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An Act

SENATE BILL 24-167

BY SENATOR(S) Ginal and Smallwood, Bridges, Buckner, Cutter, Jaquez Lewis, Michaelson Jenet, Mullica, Priola, Sullivan, Will, Zenzinger; also REPRESENTATIVE(S) McCormick, Amabile, Bacon, Bird, Boesenecker, Brown, Clifford, Daugherty, English, Hamrick, Herod, Jodeh, Joseph, Lieder, Lindsay, McLachlan, Ortiz, Ricks, Sirota, Snyder, Story, Valdez, Woodrow, Young, McCluskie.

CONCERNING PORTABLE REQUIREMENTS FOR DIRECT-CARE HEALTH-CARE WORKERS IN ASSISTED LIVING RESIDENCES, 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, 25-27-102, **add** (2.5), (2.7), (9.3), (9.5), and (10.5) as follows:

25-27-102. Definitions. As used in this article 27, unless the context otherwise requires:

(2.5) "DIRECT CARE WORKER" MEANS AN EMPLOYEE WHO PROVIDES HANDS-ON CARE, SERVICES, AND SUPPORT TO RESIDENTS OF AN ASSISTED LIVING RESIDENCE.

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.

(2.7) "FIT TEST" MEANS A TEST PROTOCOL CONDUCTED TO VERIFY THAT A RESPIRATOR OR MASK IS BOTH COMFORTABLE AND PROVIDES THE WEARER WITH THE EXPECTED PROTECTION.

(9.3) "PORTABLE TEST" MEANS THE FOLLOWING TESTS FOR WHICH, WHEN SUCCESSFULLY COMPLETED BY AN INDIVIDUAL, THE INDIVIDUAL IS PROVIDED A CERTIFICATION OF COMPLETION THAT MAY BE TRANSFERRED FROM ONE ASSISTED LIVING RESIDENCE TO ANOTHER IN ACCORDANCE WITH THIS SECTION:

- (a) A FIT TEST; AND
- (b) A TUBERCULOSIS TEST.

(9.5) "PORTABLE TRAINING" MEANS THE FOLLOWING TRAINING FOR WHICH, WHEN SUCCESSFULLY COMPLETED BY AN INDIVIDUAL, THE INDIVIDUAL IS PROVIDED A CERTIFICATION OF COMPLETION THAT MAY BE TRANSFERRED FROM ONE ASSISTED LIVING RESIDENCE TO ANOTHER IN ACCORDANCE WITH THIS SECTION:

- (a) HAND HYGIENE AND INFECTION CONTROL;
- (b) BASIC FIRST AID;
- (c) RESIDENT RIGHTS;
- (d) PERSON-CENTERED CARE;
- (e) FALL PREVENTION;
- (f) LIFT ASSISTANCE; AND
- (g) FOOD SAFETY.

(10.5) "QUALIFIED MEDICATION ADMINISTRATION PERSONNEL" MEANS AN INDIVIDUAL WHO HAS PASSED A COMPETENCY EVALUATION ADMINISTERED BY AN APPROVED TRAINING ENTITY ON OR AFTER JULY 1, 2017, AND WHOSE NAME APPEARS ON THE DEPARTMENT'S LIST OF INDIVIDUALS WHO HAVE PASSED THE REQUISITE COMPETENCY EVALUATION.

SECTION 2. In Colorado Revised Statutes, **add 25-27-114** as follows:

25-27-114. Direct care workers in assisted living residences - training - portability - rules. (1) (a) IF AN OPERATOR OF AN ASSISTED LIVING RESIDENCE PROVIDES OR PAYS FOR A PORTABLE TEST FOR A DIRECT CARE WORKER OR FOR QUALIFIED MEDICATION ADMINISTRATION PERSONNEL EMPLOYED BY THE ASSISTED LIVING RESIDENCE, THE OPERATOR SHALL MAKE THE RESULTS OF THE TEST AVAILABLE TO THE DIRECT CARE WORKER OR QUALIFIED MEDICATION ADMINISTRATION PERSONNEL UPON COMPLETION OF THE TEST.

(b) IF, UPON HIRE BY AN ASSISTED LIVING RESIDENCE, A NEW EMPLOYEE PROVIDES PROOF OF COMPLETION OF A PORTABLE TEST, THE OPERATOR OF THE ASSISTED LIVING RESIDENCE MAY DETERMINE THAT THE INDIVIDUAL HAS SATISFIED RELATED TESTING REQUIREMENTS OR REQUIRE THE INDIVIDUAL TO COMPLETE NEW TESTING.

(c) THE RESULTS OF A TUBERCULOSIS TEST MAY BE ACCEPTED FOR PURPOSES OF NEW EMPLOYMENT RECORDS IF PRESENTED TO THE NEW EMPLOYER WITHIN TWO YEARS AFTER THE TESTING DATE. NOTWITHSTANDING ANY PROVISION OF THIS SECTION, THE DEPARTMENT MAY REQUIRE ADDITIONAL TESTING AS DETERMINED THROUGH ADMINISTRATIVE ACTION, NOTICE, RULE, OR STATE LAW.

(2) IF AN OPERATOR OF AN ASSISTED LIVING RESIDENCE PROVIDES OR PAYS FOR PORTABLE TRAINING FOR A DIRECT CARE WORKER OR QUALIFIED MEDICATION ADMINISTRATION PERSONNEL EMPLOYED BY THE OPERATOR, UPON COMPLETION OF THE PORTABLE TRAINING, THE OPERATOR OR THE ENTITY THAT PROVIDES THE PORTABLE TRAINING SHALL PROVIDE THE INDIVIDUAL WHO COMPLETES THE PORTABLE TRAINING WITH A CERTIFICATE OF COMPLETION. THE CERTIFICATE OF COMPLETION MUST INCLUDE:

(a) THE PORTABLE TOPIC COVERED;

(b) THE DATE OF THE PORTABLE TRAINING;

(c) THE INDIVIDUAL OR ENTITY THAT PROVIDED THE PORTABLE TRAINING;

(d) DOCUMENTATION OF COMPETENCY IN THE SPECIFIC PORTABLE TOPIC OF THE PORTABLE TRAINING; AND

(e) ADDITIONAL ELEMENTS AS DETERMINED BY RULE.

(3) (a) IF, UPON HIRE BY AN ASSISTED LIVING RESIDENCE, A NEW DIRECT CARE WORKER PROVIDES PROOF OF COMPLETION OF PORTABLE TRAINING, THE ASSISTED LIVING RESIDENCE SHALL ENSURE, IN A FORM AND MANNER DETERMINED BY THE OPERATOR, THAT THE DIRECT CARE WORKER HAS SATISFIED THE RELATED PORTABLE TRAINING REQUIREMENTS IN ORDER TO ENSURE THAT EACH DIRECT CARE WORKER CAN SAFELY CARRY OUT THE DUTIES AND RESPONSIBILITIES FOR THE CARE AND PROVISION OF SERVICES TO RESIDENTS.

(b) IN ADDITION TO PORTABLE TRAINING, THE OPERATOR OF AN ASSISTED LIVING RESIDENCE SHALL ENSURE THAT EACH DIRECT CARE WORKER RECEIVES ANY TRAINING REQUIRED BY RULES ADOPTED BY THE STATE BOARD, OR AS SET FORTH IN STATE LAW, WITHIN THE TIMELINES SET BY STATE LAW OR RULE.

(4) THE STATE BOARD SHALL ACCEPT PROOF OF A PORTABLE TEST OR A CERTIFICATE FOR PORTABLE TRAINING THAT IS DEEMED SUFFICIENT BY AN ASSISTED LIVING RESIDENCE OPERATOR AS PROOF OF COMPLETION OF A PORTABLE TEST OR PORTABLE TRAINING. THE STATE BOARD MAY, BUT IS NOT REQUIRED TO, PROMULGATES RULES TO DEFINE OTHER PORTABLE TESTS OR PORTABLE TRAININGS AS PORTABLE.

(5) IF AN ASSISTED LIVING RESIDENCE OPERATOR ACCEPTS PROOF OF PORTABLE TRAINING CONDUCTED BY ANOTHER ENTITY, THE ASSISTED LIVING RESIDENCE OPERATOR SHALL ENSURE COMPETENCY IN A FORM AND MANNER TO BE DETERMINED BY THE OPERATOR IN ORDER TO ENSURE PRIOR EDUCATION AND PORTABLE TRAINING ARE SUFFICIENT FOR THE DIRECT CARE WORKER TO SAFELY CARRY OUT THE DIRECT CARE WORKER'S DUTIES AND RESPONSIBILITIES. AN ASSISTED LIVING RESIDENCE THAT CURRENTLY EMPLOYS A DIRECT CARE WORKER IS LIABLE FOR ANY ACTS OR OMISSIONS BY THE DIRECT CARE WORKER EMPLOYEE THAT ARE DIRECTLY RELATED TO THE EMPLOYEE'S PREVIOUS PORTABLE TRAINING AND THE ACCEPTANCE OF THE CERTIFICATION OF COMPLETION OF THAT TRAINING BY THE ASSISTED LIVING RESIDENCE.

SECTION 3. Appropriation. For the 2024-25 state fiscal year, \$30,152 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 an assumption that the division will require an additional 0.3 FTE. To implement this act, the division may use this appropriation for administration and operations.

SECTION 4. Act subject to petition - effective date. This act takes effect January 1, 2025; 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 the ninety-day period after final adjournment of the general assembly, 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 January 1, 2025, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

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