND DEVELOPMENTAL
20 DISABILITY THAT RENDERS THE REGISTRANT UNABLE TO PERFORM THE
21 REGISTRANT'S TASKS WITH REASONABLE SKILL AND SAFETY OR THAT MAY
22 ENDANGER THE HEALTH OR SAFETY OF INDIVIDUALS RECEIVING SERVICES;
23 OR

24 (III) COMPLY WITH THE LIMITATIONS AGREED TO UNDER A
25 CONFIDENTIAL AGREEMENT ENTERED INTO PURSUANT TO
26 SECTIONS 12-30-108 AND 12-310-108.5;

27 (i) Has failed to notify the director WITHIN THIRTY DAYS of the

1 suspension, revocation, or denial of OR OF ANY OTHER DISCIPLINARY
2 ACTION REGARDING the person's past or currently held license, certificate,
3 or registration required to perform the duties of a surgical assistant or
4 surgical technologist in this or any other jurisdiction;

5 (j) Has refused to submit to a physical or mental examination
6 when ordered by the director pursuant to section 12-310-108; ~~or~~

7 (k) Has ~~otherwise violated any provision of this article 310 or~~
8 ~~lawful order or rule of the director~~ FAILED TO RESPOND _____ TO A
9 COMPLAINT AGAINST THE REGISTRANT IN A MATERIALLY RESPONSIVE AND
10 TIMELY MANNER WITHIN THIRTY DAYS AFTER RECEIVING THE COMPLAINT;

11 (l) HAS PRACTICED OUTSIDE THE SCOPE OF THE PRACTICE OF A
12 SURGICAL ASSISTANT OR SURGICAL TECHNOLOGIST;

13 (m) HAS FAILED TO SATISFY GENERALLY ACCEPTED STANDARDS
14 OF PRACTICE AS A SURGICAL ASSISTANT OR SURGICAL TECHNOLOGIST; OR

15 (n) HAS OTHERWISE VIOLATED ANY PROVISION OF THIS ARTICLE
16 310, AN APPLICABLE PROVISION OF ARTICLE 20 OR 30 OF THIS TITLE 12, OR
17 ANY LAWFUL ORDER OR RULE OF THE DIRECTOR.

18 (12) THE DIRECTOR MAY ISSUE A LETTER OF ADMONITION UNDER
19 THE CIRCUMSTANCES SPECIFIED IN AND IN ACCORDANCE WITH SECTION
20 12-20-404 (4).

21 (13) THE DIRECTOR MAY ISSUE A CONFIDENTIAL LETTER OF
22 CONCERN UNDER THE CIRCUMSTANCES SPECIFIED IN SECTION 12-20-404
23 (5).

24 **SECTION 5.** In Colorado Revised Statutes, 12-30-108, **amend**
25 (4)(a)(I)(D); and **repeal** (4)(a)(I)(H) as follows:

26 **12-30-108. Confidential agreement to limit practice - violation**
27 **grounds for discipline.** (4) (a) This section does not apply to:

- 1 (I) The following health care professionals:
2 (D) Nurse aides regulated pursuant to article 255 of this title 12;
3 OR
4 (H) ~~Surgical assistants and surgical technologists regulated~~
5 ~~pursuant to article 310 of this title 12; or~~

6 **SECTION 6.** In Colorado Revised Statutes, **add** 12-310-108.5 as
7 follows:

8 **12-310-108.5. Confidential agreement to limit practice.**

9 (1) EXCEPT AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, SECTION
10 12-30-108 CONCERNING CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE
11 APPLIES TO THIS ARTICLE 310.

12 (2) THIS SECTION AND SECTION 12-30-108 DO NOT APPLY TO A
13 REGISTRANT SUBJECT TO DISCIPLINE UNDER SECTION 12-310-106 (2)(c).

14 **SECTION 7. Effective date.** This act takes effect September 1,
15 2021.

16 **SECTION 8. 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, or safety.