

CHAPTER 277

**HEALTH**

**SENATE BILL 94-211**

BY SENATORS Traylor, Lacy, Rizzuto, Hopper, Mendez, Owens, Schroeder, Wham, Bird, Bishop, Blickensderfer, Feeley, Gallagher, Johnson, Mares, Martinez, Norton, Peterson, Ruddick, Tanner, Wattenberg, and Weissmann; also REPRESENTATIVES Grampsas, Owen, Romero, Acquafresca, Agler, Allen, Armstrong, Blue, Chlouber, Epps, Fleming, Hernandez, June, Keller, Kerns, Knox, Lawrence, Lyle, Martin, Reeser, Taylor, and Tucker.

**AN ACT**

**CONCERNING THE PROVISION OF STATEWIDE POISON CONTROL SERVICES.**

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

**SECTION 1.** 25-1-107 (1) (q), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-107. Powers and duties of the department.** (1) The department has, in addition to all other powers and duties imposed upon it by law, the following powers and duties:

(q) ~~(I) To contract with and allocate funds for a poison information center for the purpose of disseminating information, on a statewide basis, for the care and treatment of individuals exposed to poisonous substances;~~

~~(H)~~ To disseminate other public health information OTHER THAN POISON CONTROL INFORMATION;

**SECTION 2.** 25-3.5-403, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-3.5-403. Poison information center - state funding - repeal.** (1) The department OF HEALTH CARE POLICY AND FINANCING shall contract with and allocate funds for a poison CONTROL information center ~~center for the dissemination of information SERVICES~~, on a statewide basis, with regard to the care and treatment of individuals exposed to poisonous substances.

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

~~(2) The general assembly each year in the general appropriation bill may require that an amount equal to the state appropriation for the poison information center be obtained from private fund-raising sources prior to the disbursement by the state treasurer of the legislative appropriation.~~

(3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 1995.

**SECTION 3.** Title 25.5, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 2**  
**Poison Control Act**

**25.5-2-101. Short title.** THIS ARTICLE MAY BE KNOWN AND MAY BE CITED AS THE "POISON CONTROL ACT".

**25.5-2-102. Legislative declaration.** THE GENERAL ASSEMBLY HEREBY DECLARES THAT IT IS IN THE INTEREST OF THE PUBLIC'S HEALTH AND WELL-BEING TO CONTINUE TO PROVIDE QUALITY POISON CONTROL SERVICES TO THE PEOPLE OF THIS STATE AND THAT THE PROVISION OF SUCH SERVICES IS A MATTER OF STATEWIDE CONCERN. IT IS THE INTENT OF THE GENERAL ASSEMBLY IN ENACTING THIS SECTION THAT SUCH SERVICES BE MADE AVAILABLE THROUGHOUT THE STATE ON A CONSISTENT AND PROMPT BASIS, BY MEANS OF A TOLL-FREE TELEPHONE NETWORK, IN ORDER THAT ILLNESS OR DEATH WHICH MAY RESULT FROM THE EXPOSURE OF AN INDIVIDUAL TO POISONOUS SUBSTANCES MAY BE AVOIDED. THE GENERAL ASSEMBLY FINDS THAT THE PROVISION OF SUCH POISON CONTROL SERVICES MAY BE ACCOMPLISHED ON A MORE COST-EFFICIENT BASIS, AT A SAVINGS TO THE TAXPAYER, IF THE DUTY OF PROVIDING SUCH SERVICES IS PLACED WITH THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND ADMINISTERED BY A STATEWIDE OVERSIGHT BOARD WITH AUTHORITY TO CONTRACT WITH COMPETITIVELY PRICED SERVICE PROVIDERS FOR THE ENTIRE STATE.

**25.5-2-103. Poison control services - statewide poison control oversight board - duties - report.** (1) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING SHALL ALLOCATE MONEYS FOR THE PROVISION OF POISON CONTROL SERVICES ON A STATEWIDE BASIS AND FOR THE DISSEMINATION OF INFORMATION CONCERNING THE CARE AND TREATMENT OF INDIVIDUALS EXPOSED TO POISONOUS SUBSTANCES. PROVISION OF SUCH POISON CONTROL SERVICES SHALL BE OVERSEEN BY A STATEWIDE OVERSIGHT BOARD, DESCRIBED IN SUBSECTION (2) OF THIS SECTION, WHICH BOARD SHALL HAVE THE DUTIES AND RESPONSIBILITIES SET FORTH IN SUBSECTION (3) OF THIS SECTION.

(2) (a) THERE IS HEREBY CREATED, IN THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, A STATEWIDE POISON CONTROL OVERSIGHT BOARD, REFERRED TO IN THIS SECTION AS THE "BOARD", WHICH SHALL CONSIST OF SEVEN MEMBERS, APPOINTED BY THE GOVERNOR AND CONFIRMED BY THE SENATE, AS FOLLOWS:

(1) ONE MEMBER WHO IS INVOLVED IN THE PROVISION OF HOSPITAL EMERGENCY CARE SERVICES;

(II) ONE MEMBER WITH EXPERTISE IN PUBLIC HEALTH;

(III) A DESIGNEE OF THE CHANCELLOR OF THE UNIVERSITY OF COLORADO HEALTH SCIENCES CENTER;

(IV) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING OR SUCH EXECUTIVE DIRECTOR'S DESIGNEE; AND

(V) THREE MEMBERS FROM THE PUBLIC AT LARGE, AT LEAST ONE OF WHOM HAS PERSONALLY UTILIZED THE SERVICES OF THE POISON CONTROL CENTER OR HAS A FAMILY MEMBER WHO HAS UTILIZED THE SERVICES OF THE POISON CONTROL CENTER.

(b) EACH CONGRESSIONAL DISTRICT WITHIN THE STATE SHALL BE REPRESENTED BY NOT LESS THAN ONE MEMBER OF THE BOARD DESIGNATED IN PARAGRAPH (a) OF THIS SUBSECTION (2).

(c) AT LEAST ONE MEMBER OF THE BOARD SHALL RESIDE WEST OF THE CONTINENTAL DIVIDE.

(d) EACH MEMBER APPOINTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL SERVE A TERM OF FOUR YEARS; EXCEPT THAT, OF THE MEMBERS FIRST APPOINTED, THREE MEMBERS SHALL SERVE TWO YEARS AND THE REMAINING FOUR MEMBERS SHALL SERVE FOUR YEARS AS DETERMINED BY THE GOVERNOR.

(e) A VACANCY ON THE BOARD OCCURS WHENEVER ANY MEMBER MOVES OUT OF THE CONGRESSIONAL DISTRICT FROM WHICH SUCH MEMBER WAS APPOINTED. A MEMBER WHO MOVES OUT OF SUCH CONGRESSIONAL DISTRICT SHALL PROMPTLY NOTIFY THE GOVERNOR OF THE DATE OF SUCH MOVE, BUT SUCH NOTICE IS NOT A CONDITION PRECEDENT TO THE OCCURRENCE OF THE VACANCY. THE GOVERNOR SHALL FILL THE VACANCY BY APPOINTMENT FOR THE UNEXPIRED TERM.

(f) NO MORE THAN FOUR MEMBERS OF THE BOARD SHALL BE MEMBERS OF THE SAME MAJOR POLITICAL PARTY.

(g) AT THE FIRST MEETING OF THE BOARD, THE BOARD MEMBERSHIP SHALL ELECT A CHAIRPERSON FROM AMONG ITS MEMBERS.

(h) THE MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION; EXCEPT THAT THEY SHALL BE REIMBURSED FOR ANY ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES PURSUANT TO THIS SECTION AS MEMBERS OF THE BOARD INCLUDING, BUT NOT LIMITED TO, REASONABLE EXPENSES INCURRED FOR IN-STATE TRAVEL.

(3) (a) THE BOARD SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

(I) TO SOLICIT, RECEIVE, AND REVIEW CONTRACT BIDS FOR THE PROVISION OF POISON CONTROL SERVICES AND THE DISSEMINATION OF POISON CONTROL INFORMATION BY MEANS OF A TOLL-FREE TELEPHONE NETWORK;

(II) TO CONTRACT WITH PRIVATE, NONPROFIT OR PUBLIC ENTITIES FOR THE PROVISION OF STATEWIDE POISON CONTROL SERVICES AND THE DISSEMINATION OF

POISON CONTROL INFORMATION TO THE CITIZENS OF THE STATE BY MEANS OF A TOLL-FREE TELEPHONE NETWORK COMMENCING JULY 1, 1995. THE BOARD SHALL REVIEW THE CONTRACT AT LEAST ONCE EACH YEAR AND SHALL SOLICIT AND RECEIVE BIDS ON THE PROVISION OF POISON CONTROL SERVICES NO LESS OFTEN THAN EVERY FIVE YEARS. THIS SUBPARAGRAPH (II) SHALL APPLY TO CONTRACT YEARS COMMENCING JULY 1, 1995, AND THEREAFTER.

(III) TO PROVIDE, BY CONTRACT AND FOR ADEQUATE REIMBURSEMENT, POISON CONTROL SERVICES AND THE DISSEMINATION OF POISON CONTROL INFORMATION TO THE CITIZENS OF OTHER STATES BY THIS STATE;

(IV) TO CONTRACT WITH AN AUDITOR FOR A PERFORMANCE OR FINANCIAL AUDIT AT THE DISCRETION OF THE BOARD. A COPY OF SUCH AUDIT, WHEN PERFORMED, SHALL BE SENT TO THE MEMBERS OF THE JOINT BUDGET COMMITTEE WITH THE REPORT REQUIRED IN SUBSECTION (4) OF THIS SECTION.

(b) THE BOARD SHALL EXERCISE ITS POWERS AND DUTIES AS IF THE SAME WERE TRANSFERRED BY A **TYPE 2** TRANSFER.

(4) (a) ON OR BEFORE NOVEMBER 1, 1994, THE BOARD SHALL SUBMIT A REPORT TO THE MEMBERS OF THE JOINT BUDGET COMMITTEE AND TO EACH MEMBER OF THE GENERAL ASSEMBLY IDENTIFYING THE ANTICIPATED COSTS OF CONTRACTING FOR THE DELIVERY OF POISON CONTROL SERVICES AND THE DISSEMINATION OF POISON CONTROL INFORMATION THROUGHOUT THE STATE FOR THE UPCOMING FISCAL YEAR.

(b) ON OR BEFORE NOVEMBER 1, 1995, AND NO LATER THAN NOVEMBER 1 OF EACH YEAR THEREAFTER, THE BOARD SHALL SUBMIT A REPORT TO THE MEMBERS OF THE JOINT BUDGET COMMITTEE AND TO EACH MEMBER OF THE GENERAL ASSEMBLY. SUCH REPORT SHALL EVALUATE THE DELIVERY OF POISON CONTROL SERVICES AND THE DISSEMINATION OF POISON CONTROL INFORMATION THROUGHOUT THE STATE, ADDRESS THE ALLOCATION OF MONEYS FROM THE PRECEDING FISCAL YEAR, AND IDENTIFY THE ANTICIPATED COSTS OF CONTRACTING FOR POISON CONTROL SERVICES FOR THE UPCOMING FISCAL YEAR.

(5) FOR PURPOSES OF THIS ARTICLE, "POISON CONTROL SERVICES" SHALL INCLUDE THE FOLLOWING SERVICES PROVIDED BY AN ENTITY CERTIFIED BY A NATIONAL ORGANIZATION WHOSE MEMBERSHIP IS COMPRISED OF POISON CONTROL CENTERS:

(a) TWENTY-FOUR-HOUR TOLL-FREE TELEPHONE SERVICE DEDICATED TO DISSEMINATING INFORMATION ON THE CARE AND TREATMENT OF INDIVIDUALS EXPOSED TO POISONOUS SUBSTANCES;

(b) NURSES SPECIALLY TRAINED IN THE TRIAGE AND TREATMENT OF POISONING AND CERTIFIED BY A NATIONAL ORGANIZATION WHOSE MEMBERSHIP IS COMPRISED OF POISON CONTROL CENTERS; AND

(c) SUPERVISION BY A PHYSICIAN CERTIFIED BY THE AMERICAN BOARD OF MEDICAL SPECIALISTS IN MEDICAL TOXICOLOGY WHO IS IMMEDIATELY AVAILABLE FOR CONSULTATION TWENTY-FOUR HOURS EACH DAY.

**25.5-2-104. Release of medical information.** NOTWITHSTANDING ANY OTHER

PROVISIONS TO THE CONTRARY, WHEN A POISON CONTROL SERVICE PROVIDER SELECTED PURSUANT TO SECTION 25.5-2-103 DETERMINES THAT A MEDICAL EMERGENCY EXISTS AND THAT INFORMATION CONCERNING THE PATIENT'S MEDICAL HISTORY IS NECESSARY TO ASSIST IN THE DIAGNOSIS OR TREATMENT OF SUCH PATIENT, THE PATIENT'S PHYSICIAN SHALL RELEASE TO THE POISON CONTROL SERVICE PROVIDER SUCH MEDICAL INFORMATION CONCERNING THE PATIENT AS MAY BE NECESSARY TO AID IN THE DIAGNOSIS OR TREATMENT OF THE PATIENT. THE POISON CONTROL SERVICE PROVIDER RECEIVING SUCH INFORMATION SHALL MAINTAIN THE CONFIDENTIALITY OF THE INFORMATION RECEIVED.

**SECTION 4.** 25.5-1-201 (1) (f) and (1) (g), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended, and the said 25.5-1-201 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**25.5-1-201. Programs to be administered by the department of health care policy and financing.** (1) Programs to be administered and functions to be performed by the department of health care policy and financing shall be as follows:

(f) Home care allowance, as specified in section 26-2-122.3, C.R.S.; ~~and~~

(g) The treatment program for high-risk pregnant women created pursuant to section 25-1-212, C.R.S., and as specified in section 26-4-508.4, C.R.S.; AND

(h) THE PROVISION OF POISON CONTROL SERVICES AS FOLLOWS:

(I) FOR THE FISCAL YEAR BEGINNING JULY 1, 1994, THE STATE DEPARTMENT SHALL CONTRACT WITH AND ALLOCATE FUNDS FOR A POISON INFORMATION CENTER, PURSUANT TO SECTION 25-3.5-403, C.R.S., FOR THE PURPOSE OF DISSEMINATING INFORMATION, ON A STATEWIDE BASIS, FOR THE CARE AND TREATMENT OF INDIVIDUALS EXPOSED TO POISONOUS SUBSTANCES.

(II) FOR THE FISCAL YEAR BEGINNING JULY 1, 1995, AND FISCAL YEARS THEREAFTER, TO PROVIDE POISON CONTROL SERVICES ON A STATEWIDE BASIS AND TO PROVIDE FOR THE DISSEMINATION OF INFORMATION CONCERNING THE CARE AND TREATMENT OF INDIVIDUALS EXPOSED TO POISONOUS SUBSTANCES PURSUANT TO ARTICLE OF 2 OF THIS TITLE.

**SECTION 5.** 35-9-109 (3) and (4), Colorado Revised Statutes, 1984 Repl. Vol., as amended, are amended to read:

**35-9-109. Confidentiality.** (3) When a treating physician or the ~~rocky mountain~~ poison control ~~center~~ SERVICE PROVIDER SELECTED PURSUANT TO SECTION 25.5-2-103, C.R.S., determines that a medical emergency exists and information submitted to the commissioner pursuant to section 35-9-107 (1) (d) is necessary for emergency or first-aid treatment, the commissioner may immediately disclose the information necessary to that treating physician or to ~~the rocky mountain~~ SUCH poison control ~~center~~ SERVICE PROVIDER. The commissioner shall require such treating physician or ~~the rocky mountain~~ SUCH poison control ~~center~~ SERVICE PROVIDER to submit to the commissioner a statement of need for such information and a confidentiality agreement, in the form and manner ~~he~~ THE COMMISSIONER shall

designate, as soon as circumstances permit.

(4) If the treating physician or the poison control center SERVICE PROVIDER, after receiving confidential information regarding a pesticide, determines that there is a need to disclose the information to another health professional, including a physician or a toxicologist, due to an immediate health emergency, whether public or individual, the treating physician or the rocky mountain poison center SERVICE PROVIDER shall so inform the commissioner. The commissioner shall require confidentiality from any such health professional to whom the confidential information is disclosed.

**SECTION 6. Transfer of appropriation - appropriations.** From the appropriation made in the general appropriation act for the fiscal year beginning July 1, 1994, to the department of health, division of emergency medical services for the rocky mountain poison center, the sum of one million one hundred forty-eight thousand thirty-four dollars (\$1,148,034) is hereby transferred to the department of health care policy and financing for the implementation of this act.

**SECTION 7. Effective date.** Section 5 of this act shall take effect July 1, 1995, and the remainder of this act shall take effect July 1, 1994.

**SECTION 8. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 31, 1994