

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 19-0354.01 Yelana Love x2295

SENATE BILL 19-153

SENATE SPONSORSHIP

Fields,

HOUSE SPONSORSHIP

Kipp,

Senate Committees

Health & Human Services
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE COLORADO PODIATRY**
102 **BOARD, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE**
103 **RECOMMENDATIONS CONTAINED IN THE 2018 SUNSET REPORT**
104 **BY THE DEPARTMENT OF REGULATORY 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 of regulatory agencies' sunset review and report on the regulatory

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.

SENATE
Amended 2nd Reading
April 12, 2019

functions of the Colorado podiatry board (board) as follows:

- ! Continues the regulation of podiatrists for 7 years, until September 1, 2026 (**sections 1 and 2** of the bill);
- ! Requires a podiatrist to notify the board of a physical illness, physical condition, or behavioral or mental health disorder that affects the podiatrist's ability to practice and allows the podiatrist and the board to enter into a confidential agreement to limit the podiatrist's practice based on the illness, condition, or disorder (**sections 4 and 6**);
- ! Specifies that the passage of an examination approved by the board is required for initial licensure as a podiatrist (**section 3**); and
- ! Eliminates the requirement that the board send letters of admonition by certified mail (**section 5**).

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 (16)(a)(VI); and **add** (27)(a)(VIII) as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for repeal, continuation, or reestablishment - legislative**
6 **declaration - repeal.** (16) (a) The following agencies, functions, or both,
7 will repeal on July 1, 2019:

8 (VI) ~~The Colorado podiatry board created in article 32 of title 12,~~
9 ~~C.R.S.;~~

10 (27) (a) The following agencies, functions, or both, are scheduled
11 for repeal on September 1, 2026:

12 (VIII) ~~THE COLORADO PODIATRY BOARD CREATED IN ARTICLE 32~~
13 ~~OF TITLE 12.~~

14 **SECTION 2.** In Colorado Revised Statutes, 12-32-103, **amend**
15 (4) as follows:

16 **12-32-103. Appointment of members of podiatry board - terms**
17 **- repeal of article.** (4) (a) ~~The provisions of section 24-34-104, C.R.S.,~~

1 ~~concerning the termination schedule for regulatory bodies of the state~~
2 ~~unless extended as provided in that section, are applicable to the Colorado~~
3 ~~podiatry board created by this section.~~

4 ~~(b) This article is repealed, effective July 1, 2019~~ THIS ARTICLE 32
5 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2026. BEFORE THE REPEAL, THIS
6 ARTICLE 32 IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION
7 24-34-104.

8 **SECTION 3.** In Colorado Revised Statutes, 12-32-105, **amend**
9 (1) introductory portion and (1)(c); and **add** (1)(c.5) as follows:

10 **12-32-105. Examination as to qualifications.** (1) Every person
11 desiring to practice podiatry in this state shall be examined as to his or her
12 qualifications, except as otherwise provided in this ~~article~~ ARTICLE 32.
13 Each applicant shall submit, in a manner approved by the Colorado
14 podiatry board, an application containing satisfactory proof that ~~said~~ THE
15 applicant:

16 (c) Has completed one year of a residency program approved by
17 the Colorado podiatry board as established by rules promulgated by the
18 board; ~~and~~

19 (c.5) HAS PASSED AN EXAMINATION APPROVED BY THE COLORADO
20 PODIATRY BOARD AS ESTABLISHED BY RULES PROMULGATED BY THE
21 BOARD; AND

22 **SECTION 4.** In Colorado Revised Statutes, 12-32-107, **amend**
23 (3) introductory portion and (3)(p) as follows:

24 **12-32-107. Issuance, revocation, or suspension of license -**
25 **probation - immunity in professional review.** (3) "Unprofessional
26 conduct" as used in this ~~article~~ ARTICLE 32 means:

27 (p) ~~Such physical or mental disability as to render the licensee~~

1 ~~unable to perform podiatry with reasonable skill and with safety to the~~
2 ~~patient~~; FAILING TO:

3 (I) NOTIFY THE COLORADO PODIATRY BOARD, AS REQUIRED BY
4 SECTION 12-32-120 (1), OF A PHYSICAL ILLNESS, PHYSICAL CONDITION, OR
5 BEHAVIORAL OR MENTAL HEALTH DISORDER THAT AFFECTS THE
6 PODIATRIST'S ABILITY TO PRACTICE PODIATRIC MEDICINE WITH
7 REASONABLE SKILL AND SAFETY TO PATIENTS;

8 (II) ACT WITHIN THE LIMITATIONS CREATED BY A PHYSICAL
9 ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL HEALTH
10 DISORDER THAT RENDERS THE PODIATRIST UNABLE TO PRACTICE
11 PODIATRIC MEDICINE WITH REASONABLE SKILL AND SAFETY TO PATIENTS;
12 OR

13 (III) COMPLY WITH THE LIMITATIONS AGREED TO UNDER A
14 CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION 12-32-120
15 (2);

16 **SECTION 5.** In Colorado Revised Statutes, 12-32-108.3, **amend**
17 (2)(c)(III)(A) and (2)(c)(III)(B) as follows:

18 **12-32-108.3. Disciplinary action by board.** (2) (c) On
19 completion of an investigation, the board shall make a finding that:

20 (III) (A) When a complaint or investigation discloses an instance
21 of misconduct that, in the opinion of the board, does not warrant formal
22 action by the board but that should not be dismissed as being without
23 merit, THE BOARD MAY ISSUE a letter of admonition ~~may be issued and~~
24 ~~sent, by certified mail,~~ to the licensee.

25 (B) When THE BOARD ISSUES a letter of admonition ~~is sent by the~~
26 ~~board, by certified mail,~~ to a licensee, ~~such~~ THE BOARD SHALL NOTIFY THE
27 licensee ~~shall be advised that he or she has the~~ OF THE LICENSEE'S right to

1 request in writing, within twenty days after receipt of the letter, that
2 formal disciplinary proceedings be initiated to adjudicate the propriety of
3 the conduct upon which the letter of admonition is based.

4 **SECTION 6.** In Colorado Revised Statutes, **add** 12-32-120 as
5 follows:

6 **12-32-120. Confidential agreements to limit practice -**
7 **violation grounds for discipline.** (1) IF A PODIATRIST SUFFERS FROM A
8 PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL
9 HEALTH DISORDER THAT RENDERS THE PODIATRIST UNABLE TO PRACTICE
10 PODIATRIC MEDICINE WITH REASONABLE SKILL AND SAFETY TO PATIENTS,
11 THE PODIATRIST SHALL NOTIFY THE COLORADO PODIATRY BOARD OF THE
12 PHYSICAL ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL
13 HEALTH DISORDER IN A MANNER AND WITHIN A PERIOD DETERMINED BY
14 THE BOARD. THE BOARD MAY REQUIRE THE PODIATRIST TO SUBMIT TO AN
15 EXAMINATION TO EVALUATE THE EXTENT OF THE PHYSICAL ILLNESS,
16 PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL HEALTH DISORDER AND
17 ITS EFFECT ON THE PODIATRIST'S ABILITY TO PRACTICE WITH REASONABLE
18 SKILL AND SAFETY TO PATIENTS.

19 (2) (a) UPON DETERMINING THAT A PODIATRIST WITH A PHYSICAL
20 ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL HEALTH
21 DISORDER IS ABLE TO RENDER LIMITED PODIATRIC MEDICINE SERVICES
22 WITH REASONABLE SKILL AND SAFETY TO PATIENTS, THE BOARD MAY
23 ENTER INTO A CONFIDENTIAL AGREEMENT WITH THE PODIATRIST IN WHICH
24 THE PODIATRIST AGREES TO LIMIT THE PODIATRIST'S PRACTICE BASED ON
25 THE RESTRICTIONS IMPOSED BY THE PHYSICAL ILLNESS, PHYSICAL
26 CONDITION, OR BEHAVIORAL OR MENTAL HEALTH DISORDER, AS
27 DETERMINED BY THE BOARD.

1 (b) THE AGREEMENT MUST SPECIFY THAT THE PODIATRIST IS
2 SUBJECT TO PERIODIC REEVALUATIONS OR MONITORING AS DETERMINED
3 APPROPRIATE BY THE BOARD.

4 (c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS
5 NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR OF
6 MONITORING.

7 (3) BY ENTERING INTO AN AGREEMENT WITH THE BOARD
8 PURSUANT TO THIS SECTION TO LIMIT THE PODIATRIST'S PRACTICE, THE
9 PODIATRIST IS NOT ENGAGING IN UNPROFESSIONAL CONDUCT. THE
10 AGREEMENT IS AN ADMINISTRATIVE ACTION AND DOES NOT CONSTITUTE
11 A RESTRICTION OR DISCIPLINE BY THE BOARD. HOWEVER, IF THE
12 PODIATRIST FAILS TO COMPLY WITH THE TERMS OF AN AGREEMENT
13 ENTERED INTO PURSUANT TO THIS SECTION, THE FAILURE CONSTITUTES
14 UNPROFESSIONAL CONDUCT PURSUANT TO SECTION 12-32-107 (3)(p), AND
15 THE PODIATRIST IS SUBJECT TO DISCIPLINE IN ACCORDANCE WITH SECTION
16 12-32-108.3.

17 (4) THIS SECTION DOES NOT APPLY TO A PODIATRIST SUBJECT TO
18 DISCIPLINE FOR UNPROFESSIONAL CONDUCT AS DESCRIBED IN SECTION
19 12-32-107 (3)(f).

20 **SECTION 7. In Colorado Revised Statutes, add 12-32-120 as**
21 **follows:**

22 **12-32-120. Bone marrow aspirations from the tibia. (1) THE**
23 **BOARD MAY PERMIT A PODIATRIST TO PERFORM BONE MARROW**
24 **ASPIRATIONS FROM THE TIBIA DISTAL TO THE TIBIAL TUBERCLE IF THE**
25 **PODIATRIST:**

26 **(a) HAS SUCCESSFULLY COMPLETED A PODIATRIC SURGERY**
27 **RESIDENCY WITH THE RECONSTRUCTION REARFOOT/ANKLE SURGERY**

1 CERTIFICATION; AND

2 (b) IS IN GOOD STANDING WITH THE BOARD.

3 **SECTION 8.** In Colorado Revised Statutes, **add to article 290**
4 **as relocated by House Bill 19-1172 12-290-123** as follows:

5 **12-290-123. Bone marrow aspirations from the tibia.** (1) THE
6 BOARD MAY PERMIT A PODIATRIST TO PERFORM BONE MARROW
7 ASPIRATIONS FROM THE TIBIA DISTAL TO THE TIBIAL TUBERCLE IF THE
8 PODIATRIST:

9 (a) HAS SUCCESSFULLY COMPLETED A PODIATRIC SURGERY
10 RESIDENCY WITH THE RECONSTRUCTION REARFOOT/ANKLE SURGERY
11 CERTIFICATION; AND

12 (b) IS IN GOOD STANDING WITH THE BOARD.

13 **SECTION 9.** In Colorado Revised Statutes, **12-30-108, repeal**
14 **as relocated by House Bill 19-1172 (4)(a)(I)(F)** as follows:

15 **12-30-108. Confidential agreement to limit practice - violation**
16 **grounds for discipline.** (4) (a) This section does not apply to:

17 (I) The following health care professionals:

18 (F) Podiatrists regulated pursuant to article 290 of this title 12;

19 **SECTION 10.** In Colorado Revised Statutes, **12-290-105, amend**
20 **as relocated by House Bill 19-1172 (4)** as follows:

21 **12-290-105. Appointment of members of podiatry board -**
22 **terms - repeal of article.** (4) This article 290 is repealed, effective July
23 1, 2019 SEPTEMBER 1, 2026. Before the repeal, the functions of the board
24 are scheduled for review in accordance with section 24-34-104.

25 **SECTION 11.** In Colorado Revised Statutes, **12-290-107, amend**
26 **as relocated by House Bill 19-1172 (1)(c); and add (1)(c.5)** as follows:

27 **12-290-107. Examination as to qualifications - rules.** (1) Every

1 person desiring to practice podiatry in this state shall be examined as to
2 the person's qualifications, except as otherwise provided in this article
3 290. Each applicant shall submit, in a manner approved by the board, an
4 application containing satisfactory proof that the applicant:

5 (c) Has completed one year of a residency program approved by
6 the board as established by rules promulgated by the board; and

7 (c.5) HAS PASSED AN EXAMINATION APPROVED BY THE BOARD AS
8 ESTABLISHED BY RULES PROMULGATED BY THE BOARD; AND

9 **SECTION 12. In Colorado Revised Statutes, 12-290-108, amend**
10 **as relocated by House Bill 19-1172 (3)(j) as follows:**

11 **12-290-108. Issuance, revocation, or suspension of license -**
12 **probation - unprofessional conduct - definitions - immunity in**
13 **professional review. (3) "Unprofessional conduct" as used in this article**
14 **290 means:**

15 (j) The physical or mental disability as to render the licensee
16 unable to perform podiatry with reasonable skill and with safety to the
17 patient; FAILING TO:

18 (I) NOTIFY THE BOARD OF A PHYSICAL ILLNESS, PHYSICAL
19 CONDITION, OR BEHAVIORAL OR MENTAL HEALTH DISORDER THAT AFFECTS
20 THE PODIATRIST'S ABILITY TO PRACTICE PODIATRIC MEDICINE WITH
21 REASONABLE SKILL AND SAFETY TO PATIENTS;

22 (II) ACT WITHIN THE LIMITATIONS CREATED BY A PHYSICAL
23 ILLNESS, PHYSICAL CONDITION, OR BEHAVIORAL OR MENTAL HEALTH
24 DISORDER THAT RENDERS THE PODIATRIST UNABLE TO PRACTICE
25 PODIATRIC MEDICINE WITH REASONABLE SKILL AND SAFETY TO PATIENTS;

26 OR

27 (III) COMPLY WITH THE LIMITATIONS AGREED TO UNDER A

1 CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION 12-290-123.

2 **SECTION 13.** In Colorado Revised Statutes, 12-290-113, **amend**
3 **as relocated by House Bill 19-1172 (2)(c)(III)** as follows:

4 **12-290-113. Disciplinary action by board.** (2) (c) On
5 completion of an investigation, the board shall make a finding that:

6 (III) The complaint or investigation discloses an instance of
7 misconduct that, in the opinion of the board, does not warrant formal
8 action by the board but that should not be dismissed as being without
9 merit, in which case the board may send ISSUE a letter of admonition by
10 certified mail to the licensee in accordance with section 12-20-404 (4);

11 **SECTION 14.** In Colorado Revised Statutes, **add to article 290**
12 **as relocated by House Bill 19-1172 12-290-123** as follows:

13 **12-290-123. Confidential agreements to limit practice -**
14 **violation grounds for discipline.** (1) EXCEPT AS SPECIFIED IN
15 SUBSECTION (2) OF THIS SECTION, SECTION 12-30-108 CONCERNING
16 CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE APPLIES TO THIS ARTICLE
17 290.

18 (2) THIS SECTION AND SECTION 12-30-108 DO NOT APPLY TO A
19 LICENSEE SUBJECT TO DISCIPLINE UNDER SECTION 12-290-108 (3)(c).

20 **SECTION 15. Effective date.** This act takes effect July 1, 2019;
21 except that sections 8 through 14 of this act take effect only if House Bill
22 19-1172 becomes law, in which case sections 8 through 14 take effect
23 October 1, 2019.

24 **SECTION 16. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety.