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An Act

SENATE BILL 23-261

BY SENATOR(S) Danielson and Exum, Buckner, Coleman, Cutter, Fenberg, Fields, Gonzales, Hinrichsen, Kolker, Marchman, Moreno, Mullica, Priola, Roberts, Rodriguez, Sullivan, Winter F., Bridges, Ginal, Jaquez Lewis;

also REPRESENTATIVE(S) Duran and Willford, Amabile, Bacon, Boesenecker, Brown, deGruy Kennedy, Dickson, Epps, Froelich, Garcia, Gonzales-Gutierrez, Hamrick, Jodeh, Joseph, Kipp, Lieder, Lindsay, Lindstedt, Mabrey, Marshall, Martinez, Michaelson Jenet, Ortiz, Parenti, Ricks, Sharbini, Sirota, Snyder, Titone, Valdez, Velasco, Vigil, Woodrow, Young, Bird, English, Herod, Lukens, Mauro, McLachlan, Story, Weinberg, Weissman, McCluskie.

CONCERNING THE CREATION OF THE DIRECT CARE WORKFORCE STABILIZATION BOARD TO DEVELOP RECOMMENDATIONS REGARDING DIRECT CARE WORKERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** article 7.5 to title 8 as follows:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

ARTICLE 7.5
Direct Care Workforce Stabilization Board

8-7.5-101. Short title. THE SHORT TITLE OF THIS ARTICLE 7.5 IS THE "DIRECT CARE WORKFORCE STABILIZATION BOARD ACT".

8-7.5-102. Definitions. AS USED IN THIS ARTICLE 7.5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BOARD" MEANS THE DIRECT CARE WORKFORCE STABILIZATION BOARD CREATED IN SECTION 8-7.5-103.

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND EMPLOYMENT CREATED IN SECTION 24-1-121.

(3) "DIRECT CARE CONSUMER" MEANS:

(a) A HOME CARE CONSUMER;

(b) AN ELIGIBLE PERSON, AS DEFINED IN SECTION 25.5-6-1101 (4), INCLUDING AN ELIGIBLE PERSON WHO PARTICIPATES IN THE CONSUMER-DIRECTED CARE SERVICE MODEL PURSUANT TO PART 11 OF ARTICLE 6 OF TITLE 25.5; OR

(c) AN ELIGIBLE PERSON WITH A DISABILITY, AS DEFINED IN SECTION 25.5-6-1302 (2).

(4) (a) "DIRECT CARE EMPLOYER" MEANS:

(I) A HOME CARE EMPLOYER; OR

(II) A PROVIDER AGENCY OR ORGANIZATION THAT PROVIDES DIRECT CARE SERVICES.

(b) "DIRECT CARE EMPLOYER" DOES NOT INCLUDE AN ELIGIBLE PERSON, AS DEFINED IN SECTION 25.5-6-1101 (4), WHO PARTICIPATES IN THE CONSUMER-DIRECTED CARE SERVICE MODEL PURSUANT TO PART 11 OF ARTICLE 6 OF TITLE 25.5; EXCEPT THAT SUCH ELIGIBLE PERSON IS A DIRECT CARE EMPLOYER FOR PURPOSES OF APPOINTMENT OF DIRECT CARE EMPLOYERS TO THE BOARD PURSUANT TO SECTION 8-7.5-103 (2)(a)(I)(B).

(5) "DIRECT CARE INDUSTRY" MEANS THE INDUSTRY IN WHICH DIRECT CARE WORKERS DELIVER DIRECT CARE SERVICES TO DIRECT CARE CONSUMERS IN COLORADO.

(6) "DIRECT CARE SERVICES" MEANS:

(a) PERSONAL CARE SERVICES; OR

(b) ANY SERVICES DESCRIBED IN PARTS 3 TO 13 OF ARTICLE 6 OF TITLE 25.5 THAT DO NOT REQUIRE THE INDIVIDUAL PROVIDING THE SERVICES TO BE LICENSED OR CERTIFIED BY THE STATE OR THE FEDERAL GOVERNMENT IN ORDER TO PERFORM THE SERVICES.

(7) "DIRECT CARE WORKER" MEANS:

(a) A HOME CARE WORKER;

(b) AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF A DIRECT CARE EMPLOYER, AS DEFINED IN SUBSECTION (4)(a)(II) OF THIS SECTION, WHO PROVIDES DIRECT CARE SERVICES TO DIRECT CARE CONSUMERS, AS DEFINED IN SUBSECTION (3)(b) OF THIS SECTION; OR

(c) AN INDIVIDUAL WHO PROVIDES DIRECT CARE SERVICES TO DIRECT CARE CONSUMERS, AS DEFINED IN SUBSECTION (3)(c) OF THIS SECTION.

(8) "EMPLOYER ORGANIZATION" MEANS:

(a) AN ORGANIZATION EXEMPT FROM FEDERAL INCOME TAXATION UNDER SECTION 501 (c)(6) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", 26 U.S.C. SEC. 501, AS AMENDED, THAT REPRESENTS DIRECT CARE EMPLOYERS; OR

(b) AN ENTITY SELECTED BY AND REPRESENTING EMPLOYERS.

(9) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT.

(10) "HOME CARE CONSUMER" MEANS A HOME CARE CONSUMER, AS DEFINED IN SECTION 25-27.5-102 (4), WHO RECEIVES PERSONAL CARE SERVICES.

(11) "HOME CARE EMPLOYER" MEANS A HOME CARE AGENCY, AS DEFINED IN SECTION 25-27.5-102 (3), OR OTHER ENTITY THAT EMPLOYS HOME CARE WORKERS.

(12) "HOME CARE WORKER" MEANS A WORKER PROVIDING PERSONAL CARE SERVICES TO A HOME CARE CONSUMER.

(13) "PERSONAL CARE SERVICES" HAS THE SAME MEANING AS SET FORTH IN SECTION 25-27.5-102 (6).

(14) "WORKER ORGANIZATION" MEANS AN ORGANIZATION THAT:

(a) IS EXEMPT FROM FEDERAL INCOME TAXATION UNDER SECTION 501 (c)(3), (c)(4), (c)(5), OR (c)(6) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", 26 U.S.C. SEC. 501, AS AMENDED;

(b) IS NOT DOMINATED, CONTROLLED, OR FUNDED BY ANY DIRECT CARE EMPLOYER; AND

(c) HAS AT LEAST TWO YEARS OF DEMONSTRATED EXPERIENCE ENGAGING AND ADVOCATING FOR DIRECT CARE WORKERS.

8-7.5-103. Direct care workforce stabilization board - creation - membership - repeal. (1) **Board creation.** THE DIRECT CARE WORKFORCE STABILIZATION BOARD IS CREATED IN THE DEPARTMENT AS A **TYPE 2** ENTITY, AS DEFINED IN SECTION 24-1-105, AND EXERCISES ITS POWERS AND PERFORMS ITS DUTIES AND FUNCTIONS UNDER THE DEPARTMENT AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT.

(2) **Board membership.** (a) THE BOARD CONSISTS OF FIFTEEN MEMBERS APPOINTED AS FOLLOWS:

(I) THE EXECUTIVE DIRECTOR SHALL APPOINT THE FOLLOWING MEMBERS TO THE BOARD:

(A) A REPRESENTATIVE OF THE DEPARTMENT;

(B) FOUR MEMBERS REPRESENTING DIRECT CARE EMPLOYERS OR EMPLOYER ORGANIZATIONS, INCLUDING AT LEAST ONE MEMBER THAT SERVES A RURAL OR FRONTIER AREA OF THE STATE;

(C) FOUR MEMBERS REPRESENTING DIRECT CARE WORKERS OR WORKER ORGANIZATIONS, INCLUDING AT LEAST ONE MEMBER FROM A RURAL OR FRONTIER AREA OF THE STATE; AND

(D) FOUR MEMBERS REPRESENTING DIRECT CARE CONSUMERS WHO RECEIVE DIRECT CARE SERVICES FROM DIRECT CARE WORKERS, INCLUDING ONE MEMBER FROM AN ORGANIZATION REPRESENTING INDIVIDUALS WITH DISABILITIES, ONE MEMBER FROM AN ORGANIZATION REPRESENTING OLDER ADULTS, AND AT LEAST ONE MEMBER FROM A RURAL OR FRONTIER AREA OF THE STATE;

(II) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING SHALL APPOINT A REPRESENTATIVE OF THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING TO SERVE ON THE BOARD; AND

(III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL APPOINT A REPRESENTATIVE OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO SERVE ON THE BOARD.

(b) THE APPOINTING AUTHORITIES SHALL MAKE INITIAL APPOINTMENTS TO THE BOARD BY OCTOBER 1, 2023. TO THE EXTENT POSSIBLE, THE APPOINTING AUTHORITIES SHALL APPOINT BOARD MEMBERS WHO REPRESENT COLORADO'S DIVERSITY WITH REGARD TO ETHNICITY, RACE, GENDER, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION, DISABILITY, AGE, AND SOCIOECONOMIC BACKGROUND.

(3) **Terms.** (a) (I) EXCEPT AS PROVIDED IN SUBSECTION (3)(a)(II) OF THIS SECTION, MEMBERS OF THE BOARD SERVE THREE-YEAR TERMS OF OFFICE AND SHALL NOT SERVE MORE THAN TWO CONSECUTIVE TERMS OF OFFICE.

(II) TO ENSURE STAGGERED TERMS OF OFFICE:

(A) THE INITIAL TERM OF OFFICE OF ONE MEMBER INITIALLY APPOINTED PURSUANT TO SUBSECTION (2)(a)(I)(B) OF THIS SECTION, OF ONE MEMBER INITIALLY APPOINTED PURSUANT TO SUBSECTION (2)(a)(I)(C) OF THIS SECTION, AND OF ONE MEMBER INITIALLY APPOINTED PURSUANT TO SUBSECTION (2)(a)(I)(D) OF THIS SECTION IS ONE YEAR; AND

(B) THE INITIAL TERM OF OFFICE OF ONE MEMBER INITIALLY APPOINTED PURSUANT TO SUBSECTION (2)(a)(I)(B) OF THIS SECTION, OF ONE MEMBER INITIALLY APPOINTED PURSUANT TO SUBSECTION (2)(a)(I)(C) OF THIS SECTION, AND OF ONE MEMBER INITIALLY APPOINTED PURSUANT TO SUBSECTION (2)(a)(I)(D) OF THIS SECTION IS TWO YEARS.

(III) SUBSECTION (3)(a)(II) OF THIS SECTION AND THIS SUBSECTION (3)(a)(III) ARE REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

(b) IF A VACANCY OCCURS ON THE BOARD, THE APPOINTING AUTHORITY FOR THE VACANT POSITION SHALL FILL THE POSITION ON THE BOARD FOR THE REMAINDER OF THE UNEXPIRED TERM WITH A MEMBER QUALIFIED FOR THE VACATED POSITION.

(4) **Board chair.** THE BOARD SHALL ELECT BY A MAJORITY VOTE A MEMBER OF THE BOARD TO SERVE AS THE CHAIR OF THE BOARD.

(5) **Meetings and hearings.** (a) THE BOARD SHALL CONVENE ITS FIRST MEETING NO LATER THAN NOVEMBER 15, 2023, AND SHALL MEET AT LEAST QUARTERLY THEREAFTER AND AT OTHER TIMES AS DETERMINED BY THE CHAIR FOR PURPOSES OF DEVELOPING RECOMMENDATIONS FOR MINIMUM DIRECT CARE EMPLOYMENT STANDARDS PURSUANT TO SECTION 8-7.5-104.

(b) IN ADDITION TO THE MEETINGS DESCRIBED IN SUBSECTION (5)(a) OF THIS SECTION, THE BOARD SHALL HOST PUBLIC HEARINGS AS DESCRIBED IN SECTION 8-7.5-104 (2)(c) TO ENGAGE WITH AND OBTAIN INPUT FROM DIRECT CARE WORKERS, DIRECT CARE EMPLOYERS, AND DIRECT CARE CONSUMERS.

(c) ALL MEETINGS AND HEARINGS OF THE BOARD MUST INCLUDE AN OPTION FOR REMOTE PARTICIPATION BY BOARD MEMBERS AND ANY OTHER PARTICIPANTS IN THE MEETINGS OR HEARINGS.

(6) **Voting.** THE BOARD MAY TAKE ACTION, INCLUDING ACTION TO RECOMMEND MINIMUM DIRECT CARE EMPLOYMENT STANDARDS UNDER SECTION 8-7.5-104, ONLY UPON THE AFFIRMATIVE VOTE OF AT LEAST EIGHT MEMBERS OF THE BOARD.

(7) **Staffing.** THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT TO THE BOARD AS NEEDED.

(8) No compensation - expense reimbursement. MEMBERS OF THE BOARD SERVE WITHOUT COMPENSATION BUT ARE ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN PERFORMING THEIR DUTIES UNDER THIS ARTICLE 7.5.

8-7.5-104. Duties of the board - recommendations for minimum direct care employment standards - analysis of market conditions - public outreach - report. (1) (a) (I) BY SEPTEMBER 1, 2024, AND EVERY TWO YEARS THEREAFTER, THE BOARD SHALL DEVELOP RECOMMENDATIONS FOR MINIMUM DIRECT CARE EMPLOYMENT STANDARDS THAT ARE REASONABLY NECESSARY OR APPROPRIATE TO PROTECT AND ENSURE THE HEALTH AND WELFARE OF DIRECT CARE WORKERS WITHOUT IMPEDING THE DIGNITY AND INDEPENDENCE OF DIRECT CARE CONSUMERS. THE RECOMMENDATIONS MUST INCLUDE, AS APPROPRIATE, STANDARDS FOR COMPENSATION, WORKING HOURS, AND OTHER WORKING CONDITIONS FOR DIRECT CARE WORKERS. THE BOARD SHALL ALSO DEVELOP RECOMMENDATIONS ON HOW THE STATE CAN BETTER COMMUNICATE INFORMATION TO DIRECT CARE WORKERS ABOUT THEIR RIGHTS AND ABOUT THE OBLIGATIONS OF DIRECT CARE EMPLOYERS.

(II) NOTWITHSTANDING SECTION 8-7.5-103 (6) AND SUBSECTION (1)(c) OF THIS SECTION, THE BOARD MAY EXTEND ANY RECOMMENDATIONS FOR MINIMUM DIRECT CARE EMPLOYMENT STANDARDS DEVELOPED PURSUANT TO THIS SECTION TO ADDITIONAL TYPES OF WORKERS WHO ARE DETERMINED TO PROVIDE SERVICES THAT ARE DIRECT CARE IN NATURE WITHIN COLORADO'S LONG-TERM CARE DELIVERY SYSTEM IF DEEMED APPROPRIATE BY THE MEMBERS OF THE BOARD APPOINTED PURSUANT TO SECTION 8-7.5-103 (2)(a)(I)(A), (2)(a)(II), AND (2)(a)(III).

(b) ANY STANDARDS RECOMMENDED BY THE BOARD PURSUANT TO THIS ARTICLE 7.5 MUST BE AT LEAST AS PROTECTIVE OF OR BENEFICIAL TO DIRECT CARE WORKERS AS ANY OTHER APPLICABLE STATE STATUTE OR RULE.

(c) AS SPECIFIED IN SECTION 8-7.5-103 (6), THE BOARD SHALL NOT MAKE ANY RECOMMENDATION THAT DOES NOT RECEIVE THE AFFIRMATIVE VOTE OF AT LEAST EIGHT VOTING MEMBERS OF THE BOARD. THE BOARD SHALL RECORD THE VOTE ON EACH RECOMMENDATION ON WHICH THE BOARD VOTES.

(2) (a) IN DEVELOPING RECOMMENDATIONS FOR MINIMUM DIRECT

CARE EMPLOYMENT STANDARDS, THE BOARD SHALL:

(I) INVESTIGATE THE MARKET CONDITIONS OF THE DIRECT CARE INDUSTRY IN RELATION TO THE COLORADO LABOR MARKET, INCLUDING EXISTING WAGES, BENEFITS, WORKING HOURS, AND OTHER WORKING CONDITIONS OF DIRECT CARE WORKERS AND CHALLENGES TO DIRECT CARE EMPLOYERS THROUGHOUT THE STATE AND IN SPECIFIC AREAS OF THE STATE SPECIFIED BY THE BOARD;

(II) INVESTIGATE OTHER DIRECT CARE INDUSTRY MODELS, INCLUDING DIRECT-CARE-WORKER-OWNED OPPORTUNITIES AND THE IMPACT OF ACCESS TO WORKER ORGANIZATIONS;

(III) INVESTIGATE THE IMPACTS OF RACIAL AND ECONOMIC INJUSTICES ON DIRECT CARE WORKERS AND THE DIRECT CARE CONSUMERS TO WHOM THEY PROVIDE DIRECT CARE SERVICES;

(IV) INVESTIGATE THE ADEQUACY OF THE REIMBURSEMENT RATE AVAILABLE THROUGH THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED IN ARTICLES 4, 5, AND 6 OF TITLE 25.5;

(V) HOST PUBLIC MEETINGS IN ACCORDANCE WITH SUBSECTION (2)(c) OF THIS SECTION FOR PURPOSES OF ENGAGING WITH AND OBTAINING INPUT FROM DIRECT CARE WORKERS, DIRECT CARE EMPLOYERS, AND DIRECT CARE CONSUMERS; AND

(VI) ENDEAVOR TO DEVELOP MINIMUM DIRECT CARE EMPLOYMENT STANDARDS THAT MEET OR EXCEED THE EXISTING INDUSTRY CONDITIONS THAT APPLY TO A MAJORITY OF DIRECT CARE WORKERS IN THE STATE OR IN SPECIFIED AREAS OF THE STATE.

(b) THE BOARD SHALL CONSIDER THE FOLLOWING INFORMATION IN DEVELOPING RECOMMENDATIONS FOR MINIMUM DIRECT CARE EMPLOYMENT STANDARDS:

(I) DATA CONCERNING WAGE RATES, BENEFITS, WORKING HOURS, AND OTHER WORKING CONDITIONS, WHICH DATA IS COLLECTED BY OR SUBMITTED TO THE BOARD AND RELATES TO DIRECT CARE WORKERS IN THE STATE OR IN THE AREAS SPECIFIED BY THE BOARD;

(II) DATA CONCERNING THE REIMBURSEMENT RATE THROUGH THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED IN ARTICLES 4, 5, AND 6 OF TITLE 25.5;

(III) STATEMENTS SHOWING WAGE RATES PAID TO, BENEFITS PROVIDED TO, AND WORKING HOURS AND OTHER WORKING CONDITIONS OF DIRECT CARE WORKERS IN THE AREAS SPECIFIED BY THE BOARD;

(IV) SIGNED COLLECTIVE BARGAINING AGREEMENTS APPLICABLE TO DIRECT CARE WORKERS IN THE STATE OR IN THE AREAS SPECIFIED BY THE BOARD;

(V) TESTIMONY AND INFORMATION PROVIDED BY CURRENT AND FORMER DIRECT CARE WORKERS, WORKER ORGANIZATIONS, DIRECT CARE EMPLOYERS, EMPLOYER ORGANIZATIONS, DIRECT CARE CONSUMERS, AND ORGANIZATIONS REPRESENTING DIRECT CARE CONSUMERS;

(VI) LOCAL JURISDICTION MINIMUM DIRECT CARE EMPLOYMENT STANDARDS;

(VII) ANY RECOMMENDATIONS AND FINDINGS FROM PREVIOUS AND EXISTING WORKING GROUPS THAT THE BOARD CONSIDERS RELEVANT, INCLUDING ANY DIRECT CARE WORKFORCE COLLABORATIVE STAKEHOLDER GROUPS CONVENED BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND THE HOME CARE ADVISORY COMMITTEE CREATED IN SECTION 25-27.5-104 (3);

(VIII) INFORMATION SUBMITTED BY OR OBTAINED FROM STATE AND LOCAL GOVERNMENT AGENCIES;

(IX) DATA AND ANALYSIS THAT THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING SHALL PROVIDE TO THE BOARD REGARDING THE DIRECT CARE WORKFORCE THAT SERVES RECIPIENTS OF THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO ARTICLES 4, 5, AND 6 OF TITLE 25.5 AND CONTEXT, EXPERTISE, OR FEEDBACK THAT THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING SHALL PROVIDE TO THE BOARD, WHEN RELEVANT TO THE RECOMMENDATIONS THE BOARD IS DEVELOPING, THAT IS SPECIFIC TO THE POTENTIAL IMPACTS OF THE RECOMMENDATIONS ON THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO ARTICLES 4, 5, AND 6 OF TITLE 25.5; AND

(X) ANY OTHER INFORMATION PERTINENT TO THE DETERMINATION OF MINIMUM DIRECT CARE EMPLOYMENT STANDARDS.

(c) (I) THE BOARD SHALL ENDEAVOR TO ENGAGE AS MANY DIRECT CARE WORKERS AS POSSIBLE IN INVESTIGATING THE DIRECT CARE INDUSTRY MARKET CONDITIONS AND IN DEVELOPING RECOMMENDATIONS FOR MINIMUM DIRECT CARE EMPLOYMENT STANDARDS AND IMPROVED COMMUNICATIONS. TO FACILITATE OUTREACH TO DIRECT CARE WORKERS AND DIRECT CARE CONSUMERS, THE BOARD SHALL DEVELOP A PUBLIC EDUCATION AND COMMUNICATION PLAN IN ORDER TO INFORM DIRECT CARE WORKERS AND DIRECT CARE CONSUMERS OF THE BOARD, ITS PURPOSE, ITS MEETINGS AND HEARINGS, AND THE RIGHT OF DIRECT CARE WORKERS AND DIRECT CARE CONSUMERS TO PARTICIPATE IN THE BOARD'S MEETINGS AND HEARINGS, ITS MARKET CONDITIONS INVESTIGATION, AND ITS DEVELOPMENT OF RECOMMENDATIONS FOR MINIMUM DIRECT CARE EMPLOYMENT STANDARDS. THE PLAN MUST BE CULTURALLY COMPETENT AND USE TARGETED METHODS THAT WILL EFFECTIVELY ENGAGE DIRECT CARE WORKERS AND DIRECT CARE CONSUMERS, INCLUDING ADVERTISING AND OTHER MARKETING TOOLS, AND MUST INCLUDE AN OPTION FOR DIRECT CARE WORKERS AND DIRECT CARE CONSUMERS TO PROVIDE THE DIRECT CARE WORKER'S, DIRECT CARE EMPLOYER'S, OR DIRECT CARE CONSUMER'S NAME, MAILING ADDRESS, E-MAIL ADDRESS, AND TELEPHONE NUMBER FOR PURPOSES OF RECEIVING ONGOING COMMUNICATIONS FROM THE BOARD ABOUT OPPORTUNITIES FOR ENGAGEMENT WITH THE BOARD.

(II) FOR PURPOSES OF FACILITATING ENGAGEMENT WITH AND INPUT FROM DIRECT CARE WORKERS, DIRECT CARE EMPLOYERS, AND DIRECT CARE CONSUMERS, THE BOARD SHALL HOST AT LEAST FOUR PUBLIC HEARINGS BEFORE FINALIZING ITS INITIAL RECOMMENDATIONS FOR MINIMUM DIRECT CARE EMPLOYMENT STANDARDS. THE BOARD SHALL:

(A) SCHEDULE PUBLIC HEARINGS AT VARIABLE TIMES OF THE DAY AND DAYS OF THE WEEK THROUGHOUT THE YEAR, INCLUDING AT LEAST ONE MEETING SCHEDULED ON A WEEKEND, ONE MEETING SCHEDULED IN THE EVENING, AND ONE MEETING SCHEDULED IN THE MORNING;

(B) PROVIDE NOTICE OF EACH HEARING, INCLUDING THE DATE, TIME, AND LOCATION OF THE HEARING AND THE NAME AND CONTACT INFORMATION FOR EACH MEMBER OF THE BOARD, AT LEAST THIRTY DAYS IN ADVANCE OF THE HEARING AND SHALL ENLIST ASSISTANCE FROM THE DEPARTMENT OF

LABOR AND EMPLOYMENT AND THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AS WELL AS EMPLOYER ORGANIZATIONS, WORKER ORGANIZATIONS, CONSUMER ADVOCACY GROUPS, AND OTHER STAKEHOLDERS IN THE DIRECT CARE INDUSTRY, TO PROVIDE NOTICE OF THE HEARING TO DIRECT CARE WORKERS, DIRECT CARE EMPLOYERS, DIRECT CARE CONSUMERS, AND OTHER INTERESTED PARTIES; AND

(C) INCLUDE IN THE NOTICE AN OPTION FOR DIRECT CARE WORKERS, DIRECT CARE EMPLOYERS, AND DIRECT CARE CONSUMERS TO PROVIDE THE DIRECT CARE WORKER'S, DIRECT CARE EMPLOYER'S, OR DIRECT CARE CONSUMER'S NAME, MAILING ADDRESS, E-MAIL ADDRESS, AND TELEPHONE NUMBER FOR PURPOSES OF RECEIVING ONGOING COMMUNICATIONS FROM THE BOARD REGARDING THE ACTIVITIES OF THE BOARD AND OPPORTUNITIES FOR DIRECT CARE WORKERS, DIRECT CARE EMPLOYERS, AND DIRECT CARE CONSUMERS TO PARTICIPATE IN HEARINGS AND TO PROVIDE INPUT TO THE BOARD. A DEPARTMENT OR OTHER ENTITY THAT RECEIVES AN INDICATION OF INTEREST FROM A DIRECT CARE WORKER, A DIRECT CARE EMPLOYER, OR A DIRECT CARE CONSUMER SHALL FORWARD THAT INFORMATION TO THE BOARD.

(3) (a) BY SEPTEMBER 1, 2024, THE BOARD SHALL REPORT ANY RECOMMENDATIONS FOR INITIAL STANDARDS FOR DIRECT CARE WORKER COMPENSATION, WORKING HOURS, AND OTHER WORKING CONDITIONS, INCLUDING RECOMMENDATIONS FOR LEGISLATION OR ADMINISTRATIVE RULES OR ORDERS, THAT THE BOARD APPROVES IN ACCORDANCE WITH SECTION 8-7.5-103 (6) TO THE GOVERNOR AND TO THE BUSINESS AFFAIRS AND LABOR COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR THEIR SUCCESSOR COMMITTEES.

(b) NO LATER THAN TWO YEARS AFTER THE BOARD REPORTS ITS INITIAL MINIMUM DIRECT CARE EMPLOYMENT STANDARDS RECOMMENDATIONS PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION, AND AT LEAST ONCE EVERY TWO YEARS THEREAFTER, THE BOARD SHALL CONDUCT A REVIEW OF THE DIRECT CARE INDUSTRY AND DEVELOP RECOMMENDATIONS IN ACCORDANCE WITH SUBSECTIONS (1) AND (2) OF THIS SECTION. THE BOARD SHALL REPORT ITS RECOMMENDATIONS AS SPECIFIED IN SUBSECTION (3)(a) OF THIS SECTION.

(c) IN ADDITION TO THE BOARD'S BIENNIAL REVIEW OF THE DIRECT

CARE INDUSTRY PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION, THE EXECUTIVE DIRECTOR MAY CONVENE THE BOARD AT OTHER TIMES TO CONDUCT A REVIEW OF MINIMUM DIRECT CARE EMPLOYMENT STANDARDS IF THE EXECUTIVE DIRECTOR DETERMINES THAT A REVIEW IS NECESSARY.

(4) NOTHING IN THIS SECTION:

(a) LIMITS THE RIGHTS OF PARTIES TO A COLLECTIVE BARGAINING AGREEMENT TO BARGAIN AND AGREE WITH RESPECT TO DIRECT CARE EMPLOYMENT STANDARDS;

(b) DIMINISHES THE OBLIGATION OF A DIRECT CARE EMPLOYER TO COMPLY WITH ANY CONTRACT, COLLECTIVE BARGAINING AGREEMENT, OR EMPLOYMENT BENEFIT PROGRAM OR PLAN THAT MEETS OR EXCEEDS, AND DOES NOT CONFLICT WITH, ANY MINIMUM DIRECT CARE EMPLOYMENT STANDARDS ENACTED INTO LAW OR ADOPTED BY RULE; OR

(c) DIMINISHES THE RIGHTS OF AN ELIGIBLE PERSON, AS DEFINED IN SECTION 25.5-6-1101 (4), PARTICIPATING IN THE CONSUMER-DIRECTED CARE SERVICE MODEL PURSUANT TO PART 11 OF ARTICLE 6 OF TITLE 25.5 TO CONTROL AND MANAGE THE ELIGIBLE PERSON'S SERVICES, INCLUDING THE RIGHT TO HIRE, FIRE, SCHEDULE, AND SET WAGES FOR DIRECT CARE WORKERS WHO PROVIDE DIRECT CARE SERVICES TO THE ELIGIBLE PERSON WITHIN PARAMETERS SET IN CURRENT STATE AND LOCAL LAW.

8-7.5-105. Notice to direct care workers - duty of direct care employers - posting on state websites - board review and recommendations - rules. (1) (a) STARTING JANUARY 1, 2025, EACH DIRECT CARE EMPLOYER SHALL ANNUALLY PROVIDE A NOTICE TO DIRECT CARE WORKERS EMPLOYED BY THE DIRECT CARE EMPLOYER INFORMING THE DIRECT CARE WORKERS OF THE FOLLOWING:

(I) THE RIGHTS OF DIRECT CARE WORKERS AND THE OBLIGATIONS OF DIRECT CARE EMPLOYERS PROVIDED UNDER THIS ARTICLE 7.5, INCLUDING THEIR RIGHTS TO PARTICIPATE IN PUBLIC HEARINGS THAT THE BOARD CONDUCTS AND TO PROVIDE WRITTEN OR ORAL TESTIMONY TO THE BOARD;

(II) ALL CURRENT MINIMUM DIRECT CARE EMPLOYMENT STANDARDS AND ANY LOCAL JURISDICTION MINIMUM DIRECT CARE EMPLOYMENT STANDARDS; AND

(III) THE CONTACT INFORMATION FOR, AND A STATEMENT THAT THE DIRECT CARE WORKER MAY CONTACT, THE DEPARTMENT FOR ASSISTANCE AND INFORMATION REGARDING THE RIGHTS AND OBLIGATIONS UNDER THIS ARTICLE 7.5 AND ANY STANDARDS DESCRIBED IN SUBSECTION (1)(a)(II) OF THIS SECTION.

(b) A DIRECT CARE EMPLOYER SHALL PROVIDE THE NOTICE DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION USING THE SAME MEANS THAT THE DIRECT CARE EMPLOYER USES TO PROVIDE OTHER WORK-RELATED NOTICES TO DIRECT CARE WORKERS.

(c) (I) THE BOARD SHALL MAKE AVAILABLE TO DIRECT CARE EMPLOYERS A TEMPLATE OR SAMPLE NOTICE THAT SATISFIES THE REQUIREMENTS OF THIS SECTION AND RULES ADOPTED BY THE DEPARTMENT PURSUANT TO THIS TITLE 8 REGARDING OTHER REQUIRED EMPLOYER NOTICES PERTAINING TO WAGES, PAY EQUITY, LABOR CONDITIONS, AND FAMILY AND MEDICAL LEAVE BENEFITS. DIRECT CARE EMPLOYERS SHALL PROVIDE THE BOARD WITH COPIES OF ANY NOTICES GIVEN TO DIRECT CARE WORKERS PURSUANT TO THIS SECTION.

(II) THE BOARD SHALL PROVIDE, IN AN ACCESSIBLE FORMAT, THE TEMPLATE OR SAMPLE NOTICE DESCRIBED IN SUBSECTION (1)(c)(I) OF THIS SECTION TO AN ELIGIBLE PERSON, AS DEFINED IN SECTION 25.5-6-1101 (4), PARTICIPATING IN THE CONSUMER-DIRECTED CARE SERVICE MODEL PURSUANT TO PART 11 OF ARTICLE 6 OF TITLE 25.5.

(2) THE DEPARTMENT OF LABOR AND EMPLOYMENT, THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AND THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL POST THE NOTICE DESCRIBED IN SUBSECTION (1) OF THIS SECTION ON THEIR RESPECTIVE PUBLIC-FACING WEBSITES.

(3) (a) THE BOARD SHALL REVIEW THE MANNER IN WHICH DIRECT CARE WORKERS ARE INFORMED OF THEIR RIGHTS AND THE OBLIGATIONS OF DIRECT CARE EMPLOYERS UNDER THIS ARTICLE 7.5 AND UNDER OTHER APPLICABLE STATE STATUTES AND RULES AND SHALL MAKE RECOMMENDATIONS TO THE DEPARTMENT OF LABOR AND EMPLOYMENT, THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AND THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT ON METHODS TO IMPROVE THE STATE'S ABILITY TO COMMUNICATE WITH DIRECT CARE

WORKERS REGARDING THE WORKERS' RIGHTS AND THE OBLIGATIONS OF DIRECT CARE EMPLOYERS.

(b) THE DEPARTMENTS SPECIFIED IN SUBSECTION (3)(a) OF THIS SECTION SHALL REVIEW THE BOARD RECOMMENDATIONS AND ADOPT OR AMEND ANY RULES THE DEPARTMENTS DETERMINE WOULD IMPROVE THE TRANSMISSION OF INFORMATION TO DIRECT CARE WORKERS.

8-7.5-106. Retaliation. (1) A DIRECT CARE EMPLOYER SHALL NOT RETALIATE AGAINST A DIRECT CARE WORKER, INCLUDING TAKING RETALIATORY PERSONNEL ACTION, FOR:

(a) EXERCISING ANY RIGHT AFFORDED TO THE DIRECT CARE WORKER UNDER THIS ARTICLE 7.5; OR

(b) PARTICIPATING IN ANY PROCESS OR PROCEEDING UNDER THIS ARTICLE 7.5, INCLUDING BOARD HEARINGS, INVESTIGATIONS, OR OTHER PROCEEDINGS.

(2) A DIRECT CARE EMPLOYER SHALL NOT RETALIATE AGAINST A DIRECT CARE CONSUMER FOR ADVOCATING FOR A DIRECT CARE WORKER OR ASSISTING A DIRECT CARE WORKER IN REPORTING MISCONDUCT TO THE DEPARTMENT. RETALIATION INCLUDES DROPPING A DIRECT CARE CONSUMER FROM SERVICES BECAUSE THE DIRECT CARE CONSUMER ADVOCATED FOR DIRECT CARE WORKERS.

8-7.5-107. Repeal of article - subject to review. THIS ARTICLE 7.5 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2029. BEFORE THE REPEAL, THE BOARD IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

SECTION 2. In Colorado Revised Statutes, 24-34-104, **add** (30)(a)(VIII) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (30) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2029:

(VIII) THE DIRECT CARE WORKFORCE STABILIZATION BOARD

CREATED IN ARTICLE 7.5 OF TITLE 8.

SECTION 3. Appropriation. (1) For the 2023-24 state fiscal year, \$186,876 is appropriated to the department of labor and employment for use by the executive director's office. This appropriation is from the general fund. To implement this act, the office may use this appropriation as follows:

(a) \$77,915 for personal services, which amount is based on an assumption that the office will require an additional 0.9 FTE; and

(b) \$108,961 for operating expenses.

(2) Of the money appropriated under subsection (1)(b) of this section not expended prior to July 1, 2024, \$75,000 is further appropriated to the department for the 2024-25 state fiscal year.

(3) For the 2023-24 state fiscal year, \$60,358 is appropriated to the department of health care policy and financing for use by the executive director's office. This appropriation is from the general fund. To implement this act, the office may use this appropriation as follows:

(a) \$52,608 for personal services, which amount is based on an assumption that the office will require an additional 1.6 FTE; and

(b) \$7,750 for operating expenses.

(4) For the 2023-24 state fiscal year, the general assembly anticipates that the department of health care policy and financing will receive \$60,358 in federal funds to implement this act, which amount is subject to the "(I)" notation as defined in the annual general appropriation act for the same fiscal year. The appropriation in subsection (3) of this section is based on the assumption that the department will receive this amount of federal funds to be used as follows:

(a) \$52,608 for personal services; and

(b) \$7,750 for operating expenses.

SECTION 4. Act subject to petition - effective date. This act

takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Steve Fenberg
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO