

CHAPTER 144

HEALTH AND ENVIRONMENT

HOUSE BILL 02-1348

BY REPRESENTATIVE(S) Harvey and Stafford;
also SENATOR(S) Dyer.

AN ACT

CONCERNING THE TRANSFER OF THE POISON CONTROL PROGRAM FROM THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND, IN CONNECTION THEREWITH, MAKING A TRANSFER OF APPROPRIATION.

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

SECTION 1. Title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 32
Poison Control Act

25-32-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "POISON CONTROL ACT".

25-32-102. 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 ARTICLE 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 THAT 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 PUBLIC HEALTH AND ENVIRONMENT WITH AUTHORITY TO CONTRACT WITH A COMPETITIVELY PRICED SERVICE PROVIDER FOR THE ENTIRE STATE.

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

25-32-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BOARD" MEANS THE STATEWIDE POISON CONTROL OVERSIGHT BOARD, CREATED IN SECTION 25-32-104.

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

(3) "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 AND PHARMACIST SPECIALISTS IN POISON INFORMATION WHO ARE TRAINED IN THE TRIAGE AND TREATMENT OF POISONING AND WHO ARE CERTIFIED BY A NATIONAL ORGANIZATION WHOSE MEMBERSHIP IS COMPRISED OF POISON CONTROL CENTERS; AND

(c) SUPERVISION BY A PHYSICIAN WHO IS BOARD-CERTIFIED IN MEDICAL TOXICOLOGY AND WHO SHALL BE AVAILABLE TWENTY-FOUR HOURS EACH DAY FOR CONSULTATION.

25-32-104. Poison control services - statewide poison control oversight board - duties. (1) AS OF JULY 1, 2002, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT 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. THE DEPARTMENT SHALL HAVE THE POWERS AND DUTIES OUTLINED IN SECTION 25-32-105 IN CARRYING OUT THE POISON CONTROL SERVICES. PROVISION OF SUCH POISON CONTROL SERVICES SHALL BE OVERSEEN BY A STATEWIDE OVERSIGHT BOARD, DESCRIBED IN SUBSECTION (3) OF THIS SECTION, WHICH BOARD SHALL HAVE THE DUTIES AND RESPONSIBILITIES SET FORTH IN SUBSECTION (4) OF THIS SECTION.

(2) ON JULY 1, 2002, THE STATEWIDE POISON CONTROL OVERSIGHT BOARD, REFERRED TO IN THIS ARTICLE AS THE "BOARD", WHICH WAS CREATED IN 1994, IN SECTION 25.5-2-103 (2), C.R.S., SHALL BE TRANSFERRED FROM THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT BY A **TYPE 2** TRANSFER. THE MEMBERS OF THE BOARD WHO ARE SERVING TERMS ON JULY 1, 2002, SHALL CONTINUE TO SERVE FOR THE REMAINDER OF THE TERMS FOR WHICH THEY WERE APPOINTED BY THE GOVERNOR; EXCEPT THAT THE MEMBER OF THE BOARD WHO SERVES AS THE REPRESENTATIVE OF THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING SHALL NO LONGER SERVE ON THE BOARD AND THE GOVERNOR SHALL APPOINT THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR THE EXECUTIVE DIRECTOR'S DESIGNEE TO FILL THAT POSITION ON THE BOARD.

(3) (a) AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION, ON AND AFTER JULY 1, 2002, THE BOARD SHALL CONSIST OF SEVEN MEMBERS, APPOINTED BY THE GOVERNOR, AS FOLLOWS:

(I) 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 PUBLIC HEALTH AND ENVIRONMENT 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 FEWER THAN ONE MEMBER OF THE BOARD DESIGNATED IN PARAGRAPH (a) OF THIS SUBSECTION (3).

(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 (3) SHALL SERVE A TERM OF FOUR YEARS, AND THE TERMS OF THE MEMBERS OF THE BOARD SHALL REMAIN STAGGERED AS ORIGINALLY 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) 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.

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

(I) TO 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 PROVIDE OVERSIGHT AND INPUT TO THE DEPARTMENT CONCERNING THE PROVISION OF POISON CONTROL SERVICES AND THE DISSEMINATION OF POISON CONTROL INFORMATION BY MEANS OF A TOLL-FREE TELEPHONE NETWORK.

(b) THE BOARD SHALL EXERCISE ITS POWERS AND DUTIES AS A **TYPE 2** BOARD.

25-32-105. Department - poison control services - duties - contract. (1) THE DEPARTMENT SHALL HAVE THE FOLLOWING POWERS AND DUTIES WITH RESPECT TO THE PROVISION OF POISON CONTROL SERVICES ON A STATEWIDE BASIS AND FOR THE DISSEMINATION OF INFORMATION AS PROVIDED IN THIS ARTICLE:

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

(b) TO CONTRACT WITH PRIVATE, NONPROFIT, OR PUBLIC ENTITIES FOR THE CONTINUING PROVISION OF STATEWIDE POISON CONTROL SERVICES AND THE CONTINUING DISSEMINATION OF POISON CONTROL INFORMATION TO THE CITIZENS OF THE STATE BY MEANS OF A TOLL-FREE TELEPHONE NETWORK, THE PROVISION OF WHICH SERVICES INITIALLY COMMENCED ON JULY 1, 1995. THE DEPARTMENT SHALL REVIEW THE CONTRACT AT LEAST ONCE EACH YEAR AND SHALL SOLICIT AND RECEIVE BIDS ON THE PROVISION OF POISON CONTROL SERVICES NO LESS THAN ONCE EVERY FIVE YEARS. THIS PARAGRAPH (b) SHALL APPLY TO CONTRACT YEARS COMMENCING JULY 1, 1995, AND THEREAFTER.

(c) 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;

(d) TO CONTRACT WITH AN AUDITOR FOR A PERFORMANCE OR FINANCIAL AUDIT AT THE DISCRETION OF THE DEPARTMENT. A COPY OF SUCH AUDIT, WHEN PERFORMED, SHALL BE SENT TO THE MEMBERS OF THE BOARD AND THE JOINT BUDGET COMMITTEE.

(2) WHENEVER THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING IS REFERRED TO OR DESIGNATED BY ANY CONTRACT OR OTHER DOCUMENT IN CONNECTION WITH THE DUTIES AND FUNCTIONS TRANSFERRED TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, SUCH REFERENCE OR DESIGNATION SHALL BE DEEMED TO APPLY TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT. ALL CONTRACTS ENTERED INTO BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING PRIOR TO JULY 1, 2002, IN CONNECTION WITH THE DUTIES AND FUNCTIONS TRANSFERRED TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, ARE HEREBY VALIDATED, WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SUCCEEDING TO ALL THE RIGHTS AND OBLIGATIONS OF SUCH CONTRACTS. ANY APPROPRIATION OF FUNDS FROM PRIOR FISCAL YEARS OPEN TO SATISFY OBLIGATIONS INCURRED UNDER SUCH CONTRACTS ARE HEREBY TRANSFERRED AND APPROPRIATED TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR THE PAYMENT OF SUCH OBLIGATIONS.

25-32-106. Release of medical information. NOTWITHSTANDING ANY OTHER PROVISIONS TO THE CONTRARY, WHEN A POISON CONTROL SERVICE PROVIDER SELECTED PURSUANT TO SECTION 25-32-105 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 2. 24-1-119, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-1-119. Department of public health and environment - creation. (10) THE POWERS, DUTIES, AND FUNCTIONS OF THE STATEWIDE POISON CONTROL OVERSIGHT BOARD, CREATED IN SECTION 25-32-104, C.R.S., ARE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

SECTION 3. 25-1-107 (1) (q), Colorado Revised Statutes, is amended to read:

25-1-107. Powers and duties of the department - repeal. (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 disseminate public health information; ~~other than poison control information;~~

(II) To PROVIDE POISON CONTROL SERVICES, FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, AND FISCAL YEARS THEREAFTER, 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 32 OF THIS TITLE;

SECTION 4. Repeal. Article 2 of title 25.5, Colorado Revised Statutes, is repealed.

SECTION 5. Repeal. 25.5-1-201 (1) (h), Colorado Revised Statutes, is repealed as follows:

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:

(h) ~~The provision of poison control services as follows:~~

(I) Repealed.

(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 2 of this title;~~

SECTION 6. 25-1-1202 (1) (fff), Colorado Revised Statutes, is amended to read:

25-1-1202. Index of statutory sections regarding medical record confidentiality and health information. (1) Statutory provisions concerning policies, procedures, and references to the release, sharing, and use of medical records and health information include the following:

(fff) ~~Section 25-5-2-104, C.R.S.,~~ SECTION 25-32-106, concerning the release of medical information to a poison control service provider;

SECTION 7. Transfer of appropriation. Any appropriation for the poison control program made in the annual general appropriation act for the fiscal year beginning July 1, 2002, to the department of health care policy and financing, and any corresponding FTE, are hereby transferred to the department of public health and environment, for the implementation of this act.

SECTION 8. Effective date. This act shall take effect July 1, 2002.

SECTION 9. 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 6, 2002