

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

ENGROSSED

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

LLS NO. 14-0292.01 Christy Chase x2008

HOUSE BILL 14-1360

HOUSE SPONSORSHIP

Young, Ginal, Primavera, Schafer, Singer

SENATE SPONSORSHIP

Aguilar,

House Committees

Public Health Care & Human Services
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE REGULATION OF HOME CARE**
102 **AGENCIES BY THE DEPARTMENT OF PUBLIC HEALTH AND**
103 **ENVIRONMENT, AND, IN CONNECTION THEREWITH,**
104 **IMPLEMENTING THE RECOMMENDATIONS OF THE 2013 SUNSET**
105 **REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES, AS**
106 **MODIFIED BY THE LEGISLATIVE SUNSET COMMITTEE, AND**
107 **MAKING AN APPROPRIATION.**

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

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
Amended 2nd Reading
April 24, 2014

[http://www.leg.state.co.us/bills/summaries.](http://www.leg.state.co.us/bills/summaries/))

Sunset Process - House Public Health Care and Human Services. The bill implements the recommendations contained in the department of regulatory agencies' sunset report on the regulation of home care agencies and home care placement agencies by the Colorado department of public health and environment (department), as modified by the house public health care and human services committee (sunset committee) during the sunset hearing, by:

- ! Continuing the department's licensure of home care agencies for 5 years, until 2019;
- ! Clarifying that owners and managers or administrators must obtain a criminal history record check with respect to an application for a home care agency license or home care placement agency registration, and, in connection therewith, defining "owner", "manager" and "administrator";
- ! Excluding from the definition of "home care agency" a program of all-inclusive care for the elderly (PACE) that is regulated by the department of health care policy and financing, but specifying the department's regulatory authority over PACE providers that furnish PACE home care services;
- ! Identifying which convictions may serve as a basis for a home care agency's or a home care placement agency's denial of employment or a referral of a provider and directing the state board of health (state board) to promulgate rules to provide factors for the agencies to consider in determining whether a conviction for an offense should disqualify a provider;
- ! Directing the state board to promulgate rules requiring home care placement agencies to retain their records for inspection by the department and to set fees for home care placement agency registration to cover the direct and indirect costs of the department's oversight of home care placement agencies; and
- ! Authorizing the department to inspect home care placement agencies' records and to remove a home care placement agency from the registry if the inspection reveals that the agency is noncompliant with the statutory requirements connected to the agency's registration.

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

1 **SECTION 1.** In Colorado Revised Statutes, 25-27.5-102, **amend**
2 (1.5), (3) (b) (VIII), (3) (b) (IX), (4), and (6.7); and **add** (1.3), (3) (b) (X),
3 (5.3), (5.5), and (5.7) as follows:

4 **25-27.5-102. Definitions.** As used in this article, unless the
5 context otherwise requires:

6 (1.3) "CMS" MEANS THE FEDERAL CENTERS FOR MEDICARE AND
7 MEDICAID SERVICES IN THE UNITED STATES DEPARTMENT OF HEALTH AND
8 HUMAN SERVICES.

9 (1.5) "Community-centered board" ~~has the meaning set forth~~
10 MEANS A COMMUNITY-CENTERED BOARD, AS DEFINED in section
11 25.5-10-202, C.R.S., THAT IS DESIGNATED PURSUANT TO SECTION
12 25.5-10-209, C.R.S., BY THE DEPARTMENT OF HEALTH CARE POLICY AND
13 FINANCING.

14 (3) (b) "Home care agency" does not include:

15 (VIII) A home care placement agency as defined in subsection (5)
16 of this section; ~~or~~

17 (IX) Services provided by a qualified early intervention service
18 provider and overseen jointly by the department of education and the
19 department of human services; OR

20 (X) A PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY
21 ESTABLISHED IN SECTION 25.5-5-412, C.R.S., AND REGULATED BY THE
22 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND THE CMS;
23 EXCEPT THAT PACE HOME CARE SERVICES ARE SUBJECT TO REGULATION
24 IN ACCORDANCE WITH 25-27.5-104 (4).

25 (4) "Home care consumer" means a person who receives skilled
26 home health services or personal care services in his or her temporary or
27 permanent home or place of residence from a home care agency or FROM

1 A PROVIDER REFERRED BY A home care placement agency.

2 (5.3) "MANAGER" OR "ADMINISTRATOR" MEANS ANY PERSON WHO
3 CONTROLS AND SUPERVISES OR OFFERS OR ATTEMPTS TO CONTROL AND
4 SUPERVISE THE DAY-TO-DAY OPERATIONS OF A HOME CARE AGENCY OR
5 HOME CARE PLACEMENT AGENCY.

6 (5.5) "OWNER" MEANS A SHAREHOLDER IN A FOR-PROFIT OR
7 NONPROFIT CORPORATION, A PARTNER IN A PARTNERSHIP OR LIMITED
8 PARTNERSHIP, MEMBER IN A LIMITED LIABILITY COMPANY, A SOLE
9 PROPRIETOR, OR A PERSON WITH A SIMILAR INTEREST IN AN ENTITY, WHO
10 HAS AT LEAST A FIFTY-PERCENT OWNERSHIP INTEREST IN THE BUSINESS
11 ENTITY.

12

13

14 (5.7) "PACE HOME CARE SERVICES" MEANS SKILLED HOME
15 HEALTH SERVICES OR PERSONAL CARE SERVICES:

16 (a) OFFERED AS PART OF A COMPREHENSIVE SET OF MEDICAL AND
17 NONMEDICAL BENEFITS, INCLUDING PRIMARY CARE, DAY SERVICES, AND
18 INTERDISCIPLINARY TEAM CARE PLANNING AND MANAGEMENT, BY PACE
19 PROVIDERS TO AN ENROLLED PARTICIPANT IN THE PROGRAM OF
20 ALL-INCLUSIVE CARE FOR THE ELDERLY ESTABLISHED IN SECTION
21 25.5-5-412, C.R.S., AND REGULATED BY THE DEPARTMENT OF HEALTH
22 CARE POLICY AND FINANCING AND THE CMS; AND

23 (b) PROVIDED IN THE ENROLLED PARTICIPANT'S TEMPORARY OR
24 PERMANENT PLACE OF RESIDENCE.

25 (6.7) "Service agency" ~~has the meaning set forth~~ MEANS A SERVICE
26 AGENCY, AS DEFINED in section 25.5-10-202, C.R.S., THAT HAS RECEIVED
27 CERTIFICATION FROM THE DEPARTMENT OF HEALTH CARE POLICY AND

1 FINANCING AS A DEVELOPMENTAL DISABILITIES SERVICE AGENCY UNDER
2 RULES PROMULGATED BY THE MEDICAL SERVICES BOARD AND IS
3 PROVIDING SERVICES PURSUANT TO THE SUPPORTED LIVING SERVICES
4 WAIVER OR THE CHILDREN'S EXTENSIVE SUPPORT WAIVER OF THE HOME-
5 AND COMMUNITY-BASED SERVICES WAIVERS ADMINISTERED BY THE
6 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING UNDER PART 4 OF
7 ARTICLE 6 OF TITLE 25.5, C.R.S.

8 **SECTION 2.** In Colorado Revised Statutes, 25-27.5-103, **amend**
9 (1.5) and (2) as follows:

10 **25-27.5-103. Home care agency license required - home care**
11 **placement agency registration required - civil and criminal penalties.**

12 ~~(1.5) (a) Notwithstanding any provision of law to the contrary, by March~~
13 ~~1, 2011, the following providers of skilled home health services or~~
14 ~~in-home personal care services shall apply for licensure as a home care~~
15 ~~agency to the department:~~

16 ~~(I) Community-centered boards designated pursuant to section~~
17 ~~25.5-10-209, C.R.S.; and~~

18 ~~(II) Service agencies that have received program approval from~~
19 ~~the department of human services as a developmental disabilities service~~
20 ~~agency under rules promulgated by the department of human services that~~
21 ~~are providing services pursuant to the supported living services waiver or~~
22 ~~the children's extensive support waiver of the home- and~~
23 ~~community-based services waivers administered by the department of~~
24 ~~health care policy and financing and the department of human services~~
25 ~~under part 4 of article 6 of title 25.5, C.R.S.~~

26 ~~(b) On or after September 1, 2011, It is unlawful for any~~
27 ~~community centered A COMMUNITY-CENTERED board that is directly~~

1 providing home care services or ~~any~~ A service agency ~~as described in~~
2 ~~paragraph (a) of this subsection (1.5)~~; to conduct or maintain a home care
3 agency that provides ~~skilled home health services or~~ in-home personal
4 care services without having obtained a license ~~therefor~~ from the
5 department. Any person who violates this ~~provision~~ SUBSECTION (1.5) is
6 guilty of a misdemeanor and is subject to the civil and criminal penalties
7 described in paragraphs (a) and (b) of subsection (1) of this section.
8 Nothing in this section relieves an entity that contracts or arranges with
9 a ~~community centered~~ COMMUNITY-CENTERED board or service agency
10 and that meets the definition of a "home care agency" ~~under section~~
11 ~~25-27.5-102~~, from the entity's obligation to apply for and operate under
12 a license in accordance with this article.

13 (2) (a) (I) On or after June 1, ~~2009~~, ~~any home care placement~~
14 ~~agency shall notify the department in writing that it provides referrals for~~
15 ~~skilled home health services or personal care services and shall annually~~
16 ~~update such notice.~~ 2015, IT IS UNLAWFUL FOR A PERSON TO CONDUCT OR
17 MAINTAIN A HOME CARE PLACEMENT AGENCY UNLESS THE PERSON HAS
18 SUBMITTED A COMPLETED APPLICATION FOR REGISTRATION AS A HOME
19 CARE PLACEMENT AGENCY TO THE DEPARTMENT, INCLUDING EVIDENCE OF
20 GENERAL LIABILITY INSURANCE COVERAGE AS REQUIRED IN
21 SUBPARAGRAPH (II) OF THIS PARAGRAPH (a). ON OR AFTER JANUARY 1,
22 2016, IT IS UNLAWFUL FOR A PERSON TO CONDUCT OR MAINTAIN A HOME
23 CARE PLACEMENT AGENCY WITHOUT A VALID, CURRENT HOME CARE
24 PLACEMENT AGENCY REGISTRATION ISSUED BY THE DEPARTMENT. The
25 department shall maintain a ~~list~~ REGISTRY of all REGISTERED home care
26 placement agencies and shall make the ~~list~~ REGISTRY accessible to the
27 public. WHILE A HOME CARE PLACEMENT AGENCY MUST BE REGISTERED

1 BY THE DEPARTMENT, a home care placement agency is not licensed or
2 certified by the department and shall not claim or assert that the
3 department licenses or certifies the home care placement agency.

4 (II) AS A CONDITION OF OBTAINING AN INITIAL OR RENEWAL HOME
5 CARE PLACEMENT AGENCY REGISTRATION PURSUANT TO THIS SUBSECTION
6 (2), A PERSON APPLYING FOR INITIAL OR RENEWAL REGISTRATION SHALL
7 SUBMIT TO THE DEPARTMENT, IN THE FORM AND MANNER REQUIRED BY
8 THE DEPARTMENT, PROOF THAT THE PERSON HAS OBTAINED AND IS
9 MAINTAINING GENERAL LIABILITY INSURANCE COVERAGE THAT COVERS
10 THE HOME CARE PLACEMENT AGENCY AND THE PROVIDERS IT REFERS TO
11 HOME CARE CONSUMERS IN AN AMOUNT DETERMINED BY THE STATE
12 BOARD BY RULE PURSUANT TO SECTION 25-27.5-104 (1) (h).

13 (b) A HOME CARE PLACEMENT AGENCY SHALL PROVIDE TO ITS
14 HOME CARE CONSUMER CLIENTS, BEFORE REFERRING A PROVIDER TO THE
15 CLIENT, A WRITTEN DISCLOSURE CONTAINING THE INFORMATION REQUIRED
16 IN SECTION 25-27.5-104 (1) (c) AND IN STATE BOARD RULES ADOPTED
17 PURSUANT TO THAT SECTION.

18 ~~(b)~~ (c) A person who violates this ~~section~~ SUBSECTION (2):

19 (I) IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION
20 THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN FIFTY
21 DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS; AND

22 (II) May be subject to a civil penalty assessed by the department
23 ~~that is not less than five hundred dollars per year or more than one~~
24 ~~thousand dollars per year for failure to register with the department or for~~
25 ~~claiming to be licensed or certified by the department~~ OF UP TO TEN
26 THOUSAND DOLLARS FOR EACH VIOLATION. The department shall assess,
27 enforce, and collect the penalty in accordance with article 4 of title 24,

1 C.R.S. ~~Any moneys~~ THE DEPARTMENT SHALL TRANSFER ANY PENALTIES
2 ~~collected shall be deposited~~ IT COLLECTS TO THE STATE TREASURER FOR
3 DEPOSIT in the home care agency cash fund created in section
4 25-27.5-105.

5 **SECTION 3.** In Colorado Revised Statutes, 25-27.5-104, **amend**
6 (1) introductory portion, (1) (c), (1) (g), and (1) (h); and **add** (1) (i), (1)
7 (j), (1) (k), and (4) as follows:

8 **25-27.5-104. Minimum standards for home care agencies and**
9 **home care placement agencies - rules - advisory committee.** (1) The
10 state board shall promulgate rules pursuant to section 24-4-103, C.R.S.,
11 providing minimum standards for the operation of home care agencies
12 ~~AND HOME CARE PLACEMENT AGENCIES~~ within the state of Colorado ~~THAT~~
13 ~~APPLY REGARDLESS OF THE SOURCE OF PAYMENT FOR THE HOME CARE~~
14 ~~SERVICES OR THE DIAGNOSIS OF THE HOME CARE CONSUMER.~~ In
15 promulgating these rules, the state board shall establish different
16 requirements appropriate to the various types of skilled home health and
17 personal care services, including differentiating requirements for
18 providers that are substantially funded through medicare and medicaid
19 reimbursement, providers for the program of all-inclusive care for the
20 elderly established in section 25.5-5-412, C.R.S., providers that are
21 already licensed under this title, and providers that are solely or
22 substantially privately funded. This differentiation ~~shall consider~~ MUST
23 INCLUDE CONSIDERATION OF the requirements already imposed by other
24 federal and state regulatory agencies, ~~shall~~ MUST require the department
25 of health care policy and financing and the department of ~~public health~~
26 ~~and environment~~ to work jointly to resolve differing requirements. ~~and~~
27 ~~shall only regulate a provider for the program of all-inclusive care for the~~

1 ~~elderly consistent with the federal requirements established for the~~
2 ~~provider pursuant to a three-way agreement between the provider, the~~
3 ~~centers of medicare and medicaid services, and the department of health~~
4 ~~care policy and financing; except that the department may require~~
5 ~~additional information from the provider with regard to reporting~~
6 ~~instances of abuse. Such~~ THE rules must include the following:

7 (c) Requirements for disclosure notices to be provided by home
8 care agencies and home care placement agencies to home care consumers
9 concerning the duties and employment status of the individual providing
10 services. WITH REGARD TO HOME CARE PLACEMENT AGENCIES, THE RULES
11 MUST REQUIRE A HOME CARE PLACEMENT AGENCY TO DISCLOSE IN
12 WRITING, AT A MINIMUM, THE FOLLOWING TO EACH HOME CARE CONSUMER
13 CLIENT IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT
14 BEFORE REFERRING A PROVIDER TO THE CLIENT:

15 (I) THAT THE HOME CARE PLACEMENT AGENCY IS NOT THE
16 EMPLOYER OF ANY PROVIDER IT REFERS TO A HOME CARE CONSUMER; AND

17 (II) THAT THE HOME CARE PLACEMENT AGENCY DOES NOT DIRECT,
18 CONTROL, SCHEDULE, OR TRAIN ANY PROVIDER IT REFERS;

19 (g) (I) Fees for home care agency licensure, which ~~shall not~~
20 CANNOT exceed one thousand five hundred dollars per year for two years
21 ~~from~~ AFTER the effective date of fees established by rule for home care
22 agencies that are certified providers through the federal centers for
23 medicare and medicaid services or the Colorado department of health care
24 policy and financing. Home care agency fees ~~shall be~~ ARE payable to the
25 home care agency cash fund. The annual fee ~~shall~~ MUST include a
26 component that reflects whether a survey is planned for the year based on
27 the agency's compliance history. The ~~fee schedule shall also be tiered~~

1 STATE BOARD SHALL DEVELOP A METHODOLOGY FOR ESTABLISHING
2 DIFFERENTIATING FEES FOR LICENSURE OF HOME CARE AGENCIES,
3 INCLUDING COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES, to
4 reflect the differences in type, SCOPE, and volume of services of
5 PROVIDED BY THE various TYPES OF home care agencies, including but not
6 limited to their volume of medicaid and medicare services, The fee
7 schedule shall also provide AND THAT ALLOWS for reduced fees for home
8 care agencies that are certified prior to initial license application. The
9 department of public health and environment shall not charge a duplicate
10 fee for survey work conducted pursuant to its role as state survey agency
11 for the federal centers for medicare and medicaid services or the Colorado
12 department of health care policy and financing. No later than January 1,
13 2011, the department of public health and environment shall issue an
14 independent report detailing the direct and indirect costs associated with
15 the administration of home care agency licensure.

16 (II) NOTWITHSTANDING SECTION 25-3-105 (1) (a) (I) (B), THE
17 STATE BOARD MAY SET AND ADJUST LICENSURE FEES FOR HOME CARE
18 AGENCIES AS APPROPRIATE BASED ON THE DIFFERENTIATING FEE
19 METHODOLOGY DEVELOPED BY THE STATE BOARD PURSUANT TO THIS
20 PARAGRAPH (g).

21 (h) Requirements for home care agencies to provide evidence of
22 and maintain either liability insurance coverage or a surety bond in lieu
23 of liability insurance coverage AND FOR HOME CARE PLACEMENT
24 AGENCIES TO PROVIDE EVIDENCE OF AND MAINTAIN LIABILITY INSURANCE
25 COVERAGE AS REQUIRED IN SECTION 25-27.5-103 (2) (a) (II) in amounts
26 set through rules of the state board;

27 (i) FACTORS FOR HOME CARE AGENCIES AND HOME CARE

1 PLACEMENT AGENCIES TO CONSIDER WHEN DETERMINING WHETHER AN
2 APPLICANT'S CONVICTION OF OR PLEA OF GUILTY OR NOLO CONTENDERE TO
3 AN OFFENSE [REDACTED] DISQUALIFIES THE APPLICANT FROM EMPLOYMENT OR A
4 REFERRAL. THE STATE BOARD MAY DETERMINE WHICH OFFENSES REQUIRE
5 CONSIDERATION OF THE FACTORS.

6 [REDACTED]
7 (j) REQUIREMENTS FOR HOME CARE PLACEMENT AGENCIES TO
8 RETAIN THEIR RECORDS FOR A LENGTH OF TIME DETERMINED BY THE
9 STATE BOARD TO BE AVAILABLE FOR INSPECTION BY THE DEPARTMENT
10 PURSUANT TO SECTION 25-27.5-106 (2) (a) (III); AND

11 (k) FEES FOR THE REGISTRATION OF HOME CARE PLACEMENT
12 AGENCIES TO COVER THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH
13 IMPLEMENTING THE DEPARTMENT'S OVERSIGHT OF HOME CARE
14 PLACEMENT AGENCIES.

15 (4) THE DEPARTMENT SHALL REGULATE A PROVIDER OF PACE
16 HOME CARE SERVICES FOR MINIMUM STANDARDS FOR THE OPERATION OF
17 HOME CARE AGENCIES AS FOLLOWS:

18 (a) FOR A PACE PROVIDER THAT SERVES ONLY MEDICAID OR
19 MEDICARE CLIENTS, IF A FULL FEDERAL RECERTIFICATION SURVEY
20 REQUIRED BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING
21 IS CONDUCTED AT LEAST EVERY THREE YEARS, THE DEPARTMENT SHALL
22 ACCEPT THE FEDERAL RECERTIFICATION SURVEY IN LIEU OF A SEPARATE
23 SURVEY FOR RELICENSURE;

24 (b) THE DEPARTMENT SHALL NOT IMPOSE ANY REQUIREMENT ON
25 A PACE PROVIDER THAT IS MORE STRINGENT THAN THE FEDERAL AND
26 STATE MEDICAID PACE REGULATIONS, THE THREE-WAY AGREEMENT
27 ENTERED INTO BY THE PROVIDER, CMS, AND THE DEPARTMENT OF HEALTH

1 CARE POLICY AND FINANCING, AND THE PACE PROVIDER'S POLICIES AND
2 PROCEDURES;

3 (c) IN REVIEWING A PACE PROVIDER'S COMPLIANCE WITH HOME
4 CARE LICENSURE, THE DEPARTMENT SHALL COORDINATE WITH THE
5 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING REGARDING BOTH
6 LICENSE AND CERTIFICATION REQUIREMENTS TO ENSURE THAT THE
7 DEPARTMENTS' SIMILAR REGULATIONS ARE CONGRUENTLY MET;

8 (d) AT THE TIME THAT A PACE PROVIDER ENROLLS A PACE
9 PARTICIPANT IN A PACE PROGRAM, THE PACE PROVIDER SHALL GIVE THE
10 CLIENT THE DEPARTMENT'S CONTACT INFORMATION IN WRITING TO ALLOW
11 THE CLIENT TO REPORT ANY COMPLAINTS THAT MAY ARISE OUT OF THE
12 CLIENT'S PACE HOME CARE SERVICES. THE DEPARTMENT SHALL
13 UNDERTAKE ANY INVESTIGATION ARISING FROM A COMPLAINT, OTHER
14 THAN A COMPLAINT ALLEGING MATTERS THAT ARE OUTSIDE OF THE
15 DEPARTMENT'S LICENSING AUTHORITY.

16 (e) UNDER THE DEPARTMENT'S LICENSING AUTHORITY, THE
17 DEPARTMENT HAS COMPLETE AUTHORITY TO ENFORCE ALL HOME CARE
18 REQUIREMENTS APPLICABLE TO A PACE PROVIDER. IF THE DEPARTMENT
19 IS UNABLE TO TAKE CORRECTIVE ACTION CONGRUENTLY WITH THE
20 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, THE DEPARTMENT
21 SHALL FORWARD THE PROPOSED CORRECTIVE ACTION TO AND CONSULT
22 WITH THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING BEFORE
23 TAKING FINAL ACTION AGAINST A PACE PROVIDER.

24 **SECTION 4.** In Colorado Revised Statutes, **amend 25-27.5-105**
25 **as follows:**

26 **25-27.5-105. Home care agency cash fund created.** The
27 DEPARTMENT SHALL TRANSMIT THE fees collected pursuant to section

1 25-27.5-104 (1), plus any civil penalty collected pursuant to section
2 25-27.5-103 (1) (b) ~~shall be transmitted~~ AND (2) (c) (II), to the state
3 treasurer, who shall credit the ~~same~~ FEES AND PENALTIES to the home care
4 agency cash fund, which fund is hereby created. The moneys in the fund
5 ~~shall be~~ ARE subject to annual appropriation by the general assembly for
6 the direct and indirect costs of the department in performing its duties
7 under this article. At the end of any fiscal year, all unexpended and
8 unencumbered moneys in the fund ~~shall~~ remain in the fund and ~~shall~~
9 MUST not be credited or transferred to the general fund or any other fund.

10 **SECTION 5.** In Colorado Revised Statutes, 25-27.5-106, **amend**
11 (1), (2), (3), (4), and (5) as follows:

12 **25-27.5-106. License or registration - application - inspection**
13 **- issuance - repeal.** (1) A PERSON APPLYING FOR A HOME CARE AGENCY
14 LICENSE OR A HOME CARE PLACEMENT AGENCY REGISTRATION SHALL
15 SUBMIT an application ~~for a license to operate a home care agency shall~~
16 ~~be submitted~~ to the department annually upon ~~such~~ A form and in ~~such~~ A
17 manner as prescribed by the department.

18 (2) (a) (I) The department shall investigate and review each
19 original application and each renewal application for a HOME CARE
20 AGENCY license OR HOME CARE PLACEMENT AGENCY REGISTRATION. The
21 department shall determine an applicant's compliance with THIS ARTICLE
22 AND the rules adopted pursuant to section 25-27.5-104 before THE
23 DEPARTMENT ISSUES a license ~~is issued or renewed~~ OR REGISTRATION. A
24 ~~certified home care agency that applies for a license by June 1, 2009, shall~~
25 ~~be exempt from licensure inspection prior to issuance of the initial~~
26 ~~license.~~

27 (II) EXCEPT AS PROVIDED IN PARAGRAPH (a.5) OF THIS SUBSECTION

1 (2), the department shall make ~~such~~ inspections as it deems necessary to
2 ensure that the health, safety, and welfare of the home care agency's OR
3 HOME CARE PLACEMENT AGENCY'S home care consumers are being
4 protected. Inspections of a home care consumer's home ~~shall be~~ ARE
5 subject to the consent of the home care consumer to access the property.
6 The home care agency OR HOME CARE PLACEMENT AGENCY shall submit
7 in writing, in a form prescribed by the department, a plan detailing the
8 measures that will be taken to correct any violations found by the
9 department as a result of inspections undertaken pursuant to this
10 subsection (2).

11 (III) THE DEPARTMENT MAY INSPECT, AS IT DEEMS NECESSARY, A
12 HOME CARE PLACEMENT AGENCY'S RECORDS ON WEEKDAYS BETWEEN 9
13 A.M. AND 5 P.M. TO ENSURE THAT THE HOME CARE PLACEMENT AGENCY IS
14 IN COMPLIANCE WITH THE CRIMINAL HISTORY RECORD CHECK, GENERAL
15 LIABILITY INSURANCE, AND DISCLOSURE REQUIREMENTS SET FORTH IN
16 SECTIONS 25-27.3-103 (2) (b), 25-27.5-104 (1) (c) AND (1) (h), AND
17 25-27.5-107.

18 (a.5) (I) (A) ON OR AFTER JULY 1, 2014, A COMMUNITY-CENTERED
19 BOARD OR SERVICE AGENCY THAT HAS BEEN CERTIFIED OR RECERTIFIED BY
20 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING WITHIN THE
21 LAST TWELVE MONTHS FOR THE PROVISION OF PERSONAL CARE SERVICES
22 UNDER THE SUPPORTED LIVING SERVICES WAIVER OR THE CHILDREN'S
23 EXTENSIVE SUPPORT WAIVER AND THAT HAS EVIDENCED FULL
24 COMPLIANCE WITH CERTIFICATION REQUIREMENTS MAY APPLY FOR AND
25 OBTAIN AN INITIAL HOME CARE AGENCY LICENSE TO PROVIDE IN-HOME
26 PERSONAL CARE SERVICES, AND THE DEPARTMENT SHALL NOT CONDUCT
27 AN ON-SITE, INITIAL LICENSURE INSPECTION OF THE COMMUNITY-

1 CENTERED BOARD OR SERVICE AGENCY. IF THE COMMUNITY-CENTERED
2 BOARD OR SERVICE AGENCY HAS NOT BEEN INSPECTED WITHIN THE LAST
3 TWELVE MONTHS OR HAS NOT EVIDENCED FULL COMPLIANCE WITH THE
4 CERTIFICATION REQUIREMENTS, THE DEPARTMENT SHALL CONDUCT AN
5 ON-SITE, INITIAL LICENSURE INSPECTION BUT SHALL LIMIT THE INSPECTION
6 TO EVALUATING THE PERSONAL CARE SERVICES RENDERED IN
7 ACCORDANCE WITH THE DEPARTMENT OF HEALTH CARE POLICY AND
8 FINANCING'S WAIVER AND REGULATORY REQUIREMENTS AND THE
9 COMMUNITY-CENTERED BOARD'S OR SERVICE AGENCY'S QUALITY
10 MANAGEMENT PROGRAM, COMPETENCY AND TRAINING PROGRAM, AND
11 IMPLEMENTATION OF CRIMINAL HISTORY RECORDS CHECKS RELATED TO
12 CERTIFICATION OF THE COMMUNITY-CENTERED BOARD OR SERVICE
13 AGENCY.

14 (B) BETWEEN JULY 1, 2014, AND JULY 1, 2016, THE DEPARTMENT
15 SHALL NOT CONDUCT A RELICENSURE INSPECTION OF A COMMUNITY-
16 CENTERED BOARD OR SERVICE AGENCY THAT PROVIDES IN-HOME
17 PERSONAL CARE SERVICES EXCLUSIVELY TO HOME CARE CONSUMERS WHO
18 ARE RECIPIENTS OF SERVICES PURSUANT TO THE SUPPORTED LIVING
19 SERVICES WAIVER OR THE CHILDREN'S EXTENSIVE SUPPORT WAIVER OF THE
20 HOME- AND COMMUNITY-BASED SERVICES WAIVERS ADMINISTERED BY
21 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING. DURING THIS
22 PERIOD, COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES WHO ARE
23 LICENSED HOME CARE AGENCIES SHALL COMPLY WITH ALL WAIVER
24 REQUIREMENTS AND RULES ADOPTED BY THE MEDICAL SERVICES BOARD
25 THAT ARE APPLICABLE TO COMMUNITY-CENTERED BOARDS AND SERVICE
26 AGENCIES. THE DEPARTMENTS OF PUBLIC HEALTH AND ENVIRONMENT AND
27 HEALTH CARE POLICY AND FINANCING SHALL SHARE INFORMATION

1 REGARDING COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES AND
2 THEIR COMPLIANCE WITH THE APPLICABLE RULES.

3 (C) NOTWITHSTANDING SECTION 25-27.5-104 (1) (g) AND STATE
4 BOARD RULES ADOPTED PURSUANT TO THAT SECTION THE DEPARTMENT
5 SHALL NOT ASSESS FEES BETWEEN JULY 1, 2014, AND JULY 1, 2016, FOR A
6 NEW OR RENEWAL HOME CARE AGENCY LICENSE ISSUED TO A
7 COMMUNITY-CENTERED BOARD OR SERVICE AGENCY, AND THE
8 DEPARTMENT'S COSTS INCURRED IN CONNECTION WITH ISSUING NEW OR
9 RENEWAL HOME CARE AGENCY LICENSES TO COMMUNITY-CENTERED
10 BOARDS AND SERVICE AGENCIES IS PAYABLE FROM THE INTELLECTUAL
11 AND DEVELOPMENTAL DISABILITIES SERVICES CASH FUND, CREATED IN
12 SECTION 25.5-10-207 (1), C.R.S., AS PART OF A SYSTEM OF CAPACITY
13 EXPANSION FOR HOME- AND COMMUNITY-BASED INTELLECTUAL AND
14 DEVELOPMENTAL DISABILITIES PROGRAMS, SERVICES, AND SUPPORTS
15 PURSUANT TO SECTION 25.5-10-207 (3) (c), C.R.S., ENACTED IN HOUSE
16 BILL 14-1252 IN 2014.

17 (D) AT THE TIME A COMMUNITY-CENTERED BOARD OR SERVICE
18 AGENCY COMMENCES IN-HOME PERSONAL CARE SERVICES FOR A HOME
19 CARE CONSUMER RECEIVING THE SERVICES PROVIDED PURSUANT TO THE
20 SUPPORTED LIVING SERVICES WAIVER OR THE CHILDREN'S EXTENSIVE
21 SUPPORT WAIVER OF THE HOME- AND COMMUNITY-BASED SERVICES
22 WAIVERS ADMINISTERED BY THE DEPARTMENT OF HEALTH CARE POLICY
23 AND FINANCING, THE COMMUNITY-CENTERED BOARD OR SERVICE AGENCY
24 SHALL GIVE THE HOME CARE CONSUMER THE DEPARTMENT'S CONTACT
25 INFORMATION IN WRITING TO ALLOW THE HOME CARE CONSUMER TO
26 REPORT ANY COMPLAINTS THAT MAY ARISE OUT OF THE HOME CARE
27 CONSUMER'S IN-HOME PERSONAL CARE SERVICES. THE DEPARTMENT

1 SHALL UNDERTAKE ANY INVESTIGATION ARISING FROM THE COMPLAINT,
2 OTHER THAN ALLEGATIONS OF MATTERS THAT ARE OUTSIDE THE
3 DEPARTMENT'S LICENSING AUTHORITY.

4 (II) (A) DURING THE PERIOD DESCRIBED IN SUB-SUBPARAGRAPH
5 (B) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a.5), THE DEPARTMENT
6 SHALL ESTABLISH A WORK GROUP COMPOSED OF REPRESENTATIVES FROM
7 OR OF: THE DEPARTMENT; THE DEPARTMENT OF HEALTH CARE POLICY
8 AND FINANCING; COMMUNITY-CENTERED BOARDS; SERVICE AGENCIES;
9 AND HOME CARE CONSUMERS RECEIVING SUPPORTED LIVING SERVICES OR
10 CHILDREN'S EXTENSIVE SUPPORT UNDER THE HOME- AND
11 COMMUNITY-BASED SERVICES WAIVERS ADMINISTERED BY THE
12 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING. THE WORK GROUP
13 SHALL: EXAMINE THE DEVELOPMENTAL DISABILITIES SERVICES RULES
14 ADOPTED BY THE MEDICAL SERVICES BOARD TO DETERMINE IF THE RULES
15 CONTAIN SUFFICIENT SAFEGUARDS TO PROTECT THE HEALTH, SAFETY, AND
16 RIGHTS OF THE HOME CARE CONSUMERS; IDENTIFY GAPS OR CONFLICTS
17 BETWEEN THE LICENSE REQUIREMENTS UNDER THIS ARTICLE AND RULES
18 ADOPTED BY THE STATE BOARD UNDER THIS ARTICLE AND THE
19 REQUIREMENTS FOR STATE CERTIFICATION AS A PROVIDER OF SERVICES
20 UNDER THE SUPPORTED LIVING SERVICES WAIVER OR THE CHILDREN'S
21 EXTENSIVE SUPPORT WAIVER OF THE HOME- AND COMMUNITY-BASED
22 SERVICES WAIVERS IMPOSED BY THE DEPARTMENT OF HEALTH CARE
23 POLICY AND FINANCING AND RULES ADOPTED BY THE MEDICAL SERVICES
24 BOARD; AND DEVELOP A PLAN TO ELIMINATE CONFLICTS AND GAPS
25 BETWEEN THE REQUIREMENTS OF THE DEPARTMENTS AND BOARDS. THE
26 WORK GROUP SHALL REQUEST SERVICE PROVIDERS TO PROVIDE A
27 COMPREHENSIVE LIST OF THE GAPS OR CONFLICTS IN THE REQUIREMENTS

1 IMPOSED BY EACH DEPARTMENT AND BOARD OR SHALL SURVEY PROVIDERS
2 TO ASCERTAIN ANY GAPS AND CONFLICTS IN THE REQUIREMENTS. THE
3 SERVICE PROVIDERS SHALL PROVIDE THE COMPREHENSIVE LIST OR
4 RESPOND TO THE SURVEY BY SEPTEMBER 1, 2014.

5 (B) ONCE THE DEPARTMENT HAS A COMPREHENSIVE LIST OF
6 CONFLICTING REQUIREMENTS AND GAPS IN THE REQUIREMENTS, THE WORK
7 GROUP SHALL ANALYZE THE INFORMATION AND DEVELOP A PLAN FOR
8 RESOLVING THE CONFLICTS AND ADDRESSING GAPS IN THE REQUIREMENTS.
9 THE WORK GROUP SHALL PROVIDE AT LEAST TWO PROGRESS UPDATES TO
10 THE HOME CARE ADVISORY COMMITTEE BY JULY 1, 2015, AND SHALL
11 PROVIDE UPDATES THEREAFTER UPON THE REQUEST OF THE ADVISORY
12 COMMITTEE. BY SEPTEMBER 1, 2015, THE WORK GROUP SHALL SUBMIT ITS
13 RECOMMENDATIONS FOR RESOLVING THE CONFLICTS AND GAPS IN THE
14 REQUIREMENTS, INCLUDING PROPOSED RULE CHANGES OR ADDITIONS, TO
15 THE STATE BOARD AND THE MEDICAL SERVICES BOARD. THE
16 RECOMMENDATIONS MUST SPECIFY THE PARTICULAR RULES OF EACH
17 BOARD THAT NEED TO BE MODIFIED OR ADDED TO RESOLVE ANY
18 CONFLICTS AND ADDRESS GAPS IN REQUIREMENTS.

19 (C) NO LATER THAN JULY 1, 2016, THE STATE BOARD AND THE
20 MEDICAL SERVICES BOARD SHALL ADOPT RULES AS NECESSARY TO
21 ELIMINATE ANY CONFLICTS BETWEEN AND GAPS IN THEIR RESPECTIVE
22 RULES PERTAINING TO THE REQUIREMENTS IMPOSED ON
23 COMMUNITY-CENTERED BOARD AND SERVICE AGENCIES THAT PROVIDE
24 IN-HOME PERSONAL CARE SERVICES EXCLUSIVELY TO HOME CARE
25 CONSUMERS WHO ARE RECIPIENTS OF SERVICES PURSUANT TO THE
26 SUPPORTED LIVING SERVICES WAIVER OR THE CHILDREN'S EXTENSIVE
27 SUPPORT WAIVER OF THE HOME- AND COMMUNITY-BASED SERVICES

1 WAIVERS ADMINISTERED BY THE DEPARTMENT OF HEALTH CARE POLICY
2 AND FINANCING.

3 (D) AS PART OF THEIR ANNUAL PRESENTATIONS TO THE JOINT
4 COMMITTEE OF REFERENCE TO WHICH EACH DEPARTMENT IS ASSIGNED
5 UNDER THE "STATE MEASUREMENTS FOR ACCOUNTABLE, RESPONSIBLE,
6 AND TRANSPARENT (SMART) ACT", PART 2 OF ARTICLE 7 OF TITLE 2,
7 C.R.S., THE DEPARTMENTS OF PUBLIC HEALTH AND ENVIRONMENT AND
8 HEALTH CARE POLICY AND FINANCING SHALL REPORT THEIR PROGRESS IN
9 ANALYZING AND DEVELOPING A PLAN TO RESOLVE CONFLICTS AND GAPS
10 IN THE REQUIREMENTS APPLICABLE TO COMMUNITY-CENTERED BOARDS
11 AND SERVICE AGENCIES THAT PROVIDE IN-HOME PERSONAL CARE
12 SERVICES. THE DEPARTMENTS SHALL INDICATE WHETHER THEY ARE
13 MEETING THE DEADLINES SPECIFIED IN THIS SUBPARAGRAPH (II), AND IF
14 NOT, DETAIL THE REASONS FOR FAILING TO MEET THE DEADLINES. IN THEIR
15 PRESENTATIONS MADE IN THE INTERIM BETWEEN NOVEMBER 1, 2015, AND
16 THE START OF THE 2016 REGULAR LEGISLATIVE SESSION, THE
17 DEPARTMENTS SHALL REPORT PROGRESS ON: THE ADOPTION OF RULES BY
18 THE STATE BOARD AND THE MEDICAL SERVICES BOARD AND SHALL
19 PROVIDE THE JOINT COMMITTEES COPIES OF DRAFT RULES, IF AVAILABLE;
20 AND ANY PROGRAM EFFICIENCIES THAT COULD IMPACT LICENSURE FEE
21 AMOUNTS. IF THE DEPARTMENTS ARE NOT MEETING THE DEADLINES
22 OUTLINED IN THIS SUBPARAGRAPH (II), THE JOINT COMMITTEE OF
23 REFERENCE SHALL CONSIDER WHETHER FURTHER LEGISLATION IS NEEDED,
24 INCLUDING LEGISLATION TO MODIFY THE DEADLINES, EXTEND THE PERIOD
25 SPECIFIED IN SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF THIS
26 PARAGRAPH (a.5) DURING WHICH THE DEPARTMENT IS NOT ALLOWED TO
27 CONDUCT RELICENSURE INSPECTIONS, COMPEL THE DEPARTMENTS TO

1 COMPLETE THEIR TASKS, OR MODIFY THE MANNER IN WHICH
2 COMMUNITY-CENTERED BOARDS AND SERVICES AGENCIES PROVIDING
3 IN-HOME PERSONAL CARE SERVICES ARE REGULATED BY THE STATE OR THE
4 ABILITY OF THE DEPARTMENT TO SET AND IMPOSE LICENSURE FEES.

5 (III) THIS PARAGRAPH (a.5) DOES NOT LIMIT THE ABILITY OF THE
6 DEPARTMENT TO INVESTIGATE COMPLAINTS AND OCCURRENCES
7 INVOLVING, AND ISSUE ANY ASSOCIATED ENFORCEMENT AGAINST,
8 COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES.

9 (IV) THIS PARAGRAPH (a.5) IS REPEALED, EFFECTIVE JULY 1, 2017.

10 (b) The department shall keep all medical records INFORMATION
11 OR DOCUMENTS obtained during an inspection or investigation of a home
12 care agency, HOME CARE PLACEMENT AGENCY, OR HOME CARE
13 CONSUMER'S HOME confidential. ~~and the medical~~ ALL records, shall be
14 INFORMATION, OR DOCUMENTS SO OBTAINED ARE exempt from disclosure
15 pursuant to sections 24-72-204, C.R.S., and 25-1-124.

16 (3) (a) With the submission of an application for a license OR
17 REGISTRATION granted pursuant to this article OR WITHIN TEN DAYS AFTER
18 A CHANGE IN THE OWNER, MANAGER, OR ADMINISTRATOR, each owner
19 ~~applicant, or licensee shall~~ OF A HOME CARE AGENCY OR HOME CARE
20 PLACEMENT AGENCY AND EACH MANAGER OR ADMINISTRATOR OF A HOME
21 CARE AGENCY OR HOME CARE PLACEMENT AGENCY MUST submit a
22 complete set of his or her fingerprints to the department. ~~The department~~
23 ~~shall forward such fingerprints to the~~ Colorado bureau of investigation for
24 the purpose of conducting a state and national fingerprint-based criminal
25 history record check utilizing ~~the~~ records of the Colorado bureau of
26 investigation and the federal bureau of investigation. ~~The~~ EACH owner
27 ~~applicant, or licensee shall pay the costs associated with~~ AND EACH

1 MANAGER OR ADMINISTRATOR IS RESPONSIBLE FOR PAYING THE FEE
2 ESTABLISHED BY THE COLORADO BUREAU OF INVESTIGATION FOR
3 CONDUCTING the fingerprint-based criminal history record check to the
4 ~~Colorado bureau. of investigation.~~ UPON COMPLETION OF THE CRIMINAL
5 HISTORY RECORD CHECK, THE BUREAU SHALL FORWARD THE RESULTS TO
6 THE DEPARTMENT. THE DEPARTMENT MAY ACQUIRE A NAME-BASED
7 CRIMINAL HISTORY RECORD CHECK FOR AN APPLICANT WHO HAS TWICE
8 SUBMITTED TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK
9 AND WHOSE FINGERPRINTS ARE UNCLASSIFIABLE.

10 (b) The DEPARTMENT SHALL USE THE ~~information shall be used by~~
11 ~~the department~~ FROM THE CRIMINAL HISTORY RECORD CHECK in
12 ascertaining whether the person applying for licensure OR REGISTRATION
13 has been convicted of a felony or of a misdemeanor, which felony or
14 misdemeanor ~~involves moral turpitude or~~ involves conduct that the
15 department determines could pose a risk to the health, safety, or welfare
16 of home care consumers of the home care agency OR HOME CARE
17 PLACEMENT AGENCY. The department shall maintain information obtained
18 in accordance with this section.

19 (4) ~~No license shall be issued or renewed by~~ The department
20 SHALL NOT ISSUE A LICENSE OR REGISTRATION if the owner, ~~applicant, or~~
21 ~~licensee~~ MANAGER, OR ADMINISTRATOR of the home care agency OR HOME
22 CARE PLACEMENT AGENCY has been convicted of a felony or of a
23 misdemeanor, which felony or misdemeanor ~~involves moral turpitude or~~
24 involves conduct that the department determines could pose a risk to the
25 health, safety, or welfare of the home care consumers of the home care
26 agency OR HOME CARE PLACEMENT AGENCY.

27 (5) Except as otherwise provided in subsections (6) and (7) of this

1 section, the department shall issue or renew a license OR REGISTRATION
2 when it is satisfied that the applicant, or licensee, OR REGISTRANT is in
3 compliance with the requirements set out in this article and the rules
4 promulgated pursuant to this article. Except for provisional licenses
5 issued in accordance with subsections (6) and (7) of this section, a license
6 OR REGISTRATION issued or renewed pursuant to this section shall expire
7 EXPIRES one year after the date of issuance or renewal.

8 **SECTION 6.** In Colorado Revised Statutes, **amend** 25-27.5-107
9 as follows:

10 **25-27.5-107. Employee or referred service provider criminal**
11 **history record check - rules.** ~~On and after June 1, 2009, prior to~~
12 ~~employing or placing any person,~~ The home care agency or home care
13 placement agency shall require ~~the~~ A person seeking employment or
14 placement to submit to a criminal history record check BEFORE
15 EMPLOYMENT OR REFERRAL TO A CONSUMER. The home care agency or
16 home care placement agency or the person seeking employment with the
17 home care agency shall pay the costs of ~~such inquiry~~ THE CRIMINAL
18 HISTORY RECORD CHECK. The criminal history record check shall be
19 conducted not more than ninety days ~~prior to~~ BEFORE the employment OR
20 PLACEMENT of the applicant.

21

22 **SECTION 7.** In Colorado Revised Statutes, **amend** 25-27.5-108
23 as follows:

24 **25-27.5-108. License or registration denial - suspension -**
25 **revocation.** (1) Upon denial of an application for an original license OR
26 REGISTRATION, the department shall notify the applicant in writing of
27 ~~such~~ THE denial by mailing a notice to the applicant at the address shown

1 on his or her application. Any applicant ~~believing himself or herself~~
2 ~~aggrieved by such~~ THE denial may pursue the remedy for review provided
3 in article 4 of title 24, C.R.S., if the applicant, within thirty days after
4 receiving ~~such~~ THE notice OF DENIAL, petitions the department to set a
5 date and place for hearing, affording the applicant an opportunity to be
6 heard in person or by counsel. All hearings on the denial of original
7 licenses ~~shall~~ OR REGISTRATIONS MUST be conducted in conformity with
8 the provisions and procedures specified in article 4 of title 24, C.R.S.

9 (2) (a) The department may suspend, revoke, or refuse to renew
10 the license OR REGISTRATION of ~~any~~ A home care agency OR HOME CARE
11 PLACEMENT AGENCY that is out of compliance with the requirements of
12 this article or the rules promulgated pursuant to this article. ~~Such~~
13 ~~suspension, revocation, or refusal shall be done after~~ BEFORE TAKING
14 FINAL ACTION TO SUSPEND, REVOKE, OR REFUSE TO RENEW A LICENSE OR
15 REGISTRATION, THE DEPARTMENT SHALL CONDUCT a hearing ~~thereon and~~
16 ON THE MATTER in conformance with the provisions and procedures
17 specified in article 4 of title 24, C.R.S.; except that the department may
18 implement a summary suspension prior to a hearing in accordance with
19 article 4 of title 24, C.R.S. IF THE DEPARTMENT SUSPENDS, REVOKES, OR
20 REFUSES TO RENEW A HOME CARE PLACEMENT AGENCY REGISTRATION,
21 THE DEPARTMENT SHALL REMOVE THE HOME CARE PLACEMENT AGENCY
22 FROM THE REGISTRY MAINTAINED BY THE DEPARTMENT PURSUANT TO
23 SECTION 25-27.3-103 (2) (a) (I).

24 (b) (I) The department may impose intermediate restrictions or
25 conditions on a ~~licensee~~ LICENSED HOME CARE AGENCY OR REGISTERED
26 HOME CARE PLACEMENT AGENCY that may include at least one of the
27 following:

- 1 (A) Retaining a consultant to address corrective measures;
- 2 (B) Monitoring by the department for a specific period;
- 3 (C) Providing additional training to employees, owners, or
- 4 operators of the home care agency OR HOME CARE PLACEMENT AGENCY;
- 5 (D) Complying with a directed written plan to correct the
- 6 violation; or
- 7 (E) Paying a civil fine not to exceed ten thousand dollars per
- 8 calendar year for all violations.

9 (II) (A) If the department imposes an intermediate restriction or
10 condition that is not a result of a serious and immediate threat to health
11 or welfare, the ~~licensee shall receive~~ DEPARTMENT SHALL PROVIDE written
12 notice of the restriction or condition TO THE LICENSED HOME CARE
13 AGENCY OR REGISTERED HOME CARE PLACEMENT AGENCY. No later than
14 ten days after the date the notice is received from the department, the
15 ~~licensee~~ LICENSED HOME CARE AGENCY OR REGISTERED HOME CARE
16 PLACEMENT AGENCY shall submit a written plan that includes the time
17 frame for completing the plan and addresses the restriction or condition
18 specified.

19 (B) If the department imposes an intermediate restriction or
20 condition that is the result of a serious and immediate threat to health,
21 safety, or welfare, the department shall notify the ~~licensee~~ LICENSED
22 HOME CARE AGENCY OR REGISTERED HOME CARE PLACEMENT AGENCY in
23 writing, by telephone, or in person during an on-site visit. The ~~licensee~~
24 LICENSED HOME CARE AGENCY OR REGISTERED HOME CARE PLACEMENT
25 AGENCY shall remedy the circumstances creating harm or potential harm
26 immediately upon receiving notice of the restriction or condition. If the
27 department provides notice of a restriction or condition by telephone or

1 in person, the department shall send written confirmation of the
2 restriction or condition to the licensee LICENSED HOME CARE AGENCY OR
3 REGISTERED HOME CARE PLACEMENT AGENCY within two business days.

4 (III) (A) After submission of an approved written plan, a licensee
5 LICENSED HOME CARE AGENCY OR REGISTERED HOME CARE PLACEMENT
6 AGENCY may first appeal any intermediate restriction or condition on its
7 license OR REGISTRATION to the department through an informal review
8 process as established by the department.

9 (B) If the restriction or condition requires payment of a civil fine,
10 the licensee LICENSED HOME CARE AGENCY OR REGISTERED HOME CARE
11 PLACEMENT AGENCY may request, and the department shall grant, a stay
12 in payment of the fine until final disposition of the restriction or
13 condition.

14 (C) If a licensee LICENSED HOME CARE AGENCY OR REGISTERED
15 HOME CARE PLACEMENT AGENCY is not satisfied with the result of the
16 informal review or chooses not to seek informal review, ~~no~~ THE
17 DEPARTMENT SHALL NOT IMPOSE AN intermediate restriction or condition
18 on the licensee ~~shall be imposed~~ LICENSED HOME CARE AGENCY OR
19 REGISTERED HOME CARE PLACEMENT AGENCY until after THE LICENSED
20 HOME CARE AGENCY OR REGISTERED HOME CARE PLACEMENT AGENCY IS
21 AFFORDED an opportunity for a hearing ~~has been afforded the licensee~~
22 pursuant to section 24-4-105, C.R.S.

23 (IV) If the department assesses a civil fine pursuant to this
24 paragraph (b), THE DEPARTMENT SHALL TRANSMIT ~~moneys received by the~~
25 ~~department shall be transmitted~~ THE FINES to the state treasurer, who shall
26 credit the ~~same~~ FINES to the home care agency cash fund created in
27 section 25-27.5-105.

1 (V) THE DEPARTMENT SHALL USE civil fines collected pursuant to
2 this paragraph (b) ~~shall be used~~ for expenses related to:

3 (A) Continuing monitoring required pursuant to this paragraph
4 (b);

5 (B) Education for ~~licensee~~ LICENSED HOME CARE AGENCY OR
6 REGISTERED HOME CARE PLACEMENT AGENCY to avoid restrictions or
7 conditions or facilitate the application process or the change of ownership
8 process;

9 (C) Education for home care consumers and their families about
10 resolving problems with a home care agency OR HOME CARE PLACEMENT
11 AGENCY, rights of home care consumers, and responsibilities of home
12 care agencies AND HOME CARE PLACEMENT AGENCIES;

13 (D) Providing technical assistance to any home care agency OR
14 HOME CARE PLACEMENT AGENCY for the purpose of complying with
15 changes in rules or state or federal law;

16 (E) Monitoring and assisting in the transition of home care
17 consumers to other home care agencies OR HOME CARE PLACEMENT
18 AGENCIES, when the transition is a result of the revocation of a license OR
19 REGISTRATION, or TO other appropriate medical services; or

20 (F) Maintaining the operation of a home care agency OR HOME
21 CARE PLACEMENT AGENCY pending correction of violations, as determined
22 necessary by the department.

23 (3) The department shall revoke or refuse to renew the license of
24 a home care agency OR THE REGISTRATION OF A HOME CARE PLACEMENT
25 AGENCY where the owner, ~~or licensee~~, OR REGISTRANT has been convicted
26 of a felony or misdemeanor ~~involving moral turpitude~~ or involving
27 conduct that the department determines could pose a risk to the health,

1 safety, or welfare of the home care consumers of ~~such~~ THE home care
2 agency ~~Such revocation or refusal shall be made~~ OR HOME CARE
3 PLACEMENT AGENCY. THE DEPARTMENT MAY REVOKE OR REFUSE TO
4 RENEW A LICENSE OR REGISTRATION only after CONDUCTING a hearing is
5 ~~provided~~ ON THE MATTER in accordance with article 4 of title 24, C.R.S.

6 **SECTION 8.** In Colorado Revised Statutes, **amend** 25-27.5-110
7 as follows:

8 **25-27.5-110. Repeal of article - sunset review.** (1) This article
9 is repealed, effective ~~July~~ SEPTEMBER 1, ~~2014~~ 2019.

10 (2) ~~Prior to such~~ BEFORE repeal, the DEPARTMENT OF
11 REGULATORY AGENCIES SHALL REVIEW THE licensing of home care
12 agencies ~~shall be reviewed~~ AND THE REGISTERING OF HOME CARE
13 PLACEMENT AGENCIES as provided for in section 24-34-104, C.R.S. ~~IN~~
14 CONDUCTING ITS REVIEW AND COMPILING ITS REPORT PURSUANT TO
15 SECTION 24-34-104 (8), C.R.S., THE DEPARTMENT OF REGULATORY
16 AGENCIES SHALL SEGREGATE THE DATA IN THE REPORT BASED ON THE
17 TYPE OF AGENCY, SPECIFYING WHETHER THE AGENCY IS:

18 (a) A HOME CARE AGENCY THAT PROVIDES SKILLED HOME HEALTH
19 SERVICES;

20 (b) A HOME CARE AGENCY THAT ONLY PROVIDES PERSONAL CARE
21 SERVICES; OR

22 (c) A HOME CARE PLACEMENT AGENCY.

23 **SECTION 9.** In Colorado Revised Statutes, 24-34-104, **repeal**
24 (45) (g); and **add** (50.5)(h) as follows:

25 **24-34-104. General assembly review of regulatory agencies**
26 **and functions for termination, continuation, or reestablishment.**

27 (45) The following agencies, functions, or both, terminate on July 1,

1 2014:

2 (g) ~~The licensing of home care agencies in accordance with article~~
3 ~~27.5 of title 25, C.R.S.;~~

4 (50.5) The following agencies, functions, or both, terminate on
5 September 1, 2019:

6 (h) ~~NOTWITHSTANDING PARAGRAPH (a) OF SUBSECTION (11) OF~~
7 ~~THIS SECTION, THE FUNCTIONS OF THE DEPARTMENT OF PUBLIC HEALTH~~
8 ~~AND ENVIRONMENT RELATING TO THE LICENSING OF HOME CARE AGENCIES~~
9 ~~AND THE REGISTERING OF HOME CARE PLACEMENT AGENCIES IN~~
10 ~~ACCORDANCE WITH ARTICLE 27.5 OF TITLE 25, C.R.S.~~

11 **SECTION 10. Appropriation.** (1) In addition to any other
12 appropriation, there is hereby appropriated, out of any moneys in the
13 intellectual and developmental disabilities services cash fund created in
14 section 25.5-10-207 (1.5), Colorado Revised Statutes, not otherwise
15 appropriated, to the department of health care policy and financing, for
16 the fiscal year beginning July 1, 2014, the sum of \$110,000, or so much
17 thereof as may be necessary, to be allocated to transfers to/from other
18 departments for transfer to department of public health and environment
19 for facility survey and certification.

20 (2) In addition to any other appropriation, there is hereby
21 appropriated to the department of public health and environment, for the
22 fiscal year beginning July 1, 2014, the sum of \$110,000, or so much
23 thereof as may be necessary, for the payment of licensure fees for
24 community-centered boards as defined in section 25-27.5-102 (1.5),
25 Colorado Revised Statutes, and service agencies as defined in section
26 25-27.5-102 (6.7), Colorado Revised Statutes, related to the
27 implementation of this act. Said sum is from reappropriated funds

1 received from the department of health care policy and financing out of
2 the appropriation made in subsection (1) of this section.

3 (3) In addition to any other appropriation, there is hereby
4 appropriated, out of any moneys in the home care agency cash fund
5 created in section 25-27.5-105, Colorado Revised Statutes, not otherwise
6 appropriated, to the department of public health and environment, for the
7 fiscal year beginning July 1, 2014, the sum of \$144,423 and 2.1 FTE, or
8 so much thereof as may be necessary, to be allocated to health facilities
9 and emergency medical services division for the health facilities general
10 licensure program for the implementation of this act.

11 (4) In addition to any other appropriation, there is hereby
12 appropriated, out of any moneys in the home care agency cash fund
13 created in section 25-27.5-105, Colorado Revised Statutes, not otherwise
14 appropriated, to the department of public health and environment, for the
15 fiscal year beginning July 1, 2014, the sum of \$53,560, or so much
16 thereof as may be necessary, to be allocated to administration and support
17 for payments to OIT for the implementation of this act.

18 (5) In addition to any other appropriation, there is hereby
19 appropriated to the governor - lieutenant governor - state planning and
20 budgeting, for the fiscal year beginning July 1, 2014, the sum of \$53,560,
21 or so much thereof as may be necessary, for allocation to the office of
22 information technology, for the provision of computer center services for
23 the department of public health and environment related to the
24 implementation of this act. Said sum is from reappropriated funds
25 received from the department of public health and environment out of the
26 appropriation made in subsection (5) of this section.

27 (6) In addition to any other appropriation, there is hereby

1 appropriated, out of any moneys in the Colorado bureau of investigation
2 identification unit fund created in section 24-33.5-426, Colorado Revised
3 Statutes, not otherwise appropriated, to the department of public safety,
4 for the fiscal year beginning July 1, 2014, the sum of \$40,966 and 0.2
5 FTE, or so much thereof as may be necessary, to be allocated to Colorado
6 bureau of investigation, Colorado crime information center identification
7 for the implementation of this act as follows:

8 (a) \$9,362 and 0.2 FTE for personal services; and

9 (b) \$31,604 for operating expenses.

10 **SECTION 11. Effective date.** This act takes effect July 1, 2014.

11 **SECTION 12. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, and safety.