

**Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0440.01 Kristen Forrestal

**HOUSE BILL 10-1244**

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**HOUSE SPONSORSHIP**

**Labuda**, Apuan, Casso, Curry, Frangas, Gagliardi, Murray, Riesberg, Scanlan, Schafer S.,  
Soper

**SENATE SPONSORSHIP**

**Mitchell**,

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**House Committees**  
Judiciary

**Senate Committees**  
Judiciary

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**A BILL FOR AN ACT**

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

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**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://www.leg.state.co.us/billsummaries>.)*

The bill allows an heir of a person licensed to practice medicine who is a shareholder in a professional service corporation to become a shareholder of the corporation if the physician shareholder dies. The bill specifies that when the heir ceases to be a shareholder, provision is made

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

HOUSE  
3rd Reading Unamended  
February 22, 2010

HOUSE  
Amended 2nd Reading  
February 19, 2010

for the shares to be reacquired by the corporation or by a person actively practicing medicine in the offices of the corporation.

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

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

4 **12-36-117. Unprofessional conduct - repeal.**

5 (1) "Unprofessional conduct" as used in this article means:

6 (m) (I) Except as otherwise provided in ~~section~~ SECTIONS  
7 12-36-134, 25-3-103.7, and ~~section~~ 25-3-314, C.R.S., practicing medicine  
8 as the partner, agent, or employee of, or in joint venture with, any person  
9 who does not hold a license to practice medicine within this state, or  
10 practicing medicine as an employee of, or in joint venture with, any  
11 partnership or association any of whose partners or associates do not hold  
12 a license to practice medicine within this state, or practicing medicine as  
13 an employee of or in joint venture with any corporation other than a  
14 professional service corporation for the practice of medicine as described  
15 in section 12-36-134. Any licensee holding a license to practice medicine  
16 in this state may accept employment from any person, partnership,  
17 association, or corporation to examine and treat the employees of such  
18 person, partnership, association, or corporation.

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

22 **12-36-134. Professional service corporations, limited liability**  
23 **companies, and registered limited liability partnerships for the**  
24 **practice of medicine - definitions.** (1) Persons licensed to practice  
25 medicine by the board may form professional service corporations for

1 such persons' practice of medicine under the "Colorado Business  
2 Corporation Act", articles 101 to 117 of title 7, C.R.S., if such  
3 corporations are organized and operated in accordance with the  
4 provisions of this section. The articles of incorporation of such  
5 corporations shall contain provisions complying with the following  
6 requirements:

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

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

25 (f) The president shall be a shareholder and a director and, to the  
26 extent possible, all other directors and officers shall be persons having the  
27 qualifications described in paragraph (d) of this subsection (1). Lay

1 directors, ~~and~~ officers, AND HEIRS OF DECEASED SHAREHOLDERS shall  
2 not exercise any authority whatsoever over the independent medical  
3 judgment of persons licensed by the board to practice medicine in this  
4 state. Notwithstanding sections 7-108-103 to 7-108-106, C.R.S., relating  
5 to the terms of office and classification of directors, a professional service  
6 corporation for the practice of medicine may provide in the articles of  
7 incorporation or the bylaws that the directors may have terms of office of  
8 up to six years and that the directors may be divided into either two or  
9 three classes, each class to be as nearly equal in number as possible, with  
10 the terms of each class staggered to provide for the periodic, but not less  
11 than annual, election of less than all the directors. Nothing in this article  
12 shall be construed to cause a professional service corporation to be  
13 vicariously liable to a patient or third person for the professional  
14 negligence or other tortious conduct of a physician who is a shareholder  
15 or employee of a professional service corporation.

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

22 **SECTION 3. Act subject to petition - effective date.** This act  
23 shall take effect at 12:01 a.m. on the day following the expiration of the  
24 ninety-day period after final adjournment of the general assembly (August  
25 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a  
26 referendum petition is filed pursuant to section 1 (3) of article V of the  
27 state constitution against this act or an item, section, or part of this act

1     within such period, then the act, item, section, or part shall not take effect  
2     unless approved by the people at the general election to be held in  
3     November 2010 and shall take effect on the date of the official  
4     declaration of the vote thereon by the governor.