

CHAPTER 252

HEALTH AND ENVIRONMENT

HOUSE BILL 12-1294

BY REPRESENTATIVE(S) Liston, Todd, Acree, Gardner B., Kerr J., Massey, Miklosi, Murray, Priola, Ramirez, Soper, Swalm, Swerdfeger, Szabo, Labuda, Balmer, Barker, Bradford, Court, Singer, Summers, Williams A.;
also SENATOR(S) Tochtrop, Boyd, Mitchell, Neville, White, Aguilar, Hudak, King S., Newell, Steadman, Williams S.

AN ACT

CONCERNING MODIFICATIONS TO THE SYSTEM OF REGULATION OF HEALTH FACILITIES CURRENTLY REGULATED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) In his state of the state address to the general assembly in 2011, the governor spoke of his goal that government should be effective, efficient, and elegant;

(b) The purpose of this measure is to facilitate that goal by eliminating duplication and unnecessary government oversight and regulation of health facilities in the state;

(c) While state regulation and oversight of health facilities that house or care for patients is needed to protect patients from abuse or avoidable accidents, overly burdensome regulations and unrestrained licensure and fees diminish the viability of businesses and the productivity of caregivers;

(d) When regulation is onerous and superfluous, providers waste resources and a client's quality of care is diminished. Eliminating and reducing regulation provides vitality to businesses and an opportunity to deliver an even higher quality of care.

(e) The regulatory system that governs health facilities needs to reward providers that have commendable records of patient service and protection and offer relief from the burdens and costs associated with wasteful state regulation;

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

(f) Overly burdensome and inefficient regulation can result in fewer private sector jobs and can lower the quality of care as vital resources are diverted to red tape and paperwork. Savings to the state and to health facilities are likely if inefficient and ineffective regulation is reduced.

(g) If initiatives to reduce such regulation are adopted:

(I) Health facilities will be able to better apply their resources, produce needed jobs, provide better health care, and stimulate the economy in these difficult times; and

(II) The state will save costs and be able to divert those savings to other critical areas.

SECTION 2. In Colorado Revised Statutes, 25-1.5-103, **amend** (1) (a) (I), (1) (c), and (2) (a.5) introductory portion; and **add** (2) (b.5) as follows:

25-1.5-103. Health facilities - powers and duties of department - limitations on rules promulgated by department. (1) The department has, in addition to all other powers and duties imposed upon it by law, the powers and duties provided in this section as follows:

(a) (I) (A) To annually license and to establish and enforce standards for the operation of general hospitals, hospital units as defined in section 25-3-101 (2), psychiatric hospitals, community clinics, rehabilitation ~~centers~~ HOSPITALS, convalescent centers, community mental health centers, acute treatment units, facilities for persons with developmental disabilities, ~~habilitation centers for brain-damaged children, chiropractic centers and hospitals, maternity hospitals,~~ nursing care facilities, ~~the pilot project rehabilitative nursing facility,~~ hospice care, assisted living residences, dialysis treatment clinics, ambulatory surgical centers, birthing centers, home care agencies, and other facilities of a like nature, except those wholly owned and operated by any governmental unit or agency.

(B) In establishing and enforcing such standards and in addition to the required announced inspections, the department shall, within available appropriations, make additional inspections without prior notice to the HEALTH facility, SUBJECT TO SUB-SUBPARAGRAPH (C) OF THIS SUBPARAGRAPH (I). Such inspections shall be made only during the hours of 7 a.m. to 7 p.m.

(C) THE DEPARTMENT SHALL EXTEND THE SURVEY CYCLE OR CONDUCT A TIERED INSPECTION OR SURVEY OF A HEALTH FACILITY LICENSED FOR AT LEAST THREE YEARS AND AGAINST WHICH NO ENFORCEMENT ACTIVITY HAS BEEN TAKEN, NO PATTERNS OF DEFICIENT PRACTICES EXIST, AS DOCUMENTED IN THE INSPECTION AND SURVEY REPORTS ISSUED BY THE DEPARTMENT, AND NO SUBSTANTIATED COMPLAINT RESULTING IN THE DISCOVERY OF SIGNIFICANT DEFICIENCIES THAT MAY NEGATIVELY AFFECT THE LIFE, HEALTH, OR SAFETY OF CONSUMERS OF THE HEALTH FACILITY HAS BEEN RECEIVED WITHIN THE THREE YEARS PRIOR TO THE DATE OF THE INSPECTION. THE DEPARTMENT MAY EXPAND THE SCOPE OF THE INSPECTION OR SURVEY TO AN EXTENDED OR FULL SURVEY IF THE DEPARTMENT FINDS DEFICIENT PRACTICE DURING THE TIERED INSPECTION OR SURVEY. THE DEPARTMENT, BY RULE, SHALL ESTABLISH

A SCHEDULE FOR AN EXTENDED SURVEY CYCLE OR A TIERED INSPECTION OR SURVEY SYSTEM DESIGNED, AT A MINIMUM, TO: REDUCE THE TIME NEEDED FOR AND COSTS OF LICENSURE INSPECTIONS FOR BOTH THE DEPARTMENT AND THE LICENSED HEALTH FACILITY; REDUCE THE NUMBER, FREQUENCY, AND DURATION OF ON-SITE INSPECTIONS; REDUCE THE SCOPE OF DATA AND INFORMATION THAT HEALTH FACILITIES ARE REQUIRED TO SUBMIT OR PROVIDE TO THE DEPARTMENT IN CONNECTION WITH THE LICENSURE INSPECTION; REDUCE THE AMOUNT AND SCOPE OF DUPLICATIVE DATA, REPORTS, AND INFORMATION REQUIRED TO COMPLETE THE LICENSURE INSPECTION; AND BE BASED ON A SAMPLE OF THE FACILITY SIZE. NOTHING IN THIS SUB-SUBPARAGRAPH (C) LIMITS THE ABILITY OF THE DEPARTMENT TO CONDUCT A PERIODIC INSPECTION OR SURVEY THAT IS REQUIRED TO MEET ITS OBLIGATIONS AS A STATE SURVEY AGENCY ON BEHALF OF THE CENTERS FOR MEDICARE AND MEDICAID SERVICES OR THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING TO ASSURE THAT THE HEALTH FACILITY MEETS THE REQUIREMENTS FOR PARTICIPATION IN THE MEDICARE AND MEDICAID PROGRAMS.

(D) IN CONNECTION WITH THE RENEWAL OF LICENSES ISSUED PURSUANT TO THIS SUBPARAGRAPH (I), THE DEPARTMENT SHALL INSTITUTE A PERFORMANCE INCENTIVE SYSTEM PURSUANT TO SECTION 25-3-105 (1) (a) (I) (C).

(E) THE DEPARTMENT SHALL NOT CITE AS A DEFICIENCY IN A REPORT RESULTING FROM A SURVEY OR INSPECTION OF A LICENSED HEALTH FACILITY ANY DEFICIENCY FROM AN ISOLATED EVENT IDENTIFIED BY THE DEPARTMENT THAT CAN BE EFFECTIVELY REMEDIATED DURING THE SURVEY OR INSPECTION OF THE HEALTH FACILITY, UNLESS THE DEFICIENCY CAUSED HARM OR A POTENTIAL FOR HARM, CREATED A LIFE- OR LIMB-THREATENING EMERGENCY, OR WAS DUE TO ABUSE OR NEGLIGENCE.

(F) SECTIONS 24-4-104, C.R.S., AND 25-3-102 GOVERN the issuance, suspension, renewal, revocation, annulment, or modification of licenses. ~~shall be governed by the provisions of section 24-4-104, C.R.S., and section 25-3-102, and~~ All licenses ~~shall bear~~ ISSUED BY THE DEPARTMENT MUST CONTAIN the date of issue and cover a twelve-month period. Nothing contained in this paragraph (a) ~~shall be construed to prevent~~ PREVENTS the department from adopting and enforcing, with respect to projects for which federal assistance has been obtained or ~~shall be~~ IS requested, ~~such~~ higher standards as may be required by applicable federal laws or regulations of federal agencies responsible for the administration of ~~such~~ APPLICABLE federal laws.

(c) (I) To establish and enforce standards for licensure of community mental health centers and acute treatment units.

(II) The department of public health and environment ~~shall have the~~ HAS primary responsibility for the licensure of ~~such facilities~~ COMMUNITY MENTAL HEALTH CENTERS AND ACUTE TREATMENTS UNITS. The department of human services ~~shall have~~ HAS primary responsibility for program approval AT THESE FACILITIES. IN PERFORMING THEIR RESPECTIVE RESPONSIBILITIES PURSUANT TO THIS SUBPARAGRAPH (II), BOTH DEPARTMENTS SHALL TAKE INTO ACCOUNT CHANGES IN HEALTH CARE POLICY AND PRACTICE INCORPORATING THE CONCEPT AND PRACTICE OF INTEGRATION OF SERVICES AND THE DEVELOPMENT OF A SYSTEM THAT COMMINGLES AND INTEGRATES HEALTH CARE SERVICES.

(2) For purposes of this section, unless the context otherwise requires:

(a.5) "Community clinic" HAS THE SAME MEANING AS SET FORTH IN SECTION 25-3-101 AND does not include:

(b.5) "ENFORCEMENT ACTIVITY" MEANS THE IMPOSITION OF REMEDIES SUCH AS CIVIL MONEY PENALTIES; APPOINTMENT OF A RECEIVER OR TEMPORARY MANAGER; CONDITIONAL LICENSURE; SUSPENSION OR REVOCATION OF A LICENSE; A DIRECTED PLAN OF CORRECTION; INTERMEDIATE RESTRICTIONS OR CONDITIONS, INCLUDING RETAINING A CONSULTANT, DEPARTMENT MONITORING, OR PROVIDING ADDITIONAL TRAINING TO EMPLOYEES, OWNERS, OR OPERATORS; OR ANY OTHER REMEDY PROVIDED BY STATE OR FEDERAL LAW OR AS AUTHORIZED BY FEDERAL SURVEY, CERTIFICATION, AND ENFORCEMENT REGULATIONS AND AGREEMENTS FOR VIOLATIONS OF FEDERAL OR STATE LAW.

SECTION 3. In Colorado Revised Statutes, 25-3-101, **amend** (1) and (2) (a); and **add** (4) as follows:

25-3-101. Hospitals - health facilities - licensed - definitions. (1) It is unlawful for any person, partnership, association, or corporation to open, conduct, or maintain any general hospital, hospital unit, psychiatric hospital, community clinic, rehabilitation center HOSPITAL, convalescent center, community mental health center, acute treatment unit, facility for persons with developmental disabilities, ~~habilitation center for children with brain damage, chiropractic center and hospital, maternity hospital,~~ AS DEFINED IN SECTION 25-1.5-103 (2) (c), nursing care facility, ~~pilot project rehabilitative nursing facility,~~ hospice care, assisted living residence, except an assisted living residence shall be assessed a license fee as set forth in section 25-27-107, dialysis treatment clinic, ambulatory surgical center, birthing center, home care agency, or other facility of a like nature, except those wholly owned and operated by any governmental unit or agency, without first having obtained a license ~~therefor~~ from the department of public health and environment.

(2) As used in this section, unless the context otherwise requires:

(a) (I) "COMMUNITY CLINIC" MEANS A HEALTH CARE FACILITY THAT PROVIDES HEALTH CARE SERVICES ON AN AMBULATORY BASIS, IS NEITHER LICENSED AS AN ON-CAMPUS DEPARTMENT OR SERVICE OF A HOSPITAL NOR LISTED AS AN OFF-CAMPUS LOCATION UNDER A HOSPITAL'S LICENSE, AND MEETS AT LEAST ONE OF THE FOLLOWING CRITERIA:

(A) OPERATES INPATIENT BEDS AT THE FACILITY FOR THE PROVISION OF EXTENDED OBSERVATION AND OTHER RELATED SERVICES FOR NOT MORE THAN SEVENTY-TWO HOURS;

(B) PROVIDES EMERGENCY SERVICES AT THE FACILITY; OR

(C) IS NOT OTHERWISE SUBJECT TO HEALTH FACILITY LICENSURE UNDER THIS SECTION OR SECTION 25-1.5-103 BUT OPTS TO OBTAIN LICENSURE AS A COMMUNITY CLINIC IN ORDER TO RECEIVE PRIVATE DONATIONS, GRANTS, GOVERNMENT FUNDS, OR OTHER PUBLIC OR PRIVATE REIMBURSEMENT FOR SERVICES RENDERED.

(II) "COMMUNITY CLINIC" INCLUDES A PRISON CLINIC OPERATED BY THE DEPARTMENT OF CORRECTIONS.

(III) "Community clinic" does not include:

(H) (A) A federally qualified health center, as defined in section 1861 (aa) (4) of the federal "Social Security Act", 42 U.S.C. sec. 1395x (aa) (4);

(H) (B) A rural health clinic, as defined in section 1861 (aa) (2) of the federal "Social Security Act", 42 U.S.C. sec. 1395x (aa) (2);

(C) A FACILITY THAT FUNCTIONS ONLY AS AN OFFICE FOR THE PRACTICE OF MEDICINE OR THE DELIVERY OF PRIMARY CARE SERVICES BY OTHER LICENSED OR CERTIFIED PRACTITIONERS.

(4) A HEALTH CARE FACILITY IS NOT REQUIRED TO BE LICENSED AS A COMMUNITY CLINIC SOLELY DUE TO THE FACILITY'S OWNERSHIP STATUS, CORPORATE STRUCTURE, OR ENGAGEMENT OF OUTSIDE VENDORS TO PERFORM NONCLINICAL MANAGEMENT SERVICES. THIS SECTION PERMITS REGULATION OF A PHYSICIAN'S OFFICE ONLY TO THE EXTENT THE OFFICE IS A COMMUNITY CLINIC AS DEFINED IN THIS SECTION.

SECTION 4. In Colorado Revised Statutes, 25-3-102, **amend** (1) as follows:

25-3-102. License - application - issuance. (1) (a) An ~~application~~ APPLICANT for a license described in section 25-3-101 shall ~~be made~~ APPLY to the department of public health and environment annually upon such form and in such manner as prescribed by the department; except that a community residential home shall make application for a license pursuant to section 27-10.5-109, C.R.S.

(b) The department has authority to administer oaths, subpoena witnesses or documents, and take testimony in all matters relating to issuing, denying, limiting, suspending, or revoking ~~such~~ A license.

(c) The department shall issue licenses to applicants furnishing satisfactory evidence of fitness to conduct and maintain a HEALTH facility described in section 25-3-101 in accordance with ~~the provisions of~~ this part 1 and the rules ~~and regulations~~ adopted by ~~such~~ THE department. THE DEPARTMENT SHALL NOT REQUIRE, AS SATISFACTORY EVIDENCE OF FITNESS, EVIDENCE AS TO WHETHER AN APPLICANT HAS PROVIDED SELF DECLARATIONS, AFFIDAVITS, OR OTHER ATTESTATIONS AS TO ITS GENERAL COMPLIANCE WITH STATUTORY OR REGULATORY LICENSING REQUIREMENTS. THE DEPARTMENT SHALL DETERMINE AN APPLICANT'S FITNESS SOLELY BASED ON THE SPECIFIC FITNESS INFORMATION OR DOCUMENTATION SUBMITTED BY THE APPLICANT UPON THE DEPARTMENT'S REQUEST OR AS OTHERWISE ACQUIRED BY THE DEPARTMENT THROUGH ITS OWN REVIEW OR INVESTIGATION OF THE APPLICANT. THE DEPARTMENT MAY REQUIRE THE APPLICANT TO ATTEST TO THE ACCURACY OF THE INFORMATION PROVIDED AS LONG AS THE ATTESTATION DOES NOT REQUIRE THE APPLICANT'S AFFIRMATION OF ITS GENERAL COMPLIANCE WITH STATUTORY OR REGULATORY LICENSING REQUIREMENTS.

(d) The license shall be signed by the president and attested by the secretary of the state board of health and have the STATE BOARD'S seal ~~thereof~~ affixed ~~thereto~~.

~~Such~~ TO THE LICENSE. THE license expires one year from the date of issuance.

(e) (I) FOR A CHANGE OF OWNERSHIP, THE DEPARTMENT SHALL CONDUCT A FITNESS REVIEW OF A NEW OWNER BASED UPON INFORMATION COMPILED WITHIN THE FIVE YEARS PRECEDING THE DATE OF THE APPLICATION; EXCEPT THAT THE NEW OWNER SHALL DISCLOSE WHETHER, WITHIN THE TEN YEARS PRECEDING THE DATE OF AN APPLICATION, THE NEW OWNER:

(A) HAS BEEN CONVICTED OF A FELONY OR MISDEMEANOR INVOLVING MORAL TURPITUDE;

(B) HAD A STATE LICENSE OR FEDERAL CERTIFICATION DENIED, REVOKED, OR SUSPENDED BY ANOTHER JURISDICTION;

(C) HAD A CIVIL JUDGMENT OR CRIMINAL CONVICTION AGAINST THE NEW OWNER IN A CASE BROUGHT BY THE FEDERAL, STATE, OR LOCAL AUTHORITIES THAT RESULTED FROM THE OPERATION, MANAGEMENT, OR OWNERSHIP OF A HEALTH FACILITY OR OTHER ENTITY RELATED TO SUBSTANDARD PATIENT CARE OR HEALTH CARE FRAUD.

(II) THE NEW OWNER SHALL PROVIDE THE INFORMATION SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e) TO THE DEPARTMENT REGARDLESS OF WHETHER ACTION HAS BEEN STAYED DURING A JUDICIAL APPEAL OR OTHERWISE SETTLED BETWEEN THE PARTIES.

(III) THE DEPARTMENT MAY REVIEW AN EXISTING OWNER OF A LICENSED HEALTH FACILITY OR ENTITY ONLY WHEN THE DEPARTMENT HAS NEW INFORMATION NOT PREVIOUSLY AVAILABLE OR DISCLOSED THAT BEARS ON THE FITNESS OF THE EXISTING OWNER TO OPERATE OR MAINTAIN A LICENSED HEALTH FACILITY OR ENTITY.

(IV) A CONVERSION OF THE HEALTH FACILITY'S OR ENTITY'S LEGAL STRUCTURE, OR THE LEGAL STRUCTURE OF AN ENTITY THAT HAS A DIRECT OR INDIRECT OWNERSHIP INTEREST IN THE HEALTH FACILITY OR ENTITY, IS NOT A CHANGE OF OWNERSHIP UNLESS THE CONVERSION ALSO INCLUDES A TRANSFER OF AT LEAST FIFTY PERCENT OF THE LICENSED FACILITY'S DIRECT OR INDIRECT OWNERSHIP INTEREST TO ONE OR MORE NEW OWNERS.

SECTION 5. In Colorado Revised Statutes, **amend** 25-3-102.1 as follows:

25-3-102.1. Deemed status for certain facilities. (1) (a) In the licensing of an ambulatory surgical center following the issuance of initial licensure by the department OF PUBLIC HEALTH AND ENVIRONMENT, the voluntary submission of satisfactory evidence that the applicant is accredited by the joint commission, the American association for accreditation of ambulatory surgery facilities, inc., the accreditation association for ambulatory health care, the American osteopathic association, or any successor entities shall be deemed to meet certain requirements for license renewal so long as the standards for accreditation applied by the accrediting organization are at least as stringent as the licensure requirements otherwise specified by the department.

(b) (I) IN THE APPLICATION FOR THE RENEWAL OF A LICENSE FOR A HEALTH FACILITY DESCRIBED IN SECTION 25-3-101, OTHER THAN AN AMBULATORY SURGICAL CENTER, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL DEEM HEALTH FACILITIES THAT ARE CURRENTLY ACCREDITED BY AN ACCREDITING ORGANIZATION RECOGNIZED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES AS SATISFYING THE REQUIREMENTS FOR RENEWAL OF THE LICENSE.

(II) IF THE STANDARDS FOR NATIONAL ACCREDITATION ARE LESS STRINGENT THAN THE STATE'S LICENSURE STANDARDS FOR A PARTICULAR HEALTH FACILITY, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT MAY CONDUCT A SURVEY THAT FOCUSES ON THE MORE STRINGENT STATE STANDARDS. BEGINNING ONE YEAR AFTER THE DEPARTMENT FIRST GRANTS DEEMED STATUS TO A HEALTH FACILITY PURSUANT TO THIS PARAGRAPH (b), THE DEPARTMENT MAY CONDUCT VALIDATION SURVEYS, BASED ON A VALID SAMPLE METHODOLOGY, OF UP TO TEN PERCENT OF THE TOTAL NUMBER OF ACCREDITED HEALTH FACILITIES IN THE INDUSTRY, EXCLUDING HOSPITALS. IF THE DEPARTMENT CONDUCTS A VALIDATION SURVEY OF A HEALTH FACILITY, THE VALIDATION SURVEY IS IN LIEU OF A LICENSING RENEWAL SURVEY THAT THE HEALTH FACILITY WOULD HAVE UNDERGONE IF THE HEALTH FACILITY DID NOT HAVE DEEMED STATUS PURSUANT TO THIS PARAGRAPH (b).

(III) IF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TAKES AN ENFORCEMENT ACTIVITY, AS DEFINED IN SECTION 25-1.5-103 (2) (b.5), AGAINST A HEALTH FACILITY TO WHICH IT HAS GRANTED DEEMED STATUS PURSUANT TO THIS PARAGRAPH (b), THE DEPARTMENT MAY REVOKE THE HEALTH FACILITY'S DEEMED STATUS.

(c) Upon submission of a completed application for license renewal, the department OF PUBLIC HEALTH AND ENVIRONMENT shall accept proof of the accreditation in lieu of licensing inspections or other requirements. Nothing in this section ~~shall be construed to exempt~~ EXEMPTS an accredited ~~ambulatory surgical center~~ HEALTH FACILITY from inspections or from other forms of oversight by the department as necessary to ensure public health and safety.

(2) In determining fees otherwise payable by ~~an ambulatory surgical center~~ A HEALTH FACILITY for license renewal, the department OF PUBLIC HEALTH AND ENVIRONMENT shall give due consideration to efficiencies and savings generated in connection with the deemed status process in subsection (1) of this section and shall specifically provide an appropriate credit or reduced fee to ~~an ambulatory surgical center~~ A HEALTH FACILITY that achieves license renewal through deemed status.

SECTION 6. In Colorado Revised Statutes, 25-3-103, **amend** (1) (a); and **add** (1) (c) as follows:

25-3-103. License denial or revocation - provisional license - rules.
 (1) (a) The department of public health and environment may deny an application for a new or renewal license under this part 1 or revoke a license if the applicant or licensee has not satisfied the requirements of this part 1 or part 6 of this article and the rules of the department or the state board of health. If a license is denied or revoked, the department may grant the applicant or licensee a provisional license upon payment of a fee established by the state board of health by rule, SUBJECT TO

THE LIMITATIONS IN PARAGRAPH (c) OF THIS SUBSECTION (1). The provisional license ~~shall be~~ IS valid for no longer than ninety days and may be issued to allow the applicant or licensee time to comply with the requirements for a regular license. A second provisional license may be issued if the department determines it is necessary to effect compliance. The second provisional license ~~shall~~ MUST be issued for the same duration as the first provisional license upon payment of the fee established by the state board of health by rule, SUBJECT TO THE LIMITATIONS IN PARAGRAPH (c) OF THIS SUBSECTION (1). No further provisional licenses may be issued for the then current year after the second issuance.

(c) ON OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (c), THE STATE BOARD OF HEALTH MAY INCREASE THE AMOUNT OF A PROVISIONAL LICENSE FEE ESTABLISHED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) THAT IS IN EFFECT ON THE EFFECTIVE DATE OF THIS PARAGRAPH (c) BY AN AMOUNT NOT TO EXCEED THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-BOULDER-GREELEY FOR ALL URBAN CONSUMERS, ALL GOODS, OR ITS SUCCESSOR INDEX. NOTHING IN THIS PARAGRAPH (c) LIMITS THE ABILITY OF THE STATE BOARD OF HEALTH TO REDUCE THE AMOUNT OF A PROVISIONAL LICENSE FEE IN EFFECT ON SUCH DATE OR TO MODIFY FEES IN ACCORDANCE WITH PARAGRAPH (b) OF THIS SUBSECTION (1) AS NECESSARY TO COMPLY WITH SECTION 24-75-402, C.R.S.

SECTION 7. In Colorado Revised Statutes, 25-3-105, **amend** (1) (a) (I) and (2) as follows:

25-3-105. License - fee - rules - penalty. (1) (a) (I) (A) SUBJECT TO THE LIMITATIONS IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (I), the state board of health shall establish a schedule of fees, which ~~shall~~ MUST be set at a level sufficient to meet the direct and indirect costs of administration and enforcement of this article, as appropriated by the general assembly for each fiscal year, less any moneys appropriated for the same fiscal year by the general assembly from any other source to meet such costs. The fee schedule ~~shall~~ MUST also ensure that the reserve balance in the health facilities general licensure cash fund created in section 25-3-103.1 (1) is consistent with the limits specified in section 24-75-402 (3), C.R.S., and ~~shall~~ MUST be modified, as necessary, to comply with said limits. The state board shall establish and modify, as necessary, the fee schedule by rules adopted in accordance with article 4 of title 24, C.R.S. Except as specified in subparagraph (II) of this paragraph (a), the department OF PUBLIC HEALTH AND ENVIRONMENT may assess fees in accordance with the fee schedule established by the state board against health facilities licensed by the department. All fees collected pursuant to the fee schedule ~~shall~~ MUST be deposited in the health facilities general licensure cash fund created in section 25-3-103.1 (1) and ~~shall be~~ ARE subject to appropriation by the general assembly in accordance with section 25-3-103.1 (2).

(B) ON OR AFTER THE EFFECTIVE DATE OF THIS SUB-SUBPARAGRAPH (B), THE STATE BOARD OF HEALTH MAY INCREASE THE AMOUNT OF ANY FEE ON THE SCHEDULE OF FEES ESTABLISHED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I) THAT IS IN EFFECT ON THE EFFECTIVE DATE OF THIS SUB-SUBPARAGRAPH (B), BY AN AMOUNT NOT TO EXCEED THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-BOULDER-GREELEY FOR ALL

URBAN CONSUMERS, ALL GOODS, OR ITS SUCCESSOR INDEX. NOTHING IN THIS SUB-SUBPARAGRAPH (B) LIMITS THE ABILITY OF THE STATE BOARD OF HEALTH TO REDUCE THE AMOUNT OF ANY FEE ON THE SCHEDULE OF FEES IN EFFECT ON SUCH DATE OR TO MODIFY FEES AS NECESSARY TO COMPLY WITH SECTION 24-75-402, C.R.S.

(C) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL INSTITUTE, BY RULE, A PERFORMANCE INCENTIVE SYSTEM FOR LICENSED HEALTH FACILITIES UNDER WHICH A LICENSED HEALTH FACILITY WOULD BE ELIGIBLE FOR A REDUCTION IN ITS LICENSE RENEWAL FEE IF: THE DEPARTMENT'S ON-SITE RELICENSURE INSPECTION DEMONSTRATES THAT THE HEALTH FACILITY HAS NO SIGNIFICANT DEFICIENCIES THAT HAVE NEGATIVELY AFFECTED THE LIFE, SAFETY, OR HEALTH OF ITS CONSUMERS; THE LICENSED HEALTH FACILITY HAS FULLY AND TIMELY COOPERATED WITH THE DEPARTMENT DURING THE ON-SITE INSPECTION; THE DEPARTMENT HAS FOUND NO DOCUMENTED ACTUAL OR POTENTIAL HARM TO CONSUMERS; AND, IN THE CASE WHERE ANY SIGNIFICANT DEFICIENCIES ARE FOUND THAT DO NOT NEGATIVELY AFFECT THE LIFE, SAFETY, OR HEALTH OF CONSUMERS, THE LICENSED HEALTH FACILITY HAS SUBMITTED, AND THE DEPARTMENT HAS ACCEPTED, A PLAN OF CORRECTION AND THE HEALTH FACILITY HAS CORRECTED THE DEFICIENT PRACTICE, AS VERIFIED BY THE DEPARTMENT, WITHIN THE PERIOD REQUIRED BY THE DEPARTMENT.

(2) The department of public health and environment shall maintain a full, true, and accurate ~~cost~~ ACCOUNTING OF THE COSTS of providing services under this article, including indirect costs, AND, AT LEAST ANNUALLY, SHALL PROVIDE A DETAILED COST ACCOUNTING REPORT TO THE HEALTH CARE FACILITY STAKEHOLDER FORUM CREATED IN SECTION 25-3-113. The department of ~~public health and environment~~ shall regularly evaluate and update its cost-accounting methods.

SECTION 8. In Colorado Revised Statutes, **add** 25-3-113 as follows:

25-3-113. Health care facility stakeholder forum - creation - membership - duties. (1) THERE IS HEREBY CREATED IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT THE HEALTH CARE FACILITY STAKEHOLDER FORUM, REFERRED TO IN THIS SECTION AS THE "STAKEHOLDER FORUM". THE STAKEHOLDER FORUM MUST CONSIST OF REPRESENTATIVES FROM VARIOUS TYPES OF PROVIDER FACILITIES LICENSED BY THE DEPARTMENT, CONSUMERS, CONSUMER ADVOCATES, OMBUDSMEN, AND OTHER INTERESTED PARTIES. THE DEPARTMENT SHALL MEET AT LEAST FOUR TIMES EACH YEAR WITH THE STAKEHOLDER FORUM TO DISCUSS AND TAKE INTO CONSIDERATION THE CONCERNS AND ISSUES OF INTEREST TO THE FORUM MEMBERS AND OTHER ATTENDEES REGARDING THE DEVELOPMENT AND IMPLEMENTATION OF RULES AND OTHER MATTERS THAT AFFECT ALL HEALTH CARE FACILITIES LICENSED BY THE DEPARTMENT.

(2) THE MEMBERS OF THE STAKEHOLDER FORUM SERVE ON A VOLUNTARY BASIS WITHOUT COMPENSATION AND ARE RESPONSIBLE FOR NOTICING, STAFFING, RECORDING, AND REPORTING THE NOTES FROM THE STAKEHOLDER FORUM MEETINGS. THE DEPARTMENT SHALL CONSIDER THE ATTENDANCE OF ITS REPRESENTATIVES AT MEETINGS WITH THE STAKEHOLDER FORUM TO BE WITHIN THE NORMAL COURSE OF BUSINESS, WITH NO ADDITIONAL APPROPRIATION TO OR RESOURCES FROM THE DEPARTMENT REQUIRED.

(3) THE STAKEHOLDER FORUM AND THE DEPARTMENT SHALL WORK TO COORDINATE WITH, AND SHALL NOT DUPLICATE THE WORK BEING DONE BY, ESTABLISHED OR STATUTORILY AUTHORIZED ADVISORY COMMITTEES OR WORKING GROUPS ON ISSUES RELATED TO THE DEVELOPMENT AND IMPLEMENTATION OF RULES.

(4) FOR PURPOSES OF SECTION 24-4-103 (2), C.R.S., AS AMENDED BY HOUSE BILL 12-1008, ENACTED IN 2012, THE DEPARTMENT MAY USE THE STAKEHOLDER FORUM DESCRIBED IN THIS SECTION, WHEN APPROPRIATE, TO SERVE AS THE REPRESENTATIVE GROUP FOR THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

SECTION 9. In Colorado Revised Statutes, 25-3-602, **amend** (4) (a) (IV) as follows:

25-3-602. Health facility reports - repeal. (4) (a) The executive director of the department shall appoint an advisory committee. The advisory committee shall consist of:

(IV) Four infection control practitioners AS FOLLOWS:

(A) One from a stand-alone ambulatory surgical center; and

(B) Three ~~registered nurses who are~~ HEALTH CARE PROFESSIONALS certified by the certification board of infection control and epidemiology, INC., OR ITS SUCCESSOR;

SECTION 10. In Colorado Revised Statutes, 25-27.5-103, **amend** (2) as follows:

25-27.5-103. License required - civil and criminal penalties. (2) (a) On or after June 1, 2009, any home care placement agency shall notify the department in writing that it provides referrals for skilled home health services or personal care services and shall annually update such notice. The department shall maintain a list of all home care placement agencies and shall make the list accessible to the public. A HOME CARE PLACEMENT AGENCY IS NOT LICENSED OR CERTIFIED BY THE DEPARTMENT AND SHALL NOT CLAIM OR ASSERT THAT THE DEPARTMENT LICENSES OR CERTIFIES THE HOME CARE PLACEMENT AGENCY.

(b) A person who violates this section may be subject to a civil penalty assessed by the department that is not less than five hundred dollars per year or more than one thousand dollars per year for failure to register with the department OR FOR CLAIMING TO BE LICENSED OR CERTIFIED BY THE DEPARTMENT. The department shall assess, enforce, and collect the penalty in accordance with article 4 of title 24, C.R.S. Any moneys collected shall be deposited in the home care agency cash fund created in section 25-27.5-105.

SECTION 11. In Colorado Revised Statutes, 25-27.5-104, **amend** (1) introductory portion as follows:

25-27.5-104. Minimum standards for home care agencies - rules - advisory committee. (1) ~~On or before May 1, 2009,~~ The state board shall promulgate rules pursuant to section 24-4-103, C.R.S., providing minimum standards for the operation of home care agencies within the state of Colorado. In promulgating these

rules, the state board shall ~~consider the~~ ESTABLISH different requirements appropriate to the various types of skilled home health and personal care services, including differentiating requirements for providers that are substantially funded through medicare and medicaid reimbursement, providers for the program of all-inclusive care for the elderly established in section 25.5-5-412, C.R.S., providers that are already licensed under this title, and providers that are solely or substantially privately funded. This differentiation ~~may~~ SHALL consider the requirements already imposed by other federal and state regulatory agencies, SHALL REQUIRE THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO WORK JOINTLY TO RESOLVE DIFFERING REQUIREMENTS, AND SHALL ONLY REGULATE A PROVIDER FOR THE PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY CONSISTENT WITH THE FEDERAL REQUIREMENTS ESTABLISHED FOR THE PROVIDER PURSUANT TO A THREE-WAY AGREEMENT BETWEEN THE PROVIDER, THE CENTERS OF MEDICARE AND MEDICAID SERVICES, AND THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING; EXCEPT THAT THE DEPARTMENT MAY REQUIRE ADDITIONAL INFORMATION FROM THE PROVIDER WITH REGARD TO REPORTING INSTANCES OF ABUSE. Such rules ~~shall~~ MUST include ~~but need not be limited to~~; the following:

SECTION 12. In Colorado Revised Statutes, 27-10.5-109, **amend** (2) and (3) as follows:

27-10.5-109. Community residential home - licenses - rules. (2) (a) The department of public health and environment and the department of human services shall implement a system of joint licensure and certification of community residential homes. Independent residential support services provided by the department of human services do not require licensure by the department of public health and environment.

(b) BY DECEMBER 31, 2012, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AND THE DEPARTMENT OF HUMAN SERVICES SHALL DEVELOP AN IMPLEMENTATION PLAN, IN CONSULTATION WITH INDUSTRY REPRESENTATIVES, TO RESOLVE DIFFERING REQUIREMENTS AND TO ELIMINATE OBSOLETE, REDUNDANT RULES AND REPORTING, MONITORING, COMPLIANCE, AUDITING CERTIFICATION, LICENSING, AND WORK PROCESSES PERTAINING TO THE REGULATION OF COMMUNITY RESIDENTIAL HOMES PURSUANT TO THIS SECTION. THE DEPARTMENTS SHALL STUDY THE FEASIBILITY OF IMPLEMENTING A SINGLE, CONSOLIDATED SURVEY AND METHODS FOR CONDUCTING SURVEYS SIMULTANEOUSLY. THE DEPARTMENTS SHALL REPORT THEIR PROGRESS IN MEETING THE REQUIREMENTS OF THIS PARAGRAPH (b) TO THEIR RESPECTIVE COMMITTEES OF REFERENCE WHEN MAKING THEIR DEPARTMENTAL PRESENTATIONS AS REQUIRED BY PART 2 OF ARTICLE 7 OF TITLE 2, C.R.S. THE DEPARTMENTS SHALL SEND COPIES OF THE REPORT TO THE HEALTH CARE FACILITY STAKEHOLDER FORUM CREATED IN SECTION 25-3-113, C.R.S.

(3) (a) The department of public health and environment and the department of human services shall develop standards for the licensure and certification of community residential homes. ~~Such~~ THE standards shall include health, life, and fire safety, as well as standards to ensure the effective delivery of services and supports to residents; except that any community residential home must comply with local codes. ~~These~~

(b) (I) THE DEPARTMENT OF HUMAN SERVICES OR THE STATE BOARD OF HEALTH, AS APPROPRIATE, SHALL ADOPT THE standards ~~shall, as appropriate, be adopted in~~ BY rule ~~by the department of human services or the state board of health~~ and shall specify the responsibilities of each department in the program. Surveys undertaken to ensure compliance with these standards shall, as appropriate, be undertaken as joint surveys by the departments.

(II) IF A SERVICE AGENCY OPERATES A COMMUNITY RESIDENTIAL HOME AND PROVIDES PERSONAL CARE SERVICES, AS DEFINED IN SECTION 25-27.5-102, C.R.S., THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR THE DEPARTMENT OF HUMAN SERVICES, AS APPROPRIATE, IS RESPONSIBLE FOR SURVEYING THOSE SERVICES PROVIDED BY THE SERVICE AGENCY, WHICH SURVEY SHALL BE CONDUCTED SIMULTANEOUSLY WITH THE SURVEY OF THE COMMUNITY RESIDENTIAL HOME.

SECTION 13. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the health facilities general licensure cash fund created in section 25-3-103.1 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for the fiscal year beginning July 1, 2012, the sum of \$183,730 and 2.4 FTE, or so much thereof as may be necessary, for allocation to the health facilities and emergency services division for expenses in the health facilities general licensure program related to the implementation of this act.

SECTION 14. Effective date. This act takes effect upon passage; except that section 25-3-113 (4), Colorado Revised Statutes, as enacted in section 8 of this act, takes effect only if House Bill 12-1008 becomes law and takes effect on the effective date of this act or of House Bill 12-1008, whichever is later.

SECTION 15. 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 4, 2012