

CHAPTER 431

PROFESSIONS AND OCCUPATIONS

SENATE BILL 22-058

BY SENATOR(S) Simpson, Buckner, Coram, Fields, Ginal, Hansen, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Story, Winter; also REPRESENTATIVE(S) McCormick, Amabile, Bird, Boesenecker, Caraveo, Duran, Exum, Herod, Jodeh, Lindsay, Lontine, Michaelson Jenet, Mullica, Snyder, Valdez D.

AN ACT**CONCERNING THE CREATION OF A PEER HEALTH ASSISTANCE PROGRAM FOR DENTAL HYGIENISTS.**

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

SECTION 1. In Colorado Revised Statutes, **add** 12-220-507 as follows:

12-220-507. Dental hygienist peer health assistance program - fees - rules.

(1) (a) (I) EFFECTIVE JULY 1, 2023, AS A CONDITION OF LICENSURE IN THIS STATE, AND FOR THE PURPOSE OF SUPPORTING A DENTAL HYGIENIST PEER ASSISTANCE PROGRAM, EVERY APPLICANT FOR INITIAL LICENSURE AS A DENTAL HYGIENIST OR A DENTAL HYGIENIST REINSTATING OR RENEWING THE DENTAL HYGIENIST'S LICENSE MUST PAY TO THE ADMINISTERING ENTITY THAT HAS BEEN SELECTED BY THE DEPARTMENT PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION AN AMOUNT NOT TO EXCEED FIFTEEN DOLLARS PER YEAR. THE DEPARTMENT MAY ADJUST THIS AMOUNT ON JANUARY 1, 2024, AND ANNUALLY THEREAFTER TO REFLECT CHANGES IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL URBAN CONSUMERS OR GOODS, OR ITS SUCCESSOR INDEX; EXCEPT THAT THE AMOUNT MUST NOT EXCEED TWENTY-FIVE DOLLARS PER YEAR.

(II) THE ADMINISTERING ENTITY SHALL USE THE MONEY COLLECTED PURSUANT TO THIS SUBSECTION (1)(a) TO ADMINISTER A PEER HEALTH ASSISTANCE PROGRAM FOR DENTAL HYGIENISTS, INCLUDING TO SUPPORT DESIGNATED PROVIDERS THAT THE DEPARTMENT SELECTS PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION TO ASSIST DENTAL HYGIENISTS WITH PHYSICAL, EMOTIONAL, OR PSYCHOLOGICAL PROBLEMS THAT MAY BE DETRIMENTAL TO DENTAL HYGIENISTS' ABILITY TO PRACTICE DENTAL HYGIENE.

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.

(b) THE DEPARTMENT SHALL SELECT ONE OR MORE PEER HEALTH ASSISTANCE PROGRAMS AS DESIGNATED PROVIDERS. TO BE ELIGIBLE FOR DESIGNATION BY THE DEPARTMENT, A PEER HEALTH ASSISTANCE PROGRAM MUST:

(I) PROVIDE FOR THE EDUCATION OF DENTAL HYGIENISTS WITH RESPECT TO THE RECOGNITION AND PREVENTION OF PHYSICAL, EMOTIONAL, AND PSYCHOLOGICAL PROBLEMS AND PROVIDE FOR INTERVENTION WHEN NECESSARY OR UNDER CIRCUMSTANCES THAT MAY BE ESTABLISHED BY RULES PROMULGATED BY THE BOARD;

(II) OFFER ASSISTANCE TO A DENTAL HYGIENIST IN IDENTIFYING PHYSICAL, EMOTIONAL, OR PSYCHOLOGICAL PROBLEMS;

(III) EVALUATE THE EXTENT OF PHYSICAL, EMOTIONAL, OR PSYCHOLOGICAL PROBLEMS AND REFER THE DENTAL HYGIENIST FOR APPROPRIATE TREATMENT;

(IV) MONITOR THE STATUS OF A DENTAL HYGIENIST WHO HAS BEEN REFERRED FOR TREATMENT;

(V) PROVIDE COUNSELING AND SUPPORT FOR A DENTAL HYGIENIST AND FOR THE FAMILY OF ANY DENTAL HYGIENIST REFERRED FOR TREATMENT;

(VI) AGREE TO RECEIVE REFERRALS FROM THE BOARD; AND

(VII) AGREE TO MAKE ITS SERVICES AVAILABLE TO ALL LICENSED COLORADO DENTAL HYGIENISTS.

(c) THE DEPARTMENT SHALL SELECT AN ADMINISTERING ENTITY TO ADMINISTER THE PEER HEALTH ASSISTANCE PROGRAM. THE ADMINISTERING ENTITY MUST BE A QUALIFIED, NONPROFIT FOUNDATION THAT IS QUALIFIED UNDER SECTION 501 (c)(3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, THAT IS DEDICATED TO PROVIDING SUPPORT FOR CHARITABLE, BENEVOLENT, EDUCATIONAL, AND SCIENTIFIC PURPOSES THAT ARE RELATED TO DENTAL HYGIENE, ORAL HEALTH EDUCATION, ORAL HEALTH RESEARCH AND SCIENCE, AND OTHER ORAL CHARITABLE PURPOSES.

(d) THE ADMINISTERING ENTITY SHALL:

(I) COLLECT THE REQUIRED FEES, DIRECTLY OR THROUGH THE BOARD;

(II) VERIFY TO THE BOARD, IN A MANNER ACCEPTABLE TO THE BOARD, THE NAMES OF ALL DENTAL HYGIENIST APPLICANTS WHO HAVE PAID THE FEE SET BY THE BOARD;

(III) DISTRIBUTE THE MONEY COLLECTED, LESS EXPENSES, TO THE DESIGNATED PROVIDER, AS DIRECTED BY THE BOARD;

(IV) PROVIDE AN ANNUAL ACCOUNTING TO THE BOARD OF ALL AMOUNTS COLLECTED, EXPENSES INCURRED, AND AMOUNTS DISBURSED; AND

(V) POST A SURETY PERFORMANCE BOND IN AN AMOUNT SPECIFIED BY THE BOARD TO SECURE PERFORMANCE UNDER THE REQUIREMENTS OF THIS SECTION. THE

ADMINISTERING ENTITY MAY RECOVER THE ACTUAL ADMINISTRATIVE COSTS INCURRED IN PERFORMING ITS DUTIES UNDER THIS SECTION IN AN AMOUNT NOT TO EXCEED TEN PERCENT OF THE TOTAL AMOUNT OF FEES COLLECTED.

(e) THE DEPARTMENT ON BEHALF OF THE BOARD MAY COLLECT THE REQUIRED FEES PAYABLE TO THE ADMINISTERING ENTITY FOR THE BENEFIT OF THE ADMINISTERING ENTITY AND SHALL TRANSFER THE FEES TO THE ADMINISTERING ENTITY. ALL REQUIRED FEES COLLECTED OR DUE TO THE DEPARTMENT ON BEHALF OF THE BOARD FOR EACH STATE FISCAL YEAR ARE CUSTODIAL FUNDS THAT ARE NOT SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY, AND THE FEE REVENUES DO NOT CONSTITUTE STATE FISCAL YEAR SPENDING FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(2) (a) A DENTAL HYGIENIST MAY SELF-REFER TO PARTICIPATE IN THE PEER ASSISTANCE PROGRAM OR MAY BE REFERRED BY THE BOARD.

(b) NOTWITHSTANDING SECTIONS 12-220-201 AND 24-4-104, THE BOARD MAY IMMEDIATELY SUSPEND THE LICENSE OF ANY DENTAL HYGIENIST WHO IS REFERRED TO A PEER HEALTH ASSISTANCE PROGRAM BY THE BOARD AND WHO FAILS TO ATTEND OR COMPLETE THE PROGRAM. IF THE DENTAL HYGIENIST OBJECTS TO THE SUSPENSION, THE DENTAL HYGIENIST MAY SUBMIT A WRITTEN REQUEST TO THE BOARD FOR A FORMAL HEARING ON THE SUSPENSION WITHIN TEN DAYS AFTER RECEIVING NOTICE OF THE SUSPENSION, AND THE BOARD SHALL GRANT THE REQUEST. IN THE HEARING, THE DENTAL HYGIENIST BEARS THE BURDEN OF PROVING THAT THE DENTAL HYGIENIST'S LICENSE SHOULD NOT BE SUSPENDED.

(c) ANY DENTAL HYGIENIST WHO IS ACCEPTED INTO A PEER HEALTH ASSISTANCE PROGRAM IN LIEU OF DISCIPLINARY ACTION BY THE BOARD SHALL AFFIRM THAT, TO THE BEST OF THE DENTAL HYGIENIST'S KNOWLEDGE, INFORMATION, AND BELIEF, THE DENTAL HYGIENIST KNOWS OF NO INSTANCE IN WHICH THE DENTAL HYGIENIST HAS VIOLATED THIS ARTICLE 220 OR THE RULES OF THE BOARD, EXCEPT IN THOSE INSTANCES AFFECTED BY THE DENTAL HYGIENIST'S PHYSICAL, EMOTIONAL, OR PSYCHOLOGICAL PROBLEMS.

(3) IF A DENTAL HYGIENIST IS ARRESTED FOR A DRUG- OR ALCOHOL-RELATED OFFENSE, THE DENTAL HYGIENIST SHALL SELF-REFER TO THE PEER HEALTH ASSISTANCE PROGRAM WITHIN THIRTY DAYS AFTER THE ARREST FOR AN EVALUATION AND REFERRAL FOR TREATMENT AS NECESSARY. IF THE DENTAL HYGIENIST SELF-REFERS, THE EVALUATION BY THE PROGRAM IS CONFIDENTIAL AND CANNOT BE USED AS EVIDENCE IN ANY PROCEEDING OTHER THAN BEFORE THE BOARD. IF A DENTAL HYGIENIST FAILS TO COMPLY WITH THIS SUBSECTION (3), THE FAILURE ALONE IS NOT GROUNDS FOR DISCIPLINE UNDER SECTIONS 12-220-201 AND 12-220-202 UNLESS THE DENTAL HYGIENIST HAS ALSO COMMITTED AN ACT OR OMISSION SPECIFIED IN SECTION 12-220-201, OTHER THAN AN ACT OR OMISSION SPECIFIED IN SECTION 12-220-201 (1)(e) OR (1)(f).

(4) NOTHING IN THIS SECTION CREATES ANY LIABILITY ON BEHALF OF THE BOARD OR THE STATE OF COLORADO FOR THE ACTIONS OF THE BOARD MEMBERS IN MAKING GRANTS TO PEER ASSISTANCE PROGRAMS, AND NO CIVIL ACTION MAY BE BROUGHT OR MAINTAINED AGAINST THE BOARD OR THE STATE FOR AN INJURY ALLEGED TO HAVE BEEN THE RESULT OF THE ACTIVITIES OF ANY STATE-FUNDED PEER ASSISTANCE

PROGRAM OR OF AN ACT OR OMISSION OF A DENTAL HYGIENIST PARTICIPATING IN OR REFERRED BY A STATE-FUNDED PEER ASSISTANCE PROGRAM. HOWEVER, THE STATE REMAINS LIABLE UNDER THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, IF AN INJURY ALLEGED TO HAVE BEEN THE RESULT OF AN ACT OR OMISSION OF A DENTAL HYGIENIST PARTICIPATING IN OR REFERRED BY A STATE-FUNDED PEER ASSISTANCE PROGRAM OCCURRED WHILE THE DENTAL HYGIENIST WAS PERFORMING DUTIES AS AN EMPLOYEE OF THE STATE.

(5) THE BOARD MAY PROMULGATE RULES NECESSARY TO IMPLEMENT THIS SECTION.

SECTION 2. In Colorado Revised Statutes, 12-220-310, **amend** (1)(a) as follows:

12-220-310. Dentist peer health assistance program - fees - rules.

(1) (a) Effective July 1, 2004, as a condition of renewal in this state, every ~~renewal applicant shall~~ DENTIST APPLYING TO RENEW THE DENTIST'S LICENSE MUST pay to the administering entity that has been selected by the board pursuant to subsection (1)(b) of this section an amount not to exceed fifty-nine dollars per year, which maximum amount may be adjusted on January 1, 2005, and annually thereafter by the board to reflect changes in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all urban consumers or goods, or its successor index. The fee shall be used to support designated providers that have been selected by the board to provide assistance to dentists needing help in dealing with physical, emotional, or psychological problems that may be detrimental to their ability to practice dentistry. The fee shall not exceed one hundred dollars per year per licensee.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 8, 2022