

CHAPTER 314

HEALTH AND ENVIRONMENT

SENATE BILL 19-146

BY SENATOR(S) Pettersen, Donovan, Ginal, Gonzales, Moreno;
also REPRESENTATIVE(S) Kennedy, Bird, Buentello, Duran, Esgar, Exum, Froelich, Galindo, Gray, Hansen, Herod, Hooton,
Humphrey, Kipp, Lontine, Mullica, Snyder, Titone, Valdez A., Valdez D., Becker.

AN ACT

CONCERNING THE CONTINUATION OF THE REGULATION BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OF ENTITIES THAT PROVIDE HOME CARE SERVICES, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2018 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES.

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

SECTION 1. In Colorado Revised Statutes, 24-34-104, **repeal** (17)(a)(XII); and **add** (29)(a)(VIII) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal.
(17) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2019:

~~(XII) Notwithstanding paragraph (a) of subsection (7) of this section, the functions of the department of public health and environment relating to the licensing of home care agencies and the registering of home care placement agencies in accordance with article 27.5 of title 25, C.R.S.;~~

(29) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2028:

(VIII) THE FUNCTIONS OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT RELATING TO THE LICENSING OF HOME CARE AGENCIES AND THE REGISTERING OF HOME CARE PLACEMENT AGENCIES IN ACCORDANCE WITH ARTICLE 27.5 OF TITLE 25.

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.

SECTION 2. In Colorado Revised Statutes, 25-27.5-110, **amend** (1) as follows:

25-27.5-110. Repeal of article - sunset review. (1) This ~~article~~ ARTICLE 27.5 is repealed, effective September 1, ~~2019~~ 2028.

SECTION 3. In Colorado Revised Statutes, 25-27.5-108, **amend** (2)(b)(IV); and **repeal** (2)(b)(V) as follows:

25-27.5-108. License or registration denial - suspension - revocation. (2) (b) (IV) If the department assesses a civil fine pursuant to this ~~paragraph (b)~~ SUBSECTION (2)(b), the department shall transmit the fines to the state treasurer, who shall credit the fines to the ~~home care agency cash fund created in section 25-27.5-105~~ GENERAL FUND.

(V) ~~The department shall use civil fines collected pursuant to this paragraph (b) for expenses related to:~~

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

~~(B) Education for licensed home care agencies or registered home care placement agencies to avoid restrictions or conditions or facilitate the application process or the change of ownership process;~~

~~(C) Education for home care consumers and their families about resolving problems with a home care agency or home care placement agency, rights of home care consumers, and responsibilities of home care agencies and home care placement agencies;~~

~~(D) Providing technical assistance to any home care agency or home care placement agency for the purpose of complying with changes in rules or state or federal law;~~

~~(E) Monitoring and assisting in the transition of home care consumers to other home care agencies or home care placement agencies, when the transition is a result of the revocation of a license or registration, or to other appropriate medical services; or~~

~~(F) Maintaining the operation of a home care agency or home care placement agency pending correction of violations, as determined necessary by the department.~~

SECTION 4. In Colorado Revised Statutes, 25-27.5-103, **amend** (1)(b) and (2)(c)(II) as follows:

25-27.5-103. Home care agency license required - home care placement agency registration required - civil and criminal penalties. (1) On or after June 1, 2009, it is unlawful for any person, partnership, association, or corporation to conduct or maintain a home care agency that provides skilled home health services without having submitted a completed application for licensure as a home care agency to the department. On or after January 1, 2010, it is unlawful for any person, partnership, association, or corporation to conduct or maintain a home care agency that provides skilled home health services without having obtained a license therefor

from the department. On or after January 1, 2010, it is unlawful for any person, partnership, association, or corporation to conduct or maintain a home care agency that provides in-home personal care services without having submitted a completed application for licensure as a home care agency to the department. On or after January 1, 2011, it is unlawful for any person, partnership, association, or corporation to conduct or maintain a home care agency that provides in-home personal care services without having obtained a license therefor from the department. Any person who violates this provision:

(b) May be subject to a civil penalty assessed by the department of up to ten thousand dollars for each violation of this section. The department shall assess, enforce, and collect the penalty in accordance with article 4 of title 24 ~~C.R.S.~~, for credit to the ~~home care agency cash fund created in section 25-27.5-105.~~ ~~Enforcement and collection of the penalty shall occur~~ GENERAL FUND. THE DEPARTMENT SHALL ENFORCE AND COLLECT EACH PENALTY following ~~the~~ A decision reached in accordance with procedures set forth in section 24-4-105. ~~C.R.S.~~

(2) (c) A person who violates this subsection (2):

(II) May be subject to a civil penalty assessed by the department of up to ten thousand dollars for each violation. The department shall assess, enforce, and collect the penalty in accordance with article 4 of title 24. ~~C.R.S.~~ The department shall transfer any ~~penalties~~ MONEY it collects AS SUCH A PENALTY to the state treasurer, ~~for deposit in the home care agency cash fund created in section 25-27.5-105~~ WHO SHALL CREDIT THE MONEY TO THE GENERAL FUND.

SECTION 5. In Colorado Revised Statutes, 25-27.5-104, **amend** (3) as follows:

25-27.5-104. Minimum standards for home care agencies and home care placement agencies - rules - advisory committee. (3) There is hereby established a home care advisory committee, which shall make recommendations to the department and the state board of health concerning the rules promulgated pursuant to this ~~article~~ ARTICLE 27.5 and implementation of the licensing of home care agencies. ~~The home care advisory committee shall be appointed by~~ The executive director of the department SHALL APPOINT THE MEMBERS OF THE ADVISORY COMMITTEE. The advisory committee ~~shall~~ MUST, at a minimum, ~~consist of~~ INCLUDE representatives from skilled home health services agencies, personal care services agencies, members of the disabled community who are home care consumers, seniors or representatives of seniors who are home care consumers, providers of medicaid services, providers of in-home support services, REPRESENTATIVES OF HOME CARE PLACEMENT AGENCIES, and representatives of the departments of health care policy and financing and human services. Members of the advisory committee ~~shall~~ serve at the pleasure of the appointing authority on a voluntary basis ~~and shall~~ serve without compensation.

SECTION 6. In Colorado Revised Statutes, **amend** 25-27.5-105 as follows:

25-27.5-105. Home care agency cash fund - created. The department shall transmit the fees collected pursuant to section 25-27.5-104 (1) ~~plus any civil penalty~~ collected pursuant to section 25-27.5-103 (1)(b) and (2)(c)(II), to the state treasurer,

who shall credit the fees and penalties to the home care agency cash fund, which fund is hereby created. The moneys MONEY in the fund are IS subject to annual appropriation by the general assembly for the direct and indirect costs of the department in performing its duties under this article ARTICLE 27.5. At the end of any fiscal year, all unexpended and unencumbered moneys MONEY in the fund remain REMAINS in the fund and must not be credited or transferred to the general fund or any other fund.

SECTION 7. 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 (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.

Approved: May 28, 2019