

CHAPTER 386

HEALTH AND ENVIRONMENT

SENATE BILL 10-073

BY SENATOR(S) Tapia, Boyd, Kester, Schwartz, Tochtrop, Williams;
also REPRESENTATIVE(S) McFadyen, Apuan, Gerou, Kefalas, Labuda, Merrifield, Pommer, Primavera, Todd.

AN ACT

CONCERNING THE NURSE HOME VISITOR PROGRAM DUTIES OF THE HEALTH SCIENCES FACILITY AT
THE UNIVERSITY OF COLORADO.

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

SECTION 1. 2-3-113 (1) and (4), Colorado Revised Statutes, are amended to read:

2-3-113. Programs that receive tobacco settlement moneys - program review.

(1) As used in this section:

(a) "HEALTH SCIENCES FACILITY" HAS THE MEANING SET FORTH IN SECTION 25-31-103, C.R.S. FOR PURPOSES OF THIS SECTION, "HEALTH SCIENCES FACILITY" INCLUDES ANY CONTRACTOR OR SUBCONTRACTOR ENGAGED BY THE HEALTH SCIENCES FACILITY TO ASSIST IN THE IMPLEMENTATION AND MONITORING OF THE NURSE HOME VISITOR PROGRAM ESTABLISHED UNDER ARTICLE 31 OF TITLE 25, C.R.S.

~~(a)~~ (b) "Master settlement agreement" means the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.*, Case No. 97 CV 3432, in the district court for the city and county of Denver.

~~(b)~~ (c) "Tobacco settlement program" means any program that receives

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

appropriations from moneys received by the state pursuant to the master settlement agreement.

(4) The joint budget committee staff, the legislative council staff, the office of legislative legal services, ~~and~~ the department of public health and environment, AND THE HEALTH SCIENCES FACILITY shall work with the state auditor's office in conducting the program reviews and evaluations of tobacco settlement programs.

SECTION 2. 25-1-108.5 (1), the introductory portion to 25-1-108.5 (2), and 25-1-108.5 (5), Colorado Revised Statutes, are amended to read:

25-1-108.5. Additional powers and duties of state board of health and department - programs that receive tobacco settlement moneys - monitoring - annual report. (1) As used in this section:

(a) "HEALTH SCIENCES FACILITY" HAS THE MEANING SET FORTH IN SECTION 25-31-103.

~~(a)~~ (b) "Master settlement agreement" means the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.*, Case No. 97 CV 3432, in the district court for the city and county of Denver.

(c) "NURSE HOME VISITOR PROGRAM" MEANS THE TOBACCO SETTLEMENT PROGRAM ESTABLISHED IN ARTICLE 31 OF THIS TITLE.

~~(b)~~ (d) "Tobacco settlement program" means any program that receives appropriations from moneys received by the state pursuant to the master settlement agreement.

(2) EXCEPT FOR THE NURSE HOME VISITOR PROGRAM, WHICH SHALL BE MONITORED BY THE HEALTH SCIENCES FACILITY IN ACCORDANCE WITH SECTION 25-31-105 (1), the state board and the department shall monitor the operation and effectiveness of tobacco settlement programs. Each tobacco settlement program shall annually submit to the department, in accordance with rules promulgated by the state board, the following information:

(5) Each tobacco settlement program shall pay a proportionate share of the costs incurred by the department in implementing the requirements of this section, WITH the amount paid by each tobacco settlement program ~~shall be~~ proportionate to the amounts annually appropriated to each tobacco settlement program FROM THE MASTER SETTLEMENT AGREEMENT; except that the total amount of the program evaluation costs shall not exceed four-tenths of one percent of the total amount of moneys received by the state pursuant to the master settlement agreement in any fiscal year. ~~For the fiscal year 2001-2002, seventy-five thousand nine hundred seventy-eight dollars from the moneys paid to the department from the tobacco~~

~~settlement programs pursuant to this section shall be appropriated to the stroke prevention and treatment cash fund created in section 25-34-105 for allocation to the stroke advisory board created in section 25-34-104 to cover the costs of such board's duties pursuant to such section.~~

SECTION 3. 25-31-102, Colorado Revised Statutes, is amended to read:

25-31-102. Legislative declaration. (1) The general assembly hereby finds that, in order to adequately care for their newborns and young children, new mothers may often benefit from receiving professional assistance and information. Without such assistance and information, a young mother may develop habits or practices that are detrimental to her health and well-being and the health and well-being of her child. The general assembly further finds that inadequate prenatal care and inadequate care in infancy and early childhood often inhibit a child's ability to learn and develop throughout his or her childhood and may have lasting, adverse affects on the child's ability to function as an adult. The general assembly recognizes that implementation of a nurse home visitor program that provides educational, health, and other resources for new young mothers during pregnancy and the first years of their infants' lives has been proven to significantly reduce the amount of drug, including nicotine, and alcohol use and abuse by mothers, the occurrence of criminal activity committed by mothers and their children under fifteen years of age, and the number of reported incidents of child abuse and neglect. Such a program has also been proven to reduce the number of subsequent births, increase the length of time between subsequent births, and reduce the mother's need for other forms of public assistance. It is the intent of the general assembly that such a program be established for the state of Colorado, beginning with a limited number of participants and expanding by the year 2010 to be available to all low-income, first-time mothers in the state who consent to receiving services.

(2) THE GENERAL ASSEMBLY FURTHER FINDS THAT, TO IMPLEMENT SUCH A PROGRAM EFFICIENTLY AND EFFECTIVELY AND TO PROMOTE THE SUCCESSFUL IMPLEMENTATION OF PARTNERSHIPS BETWEEN STATE PUBLIC ENTITIES AND THE PRIVATE SECTOR, RESPONSIBILITY FOR THE PROGRAM SHOULD BE DIVIDED BETWEEN THE DEPARTMENT, WHICH SHALL BE RESPONSIBLE FOR FINANCIAL ADMINISTRATION OF THE PROGRAM, AND A HEALTH SCIENCES FACILITY AT THE UNIVERSITY OF COLORADO, WHICH SHALL BE RESPONSIBLE FOR PROGRAMMATIC AND CLINICAL SUPPORT, EVALUATION, AND MONITORING FOR THE PROGRAM, AND SUCH OTHER RESPONSIBILITIES AS DESCRIBED IN THIS ARTICLE. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE DEPARTMENT AND THE HEALTH SCIENCES CENTER WORK COLLABORATIVELY TO SHARE INFORMATION IN ORDER TO PROMOTE EFFICIENT AND EFFECTIVE PROGRAM IMPLEMENTATION; HOWEVER, NEITHER ENTITY IS RESPONSIBLE FOR THE OTHER ENTITY'S STATUTORILY PRESCRIBED DUTIES.

SECTION 4. 25-31-103 (3), Colorado Revised Statutes, is amended to read:

25-31-103. Definitions. As used in this article, unless the context otherwise requires:

(3) "Health sciences facility" means THE ANSCHUTZ MEDICAL CAMPUS OR a SUCCESSOR facility located at the university of Colorado health sciences center that is selected by the president of the university of Colorado pursuant to section

25-31-105 to assist the state board in administering the program.

SECTION 5. 25-31-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25-31-104. Nurse home visitor program - created - rules. (5) THE DEPARTMENT MAY PROPOSE TO THE STATE BOARD RULES CONCERNING PROGRAM APPLICATIONS UNDER SECTION 25-31-106(1). ANY SUCH PROPOSAL SHALL BE MADE IN CONSULTATION WITH THE HEALTH SCIENCES FACILITY.

SECTION 6. 25-31-105, Colorado Revised Statutes, is amended to read:

25-31-105. Health sciences facility - duties. (1) The president of the university of Colorado shall identify a facility at the university of Colorado health sciences center with the knowledge and expertise necessary to:

(a) Assist the state board in selecting entities from among the applications submitted pursuant to section 25-31-106; ~~and in monitoring and evaluating the implementation of the program~~

(b) PROVIDE PROGRAMMATIC AND CLINICAL SUPPORT, EVALUATION, AND MONITORING FOR THE PROGRAM, INCLUDING NURSE PRACTICE SUPPORT AND TRAINING, CLINICAL AND PROGRAMMATIC TECHNICAL ASSISTANCE, COMPLIANCE MONITORING AND SUPPORT, PROGRAM DEVELOPMENT AND IMPLEMENTATION SUPPORT, AND PERFORMANCE IMPROVEMENT MONITORING AND SUPPORT, in communities throughout the state;

(c) COOPERATE WITH THE DEPARTMENT IN CONNECTION WITH THE DEPARTMENT'S FINANCIAL ADMINISTRATION OF THE PROGRAM; AND

(d) WORK WITH THE STATE AUDITOR'S OFFICE AS REQUIRED IN SECTION 2-3-113 (4), C.R.S.

(1.5) THE HEALTH SCIENCES FACILITY IS NOT RESPONSIBLE FOR THE DUTIES ASSIGNED TO THE DEPARTMENT WITH RESPECT TO THE PROGRAM UNDER SECTION 25-31-107 (2) (a.5).

(2) The health sciences facility shall ~~monitor the administration of the program by the selected entities~~ PERFORM THE DUTIES SET FORTH IN SUBSECTION (1) OF THIS SECTION to ensure that the program is implemented AND OPERATED according to the program training requirements, ~~program~~ protocols, ~~program~~ management information systems, and ~~program~~ evaluation requirements established by rule of the state board. The health sciences facility shall evaluate ~~the~~ overall PROGRAM implementation, ~~of the program~~ OPERATION, AND EFFECTIVENESS, and include ~~such~~ THAT evaluation, along with any recommendations concerning the PROGRAM'S selected entities or changes in the PROGRAM'S IMPLEMENTATION, OPERATION, AND EFFECTIVENESS, INCLUDING program training requirements, ~~program~~ protocols, ~~program~~ management information systems, or ~~program~~ evaluation requirements, in the annual report submitted to the department pursuant to section 25-31-108.

(3) The department shall compensate the health sciences facility for the HEALTH

SCIENCES FACILITY'S ACTUAL costs incurred in performing its duties under this article, AS DETERMINED BY THE HEALTH SCIENCES FACILITY. SUCH DUTIES AND ACTUAL COSTS SHALL BE INCLUDED IN THE SCOPE OF WORK IN THE AGREEMENT BETWEEN THE DEPARTMENT AND THE HEALTH SCIENCES FACILITY FOR IMPLEMENTATION OF THOSE DUTIES AND SHALL INCLUDE THE COSTS INCURRED BY ANY CONTRACTOR OR SUBCONTRACTOR OF THE HEALTH SCIENCES FACILITY FOR THOSE DUTIES. Such compensation shall be ~~included in the actual costs incurred by the department in administering the program and~~ paid out of the amount allocated ~~to the department for administrative costs pursuant to section 25-31-107 (2) (b)~~ FOR THE HEALTH SCIENCE FACILITY'S COSTS, IN ACCORDANCE WITH THE MAXIMUM ALLOCATION OF THREE PERCENT OF THE AMOUNT ANNUALLY ALLOCATED FOR THE PROGRAM UNDER SECTION 25-31-107 (2).

SECTION 7. The introductory portion to 25-31-106 (1), Colorado Revised Statutes, is amended to read:

25-31-106. Program applications - requirements. (1) ~~Any~~ AN entity that seeks to administer the program in a community shall submit an application to the department in accordance with rules adopted by the state board, IN CONSULTATION WITH THE DEPARTMENT AND THE HEALTH SCIENCES FACILITY. At a minimum, the application shall specify the basic elements and procedures that the entity shall use in administering the program. Basic program elements shall include ~~but are not limited to~~, the following:

SECTION 8. 25-31-107 (2) (b), Colorado Revised Statutes, is amended, and the said 25-31-107 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

25-31-107. Selection of entities to administer the program - grants - nurse home visitor program fund - created. (2) (a.5) EXCEPT AS OTHERWISE PROVIDED IN SECTION 25-31-108, THE DEPARTMENT SHALL BE RESPONSIBLE FOR FINANCIAL ADMINISTRATION OF THIS ARTICLE, WHICH SHALL INCLUDE COMPENSATING THE HEALTH SCIENCES FACILITY PURSUANT TO SECTION 25-31-105 (3), PAYING GRANTS TO ENTITIES SELECTED TO ADMINISTER THE PROGRAM, MONITORING FINANCIAL, CONTRACTUAL, AND REGULATORY COMPLIANCE; PROVIDING MEDICAID FINANCING OVERSIGHT; MANAGING ACCOUNTING AND BUDGETING; AND, IN COOPERATION WITH THE HEALTH SCIENCES FACILITY, MANAGING GRANT APPLICATIONS AS SET FORTH IN SECTION 25-31-106. THE DEPARTMENT SHALL ALSO COOPERATE WITH THE HEALTH SCIENCES FACILITY'S ADMINISTRATION OF PROGRAMMATIC AND CLINICAL SUPPORT, EVALUATION, AND MONITORING OF THE PROGRAM. THE DEPARTMENT SHALL NOT BE RESPONSIBLE FOR ANY DUTIES ASSIGNED TO THE HEALTH SCIENCES FACILITY WITH RESPECT TO THE PROGRAM, AS DESCRIBED IN SECTION 25-31-105.

(b) Grants awarded pursuant to paragraph (a) of this subsection (2) shall be payable from the nurse home visitor program fund, which fund is hereby created in the state treasury. The nurse home visitor program fund, referred to in this section as the "fund", shall BE ADMINISTERED BY THE DEPARTMENT AND SHALL consist of moneys transferred thereto by the state treasurer from moneys received pursuant to the master settlement agreement in the amount described in paragraph (d) of this subsection (2). In addition, the state treasurer ~~may~~ SHALL credit to the fund any public or private gifts, grants, or donations received by the department for

implementation of the program, INCLUDING ANY MONEYS RECEIVED FROM THE UNITED STATES FEDERAL GOVERNMENT FOR THE PROGRAM. The fund shall be subject to annual appropriation by the general assembly to the department for grants to entities for operation of the program. ~~In addition,~~ The department may retain A TOTAL OF up to five percent of the amount annually appropriated from the fund for the actual costs incurred by the department in implementing the provisions of this ~~article~~ PROGRAM, IN ORDER TO COMPENSATE THE HEALTH SCIENCES FACILITY PURSUANT TO SECTION 25-31-105 (3), AS SET FORTH IN THE SCOPE OF WORK IN THE AGREEMENT BETWEEN THE DEPARTMENT AND THE HEALTH SCIENCES FACILITY, AND TO COMPENSATE THE DEPARTMENT FOR THE ACTUAL COSTS INCURRED BY THE DEPARTMENT IN IMPLEMENTING THE PROVISIONS OF PARAGRAPH (a.5) OF THIS SUBSECTION (2), AS DETERMINED BY THE DEPARTMENT; EXCEPT THAT THE PORTION OF THE COSTS TO COMPENSATE THE DEPARTMENT FOR IMPLEMENTING THE PROVISIONS OF PARAGRAPH (a.5) OF THIS SUBSECTION (2) SHALL NOT EXCEED TWO PERCENT OF THE AMOUNT ANNUALLY APPROPRIATED FROM THE FUND FOR THE PROGRAM, AND THE PORTION OF SUCH COSTS TO COMPENSATE THE HEALTH SCIENCES FACILITY UNDER SECTION 25-31-105 (3), AS SET FORTH IN THE SCOPE OF WORK IN THE CONTRACT BETWEEN THE DEPARTMENT AND THE HEALTH SCIENCES FACILITY, SHALL NOT EXCEED THREE PERCENT OF THE AMOUNT ANNUALLY APPROPRIATED FROM THE FUND FOR THE PROGRAM. IN ADDITION, IF THE TOTAL AMOUNT ANNUALLY APPROPRIATED FROM THE FUND FOR THE PROGRAM EXCEEDS NINETEEN MILLION DOLLARS, THE DEPARTMENT AND THE HEALTH SCIENCES FACILITY SHALL ASSESS WHETHER A SMALLER PERCENTAGE OF THE APPROPRIATED FUNDS EXCEEDING NINETEEN MILLION DOLLARS IS ADEQUATE TO COVER THEIR ACTUAL COSTS AND SHALL JOINTLY SUBMIT TO THE GENERAL ASSEMBLY A REPORT ARTICULATING THEIR CONCLUSIONS ON THIS SUBJECT. THE ACTUAL COSTS OF THE DEPARTMENT INCLUDE DEPARTMENT PERSONNEL AND OPERATING COSTS AND ANY NECESSARY TRANSFERS TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING FOR ADMINISTRATIVE COSTS INCURRED FOR THE MEDICAID PROGRAM ASSOCIATED WITH THE PROGRAM. THE ACTUAL COSTS OF THE HEALTH SCIENCES FACILITY INCLUDE THE FACILITY'S OWN ACTUAL PROGRAM COSTS AND THOSE OF ITS CONTRACTORS AND SUBCONTRACTORS. ANY COSTS FOR TIME STUDIES REQUIRED TO OBTAIN MEDICAID REIMBURSEMENT FOR THE PROGRAM MAY BE PAID FROM PROGRAM FUNDS, AND SHALL NOT BE SUBJECT TO THE FIVE PERCENT LIMIT IN THIS SECTION. Notwithstanding the provisions of section 24-36-114, C.R.S., all interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. Any unencumbered moneys appropriated from moneys received pursuant to the master settlement agreement remaining in the fund at the end of any fiscal year shall be transferred to the tobacco litigation settlement trust fund created in section 24-22-115.5, C.R.S.

SECTION 9. 25-31-108 (1), Colorado Revised Statutes, is amended to read:

25-31-108. Annual program review - audit. (1) The health sciences facility shall annually prepare and submit to the department a report including an evaluation of the implementation of the program, the results achieved by the program based on the annual reports submitted by the administering entities pursuant to section 25-31-106 (1) (e), the extent to which the program serves medicaid-eligible persons and provides services that may be provided in part through medicaid funding, and any recommendations concerning changes to the program, including ~~but not limited to~~ any changes that may be appropriate to enable the program to receive medicaid

funding. The department shall include ~~said~~ THE report in the annual report on ~~programs that are funded by moneys received pursuant to the master settlement agreement~~ THE PROGRAM prepared pursuant to section 25-1-108.5 (3). EACH PROGRAM CONTRACTOR AND SUBCONTRACTOR AND EACH ENTITY THAT ADMINISTERSTHE PROGRAM SHALL WORK WITH THE HEALTH SCIENCES FACILITY AND THE DEPARTMENT TO PREPARE THE REPORTS REQUIRED UNDER THIS SECTION AND SECTIONS 2-3-113 (2) AND 25-1-108.5 (3), C.R.S. Any entity that is administering the program ~~may be~~ IS subject to a reduction in or cessation of funding if the state board, based on recommendations from the health sciences facility, determines that the entity is not operating the program in accordance with the program requirements established by rule of the state board or is operating the program in such a manner that the program does not demonstrate positive results.

SECTION 10. Adjustment to the 2010 long bill. For the implementation of this act, the appropriation made in the annual general appropriation act, for the fiscal year beginning July 1, 2010, to the department of public health and environment, prevention services division, family and community health, child, adolescent, and school health, nurse home visitor program, is reduced by 1.0 FTE.

SECTION 11. Specified effective date. This act shall take effect June 30, 2010.

SECTION 12. 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 8, 2010