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HOUSE BILL 19-1237

BY REPRESENTATIVE(S) Cutter and Will, Arndt, Benavidez, Bird, Buckner, Buentello, Caraveo, Duran, Exum, Galindo, Gonzales-Gutierrez, Gray, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, McCluskie, McLachlan, Michaelson Jenet, Titone, Esgar, Herod, Kraft-Tharp, Lontine, Sirota, Snyder, Valdez D., Becker;
also SENATOR(S) Woodward and Ginal, Pettersen, Story, Todd.

CONCERNING LICENSING BEHAVIORAL HEALTH ENTITIES, 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 27.6 to title 25 as follows:

ARTICLE 27.6
Behavioral Health Entities

25-27.6-101. Legislative declaration. (1) THE GENERAL ASSEMBLY DECLARES THAT IN ORDER TO PROMOTE THE PUBLIC HEALTH AND WELFARE OF THE PEOPLE OF COLORADO, IT IS IN THE PUBLIC INTEREST TO ESTABLISH AND STREAMLINE MINIMUM STANDARDS AND RULES FOR BEHAVIORAL

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.

HEALTH ENTITIES OPERATING IN THE STATE OF COLORADO AND TO PROVIDE THE AUTHORITY FOR THE ADMINISTRATION AND ENFORCEMENT OF SUCH MINIMUM STANDARDS AND RULES. THESE STANDARDS AND RULES MUST BE SUFFICIENT TO ENSURE THE HEALTH, SAFETY, AND WELFARE OF BEHAVIORAL HEALTH ENTITY CONSUMERS.

(2) THE INTENT OF CREATING THE BEHAVIORAL HEALTH ENTITY LICENSE IS TO:

(a) PROVIDE A SINGLE, FLEXIBLE LICENSE CATEGORY UNDER WHICH COMMUNITY-BASED BEHAVIORAL HEALTH SERVICE PROVIDERS CAN PROVIDE INTEGRATED MENTAL HEALTH DISORDER, ALCOHOL USE DISORDER, AND SUBSTANCE USE DISORDER SERVICES AND MEET A CONSUMER'S CONTINUUM OF NEEDS, FROM CRISIS STABILIZATION TO ONGOING TREATMENT;

(b) PROVIDE A REGULATORY FRAMEWORK FOR INNOVATIVE BEHAVIORAL HEALTH SERVICE DELIVERY MODELS TO MEET THE NEEDS OF BOTH INDIVIDUALS AND COMMUNITIES;

(c) INCREASE PARITY IN THE OVERSIGHT AND PROTECTION OF CONSUMERS' HEALTH, SAFETY, AND WELFARE BETWEEN PHYSICAL HEALTH AND BEHAVIORAL HEALTH REGARDLESS OF THE PAYMENT SOURCE; AND

(d) STREAMLINE AND CONSOLIDATE THE CURRENT REGULATORY STRUCTURE TO ENHANCE COMMUNITY PROVIDERS' ABILITY TO DELIVER TIMELY AND NEEDED SERVICES, WHILE ENSURING CONSUMER SAFETY.

(3) FURTHER, THE GENERAL ASSEMBLY DETERMINES AND DECLARES THAT, IN ADMINISTERING AND ENFORCING STANDARDS FOR BEHAVIORAL HEALTH ENTITIES, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHOULD FOCUS ON BEHAVIORAL HEALTH ENTITY CONSUMER SAFETY AND OUTCOMES; REDUCING REGULATORY GAPS, DUPLICATION, AND CONFLICTS THAT HINDER ACCESS TO CARE; AND ALLOWING FOR NEW, INNOVATIVE BEHAVIORAL HEALTH SERVICE TYPES WITH MINIMAL BARRIERS.

(4) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE BEHAVIORAL HEALTH ENTITY LICENSE IS IMPLEMENTED IN TWO SEPARATE PHASES AS FOLLOWS:

(a) PHASE ONE IMPLEMENTATION INCLUDES THE INCORPORATION OF

A FACILITY CURRENTLY LICENSED OR PREVIOUSLY ELIGIBLE FOR LICENSURE AS AN ACUTE TREATMENT UNIT OR AS A COMMUNITY MENTAL HEALTH CENTER, COMMUNITY MENTAL HEALTH CLINIC, OR CRISIS STABILIZATION UNIT THAT WAS LICENSED AS A COMMUNITY CLINIC. SUCH A FACILITY WILL TRANSITION TO THE BEHAVIORAL HEALTH ENTITY LICENSE NO LATER THAN JULY 1, 2022, IN ACCORDANCE WITH SECTION 25-27.6-104 (1).

(b) PHASE TWO IMPLEMENTATION INCLUDES THE INCORPORATION OF BEHAVIORAL HEALTH ENTITIES THAT PROVIDE BEHAVIORAL HEALTH SERVICES FOR THE TREATMENT OF ALCOHOL USE DISORDERS AND SUBSTANCE USE DISORDERS; EXCEPT THAT PHASE TWO SHALL NOT INCLUDE CONTROLLED SUBSTANCE LICENSES CURRENTLY ISSUED BY THE DEPARTMENT OF HUMAN SERVICES, WHICH SHALL BE STUDIED BY THE BEHAVIORAL HEALTH ENTITY IMPLEMENTATION AND ADVISORY COMMITTEE ESTABLISHED PURSUANT TO SECTION 25-27.6-103. SUCH ENTITIES SHALL APPLY FOR LICENSURE AS BEHAVIORAL HEALTH ENTITIES NO LATER THAN JULY 1, 2024, IN ACCORDANCE WITH SECTION 25-27.6-104 (1).

25-27.6-102. Definitions. AS USED IN THIS ARTICLE 27.6, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ACUTE TREATMENT UNIT" MEANS A FACILITY OR A DISTINCT PART OF A FACILITY FOR SHORT-TERM PSYCHIATRIC CARE, WHICH MAY INCLUDE TREATMENT FOR SUBSTANCE USE DISORDERS, THAT PROVIDES A TOTAL, TWENTY-FOUR-HOUR, THERAPEUTICALLY PLANNED AND PROFESSIONALLY STAFFED ENVIRONMENT FOR PERSONS WHO DO NOT REQUIRE INPATIENT HOSPITALIZATION BUT NEED MORE INTENSE AND INDIVIDUAL SERVICES THAN ARE AVAILABLE ON AN OUTPATIENT BASIS, SUCH AS CRISIS MANAGEMENT AND STABILIZATION SERVICES.

(2) "ALCOHOL USE DISORDER" MEANS A CHRONIC RELAPSING BRAIN DISEASE CHARACTERIZED BY RECURRENT USE OF ALCOHOL CAUSING CLINICALLY SIGNIFICANT IMPAIRMENT, INCLUDING HEALTH PROBLEMS, DISABILITY, AND FAILURE TO MEET MAJOR RESPONSIBILITIES AT WORK, SCHOOL, AND HOME.

(3) "ALCOHOL USE DISORDER PROGRAM" MEANS A PROGRAM FOR DIAGNOSIS, TREATMENT, AND REHABILITATION OF A PERSON WITH AN ALCOHOL USE DISORDER.

(4) "BEHAVIORAL HEALTH" REFERS TO AN INDIVIDUAL'S MENTAL AND EMOTIONAL WELL-BEING AND ACTIONS THAT AFFECT AN INDIVIDUAL'S OVERALL WELLNESS. BEHAVIORAL HEALTH ISSUES AND DISORDERS INCLUDE SUBSTANCE USE DISORDERS, SERIOUS PSYCHOLOGICAL DISTRESS, SUICIDE, AND OTHER MENTAL HEALTH DISORDERS, AND RANGE FROM UNHEALTHY STRESS OR SUBCLINICAL CONDITIONS TO DIAGNOSABLE AND TREATABLE DISEASES. THE TERM "BEHAVIORAL HEALTH" IS ALSO USED TO DESCRIBE SERVICE SYSTEMS THAT ENCOMPASS PREVENTION AND PROMOTION OF EMOTIONAL HEALTH AND PREVENTION AND TREATMENT SERVICES FOR MENTAL HEALTH AND SUBSTANCE USE DISORDERS.

(5) "BEHAVIORAL HEALTH DISORDER" MEANS ONE OR MORE OF THE FOLLOWING:

(a) AN ALCOHOL USE DISORDER AS DEFINED IN SUBSECTION (2) OF THIS SECTION;

(b) A MENTAL HEALTH DISORDER, AS DEFINED IN SUBSECTION (12) OF THIS SECTION; OR

(c) A SUBSTANCE USE DISORDER, AS DEFINED IN SUBSECTION (14) OF THIS SECTION.

(6) "BEHAVIORAL HEALTH ENTITY" MEANS A FACILITY OR PROVIDER ORGANIZATION ENGAGED IN PROVIDING COMMUNITY-BASED HEALTH SERVICES, WHICH MAY INCLUDE BEHAVIORAL HEALTH DISORDER SERVICES, ALCOHOL USE DISORDER SERVICES, OR SUBSTANCE USE DISORDER SERVICES, INCLUDING CRISIS STABILIZATION, ACUTE OR ONGOING TREATMENT, OR COMMUNITY MENTAL HEALTH CENTER SERVICES AS DESCRIBED IN SECTION 27-66-101 (2) AND (3), BUT DOES NOT INCLUDE:

(a) RESIDENTIAL CHILD CARE FACILITIES AS DEFINED IN SECTION 26-6-102 (33); OR

(b) SERVICES PROVIDED BY A LICENSED OR CERTIFIED MENTAL HEALTH CARE PROVIDER UNDER THE PROVIDER'S INDIVIDUAL PROFESSIONAL PRACTICE ACT ON THE PROVIDER'S OWN PREMISES.

(7) "COMMUNITY-BASED" MEANS OUTSIDE OF A HOSPITAL, PSYCHIATRIC HOSPITAL, OR NURSING HOME.

(8) "COMMUNITY MENTAL HEALTH CENTER" HAS THE SAME MEANING AS DEFINED IN SECTION 27-66-101 (2).

(9) "COMMUNITY MENTAL HEALTH CLINIC" MEANS A HEALTH INSTITUTION PLANNED, ORGANIZED, OPERATED, AND MAINTAINED TO PROVIDE BASIC COMMUNITY SERVICES FOR THE PREVENTION, DIAGNOSIS, AND TREATMENT OF EMOTIONAL, BEHAVIORAL, OR MENTAL HEALTH DISORDERS, SUCH SERVICES BEING RENDERED PRIMARILY ON AN OUTPATIENT AND CONSULTATIVE BASIS.

(10) "CRISIS STABILIZATION UNIT" MEANS A FACILITY THAT PROVIDES SHORT-TERM, BED-BASED CRISIS STABILIZATION SERVICES IN A TWENTY-FOUR-HOUR ENVIRONMENT FOR INDIVIDUALS WHO CANNOT BE SERVED IN A LESS RESTRICTIVE ENVIRONMENT.

(11) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(12) "MENTAL HEALTH DISORDER" MEANS ONE OR MORE SUBSTANTIAL DISORDERS OF THE COGNITIVE, VOLITIONAL, OR EMOTIONAL PROCESSES THAT GROSSLY IMPAIRS JUDGMENT OR CAPACITY TO RECOGNIZE REALITY OR TO CONTROL BEHAVIOR. AN INTELLECTUAL OR DEVELOPMENTAL DISABILITY ALONE IS INSUFFICIENT TO EITHER JUSTIFY OR EXCLUDE A FINDING OF A MENTAL HEALTH DISORDER.

(13) "STATE BOARD" MEANS THE STATE BOARD OF HEALTH.

(14) "SUBSTANCE USE DISORDER" MEANS A CHRONIC RELAPSING BRAIN DISEASE, CHARACTERIZED BY RECURRENT USE OF ALCOHOL, DRUGS, OR BOTH, CAUSING CLINICALLY SIGNIFICANT IMPAIRMENT, INCLUDING HEALTH PROBLEMS, DISABILITY, AND FAILURE TO MEET MAJOR RESPONSIBILITIES AT WORK, SCHOOL, OR HOME.

(15) "SUBSTANCE USE DISORDER PROGRAM" MEANS A PROGRAM FOR THE DETOXIFICATION, WITHDRAWAL, OR MAINTENANCE TREATMENT OF A PERSON WITH A SUBSTANCE USE DISORDER.

25-27.6-103. Behavioral health entity implementation and advisory committee - creation - membership - duties - repeal. (1) THERE IS ESTABLISHED IN THE DEPARTMENT THE BEHAVIORAL HEALTH ENTITY

IMPLEMENTATION AND ADVISORY COMMITTEE, REFERRED TO IN THIS SECTION AS THE "COMMITTEE". THE COMMITTEE SHALL:

(a) OFFER ADVICE TO THE DEPARTMENT AND THE STATE BOARD CONCERNING THE PHASED-IN IMPLEMENTATION OF THE BEHAVIORAL HEALTH ENTITY LICENSE, RULES PROMULGATED BY THE STATE BOARD PURSUANT TO THIS ARTICLE 27.6, AND IMPLEMENTATION OF THE BEHAVIORAL HEALTH ENTITY LICENSING TRANSITION;

(b) PROVIDE ONGOING ADVICE TO THE DEPARTMENT REGARDING BEHAVIORAL HEALTH ENTITIES AND BEHAVIORAL HEALTH ENTITY LICENSING; AND

(c) IDENTIFY A COORDINATED AND ALIGNED PROCESS OF SHARING INFORMATION ACROSS STATE DEPARTMENTS TO ENSURE BEHAVIORAL HEALTH SERVICES ARE AVAILABLE TO ALL RESIDENTS OF COLORADO.

(2) (a) THE COMMITTEE CONSISTS OF:

(I) THE EXECUTIVE DIRECTORS OF THE DEPARTMENTS OF PUBLIC HEALTH AND ENVIRONMENT, HUMAN SERVICES, HEALTH CARE POLICY AND FINANCING, AND PUBLIC SAFETY OR THEIR DESIGNEES; AND

(II) THE FOLLOWING MEMBERS TO BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:

(A) ONE MEMBER THAT REPRESENTS CRISIS STABILIZATION UNITS OR ACUTE TREATMENT UNITS;

(B) ONE MEMBER THAT REPRESENTS COMMUNITY MENTAL HEALTH CENTERS;

(C) ONE MEMBER THAT REPRESENTS A MENTAL HEALTH PROVIDER THAT IS NOT A COMMUNITY MENTAL HEALTH CENTER;

(D) ONE MEMBER THAT REPRESENTS A PROVIDER OF SUBSTANCE USE DISORDER TREATMENT SERVICES THAT IS NOT A COMMUNITY HEALTH CENTER;

(E) ONE MEMBER THAT REPRESENTS A PROVIDER OF SUBSTANCE USE

DISORDER WITHDRAWAL MANAGEMENT SERVICES THAT IS NOT A COMMUNITY HEALTH CENTER;

(F) ONE MEMBER THAT REPRESENTS A PROVIDER OF SUBSTANCE USE DISORDER SERVICES THAT MEETS THE DEFINITION OF BEHAVIORAL HEALTH ENTITY IN SECTION 25-27.6-102 (6) BUT HAS NOT BEEN SUBJECT TO LICENSURE BY THE DEPARTMENT;

(G) ONE MEMBER THAT REPRESENTS A SUBSTANCE USE TREATMENT PROVIDER FROM A RURAL OR FRONTIER COUNTY;

(H) ONE MEMBER WHO IS A CONSUMER WHO HAS EXPERIENCE LIVING WITH A SUBSTANCE USE DISORDER;

(I) ONE MEMBER THAT REPRESENTS BEHAVIORAL HEALTH CONSUMERS;

(J) ONE MEMBER THAT REPRESENTS FAMILY MEMBERS OF PERSONS WITH A BEHAVIORAL HEALTH DISORDER; AND

(K) ONE MEMBER FROM AN ADVOCACY ORGANIZATION THAT REPRESENTS BEHAVIORAL HEALTH CONSUMERS.

(b) IN MAKING THE APPOINTMENTS PURSUANT TO SUBSECTION (2)(a)(II), THE EXECUTIVE DIRECTOR SHALL CONSIDER THE GEOGRAPHIC DIVERSITY OF THE STATE.

(3) THE EXECUTIVE DIRECTORS SHALL AGREE TO SERVE OR MAKE THEIR DESIGNATIONS NO LATER THAN SEPTEMBER 1, 2019. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL MAKE HIS OR HER INITIAL APPOINTMENTS BY OCTOBER 1, 2019. IN CASE OF A VACANCY, AN EXECUTIVE DIRECTOR SHALL AGREE TO SERVE OR MAKE A DESIGNATION, AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL MAKE THE REPLACEMENT APPOINTMENT AS SOON AS PRACTICABLE.

(4) MEMBERS OF THE COMMITTEE SERVE ON A VOLUNTARY BASIS AND SERVE WITHOUT COMPENSATION; EXCEPT THAT MEMBERS ARE REIMBURSED FOR THE ACTUAL AND REASONABLE EXPENSES INCURRED WHILE PERFORMING THEIR DUTIES.

(5) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2025. BEFORE THE REPEAL, THE COMMITTEE IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 2-3-1203.

25-27.6-104. License required - criminal and civil penalties.

(1) (a) ON OR AFTER JULY 1, 2022, IT IS UNLAWFUL FOR ANY PERSON, PARTNERSHIP, ASSOCIATION, OR CORPORATION TO CONDUCT OR MAINTAIN A BEHAVIORAL HEALTH ENTITY WITHOUT HAVING OBTAINED A LICENSE FROM THE DEPARTMENT.

(b) ON OR AFTER JULY 1, 2021, AN ENTITY SEEKING INITIAL LICENSURE AS A BEHAVIORAL HEALTH ENTITY SHALL APPLY FOR A BEHAVIORAL HEALTH ENTITY LICENSE IF THE ENTITY WOULD PREVIOUSLY HAVE BEEN LICENSED AS AN ACUTE TREATMENT UNIT OR AS A COMMUNITY MENTAL HEALTH CENTER, COMMUNITY MENTAL HEALTH CLINIC, OR CRISIS STABILIZATION UNIT LICENSED AS A COMMUNITY CLINIC.

(c) A FACILITY LICENSED AS OF JUNE 30, 2021, AS AN ACUTE TREATMENT UNIT, COMMUNITY MENTAL HEALTH CENTER, COMMUNITY MENTAL HEALTH CLINIC, OR CRISIS STABILIZATION UNIT LICENSED AS A COMMUNITY CLINIC SHALL APPLY FOR A BEHAVIORAL HEALTH ENTITY LICENSE PRIOR TO THE EXPIRATION OF THE FACILITY'S CURRENT LICENSE. SUCH A FACILITY IS SUBJECT TO THE STANDARDS UNDER WHICH IT IS LICENSED AS OF JULY 1, 2021, UNTIL SUCH TIME AS THE BEHAVIORAL HEALTH ENTITY LICENSE IS ISSUED.

(2) ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION IS GUILTY OF A MISDEMEANOR, AND UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN FIFTY DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS AND MAY BE SUBJECT TO A CIVIL PENALTY ASSESSED BY THE DEPARTMENT OF NOT LESS THAN FIFTY DOLLARS NOR MORE THAN ONE HUNDRED DOLLARS FOR EACH DAY THE PERSON IS IN VIOLATION OF THIS SECTION. THE ASSESSED PENALTY ACCRUES FROM THE DATE THE DEPARTMENT FINDS THAT THE PERSON IS IN VIOLATION OF THIS SECTION. THE DEPARTMENT SHALL ASSESS, ENFORCE, AND COLLECT THE PENALTY IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24 AND CREDIT THE MONEY TO THE GENERAL FUND. ENFORCEMENT AND COLLECTION OF THE PENALTY OCCURS FOLLOWING THE DECISION REACHED IN ACCORDANCE WITH PROCEDURES SET FORTH IN SECTION 24-4-105.

25-27.6-105. Minimum standards for behavioral health entities

- **rules.** (1) ON OR BEFORE APRIL 30, 2021, THE STATE BOARD SHALL PROMULGATE RULES PURSUANT TO SECTION 24-4-103 PROVIDING MINIMUM STANDARDS FOR THE OPERATION OF BEHAVIORAL HEALTH ENTITIES WITHIN THE STATE. IN PROMULGATING THE RULES, THE STATE BOARD SHALL ESTABLISH REQUIREMENTS APPROPRIATE TO THE VARIOUS TYPES OF SERVICES PROVIDED BY BEHAVIORAL HEALTH ENTITIES.

(2) ON OR BEFORE APRIL 30, 2021, THE STATE BOARD SHALL PROMULGATE RULES THAT MUST INCLUDE THE FOLLOWING:

(a) BASIC REQUIREMENTS TO BE MET BY ALL BEHAVIORAL HEALTH ENTITIES TO ENSURE THE HEALTH, SAFETY, AND WELFARE OF ALL BEHAVIORAL HEALTH ENTITY CONSUMERS, INCLUDING, AT A MINIMUM:

(I) CONSUMER ASSESSMENT, CARE COORDINATION, PATIENT RIGHTS, AND CONSUMER NOTICE REQUIREMENTS;

(II) ADMINISTRATIVE AND OPERATIONAL STANDARDS FOR GOVERNANCE; CONSUMER RECORDS AND RECORD RETENTION; PERSONNEL, ADMISSION, AND DISCHARGE CRITERIA; POLICIES AND PROCEDURES; AND QUALITY MANAGEMENT;

(III) PHYSICAL PLANT STANDARDS, INCLUDING INFECTION CONTROL; AND

(IV) OCCURRENCE REPORTING REQUIREMENTS PROMULGATED PURSUANT TO SECTION 25-1-124;

(b) SERVICE-SPECIFIC REQUIREMENTS THAT APPLY ONLY TO BEHAVIORAL HEALTH ENTITIES ELECTING TO PROVIDE THAT SERVICE, INCLUDING, AT A MINIMUM, STANDARDS FOR THE SERVICES INCLUDED IN THE DEFINITIONS IN SECTION 25-27.6-102 OF ACUTE TREATMENT UNIT, COMMUNITY MENTAL HEALTH CENTER, COMMUNITY MENTAL HEALTH CLINIC, CRISIS STABILIZATION UNIT, AND WALK-IN CENTERS THAT MEET THE REGULATORY REQUIREMENTS FOR LICENSING AND OPERATIONS;

(c) MANDATORY DEPARTMENT INSPECTIONS OF BEHAVIORAL HEALTH ENTITIES;

(d) BEHAVIORAL HEALTH ENTITY WRITTEN PLANS, DETAILING THE MEASURES THAT WILL BE TAKEN TO CORRECT VIOLATIONS FOUND AS A RESULT OF INSPECTIONS, SUBMITTED TO THE DEPARTMENT FOR APPROVAL;

(e) INTERMEDIATE ENFORCEMENT REMEDIES IMPOSED BY THE DEPARTMENT AS AUTHORIZED IN SECTION 25-27.6-110 (2)(b);

(f) FACTORS FOR BEHAVIORAL HEALTH ENTITIES TO CONSIDER WHEN DETERMINING WHETHER AN APPLICANT'S CONVICTION OF OR PLEA OF GUILTY OR NOLO CONTENDERE TO AN OFFENSE DISQUALIFIES THE APPLICANT FROM EMPLOYMENT WITH THE BEHAVIORAL HEALTH ENTITY. THE STATE BOARD MAY DETERMINE WHICH OFFENSES REQUIRE CONSIDERATION OF THESE FACTORS.

(g) TIMELINES FOR COMPLIANCE WITH BEHAVIORAL HEALTH ENTITY STANDARDS THAT EXCEED THE STANDARDS UNDER WHICH A BEHAVIORAL HEALTH ENTITY WAS PREVIOUSLY LICENSED OR APPROVED.

25-27.6-106. License - application - inspection - issuance. (1) AN APPLICATION FOR A LICENSE TO OPERATE A BEHAVIORAL HEALTH ENTITY MUST BE SUBMITTED TO THE DEPARTMENT ANNUALLY UPON THE FORM AND IN THE MANNER AS PRESCRIBED BY THE DEPARTMENT.

(2)(a)(I) THE DEPARTMENT SHALL INVESTIGATE AND REVIEW EACH ORIGINAL APPLICATION AND EACH RENEWAL APPLICATION FOR A LICENSE TO OPERATE A BEHAVIORAL HEALTH ENTITY. THE DEPARTMENT SHALL DETERMINE AN APPLICANT'S COMPLIANCE WITH THIS ARTICLE 27.6 AND THE RULES ADOPTED PURSUANT TO SECTION 25-27.6-105 BEFORE THE DEPARTMENT ISSUES A LICENSE.

(II) THE DEPARTMENT SHALL MAKE INSPECTIONS OF THE APPLICANT'S FACILITIES AS IT DEEMS NECESSARY TO ENSURE THAT THE HEALTH, SAFETY, AND WELFARE OF THE BEHAVIORAL HEALTH ENTITY'S CONSUMERS ARE BEING PROTECTED. THE BEHAVIORAL HEALTH ENTITY SHALL SUBMIT IN WRITING, IN A FORM PRESCRIBED BY THE DEPARTMENT, A PLAN DETAILING THE MEASURES THAT WILL BE TAKEN TO CORRECT ANY VIOLATIONS FOUND BY THE DEPARTMENT AS A RESULT OF INSPECTIONS UNDERTAKEN PURSUANT TO THIS SUBSECTION (2).

(b) THE DEPARTMENT SHALL KEEP ALL HEALTH CARE INFORMATION

OR DOCUMENTS OBTAINED DURING AN INSPECTION OR INVESTIGATION OF A BEHAVIORAL HEALTH ENTITY PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION CONFIDENTIAL. ALL RECORDS, INFORMATION, OR DOCUMENTS SO OBTAINED ARE EXEMPT FROM DISCLOSURE PURSUANT TO SECTIONS 24-72-204 AND 25-1-124.

(3) (a) WITH THE SUBMISSION OF AN APPLICATION FOR A LICENSE TO OPERATE A BEHAVIORAL HEALTH ENTITY, OR WITHIN TEN DAYS AFTER A CHANGE IN OWNER OR MANAGER OF A BEHAVIORAL HEALTH ENTITY, EACH OWNER AND MANAGER SHALL SUBMIT A COMPLETE SET OF HIS OR HER FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. THE COLORADO BUREAU OF INVESTIGATION SHALL FORWARD THE FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS. EACH OWNER AND EACH MANAGER SHALL PAY THE BUREAU THE COSTS ASSOCIATED WITH THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK. UPON COMPLETION OF THE CRIMINAL HISTORY RECORD CHECK, THE BUREAU SHALL FORWARD THE RESULTS TO THE DEPARTMENT. THE DEPARTMENT MAY ACQUIRE A NAME-BASED CRIMINAL HISTORY RECORD CHECK FOR AN APPLICANT WHO HAS TWICE SUBMITTED TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AND WHOSE FINGERPRINTS ARE UNCLASSIFIABLE.

(b) THE DEPARTMENT SHALL USE THE INFORMATION FROM THE CRIMINAL HISTORY RECORD CHECKS PERFORMED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION TO DETERMINE WHETHER THE PERSON APPLYING FOR LICENSURE HAS BEEN CONVICTED OF A FELONY OR MISDEMEANOR THAT INVOLVES CONDUCT THAT THE DEPARTMENT DETERMINES COULD POSE A RISK TO THE HEALTH, SAFETY, OR WELFARE OF BEHAVIORAL HEALTH ENTITY CONSUMERS. THE DEPARTMENT SHALL KEEP INFORMATION OBTAINED IN ACCORDANCE WITH THIS SECTION CONFIDENTIAL.

(4) THE DEPARTMENT SHALL NOT ISSUE A LICENSE TO OPERATE A BEHAVIORAL HEALTH ENTITY IF THE OWNER OR MANAGER OF THE BEHAVIORAL HEALTH ENTITY HAS BEEN CONVICTED OF A FELONY OR MISDEMEANOR THAT INVOLVES CONDUCT THAT THE DEPARTMENT DETERMINES COULD POSE A RISK TO THE HEALTH, SAFETY, OR WELFARE OF THE BEHAVIORAL HEALTH ENTITY'S CONSUMERS.

(5) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6) OF THIS SECTION, THE DEPARTMENT SHALL ISSUE OR RENEW A LICENSE TO OPERATE A BEHAVIORAL HEALTH ENTITY WHEN IT IS SATISFIED THAT THE APPLICANT OR LICENSEE IS IN COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN THIS ARTICLE 27.6 AND THE RULES PROMULGATED PURSUANT TO THIS ARTICLE 27.6. EXCEPT FOR PROVISIONAL LICENSES ISSUED IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION, A LICENSE ISSUED OR RENEWED PURSUANT TO THIS SECTION EXPIRES ONE YEAR AFTER THE DATE OF ISSUANCE OR RENEWAL.

(6) THE DEPARTMENT MAY ISSUE A PROVISIONAL LICENSE TO OPERATE A BEHAVIORAL HEALTH ENTITY TO AN APPLICANT FOR THE PURPOSE OF OPERATING A BEHAVIORAL HEALTH ENTITY FOR A PERIOD OF NINETY DAYS IF THE APPLICANT IS TEMPORARILY UNABLE TO CONFORM TO ALL OF THE MINIMUM STANDARDS REQUIRED PURSUANT TO THIS ARTICLE 27.6; EXCEPT THAT THE DEPARTMENT SHALL NOT ISSUE A PROVISIONAL LICENSE TO AN APPLICANT IF THE OPERATION OF THE BEHAVIORAL HEALTH ENTITY WILL ADVERSELY AFFECT THE HEALTH, SAFETY, OR WELFARE OF THE CONSUMERS OF THE BEHAVIORAL HEALTH ENTITY. AS A CONDITION OF OBTAINING A PROVISIONAL LICENSE, THE APPLICANT SHALL SHOW PROOF TO THE DEPARTMENT THAT ATTEMPTS ARE BEING MADE TO CONFORM AND COMPLY WITH THE APPLICABLE STANDARDS REQUIRED PURSUANT TO THIS ARTICLE 27.6. THE DEPARTMENT SHALL NOT GRANT A PROVISIONAL LICENSE PRIOR TO THE COMPLETION OF A CRIMINAL BACKGROUND CHECK IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION AND A DETERMINATION IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION. A SECOND PROVISIONAL LICENSE MAY BE ISSUED, FOR A LIKE TERM AND FEE, TO EFFECT COMPLIANCE. NO FURTHER PROVISIONAL LICENSES MAY BE ISSUED FOR THE CURRENT YEAR AFTER THE SECOND ISSUANCE.

25-27.6-107. License fees - rules. (1) (a) BY APRIL 30, 2021, THE STATE BOARD SHALL PROMULGATE RULES ESTABLISHING A SCHEDULE OF FEES SUFFICIENT TO MEET THE DIRECT AND INDIRECT COSTS OF ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE 27.6.

(b) THE DEPARTMENT SHALL ASSESS AND COLLECT, FROM BEHAVIORAL HEALTH ENTITIES SUBJECT TO LICENSURE PURSUANT TO SECTION 25-27.6-106, FEES IN ACCORDANCE WITH THE FEE SCHEDULE ESTABLISHED BY THE STATE BOARD.

(2) THE DEPARTMENT SHALL TRANSMIT FEES COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE BEHAVIORAL HEALTH ENTITY CASH FUND CREATED IN SECTION 25-27.6-108.

(3) FEES COLLECTED PURSUANT TO SUBSECTION (1) OF THIS SECTION MAY BE USED BY THE DEPARTMENT TO PROVIDE TECHNICAL ASSISTANCE AND EDUCATION TO BEHAVIORAL HEALTH ENTITIES RELATED TO COMPLIANCE WITH COLORADO LAW, IN ADDITION TO REGULATORY AND ADMINISTRATIVE FUNCTIONS. THE DEPARTMENT MAY CONTRACT WITH PRIVATE ENTITIES TO ASSIST THE DEPARTMENT IN PROVIDING TECHNICAL ASSISTANCE AND EDUCATION.

25-27.6-108. Behavioral health entity cash fund - created. THE BEHAVIORAL HEALTH ENTITY CASH FUND, REFERRED TO IN THE SECTION AS THE "FUND", IS CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY CREDITED TO THE FUND PURSUANT TO SECTION 25-27.6-107. THE MONEY IN THE FUND IS SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS OF THE DEPARTMENT IN PERFORMING ITS DUTIES PURSUANT TO THIS ARTICLE 27.6. AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEY IN THE FUND REMAINS IN THE FUND AND MUST NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

25-27.6-109. Employee or contracted service provider criminal history record check - rules. A BEHAVIORAL HEALTH ENTITY SHALL REQUIRE AN APPLICANT SEEKING EMPLOYMENT WITH OR SEEKING TO CONTRACT TO PROVIDE SERVICES TO THE BEHAVIORAL HEALTH ENTITY TO SUBMIT TO A CRIMINAL HISTORY RECORD CHECK BEFORE EMPLOYMENT OR EXECUTION OF A CONTRACT. THE BEHAVIORAL HEALTH ENTITY SHALL PAY THE COSTS OF THE CRIMINAL HISTORY RECORD CHECK. THE CRIMINAL HISTORY RECORD CHECK MUST BE CONDUCTED NOT MORE THAN NINETY DAYS BEFORE THE EMPLOYMENT OF OR CONTRACT WITH THE APPLICANT.

25-27.6-110. License denial, suspension, or revocation. (1) WHEN AN APPLICATION FOR AN INITIAL LICENSE PURSUANT TO SECTION 25-27.6-106 HAS BEEN DENIED BY THE DEPARTMENT, THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING OF THE DENIAL BY MAILING A NOTICE TO THE APPLICANT AT THE ADDRESS SHOWN ON THE APPLICATION. ANY APPLICANT AGGRIEVED BY A DENIAL MAY PURSUE A REVIEW AS PROVIDED IN ARTICLE

4 OF TITLE 24, AND THE DEPARTMENT SHALL FOLLOW THE PROVISIONS AND PROCEDURES SPECIFIED IN ARTICLE 4 OF TITLE 24.

(2) (a) THE DEPARTMENT MAY SUSPEND, REVOKE, OR REFUSE TO RENEW THE LICENSE OF ANY BEHAVIORAL HEALTH ENTITY THAT IS OUT OF COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE 27.6 OR THE RULES PROMULGATED THEREUNDER. SUSPENSION, REVOCATION, OR REFUSAL MUST BE DONE AFTER A HEARING THEREON AND IN COMPLIANCE WITH THE PROVISIONS AND PROCEDURES SPECIFIED IN ARTICLE 4 OF TITLE 24.

(b) (I) THE DEPARTMENT MAY IMPOSE INTERMEDIATE RESTRICTIONS OR CONDITIONS ON A LICENSEE THAT OPERATES A BEHAVIORAL HEALTH ENTITY THAT MAY INCLUDE ONE OR MORE OF THE RESTRICTIONS OR CONDITIONS SPECIFIED IN SECTION 25-27-106 (2)(b).

(II) IF THE DEPARTMENT ASSESSES A CIVIL FINE PURSUANT TO THIS SUBSECTION (2)(b), THE DEPARTMENT SHALL TRANSMIT THE MONEY TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE GENERAL FUND.

25-27.6-111. Enforcement. THE DEPARTMENT IS RESPONSIBLE FOR THE ENFORCEMENT OF THIS ARTICLE 27.6 AND THE RULES ADOPTED PURSUANT TO THIS ARTICLE 27.6.

SECTION 2. In Colorado Revised Statutes, **add** 27-60-107 as follows:

27-60-107. Behavioral health entity licenses - assistance - transfer of staff. (1) PURSUANT TO ARTICLE 27.6 OF TITLE 25, THERE IS A BEHAVIORAL HEALTH ENTITY LICENSE ISSUED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT. CERTAIN FACILITIES THAT ARE LICENSED BY THE STATE DEPARTMENT WILL TRANSITION TO THE BEHAVIORAL HEALTH ENTITY LICENSE ISSUED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT. PRIOR TO THE TRANSITION, THE OFFICE SHALL ASSIST THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND THE BEHAVIORAL HEALTH ENTITY IMPLEMENTATION AND ADVISORY COMMITTEE ESTABLISHED IN SECTION 25-27.6-103 IN DESIGNING AND IMPLEMENTING THE TRANSITION AND INFORMING FACILITIES LICENSED BY THE STATE DEPARTMENT PRIOR TO THE TRANSITION.

(2) WHEN ONE OR MORE TYPES OF LICENSES ARE TRANSITIONED TO

THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, EMPLOYEES OF THE OFFICE WHO WERE PREVIOUSLY RESPONSIBLE FOR ISSUING LICENSES BY THE STATE DEPARTMENT MAY BE OFFERED POSITIONS IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT IN ACCORDANCE WITH DEPARTMENT OF PERSONNEL RULES.

SECTION 3. In Colorado Revised Statutes, 25-3-102, **amend** (2) as follows:

25-3-102. License - application - issuance - certificate of compliance required - repeal. (2) (a) In the licensing of a community mental health center, acute treatment unit, or clinic, satisfactory evidence that the applicant is in compliance with the standards AND rules ~~and regulations~~ promulgated pursuant to section 27-66-102 C.R.S., ~~shall be~~ IS required for licensure.

(b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY 1, 2021.

SECTION 4. In Colorado Revised Statutes, **amend** 27-66-106 as follows:

27-66-106. Federal grants-in-aid - administration. (1) The department is designated the official mental health authority, and is authorized to receive grants-in-aid from the federal government under the provisions of 42 U.S.C. sec. 246, and shall administer said grants in accordance therewith.

(2) THE DEPARTMENT SHALL CONTINUE TO FUND THE COSTS OF LICENSING ACTIVITIES RELATED TO THE BEHAVIORAL HEALTH ENTITY LICENSE ACROSS THE DEPARTMENT OF HUMAN SERVICES AND THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, LESS THE MONEY COLLECTED BY THE BEHAVIORAL HEALTH ENTITY CASH FUND DEFINED IN 25-27.6-108 THROUGH JUNE 30, 2024.

SECTION 5. In Colorado Revised Statutes, 2-3-1203, **add** (16)(a)(IV) as follows:

2-3-1203. Sunset review of advisory committees - legislative declaration - definition - repeal. (16) (a) The following statutory authorizations for the designated advisory committees will repeal on

September 1, 2025:

(IV) THE BEHAVIORAL HEALTH ENTITY IMPLEMENTATION AND ADVISORY COMMITTEE, ESTABLISHED IN SECTION 25-27.6-103.

SECTION 6. In Colorado Revised Statutes, 24-33.5-1203, **amend** (1)(p.5) as follows:

24-33.5-1203. Duties of division. (1) The division shall perform the following duties:

(p.5) When there is no local building department or fire department, or ~~when necessary~~ for facilities certified or ~~seeking~~ POTENTIALLY ELIGIBLE FOR certification by the federal centers for medicare and medicaid services, conduct construction plan reviews and inspections of health facility buildings and structures, enforce the codes in accordance with sections 24-33.5-1212.5 and 24-33.5-1213, and issue certificates of compliance for such buildings and structures;

SECTION 7. In Colorado Revised Statutes, **amend as added in section 1 of this act**, 25-27.6-105 (2) introductory portion and (2)(b) as follows:

25-27.6-105. Minimum standards for behavioral health entities - rules. (2) On or before April 30, ~~2021~~ 2023, the state board shall promulgate rules that must include the following:

(b) Service-specific requirements that apply only to behavioral health entities electing to provide that service, including, at a minimum, standards for the services included in the definitions in section 25-27.6-102 of acute treatment unit, community mental health center, community mental health clinic, crisis stabilization unit, ~~and~~ walk-in centers, AND ALCOHOL USE DISORDER AND SUBSTANCE USE DISORDER SERVICES that meet the regulatory requirements for licensing, ~~and~~ operations, AND PARTNERSHIPS WITH THE STATE;

SECTION 8. In Colorado Revised Statutes, 25-1.5-103, **amend** (1)(a)(I)(A) and (1)(c); and **add** (2)(a.3) as follows:

25-1.5-103. Health facilities - powers and duties of department

- limitations on rules promulgated by department - definitions. (1) The department has, in addition to all other powers and duties imposed upon it by law, the powers and duties provided in this section as follows:

(a) (I) (A) To annually license and to establish and enforce standards for the operation of general hospitals, hospital units as defined in section 25-3-101 (2), psychiatric hospitals, community clinics, rehabilitation hospitals, convalescent centers, community mental health centers, acute treatment units, BEHAVIORAL HEALTH ENTITIES, facilities for persons with intellectual and developmental disabilities, nursing care facilities, hospice care, assisted living residences, dialysis treatment clinics, ambulatory surgical centers, birthing centers, home care agencies, and other facilities of a like nature, except those wholly owned and operated by any governmental unit or agency.

(c) (I) To establish and enforce standards for licensure of community mental health centers and acute treatment units AS BEHAVIORAL HEALTH ENTITIES.

~~(II) The department of public health and environment has primary responsibility for the licensure of community mental health centers and acute treatments units. The department of human services has primary responsibility for program approval at these facilities. In performing their respective~~ ITS responsibilities pursuant to ~~this subparagraph (H), both departments~~ SUBSECTION (1)(c)(I) OF THIS SECTION, THE DEPARTMENT shall take into account changes in health care policy and practice incorporating the concept and practice of integration of services and the development of a system that commingles and integrates health care services.

(2) For purposes of this section, unless the context otherwise requires:

(a.3) "BEHAVIORAL HEALTH ENTITY" MEANS A FACILITY OR PROVIDER ORGANIZATION ENGAGED IN PROVIDING COMMUNITY-BASED HEALTH SERVICES, WHICH MAY INCLUDE BEHAVIORAL HEALTH DISORDER SERVICES, ALCOHOL USE DISORDER SERVICES, OR SUBSTANCE USE DISORDER SERVICES, INCLUDING CRISIS STABILIZATION, ACUTE OR ONGOING TREATMENT, OR COMMUNITY MENTAL HEALTH CENTER SERVICES AS DESCRIBED IN SECTION 27-66-101 (2) AND (3), BUT DOES NOT INCLUDE:

(I) RESIDENTIAL CHILD CARE FACILITIES AS DEFINED IN SECTION 26-6-102 (33); OR

(II) SERVICES PROVIDED BY A LICENSED OR CERTIFIED MENTAL HEALTH CARE PROVIDER UNDER THE PROVIDER'S INDIVIDUAL PROFESSIONAL PRACTICE ACT ON THE PROVIDER'S OWN PREMISES.

SECTION 9. In Colorado Revised Statutes, 25-3-105, **add** (1)(c)(IV) as follows:

25-3-105. License - fee - rules - penalty - repeal. (1) (c) (IV) THIS SUBSECTION (1)(c) IS REPEALED, EFFECTIVE JULY 1, 2022.

SECTION 10. In Colorado Revised Statutes, **amend as added in section 1 of this act**, 25-27.6-104 (1) as follows:

25-27.6-104. License required - criminal and civil penalties. (1) (a) On or after July 1, ~~2022~~ 2024, it is unlawful for any person, partnership, association, or corporation to conduct or maintain a behavioral health entity, INCLUDING A SUBSTANCE USE DISORDER PROGRAM OR ALCOHOL USE DISORDER PROGRAM, without having obtained a license THEREFOR from the department.

(b) On or after July 1, ~~2021~~ 2023, an entity seeking initial licensure as a behavioral health entity shall apply for a behavioral health entity license if the entity would previously have been licensed ~~as an acute treatment unit or as a community mental health center, community mental health clinic, or crisis stabilization unit licensed as a community clinic~~ OR SUBJECT TO APPROVAL BY THE OFFICE OF BEHAVIORAL HEALTH IN THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO SECTION 27-81-106 OR 27-82-103 AS AN APPROVED TREATMENT PROGRAM FOR ALCOHOL USE DISORDERS OR SUBSTANCE USE DISORDERS.

(c) A facility ~~licensed as of June 30, 2021~~ WITH A LICENSE OR APPROVAL ON OR BEFORE JUNE 30, 2023, as ~~an acute treatment unit, community mental health center, community mental health clinic, or crisis stabilization unit, licensed as a community clinic~~ A BEHAVIORAL HEALTH ENTITY, A SUBSTANCE USE DISORDER PROGRAM, OR AN ALCOHOL USE DISORDER PROGRAM shall apply for a behavioral health entity license prior to the expiration of the facility's current license OR APPROVAL. Such a

facility is subject to the standards under which it is licensed OR APPROVED as of July 1, 2021 2023, until such time as the behavioral health entity license is issued.

SECTION 11. In Colorado Revised Statutes, 27-60-104, **amend** (1) and (6) introductory portion as follows:

27-60-104. Behavioral health crisis response system - crisis service facilities - walk-in centers - mobile response units. (1) ~~On or before January 1, 2018,~~ All BEHAVIORAL HEALTH ENTITIES, crisis walk-in centers, acute treatment units, and crisis stabilization units within the crisis response system, regardless of facility licensure, must be able to adequately care for an individual brought to the facility through the emergency mental health procedure described in section 27-65-105 or a voluntary application for mental health services pursuant to section 27-65-103. The arrangements for care must be completed through the crisis response system or prearranged partnerships with other crisis intervention services.

(6) The state department shall ensure crisis response system contractors are responsible for community engagement, coordination, and system navigation for key partners, including criminal justice agencies, emergency departments, hospitals, primary care facilities, BEHAVIORAL HEALTH ENTITIES, walk-in centers, and other crisis service facilities. The goals of community coordination are to:

SECTION 12. In Colorado Revised Statutes, 25-3-101, **amend** (1) as follows:

25-3-101. Hospitals - health facilities - licensed - definitions. (1) It is unlawful for any person, partnership, association, or corporation to open, conduct, or maintain any general hospital; hospital unit; psychiatric hospital; community clinic; rehabilitation hospital; convalescent center; BEHAVIORAL HEALTH ENTITY; community mental health center OR acute treatment unit LICENSED AS A BEHAVIORAL HEALTH ENTITY; facility for persons with developmental disabilities, as defined in section 25-1.5-103 (2)(c); nursing care facility; hospice care; assisted living residence, except an assisted living residence shall be assessed a license fee as set forth in section 25-27-107; dialysis treatment clinic; ambulatory surgical center; birthing center; home care agency; or other facility of a like nature, except those wholly owned and operated by any governmental unit or agency,

without first having obtained a license from the department of public health and environment.

SECTION 13. In Colorado Revised Statutes, 27-65-102, **amend** (7); and **add** (1.5) as follows:

27-65-102. Definitions. As used in this article 65, unless the context otherwise requires:

(1.5) "BEHAVIORAL HEALTH ENTITY" MEANS A FACILITY OR PROVIDER ORGANIZATION ENGAGED IN PROVIDING COMMUNITY-BASED HEALTH SERVICES, WHICH MAY INCLUDE BEHAVIORAL HEALTH DISORDER SERVICES, ALCOHOL USE DISORDER SERVICES, OR SUBSTANCE USE DISORDER SERVICES, INCLUDING CRISIS STABILIZATION, ACUTE OR ONGOING TREATMENT, OR COMMUNITY MENTAL HEALTH CENTER SERVICES AS DESCRIBED IN SECTION 27-66-101 (2) AND (3), BUT DOES NOT INCLUDE:

(a) RESIDENTIAL CHILD CARE FACILITIES AS DEFINED IN SECTION 26-6-102 (33); OR

(b) SERVICES PROVIDED BY A LICENSED OR CERTIFIED MENTAL HEALTH CARE PROVIDER UNDER THE PROVIDER'S INDIVIDUAL PROFESSIONAL PRACTICE ACT ON THE PROVIDER'S OWN PREMISES.

(7) "Facility" means a public hospital or a licensed private hospital, clinic, BEHAVIORAL HEALTH ENTITY, community mental health center or clinic, acute treatment unit, institution, or residential child care facility that provides treatment for persons with mental health disorders.

SECTION 14. In Colorado Revised Statutes, 27-66-101, **add** (1.5) as follows:

27-66-101. Definitions. As used in this article 66, unless the context otherwise requires:

(1.5) "BEHAVIORAL HEALTH ENTITY" MEANS A FACILITY OR PROVIDER ORGANIZATION ENGAGED IN PROVIDING COMMUNITY-BASED HEALTH SERVICES, WHICH MAY INCLUDE BEHAVIORAL HEALTH DISORDER SERVICES, ALCOHOL USE DISORDER SERVICES, OR SUBSTANCE USE DISORDER SERVICES, INCLUDING CRISIS STABILIZATION, ACUTE OR ONGOING

TREATMENT, OR COMMUNITY MENTAL HEALTH CENTER SERVICES AS DESCRIBED IN SECTION 27-66-101 (2) AND (3), BUT DOES NOT INCLUDE:

(a) RESIDENTIAL CHILD CARE FACILITIES AS DEFINED IN SECTION 26-6-102 (33); OR

(b) SERVICES PROVIDED BY A LICENSED OR CERTIFIED MENTAL HEALTH CARE PROVIDER UNDER THE PROVIDER'S INDIVIDUAL PROFESSIONAL PRACTICE ACT ON THE PROVIDER'S OWN PREMISES.

SECTION 15. In Colorado Revised Statutes, 27-66-104, **amend** (1), (2)(a)(II), (2)(a)(III), (2)(b), (3), and (6); and **add** (2)(a)(IV) as follows:

27-66-104. Types of services purchased - limitation on payments.

(1) Community mental health services may be purchased from BEHAVIORAL HEALTH ENTITIES, clinics, community mental health centers, local general or psychiatric hospitals, and other agencies that have been approved by the executive director.

(2) (a) Each year the general assembly shall appropriate ~~funds~~ MONEY for the purchase of mental health services from:

(II) Agencies that provide specialized clinic-type services but do not serve a specific designated service area; ~~and~~

(III) Acute treatment units; AND

(IV) BEHAVIORAL HEALTH ENTITIES.

(b) The ~~funds~~ MONEY appropriated for the purposes of this subsection (2) shall be distributed by the executive director to approved BEHAVIORAL HEALTH ENTITIES, community mental health centers, and other agencies on the basis of need and in accordance with the services provided.

(3) Each year the general assembly may appropriate ~~funds~~ MONEY in addition to ~~those~~ THE MONEY appropriated for purposes of subsection (2) of this section, which ~~funds~~ MONEY may be used by the executive director to assist BEHAVIORAL HEALTH ENTITIES, community mental health clinics and centers in instituting innovative programs, in providing mental health services to impoverished areas, and in dealing with crisis situations. The

executive director shall require that any innovative or crisis programs for which ~~funds are~~ MONEY IS allocated ~~under~~ PURSUANT TO this subsection (3) be clearly defined in terms of services to be rendered, program objectives, scope and duration of the program, and the maximum amount of ~~funds~~ MONEY to be provided.

(6) For purposes of entering into a cooperative purchasing agreement pursuant to section 24-110-201, ~~C.R.S.~~, a NONPROFIT BEHAVIORAL HEALTH ENTITY, nonprofit community mental health center, or a nonprofit community mental health clinic may be certified as a local public procurement unit as provided in section 24-110-207.5. ~~C.R.S.~~

SECTION 16. In Colorado Revised Statutes, 27-66-105, **amend** (1)(a), (2) introductory portion, and (3); and **add** (1)(g) and (4) as follows:

27-66-105. Standards for approval. (1) In approving or rejecting community mental health clinics for the purchase of behavioral or mental health services, the executive director shall:

(a) Consider the adequacy AND QUALITY of mental health services provided by such clinics, taking into consideration such factors as geographic location, local economic conditions, and availability of manpower;

(g) ON AND AFTER JULY 1, 2022, REQUIRE LICENSURE BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO SECTION 25-27.6-104.

(2) In approving or rejecting local general or psychiatric hospitals, BEHAVIORAL HEALTH ENTITIES, community mental health centers, acute treatment units, and other agencies for the purchase of services not provided by local mental health clinics, including, but not limited to, twenty-four-hour and partial hospitalization, the executive director shall consider the following factors:

(3) In the purchase of services from BEHAVIORAL HEALTH ENTITIES OR community mental health centers, the executive director shall specify levels and types of inpatient, outpatient, consultation, education, and training services and expenditures and shall establish minimum standards for other programs of such centers that are to be supported with state funds.

(4) IN APPROVING OR REJECTING BEHAVIORAL HEALTH ENTITIES, COMMUNITY MENTAL HEALTH CLINICS, COMMUNITY MENTAL HEALTH CENTERS, ACUTE TREATMENT UNITS, LOCAL GENERAL OR PSYCHIATRIC HOSPITALS, AND OTHER AGENCIES FOR THE PURCHASE OF SERVICES, THE EXECUTIVE DIRECTOR SHALL ENSURE THE AGENCIES COMPLY WITH FEDERAL FINANCIAL PARTICIPATION REQUIREMENTS FOR DEPARTMENT-ADMINISTERED PROGRAMS.

SECTION 17. In Colorado Revised Statutes, **amend** 27-66-106 as follows:

27-66-106. Federal grants-in-aid and other grants for mental health and integrated behavioral health services - administration.

(1) The department is designated the official mental health authority, and is authorized to:

(a) Receive grants-in-aid from the federal government under the provisions of 42 U.S.C. sec. 246, and shall administer said grants in accordance therewith; AND

(b) RECEIVE OTHER GRANTS FROM THE FEDERAL GOVERNMENT FOR THE PROVISION OF MENTAL HEALTH OR INTEGRATED BEHAVIORAL HEALTH SERVICES AND SHALL ADMINISTER SUCH GRANTS IN ACCORDANCE THEREWITH.

SECTION 18. In Colorado Revised Statutes, **amend** 27-66-107 as follows:

27-66-107. Purchase of services by courts, counties, municipalities, school districts, and other political subdivisions. Any county, municipality, school district, health service district, or other political subdivision of the state or any county, district, or juvenile court is authorized to purchase mental health services from BEHAVIORAL HEALTH ENTITIES, community mental health clinics, and ~~such~~ other community agencies ~~as are~~ approved for purchases by the executive director. For the purchase of mental health services by counties or city and counties as authorized by this section, the board of county commissioners of any county or the city council of any city and county may levy a tax not to exceed two mills upon real property within the county or city and county if the board first submits the question of ~~such~~ THE levy to a vote of the qualified electors

at a general election and receives their approval of ~~such~~ THE levy.

SECTION 19. In Colorado Revised Statutes, 27-70-102, **amend** (2) as follows:

27-70-102. Definitions. As used in this article 70, unless the context otherwise requires:

(2) "Facility" means a federally qualified health care center, clinic, community mental health center or clinic, BEHAVIORAL HEALTH ENTITY, institution, acute treatment unit, jail, facility operated by the department of corrections, or a facility operated by the division of youth services.

SECTION 20. In Colorado Revised Statutes, 27-81-102, **amend** (1); and **add** (3.5) and (13.7) as follows:

27-81-102. Definitions. As used in this article 81, unless the context otherwise requires:

(1) "~~Alcohol use disorder~~" means a ~~condition by which a person habitually lacks self-control as to the use of alcoholic beverages or uses alcoholic beverages to the extent that his or her health is substantially impaired or endangered or his or her social or economic function is substantially disrupted. Nothing in this subsection (1) precludes the denomination of a person with an alcohol use disorder as intoxicated by alcohol or incapacitated by alcohol~~ CHRONIC RELAPSING BRAIN DISEASE CHARACTERIZED BY RECURRENT USE OF ALCOHOL CAUSING CLINICALLY SIGNIFICANT IMPAIRMENT, INCLUDING HEALTH PROBLEMS, DISABILITY, AND FAILURE TO MEET MAJOR RESPONSIBILITIES AT WORK, SCHOOL, AND HOME.

(3.5) "BEHAVIORAL HEALTH ENTITY" MEANS A FACILITY OR PROVIDER ORGANIZATION ENGAGED IN PROVIDING COMMUNITY-BASED HEALTH SERVICES, WHICH MAY INCLUDE BEHAVIORAL HEALTH DISORDER SERVICES, ALCOHOL USE DISORDER SERVICES, OR SUBSTANCE USE DISORDER SERVICES, INCLUDING CRISIS STABILIZATION, ACUTE OR ONGOING TREATMENT, OR COMMUNITY MENTAL HEALTH CENTER SERVICES AS DESCRIBED IN SECTION 27-66-101 (2) AND (3), BUT DOES NOT INCLUDE:

(a) RESIDENTIAL CHILD CARE FACILITIES AS DEFINED IN SECTION 26-6-102 (33); OR

(b) SERVICES PROVIDED BY A LICENSED OR CERTIFIED MENTAL HEALTH CARE PROVIDER UNDER THE PROVIDER'S INDIVIDUAL PROFESSIONAL PRACTICE ACT ON THE PROVIDER'S OWN PREMISES.

(13.7) "PUBLIC FUNDS" MEANS MONEY APPROPRIATED TO THE OFFICE OF BEHAVIORAL HEALTH BY THE GENERAL ASSEMBLY OR ANY OTHER GOVERNMENTAL OR PRIVATE SOURCES FOR WITHDRAWAL MANAGEMENT OR FOR THE TREATMENT OF ALCOHOL USE DISORDERS IN APPROVED FACILITIES PURSUANT TO THIS ARTICLE 81.

SECTION 21. In Colorado Revised Statutes, 27-81-104, **amend** (1)(c) as follows:

27-81-104. Duties of the office of behavioral health - review.

(1) In addition to duties prescribed by section 27-80-102, the office of behavioral health shall:

(c) Utilize BEHAVIORAL HEALTH ENTITIES, community mental health centers and clinics whenever feasible;

SECTION 22. In Colorado Revised Statutes, 27-81-107, **amend** (1); and **add** (4) as follows:

27-81-107. Compliance with local government zoning regulations - notice to local governments - provisional approval - repeal. (1) PRIOR TO JULY 1, 2024, the office of behavioral health shall require any residential treatment facility seeking approval as a public or private treatment facility pursuant to this article 81 to comply with any applicable zoning regulations of the municipality, city and county, or county where the facility is situated. Failure to comply with applicable zoning regulations constitutes grounds for the denial of approval of a facility.

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2024.

SECTION 23. In Colorado Revised Statutes, **add** 27-81-107.5 as follows:

27-81-107.5. Licensure. ON AND AFTER JULY 1, 2024, THE OFFICE OF BEHAVIORAL HEALTH SHALL REQUIRE ANY TREATMENT FACILITY SEEKING APPROVAL AS A PUBLIC OR PRIVATE TREATMENT FACILITY PURSUANT TO THIS

ARTICLE 81 TO BE LICENSED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO SECTION 25-27.6-104 OR BY ANY OTHER REQUIRED STATE AGENCY.

SECTION 24. In Colorado Revised Statutes, 27-82-102, **amend** (13.5); and **add** (13.3) as follows:

27-82-102. Definitions. As used in this article 82, unless the context otherwise requires:

(13.3) "PUBLIC FUNDS" MEANS MONEY APPROPRIATED TO THE OFFICE OF BEHAVIORAL HEALTH BY THE GENERAL ASSEMBLY OR ANY OTHER GOVERNMENTAL OR PRIVATE SOURCES FOR WITHDRAWAL MANAGEMENT OR FOR THE TREATMENT OF SUBSTANCE USE DISORDERS IN APPROVED FACILITIES PURSUANT TO THIS ARTICLE 82.

(13.5) "Substance use disorder" means a ~~condition by which a person habitually uses drugs or uses drugs to the extent that his or her health is substantially impaired or endangered or his or her social or economic function is substantially disrupted. Nothing in this subsection (13.5) precludes the denomination of a person with a substance use disorder as a person under the influence of or incapacitated by drugs~~ CHRONIC RELAPSING BRAIN DISEASE, CHARACTERIZED BY RECURRENT USE OF ALCOHOL, DRUGS, OR BOTH, CAUSING CLINICALLY SIGNIFICANT IMPAIRMENT, INCLUDING HEALTH PROBLEMS, DISABILITY, AND FAILURE TO MEET MAJOR RESPONSIBILITIES AT WORK, SCHOOL, OR HOME.

SECTION 25. In Colorado Revised Statutes, **add** 27-82-103.5 as follows:

27-82-103.5. Licensure. ON AND AFTER JULY 1, 2024, THE OFFICE OF BEHAVIORAL HEALTH SHALL REQUIRE ANY TREATMENT FACILITY SEEKING APPROVAL AS A PUBLIC OR PRIVATE TREATMENT FACILITY TO BE LICENSED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO SECTION 25-27.6-104 OR BY ANY OTHER REQUIRED STATE AGENCY.

SECTION 26. Appropriation. (1) For the 2019-20 state fiscal year, \$51,472 is appropriated to the department of public health and environment for use by the health facilities and emergency medical services division. This appropriation is from the general fund and is based on the

assumption that the division will require an additional 0.5 FTE. To implement this act, the department may use this appropriation for behavioral health entity licensing.

SECTION 27. Act subject to petition - effective date. (1) Except as provided in subsection (2) of this section, 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 (August 2, 2019, if adjournment sine die is on May 3, 2019); 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 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) Sections 6 through 9 of this act take effect July 1, 2021, and sections 10 through 25 of this act take effect July 1, 2022.

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO