

CHAPTER 139

PROFESSIONS AND OCCUPATIONS

SENATE BILL 21-092

BY SENATOR(S) Kolker and Simpson, Buckner, Fields, Ginal, Liston;
also REPRESENTATIVE(S) Jodeh and Soper, Boesenecker, Exum, Gray, Mullica, Ortiz, Titone, Valdez D.

AN ACT

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

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

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

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (21) (a) The following agencies, functions, or both, will repeal on September 1, 2021:

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

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

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

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

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 This article 310 is repealed, effective ~~September 1, 2021~~ SEPTEMBER 1, 2028.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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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

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

(M) Article 300 of this title 12 concerning respiratory therapists; ~~and~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12-310-106. Grounds for discipline - disciplinary proceedings - judicial review. (2) The director may take disciplinary or other action as authorized in section 12-20-404 against, or issue a cease-and-desist order in accordance with

section 12-20-405 to, a registrant in accordance with this section and section 12-20-403, upon proof that the registrant:

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

(d) Has FAILED TO:

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

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

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

(i) Has failed to notify the director WITHIN THIRTY DAYS of the suspension, revocation, or denial of OR OF ANY OTHER DISCIPLINARY ACTION REGARDING the person's past or currently held license, certificate, or registration required to perform the duties of a surgical assistant or surgical technologist in this or any other jurisdiction;

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

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

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

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

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

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

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

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

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

(I) The following health-care professionals:

(D) Nurse aides regulated pursuant to article 255 of this title 12; OR

~~(H) Surgical assistants and surgical technologists regulated pursuant to article 310 of this title 12; or~~

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

12-310-108.5. Confidential agreement to limit practice. (1) EXCEPT AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, SECTION 12-30-108 CONCERNING CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE APPLIES TO THIS ARTICLE 310.

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

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

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

Approved: May 17, 2021