

BUSINESS

General Business

SB 12-001 (Postponed Indefinitely)
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SB 12-004 (Deemed Lost)
Preference for U.S. Materials in
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Residential Nonprofit Corporation
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Spaceflight Entity Limited Liability

SB 12-086 (Deemed Lost)
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SB 12-123 (Enacted)
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BUSINESS (Cont.)

Licensing and Professional Occupations

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HB 12-1332 (Enacted)
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*Repeal 25 Percent Food Threshold
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HB 12-1270 (Enacted)
*Alcohol Retail Purchase by
On-premises Licensee*

HB 12-1347 (Deemed Lost)
Brew Pub Beer Production Limitation

In 2012, the General Assembly considered legislation on a variety of business-related topics such as construction agreements, wages and employee benefits, consumer protection, licensing and professional occupations, and liquor.

General Business

The General Assembly passed a number of bills concerning general business regulations, practices, and taxes. **Senate Bill 12-024** impacts residential nonprofit corporations and their members. Residential nonprofit corporations include residential housing developments such as retirement communities.

Current law requires that a residential nonprofit corporation refund the entrance fee of a residential member following that member's resignation, termination, expulsion, or suspension from the corporation, or the transfer of the residential membership to another member. **Senate Bill 12-024** limits this obligation and requires a refund only when the membership is transferred.

The bill also specifies that agendas for meetings conducted by a corporation's board of directors, executive committee, or any subcommittee authorized to take a final action, be available in advance of the meeting. The corporation's board must inform members annually of the method by which agendas and other required meeting information can be obtained.

Senate Bill 12-035 creates a statutory limitation of liability for public and private entities holding a Federal Aviation Administration license for spaceflight activities. These spaceflight entities are required to issue a written warning, in terms provided by the bill, and obtain a signed agreement from all participants in spaceflight activities. With a signed agreement and warning statement, spaceflight entities are not liable for injury resulting from spaceflight activities, except in cases involving gross negligence, knowledge of a dangerous condition, or intentional injury.

Senate Bill 12-123 bill requires the Secretary of State to develop and implement enhancements to the online business filing systems. Specifically, the enhancements should allow users to:

- associate multiple business records in one account;
- file multiple documents at one time;
- pay for multiple filings at the same time; and
- at the discretion of the Secretary, store payment information, view balances, view transaction history, and add money to accounts.

Other system enhancements include:

- allowing registered agents to quickly identify businesses and charitable organizations for which they are listed and to determine when reports are due;
- allowing users to obtain certified documents, certificates of fact, and other similar authentications deemed necessary by the Secretary;
- creating a system for the online filing of documents that guides users through the filing process;
- allowing for the integration of any documents filed concerning corporations and charitable solicitations, as well as any other changes the Secretary deems necessary to implement such integration, including changes to the filing of registration statements, amendments, and renewals, and changes to the search function; and
- allowing improved search functionality and system usability.

Further, the bill authorizes a registered agent to become a "commercial registered agent," which allows the registered agent to file documents relating to multiple entities. The bill allows a reporting entity to change its anniversary date when filing certain reports and documents and permits the Secretary of State to charge fees for the licensing or sale of business and licensing software developed by the Department of State.

House Bill 12-1002, known as the CLEAR Act, amends the State Administrative Procedure Act (APA) to establish a standard procedure for permit applications and permit renewals when an applicable rule is subject to change due to recent legislation, pending rulemaking, or an agency interpretation of statutes. Under the bill, state agencies that process permits, not including professional licenses, are required to process the application or renewal using the rules in effect on the date of application, unless an applicant opts to be processed under new rules and requirements.

The bill provides exceptions for state agencies that make a written determination that the application of new rules or requirements is likely needed to avoid an unsafe situation, or to comply with state or federal law or a court order. To process an application under new rules, an agency must provide notice to the applicant that the pending application requires additional submittal information to comply with specific new requirements.

House Bill 12-1008 modifies procedures for rule-making within the executive branch. Specifically, it directs state agencies to:

- establish a representative group of persons to solicit and obtain input about proposed rules;
- notify the General Assembly within ten days of proposing a rule or approving an emergency or temporary rule that increases fees or fines;

- submit a copy of the department's regulatory agenda, including specified information, to the Legislative Council staff on or before November 1 of each year for distribution to members of each agency's applicable legislative committee of reference;
- post the department's regulatory agenda on its website and transmit it to the Secretary of State for publication in the Colorado Register; and
- present regulatory agenda information at the annual meeting with each agency's applicable committee of reference.

Under current law, counties, municipalities, and special districts have the authority to establish incentive payments or tax credits of up to 50 percent of a taxpayer's business personal property liability. **House Bill 12-1029** increases that limit to 100 percent of the liability for statutory business incentive agreements.

Under current law, a distributor or transporter of gasoline or special fuel is entitled to a refund or credit for the tax paid or accrued that is lost or destroyed by fire, lightning, flood, windstorm, explosion, accident, or other causes beyond its control. A claim for refund or credit must be filed with the Department of Revenue within seven days of the loss or destruction. **House Bill 12-1178** increases the deadline for notifying the department from 7 days to 30 days from the date of loss or destruction.

House Bill 12-1282 authorizes a process to exempt certain county subdivision applications from review by the Colorado Geological Survey (CGS). The CGS is authorized to grant exemptions in cases where new detailed review is unnecessary, which is expected to expedite local review of 20 to 40 subdivision cases each year.

Other business-related bills were considered by the General Assembly but did not pass. **Senate Bill 12-001**, also known as the "Hiring Coloradans First Act," would have granted up to a 5-percent preference to bidders for construction or services contracts costing more than \$1 million. This preference would have been offered to bidders that certified that at least 90 percent of the employees who completed the contract work were Colorado residents. Specifically, the bill would have required state agencies to grant a 3-percent preference to a bidder for a construction or services contract that certifies that at least 90 percent of the employees who will complete the contracted work are Colorado residents. The bill would have required state agencies to grant bidders for integrated project delivery (IPD) construction contracts and service contracts who qualified for the 3-percent preference an additional 2-percent preference if the bidder certifies that it will offer health care and retirement benefits to the employees who will perform the contracted work. An IPD contract is one in which there is a contractual agreement between an agency and a single participating entity for the financing, design, construction or renovation, maintenance or operation, or any combination of these services, for a public project.

The bill would have required state agencies to grant bidders for construction contracts (other than IPD contracts) who qualified for the 3-percent preference:

- an additional 1-percent preference if the bidder certifies that it will offer health care and retirement benefits to the employees who will perform the contracted work; and
- an additional 1-percent preference if the bidder certifies that the employees who will perform the contracted work will have access to a federally qualified apprenticeship training program.

These preferences would not have been offered to a noncompliant bidder, and a bidder could not have used a preference to satisfy a minimum requirement of a contract. The Department of Personnel and Administration was directed to promulgate rules for the administration of each preference, including a process for a bidder to certify, and an agency to verify, the bidder's eligibility for each preference.

Beginning in FY 2012-13, **Senate Bill 12-004** would have directed state agencies to grant a 1-percent preference to bidders for contracts expected to cost more than \$250,000 for the purchase of assembled materials, supplies, products, provisions or equipment manufactured in the United States. In order to qualify for the 1-percent preference, the purchased goods would have had to be of equal quality, available in sufficient quantity, and not exceed by more than 15 percent the cost of such items manufactured outside the United States. The Department of Personnel and Administration was directed to promulgate rules for the administration of the preference, including a process for a bidder to certify, and an agency to verify, a bidder's eligibility.

Senate Bill 12-086 would have created a legislatively appointed nine-member task force to study the cost of regulatory compliance for businesses in Colorado. Task force membership would have included representation from private industry, academia, small or medium businesses, research and advocacy groups, individuals with expertise in the cost of regulatory compliance, and a Colorado citizen.

The task force would have reviewed the state's regulatory system and determined the annual cost of compliance by businesses in the state, including:

- the annual cost of regulatory compliance based on the type of regulation;
- the cost per employee for all firms;
- and the cost of compliance per employee based on the size of the firm.

The task force would also have been required to issue a written report to the General Assembly.

Senate Bill 12-157 would have modified the regulation of telecommunications services by the Public Utilities Commission (PUC) under the Department of Regulatory Agencies (DORA).

Among other provisions, the bill phased out price caps on basic local exchange services, with some exceptions, and would have taken the initial steps to dismantle the Colorado High Cost Support Mechanism by January 1, 2025.

The bill would have created the Broadband Capital Investment Fund and allowed the Office of Information Technology (OIT) to make grants for broadband infrastructure and capital construction costs. The OIT would have been responsible for surveying areas of the state unserved by broadband telecommunications providers and awarding grants to service providers that propose and contractually agree to use grants exclusively for broadband infrastructure and capital construction costs.

The bill required the PUC to initiate new rulemaking:

- to determine geographic areas within the state that have sufficient competition; and
- to eliminate differences between intrastate and interstate access rates by July 1, 2014.

The bill would have required the PUC to take action related to changing the status or reviewing the records of local exchange carriers, establishing rate ranges for price flexibility, considering applications for forbearance by regulated telecommunications providers, rescinding designations of providers of last resort, and rulemaking for emerging telecommunications services.

Senate Bill 12-181 would have defined a "building and construction contract" as any contract subject to the statutory provisions regarding mechanics' liens, excluding public works contracts. It stated that building and construction contracts for work within Colorado that contain provisions making the contract subject to the laws of another state or requiring dispute resolution in another state would be void. Any provision requiring a contractor, subcontractor, or material supplier to waive the right to a mechanics' lien or to a claim against a payment bond before a contractor, subcontractor, or materials supplier has been paid for labor and materials would also be void. The bill would have required:

- the principal or prime contractor and all subcontractors to promptly pay a subcontractor or material supplier within seven days after receipt of invoice;
- that the contractor, subcontractor, or material supplier that prevails in a civil action for payment be awarded its costs and disbursements, including reasonable attorney fees;
- that the owner, owner's agent, or any other person responsible for payment, make monthly progress payments to the contractor based on work completed as estimated by the owner or owner's agent unless the contract provides otherwise;
- that an owner or owner's agent not retain more than 5 percent of each progress payment; and
- that in the case of a change order, the contractor submit its costs for such work within 30 days and if the amount is in dispute, the owner pay the contractor 50 percent of the contractor's estimate.

Senate Bill 12-182, the "Invest in Colorado Act," would have established the requirements for a corporation to be created as, or elect to become, a benefit corporation. The bill required a benefit corporation to identify its corporate purpose as promoting a specific public benefit, such as improving human health, preserving the environment, or providing low-income individuals with beneficial products or services. In addition, a benefit corporation would have been required to consider how corporate decisions affect its employees, the community, and environment. The social and environmental performance of a benefit corporation would have been measured using third-party standards and reported to shareholders and the Secretary of State. The General Assembly considered but did not pass two similar bills, **Senate Bill 12B-003** and **House Bill 12B-1007**, that would have established the requirements for the creation of a benefit corporation.

House Bill 12-1115 would have required Legislative Council Staff to compile and make available comments received from Colorado businesses on legislation that:

- created a new or increased mandate on businesses; or
- was expected to significantly increase costs on businesses.

Comments would have been limited to those received from the first 50 businesses to respond within a 10-day window designated by the staff and would have been made available in conjunction with the legislation's fiscal note.

Labor and Employment

The General Assembly passed one bill concerning workforce needs and higher education curricula. **House Bill 12-1061**, known as the Skills for Jobs Act, requires that the Department of Higher Education (DHE), in consultation with the Colorado Department of Labor and Employment, the Department of Regulatory Agencies, and others, produce an annual report projecting state workforce needs and the number of degrees, certificates, and other postsecondary credentials that institutions of higher education and other vocational education providers in the state expect to issue in the same period. The report must also identify any workforce needs that may not be met by existing education and training programs, and the institutions that may meet projected workforce needs.

During the 2012 legislative session, the General Assembly considered, but did not pass, bills concerning collective bargaining, employment discrimination, and mandatory work eligibility programs. **Senate Bill 12-003** would have restricted the use of consumer credit information by employers. Employers would have been prohibited from using consumer credit information to evaluate prospective or current employees, unless the employment position being evaluated involved a defense or security contract. An employer using consumer credit information to evaluate a prospective or current employee would have to offer the employee an opportunity to explain adverse credit information, and the employer that took adverse action on the basis of such information would have been required to disclose this use.

Senate Bill 12-100 would have prohibited an employer from requiring, as a condition of employment, membership in a labor organization or to pay dues, fees, or other assessments to a labor organization, charity, or other third party. Any agreement that violated these prohibitions or the rights of employees would be void. It defined all-union agreements as unfair labor practices. Violators would have been subject to civil and criminal penalties, and the Attorney General or district attorneys of each judicial district would have been responsible for enforcement of the bill. Federal employers and employees were exempted from the bill.

House Bill 12-1134 would have prohibited employers or their agents from advertising for any job vacancy if the advertisement includes a requirement for applicants to be currently employed. Employers who violated the provisions of the bill were subject to a penalty of up to \$1,000 for the first violation, \$5,000 for the second violation, and \$10,000 for each subsequent violation. The bill did not create a private right of action by an aggrieved person against an employer.

House Bill 12-1309, known as the Colorado Mandatory E-Verify Act, would have repealed the current requirements for employers to verify the legal work status of new employees. It would have required all employers in Colorado to participate in the federal E-Verify program to verify the work eligibility status of newly hired employees on or after January 1, 2013.

Employers who did not participate in the E-Verify program would have been subject to a fine of not more than \$5,000 for the first offense, and not more than \$25,000 for the second offense. Subsequent offenses were subject to a fine of not more than \$25,000 and up to a six-month suspension of all the employer's business licenses. The bill included a safe harbor provision for employers that comply in good faith with the act but unintentionally or unknowingly employ an authorized alien or wrongfully terminate an employee after receiving a final notice of nonconfirmation of work eligibility through the E-Verify program.

House Bill 12-1333 would have permitted an employee of a public school to request an automatic payroll deduction, or cancel an existing deduction, for dues paid to a labor organization. Employers would have had 30 days following a written request from an employee to either activate or cancel the automatic payroll deduction. An employer would not be able to enter into a collective bargaining agreement requiring automatic payroll deduction of dues unless the withholding was subject to written authorization by the employee.

A labor organization that received dues via an automatic payroll deduction would be required to provide the employee with annual written financial information that discloses how the dues were spent. The bill also permitted an employee to join or quit the labor organization at any time.

Consumer Protection

The General Assembly passed one bill concerning consumer protection for residential roofing work. **Senate Bill 12-038** requires that residential roofing contractors sign a written contract with residential property owners detailing the contractor's contact information, and the terms and conditions of the work agreement, for any roofing service in excess of \$1,000. The contract must include a written statement that the roofing contractor cannot pay, waive, or rebate any part of the residential property owner's insurance deductible. The contract must also include a statement indicating that the roofing contractor must hold in trust payments from the property owner until the roofing materials have been delivered or a majority of the work has been completed. Any property owner entering into a work agreement with a roofing contractor who intends to pay the contractor with proceeds from an insurance policy may cancel the contract within 72 hours if his or her insurer denies his or her claim, except for some claims related to supplemental roofing services. If a property owner cancels the contract under these conditions, the roofing contractor must refund any payments or deposits within ten days after cancellation of the contract.

Other consumer protection bills were considered but did not pass. **House Bill 12-1093** would have required the judgment or settlement in a homeowner's insurance subrogation claim to provide for the replacement of a defective appliance. The bill affected only those claims where the insured loss was caused by the defective appliance and damages exceeded \$5,000.

House Bill 12-1116 would have added disclosure requirements to real estate transactions involving the resale of time share properties. Agreements to transfer time share resale interests would have been required to include a description of any residual interests retained by the seller, a list of costs for time share resale services, a statement regarding any other person who may use the time share after the interest has been transferred, and various other disclosures. The bill would have created a new cause of action under the Colorado Consumer Protection Act for deceptive trade practices.

House Bill 12-1170 would have required persons under the age of 18 to have the consent of a parent or legal guardian prior to patronizing an establishment for purposes of using an artificial tanning device. The consenting parent of a minor under 14 years of age would be required to remain on site for the duration of any tanning session. The Colorado Department of Public Health and Environment could have assessed a penalty of up to \$200 per day if it found that an owner, employee, or operator failed to comply with the bill's requirements.

House Bill 12-1174 would have prohibited manufacturers and wholesalers of children's products containing bisphenol-A from selling or offering those products in Colorado beginning July 1, 2012. Children's products were defined in the bill as pacifiers, cups, and other containers for food and drink intended for children under the age of three years.

Professions and Occupations

During the 2012 legislative session, the General Assembly passed a number of bills that modified existing regulations and/or established new requirements for certain professions and occupations. **Senate Bill 12-091** makes changes to the Board of Examiners of Nursing Home Administrators, and the licensing process for nursing home administrators (NHAs). These changes include:

- modifying board membership and qualifications;
- reducing the experience and supervision requirements to qualify an applicant to take the Colorado NHA licensure examination;
- expanding the qualifying degrees for NHA licensure;
- allowing an NHA who has passed a national examination and an examination in another state to take the Colorado NHA licensure examination;
- eliminating the requirement that a person licensed as an NHA in another state possess substantially equivalent credentials and qualifications prior to taking the Colorado NHA licensure examination; and
- reducing the hours required in the NHA-in-Training Program to take the Colorado NHA licensure examination from 2,000 to 1,000 hours.

House Bill 12-1015 modifies the sunrise review process. A sunrise review examines whether or not there is a need to regulate a previously unregulated occupation or profession. Typically, a professional association requests that a sunrise review be undertaken.

Beginning in FY 2012-13, the bill establishes a new sunrise review cycle under which a proposal to regulate a profession must be submitted to the Department of Regulatory Agencies (DORA) by December 1 in order for the DORA to review and issue a report by October 15 of the following year. The DORA may decline to review a proposal only when it has previously evaluated a proposal to regulate the same professional group, issued a report less than 36 months earlier, and finds that its conclusions would be the same as those in the initial report.

If the DORA receives a proposal to regulate a professional or occupational group and verifies that the unregulated group poses an imminent threat to public health, safety, or welfare, the DORA must notify both the proponents of regulation and the Legislative Council. Within 30 days of the notification, the Legislative Council must conduct a hearing to examine the documentation provided by the DORA. If the committee concurs with the DORA's assessment that the unregulated group does pose an imminent threat, the DORA is not required to complete the sunrise review.

If the DORA reissues a previous report or finds that the unregulated profession poses an imminent threat, supporters of regulation may request that the General Assembly propose legislation during each of the next two legislative sessions. The bill applies to any sunrise proposal submitted on or after July 1, 2012.

House Bill 12-1055 renames the Division of Registrations in the DORA as the Division of Professions and Occupations.

House Bill 12-1065 allows the State Board of Nursing to extend the deadline to September 30, 2012, for advanced practice nurses (APNs) to develop an articulated plan for safe prescribing. APNs seeking an extension must submit to the board an application, the required fee, a signed verification that he or she developed an articulated plan by or had an existing collaborative agreement with a physician on July 1, 2011. An articulated plan documents how the APN intends to maintain ongoing collaboration with physicians and guides the APN's prescriptive practice. Pursuant to legislation adopted in 2009, APNs who were granted prescriptive authority prior to July 1, 2010, were required to develop their plans by July 1, 2011. APNs who missed the deadline lost their prescriptive authority.

House Bill 12-1110 redefines the legal meaning of appraisal management companies (AMC) and establishes a licensure program for AMCs in the Division of Real Estate in the DORA. An AMC license may be given to an individual or any third-party entity that, in connection with an appraisal for a mortgage transaction, oversees a network or panel of certified appraisers. The composition of the Board of Real Estate Appraisers is modified to include a representative of an AMC. To receive a license, AMCs must:

- follow application procedures established by the board and pay a fee;
- designate a controlling appraiser to be responsible for the licensed activities of the entity;
- maintain errors and omissions insurance;
- post a surety bond in the amount of \$25,000 with the board; and
- submit to a fingerprint-based criminal history check for the controlling appraiser and each principal owner of the entity.

The board may deny a license application based on the outcome of the background check, or based on past disciplinary actions against a controlling appraiser or the principal owners. The bill details prohibited acts for licensees and gives the division the authority to investigate and take disciplinary actions, including imposing fines up to \$2,500 per offense. The bill establishes misdemeanor penalties for both persons and entities that operate without a valid license.

The bill also requires that applicants for a real estate appraiser license, registration, or certification submit to a fingerprint-based criminal history background check and pay the fee. The board may deny the authority to practice based on the outcome of the background check.

House Bill 12-1204 implements the recommendations of the DORA in its sunset review of hemodialysis technicians, and continues the regulation of hemodialysis technicians until September 1, 2019. The bill clarifies that the Colorado Department of Public Health and Environment may verify the qualifications of hemodialysis technicians while conducting routine surveys of dialysis clinics, and that nurses or physicians who supervise hemodialysis technicians must be licensed.

Under current law, boilers and other pressure vessels regulated by the Division of Oil and Public Safety (DOPS) in the Colorado Department of Labor and Employment and must be inspected periodically by a state inspector employed by the DOPS. **House Bill 12-1217** permits owners and users of such boilers to conduct self-inspections in lieu of state inspection by obtaining certification as an owner-user inspection organization.

Owner-user inspectors who are qualified to perform boiler inspections on behalf of owner-user inspection organizations are either commissioned by the National Board of Boiler and Pressure Vessel Inspectors (NBBI) following an examination or are certified by meeting certain requirements of the American Petroleum Institute.

Owner-user inspection organizations must apply to the DOPS for approval and registration. Following registration, an organization must maintain a list of boilers subject to inspection, conduct regular inspections, complete and retain all inspection records, notify the DOPS when a boiler fails to meet safety standards, and transmit an annual statement to the DOPS.

There are about 25,000 boilers and other pressure-retaining vessels in the state of Colorado subject to regulation by the DOPS boiler inspection section. These vessels are inspected on an annual, biennial, or triennial basis, depending on specifications, by DOPS-employed state inspectors.

The NBBI and the American Petroleum Institute have each developed inspector certification programs that are commonly used by industrial-scale owner-users in other states. Currently, Colorado has few owners or users that would qualify for one of the certifications. Colorado is, however, an NBBI-member jurisdiction, and most member jurisdictions have legislation recognizing certification and authorizing self-inspection.

House Bill 12-1221 prohibits a licensed practitioner from billing for anatomic pathology services unless the tests were conducted by the practitioner personally, under the practitioner's direct supervision, or performed or in a lab owned and operated by a group practice supervised by a physician member in the group practice. A clinical laboratory can make claims for payment for anatomic pathology services directly only to the patient, insurance carrier, health clinic ordering the services, referring laboratory, or governmental agency on behalf of the patient. A person who receives a bill for an anatomic pathology service made in knowing and willful violation of the bill may sue to recover the actual amount paid for the bill. The bill defines anatomic pathology services to include histopathology or surgical pathology, cytopathology, hematology, subcellular pathology or molecular pathology, and blood-banking services performed by pathologists.

Under current law, neighborhood youth organizations (NYOs) seeking licensure from the Department of Human Services are required to conduct a fingerprint-based criminal history records check (background check) on all employees and volunteers through both the Colorado Bureau of Investigation (CBI) and Federal Bureau of Investigation (FBI). Instead, **House Bill 12-1228** allows NYOs to instead conduct, prior to employment and every two years thereafter, one of the following on their employees and volunteers that work with youth:

- a CBI background check;
- a FBI background check if the person has lived in Colorado less than two years;
- a comparison search using the ICON system, the state's judicial records system; or
- a background check by a private entity.

Persons found to have been convicted on felony child abuse or a felony offense involving unlawful sexual behavior cannot be hired by a NYO.

House Bill 12-1266 reestablishes regulatory oversight of bail bonding agents in the Division of Insurance. The bill:

- continues the licensing of surety bail bond agents as insurance producers who will now be licensed as property and casualty insurance producers (currently there are 434 surety bail bond agents);
- requires the division to create a credentialing system for surety bail bond agents;
- requires cash-bonding agents and professional cash-bail agents to register instead of being licensed;
- continues the prohibition against the registration (formerly licensing) of firms, partnerships, associations, or corporations;
- prohibits cash agents from representing their products as insurance; and
- repeals the licensure of cash agents on September 1, 2017.

House Bill 12-1303 enacts the Speech-Language Pathology Practice Act, and requires that the Division of Registrations in the DORA create a certification program for speech-language pathologists. Beginning July 1, 2013, only individuals properly certified by the division may use the title "certified speech-language pathologist" or otherwise represent themselves as such. Speech-language pathologists who are employed by schools and licensed by the Colorado Department of Education as special education services providers are exempt from the certification requirements. In addition, the bill:

- defines speech-language pathologists and the scope of their work;
- specifies educational background, qualifying examination requirements, and continued competency requirements;
- allows the division to adopt necessary rules;
- allows for certification by endorsement;
- provides the DORA with the ability to set fees and schedule renewals of certifications;
- establishes the grounds for disciplinary proceedings;
- authorizes the director of the division to take disciplinary actions; and
- establishes a class 2 misdemeanor for conviction of the first offense of practicing as a speech-language pathologist without an active certification, and a class 1 misdemeanor for subsequent convictions.

House Bill 12-1311 continues the Colorado State Board of Pharmacy in the DORA and the regulation of the practice of pharmacy through September 1, 2021. It also recodifies and relocates the laws regulating the practice of pharmacy and the laws pertaining to the licensing of addiction programs by the DHS. The bill:

- adds registration requirements for ambulatory surgical centers, medical clinics operated by hospitals, specialized prescription drug outlets, federally qualified health centers, and hospices;
- repeals the rehabilitation evaluation committee and transfers its functions to the board;
- changes requirements for seeking assistance from the peer health assistance diversion program to include the potential existence of a psychiatric, psychological, or emotional problem, excessive alcohol or drug use, or addiction;
- establishes a new hospital satellite pharmacy registration so that the satellite can obtain its own registration from the federal Drug Enforcement Agency;
- reduces the regulatory requirements for veterinary prescription drugs;

- removes the prohibition on optometrists from dispensing prescription drugs or controlled substances for a fee;
- modifies disciplinary procedures; and
- modifies the definition of intern and allows a pharmacy intern to practice under the direct and immediate supervision of a registered manufacturer or other regulated individual.

To practice medicine in the state, a physician or a physician assistant must adhere to the requirements of the Medical Practice Act. **House Bill 12-1332** adds anesthesiologist assistants to the act and, effective July 1, 2013, requires that they be licensed by the Colorado Medical Board in the DORA to practice in the state. The bill sets the minimum qualifications for licensure, and subjects anesthesiologist assistants to the same standards for unprofessional conduct and discipline that exist for physician assistants.

Other bills related to the regulation of professions and occupations were considered but did not pass. **House Bill 12-1060** would have created the five-member State Board of Dietitians to regulate the licensing of dietitians within the Division of Registrations of the DORA.

The board, appointed by the Governor, would have been authorized to license dietitians; promulgate rules; set, collect and disburse fees; enforce continuing competency requirements; process complaints; investigate violations of the licensing requirements; and take disciplinary action.

A music therapist uses music interventions to assist individuals with personal goals. **House Bill 12-1137** would have required individuals to register with the director of the Division of Registrations in the DORA in order to practice as a music therapist. Only individuals properly registered would be allowed use the title "registered music therapist" or otherwise represent themselves as such.

House Bill 12-1205 would have implemented the recommendations of the DORA in its sunset review of the state Audiology and Hearing Aid Provider Licensure Program and continued the licensure of audiologists and hearing aid providers until September 1, 2019.

House Bill 12-1210 would have allowed a person who holds a valid professional license, registration, or certification in another state to practice his or her profession in Colorado for up to nine months before having to meet the state's authorizing requirements, providing the person:

- was not disqualified for some other reason;
- consented to be subject to the jurisdiction and disciplinary authority of the Division of Registrations in the DORA;
- did not exceed the scope of practice authorized by Colorado law, or the laws of the state that issued the original credential;
- satisfied all prior and continuing education requirements within one year of application for a Colorado credential;
- disclosed his or her pending Colorado status to all clients;
- resided in Colorado permanently, or intended to do so; and
- applied for an active Colorado license, registration, or certification prior to beginning practice.

The bill did not apply to optometrists, physicians, or physician assistants with credentials to practice from another state.

Liquor

The General Assembly considered three bills concerning liquor during the 2012 legislative session and passed two. Current law places an annual limit on the amount of alcohol beverages that an establishment licensed to sell alcohol on-premises may purchase at retail (rather than from a licensed alcohol beverage wholesaler). **House Bill 12-1270** increases the annual limit from \$1,000 for hotel and restaurant licensees to \$2,000. The retail purchase limit for all other alcohol beverage licensees is increased from \$500 to \$2,000 per year.

Under current law, restaurants and hotels may only be licensed to sell alcohol beverages if meals are actually and regularly served on the premises. Also, sales of food and non-alcoholic drink must be at least 25 percent of the gross income of the licensed premises. **Senate Bill 12-118** requires that the 25 percent minimum for food and non-alcoholic drink be based on any period of time of at least one year.

House Bill 12-1347 concerned brew pub beer production and did not pass. Under current law, a brew pub is defined as a retail liquor-licensed establishment that manufactures no more than 1.86 million gallons of full-strength and 3.2 percent beer on its licensed premises each year. The bill would have allowed a licensed brew pub to manufacture beer in excess of the limitation if the brew pub did not sell any beer at wholesale to licensed retailers.