

CHAPTER 323

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 13-1314

BY REPRESENTATIVE(S) Levy and Gerou, Duran, Buckner, Fields, Gardner, Ginal, Kraft-Tharp, May, Melton, Mitsch Bush, Pettersen, Primavera, Salazar, Schafer, Singer, Williams, Young, Ferrandino, Hamner, Hullinghorst, Murray, Pabon, Peniston, Rosenthal, Ryden, Wilson;
also SENATOR(S) Hodge, Steadman, Lambert, Aguilar, Carroll, Giron, Guzman, Jahn, Kefalas, Kerr, Newell, Todd.

AN ACT

CONCERNING THE TRANSFER OF THE ADMINISTRATION OF LONG-TERM SERVICES FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

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

SECTION 1. In Colorado Revised Statutes, **add with amended and relocated provisions** article 10 to title 25.5 as follows:

ARTICLE 10
Community Living

PART 1
OFFICE OF COMMUNITY LIVING

25.5-10-101. Office of community living - creation - transfer of duties and functions - rules - legislative declaration - repeal. (1) THERE IS HEREBY CREATED IN THE STATE DEPARTMENT THE OFFICE OF COMMUNITY LIVING, REFERRED TO IN THIS ARTICLE AS THE "OFFICE". THE HEAD OF THE OFFICE IS THE DIRECTOR OF COMMUNITY LIVING APPOINTED BY THE EXECUTIVE DIRECTOR IN ACCORDANCE WITH SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION. THE DIRECTOR OF COMMUNITY LIVING REPORTS DIRECTLY TO THE EXECUTIVE DIRECTOR.

(2) (a) ON AND AFTER MARCH 1, 2014, THE POWERS, DUTIES, AND FUNCTIONS RELATING TO THE PROGRAMS, SERVICES, AND SUPPORTS CONTAINED IN THIS ARTICLE ARE TRANSFERRED FROM THE DEPARTMENT OF HUMAN SERVICES TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING BY A **TYPE 2** TRANSFER AS

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

SUCH TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S., AND ALLOCATED TO THE DIVISION OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES OF THE OFFICE, WHICH DIVISION IS CREATED IN PART 2 OF THIS ARTICLE.

(b) (I) BY MARCH 1, 2014, ALL POSITIONS OF EMPLOYMENT IN THE DEPARTMENT OF HUMAN SERVICES RELATED TO THE ADMINISTRATION OF COMMUNITY-BASED LONG-TERM SERVICES AND SUPPORTS ARE TRANSFERRED TO THE DIVISION OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES OF THE OFFICE AND BECOME EMPLOYMENT POSITIONS THEREIN.

(II) ALL EMPLOYEES IN POSITIONS TRANSFERRED TO THE DIVISION OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES ARE CONSIDERED EMPLOYEES OF THE DIVISION OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES OF THE OFFICE. SUCH EMPLOYEES RETAIN ALL RIGHTS UNDER THE STATE PERSONNEL SYSTEM AND TO RETIREMENT BENEFITS PURSUANT TO THE LAWS OF THIS STATE, AND THEIR SERVICES SHALL BE DEEMED TO HAVE BEEN CONTINUOUS.

(c) BY MARCH 1, 2014, ALL ITEMS OF PROPERTY, REAL AND PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS, DOCUMENTS, AND RECORDS OF THE DEPARTMENT OF HUMAN SERVICES RELATED TO THE ADMINISTRATION OF COMMUNITY-BASED LONG-TERM SERVICES AND SUPPORTS ARE TRANSFERRED TO THE DIVISION OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES OF THE OFFICE AND BECOME THE PROPERTY THEREOF.

(d) ON AND AFTER MARCH 1, 2014, WHENEVER THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES OR THE DEPARTMENT OF HUMAN SERVICES IS REFERRED TO OR DESIGNATED BY ANY CONTRACT OR OTHER DOCUMENT IN CONNECTION WITH THE POWERS, DUTIES, AND FUNCTIONS TRANSFERRED TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, THE REFERENCE OR DESIGNATION SHALL BE DEEMED TO APPLY TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING. ALL CONTRACTS ENTERED INTO BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES PRIOR TO MARCH 1, 2014, IN CONNECTION WITH THE POWERS, DUTIES, AND FUNCTIONS TRANSFERRED TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING ARE HEREBY VALIDATED, WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING SUCCEEDING TO ALL THE RIGHTS AND OBLIGATIONS OF SUCH CONTRACTS.

(3) ALL RULES AND ORDERS OF THE DEPARTMENT OF HUMAN SERVICES, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES, AND THE STATE BOARD OF HUMAN SERVICES IN CONNECTION WITH THE PROGRAMS TRANSFERRED TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING SHALL CONTINUE TO BE EFFECTIVE UNTIL REVISED, AMENDED, REPEALED, OR NULLIFIED PURSUANT TO LAW.

(4)(a) THE STATE DEPARTMENT SHALL REPORT TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY DURING A MEETING OF THE JOINT BUDGET COMMITTEE IN SEPTEMBER AND NOVEMBER 2013, IN CONJUNCTION WITH A REPRESENTATIVE OF THE COMMUNITY-CENTERED BOARDS, A REPRESENTATIVE OF SERVICE PROVIDERS, AND A REPRESENTATIVE OF A STATEWIDE ORGANIZATION ADVOCATING AND PROVIDING SUPPORT FOR CHILDREN AND ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES CONCERNING THE CREATION OF THE OFFICE AND ANY

ISSUES RELATING TO THE TRANSFER OF POWERS, DUTIES, AND FUNCTIONS TO THE STATE DEPARTMENT PURSUANT TO THIS PART 1.

(b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2014.

PART 2
INTELLECTUAL AND
DEVELOPMENTAL DISABILITIES

25.5-10-201. [Formerly 27-10.5-101.] Legislative declaration. (1) In recognition of the varied, extensive, and substantial needs of persons with INTELLECTUAL AND developmental disabilities, including the urgent need to enhance the development of children with INTELLECTUAL AND developmental disabilities, the general assembly, subject to available appropriations and subject to the existence of appropriate services and supports with available resources, hereby declares that the purposes of this article are:

(a) To provide appropriate services and supports to persons with INTELLECTUAL AND developmental disabilities throughout their lifetimes regardless of their age or degree of disability;

(b) To prohibit deprivation of liberty of persons with INTELLECTUAL AND developmental disabilities, except when such deprivation is for the purpose of providing services and supports which constitute the least restrictive available alternative adequate to meet the person's needs, and to ensure that these services and supports afford due process protections;

(c) To ensure the fullest measure of privacy, dignity, rights, and privileges to persons with INTELLECTUAL AND developmental disabilities;

(d) To ensure the provision of services and supports to all persons with INTELLECTUAL AND developmental disabilities on a statewide basis;

(e) To enable persons with INTELLECTUAL AND developmental disabilities to remain with their families and in ~~their home communities~~ THE COMMUNITY OF THEIR CHOICE, to minimize the likelihood of out-of-home placement, and to enhance the capacity of families to meet the needs of children with INTELLECTUAL AND developmental disabilities;

(f) To provide community services and supports for persons with INTELLECTUAL AND developmental disabilities which reflect typical patterns of everyday living;

(g) To encourage state and local agencies to provide a wide array of innovative and cost-effective services and supports for persons with INTELLECTUAL AND developmental disabilities;

(h) To ensure that persons with INTELLECTUAL AND developmental disabilities receive services and supports which encourage and build on existing social networks and natural sources of support, and result in increased interdependence, contribution TO, and inclusion in community life; and

(i) To recognize the efficacy of early intervention services and supports in minimizing developmental delays and reducing the future education costs to our society.

25.5-10-202. [Similar to former 27-10.5-102.] Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AUTHORIZED REPRESENTATIVE" MEANS A PERSON DESIGNATED BY THE PERSON RECEIVING SERVICES, OR BY THE PARENT OR GUARDIAN OF THE PERSON RECEIVING SERVICES, IF APPROPRIATE, TO ASSIST THE PERSON RECEIVING SERVICES IN ACQUIRING OR UTILIZING SERVICES OR SUPPORTS PURSUANT TO THIS ARTICLE. THE EXTENT OF THE AUTHORIZED REPRESENTATIVE'S INVOLVEMENT SHALL BE DETERMINED UPON DESIGNATION.

(2) "CASE MANAGEMENT SERVICES" MEANS THE FOLLOWING:

(a) THE DETERMINATION OF ELIGIBILITY FOR SERVICES AND SUPPORTS;

(b) SERVICE AND SUPPORT COORDINATION; AND

(c) THE MONITORING OF ALL SERVICES AND SUPPORTS DELIVERED PURSUANT TO THE INDIVIDUALIZED PLAN AND THE EVALUATION OF RESULTS IDENTIFIED IN THE INDIVIDUALIZED PLAN.

(3) "CASE MANAGER" MEANS A PERSON WHO ASSISTS WITH CASE MANAGEMENT SERVICES AND SUPPORTS PROVIDED PURSUANT TO THIS ARTICLE FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

(4) "COMMUNITY-CENTERED BOARD" MEANS A PRIVATE CORPORATION, FOR-PROFIT OR NOT-FOR-PROFIT, THAT, WHEN DESIGNATED PURSUANT TO SECTION 25.5-10-208, PROVIDES CASE MANAGEMENT SERVICES TO PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, IS AUTHORIZED TO DETERMINE ELIGIBILITY OF THOSE PERSONS WITHIN A SPECIFIED GEOGRAPHICAL AREA, SERVES AS THE SINGLE POINT OF ENTRY FOR PERSONS TO RECEIVE SERVICES AND SUPPORTS UNDER THIS ARTICLE, AND PROVIDES AUTHORIZED SERVICES AND SUPPORTS TO THOSE PERSONS EITHER DIRECTLY OR BY PURCHASING SERVICES AND SUPPORTS FROM SERVICE AGENCIES.

(5) "COMMUNITY RESIDENTIAL HOME" MEANS A GROUP LIVING SITUATION ACCOMMODATING AT LEAST FOUR BUT NO MORE THAN EIGHT PERSONS, WHICH IS LICENSED BY THE STATE AND IN WHICH SERVICES AND SUPPORTS ARE PROVIDED TO PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

(6) "CONSENT" MEANS AN INFORMED ASSENT THAT IS EXPRESSED IN WRITING AND FREELY GIVEN. CONSENT SHALL ALWAYS BE PRECEDED BY THE FOLLOWING:

(a) A FAIR EXPLANATION OF THE PROCEDURES TO BE FOLLOWED, INCLUDING AN IDENTIFICATION OF PROCEDURES THAT ARE EXPERIMENTAL;

(b) A DESCRIPTION OF THE ATTENDANT DISCOMFORTS AND RISKS;

(c) A DESCRIPTION OF THE EXPECTED BENEFITS;

(d) A DISCLOSURE OF APPROPRIATE ALTERNATIVE PROCEDURES TOGETHER WITH AN EXPLANATION OF THE RESPECTIVE BENEFITS, DISCOMFORTS, AND RISKS;

(e) AN OFFER TO ANSWER ANY INQUIRIES CONCERNING PROCEDURES;

(f) AN INSTRUCTION THAT THE PERSON GIVING CONSENT IS FREE TO WITHDRAW CONSENT AND TO DISCONTINUE PARTICIPATION IN THE PROJECT OR ACTIVITY AT ANY TIME; AND

(g) A STATEMENT THAT WITHHOLDING OR WITHDRAWAL OF CONSENT SHALL NOT PREJUDICE FUTURE PROVISION OF APPROPRIATE SERVICES AND SUPPORTS TO PERSONS.

(7) "CONTRIBUTION" MEANS THE BENEFITS GAINED BY THE HOUSEHOLD OR COMMUNITY IN WHICH A PERSON LIVES AS THE RESULT OF THE PERSON ENGAGING IN MEANINGFUL ACTIVITIES, INCLUDING BUT NOT LIMITED TO INCOME-PRODUCING WORK, VOLUNTEER WORK, CONTINUING EDUCATION, AND PARTICIPATION IN COMMUNITY ACTIVITIES.

(8) "COURT" MEANS A DISTRICT COURT OF THE STATE OF COLORADO OR THE PROBATE COURT IN THE APPROPRIATE JURISDICTION.

(9) "DESIGNATED SERVICE AREA" MEANS THE GEOGRAPHICAL AREA SPECIFIED BY THE EXECUTIVE DIRECTOR TO BE SERVED BY A DESIGNATED COMMUNITY-CENTERED BOARD.

(10) "DEVELOPMENTAL DISABILITIES PROFESSIONAL" HAS THE SAME MEANING AS "INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PROFESSIONAL" AS SET FORTH IN SUBSECTION (25) OF THIS SECTION.

(11) (a) "DEVELOPMENTAL DISABILITY" HAS THE SAME MEANING AS "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" AS SET FORTH IN PARAGRAPH (a) OF SUBSECTION (26) OF THIS SECTION.

(b) "PERSON WITH A DEVELOPMENTAL DISABILITY" OR "INDIVIDUAL WITH A DEVELOPMENTAL DISABILITY" HAS THE SAME MEANING AS "PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY" AS SET FORTH IN PARAGRAPH (b) OF SUBSECTION (26) OF THIS SECTION.

(c) "CHILD WITH A DEVELOPMENTAL DELAY" HAS THE SAME MEANING AS SET FORTH IN PARAGRAPH (c) OF SUBSECTION (26) OF THIS SECTION.

(12) "DIVISION" MEANS THE DIVISION OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, CREATED IN THIS PART 2.

(13) "EARLY INTERVENTION SERVICES AND SUPPORTS" HAS THE SAME MEANING AS SET FORTH IN SECTION 27-10.5-102, C.R.S.

(14) "ELIGIBLE FOR SUPPORTS AND SERVICES" REFERS TO ANY PERSON WITH AN

INTELLECTUAL AND DEVELOPMENTAL DISABILITY AS DETERMINED ELIGIBLE BY THE COMMUNITY-CENTERED BOARDS, PURSUANT TO SECTION 25.5-10-210.

(15) "ENROLLED" MEANS THAT A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY WHO IS ELIGIBLE FOR SUPPORTS AND SERVICES HAS BEEN AUTHORIZED, AS DEFINED BY RULES PROMULGATED BY THE STATE BOARD, TO PARTICIPATE IN THE PROGRAM FUNDED PURSUANT TO THIS SECTION.

(16) (a) "FAMILY" MEANS THE INTERDEPENDENT GROUP OF PERSONS THAT CONSISTS OF:

(I) A PARENT, CHILD, SIBLING, GRANDPARENT, AUNT, UNCLE, SPOUSE, OR ANY COMBINATION THEREOF AND A FAMILY MEMBER WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY;

(II) AN ADOPTIVE PARENT OF AND A FAMILY MEMBER WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY;

(III) ONE OR MORE PERSONS TO WHOM LEGAL CUSTODY OF A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY HAS BEEN GIVEN BY A COURT AND IN WHOSE HOME SUCH PERSON RESIDES; OR

(IV) ANY OTHER FAMILY UNIT AS MAY BE DEFINED IN RULES DEVELOPED PURSUANT TO SECTION 25.5-10-306.

(b) STATE BOARD RULES MUST DEFINE THE FAMILIES THAT ARE ELIGIBLE TO RECEIVE SERVICES AND SUPPORTS PURSUANT TO THIS ARTICLE, AND RULES OF THE STATE BOARD OF HUMAN SERVICES MUST DEFINE THE FAMILIES THAT ARE ELIGIBLE TO RECEIVE SERVICES AND SUPPORTS PURSUANT TO ARTICLE 10.5 OF TITLE 27, C.R.S.

(17) "FAMILY CAREGIVER" MEANS A FAMILY MEMBER OF THE PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY WHO PROVIDES CARE TO THE PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY IN THE FAMILY HOME, WHO MEETS THE REQUIREMENTS FOR A QUALIFIED FAMILY CAREGIVER, AS ESTABLISHED BY RULE OF THE STATE BOARD, AND WHO IS WORKING THROUGH A PROGRAM-APPROVED SERVICE AGENCY, AS ESTABLISHED BY RULE OF THE STATE BOARD.

(18) "GASTROSTOMY TUBE" MEANS A TUBE THAT HAS BEEN SURGICALLY INSERTED INTO THE STOMACH THROUGH THE ABDOMINAL WALL, OR A TUBE THAT HAS BEEN INSERTED THROUGH THE NASAL PASSAGE INTO THE STOMACH, OR BOTH.

(19) "HUMAN RIGHTS COMMITTEE" MEANS A THIRD-PARTY MECHANISM TO ADEQUATELY SAFEGUARD THE LEGAL RIGHTS OF PERSONS RECEIVING SERVICES BY PARTICIPATING IN THE GRANTING OF INFORMED CONSENT, MONITORING THE SUSPENSION OF RIGHTS OF PERSONS RECEIVING SERVICES, MONITORING BEHAVIORAL DEVELOPMENT PROGRAMS IN WHICH PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES ARE INVOLVED, MONITORING THE USE OF PSYCHOTROPIC MEDICATION BY PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AND, AT THE COMMITTEE'S OPTION, EITHER PROVIDING OR ENSURING

THE INVESTIGATION OF ALLEGATIONS OF ABUSE OR NEGLECT OF PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WHO ARE RECEIVING SERVICES OR SUPPORTS UNDER THIS ARTICLE.

(20) "IDEA" HAS THE SAME MEANING AS SET FORTH IN SECTION 27-10.5-102, C.R.S.

(21) "INCLUSION" MEANS:

(a) THE USE BY PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES OF THE SAME COMMUNITY RESOURCES THAT ARE USED BY AND AVAILABLE TO OTHER PERSONS;

(b) THE PARTICIPATION BY PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES IN THE SAME COMMUNITY ACTIVITIES IN WHICH PERSONS WITHOUT INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PARTICIPATE. PARTICIPATION INCLUDES REGULAR CONTACT WITH PERSONS WITHOUT INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

(c) VOCATIONAL EXPERIENCES FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES IN COMMUNITY SETTINGS THAT OFFER OPPORTUNITIES TO ASSOCIATE WITH OTHER PERSONS WHO DO NOT HAVE INTELLECTUAL AND DEVELOPMENTAL DISABILITIES; AND

(d) LIVING IN HOMES THAT ARE IN RESIDENTIAL NEIGHBORHOODS AND IN PROXIMITY TO COMMUNITY RESOURCES.

(22) "INDEPENDENT RESIDENTIAL SUPPORT SERVICES" MEANS A COMMUNITY LIVING SITUATION, DEFINED BY RULE OF THE STATE BOARD, IN WHICH SERVICES AND SUPPORTS ARE PROVIDED TO NO MORE THAN THREE PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES AND FOR WHICH A STATE LICENSE IS NOT REQUIRED.

(23) "INDIVIDUALIZED FAMILY SERVICE PLAN" OR "IFSP" HAS THE SAME MEANING AS SET FORTH IN SECTION 27-10.5-102, C.R.S.

(24) (a) "INDIVIDUALIZED PLAN" MEANS A WRITTEN PLAN DESIGNED BY AN INTERDISCIPLINARY TEAM FOR THE PURPOSE OF IDENTIFYING:

(I) THE NEEDS AND PREFERENCES OF THE PERSON OR FAMILY RECEIVING SERVICES;

(II) THE SPECIFIC SERVICES AND SUPPORTS APPROPRIATE TO MEET THOSE NEEDS AND PREFERENCES;

(III) THE PROJECTED DATE FOR INITIATION OF SERVICES AND SUPPORTS; AND

(IV) THE ANTICIPATED RESULTS TO BE ACHIEVED BY RECEIVING THE SERVICES AND SUPPORTS.

(b) EVERY INDIVIDUALIZED PLAN MUST INCLUDE A STATEMENT OF AGREEMENT

WITH THE PLAN, SIGNED BY THE PERSON RECEIVING SERVICES OR OTHER SUCH PERSON LEGALLY AUTHORIZED TO SIGN ON BEHALF OF THE PERSON AND BY A REPRESENTATIVE OF THE COMMUNITY-CENTERED BOARD.

(c) ANY OTHER SERVICE OR SUPPORT PLAN DESIGNATED BY THE STATE DEPARTMENT THAT MEETS ALL OF THE REQUIREMENTS OF AN INDIVIDUALIZED PLAN IS CONSIDERED TO BE AN INDIVIDUALIZED PLAN PURSUANT TO THIS ARTICLE.

(d) (I) EVERY INDIVIDUALIZED PLAN THAT INCLUDES THE PROVISION OF RESPITE CARE FOR MEDICAL PURPOSES, PURSUANT TO SECTION 25.5-10-205, SHALL INCLUDE A PROCESS BY WHICH THE PERSON RECEIVING SERVICES AND SUPPORTS MAY RECEIVE NECESSARY CARE IF THE PERSON'S FAMILY OR CAREGIVER IS UNAVAILABLE DUE TO AN EMERGENCY SITUATION OR UNFORESEEN CIRCUMSTANCES. THE FAMILY OR CAREGIVER MUST BE DULY INFORMED BY THE INTERDISCIPLINARY TEAM OF THESE ALTERNATIVE CARE PROVISIONS AT THE TIME THE INDIVIDUALIZED PLAN IS INITIATED.

(II) NOTHING IN THIS PARAGRAPH (d) REQUIRES THE PROVISION OF RESPITE CARE. HOWEVER, ANY INDIVIDUAL PLAN THAT INCLUDES THE PROVISION OF RESPITE CARE FOR MEDICAL PURPOSES MUST CONTAIN A CONTINGENCY PLAN.

(25) "INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PROFESSIONAL" MEANS A PERSON WHO HAS PROFESSIONAL TRAINING AND EXPERIENCE IN THE INTELLECTUAL AND DEVELOPMENTAL DISABILITIES FIELD, AS DEFINED BY RULE OF THE STATE BOARD.

(26) (a) "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" MEANS A DISABILITY THAT MANIFESTS BEFORE THE PERSON REACHES TWENTY-TWO YEARS OF AGE, THAT CONSTITUTES A SUBSTANTIAL DISABILITY TO THE AFFECTED PERSON, AND THAT IS ATTRIBUTABLE TO MENTAL RETARDATION OR RELATED CONDITIONS, WHICH INCLUDE CEREBRAL PALSY, EPILEPSY, AUTISM, OR OTHER NEUROLOGICAL CONDITIONS WHEN THOSE CONDITIONS RESULT IN IMPAIRMENT OF GENERAL INTELLECTUAL FUNCTIONING OR ADAPTIVE BEHAVIOR SIMILAR TO THAT OF A PERSON WITH MENTAL RETARDATION. UNLESS OTHERWISE SPECIFICALLY STATED, THE FEDERAL DEFINITION OF "DEVELOPMENTAL DISABILITY" FOUND IN 42 U.S.C. SEC. 15001 ET SEQ. SHALL NOT APPLY.

(b) "PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY" MEANS A PERSON DETERMINED BY A COMMUNITY-CENTERED BOARD TO HAVE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY AND SHALL INCLUDE A CHILD WITH A DEVELOPMENTAL DELAY.

(c) "CHILD WITH A DEVELOPMENTAL DELAY" MEANS:

(I) A PERSON LESS THAN FIVE YEARS OF AGE WITH DELAYED DEVELOPMENT AS DEFINED BY RULE OF THE STATE BOARD; OR

(II) A PERSON LESS THAN FIVE YEARS OF AGE WHO IS AT RISK OF HAVING A DEVELOPMENTAL DISABILITY AS DEFINED BY RULE OF THE STATE BOARD.

(27) "INTERDEPENDENCE" MEANS THOSE MULTIPLE INTERACTIVE RELATIONSHIPS

THAT ARE NECESSARY TO CREATE A SENSE OF BELONGING AND SUPPORT BETWEEN AND AMONG PEOPLE THAT ARE MUTUALLY SOUGHT, SUSTAINED OVER TIME, AND BENEFICIAL TO THOSE INVOLVED.

(28) "INTERDISCIPLINARY TEAM" MEANS A GROUP OF PEOPLE CONVENED BY A DESIGNATED COMMUNITY-CENTERED BOARD THAT INCLUDES THE PERSON RECEIVING SERVICES; THE PARENTS OR GUARDIAN OF A MINOR; A GUARDIAN OR AN AUTHORIZED REPRESENTATIVE, AS APPROPRIATE; THE PERSON WHO COORDINATES THE PROVISIONS OF SERVICES AND SUPPORTS; AND OTHERS AS DETERMINED BY THE PERSON'S NEEDS AND PREFERENCE, WHO ARE ASSEMBLED TO WORK IN A COOPERATIVE MANNER TO DEVELOP OR REVIEW THE INDIVIDUALIZED PLAN.

(29) "LEAST RESTRICTIVE ENVIRONMENT" MEANS AN ENVIRONMENT THAT REPRESENTS THE LEAST DEPARTURE FROM THE TYPICAL PATTERNS OF LIVING AND THAT EFFECTIVELY MEETS THE NEEDS AND PREFERENCES OF THE PERSON RECEIVING SERVICES. "LEAST RESTRICTIVE ENVIRONMENT" MAY INCLUDE, BUT NEED NOT BE LIMITED TO, RECEIVING SERVICES FROM A COMMUNITY-CENTERED BOARD, SERVICE AGENCY, OR A FAMILY CAREGIVER IN THE FAMILY HOME.

(30) "OFFICE" MEANS THE OFFICE OF COMMUNITY LIVING CREATED IN PART 1 OF THIS ARTICLE.

(31) "PERSON RECEIVING SERVICES" MEANS A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY WHO IS ENROLLED IN A PROGRAM FUNDED PURSUANT TO THIS ARTICLE.

(32) "PROGRAM" MEANS A SPECIFIC GROUP OF SERVICES OR SUPPORTS AS DEFINED BY RULES PROMULGATED BY THE STATE BOARD AND FOR WHICH FUNDING IS AVAILABLE PURSUANT TO THIS ARTICLE TO A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY WHO IS ELIGIBLE FOR SUPPORTS AND SERVICES.

(33) "REGIONAL CENTER" HAS THE SAME MEANING AS SET FORTH IN SECTION 27-10.5-102, C.R.S.

(34) "SERVICE AGENCY" MEANS A PERSON OR ANY PUBLICLY OR PRIVATELY OPERATED PROGRAM, ORGANIZATION, OR BUSINESS PROVIDING SERVICES OR SUPPORTS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

(35) "SERVICE AND SUPPORT COORDINATION" MEANS PLANNING, LOCATING, FACILITATING ACCESS TO, COORDINATING, AND REVIEWING ALL ASPECTS OF NEEDED SERVICES, SUPPORTS, AND RESOURCES THAT ARE PROVIDED IN COOPERATION WITH THE PERSON RECEIVING SERVICES, THE PERSON'S FAMILY, AS APPROPRIATE, THE FAMILY OF A CHILD WITH A DEVELOPMENTAL DELAY, AND THE INVOLVED PUBLIC OR PRIVATE AGENCIES. PLANNING INCLUDES THE DEVELOPMENT OR REVIEW OF AN EXISTING INDIVIDUALIZED PLAN. "SERVICE AND SUPPORT COORDINATION" ALSO INCLUDES THE REASSESSMENT OF THE NEEDS AND PREFERENCES OF THE PERSON RECEIVING SERVICES OR THE NEEDS OF THE FAMILY OF THE PERSON, WITH MAXIMUM PARTICIPATION OF THE PERSON RECEIVING SERVICES AND THE PERSON'S PARENTS, GUARDIAN, OR AUTHORIZED REPRESENTATIVE, AS APPROPRIATE.

(36) "SERVICES AND SUPPORTS" MEANS ONE OR MORE OF THE FOLLOWING:

EDUCATION, TRAINING, INDEPENDENT OR SUPPORTED LIVING ASSISTANCE, THERAPIES, IDENTIFICATION OF NATURAL SUPPORTS, AND OTHER ACTIVITIES PROVIDED:

(a) TO ENABLE PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES TO MAKE RESPONSIBLE CHOICES, EXERT GREATER CONTROL OVER THEIR LIVES, EXPERIENCE PRESENCE AND INCLUSION IN THEIR COMMUNITIES, DEVELOP THEIR COMPETENCIES AND TALENTS, MAINTAIN RELATIONSHIPS, FOSTER A SENSE OF BELONGING, AND EXPERIENCE PERSONAL SECURITY AND SELF-RESPECT;

(b) TO ENHANCE CHILD DEVELOPMENT AND HEALTHY PARENT-CHILD AND FAMILY INTERACTION FOR ELIGIBLE PERSONS AND THEIR FAMILIES; AND

(c) TO ENABLE FAMILIES, WHO CHOOSE OR DESIRE TO MAINTAIN A FAMILY MEMBER WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY AT HOME, TO OBTAIN SUPPORT AND TO ENJOY A TYPICAL LIFESTYLE.

(37) "STERILIZATION" MEANS ANY SURGICAL OR OTHER MEDICAL PROCEDURE THAT HAS AS ITS PRIMARY PURPOSE TO RENDER A PERSON PERMANENTLY INCAPABLE OF REPRODUCTION.

(38) "WAITING LIST" MEANS THE LIST OF PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WHO ARE WAITING FOR ENROLLMENT INTO A PROGRAM PROVIDED PURSUANT TO THIS ARTICLE.

25.5-10-203. Division of intellectual and developmental disabilities - creation - functions - reporting - legislative declaration - repeal. (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(I) AN EFFECTIVE SYSTEM OF COMMUNITY-BASED SERVICES AND SUPPORTS IS ESSENTIAL TO ENABLE CHILDREN AND ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES TO LIVE IN THEIR COMMUNITIES;

(II) THE DEMAND FOR HIGH-QUALITY INTELLECTUAL AND DEVELOPMENTAL DISABILITIES SERVICES IS EXPECTED TO GROW; AND

(III) PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES NEED A SYSTEM THAT PROMOTES SELF-DIRECTION OF SERVICES AND SELF-DETERMINATION AND THAT IS DESIGNED TO IMPROVE PERSONAL OUTCOMES.

(b) (I) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT STATE AGENCIES SHOULD BE ORGANIZED IN A MANNER THAT ALLOWS FOR IMPROVED DELIVERY OF LONG-TERM SERVICES AND SUPPORTS FOR PERSONS AND PROVIDERS; AND

(II) THE TRANSFER PURSUANT TO PART 1 OF THIS ARTICLE OF THE POWERS, DUTIES, AND FUNCTIONS RELATING TO THE PROGRAMS, SERVICES, AND SUPPORTS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES TO THE OFFICE FOR ADMINISTRATION BY THE DIVISION OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, CREATED IN THIS SECTION, IS AN INITIAL STEP IN THE PROCESS OF REDESIGNING COLORADO'S LONG-TERM CARE SYSTEM.

(2) THERE IS HEREBY CREATED WITHIN THE OFFICE THE DIVISION OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

(3) THE DIVISION SHALL ADMINISTER THE PROGRAMS, SERVICES, AND SUPPORTS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES CONTAINED IN THIS ARTICLE.

(4) BECAUSE OF THE UNIQUE GOAL OF THE DIVISION IN ADMINISTERING LIFELONG PROGRAMS, SERVICES, AND SUPPORTS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AS PART OF ITS ANNUAL BRIEFING TO THE JOINT BUDGET COMMITTEE, THE STATE DEPARTMENT SHALL ALLOW SUFFICIENT BRIEFING TIME DEVOTED SOLELY TO ISSUES RELATING TO THE DIVISION AND ITS ADMINISTRATION OF THE PROGRAMS, SERVICES AND SUPPORTS CONTAINED IN THIS ARTICLE.

(5) (a) THE STATE DEPARTMENT, IN CONJUNCTION WITH A REPRESENTATIVE OF THE COMMUNITY-CENTERED BOARDS, A REPRESENTATIVE OF SERVICE PROVIDERS, AND A REPRESENTATIVE OF A STATEWIDE ORGANIZATION ADVOCATING AND PROVIDING SUPPORT FOR CHILDREN AND ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, SHALL REPORT CONCERNING THE OPERATIONAL STATUS OF THE DIVISION AND ANY UNRESOLVED ISSUES RELATING TO THE TRANSFER OF POWERS, DUTIES, AND FUNCTIONS TO THE STATE DEPARTMENT PURSUANT TO PART I OF THIS ARTICLE. THE REPORT SHALL BE MADE QUARTERLY TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY AND TO THE PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, COMMENCING IN MARCH 2014 AND CONCLUDING IN DECEMBER 2014.

(b) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JULY 1, 2015.

25.5-10-204. [Similar to former 27-10.5-103.] Duties of the executive director - state board rules. (1) IN ORDER TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE, THE EXECUTIVE DIRECTOR SHALL, SUBJECT TO AVAILABLE APPROPRIATIONS, CARRY OUT THE FOLLOWING DUTIES:

(a) CONDUCT MONITORING AND REVIEW ACTIVITIES THAT INCLUDE COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES;

(b) PROVIDE OR OBTAIN TRAINING AND TECHNICAL ASSISTANCE THROUGH COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES IN ORDER TO IMPROVE THE QUALITY OF SERVICES AND SUPPORTS PROVIDED TO PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES;

(c) PREPARE AND TRANSMIT ANNUALLY TO THE GOVERNOR AND THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, IN THE FORM AND MANNER PRESCRIBED PURSUANT TO SECTION 24-1-136, C.R.S., A REPORT DETAILING THE FOLLOWING INFORMATION, AS AVAILABLE AND APPROPRIATE, THAT IS BROKEN DOWN INTO DESIGNATED SERVICE AREAS AS WELL AS PROVIDED IN AN OVERALL STATEWIDE FORMAT:

(I) THE TOTAL NUMBER OF PERSONS RECEIVING SERVICES PURSUANT TO THIS

ARTICLE;

(II) THE TYPES OF SERVICES AND SUPPORTS PROVIDED;

(III) THE COSTS OF SERVICES AND SUPPORTS REGARDLESS OF FUNDING SOURCE;

(IV) AN EVALUATION OF THE QUALITY OF THE SERVICES AND SUPPORTS RENDERED;

(V) AN EVALUATION OF THE EFFECTIVENESS OF THE SERVICES AND SUPPORTS RENDERED IN IMPLEMENTING THE INDIVIDUALIZED PLANS OF PERSONS RECEIVING SERVICES;

(VI) THE NUMBERS, TYPES, AND RESOLUTION OF APPEALS THAT WERE HEARD BY THE STATE DEPARTMENT ARISING FROM DISPUTES SPECIFIED IN SECTION 25.5-10-212; AND

(VII) THE NUMBER OF PERSONS DETERMINED TO BE ELIGIBLE TO RECEIVE SERVICES AND SUPPORTS WHO ARE NOT RECEIVING SERVICES OR SUPPORTS PURSUANT TO THIS ARTICLE ALONG WITH AN ANALYSIS OF THE REASONS THEY ARE NOT RECEIVING SERVICES AND SUPPORTS;

(d) DESIGNATE A COMMUNITY-CENTERED BOARD IN EACH DESIGNATED SERVICE AREA IN THE STATE;

(e) IMPLEMENT THE PROVISION OF HOME- AND COMMUNITY-BASED SERVICES TO ELIGIBLE PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES AND PURSUE OTHER MEDICAID-FUNDED SERVICES DETERMINED BY THE STATE DEPARTMENT TO BE APPROPRIATE FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, PURSUANT TO PART 4 OF ARTICLE 6 OF THIS TITLE AND SUBJECT TO AVAILABLE APPROPRIATIONS; AND

(f) PROMOTE EFFECTIVE COORDINATION WITH AGENCIES SERVING PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES IN ORDER TO IMPROVE CONTINUITY OF SERVICES AND SUPPORTS FOR PERSONS FACING LIFE TRANSITIONS FROM TODDLER TO PRESCHOOL, SCHOOL TO ADULT LIFE, AND WORK TO RETIREMENT.

(2) THE STATE BOARD SHALL ADOPT SUCH RULES, IN ACCORDANCE WITH SECTION 24-4-103, C.R.S., AS ARE NECESSARY TO CARRY OUT THE PROVISIONS AND PURPOSES OF THIS ARTICLE, INCLUDING BUT NOT LIMITED TO THE FOLLOWING SUBJECTS:

(a) STANDARDS FOR SERVICES AND SUPPORTS, INCLUDING PREPARATION OF INDIVIDUALIZED PLANS;

(b) THE DESIGNATION OF COMMUNITY-CENTERED BOARDS AND THE ORGANIZATION OF THOSE ENTITIES, INCLUDING STANDARDS OF ORGANIZATION, STAFF QUALIFICATIONS, AND OTHER FACTORS NECESSARY TO ENSURE PROGRAM INTEGRITY;

(c) PURCHASE OF SERVICES AND SUPPORTS AND FINANCIAL ADMINISTRATION;

(d) PROCEDURES FOR RESOLVING DISPUTES OVER ELIGIBILITY DETERMINATION

AND THE MODIFICATION, DENIAL, OR TERMINATION OF SERVICES;

(e) ELIGIBILITY DETERMINATION, THE CRITERIA FOR DETERMINATION, AND ADMISSION TO THE PROGRAM;

(f) SYSTEMS OF QUALITY ASSURANCE AND DATA COLLECTION;

(g) THE RIGHTS OF A PERSON RECEIVING SERVICES;

(h) CONFIDENTIALITY OF RECORDS OF A PERSON RECEIVING SERVICES;

(i) DESIGNATION OF AUTHORIZED REPRESENTATIVES AND DELINEATION OF THEIR RIGHTS AND DUTIES PURSUANT TO THIS ARTICLE;

(j) (I) THE ESTABLISHMENT OF GUIDELINES AND PROCEDURES FOR AUTHORIZATION OF PERSONS FOR ADMINISTRATION OF NUTRITION AND FLUIDS THROUGH GASTROSTOMY TUBES.

(II) THE STATE DEPARTMENT SHALL REQUIRE THAT A SERVICE AGENCY PROVIDING RESIDENTIAL OR DAY PROGRAM SERVICES OR SUPPORTS HAVE A STAFF MEMBER QUALIFIED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (j) ON DUTY AT ANY TIME THE FACILITY ADMINISTERS SAID NUTRITION AND FLUIDS THROUGH GASTROSTOMY TUBES, AND THAT THE FACILITY MAINTAIN A WRITTEN RECORD OF EACH NUTRIENT OR FLUID ADMINISTERED TO EACH PERSON RECEIVING SERVICES, INCLUDING THE TIME AND THE AMOUNT OF THE NUTRIENT OR FLUID.

(III) A PERSON WHO IS NOT OTHERWISE AUTHORIZED BY LAW TO ADMINISTER NUTRITION AND FLUIDS THROUGH GASTROSTOMY TUBES IS ALLOWED TO PERFORM THE DUTIES ONLY UNDER THE SUPERVISION OF A LICENSED NURSE OR PHYSICIAN. A PERSON WHO ADMINISTERS NUTRITION AND FLUIDS IN COMPLIANCE WITH THE PROVISIONS OF THIS PARAGRAPH (j) IS EXEMPT FROM THE LICENSING REQUIREMENTS OF THE "COLORADO MEDICAL PRACTICE ACT", ARTICLE 36 OF TITLE 12, C.R.S., AND THE "NURSE PRACTICE ACT", ARTICLE 38 OF TITLE 12, C.R.S. NOTHING IN THIS PARAGRAPH (j) SHALL BE DEEMED TO AUTHORIZE THE ADMINISTRATION OF MEDICATIONS THROUGH GASTROSTOMY TUBES. A PERSON ADMINISTERING MEDICATIONS THROUGH GASTROSTOMY TUBES IS SUBJECT TO THE REQUIREMENTS OF PART 3 OF ARTICLE 1.5 OF TITLE 25, C.R.S.

(IV) FOR PURPOSES OF THIS PARAGRAPH (j), "ADMINISTRATION" MEANS ASSISTING A PERSON IN THE INGESTION OF NUTRITION OR FLUIDS ACCORDING TO THE DIRECTION AND SUPERVISION OF A LICENSED NURSE OR PHYSICIAN.

25.5-10-205. [Formerly 27-10.5-103.5.] Community-centered boards and service agencies - local public procurement units. For purposes of entering into a cooperative purchasing agreement pursuant to section 24-110-201, C.R.S., a nonprofit community-centered board or a nonprofit service agency may be certified as a local public procurement unit as provided in section 24-110-207.5, C.R.S.

25.5-10-206. [Similar to 27-10.5-104.] Authorized services and supports - conditions of funding - purchase of services and supports - boards of county commissioners - appropriation. (1) SUBJECT TO ANNUAL APPROPRIATIONS BY

THE GENERAL ASSEMBLY, THE STATE DEPARTMENT SHALL PROVIDE OR PURCHASE, PURSUANT TO SUBSECTION (4) OF THIS SECTION, AUTHORIZED SERVICES AND SUPPORTS FROM COMMUNITY-CENTERED BOARDS OR SERVICE AGENCIES FOR PERSONS WHO HAVE BEEN DETERMINED TO BE ELIGIBLE FOR SUCH SERVICES AND SUPPORTS PURSUANT TO SECTION 25.5-10-211 AND AS SPECIFIED IN THE ELIGIBLE PERSON'S INDIVIDUALIZED PLAN. THOSE SERVICES AND SUPPORTS MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:

(a) FAMILY SUPPORT SERVICES, INCLUDING AN ARRAY OF SUPPORTIVE SERVICES PROVIDED TO THE PERSON RECEIVING SERVICES AND THE PERSON'S FAMILY, THAT ENABLE THE FAMILY TO MAINTAIN THE PERSON IN THE FAMILY HOME, THEREBY PREVENTING OR DELAYING THE NEED FOR OUT-OF-HOME PLACEMENT THAT IS UNWANTED BY THE PERSON OR THE FAMILY, PURSUANT TO SECTION 25.5-10-301;

(b) CASE MANAGEMENT SERVICES;

(c) RESPITE CARE SERVICES, INCLUDING TEMPORARY CARE OF A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY TO OFFER RELIEF TO THE PERSON'S FAMILY OR CAREGIVER OR TO ALLOW THE FAMILY OR CAREGIVER TO DEAL WITH EMERGENCY SITUATIONS OR TO ENGAGE IN PERSONAL, SOCIAL, OR ROUTINE ACTIVITIES AND TASKS THAT OTHERWISE MAY BE NEGLECTED, POSTPONED, OR CURTAILED DUE TO THE DEMANDS OF SUPPORTING A PERSON WHO HAS AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY;

(d) DAY SERVICES AND SUPPORTS THAT OFFER OPPORTUNITIES FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES TO EXPERIENCE AND ACTIVELY PARTICIPATE IN VALUED ADULT ROLES IN THE COMMUNITY. THESE SERVICES AND SUPPORTS WILL ENABLE PERSONS RECEIVING SERVICES TO ACCESS AND PARTICIPATE IN COMMUNITY ACTIVITIES, SUCH AS WORK, RECREATION, HIGHER EDUCATION, AND SENIOR CITIZEN ACTIVITIES. DAY SERVICES MAY ALSO INCLUDE THE ADMINISTRATION OF NUTRITION OR FLUIDS THROUGH GASTROSTOMY TUBES, IF ADMINISTERED BY A PERSON AUTHORIZED PURSUANT TO SECTION 25.5-10-204 (2) (j) AND SUPERVISED BY A LICENSED NURSE OR PHYSICIAN.

(e) RESIDENTIAL SERVICES AND SUPPORTS, INCLUDING AN ARRAY OF TRAINING, LEARNING, EXPERIENTIAL, AND SUPPORT ACTIVITIES PROVIDED IN LIVING ALTERNATIVES DESIGNED TO MEET THE INDIVIDUAL NEEDS AND PREFERENCES OF PERSONS RECEIVING SERVICES AND MAY INCLUDE THE ADMINISTRATION OF NUTRITION OR FLUIDS THROUGH GASTROSTOMY TUBES, IF ADMINISTERED BY A PERSON AUTHORIZED PURSUANT TO SECTION 25.5-10-204 (2) (j) AND SUPERVISED BY A LICENSED NURSE OR PHYSICIAN; AND

(f) ANCILLARY SERVICES, INCLUDING ACTIVITIES THAT ARE SECONDARY BUT INTEGRAL TO THE PROVISION OF THE SERVICES AND SUPPORTS SPECIFIED IN THIS SUBSECTION (1).

(2) SERVICE AGENCIES RECEIVING FUNDS PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL COMPLY WITH ALL OF THE PROVISIONS OF THIS ARTICLE AND THE RULES PROMULGATED THEREUNDER.

(3) SERVICE AND SUPPORT COORDINATION SHALL BE PURCHASED FROM THE

COMMUNITY-CENTERED BOARD DESIGNATED PURSUANT TO SECTION 25.5-10-209 EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS SECTION.

(4) (a) THE STATE DEPARTMENT MAY PURCHASE SERVICES AND SUPPORTS, INCLUDING SERVICE AND SUPPORT COORDINATION, DIRECTLY FROM SERVICE AGENCIES IF:

(I) REQUIRED BY THE FEDERAL REQUIREMENTS FOR THE STATE TO QUALIFY FOR FEDERAL FUNDS UNDER TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, INCLUDING PROGRAMS AUTHORIZED PURSUANT TO PART 4 OF ARTICLE 6 OF THIS TITLE; OR

(II) THE EXECUTIVE DIRECTOR HAS DETERMINED THAT A SERVICE OR SUPPORT PROVIDED OR PURCHASED BY A DESIGNATED COMMUNITY-CENTERED BOARD DOES NOT MEET ESTABLISHED STANDARDS AND THE CONTINUATION OF PURCHASE OF THE SERVICE OR SUPPORT THROUGH THE COMMUNITY-CENTERED BOARD IS NOT IN THE BEST INTERESTS OF THE PERSONS RECEIVING SERVICES.

(b) THE STATE DEPARTMENT SHALL ONLY PURCHASE SERVICES AND SUPPORTS DIRECTLY FROM THOSE COMMUNITY-CENTERED BOARDS OR SERVICE AGENCIES THAT MEET ESTABLISHED STANDARDS.

(c) THE STATE DEPARTMENT MAY PURCHASE SERVICES AND SUPPORTS, INCLUDING SERVICE AND SUPPORT COORDINATION, FROM A FAMILY CAREGIVER IF THE EXECUTIVE DIRECTOR HAS DETERMINED THAT THE PROVISION OF A SERVICE OR SUPPORT BY A FAMILY CAREGIVER IN THE FAMILY HOME WOULD PROVIDE THE PERSON RECEIVING THE SERVICE OR SUPPORT WITH THE LEAST RESTRICTIVE ENVIRONMENT.

(d) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE PROVISION OF SERVICES AND SUPPORTS, INCLUDING CASE MANAGEMENT SERVICES, DIRECTLY BY THE DEPARTMENT OF HUMAN SERVICES THROUGH REGIONAL CENTERS, FOR PERSONS RECEIVING SERVICES IN REGIONAL CENTERS.

(e) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE THE PROVISION OF SERVICES AND SUPPORTS, INCLUDING CASE MANAGEMENT SERVICES, DIRECTLY BY THE STATE DEPARTMENT.

(5) GOVERNMENTAL UNITS, INCLUDING BUT NOT LIMITED TO COUNTIES, MUNICIPALITIES, SCHOOL DISTRICTS, HEALTH SERVICE DISTRICTS, AND STATE INSTITUTIONS OF HIGHER EDUCATION, ARE AUTHORIZED AT THEIR OWN EXPENSE TO FURNISH MONEY, MATERIALS, OR SERVICES AND SUPPORTS TO PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, OR TO PURCHASE SERVICES AND SUPPORTS FOR SUCH PERSONS THROUGH DESIGNATED COMMUNITY-CENTERED BOARDS OR SERVICE AGENCIES, SO LONG AS NO CONDITIONS OR REQUIREMENTS IMPOSED AS A RESULT OF THE PROVISION OR PURCHASE THROUGH A COMMUNITY-CENTERED BOARD OR SERVICE AGENCY CONFLICT WITH THE PROVISIONS OF THIS ARTICLE OR THE RULES PROMULGATED THEREUNDER.

(6) BOARDS OF COUNTY COMMISSIONERS MAY LEVY UP TO ONE MILL FOR THE PURPOSE OF PURCHASING SERVICES AND SUPPORTS FOR PERSONS WITH

INTELLECTUAL AND DEVELOPMENTAL DISABILITIES. TO THE EXTENT AUTHORIZED BY FEDERAL LAW, AND SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, AND PURSUANT TO RULES ESTABLISHED BY THE STATE BOARD, A COUNTY MAY TRANSFER THE REVENUE RAISED PURSUANT TO THE MILL LEVY TO THE STATE DEPARTMENT TO RECEIVE MATCHING FEDERAL FUNDS TO PROVIDE MEDICAID-APPROVED WAIVER SERVICES TO PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

(7)(a) EACH YEAR THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEYS TO THE STATE DEPARTMENT TO PROVIDE OR PURCHASE SERVICES AND SUPPORTS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PURSUANT TO THIS SECTION. UNLESS SPECIFICALLY PROVIDED OTHERWISE, SERVICES AND SUPPORTS SHALL BE PURCHASED ON THE BASIS OF STATE FUNDING LESS ANY FEDERAL OR CASH FUNDS RECEIVED FOR GENERAL OPERATING EXPENSES FROM ANY OTHER STATE OR FEDERAL SOURCE, LESS FUNDS AVAILABLE TO A PERSON RECEIVING RESIDENTIAL SERVICES OR SUPPORTS AFTER SUCH PERSON RECEIVES AN ALLOWANCE FOR PERSONAL NEEDS OR FOR MEETING OTHER OBLIGATIONS IMPOSED BY FEDERAL OR STATE LAW, AND LESS THE REQUIRED LOCAL SCHOOL DISTRICT FUNDS SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (7). THE YEARLY APPROPRIATION, WHEN COMBINED WITH ALL OTHER SOURCES OF FUNDS, SHALL IN NO CASE EXCEED ONE HUNDRED PERCENT OF THE APPROVED PROGRAM COSTS AS DETERMINED BY THE GENERAL ASSEMBLY.

(b) EACH SCHOOL DISTRICT SHALL PAY TO THE COMMUNITY-CENTERED BOARD PROVIDING PROGRAMS ATTENDED BY A STUDENT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, WHO IS DOMICILED IN THE SCHOOL DISTRICT AND MAY BE COUNTED IN THE DISTRICT'S PUPIL ENROLLMENT, AN AMOUNT AT LEAST EQUAL TO THE DISTRICT'S PER PUPIL REVENUES AS DETERMINED PURSUANT TO THE "PUBLIC SCHOOL FINANCE ACT OF 1994", ARTICLE 54 OF TITLE 22, C.R.S. THIS SUBSECTION (7) APPLIES TO STUDENTS WHO ARE LESS THAN TWENTY-TWO YEARS OF AGE.

25.5-10-207. [Formerly 27-10.5-104.2.] Services and supports - waiting list reduction - cash fund. (1) There is hereby created in the state treasury the INTELLECTUAL AND developmental disabilities services cash fund, consisting of moneys appropriated thereto by the general assembly AND ANY MONEYS TRANSFERRED TO THE INTELLECTUAL AND DEVELOPMENTAL DISABILITIES SERVICES CASH FUND PURSUANT TO SUBSECTION (1.5) OF THIS SECTION. Any interest derived from the deposit and investment of moneys in the INTELLECTUAL AND developmental disabilities services cash fund shall be credited to the fund. Any moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not revert to the general fund or any other fund.

(1.5) THE STATE TREASURER SHALL TRANSFER TO THE DEVELOPMENTAL DISABILITIES SERVICES CASH FUND ANY AVAILABLE MONEYS THAT ARE APPROPRIATED BY THE GENERAL ASSEMBLY FOR A FISCAL YEAR FOR ADULT COMPREHENSIVE SERVICES, ADULT SUPPORTED LIVING SERVICES, CHILDREN'S EXTENSIVE SUPPORT SERVICES, AND FAMILY SUPPORT SERVICES FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PROVIDED PURSUANT TO THIS ARTICLE OR PART 4 OF ARTICLE 6 OF THIS TITLE THAT ARE UNEXPENDED AND UNENCUMBERED AT THE END OF A FISCAL YEAR.

(2) During each regular session of the general assembly, the joint budget committee and the health and human services committees of the senate and the house of representatives, or any successor committees, shall hold a joint hearing and take public testimony on the status of the waiting lists for adult comprehensive services, adult supported living services, CHILDREN'S EXTENSIVE SUPPORT SERVICES, and family support services for persons with INTELLECTUAL AND developmental disabilities and the availability of general fund moneys to reduce the number of persons on the waiting lists and the amount of time eligible persons wait for such services. The goal of the hearing shall be to propose an appropriation from the general fund to the INTELLECTUAL AND developmental disabilities services cash fund.

(3) The general assembly may annually appropriate moneys in the INTELLECTUAL AND developmental disabilities services cash fund ~~to:~~

~~(a) TO the STATE department for program costs for adult comprehensive services, adult supported living services, CHILDREN'S EXTENSIVE SUPPORT SERVICES, and family support services for persons with INTELLECTUAL AND developmental disabilities provided pursuant to this article or part 4 of article 6 of THIS title. 25.5, C.R.S.; and~~

~~(b) The department of health care policy and financing for program costs for adult comprehensive services and adult supported living services for persons with developmental disabilities provided pursuant to this article or part 4 of article 6 of title 25.5, C.R.S.~~

(4) Any moneys appropriated from the INTELLECTUAL AND developmental disabilities services cash fund pursuant to subsection (3) of this section that are unexpended at the end of a fiscal year shall revert to the fund.

(5) It is the intent of the general assembly that the moneys in the INTELLECTUAL AND developmental disabilities services cash fund be used to reduce the number of persons on the waiting lists for such services and the amount of time eligible persons wait for such services.

25.5-10-208. [Similar to 27-10.5-104.5.] Service agencies - moneys - rules.

(1) A SERVICE AGENCY, INCLUDING A COMMUNITY-CENTERED BOARD WHEN ACTING AS A SERVICE AGENCY, SHALL COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS ARTICLE AND THE RULES PROMULGATED THEREUNDER.

(2) THE STATE BOARD SHALL PROMULGATE RULES TO IMPLEMENT THE PURCHASE OF SERVICES AND SUPPORTS FROM A COMMUNITY-CENTERED BOARD, SERVICE AGENCY, OR FAMILY CAREGIVER. THE RULES SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

(a) TERMS AND CONDITIONS NECESSARY TO PROMOTE THE EFFECTIVE DELIVERY OF SERVICES AND SUPPORTS, INCLUDING THOSE SERVICES AND SUPPORTS DELIVERED BY A FAMILY CAREGIVER;

(b) PROCEDURES FOR OBTAINING AN ANNUAL AUDIT OF DESIGNATED COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES NOT AFFILIATED WITH A

DESIGNATED COMMUNITY-CENTERED BOARD TO PROVIDE FINANCIAL INFORMATION DEEMED NECESSARY BY THE STATE DEPARTMENT TO ESTABLISH COSTS OF SERVICES AND SUPPORTS AND TO ENSURE PROPER MANAGEMENT OF MONEYS RECEIVED PURSUANT TO SECTION 25.5-10-206;

(c) DELINEATION OF A SYSTEM TO RESOLVE CONTRACTUAL DISPUTES BETWEEN THE STATE DEPARTMENT AND DESIGNATED COMMUNITY-CENTERED BOARDS OR SERVICE AGENCIES AND BETWEEN DESIGNATED COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES, INCLUDING THE CONTESTING OF ANY RATES THAT THE DESIGNATED COMMUNITY-CENTERED BOARDS CHARGE TO SERVICE AGENCIES BASED UPON A PERCENTAGE OF THE RATES THAT SERVICE AGENCIES CHARGE FOR SERVICES AND SUPPORTS;

(d) SPECIFICATION OF WHICH SERVICES AND SUPPORTS ARE TO BE REIMBURSED BY THE STATE DEPARTMENT AND SECONDARILY BY THE COMMUNITY-CENTERED BOARD, THE SOURCE OF REIMBURSEMENT, ACTUAL SERVICE OR SUPPORT COSTS, INCENTIVES, AND PROGRAM SERVICE OBJECTIVES THAT AFFECT REIMBURSEMENT;

(e) THE METHODS OF COORDINATING THE PURCHASE OF SERVICES AND SUPPORTS, INCLUDING BUT NOT LIMITED TO SERVICE AND SUPPORT COORDINATION, WITH OTHER FEDERAL, STATE, AND LOCAL PROGRAMS THAT PROVIDE FUNDING FOR AUTHORIZED SERVICES AND SUPPORTS; AND

(f) CRITERIA FOR AND LIMITATIONS ON ANY RATES THAT DESIGNATED COMMUNITY-CENTERED BOARDS CHARGE TO SERVICE AGENCIES BASED UPON A PERCENTAGE OF THE RATES THAT SERVICE AGENCIES CHARGE FOR SERVICES AND SUPPORTS.

(3) ANY INCORPORATED SERVICE AGENCY THAT IS REGISTERED IN COLORADO AS A FOREIGN CORPORATION SHALL ORGANIZE A LOCAL ADVISORY BOARD CONSISTING OF PERSONS WHO RESIDE WITHIN THE DESIGNATED SERVICE AREA. SUCH ADVISORY BOARD SHALL BE REPRESENTATIVE OF THE COMMUNITY AT LARGE AND PERSONS RECEIVING SERVICES AND THEIR FAMILIES.

(4) UPON A DETERMINATION BY THE EXECUTIVE DIRECTOR THAT SERVICES OR SUPPORTS HAVE NOT BEEN PROVIDED IN ACCORDANCE WITH THE PROGRAM OR FINANCIAL ADMINISTRATION STANDARDS SPECIFIED IN THIS ARTICLE AND THE RULES PROMULGATED THEREUNDER, THE EXECUTIVE DIRECTOR MAY REDUCE, SUSPEND, OR WITHHOLD PAYMENT TO A DESIGNATED COMMUNITY-CENTERED BOARD, SERVICE AGENCY UNDER CONTRACT WITH A DESIGNATED COMMUNITY-CENTERED BOARD, OR SERVICE AGENCY FROM WHICH THE STATE DEPARTMENT PURCHASED SERVICES OR SUPPORTS DIRECTLY. WHEN THE EXECUTIVE DIRECTOR DECIDES TO REDUCE, SUSPEND, OR WITHHOLD PAYMENT, THE EXECUTIVE DIRECTOR SHALL SPECIFY THE REASONS THEREFOR AND THE ACTIONS THAT ARE NECESSARY TO BRING THE DESIGNATED COMMUNITY-CENTERED BOARD OR SERVICE AGENCY INTO COMPLIANCE.

(5) NOTHING IN THIS ARTICLE OR IN ANY RULES PROMULGATED PURSUANT THERETO AND NO ACTIONS TAKEN BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS ARTICLE SHALL BE CONSTRUED TO AFFECT THE OBTAINING OF FUNDS FROM LOCAL AUTHORITIES, INCLUDING THOSE FUNDS OBTAINED FROM A MILL LEVY ASSESSED BY

A COUNTY OR MUNICIPALITY FOR THE PURPOSE OF PURCHASING SERVICES OR SUPPORTS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, OR TO REQUIRE THAT SUCH FUNDS FROM LOCAL AUTHORITIES BE USED TO SUPPLANT STATE OR FEDERAL FUNDS AVAILABLE FOR PURCHASING SERVICES AND SUPPORTS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.

25.5-10-209. [Similar to former 27-10.5-105.] Community-centered boards - designation - purchase of services and supports by community-centered boards.

(1) IN ORDER TO BE DESIGNATED AS THE COMMUNITY-CENTERED BOARD IN A PARTICULAR DESIGNATED SERVICE AREA, A PRIVATE FOR-PROFIT OR NOT-FOR-PROFIT CORPORATION SHALL ANNUALLY APPLY FOR SUCH DESIGNATION TO THE STATE DEPARTMENT IN THE FORM AND MANNER SPECIFIED BY THE EXECUTIVE DIRECTOR. DESIGNATION SHALL BE BASED ON THE FOLLOWING FACTORS:

(a) UTILIZATION OF EXISTING SERVICE AGENCIES OR EXISTING SOCIAL NETWORKS OR NATURAL SOURCES OF SUPPORT IN THE DESIGNATED SERVICE AREA;

(b) ENCOURAGEMENT OF COMPETITION AMONG SERVICE AGENCIES WITHIN THE DESIGNATED SERVICE AREA TO PROVIDE NEWLY IDENTIFIED SERVICES OR SUPPORTS, THE VARIETY OF SERVICE AGENCIES AVAILABLE TO THE PERSON RECEIVING SERVICES WITHIN THE DESIGNATED SERVICE AREA, AND THE DEMONSTRATED EFFORT TO PURCHASE NEW OR EXPANDED SERVICES OR SUPPORTS FROM SERVICE AGENCIES OTHER THAN THOSE AFFILIATED WITH THE COMMUNITY-CENTERED BOARD;

(c) UTILIZATION OF STATE-FUNDED SERVICES AND SUPPORTS ADMINISTERED AT THE LOCAL LEVEL, INCLUDING BUT NOT LIMITED TO PUBLIC EDUCATION, SOCIAL SERVICES, PUBLIC HEALTH, AND REHABILITATION PROGRAMS;

(d) QUALITY OF SERVICES AND SUPPORTS PROVIDED DIRECTLY OR BY CONTRACT FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES;

(e) THE ESTABLISHMENT OF NEW SERVICES AND SUPPORTS FOR THE PREVENTION OF INSTITUTIONALIZATION, THE SUPPORT OF DEINSTITUTIONALIZATION, AND A COMMITMENT TO INNOVATIVE, EFFECTIVE, AND INCLUSIVE SERVICES AND SUPPORTS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES; AND

(f) THE WILLINGNESS OF THE APPLICANT TO PURSUE AUTHORIZED SERVICES AND SUPPORTS FROM ALL ELIGIBLE PERSONS WITHIN THE DESIGNATED SERVICE AREA.

(2) ONCE A COMMUNITY-CENTERED BOARD HAS BEEN DESIGNATED PURSUANT TO THIS SECTION, IT SHALL, SUBJECT TO AVAILABLE APPROPRIATIONS:

(a) BE UNDER THE CONTROL AND DIRECTION OF A BOARD OF DIRECTORS OR TRUSTEES COMPOSED OF ONE OR MORE PERSONS FROM EACH OF THE FOLLOWING CATEGORIES:

(I) INTERESTED PERSONS REPRESENTING THE COMMUNITY AT LARGE;

(II) FAMILY MEMBERS OF PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WHO ARE RECEIVING SERVICES OR SUPPORTS; AND

(III) PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WHO ARE RECEIVING SERVICES OR SUPPORTS;

(b) ADOPT BY-LAW PROVISIONS TO ENSURE THAT:

(I) MEMBERS OF THE GOVERNING BOARD ARE PROHIBITED FROM VOTING ON ISSUES IN WHICH THEY HAVE A CONFLICT OF INTEREST;

(II) STAFF MEMBERS OF THE COMMUNITY-CENTERED BOARD AND EMPLOYEES OR BOARD MEMBERS OF SERVICE AGENCIES MAY NOT SERVE ON THE GOVERNING BOARD;

(III) STAFF MEMBERS OF THE COMMUNITY-CENTERED BOARD AND EMPLOYEES OR BOARD MEMBERS OF SERVICE AGENCIES ARE PROHIBITED FROM VOTING IN ELECTIONS FOR MEMBERS OF THE GOVERNING BOARD; AND

(IV) BOARD MEETINGS MUST BE SCHEDULED AFTER ADEQUATE NOTICE AND MUST BE OPEN TO THE PUBLIC; EXCEPT THAT, BY VOTE OF A TWO-THIRDS MAJORITY OF MEMBERS PRESENT, THE BOARD MAY ELECT TO ADDRESS THE FOLLOWING MATTERS IN EXECUTIVE SESSION:

(A) THE PURCHASE, ACQUISITION, LEASE, TRANSFER, OR SALE OF ANY REAL, PERSONAL, OR OTHER PROPERTY INTEREST;

(B) CONFERENCES WITH AN ATTORNEY FOR THE PURPOSE OF RECEIVING LEGAL ADVICE ON SPECIFIC LEGAL QUESTIONS;

(C) MATTERS REQUIRED TO BE KEPT CONFIDENTIAL BY FEDERAL OR STATE LAW OR RULES;

(D) SPECIALIZED DETAILS OF SECURITY ARRANGEMENTS OR INVESTIGATIONS;

(E) DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS;

(F) DEVELOPING STRATEGY FOR NEGOTIATIONS AND INSTRUCTING NEGOTIATORS; AND

(G) PERSONNEL MATTERS;

(c) DETERMINE THE NEEDS OF ELIGIBLE PERSONS WITHIN THE COMMUNITY-CENTERED BOARD DESIGNATED SERVICE AREA AND PREPARE AND IMPLEMENT A LONG-RANGE PLAN AND ANNUAL UPDATES TO THAT PLAN FOR THE DEVELOPMENT AND COORDINATION OF SERVICES AND SUPPORTS TO ADDRESS THOSE NEEDS. THE NEEDS DETERMINATION AND DESIGNATED SERVICE AREA PLANS OR ANNUAL UPDATE SHALL BE SUBMITTED TO THE STATE DEPARTMENT.

(d) DETERMINE ELIGIBILITY AND DEVELOP AN INDIVIDUALIZED PLAN FOR EACH PERSON WHO RECEIVES SERVICES OR SUPPORTS PURSUANT TO SECTION 25.5-10-211; EXCEPT THAT, FOR A CHILD FROM BIRTH THROUGH TWO YEARS OF AGE, ELIGIBILITY DETERMINATION AND DEVELOPMENT OF AN INDIVIDUALIZED FAMILY SERVICE PLAN ARE MADE PURSUANT TO THE PROVISIONS OF PART 7 OF ARTICLE 10.5 OF TITLE 27,

C.R.S.;

(e) PROVIDE CASE MANAGEMENT SERVICES, INCLUDING SERVICE AND SUPPORT COORDINATION AND PERIODIC REVIEWS, FOR PERSONS RECEIVING SERVICES AND FAMILIES WITH CHILDREN WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES OR DELAYS;

(f) OBTAIN OR PROVIDE EARLY INTERVENTION SERVICES AND SUPPORTS PURSUANT TO THE PROVISIONS OF PART 7 OF ARTICLE 10.5 OF TITLE 27, C.R.S.;

(g) TAKE STEPS TO NOTIFY ELIGIBLE PERSONS, AND THEIR FAMILIES AS APPROPRIATE, REGARDING THE AVAILABILITY OF SERVICES AND SUPPORTS; AND

(h) ESTABLISH A HUMAN RIGHTS COMMITTEE. THE HUMAN RIGHTS COMMITTEE IS COMPOSED, TO THE EXTENT POSSIBLE, OF TWO PROFESSIONAL PERSONS TRAINED IN THE APPLICATION OF BEHAVIOR DEVELOPMENT TECHNIQUES AND THREE REPRESENTATIVES OF PERSONS RECEIVING SERVICES, THEIR PARENTS, LEGAL GUARDIANS, OR AUTHORIZED REPRESENTATIVES. AN EMPLOYEE OR BOARD MEMBER OF A SERVICE AGENCY WITHIN THE COMMUNITY-CENTERED BOARD'S DESIGNATED SERVICE AREA SHALL NOT SERVE AS A MEMBER OF THE HUMAN RIGHTS COMMITTEE.

(3) THE EXECUTIVE DIRECTOR SHALL REVIEW EACH DESIGNATED COMMUNITY-CENTERED BOARD PROGRAM TO ENSURE THAT THE PROGRAM COMPLIES WITH THE REQUIREMENTS AND STANDARDS SET FORTH IN THIS ARTICLE AND THE RULES PROMULGATED THEREUNDER.

25.5-10-210. [Formerly 27-10.5-105.5.] Revocation of designation. (1) The executive director may revoke the designation of a community-centered board upon a finding that the community-centered board is in violation of the provisions of this article and the rules and regulations promulgated thereunder. Such revocation shall conform to the provisions and procedures specified in article 4 of title 24, C.R.S., and shall be made only after a hearing is provided as specified in that article.

(2) Once a designation has been revoked pursuant to subsection (1) of this section, the executive director may designate a service agency to perform the case management services of the designated community-centered board pending designation of a new community-centered board.

~~(3) (Deleted by amendment, L. 92, p. 1368, § 7, effective July 1, 1992.)~~

25.5-10-211. [Similar to former 27-10.5-106.] Eligibility determination - individualized plan - periodic review - rules. (1) (a) ANY PERSON MAY REQUEST AN EVALUATION TO DETERMINE WHETHER HE OR SHE HAS AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY AND IS ELIGIBLE TO RECEIVE SERVICES AND SUPPORTS PURSUANT TO THIS ARTICLE. THE PERSON MUST APPLY FOR ELIGIBILITY DETERMINATION TO THE DESIGNATED COMMUNITY-CENTERED BOARD IN THE DESIGNATED SERVICE AREA WHERE THE PERSON RESIDES.

(b) PURSUANT TO THE CONTRACT WITH THE STATE DEPARTMENT, DESIGNATED COMMUNITY-CENTERED BOARDS SHALL DETERMINE WHETHER A PERSON IS ELIGIBLE TO RECEIVE SERVICES AND SUPPORTS PURSUANT TO THIS ARTICLE AND, IF SO, SHALL

DEVELOP AN INDIVIDUALIZED PLAN FOR HIM OR HER AS PART OF HIS OR HER ENROLLMENT INTO A PROGRAM. THE STATE BOARD SHALL PROMULGATE RULES, PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., SETTING FORTH THE PROCEDURE AND CRITERIA FOR DETERMINATION OF ELIGIBILITY AND INDIVIDUALIZED PLAN DEVELOPMENT. THE PROCEDURE AND CRITERIA SHALL BE UNIFORM IN NATURE AND APPLIED THROUGHOUT THE STATE IN A CONSISTENT MANNER.

(2) FOLLOWING INTAKE AND ASSESSMENT, THE DESIGNATED COMMUNITY-CENTERED BOARD SHALL DEVELOP AN INDIVIDUALIZED PLAN AS PROVIDED BY RULES PROMULGATED BY THE STATE BOARD. THE DESIGNATED COMMUNITY-CENTERED BOARD SHALL DEVELOP AN INDIVIDUALIZED FAMILY SERVICE PLAN FOR A CHILD WITH DISABILITIES FROM BIRTH THROUGH TWO YEARS OF AGE PURSUANT TO SECTION 27-10.5-703, C.R.S.

(3) SUBJECT TO AVAILABLE APPROPRIATIONS PURSUANT TO SECTION 25.5-10-206 AND TO THE CAPACITY OF AN INDIVIDUAL SERVICE AGENCY, THE PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY MUST BE PROVIDED OPTIONS FOR SERVICES AND SUPPORTS WITHIN THE DESIGNATED SERVICE AREA THAT CAN APPROPRIATELY MEET THE PERSON'S IDENTIFIED NEEDS, AS IDENTIFIED PURSUANT TO SUBSECTION (2) OF THIS SECTION, AND MAY SELECT THE SERVICE AGENCY FROM WHICH TO RECEIVE SERVICES OR SUPPORTS.

(4) (a) EACH PERSON RECEIVING SERVICES MUST RECEIVE PERIODIC AND ADEQUATE REVIEWS TO ASCERTAIN WHETHER THE SERVICES AND SUPPORTS SPECIFIED IN HIS OR HER INDIVIDUALIZED PLAN HAVE BEEN PROVIDED, DETERMINE THE APPROPRIATENESS OF CURRENT SERVICES AND SUPPORTS, IDENTIFY WHETHER THE OUTCOMES SPECIFIED IN THE PERSON'S INDIVIDUALIZED PLAN HAVE BEEN ACHIEVED, AND MODIFY AND REVISE CURRENT SERVICES OR SUPPORTS TO MEET THE IDENTIFIED NEEDS AND PREFERENCES OF THE PERSON RECEIVING SERVICES. THE DESIGNATED COMMUNITY-CENTERED BOARD SHALL DEVELOP MODIFICATIONS OR REVISIONS TO THE INDIVIDUALIZED FAMILY SERVICE PLAN FOR A CHILD WITH DISABILITIES FROM BIRTH THROUGH TWO YEARS OF AGE PURSUANT TO SECTION 27-10.5-703, C.R.S.

(b) IN ORDER TO ACCURATELY REVIEW THE SERVICES AND SUPPORTS BEING PROVIDED, THE COMMUNITY-CENTERED BOARD OR REGIONAL CENTER MAY MAKE COGNITIVE, PHYSICAL, MEDICAL, BEHAVIORAL, SOCIAL, VOCATIONAL, EDUCATIONAL, OR OTHER NECESSARY TYPES OF EVALUATIONS OF A PERSON RECEIVING SERVICES. AN INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PROFESSIONAL SHALL SUPERVISE THE REVIEWS. THE PERSON RECEIVING SERVICES, THE PARENTS OR GUARDIAN OF A MINOR, OR THE GUARDIAN OF THE PERSON RECEIVING SERVICES, AND THE AUTHORIZED REPRESENTATIVE OF THE PERSON RECEIVING SERVICES MAY ATTEND AND SHALL RECEIVE ADEQUATE ADVANCE NOTICE OF THE REVIEWS. PARENTAL OR LEGAL GUARDIAN CONSENT MUST BE OBTAINED PRIOR TO ADMINISTERING EVALUATIONS FOR PROGRAM REVIEW TO MINORS. THE RESULTS OF A REVIEW MUST BE GIVEN TO THE PERSON RECEIVING SERVICES AND TO THE PERSON'S PARENT, OR GUARDIAN, AS APPROPRIATE, AND MUST BE MADE A PART OF THE PERSON'S RECORD.

(c) A PERSON'S INDIVIDUALIZED PLAN MUST BE REVIEWED AT LEAST ANNUALLY; EXCEPT THAT AN INDIVIDUALIZED FAMILY SERVICE PLAN FOR A CHILD WITH

DISABILITIES FROM BIRTH THROUGH TWO YEARS OF AGE MUST BE REVIEWED AS REQUIRED PURSUANT TO PART 7 OF ARTICLE 10.5 OF TITLE 27, C.R.S.

(5) AN INDIVIDUALIZED PLAN IS NOT REQUIRED FOR A PERSON WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WHO IS ELIGIBLE FOR SUPPORTS AND SERVICES AND WHO IS ON A WAITING LIST FOR ENROLLMENT INTO A PROGRAM FUNDED PURSUANT TO THIS ARTICLE. EACH COMMUNITY-CENTERED BOARD SHALL PROVIDE INFORMATION AND REFERRAL SERVICES TO EACH PERSON ON THE WAITING LIST FOR ENROLLMENT IN A PROGRAM, AT THE TIME OF HIS OR HER ELIGIBILITY AND ANNUALLY THEREAFTER, REGARDING SERVICES AND SUPPORTS THAT ARE RELEVANT TO PERSONS AND ARE COMMONLY USED BY PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES AS PROVIDED BY RULES PROMULGATED BY THE STATE BOARD. THE CRITERIA FOR INFORMATION AND REFERRAL SHALL BE UNIFORM IN NATURE AND APPLIED THROUGHOUT THE STATE IN A CONSISTENT MANNER.

25.5-10-212. [Similar to 27-10.5-107.] Procedure for resolving disputes over eligibility, modification of services or supports, and termination of services or supports. (1) EVERY STATE OR LOCAL SERVICE AGENCY RECEIVING STATE MONEYS PURSUANT TO SECTION 25.5-10-206 SHALL ADOPT A PROCEDURE FOR THE RESOLUTION OF DISPUTES ARISING BETWEEN THE SERVICE AGENCY AND ANY RECIPIENT OF, OR APPLICANT FOR, SERVICES OR SUPPORTS AUTHORIZED UNDER SECTION 25.5-10-206. PROCEDURES FOR THE RESOLUTION OF DISPUTES REGARDING EARLY INTERVENTION SERVICES MUST COMPLY WITH IDEA AND WITH PART 7 OF ARTICLE 10.5 OF TITLE 27, C.R.S. THE PROCEDURES MUST BE CONSISTENT WITH RULES PROMULGATED BY THE STATE BOARD PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., AND MUST APPLY TO THE FOLLOWING DISPUTES:

(a) A CONTESTED DECISION THAT THE APPLICANT IS NOT ELIGIBLE FOR SERVICES OR SUPPORTS;

(b) A CONTESTED DECISION TO PROVIDE, MODIFY, REDUCE, OR DENY SERVICES OR SUPPORTS SET FORTH IN THE INDIVIDUALIZED PLAN OR INDIVIDUALIZED FAMILY SERVICE PLAN OF THE PERSON RECEIVING SERVICES;

(c) A CONTESTED DECISION TO TERMINATE SERVICES OR SUPPORTS;

(d) A CONTESTED DECISION THAT THE PERSON RECEIVING SERVICES IS NO LONGER ELIGIBLE FOR SERVICES OR SUPPORTS.

(2) THE STATE BOARD SHALL PROMULGATE RULES PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., SETTING FORTH PROCEDURES FOR THE RESOLUTION OF DISPUTES SPECIFIED IN SUBSECTION (1) OF THIS SECTION THAT MUST:

(a) REQUIRE THAT ALL APPLICANTS FOR SERVICES AND SUPPORTS AND THE PARENTS OR GUARDIAN OF A MINOR, THE GUARDIAN, OR AN AUTHORIZED REPRESENTATIVE BE INFORMED ORALLY AND IN WRITING, IN THEIR NATIVE LANGUAGE, OF THE DISPUTE RESOLUTION PROCEDURES AT THE TIME OF APPLICATION, AT THE TIME THE INDIVIDUALIZED PLAN IS DEVELOPED, AND ANY TIME CHANGES IN THE PLAN ARE CONTEMPLATED;

(b) REQUIRE THAT A SERVICE AGENCY KEEP A WRITTEN RECORD OF ALL

PROCEEDINGS SPECIFIED PURSUANT TO THIS SECTION;

(c) REQUIRE THAT NO PERSON RECEIVING SERVICES BE TERMINATED FROM SUCH SERVICES OR SUPPORTS DURING THE RESOLUTION PROCESS;

(d) REQUIRE THAT UTILIZING THE DISPUTE RESOLUTION PROCEDURE MUST NOT PREJUDICE THE FUTURE PROVISION OF APPROPRIATE SERVICES OR SUPPORTS TO PERSONS; AND

(e) REQUIRE THAT THE INTENDED ACTION NOT OCCUR UNTIL AFTER REASONABLE NOTICE HAS BEEN PROVIDED TO THE PERSON, THE PARENTS OR GUARDIAN OF A MINOR, THE GUARDIAN, OR AN AUTHORIZED REPRESENTATIVE, ALONG WITH AN OPPORTUNITY TO UTILIZE THE RESOLUTION PROCESS, EXCEPT IN EMERGENCY SITUATIONS, AS DETERMINED BY THE STATE DEPARTMENT.

(3) THE RESOLUTION PROCESS NEED NOT CONFORM TO THE REQUIREMENTS OF SECTION 24-4-105, C.R.S., AS LONG AS THE RULES ADOPTED BY THE STATE BOARD INCLUDE PROVISIONS SPECIFICALLY SETTING FORTH PROCEDURES, TIME FRAMES, NOTICE, AN OPPORTUNITY TO BE HEARD AND TO PRESENT EVIDENCE, AND THE OPPORTUNITY FOR IMPARTIAL REVIEW OF THE DECISION IN DISPUTE BY THE EXECUTIVE DIRECTOR OR DESIGNEE, IF THE RESOLUTION PROCESS HAS FAILED.

25.5-10-213. [Similar to 27-10.5-108.] Discharge. (1) A PERSON RECEIVING SERVICES MUST BE DISCHARGED FROM SERVICES OR SUPPORTS UPON A DETERMINATION, MADE PURSUANT TO THE INDIVIDUALIZED PLANNING PROCESS, THAT THE SERVICES OR SUPPORTS ARE NO LONGER APPROPRIATE. AT LEAST TEN DAYS PRIOR TO EFFECTUATION OF THE DISCHARGE, NOTIFICATION OF DISCHARGE MUST BE GIVEN TO THE PERSON RECEIVING SERVICES, THE PARENTS OR GUARDIAN OF SUCH A PERSON WHO IS A MINOR, AND THE PERSON'S LEGAL GUARDIAN AND AUTHORIZED REPRESENTATIVE WHEN APPLICABLE.

(2) WHEN A PERSON RECEIVING SERVICES NOTIFIES A SERVICE AGENCY THAT THE PERSON NO LONGER WISHES TO RECEIVE A SERVICE OR SUPPORT, THE PERSON MUST BE DISCHARGED FROM THE SERVICE OR SUPPORT UNLESS THE PERSON IS SUBJECT TO A PETITION TO IMPOSE A LEGAL DISABILITY OR TO REMOVE A LEGAL RIGHT, FILED PURSUANT TO SECTION 25.5-10-216, OR FOR WHOM A LEGAL GUARDIAN HAS BEEN APPOINTED, AFFECTING THE PERSON'S ABILITY TO VOLUNTARILY TERMINATE SERVICES OR SUPPORTS. THE PARENTS OF THE PERSON RECEIVING SERVICES WHO IS A MINOR AND SUCH PERSON'S GUARDIAN MUST BE NOTIFIED OF THE PERSON'S WISH TO TERMINATE SERVICES OR SUPPORTS, BUT NO MINOR WILL BE DISCHARGED WITHOUT THE CONSENT OF THE PARENT OR LEGAL GUARDIAN.

25.5-10-214. [Formerly 27-10.5-109.] Community residential home - licenses - rules. (1) ~~(Deleted by amendment, L. 92, p. 1371, § 11, effective July 1, 1992.)~~

~~(2)~~ (a) (1) The department of public health and environment and the STATE department of human services shall implement a system of joint licensure and certification of community residential homes. Independent residential support services provided by the STATE 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) (2) (a)~~ The department of public health and environment and the STATE department of human services shall develop standards for the licensure and certification of community residential homes. 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.

~~(b) (I)~~ The STATE department of human services or the state board of health, as appropriate, shall adopt the standards by rule 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 STATE 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.

~~(4) (3)~~ Any community residential home applying for a license or certification on or after January 1, 1986, shall accommodate at least four but no more than eight persons with INTELLECTUAL AND developmental disabilities. All licenses and certificates issued by the department of public health and environment or the STATE department of human services shall bear the date of issuance and shall be valid for not more than a twenty-four-month period.

~~(5) (4)~~ The issuance, suspension, revocation, modification, renewal, or denial of a license or certification shall be governed by the provisions of section 24-4-104, C.R.S. The failure of a community residential home to comply with the provisions of this article and the rules promulgated thereunder, or any local fire, safety, and health codes shall be sufficient grounds for the department of public health and environment or the STATE department of human services to deny, suspend, revoke, or modify the community residential home's license or certification.

~~(6) (5)~~ The STATE department of human services and the state board of health shall promulgate such rules as are necessary to implement this section, pursuant to

the provisions specified in article 4 of title 24, C.R.S. The rules shall include, but shall not be limited to, the following:

~~(a) (Deleted by amendment, L. 92, p. 1371, § 11, effective July 1, 1992.)~~

~~(b)~~ (a) Requirements concerning the distance between the location of community residential homes and factors to be considered in waiving such requirements for existing community residential homes; AND

~~(c)~~ (b) Procedures to secure the health and safety of persons receiving services or supports residing in a community residential home in the event the community residential home closes or its license is denied, suspended, or revoked pursuant to this section.

25.5-10-215. [Formerly 27-10.5-109.5.] Compliance with local government zoning regulations - notice to local governments - provisional licensure.

(1) The STATE department shall require any community residential home seeking licensure pursuant to section ~~27-10.5-109~~ 25.5-10-214 to comply with any applicable zoning regulations of the municipality, city and county, or county where the home is situated. Failure to comply with applicable zoning regulations shall constitute grounds for the denial of a license to a home; except that nothing in this section shall be construed to supersede the provisions of sections 30-28-115 (2), 31-23-301 (4), and 31-23-303 (2), C.R.S.

(2) The STATE department shall ~~assure~~ ENSURE that timely written notice is provided to the municipality, city and county, or county where a community residential home is situated, including the address of the home and the population and number of persons to be served by the home, when any of the following occurs:

(a) An application for a license to operate a community residential home pursuant to section ~~27-10.5-109~~ 25.5-10-214 is made;

(b) A license is granted to a community residential home pursuant to section ~~27-10.5-109~~ 25.5-10-214;

(c) A change in the license of a community residential home occurs; or

(d) The license of a community residential home is revoked or otherwise terminated for any reason.

(3) In the event of a zoning or other delay or dispute between a community residential home and the municipality, city and county, or county where the home is situated, the STATE department may grant a provisional license to the home for up to one hundred twenty days pending resolution of the delay or dispute.

25.5-10-216. [Similar to former 27-10.5-110.] Imposition of legal disability - removal of legal right.

(1) ANY INTERESTED PERSON MAY PETITION THE COURT TO IMPOSE A LEGAL DISABILITY ON OR TO REMOVE A LEGAL RIGHT FROM A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY AS DEFINED IN SECTION 25.5-10-202. THE PETITION MUST SET FORTH THE DISABILITY TO BE IMPOSED OR THE LEGAL RIGHT TO BE REMOVED AND THE REASONS THEREFOR. THE PETITION MAY

AFFECT THE RIGHT TO CONTRACT, THE RIGHT TO DETERMINE PLACE OF ABODE OR PROVISIONS OF SERVICES AND SUPPORTS, THE RIGHT TO OPERATE A MOTOR VEHICLE, AND OTHER SIMILAR RIGHTS.

(2) (a) PRIOR TO GRANTING THE PETITION, THE COURT MUST FIND:

(I) THAT THE PERSON SUBJECT TO THE PETITION HAS BEEN DETERMINED TO BE A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY PURSUANT TO THE PROVISIONS OF THIS ARTICLE; AND

(II) THAT THE REQUESTED DISABILITY OR REMOVAL IS BOTH NECESSARY AND DESIRABLE TO IMPLEMENT THE INDIVIDUALIZED PLAN DEVELOPED FOR THE PERSON RECEIVING SERVICES OR SUPPORTS UNDER THE SUPERVISION OF AN INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PROFESSIONAL AND THE INTERDISCIPLINARY TEAM. SUCH PROFESSIONAL MUST HAVE AN UNDERSTANDING OF THE RIGHTS OF PERSONS RECEIVING SERVICES AS SET FORTH IN SECTIONS 25.5-10-218 TO 25.5-10-229. SUCH PLAN MUST BE SUBMITTED TO THE COURT AND MUST BE SIGNED BY THE INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PROFESSIONAL.

(b) WHEN A PETITION FILED PURSUANT TO SUBSECTION (1) OF THIS SECTION SEEKS TO IMPOSE A DISABILITY OR TO REMOVE A LEGAL RIGHT, RELATED TO THE SELECTION OF PLACE OF ABODE BY THE PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, THE COURT MUST ALSO FIND:

(I) THAT, BASED ON THE RECENT OVERT ACTIONS OR OMISSIONS OF THE PERSON SUBJECT TO THE PETITION, AND BECAUSE OF THE PRESENCE OF AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, WITHOUT THE RELIEF REQUESTED IN THE PETITION SUCH PERSON POSES A PROBABLE THREAT OF SERIOUS PHYSICAL HARM TO SUCH PERSON OR OTHERS OR IS UNABLE TO CARE FOR SUCH PERSON'S OWN NEEDS TO THE EXTENT THAT SUCH PERSON'S OWN LIFE OR SAFETY IS SERIOUSLY THREATENED; AND

(II) THAT THE PLACE OF ABODE REQUESTED IN THE PETITION IS THE LEAST RESTRICTIVE RESIDENTIAL SETTING THAT IS APPROPRIATE FOR THE INDIVIDUAL NEEDS OF THE PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY.

(3) WITHIN SIX MONTHS AFTER A LEGAL DISABILITY HAS BEEN IMPOSED OR A LEGAL RIGHT HAS BEEN REMOVED, THE COURT SHALL HOLD A HEARING TO REVIEW ITS ORDER AND EITHER REAFFIRM THE FINDINGS MADE PURSUANT TO SUBSECTION (2) OF THIS SECTION AND CONTINUE THE LEGAL DISABILITY OR REMOVAL OR REMOVE THE LEGAL DISABILITY OR RESTORE THE LEGAL RIGHTS TO THE PERSON SUBJECT TO THE PETITION. THE COURT MAY REMOVE A LEGAL DISABILITY FROM OR RESTORE A LEGAL RIGHT TO A PERSON WITHOUT A HEARING UPON THE FILING OF A MOTION REQUESTING SUCH RELIEF CONTAINING AFFIDAVITS IN SUPPORT OF THE MOTION SIGNED BY ALL OF THE PARTIES.

(4) ANY INTERESTED PERSON MAY MOVE THAT THE COURT REMOVE A LEGAL DISABILITY OR RESTORE A LEGAL RIGHT. IF SUCH MOTION IS CONTESTED, IT MUST BE SERVED ON THE PERSON WHOSE RIGHTS ARE AFFECTED AND UPON THE PARTY WHO FILED THE ORIGINAL PETITION IF THE PERSON IS NOT THE MOVING PARTY.

(5) THE FOLLOWING PROCEDURES MUST APPLY TO ANY PROCEEDINGS INSTITUTED

PURSUANT TO THIS SECTION:

(a) WHEN A PETITION IS FILED PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE PERSON SUBJECT TO THE PETITION SHALL BE ADVISED BY THE COURT OF SUCH PERSON'S RIGHT TO RETAIN AND CONSULT WITH AN ATTORNEY AT ANY TIME, AND THAT IF SUCH PERSON CANNOT AFFORD TO PAY AN ATTORNEY, ONE WILL BE APPOINTED BY THE COURT WITHOUT COST. ATTORNEY FEES FOR COURT-APPOINTED COUNSEL SHALL BE PAID BY THE COURT.

(b) UPON THE REQUEST OF AN INDIGENT RESPONDENT OR SUCH RESPONDENT'S ATTORNEY, THE COURT SHALL APPOINT ONE OR MORE INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PROFESSIONALS OF THE RESPONDENT'S CHOICE TO ASSIST THE RESPONDENT IN THE PREPARATION OF THE RESPONDENT'S CASE. THE COURT SHALL PAY THE FEES FOR SUCH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PROFESSIONALS.

(c) THE COURT MAY ISSUE A TEMPORARY ORDER IMPOSING A LEGAL DISABILITY OR REMOVING A LEGAL RIGHT, PENDING A HEARING, FOR A PERIOD NOT TO EXCEED TEN DAYS, BASED UPON THE STANDARDS REQUIRED FOR ISSUANCE OF A TEMPORARY RESTRAINING ORDER. NO INDIVIDUALIZED PLAN SHALL BE REQUIRED BY THE COURT TO SUPPORT THE ISSUANCE OF SUCH ORDER.

(d) THE BURDEN OF PROOF IS AT ALL TIMES UPON THE PARTY SEEKING IMPOSITION OF A DISABILITY OR REMOVAL OF A LEGAL RIGHT OR OPPOSING REMOVAL OF A DISABILITY OR RESTORATION OF A LEGAL RIGHT, AND THE STANDARD OF PROOF IS BY CLEAR AND CONVINCING EVIDENCE.

(e) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (5), ALL PROCEEDINGS MUST BE HELD IN CONFORMANCE WITH THE COLORADO RULES OF CIVIL PROCEDURE, BUT NO COSTS MUST BE ASSESSED AGAINST THE RESPONDENT.

(6) IN ORDER TO PROVIDE REPRESENTATION TO ELIGIBLE PERSONS AS PROVIDED IN THIS SECTION, THE JUDICIAL DEPARTMENT MAY PAY MONEYS, OUT OF APPROPRIATIONS MADE THEREFOR BY THE GENERAL ASSEMBLY, DIRECTLY TO APPOINTED COUNSEL OR INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PROFESSIONALS ON A CASE-BY-CASE BASIS OR, ON BEHALF OF THE STATE, TO CONTRACT WITH INDIVIDUAL ATTORNEYS, LEGAL PARTNERSHIPS, LEGAL PROFESSIONAL CORPORATIONS, PUBLIC INTEREST LAW FIRMS, OR NONPROFIT LEGAL SERVICES CORPORATIONS TO PROVIDE LEGAL REPRESENTATION FOR AN AGREED-UPON LUMP SUM.

(7) A PERSON SHALL NOT BE ADMITTED TO A REGIONAL CENTER, AS DEFINED IN SECTION 27-10.5-102, C.R.S., WITHOUT A COURT ORDER ISSUED PURSUANT TO THIS SECTION EXCEPT IN AN EMERGENCY OR FOR THE PURPOSE OF TEMPORARY RESPITE CARE.

25.5-10-217. [Formerly 27-10.5-111.] Conduct of court proceedings. All court proceedings arising under section ~~27-10.5-110~~ 25.5-10-216 shall be conducted by the district attorney of the county where the proceeding is held or by a qualified attorney acting for the district attorney appointed by the district court for that purpose; except that, in any county or in any city and county having a population

exceeding one hundred thousand persons, the proceedings shall be conducted by the county attorney or by a qualified attorney acting for the county attorney appointed by the district court. In any case in which there has been a change of venue to a county other than the county of residence of the respondent or the county in which the proceeding was commenced, the county from which the proceeding was transferred shall either reimburse the county in which the proceeding was held for the reasonable costs incurred in conducting the proceeding or conduct the proceeding itself using its own personnel and resources, including its own district or county attorney, as the case may be.

25.5-10-218. [Formerly 27-10.5-112.] Persons' rights. (1) Unless a person's rights are modified by court order, a person with a AN INTELLECTUAL AND developmental disability shall have HAS the same legal rights and responsibilities guaranteed to all other individuals PERSONS under the federal and state constitutions and federal and state laws. No otherwise qualified person, by reason of having a AN INTELLECTUAL AND developmental disability, shall MAY be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives public funds.

(2) The receipt of services and supports pursuant to this article shall not operate to DOES NOT deprive any person of any other rights, benefits, or privileges or cause the person to be declared legally incompetent.

(3) The rights of any person receiving services which are specified in this article may be suspended to protect the person receiving services from endangering such person, others, or property. Such rights may be suspended only by the INTELLECTUAL AND developmental disabilities professional with subsequent review by the interdisciplinary team and by the human rights committee in order to provide specific services or supports to the person receiving services, which will promote the least restriction on the person's rights. Such person's legal rights may be removed by a court pursuant to section ~~27-10.5-110~~ 25.5-10-216.

(4) None of the rights established pursuant to this article shall be construed to interfere with the rights and privileges of parents regarding their minor child.

25.5-10-219. [Formerly 27-10.5-113.] Right to individualized plan or individualized family service plan. (1) Each person receiving services shall have an individualized plan, an individualized family service plan, or a similar plan specified by the STATE department that qualifies as an individualized plan that is developed by the person's interdisciplinary team. The individualized family service plan for a child with disabilities from birth through two years of age shall be developed in compliance with part 7 of this article 10.5 OF TITLE 27, C.R.S.

(2) Pursuant to section ~~27-10.5-106~~ 25.5-10-211, the individualized plan for each person who receives services or supports shall be reviewed at least annually and modified as necessary or appropriate; except that an individualized family service plan for a child with disabilities from birth through two years of age shall be reviewed as required pursuant to part 7 of this article 10.5 OF TITLE 27, C.R.S. A review shall consist of, but is not limited to, the determination by the interdisciplinary team as to whether the needs AND PREFERENCES of the person receiving services or supports are accurately reflected in the plan, whether the

services and supports provided pursuant to the plan are appropriate to meet the person's needs AND PREFERENCES, and what actions are necessary for the plan to be achieved.

25.5-10-220. [Formerly 27-10.5-114.] Right to medical care and treatment.

(1) Each person receiving services ~~shall~~ MUST have access to appropriate dental and medical care and treatment for any physical ailments and for the prevention of any illness or disability.

(2) No medication for which a prescription is required shall be administered without the written order of a physician. A physician shall conduct a review of all prescriptions and other orders for medications in order to determine the appropriateness of the person's medication regimen annually, or more often, if required by law.

(3) All service agencies which administer medication shall require that notation of the medication of a person receiving services be kept in the person's medical records. All medications ~~shall~~ MUST be administered pursuant to part 3 of article 1.5 of title 25, C.R.S.

(4) Persons receiving services ~~shall~~ MUST have a right to be free from unnecessary or excessive medication. The service agency's records ~~shall~~ MUST state the effects of psychoactive medication if administered to the person receiving services. When dosages of such are changed or other psychoactive medications are prescribed, a notation ~~shall~~ MUST be made in such person's record concerning the effect of the new medication or new dosages and the behavior changes, if any, which occur.

(5) Medication ~~shall~~ MUST not be used for the convenience of the staff, for punishment, as a substitute for a treatment program, or in quantities that interfere with the treatment program of the person receiving services.

(6) Only appropriately trained staff shall be allowed to administer ~~drugs~~ MEDICATIONS.

~~(6.5)~~ (7) The executive director has the power to direct the administration or monitoring of medications to persons ~~being cared for and treated~~ RECEIVING SERVICES AND SUPPORTS in centers for ~~the developmentally disabled~~ PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES pursuant to section 25-1.5-301 (2) (h), C.R.S.

~~(7)~~ (8) No person receiving services ~~shall~~ MAY be subjected to any experimental research or hazardous treatment procedures without the consent of such person, if the person is over eighteen years of age and is able to give such consent, or of the person's parent, if the person is under eighteen years of age, or of the person's legal guardian. Such consent may be given only after consultation with the interdisciplinary team and a AN INTELLECTUAL AND developmental disabilities professional not affiliated with the facility or community residential home in which the person receiving services resides. However, no such person of any age ~~shall~~ MAY be subjected to experimental research or hazardous treatment procedures if said person implicitly or expressly objects to such procedure.

~~(8)~~ (9) No person receiving services ~~shall~~ MAY have any organs removed for the purpose of transplantation without the consent of such person, if the person is over eighteen years of age and is able to give such consent. If the person's ability to give consent to the medical procedure is challenged by the physician, the same procedures as those set forth in section ~~27-10.5-129~~ 25.5-10-232 shall be followed. Consent for the removal of organs for transplantation may be given by the parents of a person receiving services, if the person is under eighteen years of age, or by the person's legal guardian. Such consent may be given only after consultation with the interdisciplinary team and a AN INTELLECTUAL AND developmental disabilities professional not affiliated with the facility or community residential home in which the person receiving services resides. However, no person receiving services of any age ~~shall~~ MAY be a donor of an organ if the person implicitly or expressly objects to such procedure.

~~(9)~~ (10) (a) As used in subsections ~~(7) and (8)~~ AND (9) of this section, consent also ~~shall require~~ REQUIRES that the person whose consent is sought has been adequately and effectively informed as to the:

- (I) Method of experimental research, hazardous treatment, or transplantation;
 - (II) Nature and consequence of such procedures; and
 - (III) Risks, benefits, and purposes of such procedures.
- (b) The consent of any person may be revoked at any time.

~~(10)~~ (11) Subsections ~~(7), (8), and (9)~~ (8), (9), AND (10) of this section ~~shall~~ DO not apply when a physician renders emergency medical care or treatment to any resident.

25.5-10-221. [Formerly 27-10.5-115.] Right to humane treatment.

(1) Corporal punishment of persons with a AN INTELLECTUAL AND developmental disability ~~shall~~ IS not be permitted.

(2) All service agencies shall prohibit mistreatment, exploitation, neglect, or abuse in any form of any person receiving services.

(3) Service agencies shall provide every person receiving services with a humane physical environment.

(4) Each person receiving services ~~shall~~ MUST be attended to by qualified staff in numbers sufficient to provide appropriate services and supports.

(5) Seclusion, defined as the placement of a person receiving services alone in a closed room for the purpose of punishment, is prohibited.

(6) "Time out" procedures, defined as separation from other persons receiving services and group activities, may be employed under close and direct professional supervision, as defined BY RULE by the ~~department~~ STATE BOARD, and only as a technique in behavior-shaping programs. Behavior-shaping programs utilizing a "time out" procedure ~~shall~~ MAY be implemented only when it incorporates a positive

approach designed to result in the acquisition of adaptive behaviors. Such behavior programs ~~shall~~ MAY only be implemented following the completion of a comprehensive functional analysis, when alternative nonrestrictive procedures have been proven to be ineffective, and only with the informed consent of the ~~individual~~ PERSON, parents, or legal guardian. Such behavior programs ~~shall~~ MAY be implemented only following the review and approval process defined in rules. ~~and regulations~~. Behavior development programs ~~shall~~ MUST be developed in conjunction with the interdisciplinary team and implemented only following review by the human rights committee. Behavior development programs involving the use of the procedure in a "time out room" are prohibited.

(7) Behavior development programs involving the use of aversive or noxious stimuli are prohibited.

(8) Physical restraint, defined as the use of manual methods intended to restrict the movement or normal functioning of a portion of ~~an individual's~~ A PERSON'S body through direct contact by staff, ~~shall~~ MAY be employed only when necessary to protect the person receiving services from injury to self or others. Physical restraint ~~shall~~ MAY not be employed as punishment, for the convenience of staff, or as a substitute for a program of services and supports. Physical guidance or prompting techniques of short duration such as those employed in training techniques are not considered physical restraint. Physical restraint ~~shall~~ MAY be applied only if alternative techniques have failed and only if such restraint imposed the least possible restriction consistent with its purpose. If physical restraint is used in an emergency or on a continuing basis its use shall be reviewed by the interdisciplinary team and the human rights committee in accordance with the rules ~~and regulations~~ of the ~~department~~ STATE BOARD.

(9) The use of a mechanical restraint, defined as the use of mechanical devices intended to restrict the movement or normal functioning of a portion of ~~an individual's~~ A PERSON'S body, is subject to special review and oversight, as defined in rules. ~~and regulations~~. Use of mechanical restraints ~~shall~~ MAY be applied only in an emergency if alternative techniques have failed and in conjunction with a behavior development program. Mechanical restraints ~~shall~~ MUST be designed and used so as not to cause physical injury to the person receiving services and so as to cause the least possible discomfort. The use of mechanical restraints shall be reviewed by the human rights committee. The use of posey vests, straight jackets, ankle and wrist restraints, and other devices defined in rules ~~and regulations~~ is prohibited.

(10) A record ~~shall~~ MUST be maintained of all physical injuries to any person receiving services, all incidents of mistreatment, exploitation, neglect, or abuse, and all uses of physical or mechanical restraint. All records ~~shall be~~ ARE subject to review by the human rights committee.

(11) Behavior development programs ~~shall~~ MUST be supervised by a AN INTELLECTUAL AND developmental disabilities professional having specific knowledge and skills to develop and implement positive behavioral intervention strategies.

25.5-10-222. [Formerly 27-10.5-116.] Right to religious belief, practice, and

worship. No person receiving services ~~shall be~~ is required to perform any act or be subject to any procedure whatsoever which is contrary to the person's religious belief, and each such person ~~shall have~~ HAS the right to practice such religious belief and be accorded the opportunity for religious worship. Provisions for religious worship ~~shall~~ MUST be made available to all persons receiving services on a nondiscriminatory basis. No such person shall be coerced into engaging in or refraining from any religious activity, practice, or belief.

25.5-10-223. [Formerly 27-10.5-117.] Rights to communications and visits.

(1) Each person receiving services has the right to communicate freely and privately with others of the person's own choosing.

(2) Each person receiving services has the right to receive and send sealed, unopened correspondence. No such person's incoming or outgoing correspondence shall be opened, delayed, held, or censored by any person.

(3) Each person receiving services shall have the right to receive and send packages. No such person's outgoing packages shall be opened, delayed, held, or censored by any person.

~~(4) Repealed.~~

~~(5)~~ (4) Each person receiving services ~~shall~~ MUST have reasonable access to telephones, both to make and to receive calls in privacy, and ~~shall~~ MUST be afforded reasonable and frequent opportunities to meet with visitors.

~~(6)~~ (5) All service agencies shall ensure that persons receiving services have suitable opportunities for interaction with persons of their choice. Nothing in this section will limit the protections provided under article 3.1 of title 26, C.R.S.

~~(7) Repealed.~~

25.5-10-224. [Formerly 27-10.5-118.] Right to fair employment practices.

(1) No person receiving services shall be required to perform labor; except that persons receiving services may voluntarily engage in such labor if the labor is compensated in accordance with applicable minimum wage laws.

(2) No person receiving services shall be involved in the physical care, care and treatment, training, or supervision of other persons receiving services unless such person has volunteered, has been specifically trained in the necessary skills, and has the judgment required for such activities, is adequately supervised, and is reimbursed in accordance with the applicable minimum wage laws.

(3) Each person receiving services may perform vocational training tasks, subject to a presumption that an assignment longer than three months to any task is not a training task, if the specific task or any change in task assignment is an integral part of such person's individualized plan. If such person performs vocational training tasks for which the service agency is receiving compensation from any outside source, the person shall be compensated in accordance with the applicable minimum wage laws.

(4) Each person receiving services may voluntarily engage in labor for which the service agency would otherwise have to pay an employee if the specific labor or any change in labor is an integral part of such person's individualized plan and the person is compensated in accordance with the applicable minimum wage laws.

(5) Each person receiving services may be required to perform tasks of a personal housekeeping nature or tasks oriented to improving community living skills in accordance with the person's individualized plan.

(6) Payment to persons receiving services pursuant to this section shall not be collected by the service agency to offset the costs of providing services and supports to such person.

25.5-10-225. [Formerly 27-10.5-119.] Right to vote. Each person receiving services who is eligible to vote according to law has the right to vote in all primary and general elections. As necessary, all service agencies shall assist such persons to register to vote, to obtain applications for mail-in ballots and to obtain mail-in ballots, to comply with other requirements which are prerequisite to voting, and to vote.

25.5-10-226. [Formerly 27-10.5-120.] Records and confidentiality of information pertaining to eligible persons or their families. (1) A record for each person receiving services shall be diligently maintained by the community-centered board. The record ~~shall~~ MUST include, but not be limited to, information pertaining to the determination of eligibility for services and the individualized plan. The record ~~shall~~ IS NOT ~~be~~ a public record.

(2) Except as otherwise provided by law, all information obtained and any records prepared in the course of determining eligibility or providing services and supports pursuant to this article ~~shall be~~ ARE confidential and subject to the evidentiary privileges established by law. The disclosure of this information and these records in any manner shall be permitted only:

(a) To the applicant or person receiving services, to the parents of a minor, to such person's legal guardian, and to any person authorized by the above named person;

(b) In communications between qualified professional personnel, including the board of directors of community-centered boards and service agencies providing services to persons with INTELLECTUAL AND developmental disabilities, to the extent necessary for the acquisition, provision, oversight, or referral of services and supports;

~~(c) (Deleted by amendment, L. 92, p. 1380, § 21, effective July 1, 1992.)~~

~~(d)~~ (c) To the extent necessary to make claims for aid, insurance, or medical assistance to which a person receiving services may be entitled, or to access services and supports pursuant to the individualized plan;

~~(e)~~ (d) For the purposes of evaluation, gathering statistics, or research when no identifying information concerning an individual person or family is disclosed.

Identifying information is information which could reasonably be expected to identify a specific ~~individual~~ PERSON and includes, but is not limited to, name, address, telephone number, social security number, medicaid number, household number, and photograph.

~~(f)~~ (e) To the court when necessary to implement the provisions of this article;

~~(g)~~ (f) To persons authorized by an order of court issued after a hearing, notice of which was given to the person, parents or legal guardian, where appropriate, and the custodian of the information;

~~(h)~~ (g) To the agency designated pursuant to 42 U.S.C. sec. 6012 as the protection and advocacy system for Colorado when:

(I) A complaint has been received by the protection and advocacy system from or on behalf of a person with ~~a~~ AN INTELLECTUAL AND developmental disability; and

(II) Such person does not have a legal guardian or the state or the designee of the state is the legal guardian of such person;

~~(i)~~ (h) To the STATE department or its designees as deemed necessary by the executive director to fulfill the duties prescribed by this article.

(3) Nothing in this section shall be construed to limit access by a person receiving services to such person's records.

(4) Nothing in this section shall be construed to interfere with the protections afforded to a person under the federal "Health Insurance Portability and Accountability Act of 1996", 42 U.S.C. sec. 1320d, and the federal "Family Education Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g.

25.5-10-227. [Formerly 27-10.5-121.] Right to personal property. (1) Each person receiving services has the right to the possession and use of such person's own clothing and personal effects. If the service agency holds any of such person's personal effects for any reason, such retention shall be promptly recorded in such person's record and the reason for retention shall also be recorded.

(2) Upon the request of a person receiving services, a service agency may hold money or funds belonging to the person receiving services, received by such person, or received by the service agency for such person. All such money or funds shall be held by the service agency as trustee for the person receiving services. Upon request, an accounting shall be rendered by the service agency.

(3) Upon request, a person receiving services ~~shall be~~ is entitled to receive reasonable amounts of such person's money or funds held in trust.

25.5-10-228. [Formerly 27-10.5-122.] Right to influence policy. The persons receiving services of a service agency ~~shall be~~ ARE entitled to establish a committee to hear the views and represent the interests of all such persons served by the agency and to attempt to influence the policies of the agency to the extent that they influence provision of services and supports.

25.5-10-229. [Formerly 27-10.5-123.] Right to notification. Each person receiving services ~~shall have~~ HAS the right to read or have explained, in each person's or family's native language, any rules ~~or regulations~~ adopted by the service agency and pertaining to such person's activities.

25.5-10-230. [Formerly 27-10.5-124.] Discrimination. No person who has received services or supports under any provision of this article shall be discriminated against because of such status. For purposes of this section, "discrimination" means the giving of any unfavorable weight to the fact that a person has received such services or supports.

25.5-10-231. [Formerly 27-10.5-128.] Sterilization rights. (1) It is the intent of the general assembly that the procedures set forth in the following subsections be utilized when sterilization is being considered for the primary purpose of rendering the ~~individual~~ PERSON incapable of reproduction.

(2) Any person with ~~a~~ AN INTELLECTUAL AND developmental disability over eighteen years of age who has given informed consent has the right to be sterilized, subject to the following:

(a) Prior to the procedure, competency to give informed consent and assurance that such consent is voluntarily and freely given shall be evaluated by the following:

(I) A psychiatrist, psychologist, or physician who does not provide services or supports to the person and who has consulted with and interviewed the person with ~~a~~ AN INTELLECTUAL AND developmental disability; and

(II) ~~A~~ AN INTELLECTUAL AND developmental disabilities professional who does not provide services or supports in which said person participates, and who has consulted with and interviewed the person with ~~a~~ AN INTELLECTUAL AND developmental disability.

(b) The professionals who conducted the evaluation pursuant to paragraph (a) of this subsection (2) shall consult with the physician who is to perform the operation concerning each professional's opinion in regard to the informed consent of the person requesting the sterilization.

(3) Any person with ~~a~~ AN INTELLECTUAL AND developmental disability whose capacity to give an informed consent is challenged by the INTELLECTUAL AND developmental disabilities professional or the physician may file a petition with the court to declare competency to give consent pursuant to the procedures set forth in section ~~27-10.5-129~~ 25.5-10-232.

(4) No person with ~~a~~ AN INTELLECTUAL AND developmental disability who is over eighteen years of age and has the capacity to participate in the decision-making process regarding sterilization shall be sterilized in the absence of the person's informed consent. No minor may be sterilized without a court order pursuant to section ~~27-10.5-130~~ 25.5-10-233.

(5) Sterilization conducted pursuant to this section shall be legal. Consent given by any person pursuant to subsection (2) of this section ~~shall~~ IS NOT ~~be~~ revocable

after sterilization, and no person shall be liable for acting pursuant to such consent.

25.5-10-232. [Formerly 27-10.5-129.] Competency to give consent to sterilization. (1) If the competency of the person with a AN INTELLECTUAL AND developmental disability to give consent to sterilization is disputed by the INTELLECTUAL AND developmental disabilities professional, the psychiatrist or psychologist, or physician, said person may file a petition for declaration of competency to give consent to sterilization with the court. Upon the filing of a petition which shows that said person is over eighteen years of age and desires to give consent to sterilization, the court shall immediately set a hearing to determine the person's competency to give such consent. For the purpose of determining competency, the court shall appoint two or more independent professional persons with expertise in the field of INTELLECTUAL AND developmental disabilities who do not provide services and supports to said person to examine said person and to present their findings as to said person's competency to give consent to sterilization at the competency hearing.

(2) If the court determines that the person has given consent to sterilization and is competent to give such consent, the court shall MAY order that the sterilization be performed unless the person withdraws consent to sterilization prior to the sterilization being performed. If the court determines that the person is incompetent to give consent to sterilization, the court shall order that no sterilization be performed without further court proceedings pursuant to section ~~27-10.5-130~~ 25.5-10-233.

(3) Determination of competency in these proceedings is specific to the ability to give consent to sterilization and does not determine legal competency for any other purpose.

25.5-10-233. [Formerly 27-10.5-130.] Court-ordered sterilization. (1) A person with a AN INTELLECTUAL AND developmental disability who has been determined to be incompetent to give consent, the person's legal guardian, or the parents of a minor with a AN INTELLECTUAL AND developmental disability, may petition the court to hold a hearing to determine whether said person should be ordered to be sterilized. The petition shall set forth the following:

- (a) The name, age, and residence of the person to be sterilized;
- (b) The name, address, and relation to said person of the petitioner;
- (c) The names and addresses of any parents, spouse, legal guardian, or custodian of said person;
- (d) The mental condition of the person to be sterilized;
- (e) A statement that the sterilization is medically necessary to preserve the life or physical or mental health of the person, including a short and plain description of the reasons behind the determination of medical necessity;
- (f) A statement that other less intrusive measures were considered and the reasons behind the determination that less intrusive means would not protect the interests

of the ~~individual~~ PERSON.

(2) Upon petition to the court, the court shall appoint an attorney who will represent the interests of the person with a AN INTELLECTUAL AND developmental disability and one or more experts in the INTELLECTUAL AND developmental disability field to examine the person and to give testimony at the hearing regarding the person's mental and physical status and other relevant matters.

(3) The hearing on the petition ~~shall~~ MUST be held promptly. The person with a AN INTELLECTUAL AND developmental disability ~~shall~~ MUST be represented by an attorney and ~~shall~~ MUST have the opportunity to present testimony and to cross-examine witnesses.

(4) Copies of the petition and notices of the time and place of the hearing shall be mailed, not less than ten days prior to the hearing, to the person with a AN INTELLECTUAL AND developmental disability, that person's attorney, a parent or next of kin, and legal guardian or custodian.

(5) Reasonable fees and costs incurred pursuant to this section shall be paid by the court for a person who is indigent.

(6) Prior to ordering sterilization, the court must find:

(a) That the person lacks the capacity to effectively participate in the decision-making process regarding sterilization or is a minor with a AN INTELLECTUAL AND developmental disability;

(b) That the court has heard from the person regarding that person's desires, if possible, and the court has considered the desires of the person;

(c) That the person lacks the capacity to make a decision regarding sterilization and that the person's capacity to make such a decision is unlikely to improve in the future;

(d) That the person is capable of reproduction and is likely to engage in activities at the present or in the near future which could result in pregnancy;

(e) By clear and convincing evidence, that the sterilization is medically necessary to preserve the life or physical or mental health of the person, including a short and plain description of the reasons behind the determination of medical necessity;

(f) That other less intrusive measures were considered and the reasons behind the determination that less intrusive means would not protect the interests of the person.

25.5-10-234. [Formerly 27-10.5-131.] Confidentiality of sterilization proceedings. All records, hearings, and proceedings pursuant to sections ~~27-10.5-128 to 27-10.5-130 shall be~~ 25.5-10-231 TO 25.5-10-233 ARE strictly confidential unless requested to be open to the public by the person with a AN INTELLECTUAL AND developmental disability or the person's legal guardian.

25.5-10-235. [Formerly 27-10.5-132.] Limitations on sterilization.

(1) Consent to sterilization shall be made neither a condition for release from any institution nor a condition for the exercise of any right, privilege, or freedom.

(2) Nothing in this article ~~shall require~~ REQUIRES any hospital or any person to participate in any sterilization, nor shall any hospital or any person be civilly or criminally liable for refusing to participate in any sterilization.

25.5-10-236. [Formerly 27-10.5-134.] Civil action and attorney fees. A violation of any provision of this article ~~shall give~~ GIVES rise to a civil cause of action by the person adversely affected by such violation, and any judgment may include plaintiff's reasonable attorney fees.

25.5-10-237. [Formerly 27-10.5-135.] Terminology. (1) Whenever the terms "insane", "insanity", "mentally or mental incompetent", "mental incompetency", or "of unsound mind" are used in the laws of the state of Colorado, they shall be deemed to refer to the insane, as defined in section 16-8-101, C.R.S., or to a person with ~~a~~ AN INTELLECTUAL AND developmental disability, as defined in section ~~27-10.5-102~~ 25.5-10-202, as the context of the particular law requires.

(2) Whenever the term "mentally deficient person" is used in the laws of the state of Colorado, it shall be deemed to mean and be included with the term "person with ~~a~~ AN INTELLECTUAL AND developmental disability", as defined in section ~~27-10.5-102~~ (11) (b) 25.5-10-202.

25.5-10-238. [Formerly 27-10.5-137.] Federal funds. The STATE department is authorized to accept, on behalf of the state, any grants of federal funds made available for any purposes consistent with the provisions of this article. The executive director of the STATE department, with the approval of the governor, shall have power to direct the disposition of any such grants so accepted in conformity with the terms and conditions under which they are given.

25.5-10-239. [Formerly 27-10.5-139.] Evaluations to determine whether a defendant is mentally retarded for purposes of class 1 felony trials. Upon request of the court, the executive director, or his or her designee, shall recommend specific professionals who are qualified to perform an evaluation to determine whether a defendant is mentally retarded, as defined in section 18-1.3-1101, C.R.S. Any professional who is recommended shall be licensed as a psychologist in the state of Colorado and shall have experience in and shall have demonstrated competence in determination and evaluation of persons with mental retardation. The executive director shall convene a panel of not fewer than three ~~individuals~~ PERSONS with expertise in mental retardation who shall assess the qualifications of licensed psychologists and make recommendations to the executive director.

25.5-10-240. [Formerly 27-10.5-141.] Retaliation prohibited. No person shall be discriminated against because he or she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing pursuant to this article, including the dispute resolution procedures in section 25.5-10-212 AND SECTION 27-10.5-107, C.R.S. A service agency, including the STATE department and any community-centered board, shall not coerce, intimidate, threaten, or interfere with any ~~individual~~ PERSON in the exercise or enjoyment of any right pursuant to this article, or on account of his or her having exercised or enjoyed

any right pursuant to this article, or on account of his or her having aided or encouraged any other ~~individual~~ PERSON in the exercise or enjoyment of any right pursuant to this article.

PART 3
FAMILY SUPPORT SERVICES

25.5-10-301. [Formerly 27-10.5-401.] Legislative declaration. (1) It is the intent of the general assembly that the service delivery system for ~~individuals~~ PERSONS with INTELLECTUAL AND developmental disabilities emphasize community living for persons with INTELLECTUAL AND developmental disabilities and provide supports to ~~individuals~~ PERSONS that enable them to enjoy typical lifestyles. One way to accomplish this is to recognize that families are the greatest resource available to ~~individuals~~ PERSONS who have a AN INTELLECTUAL AND developmental disability and that families must be supported in their role as primary care givers. The general assembly finds that supporting families in their effort to ~~care~~ PROVIDE SUPPORTS for their family members at home is more efficient, cost-effective, and humane than maintaining ~~people~~ PERSONS with INTELLECTUAL AND developmental disabilities in out-of-home residential settings. In recognition of the importance of families, the general assembly states that the following principles should be used as guidelines in developing programs to support ~~families who have children~~ A FAMILY THAT HAS A CHILD with disabilities:

(a) Families of ~~individuals~~ PERSONS with INTELLECTUAL AND developmental disabilities are best able to determine their own needs AND PREFERENCES and should be empowered to make decisions concerning necessary, desirable, and appropriate services and supports;

(b) Families must receive the services and supports necessary to care for their children at home;

(c) Family support must be responsive to the needs of the entire family unit;

(d) Family support must be sensitive to the unique strengths and needs of individual families;

(e) Family support must build on existing social networks and natural sources of support;

(f) Family support is needed throughout the lifespan of the ~~individual~~ PERSON who is ~~disabled~~ HAS A DISABILITY;

(g) Family support must encourage the inclusion of people with INTELLECTUAL AND developmental disabilities within the community;

(h) Family support services must be flexible enough to accommodate unique needs of families as they evolve over time;

(i) Family support services must be consistent with the cultural preferences and orientations of individual families;

(j) Family support services should be comprehensive and coordinated across the numerous agencies likely to provide resources, supports, or services to families;

(k) Family support services should be based on the principles of sharing ordinary places, developing meaningful relationships, learning things that are useful, making choices, as well as increasing the status and enhancing the reputation of people served;

(l) Supports should be developed by the state that are necessary, desirable, and appropriate to support families;

(m) INTELLECTUAL AND developmental disabilities programs and policies must enhance the development of the individual PERSON with a AN INTELLECTUAL AND developmental disability and the family;

(n) State programs should provide sufficient services and supports to enable families to keep their family members with INTELLECTUAL AND developmental disabilities at home;

(o) A comprehensive, coordinated system of supports to families effectively uses existing resources and minimizes gaps in supports to families and individuals PERSONS in all areas of the state;

(p) Services and supports provided through the family support program shall MUST be closely coordinated with early intervention services and shall MUST foster collaboration and cooperation with all agencies providing services and supports to infants and preschool children; and

(q) Any rights, entitlements, services, or supports created by this part 4 PART 3 are not to be considered a limitation, modification, or infringement on any existing rights, entitlements, services, or supports, otherwise expressly provided by this article.

(2) In addition, the general assembly recognizes that the STATE department has for several years developed and maintained a family resource service program that provides support services to families of children with INTELLECTUAL AND developmental disabilities who are at risk of out-of-home placement. Because of the success of this program the general assembly recommends that this valuable program be continued and expanded so that more families in this state are able to receive appropriate services, supports, and assistance needed to stabilize the family unit. In recognition of the basic goal to support families, on an individual family basis, in maintaining a person with a AN INTELLECTUAL AND developmental disability at home and in recognition of the principles stated in subsection (1) of this section, the general assembly declares that its purpose in enacting this part 4 PART 3 is to create, subject to annual appropriation, a comprehensive statewide family support service program.

25.5-10-302. [Formerly 27-10.5-402.] Purpose. The purpose of the family support services program created in this part 4 PART 3 is to provide support to families in their role as primary care givers for a family member with a AN INTELLECTUAL AND developmental disability.

25.5-10-303. [Formerly 27-10.5-404.] Administration - duties of department.

(1) Subject to annual appropriation by the general assembly, the STATE department shall administer the family support services program and shall coordinate family support services with other existing services provided to families and individuals. Family support services shall MUST be provided in a manner which THAT develops comprehensive, responsive, and flexible support to families in their role as the primary care givers for a family member with a AN INTELLECTUAL AND developmental disability.

(2) The STATE department is ~~authorized to~~ MAY contract with community-centered boards and other service providers approved by the STATE department to provide family support services in accordance with this ~~part 4~~ PART 3. Programs developed shall be flexible in order to address individual family needs.

(3) In administering the family support services program, the STATE department shall have the following duties:

(a) To design the program;

(b) To pursue a family support model 200 waiver for approval by the federal health care financing administration in order to utilize medicaid funds for the provision of family support services, implemented subject to appropriation;

(c) To develop and promulgate rules and regulations TO BE PROMULGATED BY THE STATE BOARD pursuant to section ~~27-10.5-407~~ 25.5-10-306, with consultation from service providers, including representatives of families of persons with INTELLECTUAL AND developmental disabilities;

(d) To allocate funds;

(e) To coordinate training and provide technical assistance to community-centered boards and service providers;

(f) To monitor and evaluate the program;

(g) To coordinate contracts, expenditures, and billing of the program; and

(h) To recommend changes in the program.

(4) Subject to annual appropriation by the general assembly, out of the appropriation to the STATE department of ~~human services~~ for community programs in the general appropriation act, the STATE department is authorized to use up to seven percent of such appropriation allocated for family support services to pay for administrative costs within the STATE department and the community-centered boards.

25.5-10-304. [Formerly 27-10.5-405.] Family support councils. (1) The STATE department shall assure ENSURE that each community-centered board establishes a family support council in each community-centered board designated service area. The family support councils shall consist of professionals, interested citizens, family members of persons with a AN INTELLECTUAL AND developmental

disability, and persons with ~~a~~ AN INTELLECTUAL AND developmental disability with a majority of the council being made up of family members.

(2) The family support council shall:

(a) Provide direction and assistance to the community-centered board in the development of a family support plan for the designated service area;

(b) Make recommendations regarding other family supports or services not specifically listed in this ~~part 4~~ PART 3;

(c) Monitor the implementation of the supports or services provided pursuant to the plan; AND

(d) Provide a written report to the STATE department of its involvement in the duties specified in this subsection (2).

25.5-10-305. [Formerly 27-10.5-406.] Authorized family support services.

(1) The family support services included in this program include, but are not limited to, family support grants, family support services coordination, information and referral, educational materials, emergency and outreach services, and other ~~individual~~ PERSON and family centered assistance services such as:

(a) Medical and dental expenses not covered by medical or health insurance or other programs;

(b) Insurance expenses;

(c) Respite; ~~child care, and sitter services;~~

(d) Mobility aids; adaptive equipment; assistive technology, including the cost of therapies essential for a child's development, as prescribed by a physician or specialized therapist; and home adaptations;

(e) Home health services and therapies;

(f) Family counseling, training, and support groups;

(g) Recreation and leisure needs;

(h) Transportation;

(i) Special diets, clothing, materials, and equipment; AND

(j) Homemaker services.

25.5-10-306. [Formerly 27-10.5-407.] Rules. (1) The ~~department~~ STATE BOARD shall develop rules ~~and regulations~~ concerning:

(a) Further definition of services and supports to be provided by the family support services program described in this ~~part 4~~ PART 3;

- (b) The requirements for eligibility for services and supports;
- (c) The manner of providing services and supports; and
- (d) The size, makeup, and duties of family support councils.

PART 4
COLORADO FAMILY SUPPORT LOAN FUND

25.5-10-401. [Formerly 27-10.5-501.] Legislative declaration. The general assembly hereby finds and declares that there is a need to establish a Colorado family support loan fund to assist families in obtaining family support services for those families who choose to maintain a dependent family member with ~~a~~ AN INTELLECTUAL AND developmental disability in their home setting.

25.5-10-402. [Formerly 27-10.5-502.] Colorado family support loan fund - creation - loans to families. (1) There is hereby created in the state treasury a fund to be known as the Colorado family support loan fund, referred to in this ~~part 5~~ PART 4 as the "fund", which shall be administered by the STATE department and which ~~shall consist~~ CONSISTS of moneys appropriated to the fund by the general assembly, interest earned on loans made out of the fund, and any moneys received pursuant to subsection (5) of this section.

(2) Moneys in the fund ~~shall be~~ ARE continuously appropriated to the STATE department for the purposes of this ~~part 5~~ PART 4. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund ~~shall~~ MUST remain in the fund and shall not be credited or transferred to the general fund or any other fund. All interest derived from the deposit and investment of moneys in the fund ~~shall~~ MUST be credited to the fund.

(3) The STATE department is authorized to make loans, up to a maximum amount of eight thousand dollars, out of the moneys in the fund to eligible families in order to enable them to obtain family short-term support services or equipment as defined in section ~~27-10.5-406~~ 25.5-10-305. For purposes of this section, "families" has the same meaning as defined in section ~~27-10.5-102 (15)~~ 25.5-10-202. The STATE department shall only approve loans to families who maintain a person or persons with ~~a~~ AN INTELLECTUAL AND developmental disability at home. The STATE department may establish whatever terms and conditions it deems appropriate in making such loans. The loan amount and any interest assessed to families shall be paid back to the STATE department. All moneys received from families to pay back loans, including the interest assessed thereon, shall be transmitted to the state treasurer, who shall credit the same to the fund. All moneys in the fund may be used by the STATE department to make loans as provided in this subsection (3).

(4) Subject to annual appropriation by the general assembly, the STATE department ~~of human services~~ is hereby authorized to transfer from the appropriation for community programs in the general appropriation act up to three percent of such appropriation allocated for family short-term support services or equipment to the Colorado family support loan fund. Any moneys received as a result of this subsection (4) shall be transmitted to the state treasurer and credited to the fund.

(5) The STATE department is hereby authorized to receive contributions, grants, services, in-kind donations, and property from federal agencies, local governments, or private sources for use in carrying out the purposes of this ~~part 5~~ PART 4. Any moneys received as a result of this subsection (5) shall be transmitted to the state treasurer and credited to the fund.

25.5-10-403. [Formerly 27-10.5-503.] Duties relating to the fund. (1) The ~~department~~ STATE BOARD has the following duties with regard to the fund:

(a) To develop rules ~~and regulations and guidelines~~ for the administration of the fund;

(b) To adopt eligibility requirements for access to the fund;

(c) To develop application and review criteria for the approval of loans from the fund; AND

(d) To establish a low-cost fixed interest rate to be applied to all loans made from the fund.

(2) THE STATE DEPARTMENT HAS THE FOLLOWING DUTIES WITH REGARD TO THE FUND:

~~(e)~~ (a) To determine effective ways to communicate the availability of the fund to eligible families;

~~(f)~~ (b) To account for the expenditures and to develop a system to ensure timely payback of any loans made pursuant to this ~~part 5~~ PART 4;

~~(g)~~ (c) To perform a yearly audit of the fund; and

~~(h)~~ (d) To take other measures as needed to ensure the intent and success of this ~~part 5~~ PART 4.

SECTION 2. In Colorado Revised Statutes, **amend** 27-10.5-102 as follows:

27-10.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Authorized representative" ~~means an individual designated by the person receiving services, or by the parent or guardian of the person receiving services, if appropriate, to assist the person receiving services in acquiring or utilizing services or supports pursuant to this article. The extent of the authorized representative's involvement shall be determined upon designation~~ HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

(2) "Case management services" ~~means the following:~~

~~(a) The determination of eligibility for services and supports;~~

~~(b) Service and support coordination; and~~

~~(c) The monitoring of all services and supports delivered pursuant to the individualized plan, and the evaluation of results identified in the individualized plan HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.~~

~~(2.3) "Case manager" means an individual who assists with case management services and supports provided pursuant to this article for persons with developmental disabilities HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.~~

~~(2.5) (Deleted by amendment, L. 2008, p. 1442, § 1, effective August 5, 2008.)~~

~~(3) "Community-centered board" means a private corporation, for profit or not for profit, that, when designated pursuant to section 27-10.5-105, provides case management services to persons with developmental disabilities, is authorized to determine eligibility of those persons within a specified geographical area, serves as the single point of entry for persons to receive services and supports under this article, and provides authorized services and supports to those persons either directly or by purchasing services and supports from service agencies HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.~~

~~(4) "Community residential home" means a group living situation accommodating at least four but no more than eight persons, licensed by the state, where services and supports are provided to persons with developmental disabilities.~~

~~(5) "Consent" means an informed assent that is expressed in writing and freely given. Consent shall always be preceded by the following:~~

~~(a) A fair explanation of the procedures to be followed, including an identification of procedures that are experimental;~~

~~(b) A description of the attendant discomforts and risks;~~

~~(c) A description of the expected benefits;~~

~~(d) A disclosure of appropriate alternative procedures together with an explanation of the respective benefits, discomforts, and risks;~~

~~(e) An offer to answer any inquiries concerning procedures;~~

~~(f) An instruction that the person giving consent is free to withdraw consent and to discontinue participation in the project or activity at any time; and~~

~~(g) A statement that withholding or withdrawal of consent shall not prejudice future provision of appropriate services and supports to individuals HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.~~

~~(6) "Contribution" means the benefits gained by the household or community in which a person lives as the result of the person engaging in meaningful activities, including, but not limited to, income producing work, volunteer work, continuing education, and participation in community activities HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.~~

(7) ~~"Court" means a district court of the state of Colorado or the probate court in the city and county of Denver~~ HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

(8) "Department" means the department of human services.

(9) ~~"Designated service area" means the geographical area specified by the executive director to be served by a designated community-centered board~~ HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

(10) ~~"Developmental disabilities professional" means a person who has professional training and experience in the developmental disabilities field, as defined by the department~~ HAS THE SAME MEANING AS "INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PROFESSIONAL" AS SET FORTH IN SUBSECTION (21.5) OF THIS SECTION.

(11) (a) ~~"Developmental disability" means a disability that is manifested before the person reaches twenty-two years of age, that constitutes a substantial disability to the affected individual, and that is attributable to mental retardation or related conditions which include cerebral palsy, epilepsy, autism, or other neurological conditions when those conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation. Unless otherwise specifically stated, the federal definition of "developmental disability" found in 42 U.S.C. sec. 15001 et seq. shall not apply~~ HAS THE SAME MEANING AS "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

(b) ~~"Person with a developmental disability" means a person determined by a community-centered board to have a developmental disability and shall include a child with a developmental delay~~ HAS THE SAME MEANING "PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY" AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

(c) "Child with a developmental delay" means:

(I) A person less than five years of age with delayed development as defined by the department; or

(II) A person less than five years of age who is at risk of having a developmental disability as defined by the department.

(12) "Early intervention services and supports" means services described in and provided pursuant to part 7 of this article, including education, training, and assistance in child development, parent education, therapies, and other activities for infants and toddlers and their families that are designed to meet the developmental needs of infants and toddlers including, but not limited to, cognition, speech, communication, physical, motor, vision, hearing, social-emotional, and self-help skills.

(13) ~~"Eligible for supports and services" refers to any person with a~~ AN INTELLECTUAL AND developmental disability OR DELAY as determined eligible by

the community-centered boards, pursuant to section 27-10.5-106.

(13.5) (Deleted by amendment, L. 2008, p. 1442, § 1, effective August 5, 2008.)

(13.7) "Enrolled" means that a person with a AN INTELLECTUAL AND developmental disability who is eligible for supports and services has been authorized, as defined by rules promulgated by the department, to participate in a program funded pursuant to this article.

(14) "Executive director" means the executive director of the department of human services.

(15) (a) "Family" means the interdependent group of persons that consists of:

(i) A parent, child, sibling, grandparent, aunt, uncle, spouse, or any combination thereof and a family member with a developmental disability;

(ii) An adoptive parent of and a family member with a developmental disability;

(iii) One or more persons to whom legal custody of a person with a developmental disability has been given by a court and in whose home such person resides; or

(iv) Any other family unit as may be defined in rules developed pursuant to section 27-10.5-407.

(b) Department rules shall define the families that are eligible to receive services and supports pursuant to this article HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

(15.5) "Family caregiver" means a family member of the person with a developmental disability who provides care to the person with a developmental disability in the family home, who meets the requirements for a qualified family caregiver, as established by rule of the department, and who is working through a program-approved service agency, as established by rule of the department.

(16) "Gastrostomy tube" means a tube that has been surgically inserted into the stomach through the abdominal wall, or a tube that has been inserted through the nasal passage into the stomach, or both HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

(17) "Human rights committee" means a third-party mechanism to adequately safeguard the legal rights of persons receiving services by participating in the granting of informed consent, monitoring the suspension of rights of persons receiving services, monitoring behavior development programs in which persons with developmental disabilities are involved, monitoring the use of psychotropic medication by persons with developmental disabilities, and at the committee's option, either providing or ensuring the investigation of allegations of abuse or neglect of persons with developmental disabilities who are receiving services or supports under this article HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

(17.5) "IDEA" means the federal "Individuals with Disabilities Education Improvement Act of 2004", 20 U.S.C. sec. 1400 et seq., as amended, and its implementing regulations, 34 CFR part 303.

(18) "Inclusion" means:

~~(a) The use by persons with developmental disabilities of the same community resources that are used by and available to other persons;~~

~~(b) The participation by persons with developmental disabilities in the same community activities in which persons without developmental disabilities participate. Participation includes regular contact with persons without developmental disabilities.~~

~~(c) Vocational experiences for persons with developmental disabilities in community settings that offer opportunities to associate with other individuals who do not have developmental disabilities; and~~

~~(d) Living in homes that are in residential neighborhoods and in proximity to community resources~~ HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

~~(19) "Independent residential support services" means a community living situation, defined by the department, where services and supports are provided to no more than three persons with developmental disabilities and that is not required to be licensed by the state.~~

(19.5) "Individualized family service plan" or "IFSP" means a written plan developed pursuant to 20 U.S.C. sec. 1436 and 34 CFR 303.340 that authorizes the provision of early intervention services to an eligible child and the child's family. An IFSP shall serve as the individualized plan, pursuant to paragraph (c) of subsection (20) of this section, for a child from birth through two years of age.

(20) (a) "Individualized plan" means a written plan designed by an interdisciplinary team for the purpose of identifying:

(I) The needs AND PREFERENCES of the person or family receiving services;

(II) The specific services and supports appropriate to meet those needs AND PREFERENCES;

(III) The projected date for initiation of services and supports; and

(IV) The anticipated ~~results~~ OUTCOMES to be achieved by receiving the services and supports.

(b) Every individualized plan will include a statement of agreement with the plan, signed by the person receiving services or other such person legally authorized to sign on behalf of the person and a representative of the community-centered board.

(c) Any other service or support plan, designated by the department, that meets

all of the requirements of an individualized plan will be considered to be an individualized plan pursuant to this article.

~~(d) (f) Every individualized plan that includes the provision of respite care for medical purposes, pursuant to section 27-10.5-104, shall include a process by which the person receiving services and supports may receive necessary care if the person's family or caregiver is unavailable due to an emergency situation or unforeseen circumstances. The family or caregiver shall be duly informed by the interdisciplinary team of these alternative care provisions at the time the individualized plan is initiated.~~

~~(H) Nothing in this paragraph (d) requires the provision of respite care, only that each individual plan that includes the provision of respite care for medical purposes have a contingency plan.~~

(21) "Infants and toddlers" means a child with a developmental delay from birth through two years of age.

(21.5) "INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PROFESSIONAL" MEANS A PERSON WHO HAS PROFESSIONAL TRAINING AND EXPERIENCE IN THE INTELLECTUAL AND DEVELOPMENTAL DISABILITIES FIELD, AS DEFINED BY THE DEPARTMENT.

~~(22) "Interdependence" means those multiple interactive relationships that are necessary to create a sense of belonging and support between people that are mutually sought, sustained over time, and beneficial to those involved~~ HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

~~(23) "Interdisciplinary team" means a group of people convened by a designated community-centered board that shall include the person receiving services, the parents or guardian of a minor, a guardian or an authorized representative, as appropriate, the person who coordinates the provisions of services and supports, and others as determined by the person's needs and preference, who are assembled to work in a cooperative manner to develop or review the individualized plan~~ HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

~~(24) "Least restrictive environment" means an environment that represents the least departure from the normal patterns of living and that effectively meets the needs of the person receiving services. Least restrictive environment may include, but need not be limited to, receiving services from a community-centered board, service agency, or a family caregiver in the family home~~ HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

(25) "Person receiving services" means a person with a AN INTELLECTUAL AND developmental disability who is enrolled in a program funded pursuant to this article.

(25.5) "Program" means a specific group of services or supports as defined by rules promulgated by the department and for which funding is available pursuant to this article to a person with a AN INTELLECTUAL AND developmental disability who is eligible for supports and services.

(26) Repealed.

(27) "Regional center" means a facility or program operated directly by the department that provides services and supports to persons with INTELLECTUAL AND developmental disabilities.

(28) ~~"Service agency" means an individual or any publicly or privately operated program, organization, or business providing services or supports for persons with developmental disabilities~~ HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

(29) "Service and support coordination" means planning, locating, facilitating access to, coordinating, and reviewing all aspects of needed AND PREFERRED services, supports, and resources that are provided in cooperation with the person receiving services, the person's family, as appropriate, the family of a child with a developmental delay, and the involved public or private agencies. Planning includes the development or review of an existing individualized plan. "Service and support coordination" also includes the reassessment of the needs AND PREFERENCES of the person receiving services or the needs AND PREFERENCES of the family of the person, with maximum participation of the person receiving services and the person's parents, guardian, or authorized representative, as appropriate.

(30) "Services and supports" means one or more of the following: Education, training, ~~independent or supported living assistance~~, therapies, identification of natural supports, and other activities provided to:

(a) Enable persons with INTELLECTUAL AND developmental disabilities to make ~~increasingly~~ responsible choices, exert greater control over their lives, experience presence and inclusion in their communities, develop their competencies and talents, maintain relationships, foster a sense of belonging, and experience personal security and self-respect;

(b) Enhance child development and healthy parent-child and family interaction for eligible infants and toddlers and their families pursuant to part 7 of this article; and

(c) Enable families, who choose or desire to maintain a family member with ~~a~~ AN INTELLECTUAL AND developmental disability at home, to obtain support and to enjoy a typical lifestyle.

(31) ~~"Sterilization" means any surgical or other medical procedure that has as its primary purpose to render a person permanently incapable of reproduction~~ HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

(32) ~~"Waiting list" means the list of persons with developmental disabilities who are waiting for enrollment into a program provided pursuant to this article.~~

SECTION 3. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 27-10.5-103 as follows:

27-10.5-103. Duties of the executive director - rules. (1) IN ORDER TO

IMPLEMENT THE PROVISIONS OF THIS ARTICLE, THE EXECUTIVE DIRECTOR SHALL CARRY OUT THE FOLLOWING DUTIES, SUBJECT TO AVAILABLE APPROPRIATIONS:

(a) PROMOTE EFFECTIVE COORDINATION WITH AGENCIES SERVING PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES IN ORDER TO IMPROVE CONTINUITY OF SERVICES AND SUPPORTS FOR PERSONS FACING LIFE TRANSITIONS FROM TODDLER TO PRESCHOOL, SCHOOL TO ADULT LIFE, AND WORK TO RETIREMENT;

(b) CONDUCT APPROPRIATE PART C CHILD FIND ACTIVITIES AS DESCRIBED IN SECTION 27-10.5-704. PART C CHILD FIND ACTIVITIES CONDUCTED BY THE DEPARTMENT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, CASE MANAGEMENT, REFERRAL, TRANSITIONS, AND PUBLIC EDUCATION OUTREACH AND AWARENESS OF EARLY INTERVENTION SERVICES; AND

(c) OPERATE REGIONAL CENTERS PURSUANT TO PART 3 OF THIS ARTICLE.

(2) IN ACCORDANCE WITH SECTION 24-4-103, C.R.S., AND IN COORDINATION WITH THE REQUIREMENTS OF ARTICLE 10 OF TITLE 25.5, C.R.S., THE DEPARTMENT SHALL ADOPT SUCH RULES AS ARE NECESSARY TO CARRY OUT THE PROVISIONS AND PURPOSES OF THIS ARTICLE, INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

(a) STANDARDS FOR SERVICES AND SUPPORTS, INCLUDING PREPARATION OF INDIVIDUALIZED PLANS;

(b) PURCHASE OF SERVICES AND SUPPORTS AND FINANCIAL ADMINISTRATION;

(c) PROCEDURES FOR RESOLVING DISPUTES OVER ELIGIBILITY DETERMINATION AND THE MODIFICATION, DENIAL, OR TERMINATION OF SERVICES;

(d) PROCEDURES FOR ADMISSION TO PROGRAMS CONTAINED IN THIS ARTICLE;

(e) SYSTEMS OF QUALITY ASSURANCE AND DATA COLLECTION;

(f) THE RIGHTS OF A PERSON RECEIVING SERVICES;

(g) CONFIDENTIALITY OF RECORDS OF A PERSON RECEIVING SERVICES;

(h) DESIGNATION OF AUTHORIZED REPRESENTATIVES AND DELINEATION OF THEIR RIGHTS AND DUTIES PURSUANT TO THIS ARTICLE;

(i) (I) THE ESTABLISHMENT OF GUIDELINES AND PROCEDURES FOR AUTHORIZATION OF PERSONS FOR ADMINISTRATION OF NUTRITION AND FLUIDS THROUGH GASTROSTOMY TUBES.

(II) THE DEPARTMENT SHALL REQUIRE THAT A SERVICE AGENCY PROVIDING RESIDENTIAL OR DAY PROGRAM SERVICES OR SUPPORTS HAVE A STAFF MEMBER QUALIFIED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (i) ON DUTY AT ANY TIME THE FACILITY ADMINISTERS SAID NUTRITION AND FLUIDS THROUGH GASTROSTOMY TUBES, AND THAT THE FACILITY MAINTAIN A WRITTEN RECORD OF EACH NUTRIENT OR FLUID ADMINISTERED TO EACH PERSON RECEIVING SERVICES, INCLUDING THE TIME AND THE AMOUNT OF THE NUTRIENT OR FLUID.

(III) A PERSON WHO IS NOT OTHERWISE AUTHORIZED BY LAW TO ADMINISTER NUTRITION AND FLUIDS THROUGH GASTROSTOMY TUBES IS ALLOWED TO PERFORM THE DUTIES ONLY UNDER THE SUPERVISION OF A LICENSED NURSE OR PHYSICIAN. A PERSON WHO ADMINISTERS NUTRITION AND FLUIDS IN COMPLIANCE WITH THE PROVISIONS OF THIS PARAGRAPH (i) IS EXEMPT FROM THE LICENSING REQUIREMENTS OF THE "COLORADO MEDICAL PRACTICE ACT", ARTICLE 36 OF TITLE 12, C.R.S., AND THE "NURSE PRACTICE ACT", ARTICLE 38 OF TITLE 12, C.R.S. NOTHING IN THIS PARAGRAPH (i) SHALL BE DEEMED TO AUTHORIZE THE ADMINISTRATION OF MEDICATIONS THROUGH GASTROSTOMY TUBES. A PERSON ADMINISTERING MEDICATIONS THROUGH GASTROSTOMY TUBES IS SUBJECT TO THE REQUIREMENTS OF PART 3 OF ARTICLE 1.5 OF TITLE 25, C.R.S.

(IV) FOR PURPOSES OF THIS PARAGRAPH (i), "ADMINISTRATION" MEANS ASSISTING A PERSON IN THE INGESTION OF NUTRITION OR FLUIDS ACCORDING TO THE DIRECTION AND SUPERVISION OF A LICENSED NURSE OR PHYSICIAN; AND

(j) CHILD FIND ACTIVITIES, AS DESCRIBED IN SECTION 27-10.5-704.

SECTION 4. In Colorado Revised Statutes, **repeal and reenact, with amendments, 27-10.5-104** as follows:

27-10.5-104. Authorized services and supports - conditions of funding - purchase of services and supports - boards of county commissioners - appropriation. (1) SUBJECT TO ANNUAL APPROPRIATIONS BY THE GENERAL ASSEMBLY, THE DEPARTMENT SHALL PROVIDE OR PURCHASE, PURSUANT TO SUBSECTION (4) OF THIS SECTION, AUTHORIZED SERVICES AND SUPPORTS FROM COMMUNITY-CENTERED BOARDS OR SERVICE AGENCIES FOR PERSONS WHO HAVE BEEN DETERMINED TO BE ELIGIBLE FOR SUCH SERVICES AND SUPPORTS PURSUANT TO SECTION 27-10.5-106, AND AS SPECIFIED IN THE ELIGIBLE PERSON'S INDIVIDUALIZED PLAN. THOSE SERVICES AND SUPPORTS MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:

(a) EARLY INTERVENTION SERVICES AND SUPPORTS THAT OFFER INFANTS AND TODDLERS AND THEIR FAMILIES SERVICES AND SUPPORTS TO ENHANCE CHILD DEVELOPMENT IN THE AREAS OF COGNITION, SPEECH, COMMUNICATION, PHYSICAL, MOTOR, VISION, HEARING, SOCIAL-EMOTIONAL DEVELOPMENT, AND SELF-HELP SKILLS; PARENT-CHILD OR FAMILY INTERACTION; AND EARLY IDENTIFICATION, SCREENING, AND ASSESSMENT SERVICES THAT ARE PROVIDED PURSUANT TO PART 7 OF THIS ARTICLE;

(b) CASE MANAGEMENT SERVICES;

(c) DAY SERVICES AND SUPPORTS THAT OFFER OPPORTUNITIES FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES TO EXPERIENCE AND ACTIVELY PARTICIPATE IN VALUED ADULT ROLES IN THE COMMUNITY. THESE SERVICES AND SUPPORTS WILL ENABLE PERSONS RECEIVING SERVICES TO ACCESS AND PARTICIPATE IN COMMUNITY ACTIVITIES, SUCH AS WORK, RECREATION, HIGHER EDUCATION, AND SENIOR CITIZEN ACTIVITIES. DAY SERVICES AND SUPPORTS, INCLUDING EARLY INTERVENTION SERVICES, MAY ALSO INCLUDE THE ADMINISTRATION OF NUTRITION OR FLUIDS THROUGH GASTROSTOMY TUBES, IF ADMINISTERED BY A PERSON AUTHORIZED PURSUANT TO SECTION 27-10.5-103 (2) (i) AND SUPERVISED BY A

LICENSED NURSE OR PHYSICIAN.

(d) RESIDENTIAL SERVICES AND SUPPORTS, INCLUDING AN ARRAY OF TRAINING, LEARNING, EXPERIENTIAL, AND SUPPORT ACTIVITIES PROVIDED IN LIVING ALTERNATIVES DESIGNED TO MEET THE INDIVIDUAL NEEDS OF PERSONS RECEIVING SERVICES AND MAY INCLUDE THE ADMINISTRATION OF NUTRITION OR FLUIDS THROUGH GASTROSTOMY TUBES, IF ADMINISTERED BY A PERSON AUTHORIZED PURSUANT TO SECTION 27-10.5-103 (2) (i) AND SUPERVISED BY A LICENSED NURSE OR PHYSICIAN; AND

(e) ANCILLARY SERVICES, INCLUDING ACTIVITIES THAT ARE SECONDARY BUT INTEGRAL TO THE PROVISION OF THE SERVICES AND SUPPORTS SPECIFIED IN THIS SUBSECTION (1).

(2) SERVICE AGENCIES RECEIVING FUNDS PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL COMPLY WITH ALL OF THE PROVISIONS OF THIS ARTICLE AND THE RULES PROMULGATED THEREUNDER.

(3) SERVICE AND SUPPORT COORDINATION SHALL BE PURCHASED PURSUANT TO PART 7 OF THIS ARTICLE.

(4) (a) THE DEPARTMENT MAY PURCHASE SERVICES AND SUPPORTS, INCLUDING SERVICE AND SUPPORT COORDINATION, DIRECTLY FROM SERVICE AGENCIES IF:

(I) REQUIRED BY THE FEDERAL REQUIREMENTS FOR THE STATE TO QUALIFY FOR FEDERAL FUNDS UNDER TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, INCLUDING PROGRAMS AUTHORIZED PURSUANT TO PART 4 OF ARTICLE 6 OF TITLE 25.5, C.R.S.; OR

(II) THE EXECUTIVE DIRECTOR HAS DETERMINED THAT A SERVICE OR SUPPORT PROVIDED OR PURCHASED BY A DESIGNATED COMMUNITY-CENTERED BOARD DOES NOT MEET ESTABLISHED STANDARDS AND THE CONTINUATION OF PURCHASE OF THE SERVICE OR SUPPORT THROUGH THE COMMUNITY-CENTERED BOARD IS NOT IN THE BEST INTERESTS OF THE PERSONS RECEIVING SERVICES.

(b) THE DEPARTMENT SHALL ONLY PURCHASE SERVICES AND SUPPORTS DIRECTLY FROM THOSE COMMUNITY-CENTERED BOARDS OR SERVICE AGENCIES THAT MEET ESTABLISHED STANDARDS.

(c) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE PROVISION OF SERVICES AND SUPPORTS, INCLUDING CASE MANAGEMENT SERVICES, DIRECTLY BY THE DEPARTMENT THROUGH REGIONAL CENTERS, FOR PERSONS RECEIVING SERVICES IN REGIONAL CENTERS.

(d) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE THE PROVISION OF SERVICES AND SUPPORTS, INCLUDING CASE MANAGEMENT SERVICES, DIRECTLY BY THE DEPARTMENT.

(5) (a) EACH YEAR THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEYS TO THE DEPARTMENT TO PROVIDE OR PURCHASE SERVICES AND SUPPORTS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PURSUANT TO THIS

SECTION. UNLESS SPECIFICALLY PROVIDED OTHERWISE, SERVICES AND SUPPORTS SHALL BE PURCHASED ON THE BASIS OF STATE FUNDING LESS ANY FEDERAL OR CASH FUNDS RECEIVED FOR GENERAL OPERATING EXPENSES FROM ANY OTHER STATE OR FEDERAL SOURCE, LESS FUNDS AVAILABLE TO A PERSON RECEIVING RESIDENTIAL SERVICES OR SUPPORTS AFTER SUCH PERSON RECEIVES AN ALLOWANCE FOR PERSONAL NEEDS OR FOR MEETING OTHER OBLIGATIONS IMPOSED BY FEDERAL OR STATE LAW. THE YEARLY APPROPRIATION, WHEN COMBINED WITH ALL OTHER SOURCES OF FUNDS, SHALL IN NO CASE EXCEED ONE HUNDRED PERCENT OF THE APPROVED PROGRAM COSTS AS DETERMINED BY THE GENERAL ASSEMBLY. FUNDS RECEIVED FOR CAPITAL CONSTRUCTION SHALL NOT BE CONSIDERED IN THE CALCULATION FOR THE DISTRIBUTION OF FUNDS UNDER THE PROVISIONS OF THIS SECTION.

(b) THE DEPARTMENT IS AUTHORIZED TO USE UP TO THREE PERCENT OF THE APPROPRIATION ALLOCATED FOR EARLY INTERVENTION SERVICES AND SUPPORTS FOR TRAINING AND TECHNICAL ASSISTANCE TO ENSURE THAT THE LATEST DEVELOPMENTS FOR EARLY INTERVENTION SERVICES AND SUPPORTS ARE RAPIDLY INTEGRATED INTO SERVICE PROVISION THROUGHOUT THE STATE.

SECTION 5. In Colorado Revised Statutes, 27-10.5-104.2, **amend** (1), (2), and (3) (a); and **add** (1.5) as follows:

27-10.5-104.2. Services and supports - waiting list reduction - cash fund.

(1) There is hereby created in the state treasury the developmental disabilities services cash fund, consisting of moneys appropriated thereto by the general assembly AND ANY MONEYS TRANSFERRED TO THE DEVELOPMENTAL DISABILITIES SERVICES CASH FUND PURSUANT TO SUBSECTION (1.5) OF THIS SECTION. Any interest derived from the deposit and investment of moneys in the developmental disabilities services cash fund shall be credited to the fund. Any moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not revert to the general fund or any other fund.

(1.5) THE STATE TREASURER SHALL TRANSFER TO THE DEVELOPMENTAL DISABILITIES SERVICES CASH FUND ANY AVAILABLE MONEYS THAT ARE APPROPRIATED BY THE GENERAL ASSEMBLY FOR A FISCAL YEAR FOR ADULT COMPREHENSIVE SERVICES, ADULT SUPPORTED LIVING SERVICES, CHILDREN'S EXTENSIVE SUPPORT SERVICES, AND FAMILY SUPPORT SERVICES FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PROVIDED PURSUANT TO THIS ARTICLE OR PART 4 OF ARTICLE 6 OF TITLE 25.5, C.R.S., THAT ARE UNEXPENDED AND UNENCUMBERED AT THE END OF A FISCAL YEAR.

(2) During each regular session of the general assembly, the joint budget committee and the health and human services committees of the senate and the house of representatives, or any successor committees, shall hold a joint hearing and take public testimony on the status of the waiting lists for adult comprehensive services, adult supported living services, CHILDREN'S EXTENSIVE SUPPORT SERVICES, and family support services for persons with developmental disabilities and the availability of general fund moneys to reduce the number of persons on the waiting lists and the amount of time eligible persons wait for such services. The goal of the hearing shall be to propose an appropriation from the general fund to the developmental disabilities services cash fund.

(3) The general assembly may annually appropriate moneys in the developmental disabilities services cash fund to:

(a) The department for program costs for adult comprehensive services, adult supported living services, CHILDREN'S EXTENSIVE SUPPORT SERVICES, and family support services for persons with developmental disabilities provided pursuant to this article or part 4 of article 6 of title 25.5, C.R.S.; and

SECTION 6. In Colorado Revised Statutes, 27-10.5-104.5, **amend** (3) as follows:

27-10.5-104.5. Service agencies - moneys - rules. (3) The department shall promulgate rules to implement the purchase of services and supports from a community-centered board OR A service agency. ~~or family caregiver.~~ The rules shall include, but need not be limited to:

(a) Terms and conditions necessary to promote the effective delivery of services and supports; ~~including those services and supports delivered by a family caregiver;~~

(b) Procedures for obtaining an annual audit of designated community-centered boards and service agencies not affiliated with a designated community-centered board to provide financial information deemed necessary by the department to establish costs of services and supports and to ensure proper management of moneys received pursuant to section 27-10.5-104;

(c) Delineation of a system to resolve contractual disputes between the department and designated community-centered boards or service agencies and between designated community-centered boards and service agencies, including the contesting of any rates that the designated community-centered boards charge to service agencies based upon a percentage of the rates that service agencies charge for services and supports;

(d) Specification of what services and supports are to be reimbursed by the department ~~of human services~~ and secondarily by the community-centered board, the source of reimbursement, actual service or support costs, incentives, and program service objectives which affect reimbursement;

(e) The methods of coordinating the purchase of services and supports, including, but not limited to, service and support coordination, with other federal, state, and local programs which provide funding for authorized services and supports;

(f) (Deleted by amendment, L. 92, p. 1363, § 5, effective July 1, 1992.)

(g) and (h) (Deleted by amendment, L. 2008, p. 2219, § 2, effective June 5, 2008.)

(i) Criteria for and limitations on any rates that designated community-centered boards charge to service agencies based upon a percentage of the rates that service agencies charge for services and supports.

SECTION 7. In Colorado Revised Statutes, **repeal and reenact, with**

amendments, 27-10.5-105 as follows:

27-10.5-105. Community-centered boards - purchase of services and supports by community-centered boards. (1) ONCE A COMMUNITY-CENTERED BOARD HAS BEEN DESIGNATED PURSUANT TO SECTION 25.5-10-108, C.R.S., IT SHALL, SUBJECT TO AVAILABLE APPROPRIATIONS:

(a) DETERMINE ELIGIBILITY AND DEVELOP AN INDIVIDUALIZED PLAN FOR EACH PERSON WHO RECEIVES SERVICES OR SUPPORTS PURSUANT TO SECTION 25.5-10-110, C.R.S.; EXCEPT THAT, FOR A CHILD FROM BIRTH THROUGH TWO YEARS OF AGE, ELIGIBILITY DETERMINATION AND DEVELOPMENT OF AN INDIVIDUALIZED FAMILY SERVICE PLAN SHALL BE MADE PURSUANT TO PART 7 OF THIS ARTICLE;

(b) PROVIDE CASE MANAGEMENT SERVICES, INCLUDING SERVICE AND SUPPORT COORDINATION AND PERIODIC REVIEWS, FOR PERSONS RECEIVING SERVICES AND FAMILIES WITH CHILDREN WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES;

(c) OBTAIN OR PROVIDE EARLY INTERVENTION SERVICES AND SUPPORTS PURSUANT TO PART 7 OF THIS ARTICLE;

(d) TAKE STEPS TO NOTIFY ELIGIBLE PERSONS, AND THEIR FAMILIES AS APPROPRIATE, REGARDING THE AVAILABILITY OF SERVICES AND SUPPORTS;

(e) PURSUANT TO SECTION 27-10.5-704, COLLABORATE WITH THE DEPARTMENT AS IT DEVELOPS AND IMPLEMENTS A STATEWIDE PLAN FOR PUBLIC EDUCATION OUTREACH AND AWARENESS EFFORTS RELATED TO PART C CHILD FIND AND THE AVAILABILITY OF EARLY INTERVENTION SERVICES.

SECTION 8. In Colorado Revised Statutes, **repeal and reenact, with amendments, 27-10.5-106** as follows:

27-10.5-106. Eligibility determination. ANY PERSON MAY REQUEST AN EVALUATION PURSUANT TO SECTION 25.5-10-110, C.R.S., TO DETERMINE WHETHER HE OR SHE HAS AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY AND IS ELIGIBLE TO RECEIVE SERVICES AND SUPPORTS PURSUANT TO THIS ARTICLE. APPLICATION FOR ELIGIBILITY DETERMINATION SHALL BE MADE TO THE DESIGNATED COMMUNITY-CENTERED BOARD IN THE DESIGNATED SERVICE AREA WHERE THE PERSON RESIDES.

SECTION 9. In Colorado Revised Statutes, 27-10.5-107, **amend** (1) introductory portion as follows:

27-10.5-107. Procedure for resolving disputes over eligibility, modification of services or supports, and termination of services or supports. (1) Every state or local service agency receiving state moneys pursuant to section 27-10.5-104 OR SECTION 25.5-10-105, C.R.S., shall adopt a procedure for the resolution of disputes arising between the service agency and any recipient of, or applicant for, services or supports authorized under section 27-10.5-104 OR SECTION 25.5-10-105, C.R.S. Procedures for the resolution of disputes regarding early intervention services shall be in compliance with IDEA. The procedures shall be consistent with rules promulgated by the department pursuant to article 4 of title 24, C.R.S., and shall be

applicable to the following disputes:

SECTION 10. In Colorado Revised Statutes, 27-10.5-108, **amend** (2) as follows:

27-10.5-108. Discharge. (2) When a person receiving services notifies a service agency that such person no longer wishes to receive a service or support, the person shall be discharged from such service or support unless the person is subject to a petition to impose a legal disability or to remove a legal right, filed pursuant to section 27-10.5-110 OR SECTION 25.5-10-216, C.R.S., or for whom a legal guardian has been appointed, affecting the person's ability to voluntarily terminate services or supports. The parents of the person receiving services who is a minor and such person's guardian shall be notified of the person's wish to terminate services or supports, but no minor will be discharged without the consent of the parent or legal guardian.

SECTION 11. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 27-10.5-110 as follows:

27-10.5-110. Imposition of legal disability - removal of legal right. (1) ANY INTERESTED PERSON MAY PETITION THE COURT PURSUANT TO SECTION 25.5-10-216, C.R.S., TO IMPOSE A LEGAL DISABILITY ON OR TO REMOVE A LEGAL RIGHT FROM A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY AS DEFINED IN SECTION 25.5-10-202, C.R.S. THE PETITION SHALL SET FORTH THE DISABILITY TO BE IMPOSED OR THE LEGAL RIGHT TO BE REMOVED AND THE REASONS THEREFOR. THE PETITION MAY AFFECT THE RIGHT TO CONTRACT, THE RIGHT TO DETERMINE PLACE OF ABODE OR PROVISIONS OF SERVICES AND SUPPORTS, THE RIGHT TO OPERATE A MOTOR VEHICLE, AND OTHER SIMILAR RIGHTS.

(2) A PERSON SHALL NOT BE ADMITTED TO A REGIONAL CENTER WITHOUT A COURT ORDER ISSUED PURSUANT TO SECTION 25.5-10-216, C.R.S., EXCEPT IN AN EMERGENCY OR FOR THE PURPOSE OF TEMPORARY RESPITE CARE.

SECTION 12. In Colorado Revised Statutes, **add** 27-10.5-110.5 as follows:

27-10.5-110.5. Rights of persons with intellectual and developmental disabilities. EACH PERSON RECEIVING SERVICES PURSUANT TO THIS ARTICLE AND ARTICLE 10 OF TITLE 25.5, C.R.S., SHALL HAVE THE RIGHTS SET FORTH IN SECTIONS 25.5-10-223 TO 25.5-10-230, C.R.S.

SECTION 13. Repeal of provisions being relocated in this act. In Colorado Revised Statutes, **repeal** sections 27-10.5-101, 27-10.5-103.5, 27-10.5-104.2, 27-10.5-105.5, 27-10.5-109, 27-10.5-109.5, 27-10.5-111, 27-10.5-112, 27-10.5-113, 27-10.5-114, 27-10.5-115, 27-10.5-116, 27-10.5-117, 27-10.5-118, 27-10.5-119, 27-10.5-120, 27-10.5-121, 27-10.5-122, 27-10.5-123, 27-10.5-124, 27-10.5-128, 27-10.5-129, 27-10.5-130, 27-10.5-131, 27-10.5-132, 27-10.5-134, 27-10.5-135, 27-10.5-137, 27-10.5-139, and 27-10.5-141, and parts 4 and 5 of article 10.5 of title 27.

SECTION 14. In Colorado Revised Statutes, **repeal** 27-10.5-142 and 27-10.5-143.

SECTION 15. In Colorado Revised Statutes, 1-1-104, **amend** (18.5) as follows:

1-1-104. Definitions. As used in this code, unless the context otherwise requires:

(18.5) "Group residential facility" means a nursing home, a nursing care facility licensed pursuant to part 1 of article 3 of title 25, C.R.S., a home for persons with INTELLECTUAL AND developmental disabilities as defined in section ~~27-10.5-102~~ 25.5-10-202, C.R.S., an assisted living residence licensed pursuant to section 25-27-105, C.R.S., or a residential treatment facility for mental illness.

SECTION 16. In Colorado Revised Statutes, 8-2-111.7, **amend** (2), (5) (a), and (5) (b) as follows:

8-2-111.7. Employees working with persons with intellectual and developmental disabilities - immunity from civil liability - requirements - exception to blacklisting prohibition - legislative declaration - definitions.

(2) In response to a request by a current or prospective employer of a caregiver, it is neither unlawful nor a violation of the prohibitions against blacklisting specified in sections 8-2-110 and 8-2-111 for an employer, when acting in good faith, to disclose information known about any involvement in the mistreatment, exploitation, neglect, or abuse of persons with INTELLECTUAL AND developmental disabilities as prohibited by section ~~27-10.5-115~~ 25.5-10-221, C.R.S., by a caregiver.

(5) For the purposes of this section:

(a) "Caregiver" means ~~an individual~~ A PERSON currently or formerly employed to work with a person with ~~a~~ AN INTELLECTUAL AND developmental disability or a person who provides host home services by contract as part of residential services and supports as described in section ~~27-10.5-104(1)(f)~~ 25.5-10-206 (1) (e), C.R.S. "Caregiver" does not mean a person who is employed by or who has contracted to work with a school district.

(b) "Person with ~~a~~ AN INTELLECTUAL AND developmental disability" has the same meaning as defined in section ~~27-10.5-102(11)(b)~~ 25.5-10-202, C.R.S.

SECTION 17. In Colorado Revised Statutes, 8-40-301, **amend** (7) as follows:

8-40-301. Scope of term "employee". (7) Persons who provide host home services as part of residential services and supports, as described in section ~~27-10.5-104(1)(f)~~ 25.5-10-206 (1) (e), C.R.S., for an eligible person, as defined in section 25.5-6-403 (2) (a), C.R.S., pursuant to the "Home- and Community-based Services for Persons with Developmental Disabilities Act", part 4 of article 6 of title 25.5, C.R.S., and pursuant to a contract with a community-centered board designated pursuant to section ~~27-10.5-105~~ 25.5-10-209, C.R.S., or a contract with a service agency as defined in section ~~27-10.5-102(28)~~ 25.5-10-202, C.R.S., shall not be considered employees of the community-centered board or the service agency.

SECTION 18. In Colorado Revised Statutes, 10-16-104, **amend** (1.4) (a) (VII) as follows:

10-16-104. Mandatory coverage provisions - definitions. (1.4) Autism spectrum disorders. (a) As used in this subsection (1.4), unless the context otherwise requires:

(VII) "Individualized plan" ~~shall have~~ HAS the same meaning as provided in section ~~27-10.5-102~~ 25.5-10-202, C.R.S.

SECTION 19. In Colorado Revised Statutes, 12-36-106, **amend** (3) (q) (I) as follows:

12-36-106. Practice of medicine defined - exemptions from licensing requirements - unauthorized practice by physician assistants - penalties - rules.

(3) A person may engage in, and shall not be required to obtain a license or a physician training license under this article with respect to, any of the following acts:

(q) (I) The administration of nutrition or fluids through gastrostomy tubes as provided in ~~section 27-10.5-103 (2) (k), C.R.S.~~, SECTIONS 25.5-10-204 (2) (j) AND 27-10.5-103 (2) (i), C.R.S., as a part of residential or day program services provided through service agencies approved by the department of ~~human services~~ HEALTH CARE POLICY AND FINANCING pursuant to section ~~27-10.5-104.5~~ 25.5-10-208, C.R.S.;

SECTION 20. In Colorado Revised Statutes, 12-38-125, **amend** (1) (i) (I) as follows:

12-38-125. Exclusions. (1) No provision of this article shall be construed to prohibit:

(i) (I) The administration of nutrition or fluids through gastrostomy tubes as provided in ~~section 27-10.5-103 (2) (k), C.R.S.~~, SECTIONS 25.5-10-204 (2) (j) AND 27-10.5-103 (2) (i), C.R.S., as a part of residential or day program services provided through service agencies approved by the department of ~~human services~~ HEALTH CARE POLICY AND FINANCING pursuant to section ~~27-10.5-104~~ 25.5-10-206, C.R.S.

SECTION 21. In Colorado Revised Statutes, 12-38-132, **amend** (6) as follows:

12-38-132. Delegation of nursing tasks. (6) The board may promulgate rules pursuant to this section, including but not limited to standards on the assessment of the proficiency of the delegatee to perform delegated tasks, and standards for accountability of any nurse who delegates nursing tasks. Such rules shall be consistent with the provisions of part 3 of article 1.5 of title 25, ~~and~~ C.R.S., SECTION 25.5-10-204 (2) (j), C.R.S., AND section 27-10.5-103 ~~(2) (k)~~ (2) (i), C.R.S.

SECTION 22. In Colorado Revised Statutes, 12-38.1-117, **amend** (1) (f) as follows:

12-38.1-117. Exclusions. (1) This article shall not be construed to affect or apply to:

(f) Any person performing services pursuant to sections 12-38-132, ~~and~~

25.5-10-204 (2) (j), 27-10.5-103 ~~(2) (k)~~ (2) (i), C.R.S., and part 3 of article 1.5 of title 25, C.R.S.

SECTION 23. In Colorado Revised Statutes, 13-21-117.5, **amend** (2) (a), (2) (c), and (2) (e) as follows:

13-21-117.5. Civil liability - developmental disability service providers.
(2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Community-centered board" means a private corporation, for-profit or not-for-profit, which, when designated pursuant to section ~~27-10.5-105~~ 25.5-10-209, C.R.S., provides case management to persons with INTELLECTUAL AND developmental disabilities, is authorized to determine eligibility of such persons within a specified geographical area, serves as the single point of entry for persons to receive services and supports under ~~article 10.5 of title 27~~ ARTICLE 10 OF TITLE 25.5, C.R.S., and provides authorized services and supports to such persons either directly or by purchasing such services and supports from service agencies.

(c) "Developmental disability" ~~shall have~~ HAS the same meaning as "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" AS defined in section ~~27-10.5-102 (11)~~; 25.5-10-202, C.R.S.

(e) "Host home" means a private home that houses up to three persons with INTELLECTUAL AND developmental disabilities and whose owner or renter provides residential services, as described in section ~~27-10.5-104 (1) (f)~~; 25.5-10-206 (1) (e), C.R.S., to those persons as an independent contractor of a community-centered board or service agency.

SECTION 24. In Colorado Revised Statutes, 13-25-129.5, **amend** (1), (2) (a), (3), and (4) as follows:

13-25-129.5. Statements of persons with intellectual and developmental disabilities - hearsay exception. (1) An out-of-court statement made by a person with ~~a~~ AN INTELLECTUAL AND developmental disability, as defined in section ~~27-10.5-102 (11) (a)~~ 25.5-10-202 (26) (a), C.R.S., not otherwise admissible by a statute or court rule that provides an exception to the objection of hearsay is admissible in any criminal or delinquency proceeding in which the person is alleged to have been a victim if the conditions of subsection (5) of this section are satisfied.

(2)(a) An out-of-court statement made by a person with ~~a~~ AN INTELLECTUAL AND developmental disability, as defined in section ~~27-10.5-102 (11) (a)~~ 25.5-10-202 (26) (a), C.R.S., that describes all or part of an offense described in paragraph (b) of this subsection (2) performed with, by, on, or in the presence of the declarant, and that is not otherwise admissible by a statute or court rule that provides an exception to the objection of hearsay, is admissible in any criminal, delinquency, or civil proceeding if the conditions of subsection (5) of this section are satisfied.

(3) An out-of-court statement by a person with ~~a~~ AN INTELLECTUAL AND developmental disability, as defined in section ~~27-10.5-102 (11) (a)~~ 25.5-10-202 (26) (a), C.R.S., that describes any act of child abuse, as defined in section 18-6-401, C.R.S., to which the declarant was subjected or which the declarant

witnessed, and that is not otherwise admissible by a statute or court rule that provides an exception to the objection of hearsay, is admissible in evidence in any criminal, delinquency, or civil proceeding in which a child is alleged to be a victim of child abuse or the subject of a proceeding alleging that a child is neglected or dependent under section 19-1-104 (1) (b), C.R.S., if the conditions of subsection (5) of this section are satisfied.

(4) An out-of-court statement made by a person with ~~a~~ AN INTELLECTUAL AND developmental disability, as defined in section ~~27-10.5-102 (11) (a)~~ 25.5-10-202 (26) (a), C.R.S., that describes all or part of an offense contained in part 1 of article 3 of title 18, C.R.S., or that describes an act of domestic violence as defined in section 18-6-800.3 (1), C.R.S., not otherwise admissible by statute or court rule that provides an exception to the objection of hearsay, is admissible in evidence in any criminal, delinquency, or civil proceeding if the conditions of subsection (5) of this section are satisfied.

SECTION 25. In Colorado Revised Statutes, 15-14-310, **amend** (5) (a) introductory portion and (5) (b) as follows:

15-14-310. Who may be guardian - priorities - prohibition of dual roles.

(5) (a) Unless the court makes specific findings for good cause shown or the person is a family caregiver as defined in section ~~27-10.5-102 (15.5)~~ 25.5-10-202, C.R.S., or the person is a caregiver to an eligible person pursuant to section 25.5-6-1101 (4), C.R.S., the same professional may not act as an incapacitated person's or a protected person's:

(b) In addition, a guardian or conservator may not employ the same person to act as both care manager and direct service provider for the incapacitated person or protected person unless the person is a family caregiver as defined in section ~~27-10.5-102 (15.5)~~ 25.5-10-202, C.R.S.

SECTION 26. In Colorado Revised Statutes, 15-14-316, **amend** (4) as follows:

15-14-316. Rights and immunities of guardian - limitations. (4) A guardian may not initiate the commitment of a ward to a mental health-care institution or facility except in accordance with the state's procedure for involuntary civil commitment. To obtain hospital or institutional care and treatment for mental illness of a ward, a guardian shall proceed as provided under article 65 of title 27, C.R.S. To obtain ~~care and treatment~~ SERVICES AND SUPPORTS from an approved service agency as defined in section ~~27-10.5-102~~ 25.5-10-202, C.R.S., for a ward with INTELLECTUAL AND developmental disabilities, a guardian shall proceed under ~~article 10.5 of title 27~~ ARTICLE 10 OF TITLE 25.5, C.R.S. To obtain care and treatment for alcoholism or substance abuse, a guardian shall proceed as provided under article 80 of title 27, C.R.S. No guardian shall have the authority to consent to any such care or treatment against the will of the ward.

SECTION 27. In Colorado Revised Statutes, 15-14-413, **amend** (6) (a) introductory portion and (6) (b) as follows:

15-14-413. Who may be conservator - priorities - prohibition of dual roles.

(6) (a) Unless the court makes specific findings for good cause shown or the person

is a family caregiver as defined in section ~~27-10.5-102 (15.5)~~ 25.5-10-202, C.R.S., the same professional may not act as an incapacitated person's or a protected person's:

(b) In addition, a guardian or conservator may not employ the same person to act as both care manager and direct service provider for the incapacitated person or protected person unless the person is a family caregiver as defined in section ~~27-10.5-102 (15.5)~~ 25.5-10-202, C.R.S.

SECTION 28. In Colorado Revised Statutes, 16-10-402, **amend** (1) (a) introductory portion as follows:

16-10-402. Use of closed-circuit television - child or witness with intellectual and developmental disabilities. (1) (a) When a witness at the time of a trial is a child less than twelve years of age, or is a person who has a ~~AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY~~ as defined in section ~~27-10.5-102 (11) (a)~~ 25.5-10-202, C.R.S., the court may, upon motion of a party or upon its own motion, order that the witness's testimony be taken in a room other than the courtroom and be televised by closed-circuit television in the courtroom if:

SECTION 29. In Colorado Revised Statutes, 18-1.3-1104, **amend** (2) as follows:

18-1.3-1104. Evaluation and report. (2) In ordering an evaluation of the defendant pursuant to subsection (1) of this section, the court shall specify the place where the evaluation is to be conducted and the period of time allocated for the evaluation. In determining the place where the evaluation is to be conducted, the court shall give priority to the place where the defendant is in custody, unless the nature and circumstances of the evaluation requires designation of a different location. The court shall direct one or more psychologists who are recommended by the executive director of the department of ~~human services~~ HEALTH CARE POLICY AND FINANCING pursuant to section ~~27-10.5-139~~ 25.5-10-239, C.R.S., or his or her designee, to evaluate the defendant. For good cause shown, upon motion of the prosecution or the defendant or upon the court's own motion, the court may order such further or other evaluation as it deems necessary. Nothing in this section shall abridge the right of the defendant to procure an evaluation as provided in section 18-1.3-1105.

SECTION 30. In Colorado Revised Statutes, 18-6.5-102, **amend** (3) (d) as follows:

18-6.5-102. Definitions. As used in this article, unless the context otherwise requires:

(3) "Person with a disability" means any person who:

(d) Is ~~developmentally disabled~~ A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY as defined in section ~~27-10.5-102 (11)~~ 25.5-10-202, C.R.S.; or

SECTION 31. In Colorado Revised Statutes, 19-1-103, **amend** (58) as follows:

19-1-103. Definitions. As used in this title or in the specified portion of this title, unless the context otherwise requires:

(58) "Group care facilities and homes" means places other than foster family care homes providing care for small groups of children that are licensed as provided in article 6 of title 26, C.R.S., or meet the requirements of section ~~27-10.5-109~~ 25.5-10-214, C.R.S.

SECTION 32. In Colorado Revised Statutes, 22-20-107, **amend** (1) as follows:

22-20-107. Authority to contract with institutions of higher education or community-centered boards. (1) An administrative unit may contract with an institution of higher education, or a community-centered board, as provided in section ~~27-10.5-104~~ 25.5-10-206, C.R.S., for the provision by the administrative unit of an education and training program for children with disabilities. If an agreement is arrived at by the two agencies, the administrative unit shall place the responsibility for administering the program with the director of special education of the administrative unit.

SECTION 33. In Colorado Revised Statutes, 22-20-118, **amend** (2) (a) as follows:

22-20-118. Child find from birth through two years of age - responsibilities - rules - interagency operating agreements - transition meetings - funding. (2) The administrative units shall:

(a) Establish local-level interagency operating agreements with community-centered boards, as described in section 27-10.5-102, C.R.S., as necessary to assist in developing and implementing the department of human services' statewide plan defined in section ~~27-10.5-103~~ 27-10.5-704, C.R.S., for community education outreach and awareness efforts related to part C child find and the availability of early intervention services. The administrative units' responsibilities shall be limited to those activities that relate to facilitating the implementation of part C child find activities and a collaborative system of early intervention services.

SECTION 34. In Colorado Revised Statutes, 24-1-119.5, **add** (8) as follows:

24-1-119.5. Department of health care policy and financing - creation - repeal. (8) THE POWERS, DUTIES, AND FUNCTIONS RELATING TO PROGRAMS, SERVICES, AND SUPPORTS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AS SPECIFIED IN ARTICLE 10 OF TITLE 25.5, C.R.S., ARE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

SECTION 35. In Colorado Revised Statutes, 24-103-803, **amend** (2) (d) as follows:

24-103-803. Nonprofit agencies - self-certified vendor list - creation. (2) The department shall accept applications from any nonprofit agency that seeks to become a self-certified vendor to bid on certain services solicitations. In order for

a nonprofit agency to become a self-certified vendor, the nonprofit agency shall certify that:

(d) The nonprofit agency would be capable of hiring and would employ people to perform any service for which the nonprofit agency bids, and that of those people employed a total of seventy-five percent would be persons with severe disabilities and a minimum of twenty percent would be persons with severe disabilities who have developmental disabilities as defined in section ~~27-10.5-102~~ 25.5-10-202, C.R.S.; and

SECTION 36. In Colorado Revised Statutes, 24-110-207.5, **amend** (1) (a) as follows:

24-110-207.5. Certification of certain entities as local public procurement units - rules - report. (1) The executive director may certify any of the following entities as a local public procurement unit:

(a) Any nonprofit community mental health center, as defined in section 27-66-101, C.R.S., any nonprofit community mental health clinic, as defined in section 27-66-101, C.R.S., any nonprofit community-centered board, as defined in section ~~27-10.5-102~~ 25.5-10-202, C.R.S., or any nonprofit service agency, as defined in section ~~27-10.5-102~~ 25.5-10-202, C.R.S., if the entity uses the supplies, services, or construction procured for the public mental health system or the public ~~developmentally disabled~~ DEVELOPMENTAL DISABILITY system;

SECTION 37. In Colorado Revised Statutes, 25-1.5-103, **amend** (1) (a) (I) (A) and (2) (c) as follows:

25-1.5-103. Health facilities - powers and duties of department - limitations on rules promulgated by department. (1) (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 hospitals, convalescent centers, community mental health centers, acute treatment units, facilities for persons with INTELLECTUAL AND developmental disabilities, nursing care facilities, 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.

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

(c) "Facility for persons with developmental disabilities" means a facility specially designed for the active treatment and habilitation of persons with INTELLECTUAL AND developmental disabilities or a community residential home, as defined in section ~~27-10.5-102 (4)~~ 25.5-10-202, C.R.S., which is licensed and certified pursuant to section ~~27-10.5-109~~ 25.5-10-214, C.R.S.

SECTION 38. In Colorado Revised Statutes, 25-1.5-301, **amend** (1) and (2) (h) as follows:

25-1.5-301. Definitions. As used in this part 3, unless the context otherwise

requires:

(1) "Administration" means assisting a person in the ingestion, application, inhalation, or, using universal precautions, rectal or vaginal insertion of medication, including prescription drugs, according to the legibly written or printed directions of the attending physician or other authorized practitioner or as written on the prescription label and making a written record thereof with regard to each medication administered, including the time and the amount taken, but "administration" does not include judgment, evaluation, or assessments or the injections of medication, the monitoring of medication, or the self-administration of medication, including prescription drugs and including the self-injection of medication by the resident. "Administration" also means ingestion through gastrostomy tubes or naso-gastric tubes, if administered by an individual A PERSON authorized pursuant to ~~section 27-10.5-103 (2) (k), C.R.S.,~~ SECTIONS 25.5-10-204 (2) (j) AND 27-10.5-103 (2) (i), C.R.S., as part of residential or day program services provided through service agencies approved by the department of human services HEALTH CARE POLICY AND FINANCING and supervised by a licensed physician or nurse.

(2) "Facility" means:

(h) All services funded through and regulated by the department of human services pursuant to article 10.5 of title 27, C.R.S., in support of persons with INTELLECTUAL AND developmental disabilities; and

SECTION 39. In Colorado Revised Statutes, 25-3-102, **amend** (1) (a) as follows:

25-3-102. License - application - issuance - certificate of compliance required. (1) (a) An applicant for a license described in section 25-3-101 shall 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~~ 25.5-10-214, C.R.S.

SECTION 40. In Colorado Revised Statutes, 25-27.5-102, **amend** (1.5) and (6.7) as follows:

25-27.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1.5) "Community-centered board" has the meaning set forth in section ~~27-10.5-102~~ 25.5-10-202, C.R.S.

(6.7) "Service agency" has the meaning set forth in section ~~27-10.5-102~~ 25.5-10-202, C.R.S.

SECTION 41. In Colorado Revised Statutes, 25-27.5-103, **amend** (1.5) (a) (I) as follows:

25-27.5-103. License required - civil and criminal penalties.

(1.5) (a) Notwithstanding any provision of law to the contrary, by March 1, 2011, the following providers of skilled home health services or in-home personal care services shall apply for licensure as a home care agency to the department:

(l) Community-centered boards designated pursuant to section ~~27-10.5-105~~ 25.5-10-209, C.R.S.; and

SECTION 42. In Colorado Revised Statutes, 25.5-1-201, **amend** (1) (e) and (1) (f); and **add** (1) (g) 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:

(e) The "Children's Basic Health Plan Act", as specified in article 8 of this title; **and**

(f) The old age pension health and medical care program, as specified in section 25.5-2-101; **AND**

(g) PROGRAMS, SERVICES, AND SUPPORTS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AS SPECIFIED IN ARTICLE 10 OF THIS TITLE.

SECTION 43. In Colorado Revised Statutes, 25.5-1-303, **add** (1) (f) and (9) as follows:

25.5-1-303. Powers and duties of the board - scope of authority - rules. (1) The board shall have the authority set forth in subsection (3) of this section over the following programs administered by the state department:

(f) PROGRAMS, SERVICES, AND SUPPORTS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AS SPECIFIED IN ARTICLE 10 OF THIS TITLE.

(9) THE RULES AND ORDERS OF THE DEPARTMENT OF HUMAN SERVICES AND THE STATE BOARD OF HUMAN SERVICES IN CONNECTION WITH THE PROGRAMS, SERVICES, AND SUPPORTS SPECIFIED IN PARAGRAPH (f) OF SUBSECTION (1) OF THIS SECTION SHALL CONTINUE TO BE EFFECTIVE UNTIL REVISED, AMENDED, REPEALED, OR NULLIFIED PURSUANT TO LAW.

SECTION 44. In Colorado Revised Statutes, 25.5-4-103, **amend** (3), (9) introductory portion, and (9) (a) as follows:

25.5-4-103. Definitions. As used in this article and articles 5 and 6 of this title, unless the context otherwise requires:

(3) "Case management services" means services provided by community-centered boards, as defined by section ~~27-10.5-102(3)~~, C.R.S. 25.5-10-202, and community mental health centers and community mental health clinics, as defined by section 27-66-101, C.R.S., to assist ~~developmentally disabled~~ persons WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, as defined by section ~~27-10.5-102(11)~~, C.R.S. 25.5-10-202, and persons with mental illness, as defined by section 27-65-102 (14),

C.R.S., by case management agencies, as defined in section 25.5-6-303 (5), providing services, as defined in sections 25.5-6-104 (2) (b) and 25.5-6-303 (6), to PERSONS WHO ARE elderly, blind, and disabled persons and long-term care clients, in gaining access to needed medical, social, educational, and other services.

(9) "Intermediate nursing facility for ~~the mentally retarded~~ PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES" means a tax-supported, state-administered intermediate nursing facility, or a distinct part of such facility, which meets the state nursing home licensing standards set forth in section 25-1.5-103 (1) (a) (I), C.R.S., and the requirements in 42 U.S.C. sec. 1396d and which:

(a) Is maintained primarily to provide health-related care on a regular basis for ~~the mentally retarded or for~~ persons with INTELLECTUAL AND developmental disabilities, as defined in section 27-10.5-102 (11), C.R.S., AND SECTION 25.5-10-202, C.R.S., who do not require the degree of care and treatment which SERVICES AND SUPPORTS THAT a hospital or skilled nursing facility can provide but who, because of their mental or physical condition, require care and services above the level of room and board, which can be made available only through institutional facilities; and

SECTION 45. In Colorado Revised Statutes, 25.5-5-306, **amend** (1) as follows:

25.5-5-306. Residential child health care - waiver - program - rules. (1) The state department, in cooperation with the department of human services, shall implement a program concerning residential child health care under this article and articles 4 and 6 of this title to provide services pursuant to article 67 of title 27, C.R.S., to medicaid-eligible children residing in residential child care facilities, as that term is defined in section 26-6-102 (8), C.R.S., 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 INTELLECTUAL AND developmental disabilities, as defined in section ~~27-10.5-102 (11), C.R.S.~~ 25.5-10-202, 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 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.

SECTION 46. In Colorado Revised Statutes, 25.5-6-204, **amend** (1) (b), (1) (c) (I), and (1) (c) (II) as follows:

25.5-6-204. Providers - reimbursement - intermediate care facility for persons with intellectual disabilities - reimbursement - maximum allowable. (1) (b) State-operated intermediate care facilities for ~~the mentally retarded~~ INDIVIDUALS WITH INTELLECTUAL DISABILITIES shall be reimbursed based on the

actual costs of administration, property, including capital-related assets, and room and board, and the actual costs of providing health care services, and such costs shall be projected by such facilities and submitted to the state department by July 1 of each year for the ensuing twelve-month period. Reimbursement to state-operated intermediate care facilities for ~~the mentally retarded~~ INDIVIDUALS WITH INTELLECTUAL DISABILITIES shall be adjusted retrospectively at the close of each twelve-month period. The state board shall adopt rules to be effective by June 30, 1988, implementing the provisions of this paragraph (b). In the implementation of such rules, the state department shall ensure, by the establishment of classes of facilities, that the reimbursement to private, nonprofit, or proprietary state-operated intermediate care facilities for ~~the mentally retarded or developmentally disabled~~ INDIVIDUALS WITH INTELLECTUAL DISABILITIES, as defined in section ~~27-10.5-102~~ (11), ~~C.R.S.~~ 25.5-10-202, is not adversely impacted.

(c) (I) Beginning in fiscal year 2003-04, and for each fiscal year thereafter, the STATE department of ~~human services~~ is authorized to charge both privately owned intermediate care facilities for ~~the mentally retarded~~ INDIVIDUALS WITH INTELLECTUAL DISABILITIES and state-operated intermediate care facilities for ~~the mentally retarded~~ INDIVIDUALS WITH INTELLECTUAL DISABILITIES a service fee for the purposes of maintaining the quality and continuity of services provided by intermediate care facilities for ~~the mentally retarded~~ INDIVIDUALS WITH INTELLECTUAL DISABILITIES. The service fee charged by the STATE department of ~~human services~~ pursuant to this paragraph (c) shall not exceed five percent of the costs incurred by each intermediate care facility for the fiscal year in which the service fee is charged. The state board of ~~human services~~ shall adopt rules consistent with federal law in order to implement the provisions of this paragraph (c).

(II) The moneys collected in each fiscal year pursuant to subparagraph (I) of this paragraph (c) shall be transmitted by the STATE department of ~~human services~~ to the state treasurer, who shall credit the same to the service fee fund, which fund is hereby created and referred to in this paragraph (c) as the "fund". The moneys in the fund shall be subject to annual appropriation by the general assembly to the state department to be used toward the state match for the federal financial participation to reimburse intermediate care facilities for ~~the mentally retarded~~ INDIVIDUALS WITH INTELLECTUAL DISABILITIES pursuant to this section. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and not be credited or transferred to the general fund or any other fund.

SECTION 47. In Colorado Revised Statutes, 25.5-6-403, **amend** (1), (3), (5) (a) introductory portion, (5) (a) (II), and (5) (b) as follows:

25.5-6-403. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "Developmentally disabled person" means a person with ~~a~~ AN INTELLECTUAL AND developmental disability as defined in section ~~27-10.5-102~~, ~~C.R.S.~~ 25.5-10-202.

(3) "In-home services" means those services described in section ~~27-10.5-406~~, ~~C.R.S.~~ 25.5-10-205 provided to support ~~individuals~~ PERSONS living with their

family.

(5)(a) "Services for persons with INTELLECTUAL AND developmental disabilities" means those services:

(II) Necessary to prevent a person, eligible for services under subsection (2) of this section, from being subjected to placement in an intermediate care facility for ~~the mentally retarded~~ INDIVIDUALS WITH INTELLECTUAL DISABILITIES.

(b) "Services for ~~the developmentally disabled~~ PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES" includes, but is not limited to, social, habilitative, remedial, residential, health services, and services provided under the consumer-directed care service model, part 11 of this article, which shall include the selection, from a list of qualified entities, of an organization of the eligible person's choice to provide financial management services for the eligible person.

SECTION 48. In Colorado Revised Statutes, 25.5-6-409, **amend** (1) and (4) introductory portion as follows:

25.5-6-409. Services for persons with intellectual and developmental disabilities. (1) A program to provide home- and community-based services to persons with INTELLECTUAL AND developmental disabilities who are in need of the level of care available in an intermediate care facility for ~~the mentally retarded~~ INDIVIDUALS WITH INTELLECTUAL DISABILITIES is hereby established pursuant to the federal "Social Security Act", as amended. This program shall provide for the social, habilitative, remedial, residential, health, and other needs of persons with INTELLECTUAL AND developmental disabilities to avoid placement in an intermediate care facility for ~~the mentally retarded~~ INDIVIDUALS WITH INTELLECTUAL DISABILITIES.

(4) Any services for ~~the developmentally disabled~~ PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES provided through this program shall be set forth in a plan of care developed and managed by a community-centered board and subject to review and approval pursuant to section 25.5-6-404. The plan of care shall:

SECTION 49. In Colorado Revised Statutes, 26-1-201, **amend** (1) (y) as follows:

26-1-201. Programs administered - services provided - department of human services. (1) This section specifies the programs to be administered and the services to be provided by the department of human services. These programs and services include the following:

(y) Programs, ~~for the care and treatment of the developmentally disabled~~ SERVICES, AND SUPPORTS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, as specified in article 10.5 of title 27, C.R.S.;

SECTION 50. In Colorado Revised Statutes, 26-2-122.3, **amend** (1) (a) (I) as follows:

26-2-122.3. Adult foster care and home care allowance. (1) (a) (I) The state department, subject to available appropriations, may provide adult foster care for persons eligible to receive old age pension, aid to the needy disabled, or aid to the blind. For purposes of this paragraph (a), "adult foster care" means care and services that, in addition to room and board, may include, but are not limited to, personal services, recreational opportunities, transportation, utilization of volunteer services, and special diets. Such care and services are provided to recipients of federal supplemental security income benefits who are also eligible for the Colorado supplement program for aid to the needy disabled or aid to the blind and who do not require skilled nursing care or intermediate health care and cannot remain in or return to their residences but who need to reside in a supervised nonmedical setting on a twenty-four-hour basis. Those persons with INTELLECTUAL AND developmental disabilities as defined in section ~~27-10.5-102~~ 25.5-10-202, C.R.S., or who are receiving or are eligible to receive services pursuant to ARTICLE 10 OF TITLE 25.5, C.R.S., OR any provision of title 27, C.R.S., do not qualify for adult foster care under this paragraph (a).

SECTION 51. In Colorado Revised Statutes, 27-10.5-702, **amend** (3) as follows:

27-10.5-702. Definitions. As used in this part 7, unless the context otherwise requires:

(3) "Certified early intervention service broker" or "broker" means a community-centered board or other entity designated by the department OF HEALTH CARE POLICY AND FINANCING PURSUANT TO SECTION 25.5-10-108, C.R.S., to perform the duties and functions specified in section 27-10.5-708 in a particular designated service area. Notwithstanding the provisions of section 27-10.5-104 (4), if the department OF HEALTH CARE POLICY AND FINANCING is unable to designate a community-centered board or other entity to serve as the broker for a particular designated service area, the department shall serve as the broker for the designated service area and may contract directly with early intervention service providers to provide early intervention services to eligible children in the designated service area.

SECTION 52. In Colorado Revised Statutes, 30-28-115, **amend** (2) (a) as follows:

30-28-115. Public welfare to be promoted - legislative declaration - construction. (2) (a) The general assembly hereby finds and declares that it is the policy of the state to assist ~~developmentally disabled~~ persons WHO HAVE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY to live in ~~normal~~ TYPICAL residential surroundings. Further, the general assembly declares that the establishment of state-licensed group homes for the exclusive use of ~~developmentally disabled~~ persons WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, which are known as community residential homes as defined in section ~~27-10.5-102 (4)~~ 25.5-10-202, C.R.S., is a matter of statewide concern and that a state-licensed group home for eight ~~developmentally disabled~~ persons WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES is a residential use of property for zoning purposes. The phrase "residential use of property for zoning purposes", as used in this subsection (2), includes all forms of residential zoning and specifically, although not exclusively, single-family residential zoning. ~~"Developmentally disabled"~~ AS USED in this section, ~~means a~~ "person with a

developmental disability" ~~as defined in~~ HAS THE SAME MEANING AS A "PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY AS SET FORTH IN ~~section 27-10.5-102~~ 25.5-10-202, C.R.S.

SECTION 53. In Colorado Revised Statutes, 31-23-303, **amend** (2) (a) as follows:

31-23-303. Legislative declaration. (2) (a) The general assembly declares that the establishment of state-licensed group homes for the exclusive use of ~~developmentally disabled~~ persons WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, which HOMES are known as community residential homes as defined in ~~section 27-10.5-102 (4)~~ 25.5-10-202, C.R.S., is a matter of statewide concern and that a state-licensed group home for eight ~~developmentally disabled~~ persons WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES is a residential use of property for zoning purposes. As used in this subsection (2), the phrase "residential use of property for zoning purposes" includes all forms of residential zoning and specifically, although not exclusively, single-family residential zoning. ~~"Developmentally disabled"~~ AS USED in this section, ~~means a person with a developmental disability as defined~~ "PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES" HAS THE SAME MEANING AS SET FORTH in ~~section 27-10.5-102; 25.5-10-202~~, C.R.S.

SECTION 54. In Colorado Revised Statutes, 39-3.7-101, **amend** (1.5) as follows:

39-3.7-101. Definitions. As used in this article, unless the context otherwise requires:

(1.5) "Person with a disability" means any ~~individual~~ PERSON with a physical impairment ~~or an intellectual and developmental disability as defined in section 27-10.5-102 (11) (a) or mental retardation that substantially limits one or more of the major life activities of the individual~~ 25.5-10-202, C.R.S.

SECTION 55. In Colorado Revised Statutes, 39-22-530, **amend** (1) (b) and (1) (c) as follows:

39-22-530. Credit for employers that hire persons with developmental disabilities - definitions. (1) As used in this section, unless the context otherwise requires:

(b) "Developmental disability" ~~shall have~~ HAS the same meaning as "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" AS set forth in ~~section 27-10.5-102 (11) (a)~~ 25.5-10-202, C.R.S., and in the rules adopted by the department of ~~human services~~ HEALTH CARE POLICY AND FINANCING pursuant to ~~section 27-10.5-103 (2)~~ 25.5-10-204 (2), C.R.S.

(c) "Person with a developmental disability" ~~shall have~~ HAS the same meaning as "PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY" AS set forth in ~~section 27-10.5-102 (11) (b)~~ 25.5-10-202, C.R.S.

SECTION 56. Effective date. (1) Except as provided in subsections (2) and (3)

of this section, this act takes effect March 1, 2014.

(2) Part 1 of article 10 of title 25.5, Colorado Revised Statutes, as enacted in section 1 of the bill takes effect July 1, 2013.

(3) Section 5 of the bill takes effect upon passage.

SECTION 57. 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 28, 2013