

## CHAPTER 263

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**HUMAN SERVICES - SOCIAL SERVICES**


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**HOUSE BILL 06-1395**

BY REPRESENTATIVE(S) Buescher, Hall, Plant, Borodkin, Butcher, Carroll M., Carroll T., Coleman, Frangas, Gallegos, Jahn, Larson, Madden, McGihon, Merrifield, Paccione, Pommer, Riesberg, Solano, Stafford, Todd, and Berens;  
also SENATOR(S) Keller, Owen, Tapia, Boyd, Evans, Groff, Hagedorn, Mitchell, Sandoval, Shaffer, Tochtrop, Tupa, Williams, and Windels.

**AN ACT**

**CONCERNING RESIDENTIAL CHILD HEALTH CARE, AND MAKING AN APPROPRIATION IN CONNECTION THEREFOR.**

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

**SECTION 1.** 26-4-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**26-4-103. Definitions.** As used in this article, unless the context otherwise requires:

(13.6) "PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY" MEANS A FACILITY THAT IS LICENSED AS A RESIDENTIAL CHILD CARE FACILITY, AS DEFINED IN SECTION 26-6-102 (8), THAT IS NOT A HOSPITAL, AND THAT PROVIDES INPATIENT PSYCHIATRIC SERVICES FOR INDIVIDUALS WHO ARE LESS THAN TWENTY-ONE YEARS OF AGE UNDER THE DIRECTION OF A PHYSICIAN LICENSED PURSUANT TO ARTICLE 26 OF TITLE 12, C.R.S., AND THAT MEETS ANY OTHER REQUIREMENT ESTABLISHED IN RULE BY THE STATE BOARD.

**SECTION 2.** 26-4-527 (1) and (3), Colorado Revised Statutes, are amended, and the said 26-4-527 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**26-4-527. Residential child health care - waiver - program.** (1) The STATE department, ~~of health care policy and financing~~ in cooperation with the department of human services, shall implement a program concerning residential child health care under this article to provide services pursuant to article 10.3 of title 27, C.R.S.,

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

to medicaid-eligible children residing in residential child care facilities, as that term is defined in section 26-6-102 (8), TO MEDICAID-ELIGIBLE CHILDREN RESIDING IN PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES, and children placed BY THE DEPARTMENT OF HUMAN SERVICES OR through county departments of social services in licensed or certified out-of-home placement facilities. Children with developmental disabilities, as defined in section 27-10.5-102 (11), C.R.S., who are placed in such facilities shall meet the out-of-home placement criteria described in section 19-1-107, C.R.S., and shall be neglected or dependent as described in section 19-3-102, C.R.S. The ~~medical services~~ STATE board shall establish the type of rehabilitative or medical assistance services to be provided under the program as described in subsection (3) of this section, to the extent such services are cost-efficient, and the recipient eligibility criteria that may include, but are not limited to, a medical necessity determination and a financial eligibility determination. THE STATE BOARD SHALL DEFINE IN RULE THE STAFF PERMITTED TO ORDER, MONITOR, AND ASSESS SECLUSION AND RESTRAINT IN PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES, AND THE CORRESPONDING RESTRICTIONS ON THE USE OF SECLUSION AND RESTRAINT.

(3) (a) The ~~department of health care policy and financing~~ STATE BOARD, in cooperation with the department of human services, shall promulgate rules as necessary for the implementation of the program, including, but not limited to, rules regarding program services that may include rehabilitative services as appropriate to residential child health care when referred by a physician licensed pursuant to article 36 of title 12, C.R.S., a psychologist licensed pursuant to part 3 of article 43 of title 12, C.R.S., a registered professional nurse as defined in section 12-38-103 (11), C.R.S., who, by reason of postgraduate education and additional nursing preparation, has gained knowledge, judgment, and skill in psychiatric or mental health nursing, a clinical social worker licensed pursuant to part 4 of article 43 of title 12, C.R.S., a marriage and family therapist licensed pursuant to part 5 of article 43 of title 12, C.R.S., or a professional counselor licensed pursuant to part 6 of article 43 of title 12, C.R.S.; the number of recipients participating; eligibility criteria including financial eligibility criteria; reimbursement of providers; and such other rules as are necessary for the implementation and administration of the program. The twenty percent county contribution established in section 26-1-122 for residential child care facilities may be used by the state to obtain federal financial participation under Title XIX of the social security act for any residential child health care program established pursuant to this section. The twenty percent contribution shall not be increased due to any federal financial participation received as a result of any programs established pursuant to this section. Nothing in this section shall be construed to prohibit an adjustment in the county contribution due to caseload or service cost increases. Nothing in this section shall be construed to create a county obligation to directly participate in the financing of any program established pursuant to the "Colorado Medical Assistance Act" as set forth in this article.

(b) NOTWITHSTANDING THE PROVISIONS OF SECTION 26-1-122, FOR FISCAL YEARS 2006-07 AND 2007-08, THE ANNUAL COUNTY CONTRIBUTION SHALL BE REDUCED TO THE COUNTY'S FISCAL YEAR 2004-05 ACTUAL CONTRIBUTION.

(c) ON OR BEFORE JANUARY 15, 2008, THE DEPARTMENT OF HUMAN SERVICES, IN COLLABORATION WITH THE CHILD WELFARE ALLOCATION COMMITTEE, SHALL

SUBMIT A RECOMMENDATION TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY REGARDING THE COUNTY CONTRIBUTION TOWARD THE ACTUAL COST OF PROVIDING RESIDENTIAL CHILD HEALTH CARE SERVICES PURSUANT TO THIS SECTION FOR FISCAL YEAR 2008-09 AND FOR EACH FISCAL YEAR THEREAFTER. THE DEPARTMENT OF HUMAN SERVICES SHALL INCLUDE IN ITS SUBMISSION TO THE JOINT BUDGET COMMITTEE ANY LEGISLATIVE CHANGES THAT MAY BE NECESSARY TO ACCOMPLISH ANY CHANGE IN THE COUNTY CONTRIBUTION.

(6) SERVICES PROVIDED IN A RESIDENTIAL CHILD CARE FACILITY BY A PROVISIONAL LICENSEE AS DEFINED IN SECTION 12-43-201 (7.8), C.R.S., TO MEDICAID-ELIGIBLE CHILDREN SHALL RECEIVE MEDICAID REIMBURSEMENT ONLY IF APPROVED BY THE FEDERAL GOVERNMENT.

**SECTION 3.** 26-5-104 (4) (d), Colorado Revised Statutes, is amended to read:

**26-5-104. Funding of child welfare services. (4) Allocations. (d)** The state department may only seek additional funding from the general assembly in a supplemental appropriations bill based upon caseload growth, subject to the provisions of subsection (7) of this section, or changes in federal law or federal funding. FOR FISCAL YEARS 2006-07 AND 2007-08, THE STATE DEPARTMENT MAY SEEK SUPPLEMENTAL FUNDING RELATED TO THE IMPLEMENTATION OF THE PLACEMENT OF CHILDREN IN A RESIDENTIAL CHILD HEALTH CARE PROGRAM AS SPECIFIED IN SECTION 26-4-527.

**SECTION 4.** 26-6-102 (8), Colorado Revised Statutes, is amended to read:

**26-6-102. Definitions - repeal.** As used in this article, unless the context otherwise requires:

(8) "Residential child care facility" means a facility licensed by the state department pursuant to this part 1 to provide twenty-four-hour group care and treatment for five or more children operated under private, public, or nonprofit sponsorship. "RESIDENTIAL CHILD CARE FACILITY" INCLUDES COMMUNITY-BASED RESIDENTIAL CHILD CARE FACILITIES, SHELTER FACILITIES, AND THERAPEUTIC RESIDENTIAL CHILD CARE FACILITIES AS DEFINED IN RULE BY THE STATE BOARD, AND PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES AS DEFINED IN SECTION 26-4-103 (13.6). A residential child care facility may be eligible for designation by the executive director of the state department pursuant to article 10 of title 27, C.R.S.

**SECTION 5.** 12-43-201, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

**12-43-201. Definitions - repeal.** As used in this part 2, unless the context otherwise requires:

(7.7) (a) "PROVISIONAL LICENSE" MEANS A LICENSE ISSUED PURSUANT TO SECTION 12-43-206.5.

(b) THIS SUBSECTION (7.7) IS REPEALED, EFFECTIVE JULY 1, 2011.

(7.8) (a) "PROVISIONAL LICENSEE" MEANS A PERSON WHO HOLDS A PROVISIONAL

LICENSE PURSUANT TO SECTION 12-43-206.5.

(b) THIS SUBSECTION (7.8) IS REPEALED, EFFECTIVE JULY 1, 2011.

**SECTION 6.** Part 2 of article 43 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**12-43-206.5. Provisional license - repeal.** (1) (a) THE BOARD MAY ISSUE A PROVISIONAL LICENSE TO AN APPLICANT WHO HAS COMPLETED A POST-GRADUATE DEGREE THAT MEETS THE EDUCATIONAL REQUIREMENTS FOR LICENSURE IN SECTION 12-43-304, 12-43-403, 12-43-504, OR 12-43-603, AS APPLICABLE, AND WHO IS WORKING IN A RESIDENTIAL CHILD CARE FACILITY AS DEFINED IN SECTION 26-6-102 (8), C.R.S., UNDER THE SUPERVISION OF A LICENSEE.

(b) A PROVISIONAL LICENSE ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL TERMINATE AT THE EARLIEST OF:

(I) THIRTY DAYS AFTER TERMINATION OF THE PROVISIONAL LICENSEE'S EMPLOYMENT WITH A QUALIFYING RESIDENTIAL CHILD CARE FACILITY, UNLESS THE PROVISIONAL LICENSEE OBTAINS AND SUBMITS TO THE BOARD PROOF OF EMPLOYMENT WITH ANOTHER RESIDENTIAL CHILD CARE FACILITY; OR

(II) THIRTY DAYS AFTER TERMINATION OF THE PROVISIONAL LICENSEE'S SUPERVISION BY A LICENSEE UNLESS THE PROVISIONAL LICENSEE OBTAINS AND SUBMITS TO THE BOARD PROOF OF SUPERVISION BY ANOTHER LICENSEE.

(c) A PROVISIONAL LICENSEE SHALL NOTIFY THE BOARD OF ANY CHANGE IN SUPERVISION WITHIN THIRTY DAYS AFTER THE CHANGE.

(2) EACH BOARD MAY CHARGE AN APPLICATION FEE TO AN APPLICANT FOR A PROVISIONAL LICENSE. ALL FEES COLLECTED PURSUANT TO THIS SUBSECTION (2) SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE DIVISION OF REGISTRATIONS CASH FUND PURSUANT TO SECTION 24-34-105, C.R.S. AN APPLICATION FOR A PROVISIONAL LICENSE SHALL IDENTIFY THE NAME, CONTACT INFORMATION, AND LICENSE NUMBER OF THE LICENSEE PROVIDING SUPERVISION OF THE PROVISIONAL LICENSURE APPLICANT.

(3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2011.

**SECTION 7. Appropriation - adjustment in 2006 long bill.** (1) For implementation of this act, appropriations made in the general appropriations act to the department of health care policy and financing for the fiscal year beginning July 1, 2006, shall be adjusted as follows:

(a) The appropriation for the executive director's office, for the medicaid management information system contract, is increased by the sum of eleven thousand five hundred eighty-four dollars (\$11,584), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from the general fund and shall be subject to the "(M)" notation as defined in the general appropriation act. Said amount is exempt from the statutory limit on state general fund appropriations pursuant to section 24-75-201.1 (1) (a) (III) (A), Colorado

Revised Statutes. In addition to said appropriation, the general assembly anticipates that the department of health care policy and financing will receive thirty-four thousand seven hundred fifty-two dollars (\$34,752) in federal funds for the implementation of this act. Although the federal funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds in developing state appropriation amounts.

(b) The appropriation for department of humans services medicaid-funded programs, division of child welfare - medicaid funding, for child welfare services, is decreased by six hundred sixty-three thousand one hundred thirty dollars (\$663,130), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from the general fund and shall be subject to the "(M)" notation as defined in the general appropriation act.

(c) The appropriation for department of humans services medicaid-funded programs, division of child welfare - medicaid funding, for child welfare services, is increased by the sum of five million thirty-seven thousand dollars (\$5,037,000), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from the general fund and shall be subject to the "(M)" notation as defined in the general appropriation act. Said amount is exempt from the statutory limit on state general fund appropriations pursuant to section 24-75-201.1 (1) (a) (III) (A), Colorado Revised Statutes. In addition to said appropriation, the general assembly anticipates that the department of health care policy and financing will receive the sum of four million three hundred seventy-three thousand eight hundred seventy dollars (\$4,373,870) in federal funds for the implementation of this act. Although the federal funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds in developing state appropriation amounts.

(d) The appropriation for department of human services medicaid-funded programs, for division of youth corrections - medicaid funding, is decreased by forty-eight thousand five hundred thirteen dollars (\$48,513), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from the general fund and shall be subject to the "(M)" notation as defined in the general appropriation act.

(e) The appropriation for department of human services medicaid-funded programs, for division of youth corrections - medicaid funding, is increased by seven hundred seventy-seven thousand four hundred fifty dollars (\$777,450) or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from the general fund and shall be subject to the "(M)" notation as defined in the general appropriation act. Said amount is exempt from the statutory limit on state general fund appropriations pursuant to section 24-75-201.1 (1) (a) (III) (A), Colorado Revised Statutes. In addition to said appropriation, the general assembly anticipates that, for the fiscal year beginning July 1, 2006, the department of health care policy and financing will receive the sum of seven hundred twenty-eight thousand nine hundred thirty-seven dollars (\$728,937) in federal funds for the implementation of this act. Although the federal funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds in developing state appropriation amounts.

(2) For implementation of this act, appropriations made in the general appropriations act to the department of human services for the fiscal year beginning July 1, 2006, shall be adjusted as follows:

(a) The general fund appropriation for the division of child welfare, for child welfare services, is decreased by three million eight hundred sixty thousand one hundred fourteen dollars (\$3,860,114).

(b) The cash funds exempt appropriation from local share for the division of child welfare, for child welfare services, is decreased by three hundred seven thousand four hundred thirty-nine dollars (\$307,439).

(c) The cash funds exempt appropriation received from the department of health care policy and financing out of the appropriation made in subsection (1) of this section, for the division of child welfare, for child welfare services, is increased by eight million seven hundred forty-seven thousand seven hundred forty dollars (\$8,747,740).

(d) In addition to said appropriation, the general assembly anticipates that, for the fiscal year beginning July 1, 2006, the federal funds appropriation to the department of human services, for the division of child welfare, for child welfare services is decreased by nine hundred fifty-six thousand four hundred nineteen dollars (\$956,419) for the implementation of this act. Although the federal funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds in developing state appropriation amounts.

(e) The appropriation for the division of youth corrections, for purchase of contract placements, is increased by six hundred twenty-five thousand five hundred eighty-eight dollars (\$625,588) or so much thereof as may be necessary, for the implementation of this act. Of said sum, the general fund appropriation is decreased by eight hundred thirty-two thousand two hundred eighty-six dollars (\$832,286) and the cash funds exempt appropriation is increased by one million four hundred fifty-seven thousand eight hundred seventy-four dollars (\$1,457,874). Said cash funds exempt shall be from the department of health care policy and financing out of the appropriation made in subsection (1) of this section.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of registrations cash fund created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for allocation to the executive director's office and administrative services, for legal services, the sum of three hundred twenty-two dollars (\$322), or so much thereof as may be necessary, for the implementation of this act.

(4) In addition to any other appropriation, there is hereby appropriated, out of moneys in the division of registrations cash fund created in section 24-34-105 (2) (b) (I), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for allocation to the division of registrations, the sum of thirty thousand seventy-five dollars (\$30,075) and 0.4 FTE, or so much thereof as may be necessary, for the implementation of this act.

(5) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2006, the sum of three hundred twenty-two dollars (\$322), or so much thereof as may be necessary, for the provision of legal services to the division of registrations related to the implementation of this act. Said sum shall be from cash funds exempt received from the department of regulatory agencies out of the appropriation made in subsection (3) of this section.

**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 26, 2006