

Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 08-0784.01 Kristen Forrestal

SENATE BILL 08-153

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SENATE SPONSORSHIP

Boyd, Hagedorn, Morse, Tochtrop, and Williams

HOUSE SPONSORSHIP

Ferrandino, Gagliardi, Marostica, and McGihon

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Senate Committees

Health and Human Services

House Committees

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A BILL FOR AN ACT

101 CONCERNING LICENSURE OF HOME CARE AGENCIES BY THE  
102 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Requires the department of public health and environment (department) to license home care agencies.

Makes it unlawful for an unlicensed entity to operate a home care agency without meeting license application requirements and obtaining a license by specified dates. Creates penalties for entities that do not comply with the licensing requirements.

Requires the department to promulgate rules that provide

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

minimum standards for the operation of home care agencies. Requires the rules to include inspection requirements; educational, training, and experience standards, and requirements that address the character of the applicants; authorized enforcement remedies; and written plans required to be submitted by the agencies to the department.

Creates a home care advisory committee for the purpose of advising the department and the state board of health regarding the promulgation of rules and licensing issues.

Creates a home care agency cash fund, to consist of fees and any civil penalties paid by agencies, to pay for the costs of the department to implement and maintain regulation of home care agencies.

Requires home care agencies to apply to the department for licensure. Requires the department to inspect the home care agencies of each applicant. Authorizes the department to make additional inspections as necessary. Requires the owner, applicant, or licensee to submit to fingerprint-based criminal history record checks. Specifies standards for the department to refuse to issue a license. Allows the department to issue a provisional license if the applicant cannot conform to all of the minimum standards required by the department so long as the applicant demonstrates an effort to comply.

Requires a home care agency to require persons seeking employment to submit to a criminal history record check.

Allows the department to suspend, revoke, or refuse to renew a license of a home care agency. Allows the department to impose intermediate restrictions or conditions on a license. Specifies an appeals process for the denial, suspension, or revocation of a license.

Repeals the licensure requirements of home care agencies, effective July 1, 2014.

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

2           **SECTION 1.** 25-1.5-103 (1) (a) (I), Colorado Revised Statutes,  
3 is amended to read:

4           **25-1.5-103. Health facilities - powers and duties of the**  
5 **department - limitations on rules promulgated by the department.**

6 (1) The department has, in addition to all other powers and duties  
7 imposed upon it by law, the powers and duties provided in this section as  
8 follows:

9           (a) (I) To annually license and to establish and enforce standards

1 for the operation of general hospitals, hospital units as defined in section  
2 25-3-101 (2), psychiatric hospitals, community clinics, rehabilitation  
3 centers, convalescent centers, community mental health centers, acute  
4 treatment units, facilities for persons with developmental disabilities,  
5 habilitation centers for brain-damaged children, chiropractic centers and  
6 hospitals, maternity hospitals, nursing care facilities, the pilot project  
7 rehabilitative nursing facility, hospice care, assisted living residences,  
8 dialysis treatment clinics, ambulatory surgical centers, birthing centers,  
9 HOME CARE AGENCIES, and other facilities of a like nature, except those  
10 wholly owned and operated by any governmental unit or agency. In  
11 establishing and enforcing such standards and in addition to the required  
12 announced inspections, the department shall, within available  
13 appropriations, make additional inspections without prior notice to the  
14 facility. Such inspections shall be made only during the hours of 7 a.m.  
15 to 7 p.m. The issuance, suspension, renewal, revocation, annulment, or  
16 modification of licenses shall be governed by the provisions of section  
17 24-4-104, C.R.S., and section 25-3-102, and all licenses shall bear the  
18 date of issue and cover a twelve-month period. Nothing contained in this  
19 paragraph (a) shall be construed to prevent the department from adopting  
20 and enforcing, with respect to projects for which federal assistance has  
21 been obtained or shall be requested, such higher standards as may be  
22 required by applicable federal laws or regulations of federal agencies  
23 responsible for the administration of such federal laws.

24 **SECTION 2.** 25-3-101 (1), Colorado Revised Statutes, is  
25 amended to read:

26 **25-3-101. Hospitals - health facilities - licensed.** (1) It is  
27 unlawful for any person, partnership, association, or corporation to open,

1 conduct, or maintain any general hospital, hospital unit as defined in  
2 subsection (2) of this section, psychiatric hospital, community clinic,  
3 rehabilitation center, convalescent center, community mental health  
4 center, acute treatment unit, facility for persons with developmental  
5 disabilities, habilitation center for brain-damaged children, chiropractic  
6 center and hospital, maternity hospital, nursing care facility, pilot project  
7 rehabilitative nursing facility, hospice care, assisted living residence,  
8 except an assisted living residence shall be assessed a license fee as set  
9 forth in section 25-27-107, dialysis treatment clinic, ambulatory surgical  
10 center, birthing center, HOME CARE AGENCY, or other facility of a like  
11 nature, except those wholly owned and operated by any governmental unit  
12 or agency, without first having obtained a license therefor from the  
13 department of public health and environment.

14 **SECTION 3.** Title 25, Colorado Revised Statutes, is amended BY  
15 THE ADDITION OF A NEW ARTICLE to read:

16 **ARTICLE 27.5**

17 **Home Care Agencies**

18 **25-27.5-101. Legislative declaration.** (1) IN ORDER TO PROMOTE  
19 THE PUBLIC HEALTH AND WELFARE OF THE PEOPLE OF COLORADO, IT IS  
20 DECLARED TO BE IN THE PUBLIC INTEREST TO ESTABLISH MINIMUM  
21 STANDARDS AND RULES FOR HOME CARE AGENCIES IN THE STATE OF  
22 COLORADO AND TO PROVIDE THE AUTHORITY FOR THE ADMINISTRATION  
23 AND ENFORCEMENT OF SUCH MINIMUM STANDARDS AND RULES. THESE  
24 STANDARDS AND RULES SHALL BE SUFFICIENT TO ASSURE THE HEALTH,  
25 SAFETY, AND WELFARE OF HOME CARE PATIENTS.

26 (2) THE GENERAL ASSEMBLY FURTHER FINDS THAT THE  
27 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AS THE EXECUTIVE

1 BRANCH AGENCY ASSIGNED TO ADMINISTER AND ENFORCE MINIMUM  
2 STANDARDS FOR HOME CARE AGENCIES, SHOULD EXPLORE WHETHER  
3 RISK-BASED INSPECTIONS MAY BE IMPLEMENTED TO ALLOCATE RESOURCES  
4 MORE EFFECTIVELY AND AT THE SAME TIME ADEQUATELY PROTECT THE  
5 HEALTH AND SAFETY OF THE PATIENTS.

6 (3) FURTHER, THE GENERAL ASSEMBLY DETERMINES AND  
7 DECLARES THAT, IN ADMINISTERING AND ENFORCING STANDARDS FOR  
8 HOME CARE AGENCIES, THE INSPECTIONS BY THE DEPARTMENT SHOULD  
9 FOCUS ON PATIENT SAFETY AND OUTCOMES.

10 **25-27.5-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
11 CONTEXT OTHERWISE REQUIRES:

12 (1) "CERTIFIED HOME CARE AGENCY" MEANS AN AGENCY THAT IS  
13 CERTIFIED BY EITHER THE FEDERAL CENTERS FOR MEDICARE AND  
14 MEDICAID SERVICES OR THE COLORADO DEPARTMENT OF HEALTH CARE  
15 POLICY AND FINANCING TO PROVIDE HOME HEALTH OR PERSONAL CARE  
16 SERVICES.

17 (2) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF  
18 PUBLIC HEALTH AND ENVIRONMENT.

19 (3) (a) "HOME CARE AGENCY" MEANS ANY SOLE PROPRIETORSHIP,  
20 PARTNERSHIP, ASSOCIATION, CORPORATION, GOVERNMENT OR  
21 GOVERNMENTAL SUBDIVISION OR AGENCY SUBJECT TO THE RESTRICTIONS  
22 IN SECTION 25-1.5-103 (1) (a) (II), NOT-FOR-PROFIT AGENCY, OR ANY  
23 OTHER LEGAL OR COMMERCIAL ENTITY THAT MANAGES AND OFFERS,  
24 DIRECTLY OR BY CONTRACT, SKILLED HOME HEALTH SERVICES OR  
25 PERSONAL CARE SERVICES TO AN INDIVIDUAL IN THE INDIVIDUAL'S  
26 TEMPORARY OR PERMANENT HOME OR PLACE OF RESIDENCE. A  
27 RESIDENTIAL FACILITY THAT DELIVERS SKILLED HOME HEALTH OR

1 PERSONAL CARE SERVICES WHICH THE FACILITY IS NOT LICENSED TO  
2 PROVIDE, SHALL EITHER BE LICENSED AS A HOME CARE AGENCY OR  
3 REQUIRE THE SKILLED HEALTH SERVICES TO BE DELIVERED BY A LICENSED  
4 HOME CARE AGENCY.

5 (b) "HOME CARE AGENCY" DOES NOT INCLUDE:

6 (I) ORGANIZATIONS THAT PROVIDE ONLY HOUSEKEEPING  
7 SERVICES;

8 (II) COMMUNITY AND RURAL HEALTH NETWORKS THAT FURNISH  
9 HOME VISITS FOR THE PURPOSE OF PUBLIC HEALTH MONITORING AND  
10 DISEASE TRACKING;

11 (III) AN INDIVIDUAL WHO IS NOT EMPLOYED BY OR AFFILIATED  
12 WITH A HOME CARE AGENCY AND WHO ACTS ALONE, WITHOUT EMPLOYEES  
13 OR CONTRACTORS;

14 (IV) OUTPATIENT REHABILITATION AGENCIES AND  
15 COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES CERTIFIED  
16 PURSUANT TO TITLE XVIII OR XIX OF THE "SOCIAL SECURITY ACT", AS  
17 AMENDED;

18 (V) CONSUMER-DIRECTED ATTENDANT PROGRAMS ADMINISTERED  
19 BY THE COLORADO DEPARTMENT OF HEALTH CARE POLICY AND  
20 FINANCING;

21 (VI) LICENSED DIALYSIS CENTERS THAT PROVIDE IN-HOME  
22 DIALYSIS SERVICES, SUPPLIES, AND EQUIPMENT;

23 (VII) THE DELIVERY OF SKILLED HEALTH SERVICES TO  
24 INDIVIDUALS BY ANY FACILITY LICENSED UNDER THIS TITLE; OR

25 (VIII) A HOME CARE PLACEMENT AGENCY AS DEFINED IN  
26 SUBSECTION (5) OF THIS SECTION.

27 (4) "HOME CARE CONSUMER" MEANS A PERSON WHO RECEIVES

1 SKILLED HOME HEALTH SERVICES OR PERSONAL CARE SERVICES IN HIS OR  
2 HER TEMPORARY OR PERMANENT HOME OR PLACE OF RESIDENCE FROM A  
3 HOME CARE AGENCY.

4 (5) "HOME CARE PLACEMENT AGENCY" MEANS AN ORGANIZATION  
5 THAT, FOR A FEE, PROVIDES ONLY REFERRALS OF PROVIDERS TO  
6 INDIVIDUALS SEEKING SERVICES. A HOME CARE PLACEMENT AGENCY  
7 DOES NOT PROVIDE SKILLED HOME HEALTH SERVICES OR PERSONAL CARE  
8 SERVICES TO AN INDIVIDUAL IN THE INDIVIDUAL'S TEMPORARY OR  
9 PERMANENT HOME OR PLACE OF RESIDENCE DIRECTLY OR BY CONTRACT.  
10 SUCH ORGANIZATIONS SHALL FOLLOW THE REQUIREMENTS OF SECTION  
11 25-27.5-103 (2).

12 (6) "PERSONAL CARE SERVICES" MEANS ASSISTANCE WITH  
13 ACTIVITIES OF DAILY LIVING, INCLUDING BUT NOT LIMITED TO BATHING,  
14 DRESSING, EATING, TRANSFERRING, WALKING OR MOBILITY, TOILETING,  
15 AND CONTINENCE CARE. IT ALSO INCLUDES HOUSEKEEPING, PERSONAL  
16 LAUNDRY, AND COMPANIONSHIP SERVICES FURNISHED TO AN INDIVIDUAL  
17 IN THE INDIVIDUAL'S TEMPORARY OR PERMANENT HOME OR PLACE OF  
18 RESIDENCE, AND THOSE NORMAL DAILY ROUTINES THAT THE INDIVIDUAL  
19 COULD PERFORM FOR HIMSELF OR HERSELF WERE HE OR SHE PHYSICALLY  
20 CAPABLE, WHICH ARE INTENDED TO ENABLE THAT INDIVIDUAL TO REMAIN  
21 SAFELY AND COMFORTABLY IN THE INDIVIDUAL'S TEMPORARY OR  
22 PERMANENT HOME OR PLACE OF RESIDENCE.

23 (7) "SKILLED HOME HEALTH SERVICE" MEANS HEALTH AND  
24 MEDICAL SERVICES FURNISHED TO AN INDIVIDUAL IN THE INDIVIDUAL'S  
25 TEMPORARY OR PERMANENT HOME OR PLACE OF RESIDENCE THAT INCLUDE  
26 WOUND CARE SERVICES; USE OF MEDICAL SUPPLIES INCLUDING DRUGS AND  
27 BIOLOGICALS PRESCRIBED BY A PHYSICIAN; IN-HOME INFUSION SERVICE;

1 NURSING SERVICES; HOME HEALTH AIDE OR CERTIFIED NURSE AIDE  
2 SERVICES PERFORMED UNDER THE SUPERVISION OF A LICENSED OR  
3 CERTIFIED HEALTH CARE PROFESSIONAL ACTING WITHIN THE SCOPE OF HIS  
4 OR HER LICENSE OR CERTIFICATE; OCCUPATIONAL THERAPY; PHYSICAL  
5 THERAPY; RESPIRATORY CARE SERVICES; DIETETICS AND NUTRITION  
6 COUNSELING SERVICES; MEDICATION ADMINISTRATION; MEDICAL SOCIAL  
7 SERVICES; AND SPEECH-LANGUAGE PATHOLOGY SERVICES. "SKILLED  
8 HOME HEALTH SERVICE" DOES NOT INCLUDE THE DELIVERY OF EITHER  
9 DURABLE MEDICAL EQUIPMENT OR MEDICAL SUPPLIES.

10 (8) "STATE BOARD" MEANS THE STATE BOARD OF HEALTH.

11 **25-27.5-103. License required - civil and criminal penalties.**

12 (1) ON OR AFTER JUNE 1, 2009, IT IS UNLAWFUL FOR ANY PERSON,  
13 PARTNERSHIP, ASSOCIATION, OR CORPORATION TO CONDUCT OR MAINTAIN  
14 A HOME CARE AGENCY THAT PROVIDES SKILLED HOME HEALTH SERVICES  
15 WITHOUT HAVING SUBMITTED A COMPLETED APPLICATION FOR LICENSURE  
16 AS A HOME CARE AGENCY TO THE DEPARTMENT. ON OR AFTER JANUARY  
17 1, 2010, IT IS UNLAWFUL FOR ANY PERSON, PARTNERSHIP, ASSOCIATION,  
18 OR CORPORATION TO CONDUCT OR MAINTAIN A HOME CARE AGENCY THAT  
19 PROVIDES SKILLED HOME HEALTH SERVICES WITHOUT HAVING OBTAINED  
20 A LICENSE THEREFOR FROM THE DEPARTMENT. ON OR AFTER JUNE 1,  
21 2010, IT IS UNLAWFUL FOR ANY PERSON, PARTNERSHIP, ASSOCIATION, OR  
22 CORPORATION TO CONDUCT OR MAINTAIN A HOME CARE AGENCY THAT  
23 PROVIDES IN-HOME PERSONAL CARE SERVICES WITHOUT HAVING  
24 SUBMITTED A COMPLETED APPLICATION FOR LICENSURE AS A HOME CARE  
25 AGENCY TO THE DEPARTMENT. ON OR AFTER JANUARY 1, 2011, IT IS  
26 UNLAWFUL FOR ANY PERSON, PARTNERSHIP, ASSOCIATION, OR  
27 CORPORATION TO CONDUCT OR MAINTAIN A HOME CARE AGENCY THAT

1 PROVIDES IN-HOME PERSONAL CARE SERVICES WITHOUT HAVING OBTAINED  
2 A LICENSE THEREFOR FROM THE DEPARTMENT. ANY PERSON WHO  
3 VIOLATES THIS PROVISION:

4 (a) IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION  
5 THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN FIFTY  
6 DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS; AND

7 (b) MAY BE SUBJECT TO A CIVIL PENALTY ASSESSED BY THE  
8 DEPARTMENT OF TEN THOUSAND DOLLARS FOR EACH VIOLATION OF THIS  
9 SECTION. THE DEPARTMENT SHALL ASSESS, ENFORCE, AND COLLECT THE  
10 PENALTY IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., FOR  
11 CREDIT TO THE HOME CARE AGENCY CASH FUND CREATED IN SECTION  
12 25-27.5-105. ENFORCEMENT AND COLLECTION OF THE PENALTY SHALL  
13 OCCUR FOLLOWING THE DECISION REACHED IN ACCORDANCE WITH  
14 PROCEDURES SET FORTH IN SECTION 24-4-105, C.R.S.

15 (2) (a) ON OR AFTER JUNE 1, 2009, ANY HOME CARE PLACEMENT  
16 AGENCY SHALL NOTIFY THE DEPARTMENT IN WRITING THAT IT PROVIDES  
17 REFERRALS FOR SKILLED HOME HEALTH SERVICES OR PERSONAL CARE  
18 SERVICES, AND SHALL ANNUALLY UPDATE SUCH NOTICE. THE  
19 DEPARTMENT SHALL MAINTAIN A LIST OF ALL HOME CARE PLACEMENT  
20 AGENCIES, AND SHALL MAKE THE LIST ACCESSIBLE TO THE PUBLIC.

21 (b) A PERSON WHO VIOLATES THIS SECTION MAY BE SUBJECT TO A  
22 CIVIL PENALTY ASSESSED BY THE DEPARTMENT THAT IS NOT LESS THAN  
23 FIVE HUNDRED DOLLARS OR MORE THAN ONE THOUSAND DOLLARS FOR  
24 FAILURE TO REGISTER WITH THE DEPARTMENT. THE DEPARTMENT SHALL  
25 ASSESS, ENFORCE, AND COLLECT THE PENALTY IN ACCORDANCE WITH  
26 ARTICLE 4 OF TITLE 24, C.R.S. ANY MONEYS COLLECTED SHALL BE  
27 DEPOSITED IN THE HOME CARE AGENCY CASH FUND CREATED IN SECTION

1 25-27.5-105.

2 **25-27.5-104. Minimum standards for home care agencies -**  
3 **rules.** (1) ON OR BEFORE MAY 1, 2009, THE STATE BOARD SHALL  
4 PROMULGATE RULES PURSUANT TO SECTION 24-4-103, C.R.S., PROVIDING  
5 MINIMUM STANDARDS FOR THE OPERATION OF HOME CARE AGENCIES  
6 WITHIN THE STATE OF COLORADO. IN PROMULGATING THESE RULES, THE  
7 STATE BOARD SHALL CONSIDER THE DIFFERENT REQUIREMENTS  
8 APPROPRIATE TO THE VARIOUS TYPES OF SKILLED HOME HEALTH AND  
9 PERSONAL CARE SERVICES, INCLUDING DIFFERENTIATING REQUIREMENTS  
10 FOR PROVIDERS THAT ARE SUBSTANTIALLY FUNDED THROUGH MEDICARE  
11 AND MEDICAID REIMBURSEMENT VERSUS THOSE THAT ARE SOLELY OR  
12 SUBSTANTIALLY PRIVATELY FUNDED. THIS DIFFERENTIATION MAY  
13 CONSIDER THE REQUIREMENTS ALREADY IMPOSED BY OTHER FEDERAL AND  
14 STATE REGULATORY AGENCIES. SUCH RULES SHALL INCLUDE BUT NEED  
15 NOT BE LIMITED TO THE FOLLOWING:

16 (a) INSPECTION OF HOME CARE AGENCIES BY THE DEPARTMENT OR  
17 ITS DESIGNATED REPRESENTATIVE;

18 (b) MINIMUM EDUCATIONAL, TRAINING, AND EXPERIENCE  
19 STANDARDS FOR THE ADMINISTRATOR AND STAFF OF AN AGENCY,  
20 INCLUDING A REQUIREMENT THAT SUCH PERSONS BE OF GOOD, MORAL,  
21 AND RESPONSIBLE CHARACTER;

22 (c) REQUIREMENTS FOR DISCLOSURE NOTICES TO BE PROVIDED BY  
23 HOME CARE AGENCIES AND HOME CARE PLACEMENT AGENCIES TO HOME  
24 CARE CONSUMERS CONCERNING THE DUTIES AND EMPLOYMENT STATUS OF  
25 THE INDIVIDUAL PROVIDING SERVICES;

26 (d) INTERMEDIATE ENFORCEMENT REMEDIES AS AUTHORIZED BY  
27 SECTION 25-27.5-108;

1 (e) A REQUIREMENT AND FORM FOR WRITTEN PLANS, TO BE  
2 SUBMITTED BY AGENCIES TO THE DEPARTMENT FOR APPROVAL, DETAILING  
3 THE MEASURES THAT WILL BE TAKEN TO CORRECT VIOLATIONS FOUND AS  
4 A RESULT OF INSPECTIONS;

5 (f) ESTABLISHING OCCURRENCE REPORTING REQUIREMENTS  
6 PURSUANT TO SECTION 25-1-124, C.R.S.; AND

7 (g) FEES FOR HOME CARE AGENCY LICENSURE, WHICH SHALL BE  
8 PAYABLE TO THE HOME CARE AGENCY CASH FUND. THE ANNUAL FEE  
9 SHALL INCLUDE A COMPONENT THAT REFLECTS WHETHER A SURVEY IS  
10 PLANNED FOR THE YEAR BASED ON THE AGENCY'S COMPLIANCE HISTORY.  
11 THE FEE SCHEDULE SHALL ALSO BE TIERED TO REFLECT THE DIFFERENCES  
12 IN TYPE AND VOLUME OF SERVICES OF VARIOUS HOME CARE AGENCIES,  
13 INCLUDING BUT NOT LIMITED TO THEIR VOLUME OF MEDICAID AND  
14 MEDICARE SERVICES. THE FEE SCHEDULE SHALL ALSO PROVIDE FOR  
15 REDUCED FEES FOR HOME CARE AGENCIES THAT ARE CERTIFIED PRIOR TO  
16 INITIAL LICENSE APPLICATION.

17 (2) THERE IS HEREBY ESTABLISHED A HOME CARE ADVISORY  
18 COMMITTEE WHICH SHALL MAKE RECOMMENDATIONS TO THE  
19 DEPARTMENT AND THE STATE BOARD OF HEALTH CONCERNING THE RULES  
20 PROMULGATED PURSUANT TO THIS ARTICLE AND IMPLEMENTATION OF THE  
21 LICENSING OF HOME CARE AGENCIES. THE HOME CARE ADVISORY  
22 COMMITTEE SHALL BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE  
23 DEPARTMENT. THE ADVISORY COMMITTEE SHALL, AT A MINIMUM, CONSIST  
24 OF REPRESENTATIVES FROM SKILLED HOME HEALTH SERVICE AGENCIES,  
25 PERSONAL CARE SERVICES AGENCIES, MEMBERS OF THE DISABLED  
26 COMMUNITY WHO ARE HOME CARE CONSUMERS, SENIORS WHO ARE HOME  
27 CARE CONSUMERS, PROVIDERS OF MEDICAID SERVICES, PROVIDERS OF

1 IN-HOME SUPPORT SERVICES, AND REPRESENTATIVES OF THE  
2 DEPARTMENTS OF HEALTH CARE POLICY AND FINANCING AND HUMAN  
3 SERVICES. MEMBERS OF THE ADVISORY COMMITTEE SHALL SERVE AT THE  
4 PLEASURE OF THE APPOINTING AUTHORITY ON A VOLUNTARY BASIS AND  
5 SHALL SERVE WITHOUT COMPENSATION.

6 **25-27.5-105. Home care agency cash fund created.** THE FEES  
7 COLLECTED PURSUANT TO SECTION 25-27.5-104 (1), PLUS ANY CIVIL  
8 PENALTY COLLECTED PURSUANT TO SECTION 25-27.5-103 (1) (b), SHALL  
9 BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE  
10 SAME TO THE HOME CARE AGENCY CASH FUND, WHICH FUND IS HEREBY  
11 CREATED. THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL  
12 APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND  
13 INDIRECT COSTS OF THE DEPARTMENT IN PERFORMING ITS DUTIES UNDER  
14 THIS ARTICLE. AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED AND  
15 UNENCUMBERED MONEYS IN THE FUND SHALL REMAIN IN THE FUND AND  
16 SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY  
17 OTHER FUND.

18 **25-27.5-106. License - application - inspection - issuance.**  
19 (1) AN APPLICATION FOR A LICENSE TO OPERATE A HOME CARE AGENCY  
20 SHALL BE SUBMITTED TO THE DEPARTMENT ANNUALLY UPON SUCH FORM  
21 AND IN SUCH MANNER AS PRESCRIBED BY THE DEPARTMENT.

22 (2) THE DEPARTMENT SHALL INVESTIGATE AND REVIEW EACH  
23 ORIGINAL APPLICATION AND EACH RENEWAL APPLICATION FOR A LICENSE.  
24 THE DEPARTMENT SHALL INSPECT OR CAUSE TO BE INSPECTED THE HOME  
25 CARE AGENCIES TO BE OPERATED BY AN APPLICANT IN ACCORDANCE WITH  
26 THE RULES ADOPTED PURSUANT TO SECTION 25-27.5-104 (1) (a) BEFORE  
27 A LICENSE IS ISSUED OR RENEWED. A CERTIFIED HOME CARE AGENCY THAT

1 APPLIES FOR A LICENSE BY JUNE 1, 2009, SHALL BE EXEMPT FROM  
2 LICENSURE INSPECTION PRIOR TO ISSUANCE OF THE INITIAL LICENSE. THE  
3 DEPARTMENT SHALL MAKE SUCH OTHER INSPECTIONS AS IT DEEMS  
4 NECESSARY TO ENSURE THAT THE HEALTH, SAFETY, AND WELFARE OF THE  
5 HOME CARE AGENCY PATIENTS ARE BEING PROTECTED. THE HOME CARE  
6 AGENCY SHALL SUBMIT IN WRITING, IN A FORM PRESCRIBED BY THE  
7 DEPARTMENT, A PLAN DETAILING THE MEASURES THAT WILL BE TAKEN TO  
8 CORRECT ANY VIOLATIONS FOUND BY THE DEPARTMENT AS A RESULT OF  
9 INSPECTIONS UNDERTAKEN PURSUANT TO THIS SUBSECTION (2).

10 (3) (a) WITH THE SUBMISSION OF AN APPLICATION FOR A LICENSE  
11 GRANTED PURSUANT TO THIS ARTICLE, EACH OWNER, APPLICANT, OR  
12 LICENSEE SHALL SUBMIT A COMPLETE SET OF HIS OR HER FINGERPRINTS TO  
13 THE DEPARTMENT. THE DEPARTMENT SHALL FORWARD SUCH  
14 FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE  
15 PURPOSE OF CONDUCTING A STATE AND NATIONAL FINGERPRINT-BASED  
16 CRIMINAL HISTORY RECORD CHECK UTILIZING THE RECORDS OF THE  
17 COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF  
18 INVESTIGATION. THE OWNER, APPLICANT, OR LICENSEE SHALL PAY THE  
19 COSTS ASSOCIATED WITH THE FINGERPRINT-BASED CRIMINAL HISTORY  
20 RECORD CHECK TO THE COLORADO BUREAU OF INVESTIGATION.

21 (b) THE INFORMATION SHALL BE USED BY THE DEPARTMENT IN  
22 ASCERTAINING WHETHER THE PERSON APPLYING FOR LICENSURE HAS BEEN  
23 CONVICTED OF A FELONY OR OF A MISDEMEANOR, WHICH FELONY OR  
24 MISDEMEANOR INVOLVES MORAL TURPITUDE OR INVOLVES CONDUCT THAT  
25 THE DEPARTMENT DETERMINES COULD POSE A RISK TO THE HEALTH,  
26 SAFETY, OR WELFARE OF PATIENTS OF THE HOME CARE AGENCY. THE  
27 DEPARTMENT SHALL MAINTAIN INFORMATION OBTAINED IN ACCORDANCE

1 WITH THIS SECTION.

2 (4) NO LICENSE SHALL BE ISSUED OR RENEWED BY THE  
3 DEPARTMENT IF THE OWNER, APPLICANT, OR LICENSEE OF THE HOME CARE  
4 AGENCY HAS BEEN CONVICTED OF A FELONY OR OF A MISDEMEANOR,  
5 WHICH FELONY OR MISDEMEANOR INVOLVES MORAL TURPITUDE OR  
6 INVOLVES CONDUCT THAT THE DEPARTMENT DETERMINES COULD POSE A  
7 RISK TO THE HEALTH, SAFETY, OR WELFARE OF THE PATIENTS OF THE HOME  
8 CARE AGENCY.

9 (5) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (6) AND (7)  
10 OF THIS SECTION, THE DEPARTMENT SHALL ISSUE OR RENEW A LICENSE  
11 WHEN IT IS SATISFIED THAT THE APPLICANT OR LICENSEE IS IN COMPLIANCE  
12 WITH THE REQUIREMENTS SET OUT IN THIS ARTICLE AND THE RULES  
13 PROMULGATED PURSUANT TO THIS ARTICLE. EXCEPT FOR PROVISIONAL  
14 LICENSES ISSUED IN ACCORDANCE WITH SUBSECTIONS (6) AND (7) OF THIS  
15 SECTION, A LICENSE ISSUED OR RENEWED PURSUANT TO THIS SECTION  
16 SHALL EXPIRE ONE YEAR AFTER THE DATE OF ISSUANCE OR RENEWAL.

17 (6) THE DEPARTMENT MAY ISSUE A PROVISIONAL LICENSE TO AN  
18 APPLICANT FOR THE PURPOSE OF OPERATING A HOME CARE AGENCY FOR A  
19 PERIOD OF NINETY DAYS IF THE APPLICANT IS TEMPORARILY UNABLE TO  
20 CONFORM TO ALL OF THE MINIMUM STANDARDS REQUIRED UNDER THIS  
21 ARTICLE; EXCEPT THAT NO LICENSE SHALL BE ISSUED TO AN APPLICANT IF  
22 THE OPERATION OF THE APPLICANT'S HOME CARE AGENCY WILL  
23 ADVERSELY AFFECT THE HEALTH, SAFETY, OR WELFARE OF THE PATIENTS  
24 OF SUCH HOME CARE AGENCY. AS A CONDITION OF OBTAINING A  
25 PROVISIONAL LICENSE, THE APPLICANT SHALL SHOW PROOF TO THE  
26 DEPARTMENT THAT ATTEMPTS ARE BEING MADE TO CONFORM AND  
27 COMPLY WITH APPLICABLE STANDARDS. NO PROVISIONAL LICENSE SHALL

1 BE GRANTED PRIOR TO THE COMPLETION OF A CRIMINAL BACKGROUND  
2 CHECK IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION AND A  
3 FINDING IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION. A  
4 SECOND PROVISIONAL LICENSE MAY BE ISSUED, FOR A LIKE TERM AND FEE,  
5 TO EFFECT COMPLIANCE. NO FURTHER PROVISIONAL LICENSES MAY BE  
6 ISSUED FOR THE CURRENT YEAR AFTER THE SECOND ISSUANCE.

7 (7) IF REQUESTED BY THE COLORADO DEPARTMENT OF HEALTH  
8 CARE POLICY AND FINANCING, THE DEPARTMENT MAY ISSUE A  
9 PROVISIONAL LICENSE FOR A PERIOD OF NINETY DAYS TO AN AGENCY THAT  
10 HAS APPLIED TO BE A CERTIFIED HOME CARE AGENCY AS DEFINED IN  
11 SECTION 25-27.5-102. A PROVISIONAL LICENSE SHALL NOT BE GRANTED  
12 PRIOR TO THE COMPLETION OF A FINGERPRINT-BASED CRIMINAL HISTORY  
13 RECORD CHECK IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION  
14 AND A FINDING IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION.  
15 A SECOND PROVISIONAL LICENSE MAY BE ISSUED, FOR A LIKE TERM AND  
16 FEE, TO EFFECT COMPLIANCE. NO FURTHER PROVISIONAL LICENSES MAY  
17 BE ISSUED FOR THE CURRENT YEAR AFTER THE SECOND ISSUANCE.

18 **25-27.5-107. Employee criminal history record check.** ON AND  
19 AFTER JUNE 1, 2009, PRIOR TO EMPLOYING ANY PERSON, THE HOME CARE  
20 AGENCY SHALL REQUIRE THE PERSON SEEKING EMPLOYMENT TO SUBMIT  
21 TO A CRIMINAL HISTORY RECORD CHECK. THE HOME CARE AGENCY OR THE  
22 PERSON SEEKING EMPLOYMENT WITH THE HOME CARE AGENCY SHALL PAY  
23 THE COSTS OF SUCH INQUIRY. THE CRIMINAL HISTORY RECORD CHECK  
24 SHALL BE CONDUCTED NOT MORE THAN NINETY DAYS PRIOR TO THE  
25 EMPLOYMENT OF THE APPLICANT.

26 **25-27.5-108. License denial - suspension - revocation.**  
27 (1) UPON DENIAL OF AN APPLICATION FOR AN ORIGINAL LICENSE, THE

1 DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING OF SUCH DENIAL  
2 BY MAILING A NOTICE TO THE APPLICANT AT THE ADDRESS SHOWN ON HIS  
3 OR HER APPLICATION. ANY APPLICANT BELIEVING HIMSELF OR HERSELF  
4 AGGRIEVED BY SUCH DENIAL MAY PURSUE THE REMEDY FOR REVIEW  
5 PROVIDED IN ARTICLE 4 OF TITLE 24, C.R.S., IF THE APPLICANT, WITHIN  
6 THIRTY DAYS AFTER RECEIVING SUCH NOTICE, PETITIONS THE  
7 DEPARTMENT TO SET A DATE AND PLACE FOR HEARING, AFFORDING THE  
8 APPLICANT AN OPPORTUNITY TO BE HEARD IN PERSON OR BY COUNSEL.  
9 ALL HEARINGS ON THE DENIAL OF ORIGINAL LICENSES SHALL BE  
10 CONDUCTED IN CONFORMITY WITH THE PROVISIONS AND PROCEDURES  
11 SPECIFIED IN ARTICLE 4 OF TITLE 24, C.R.S.

12 (2) (a) THE DEPARTMENT MAY SUSPEND, REVOKE, OR REFUSE TO  
13 RENEW THE LICENSE OF ANY HOME CARE AGENCY THAT IS OUT OF  
14 COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE OR THE RULES  
15 PROMULGATED PURSUANT TO THIS ARTICLE. SUCH SUSPENSION,  
16 REVOCATION, OR REFUSAL SHALL BE DONE AFTER A HEARING THEREON  
17 AND IN CONFORMANCE WITH THE PROVISIONS AND PROCEDURES SPECIFIED  
18 IN ARTICLE 4 OF TITLE 24, C.R.S.; EXCEPT THAT THE DEPARTMENT MAY  
19 IMPLEMENT A SUMMARY SUSPENSION PRIOR TO A HEARING IN  
20 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

21 (b) (I) THE DEPARTMENT MAY IMPOSE INTERMEDIATE  
22 RESTRICTIONS OR CONDITIONS ON A LICENSEE THAT MAY INCLUDE AT  
23 LEAST ONE OF THE FOLLOWING:

24 (A) RETAINING A CONSULTANT TO ADDRESS CORRECTIVE  
25 MEASURES;

26 (B) MONITORING BY THE DEPARTMENT FOR A SPECIFIC PERIOD;

27 (C) PROVIDING ADDITIONAL TRAINING TO EMPLOYEES, OWNERS,

1 OR OPERATORS OF THE HOME CARE AGENCY;

2 (D) COMPLYING WITH A DIRECTED WRITTEN PLAN TO CORRECT THE  
3 VIOLATION; OR

4 (E) PAYING A CIVIL FINE NOT TO EXCEED TEN THOUSAND DOLLARS  
5 PER CALENDAR YEAR FOR ALL VIOLATIONS.

6 (II) (A) IF THE DEPARTMENT IMPOSES AN INTERMEDIATE  
7 RESTRICTION OR CONDITION THAT IS NOT A RESULT OF A SERIOUS AND  
8 IMMEDIATE THREAT TO HEALTH OR WELFARE, THE LICENSEE SHALL  
9 RECEIVE WRITTEN NOTICE OF THE RESTRICTION OR CONDITION. NO LATER  
10 THAN TEN DAYS AFTER THE DATE THE NOTICE IS RECEIVED FROM THE  
11 DEPARTMENT, THE LICENSEE SHALL SUBMIT A WRITTEN PLAN THAT  
12 INCLUDES THE TIME FRAME FOR COMPLETING THE PLAN AND ADDRESSES  
13 THE RESTRICTION OR CONDITION SPECIFIED.

14 (B) IF THE DEPARTMENT IMPOSES AN INTERMEDIATE RESTRICTION  
15 OR CONDITION THAT IS THE RESULT OF A SERIOUS AND IMMEDIATE THREAT  
16 TO HEALTH, SAFETY, OR WELFARE, THE DEPARTMENT SHALL NOTIFY THE  
17 LICENSEE IN WRITING, BY TELEPHONE, OR IN PERSON DURING AN ON-SITE  
18 VISIT. THE LICENSEE SHALL REMEDY THE CIRCUMSTANCES CREATING  
19 HARM OR POTENTIAL HARM IMMEDIATELY UPON RECEIVING NOTICE OF THE  
20 RESTRICTION OR CONDITION. IF THE DEPARTMENT PROVIDES NOTICE OF A  
21 RESTRICTION OR CONDITION BY TELEPHONE OR IN PERSON, THE  
22 DEPARTMENT SHALL SEND WRITTEN CONFIRMATION OF THE RESTRICTION  
23 OR CONDITION TO THE LICENSEE WITHIN TWO BUSINESS DAYS.

24 (III) (A) AFTER SUBMISSION OF AN APPROVED WRITTEN PLAN, A  
25 LICENSEE MAY FIRST APPEAL ANY INTERMEDIATE RESTRICTION OR  
26 CONDITION ON ITS LICENSE TO THE DEPARTMENT THROUGH AN INFORMAL  
27 REVIEW PROCESS AS ESTABLISHED BY THE DEPARTMENT.

1 (B) IF THE RESTRICTION OR CONDITION REQUIRES PAYMENT OF A  
2 CIVIL FINE, THE LICENSEE MAY REQUEST AND THE DEPARTMENT SHALL  
3 GRANT A STAY IN PAYMENT OF THE FINE UNTIL FINAL DISPOSITION OF THE  
4 RESTRICTION OR CONDITION.

5 (C) IF A LICENSEE IS NOT SATISFIED WITH THE RESULT OF THE  
6 INFORMAL REVIEW OR CHOOSES NOT TO SEEK INFORMAL REVIEW, NO  
7 INTERMEDIATE RESTRICTION OR CONDITION ON THE LICENSEE SHALL BE  
8 IMPOSED UNTIL AFTER AN OPPORTUNITY FOR A HEARING HAS BEEN  
9 AFFORDED THE LICENSEE PURSUANT TO SECTION 24-4-105, C.R.S.

10 (IV) IF THE DEPARTMENT ASSESSES A CIVIL FINE PURSUANT TO  
11 THIS PARAGRAPH (b), MONEYS RECEIVED BY THE DEPARTMENT SHALL BE  
12 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME  
13 TO THE HOME CARE AGENCY CASH FUND CREATED IN SECTION  
14 25-27.5-105.

15 (V) CIVIL FINES COLLECTED PURSUANT TO THIS PARAGRAPH (b)  
16 SHALL BE USED FOR EXPENSES RELATED TO:

17 (A) CONTINUING MONITORING REQUIRED PURSUANT TO THIS  
18 PARAGRAPH (b);

19 (B) EDUCATION FOR LICENSEES TO AVOID RESTRICTIONS OR  
20 CONDITIONS OR FACILITATE THE APPLICATION PROCESS OR THE CHANGE OF  
21 OWNERSHIP PROCESS;

22 (C) EDUCATION FOR PATIENTS AND THEIR FAMILIES ABOUT  
23 RESOLVING PROBLEMS WITH A HOME CARE AGENCY, RIGHTS OF PATIENTS,  
24 AND RESPONSIBILITIES OF HOME CARE AGENCIES;

25 (D) PROVIDING TECHNICAL ASSISTANCE TO ANY HOME CARE  
26 AGENCY FOR THE PURPOSE OF COMPLYING WITH CHANGES IN RULES OR  
27 STATE OR FEDERAL LAW;

1 (E) MONITORING AND ASSISTING IN THE TRANSITION OF PATIENTS  
2 TO OTHER HOME CARE AGENCIES OR OTHER APPROPRIATE MEDICAL  
3 SERVICES; OR

4 (F) MAINTAINING THE OPERATION OF A HOME CARE AGENCY  
5 PENDING CORRECTION OF VIOLATIONS, AS DETERMINED NECESSARY BY  
6 THE DEPARTMENT.

7 (3) THE DEPARTMENT SHALL REVOKE OR REFUSE TO RENEW THE  
8 LICENSE OF A HOME CARE AGENCY WHERE THE OWNER OR LICENSEE HAS  
9 BEEN CONVICTED OF A FELONY OR MISDEMEANOR INVOLVING MORAL  
10 TURPITUDE OR INVOLVING CONDUCT THAT THE DEPARTMENT DETERMINES  
11 COULD POSE A RISK TO THE HEALTH, SAFETY, OR WELFARE OF THE  
12 PATIENTS OF SUCH HOME CARE AGENCY. SUCH REVOCATION OR REFUSAL  
13 SHALL BE MADE ONLY AFTER A HEARING IS PROVIDED IN ACCORDANCE  
14 WITH ARTICLE 4 OF TITLE 24, C.R.S.

15 **25-27.5-109. Enforcement.** THE DEPARTMENT IS RESPONSIBLE  
16 FOR THE ENFORCEMENT OF THIS ARTICLE AND THE RULES ADOPTED  
17 PURSUANT TO THIS ARTICLE.

18 **25-27.5-110. Repeal of article - sunset review.** (1) THIS  
19 ARTICLE IS REPEALED, EFFECTIVE JULY 1, 2014.

20 (2) PRIOR TO SUCH REPEAL, THE LICENSING OF HOME CARE  
21 AGENCIES SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104,  
22 C.R.S.

23 **SECTION 4.** 24-34-104 (45), Colorado Revised Statutes, is  
24 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25 **24-34-104. General assembly review of regulatory agencies**  
26 **and functions for termination, continuation, or reestablishment.**

27 (45) The following agencies, functions, or both shall terminate on July

1 1, 2014:

2 (f) THE LICENSING OF HOME CARE AGENCIES IN ACCORDANCE WITH  
3 ARTICLE 27.5 OF TITLE 25, C.R.S.

4 **SECTION 5. Effective date.** This act shall take effect at 12:01  
5 a.m. on the day following the expiration of the ninety-day period after  
6 final adjournment of the general assembly that is allowed for submitting  
7 a referendum petition pursuant to article V, section 1 (3) of the state  
8 constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008);  
9 except that, if a referendum petition is filed against this act or an item,  
10 section, or part of this act within such period, then the act, item, section,  
11 or part, if approved by the people, shall take effect on the date of the  
12 official declaration of the vote thereon by proclamation of the governor.