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HOUSE BILL 10-1244

BY REPRESENTATIVE(S) Labuda, Apuan, Casso, Curry, Frangas, Gagliardi, Murray, Riesberg, Scanlan, Schafer S., Soper, Kerr J., Nikkel, Ryden, Todd, King S., Looper;
also SENATOR(S) Mitchell, Steadman.

CONCERNING ALLOWING AN HEIR OF A DECEASED PHYSICIAN SHAREHOLDER
OF A PROFESSIONAL SERVICE CORPORATION TO BECOME A
SHAREHOLDER OF THE CORPORATION.

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

SECTION 1. 12-36-117 (1) (m) (I), Colorado Revised Statutes, is amended to read:

12-36-117. Unprofessional conduct - repeal. (1) "Unprofessional conduct" as used in this article means:

(m) (I) Except as otherwise provided in ~~section~~ SECTIONS 12-36-134, 25-3-103.7, and ~~section~~ 25-3-314, C.R.S., practicing medicine as the partner, agent, or employee of, or in joint venture with, any person who does not hold a license to practice medicine within this state, or practicing medicine as an employee of, or in joint venture with, any partnership or association any of whose partners or associates do not hold a license to

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

practice medicine within this state, or practicing medicine as an employee of or in joint venture with any corporation other than a professional service corporation for the practice of medicine as described in section 12-36-134. Any licensee holding a license to practice medicine in this state may accept employment from any person, partnership, association, or corporation to examine and treat the employees of such person, partnership, association, or corporation.

SECTION 2. 12-36-134 (1) (d) and (1) (f), Colorado Revised Statutes, are amended, and the said 12-36-134 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-36-134. Professional service corporations, limited liability companies, and registered limited liability partnerships for the practice of medicine - definitions. (1) Persons licensed to practice medicine by the board may form professional service corporations for such persons' practice of medicine under the "Colorado Business Corporation Act", articles 101 to 117 of title 7, C.R.S., if such corporations are organized and operated in accordance with the provisions of this section. The articles of incorporation of such corporations shall contain provisions complying with the following requirements:

(d) (I) EXCEPT AS SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (d), all shareholders of the corporation shall be persons licensed by the board to practice medicine in the state of Colorado, and who at all times own their shares in their own right. They shall be individuals who, except for illness, accident, time spent in the armed services, on vacations, and on leaves of absence not to exceed one year, are actively engaged in the practice of medicine in the offices of the corporation.

(II) IF A PERSON LICENSED TO PRACTICE MEDICINE WHO WAS A SHAREHOLDER OF THE CORPORATION DIES, AN HEIR TO THE DECEASED SHAREHOLDER MAY BECOME A SHAREHOLDER OF THE CORPORATION FOR UP TO TWO YEARS, REGARDLESS OF WHETHER THE HEIR IS LICENSED TO PRACTICE MEDICINE. UNLESS THE DECEASED SHAREHOLDER WAS THE ONLY SHAREHOLDER OF THE CORPORATION, THE HEIR WHO BECOMES A SHAREHOLDER SHALL BE A NONVOTING SHAREHOLDER IN ALL MATTERS CONCERNING THE CORPORATION. IF THE HEIR OF THE DECEASED SHAREHOLDER CEASES TO BE A SHAREHOLDER, THE SHARES SHALL BE DISPOSED OF PURSUANT TO PARAGRAPH (e) OF THIS SUBSECTION (1).

(f) The president shall be a shareholder and a director and, to the extent possible, all other directors and officers shall be persons having the qualifications described in paragraph (d) of this subsection (1). Lay directors, ~~and~~ officers, AND HEIRS OF DECEASED SHAREHOLDERS shall not exercise any authority whatsoever over the independent medical judgment of persons licensed by the board to practice medicine in this state. Notwithstanding sections 7-108-103 to 7-108-106, C.R.S., relating to the terms of office and classification of directors, a professional service corporation for the practice of medicine may provide in the articles of incorporation or the bylaws that the directors may have terms of office of up to six years and that the directors may be divided into either two or three classes, each class to be as nearly equal in number as possible, with the terms of each class staggered to provide for the periodic, but not less than annual, election of less than all the directors. Nothing in this article shall be construed to cause a professional service corporation to be vicariously liable to a patient or third person for the professional negligence or other tortious conduct of a physician who is a shareholder or employee of a professional service corporation.

(f.5) AN HEIR TO A DECEASED SHAREHOLDER WHO BECOMES A SHAREHOLDER SHALL BE LIABLE ONLY TO THE SAME EXTENT AS THE DECEASED SHAREHOLDER WOULD HAVE BEEN IN HIS OR HER CAPACITY AS A SHAREHOLDER, HAD HE OR SHE LIVED AND REMAINED A SHAREHOLDER, FOR ALL ACTS, ERRORS, AND OMISSIONS OF THE EMPLOYEES OF THE CORPORATION.

SECTION 3. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); 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 shall not take effect unless

approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO