

MEMORANDUM

TO: The Reproductive Health Access Project
FROM: Law Students for Reproductive Justice, Georgetown Chapter*
RE: Provider Licensing Requirements – **Colorado (Revised)**
DATE: January 18th, 2016

*not formally affiliated with the Georgetown University Law Center.

.....

Colorado’s Board of Medical Examiners (“Board”) is the body that governs medical licensure. The statutes pertaining to physician licensing are contained in the Medical Practice Act, COLO. REV. STAT. § 12-36-101, *et. seq.*

I. Requirements for a Professional License

A. Standard License - Physician

To be eligible for a medical license in Colorado, an applicant must:

- (1) Pass an examination, or combination of examinations, approved by the Board;
- (2) Be at least 21 years of age;
- (3) Graduate from an approved medical college; and
- (4) Complete at least one year of postgraduate training approved by the Board.

COLO. REV. STAT. § 12-36-107. Applicants must also pay a fee of \$412. COLO. REV. STAT. § 12-36-111; *see also*, Physician Application, at https://www.colorado.gov/pacific/dora/Physician_Applications_Docs. As always, the requirements of graduates of foreign medical schools are slightly different. *See* COLO. REV. STAT. § 12-36-107.6.

The Board may refuse to issue a license or may grant a probationary license if it determines that the applicant does not meet the qualifications of the Medical Practice Act, has engaged in unprofessional conduct, has been disciplined in another state or foreign jurisdiction, or has not actively practiced medicine during the two-year period preceding the application or otherwise maintained clinical competency during that period. COLO. REV. STAT. § 12-36-116(1).

B. Physician Assistant Licensure

To be eligible for a physician assistant license in Colorado, an applicant must:

- (1) Be at least 21 years of age;

- (2) Complete an education program for physician assistants that conforms to Board standards; and
- (3) Successfully complete the national certifying examination for physician assistants.

COLO. REV. STAT. § 12-36-107.4. Applicants must also pay a fee of \$262. *See* Physician Application, at https://www.colorado.gov/pacific/dora/Physician_Applications_Docs. Issuance of a physician assistant license is subject to the same professional and disciplinary provisions as outlined for physicians in COLO. REV. STAT. §§ 12-36-116, 117.

C. Temporary Licenses

In some cases, physicians may be eligible for a temporary license in Colorado. An applicant of noteworthy and recognized professional attainment, who is licensed in a foreign jurisdiction (if that jurisdiction has a licensing procedure), may be granted a temporary license if that physician has been invited to become a full-time member of the academic faculty of a Colorado medical school. COLO. REV. STAT. § 12-36-107.2; *see also*, Rules and Regulations Regarding Licensure and Supervision of Distinguished Foreign Teaching Physicians, Rule 140, effective May 16, 2013, at https://www.colorado.gov/pacific/dora/Medical_Laws#Rules. The medical practice is limited to that necessary for the academic position and to the core teaching hospitals affiliated with the medical school. COLO. REV. STAT. § 12-36-107.2(1)(b). If the applicant will serve at a position of associate professor or above, the temporary license will expire each year but may be renewed so long as the physician holds the academic appointment. COLO. REV. STAT. § 12-36-107.2(3). If the applicant is appointed to a position lower than associate professor, the temporary license may be granted for one year only, and may only practice under the direct supervision of a person who has the rank of associate professor or above. COLO. REV. STAT. § 12-36-107.2(2).

D. Licensure by Endorsement

Colorado no longer allows licensure by reciprocity. COLO. REV. STAT. § 12-36-107(1)(d). However, the Board provides licenses to physicians from other jurisdictions through an endorsement process. COLO. REV. STAT. § 12-36-107(1)(e). To obtain a license by endorsement, the applicant must hold a current and valid license in a jurisdiction that requires qualifications “substantially equivalent” to Colorado’s licensing requirements. COLO. REV. STAT. § 12-36-107(1)(e)(I)(B). The applicant must demonstrate that he or she has actively practiced medicine for five of the last seven years, or has otherwise maintained competency. COLO. REV. STAT. § 12-36-107(1)(e)(I)(C). In addition, the applicant must submit proof that he or she has not been or is not currently subject to any disciplinary action; however, if the applicant has been subject to such action, the Board will review to determine whether the conduct warrants rejection of the application. COLO. REV. STAT. § 12-36-107(1)(e)(I)(D).

E. Exemptions from Licensure Requirements

No license is required to practice medicine in certain circumstances. Those exemptions that might be useful for our purposes are listed here.

- (1) Rendering services, for free, in an emergency;
- (2) A physician licensed in another state rendering services in Colorado if limited to occasional consultations or cases;
- (3) Services provided by medical students currently enrolled in approved medical schools;
- (4) The rendering of any services by anyone in an approved internship, residency, fellowship for an aggregate period not to exceed 60 days.

COLO. REV. STAT. § 12-36-106(3).

The most useful of these exemptions may be the last, referred to in a Board policy as the 60-day Rotation Exemption. *See* Medical Board Policies, Policy Number 20-19, Clarification of the 60-day Rotation Exemption from Licensure/Physician Training Licensure Requirements Pursuant to COLO. REV. STAT. § 12-36-106(3)(v), at https://www.colorado.gov/pacific/dora/Medical_Laws#Policies. As clarified by the Board policy, it is evident that this provision is intended to allow interns, residents or fellows, including those in programs *outside* Colorado, to enter the state for training of up to 60 days in a one-year period.¹ This provision may serve the needs of recent medical graduates seeking training in abortion procedures in Colorado.

II. Limited Licenses

The Board may issue a pro bono license to allow physicians either licensed in Colorado but ceasing their regular practices or physicians licensed in other jurisdictions to practice medicine in Colorado, for no more than 60 days per year, if the physician does not charge for services, has never had a license revoked or suspended, is not presently the subject of an unresolved complaint, maintains insurance coverage, and pays a fee to the Board. COLO. REV. STAT. § 12-36-114.3(1). A physician is also not required to obtain a license or physician training license in order to practice medicine in Colorado under any circumstance outlined under “Licensure Exemptions” below. *See* COLO. REV. STAT. § 12-36-106(3).

A. *Physician Training Licenses*

Physician training licenses allow a person in an internship, fellowship, or residency to practice medicine, as long as the person is not otherwise licensed to practice in Colorado. COLO. REV. STAT. § 12-36-122. Issuance of a physician training license does not grant the licensee the ability to practice under full licensure—the licensee can practice only under the supervision of a fully licensed physician and is not permitted to supervise physician assistants. *Id.* To obtain a physician training license, a person must submit an application to be approved by the Board. *Id.* Licenses are subject to renewal but may not be held for more than a total of six years. *Id.*

B. *Reentry Licenses*

¹ Interns, residents and fellows in programs in Colorado would most likely already have obtained the Physician Training License, discussed *infra*, suggesting that this policy is directed at out-of-state trainees.

Physicians, physician assistants, or anesthesiologist assistants may obtain temporary reentry licenses, allowing them to practice under supervision, if they have not actively practiced for a two-year period. COLO. REV. STAT. § 12-36-114.5. In order to acquire a reentry license, physicians must undergo an assessment and are prescribed an educational program by the Board. *Id.* The reentry license is non-renewable and is not valid for more than three years. *Id.* After completion of the reentry license period and educational program, the Board may grant conversion of the reentry license to a full license to practice medicine. *Id.*

III. Physician Training

Anyone serving an approved internship, residency or fellowship² in a Colorado hospital must apply for and obtain a physician training license. COLO. REV. STAT. § 12-36-122(1). The physician may then remain in the training program for up to six years. *Id.*

To obtain the training license, the applicant must have been accepted into and intend to participate in an approved internship, residency or fellowship and not be otherwise licensed to practice medicine in Colorado. COLO. REV. STAT. § 12-36-122(2). The Board has the authority to deny or limit a training license if the applicant does not possess the required qualifications, has engaged in unprofessional conduct, or has been disciplined by the licensing authority of another state or foreign jurisdiction. COLO. REV. STAT. §§ 12-36-116(1)(a), (b), (c), 12-36-122(3). The fee for a physician training license is \$10. Fee Schedule, *supra*.

Under a training license, the trainee is authorized to practice medicine only with the supervision of a licensed physician and only as necessary for participation in the training program. COLO. REV. STAT. § 12-36-122(7)(a). The training license becomes invalid once the holder leaves the training program or becomes otherwise licensed to practice medicine in Colorado. COLO. REV. STAT. § 12-36-122(7)(b)(I).

IV. Nurse Practitioner Licensure

Colorado's Board of Nursing ("Nursing Board") is the body that governs nursing licensure. The statutes pertaining to nurse licensing are contained in the Nurse Practice Act, COLO. REV. STAT. § 12-38-101, *et. seq.*

A. Standard License

To be eligible for a nurse practitioner³ license in Colorado, an applicant must:

- (1) Successfully complete an appropriate graduate degree; and
- (2) Receive national certification from a recognized accrediting agency.

COLO. REV. STAT. § 12-38-111.5(4)(d). Applicants must also pay a fee of \$75. *See* https://www.colorado.gov/pacific/dora/Nursing_APN_Applications_Docs. In addition, applicants must meet the professional and disciplinary requirements as set forth in COLO. REV.

² These terms are defined at CRS § 12-36-102.5

³ A nurse practitioner is commonly referred to as "advance practice nurse" in the Nurse Practice Act

STAT. § 12-38-117, or the Nursing Board may refuse to issue a license. COLO. REV. STAT. § 12-38-118.

B. Licensure by Endorsement

A professional nurse applying for a nurse practitioner license by endorsement must:

- (1) Be recognized as an advanced practice nurse in another state or jurisdiction and have practiced as an advanced practice nurse for at least two of the last five years prior to applying; or
- (2) Possess both national certification and an appropriate graduate degree.

COLO. REV. STAT. § 12-38-111.5(4)(e). The application fee is \$75. *See* https://www.colorado.gov/pacific/dora/Nursing_APN_Applications_Docs.

C. Temporary Licenses

Temporary licenses are available to professional nurses who are in the state for special training or observation of nursing educational programs. COLO. REV. STAT. § 12-38-115. The individual must be licensed to practice as a nurse in the state, territory, or country of his residency. *Id.* The nursing practice of the individual is limited to that practice required as part of the training or educational program. *Id.*

V. Malpractice Insurance

A. Physicians

Under the Medical Practice Act, any physician who holds or wishes to obtain a license to practice medicine in Colorado must maintain commercial professional liability insurance with a minimum indemnity amount of \$1,000,000 per incident and \$3,000,000 aggregate per year. Medical Board Rules, Rule 220, Colorado State Board of Medical Examiners Rules and Regulations Concerning Financial Responsibility Standards, at https://www.colorado.gov/pacific/dora/Medical_Laws#Rules. This requirement does not apply to public employees. *Id.*

A physician whose entire practice falls within one of several categories is exempt from these requirements. *Id.* Those that may be relevant here are physicians who are covered by individual coverage maintained by an employer/contracting agency, in the required amounts, and physicians who provide uncompensated health care to patients and do not otherwise engage in patient care for compensation. *Id.*

B. Nurse Practitioners

Under the Nurse Practice Act, nurse practitioners engaged in independent practice must maintain professional liability insurance with a minimum indemnity amount of \$500,000 per claim and \$1,500,000 aggregate per year. COLO. REV. STAT. § 12-38-111.8.

VI. Denial and Revocation of Licenses

In 2013, Colorado passed the Crimes Against Pregnant Women Act, criminalizing the “unlawful termination of pregnancy.” COLO. REV. STAT. § 18-3.5-101. Unlawful termination of pregnancy is “the termination of a pregnancy by any other means than birth or a medical procedure, for which the consent of the pregnant woman...has been obtained.” *Id.* This new criminal statute is not directed at medical practitioners and explicitly excludes prosecution “for any act of providing medical...care; furnishing in patient or outpatient hospital or clinic services; or furnishing any service related to assisted reproduction or genetic testing.” COLO. REV. STAT. § 18-3.5-102.

Significantly, the Act repealed the Colorado provision that defined “unprofessional conduct” for medical providers to include “[p]rocurring, aiding, or abetting in procuring, criminal abortion.” COLO. REV. STAT. § 12-36-117(1)(b) (repealed by Laws 2013, Ch. 372, § 3, eff. July 1, 2013). There is no longer any reference to abortion providers in the unprofessional conduct standards. *See generally*, COLO. REV. STAT. § 12-36-117. General violations of unprofessional conduct provisions may be subject to disciplinary action by the Board of Medical Examiners, including suspension or revocation of license to practice. COLO. REV. STAT. § 12-36-117 – 118.

VII. Restrictions on the Provision of Abortion Services

In January 2015, the General Assembly of the State of Colorado introduced the Women’s Health Protection Act. If passed, beginning in January 1st, 2016, all abortion clinics would have to be licensed by the department of public health and environment. Any existing abortion clinic would have to apply for licensure within 90 days beginning on the effective date established in the bill. At least one physician with admitting privileges at an accredited hospital in Colorado and within 30 miles of the clinic must be employed by the clinic and must remain on the premises of the clinic on a day when any abortions are performed. This bill has been postponed indefinitely. 2015 Bill Text CO H.B. 1128; 2015 Bill Tracking CO H.B. 1128; <http://data.rhrealitycheck.org/law/colorado-womens-health-protection-act-trap-law-hb-1128/>.