

CHAPTER 343

HEALTH AND ENVIRONMENT

SENATE BILL 02-071

BY SENATOR(S) Windels, Epps, Fitz-Gerald, Gordon, Hagedorn, Hanna, Isgar, Linkhart, Pascoe, Phillips, Tate, and Tupa; also REPRESENTATIVE(S) Jahn, Alexander, Boyd, Chavez, Cloer, Coleman, Garcia, Groff, Grossman, Marshall, Paschall, Romanoff, Sanchez, Tapia, Tochtrop, Veiga, Weddig, Williams S., and Young.

AN ACT

CONCERNING THE IMPLEMENTATION OF CONSUMER SATISFACTION SURVEYS TO DETERMINE THE LEVEL OF SATISFACTION AMONG NURSING FACILITY RESIDENTS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 25-3-102.5 (1) (a) and (1) (d), Colorado Revised Statutes, are amended, and the said 25-3-102.5 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

25-3-102.5. Nursing facilities - consumer satisfaction survey - pilot survey.
(1) (a) The department shall develop and implement a consumer satisfaction survey BASED ON THE RESULTS OF THE PILOT SURVEY IMPLEMENTED PURSUANT TO PARAGRAPH (a.5) OF THIS SUBSECTION (1). THE PILOT SURVEY AND THE RESULTING CONSUMER SATISFACTION SURVEY SHALL BE IMPLEMENTED to determine the level of satisfaction among residents and residents' families regarding the quality of care and quality of living in nursing facilities. "Nursing facility", as used in this section, means a nursing facility as defined in section 26-4-103 (11), C.R.S. The department shall appoint an advisory committee to develop the consumer satisfaction survey. The advisory committee shall include, but not be limited to, the state ombudsman, representatives of senior groups, representatives of the disabled community, representatives of providers of long term care services, and long term care consumers or their family members. The advisory committee shall develop recommendations for the development of an assessment tool for the consumer satisfaction survey and SHALL DEVELOP RECOMMENDATIONS for the implementation of the PILOT survey AND THE CONSUMER SATISFACTION SURVEY. The advisory committee shall ensure that a representative sample of participants are chosen and surveyed in a manner that will yield accurate and useful results. The department shall ensure that every nursing

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

facility licensed by the department participates in the assessment of consumer satisfaction; except that any nursing facility that accepts exclusively private pay residents shall not be required to participate. Information about results of the most recent consumer satisfaction survey and how such survey was conducted shall be included by the facility in all informational materials provided to persons who inquire about the facility. THE DEPARTMENT SHALL ASSURE CONFIDENTIALITY FOR RESIDENTS DURING THE SURVEY PROCESS. The department shall make the results of consumer satisfaction surveys available to the public.

(a.5) (I) THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT A PILOT CONSUMER SATISFACTION SURVEY TO AID IN THE DETERMINATION OF THE LEVEL OF SATISFACTION AMONG RESIDENTS AND RESIDENTS' FAMILIES REGARDING THE QUALITY OF CARE AND QUALITY OF LIVING IN NURSING FACILITIES. THE PILOT SURVEY SHALL BE USED EXCLUSIVELY FOR THE DEVELOPMENT OF THE CONSUMER SATISFACTION SURVEY TO BE IMPLEMENTED PURSUANT TO PARAGRAPH (d) OF THIS SUBSECTION (1) AND SHALL NOT BE USED TO PENALIZE ANY PARTICIPATING FACILITY. THE PILOT SURVEY SHALL BE USED TO ASSESS:

(A) THE VALIDITY OF THE QUESTIONNAIRE FOR USE IN THE CONSUMER SATISFACTION SURVEY IMPLEMENTED PURSUANT TO PARAGRAPH (d) OF THIS SUBSECTION (1);

(B) THE NURSING FACILITIES RESIDENTS' COGNITION LEVELS IN ORDER TO DETERMINE THE ABILITY OF THE RESIDENTS TO COMPLETE THE SURVEY IN A MEANINGFUL MANNER;

(C) THE TECHNIQUES EMPLOYED TO OBTAIN THE NUMBER OF COMPLETED SURVEY QUESTIONNAIRES NEEDED TO ACHIEVE A STATISTICAL VALIDITY OF PLUS OR MINUS TEN PERCENT ON THE FINAL CONSUMER SATISFACTION SURVEY; AND

(D) THE SURVEY DATA TO ENSURE THAT SUCH DATA IS MEANINGFUL TO CONSUMERS.

(II) THE PILOT SURVEY SHALL INVOLVE THE PARTICIPATION OF NO MORE THAN TEN PERCENT OF ALL NURSING FACILITIES LICENSED BY THE DEPARTMENT. THE DEPARTMENT SHALL SELECT NURSING FACILITIES TO PARTICIPATE IN THE PILOT SURVEY BASED ON CHARACTERISTICS INCLUDING, BUT NOT LIMITED TO, THE RURAL OR URBAN LOCATION OF THE FACILITIES, AND THE CROSS-SECTION OF THE RESIDENT POPULATION OF THE FACILITIES. FACILITIES THAT VOLUNTEER TO PARTICIPATE IN THE PILOT SURVEY SHALL BE GIVEN PRIORITY IN THE SELECTION PROCESS SO LONG AS THE REQUIRED CHARACTERISTICS ARE MET.

(III) (A) THE INDIVIDUAL NURSING FACILITY RESULTS OF THE PILOT SURVEY SHALL BE CONFIDENTIAL AND NOT MADE AVAILABLE TO THE PUBLIC; EXCEPT THAT EACH NURSING FACILITY SHALL BE PROVIDED WITH THE PILOT SURVEY RESULTS FROM ITS OWN FACILITY.

(B) AGGREGATE STATISTICAL RESULTS OF THE PILOT SURVEY MAY BE MADE AVAILABLE TO THE PUBLIC.

(C) THE RESULTS OF THE PILOT SURVEY SHALL NOT BE USED TO DETERMINE THE

DISTRIBUTION OF QUALITY OF CARE INCENTIVE PAYMENT PROGRAM FUNDS PURSUANT TO SECTION 26-4-410, C.R.S.

(IV) THE DEPARTMENT SHALL COMMENCE IMPLEMENTATION OF THE PILOT SURVEY ON OR BEFORE JULY 1, 2002, AND REPORT THE RESULTS OF SUCH PILOT SURVEY TO THE GENERAL ASSEMBLY BY APRIL 15, 2003.

(d) The department shall administer the consumer satisfaction survey based on the recommendations of the advisory committee in all licensed nursing facilities that are required to participate in accordance with paragraph (a) of this subsection (1). The department shall commence implementation of the survey on or before ~~July 1, 2002;~~ JULY 1, 2003. AFTER THE PILOT SURVEY IS COMPLETE, THE DEPARTMENT SHALL EVALUATE THE EFFECTIVENESS OF THE PILOT SURVEY INSTRUMENTS, ADOPT ANY RECOMMENDATIONS, AND CONTINUE TO SURVEY ALL LICENSED FACILITIES on a three-year cycle with one-third of the participating licensed nursing facilities completing the initial survey in one of the three years. Each participating licensed nursing facility shall perform a new consumer satisfaction survey every three years thereafter; except that the department may require, or a participating licensed nursing facility may request, that a new consumer satisfaction survey be performed more often if conditions warrant. If the licensed nursing facility requests such a survey, the department shall perform the survey if the licensed nursing facility pays the department for the costs associated with performing the survey. A licensed nursing facility may comment on the results of a consumer satisfaction survey and have such comments included in any publication or distribution of the results by the department.

(e) HOSPICE RESIDENTS AND THEIR FAMILY MEMBERS AND TRANSITIONAL CARE UNIT RESIDENTS AND THEIR FAMILY MEMBERS, SHALL BE EXEMPT FROM PARTICIPATION IN THE PILOT SURVEY AND CONSUMER SATISFACTION SURVEY CONDUCTED IN EACH NURSING FACILITY.

(f) NURSING FACILITIES SHALL RELEASE THE NAME, ADDRESS, AND TELEPHONE NUMBER OF EACH FAMILY MEMBER OR PARTY RESPONSIBLE FOR A NURSING FACILITY RESIDENT TO THE DEPARTMENT FOR THE SOLE USE OF CONDUCTING THE PILOT SURVEY AND THE CONSUMER SATISFACTION SURVEY.

SECTION 2. 26-4-410 (2) (c.5) (I), Colorado Revised Statutes, is amended to read:

26-4-410. Providers - nursing facility - nursing facility patient program improvement fund - reimbursement - maximum allowable - nonmonetary incentive program - quality of care incentive payment program - legislative declaration. (2) (c.5) (I) There is hereby established a quality of care incentive payment program for the purpose of encouraging improvement in the quality of care provided by nursing facility providers including, but not limited to, implementation of the consumer satisfaction survey in accordance with ~~section 26-4-410.3~~ SECTION 25-3-102.5, C.R.S. THE CONSUMER SATISFACTION SURVEY CONDUCTED PURSUANT TO SECTION 25-3-102.5, C.R.S., SHALL NOT BE USED AS A BASIS FOR AWARDING INCENTIVE PAYMENTS UNTIL ALL REQUIRED LICENSED NURSING FACILITIES HAVE COMPLETED SUCH CONSUMER SATISFACTION SURVEY. The sum of all incentive payments made under the program shall be equal to the aggregate sum of payments made to all nursing facility providers under sub-subparagraph (B) of subparagraph

(II) of paragraph (c) of this subsection (2). The first payment annually from the source of funds for the program shall be made for the state administrative oversight of the consumer satisfaction survey created in section 25-3-102.5, C.R.S., and the resident-centered quality improvement program created in paragraph (c.7) of this subsection (2). The department of health care policy and financing, after consulting with the department of human services and the department of public health and environment, shall reflect in its annual budget submission the offset for administrative costs for the quality of care incentive program.

SECTION 3. Appropriation - adjustments to the 2002 long bill. (1) (a) In addition to any other appropriation, there is hereby appropriated, out of moneys in the general fund not otherwise appropriated, to the department of public health and environment, division of health facilities, for the fiscal year beginning July 1, 2002, the sum of fifty-eight thousand five hundred fourteen dollars (\$58,514) and 1.1 FTE, or so much thereof as may be necessary, for the implementation of this act.

(b) In addition to any other appropriation, there is hereby appropriated, out of moneys in the general fund not otherwise appropriated, to the department of human services, office of adult and veterans services, aging services programs, for the fiscal year beginning July 1, 2002, the sum of fifty thousand two hundred thirty-one dollars (\$50,231), or so much thereof as may be necessary, for the implementation of this act. This amount is to be for the contract for the state ombudsman program.

(c) The general fund appropriation to the department of health care policy and financing, medical services premiums, is decreased by one hundred eight thousand seven hundred forty-five dollars (\$108,745). In addition, the department is not anticipated to receive one hundred eight thousand seven hundred forty-five dollars (\$108,745) federal funds. Although such funds are not appropriated, they are noted for the purpose of indicating the assumptions used relative to these funds.

(2) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2002, shall be adjusted as follows:

(a) The appropriation to the department of health care policy and financing, medical programs administration, for the fiscal year beginning July 1, 2002, is decreased by eighty-nine thousand five hundred six dollars (\$89,506). Of this sum, twenty-two thousand three hundred seventy-six dollars (\$22,376) shall be from the general fund and sixty-seven thousand one hundred thirty dollars (\$67,130) shall be from federal funds.

(b) The appropriation to the department of health care policy and financing, department of human services-medicaid funded programs, for fiscal year beginning July 1, 2002, is decreased by one hundred twenty-six thousand one hundred thirty dollars (\$126,130). Of said sum, sixty-three thousand sixty-five dollars (\$63,065) shall be from the general fund and sixty-three thousand sixty-five dollars (\$63,065) shall be from federal funds. Although federal funds are not appropriated, they are noted for the purpose of indicating the assumptions used relative to these funds.

(c) The appropriation to the department of public health and environment, division of health facilities, is decreased by eighty-nine thousand five hundred six dollars

(\$89,506) cash funds exempt and 1.8 FTE.

(d) The appropriation to the department of human services, office of adult veterans services, aging services programs, is decreased by one hundred twenty-six thousand one hundred thirty dollars (\$126,130) cash funds exempt.

(e) The general fund appropriation to the department of health care policy and financing, medical services premiums, is increased by eighty-five thousand four hundred forty-one dollars (\$85,441). In addition, the general assembly anticipates that the department of health care policy and financing will receive the sum of eighty-five thousand four hundred forty-one dollars (\$85,441) federal funds. Although such funds are not appropriated, they are noted for the purpose of indicating the assumptions used relative to these funds.

SECTION 4. 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: June 7, 2002