

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 08-0784.01 Kristen Forrestal

SENATE BILL 08-153

SENATE SPONSORSHIP

Boyd, Hagedorn, Morse, Tochtrop, and Williams

HOUSE SPONSORSHIP

Ferrandino, Gagliardi, Marostica, and McGihon

Senate Committees

Health and Human Services
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING LICENSURE OF HOME CARE AGENCIES BY THE**
102 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND**
103 **MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

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.

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.

SENATE
3rd Reading Unamended
March 24, 2008

SENATE
Amended 2nd Reading
March 20, 2008

Requires the department to promulgate rules that provide 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.

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:

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

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

27 **25-3-101. Hospitals - health facilities - licensed.** (1) It is

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

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

17 **ARTICLE 27.5**

18 **Home Care Agencies**

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

27 (2) THE GENERAL ASSEMBLY FURTHER FINDS THAT THE

1 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AS THE EXECUTIVE
2 BRANCH AGENCY ASSIGNED TO ADMINISTER AND ENFORCE MINIMUM
3 STANDARDS FOR HOME CARE AGENCIES, SHOULD EXPLORE WHETHER
4 RISK-BASED INSPECTIONS MAY BE IMPLEMENTED TO ALLOCATE RESOURCES
5 MORE EFFECTIVELY AND AT THE SAME TIME ADEQUATELY PROTECT THE
6 HEALTH AND SAFETY OF THE PATIENTS. RISK SHALL BE EVALUATED
7 BASED ON THE HOME CARE AGENCY'S COMPLIANCE HISTORY, QUALITY
8 PERFORMANCE MEASURES, AND OTHER RELEVANT FACTORS SET FORTH IN
9 RULES PROMULGATED BY THE STATE BOARD OF HEALTH.

10 (3) FURTHER, THE GENERAL ASSEMBLY DETERMINES AND
11 DECLARES THAT, IN ADMINISTERING AND ENFORCING STANDARDS FOR
12 HOME CARE AGENCIES, THE INSPECTIONS BY THE DEPARTMENT SHOULD
13 FOCUS ON PATIENT SAFETY AND OUTCOMES.

14 **25-27.5-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
15 CONTEXT OTHERWISE REQUIRES:

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

21 (2) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF
22 PUBLIC HEALTH AND ENVIRONMENT.

23 (3) (a) "HOME CARE AGENCY" MEANS ANY SOLE PROPRIETORSHIP,
24 PARTNERSHIP, ASSOCIATION, CORPORATION, GOVERNMENT OR
25 GOVERNMENTAL SUBDIVISION OR AGENCY SUBJECT TO THE RESTRICTIONS
26 IN SECTION 25-1.5-103 (1) (a) (II), NOT-FOR-PROFIT AGENCY, OR ANY
27 OTHER LEGAL OR COMMERCIAL ENTITY THAT MANAGES AND OFFERS,

1 DIRECTLY OR BY CONTRACT, SKILLED HOME HEALTH SERVICES OR
2 PERSONAL CARE SERVICES TO AN INDIVIDUAL IN THE INDIVIDUAL'S
3 TEMPORARY OR PERMANENT HOME OR PLACE OF RESIDENCE. A
4 RESIDENTIAL FACILITY THAT DELIVERS SKILLED HOME HEALTH OR
5 PERSONAL CARE SERVICES WHICH THE FACILITY IS NOT LICENSED TO
6 PROVIDE, SHALL EITHER BE LICENSED AS A HOME CARE AGENCY OR
7 REQUIRE THE SKILLED HOME HEALTH SERVICES TO BE DELIVERED BY A
8 LICENSED HOME CARE AGENCY.

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

10 (I) ORGANIZATIONS THAT PROVIDE ONLY HOUSEKEEPING
11 SERVICES;

12 (II) COMMUNITY AND RURAL HEALTH NETWORKS THAT FURNISH
13 HOME VISITS FOR THE PURPOSE OF PUBLIC HEALTH MONITORING AND
14 DISEASE TRACKING;

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

18 (IV) OUTPATIENT REHABILITATION AGENCIES AND
19 COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES CERTIFIED
20 PURSUANT TO TITLE XVIII OR XIX OF THE "SOCIAL SECURITY ACT", AS
21 AMENDED;

22 (V) CONSUMER-DIRECTED ATTENDANT PROGRAMS ADMINISTERED
23 BY THE COLORADO DEPARTMENT OF HEALTH CARE POLICY AND
24 FINANCING;

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

27 (VII) THE DELIVERY OF SKILLED HOME HEALTH OR PERSONAL

1 CARE SERVICES TO INDIVIDUALS BY ANY OTHER FACILITY LICENSED UNDER
2 THIS TITLE; OR

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

5 (4) "HOME CARE CONSUMER" MEANS A PERSON WHO RECEIVES
6 SKILLED HOME HEALTH SERVICES OR PERSONAL CARE SERVICES IN HIS OR
7 HER TEMPORARY OR PERMANENT HOME OR PLACE OF RESIDENCE FROM A
8 HOME CARE AGENCY OR HOME CARE PLACEMENT AGENCY.

9 (5) "HOME CARE PLACEMENT AGENCY" MEANS AN ORGANIZATION
10 THAT, FOR A FEE, PROVIDES ONLY REFERRALS OF PROVIDERS TO
11 INDIVIDUALS SEEKING SERVICES. A HOME CARE PLACEMENT AGENCY
12 DOES NOT PROVIDE SKILLED HOME HEALTH SERVICES OR PERSONAL CARE
13 SERVICES TO AN INDIVIDUAL IN THE INDIVIDUAL'S TEMPORARY OR
14 PERMANENT HOME OR PLACE OF RESIDENCE DIRECTLY OR BY CONTRACT.
15 SUCH ORGANIZATIONS SHALL FOLLOW THE REQUIREMENTS OF SECTION
16 25-27.5-103 (2).

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

1 (7) "SKILLED HOME HEALTH SERVICES" MEANS HEALTH AND
2 MEDICAL SERVICES FURNISHED TO AN INDIVIDUAL IN THE INDIVIDUAL'S
3 TEMPORARY OR PERMANENT HOME OR PLACE OF RESIDENCE THAT INCLUDE
4 WOUND CARE SERVICES; USE OF MEDICAL SUPPLIES INCLUDING DRUGS AND
5 BIOLOGICALS PRESCRIBED BY A PHYSICIAN; IN-HOME INFUSION SERVICES;
6 NURSING SERVICES; HOME HEALTH AIDE OR CERTIFIED NURSE AIDE
7 SERVICES THAT REQUIRE THE SUPERVISION OF A LICENSED OR CERTIFIED
8 HEALTH CARE PROFESSIONAL ACTING WITHIN THE SCOPE OF HIS OR HER
9 LICENSE OR CERTIFICATE; OCCUPATIONAL THERAPY; PHYSICAL THERAPY;
10 RESPIRATORY CARE SERVICES; DIETETICS AND NUTRITION COUNSELING
11 SERVICES; MEDICATION ADMINISTRATION; MEDICAL SOCIAL SERVICES; AND
12 SPEECH-LANGUAGE PATHOLOGY SERVICES. "SKILLED HOME HEALTH
13 SERVICES" DOES NOT INCLUDE THE DELIVERY OF EITHER DURABLE
14 MEDICAL EQUIPMENT OR MEDICAL SUPPLIES.

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

16 **25-27.5-103. License required - civil and criminal penalties.**

17 (1) ON OR AFTER JUNE 1, 2009, IT IS UNLAWFUL FOR ANY PERSON,
18 PARTNERSHIP, ASSOCIATION, OR CORPORATION TO CONDUCT OR MAINTAIN
19 A HOME CARE AGENCY THAT PROVIDES SKILLED HOME HEALTH SERVICES
20 WITHOUT HAVING SUBMITTED A COMPLETED APPLICATION FOR LICENSURE
21 AS A HOME CARE AGENCY TO THE DEPARTMENT. ON OR AFTER JANUARY
22 1, 2010, IT IS UNLAWFUL FOR ANY PERSON, PARTNERSHIP, ASSOCIATION,
23 OR CORPORATION TO CONDUCT OR MAINTAIN A HOME CARE AGENCY THAT
24 PROVIDES SKILLED HOME HEALTH SERVICES WITHOUT HAVING OBTAINED
25 A LICENSE THEREFOR FROM THE DEPARTMENT. ON OR AFTER JANUARY 1,
26 2010, IT IS 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
2 SUBMITTED A COMPLETED APPLICATION FOR LICENSURE AS A HOME CARE
3 AGENCY TO THE DEPARTMENT. ON OR AFTER JANUARY 1, 2011, IT IS
4 UNLAWFUL FOR ANY PERSON, PARTNERSHIP, ASSOCIATION, OR
5 CORPORATION TO CONDUCT OR MAINTAIN A HOME CARE AGENCY THAT
6 PROVIDES IN-HOME PERSONAL CARE SERVICES WITHOUT HAVING OBTAINED
7 A LICENSE THEREFOR FROM THE DEPARTMENT. ANY PERSON WHO
8 VIOLATES THIS PROVISION:

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

12 (b) MAY BE SUBJECT TO A CIVIL PENALTY ASSESSED BY THE
13 DEPARTMENT OF TEN THOUSAND DOLLARS FOR EACH VIOLATION OF THIS
14 SECTION. THE DEPARTMENT SHALL ASSESS, ENFORCE, AND COLLECT THE
15 PENALTY IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., FOR
16 CREDIT TO THE HOME CARE AGENCY CASH FUND CREATED IN SECTION
17 25-27.5-105. ENFORCEMENT AND COLLECTION OF THE PENALTY SHALL
18 OCCUR FOLLOWING THE DECISION REACHED IN ACCORDANCE WITH
19 PROCEDURES SET FORTH IN SECTION 24-4-105, C.R.S.

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

26 (b) A PERSON WHO VIOLATES THIS SECTION MAY BE SUBJECT TO A
27 CIVIL PENALTY ASSESSED BY THE DEPARTMENT THAT IS NOT LESS THAN

1 FIVE HUNDRED DOLLARS OR MORE THAN ONE THOUSAND DOLLARS FOR
2 FAILURE TO REGISTER WITH THE DEPARTMENT. THE DEPARTMENT SHALL
3 ASSESS, ENFORCE, AND COLLECT THE PENALTY IN ACCORDANCE WITH
4 ARTICLE 4 OF TITLE 24, C.R.S. ANY MONEYS COLLECTED SHALL BE
5 DEPOSITED IN THE HOME CARE AGENCY CASH FUND CREATED IN SECTION
6 25-27.5-105.

7 **25-27.5-104. Minimum standards for home care agencies -**
8 **rules.** (1) ON OR BEFORE MAY 1, 2009, THE STATE BOARD SHALL
9 PROMULGATE RULES PURSUANT TO SECTION 24-4-103, C.R.S., PROVIDING
10 MINIMUM STANDARDS FOR THE OPERATION OF HOME CARE AGENCIES
11 WITHIN THE STATE OF COLORADO. IN PROMULGATING THESE RULES, THE
12 STATE BOARD SHALL CONSIDER THE DIFFERENT REQUIREMENTS
13 APPROPRIATE TO THE VARIOUS TYPES OF SKILLED HOME HEALTH AND
14 PERSONAL CARE SERVICES, INCLUDING DIFFERENTIATING REQUIREMENTS
15 FOR PROVIDERS THAT ARE SUBSTANTIALLY FUNDED THROUGH MEDICARE
16 AND MEDICAID REIMBURSEMENT, PROVIDERS FOR THE PROGRAM OF
17 ALL-INCLUSIVE CARE FOR THE ELDERLY ESTABLISHED IN SECTION
18 25.5-5-412, PROVIDERS THAT ARE ALREADY LICENSED UNDER THIS TITLE,
19 AND PROVIDERS THAT ARE SOLELY OR SUBSTANTIALLY PRIVATELY
20 FUNDED. THIS DIFFERENTIATION MAY CONSIDER THE REQUIREMENTS
21 ALREADY IMPOSED BY OTHER FEDERAL AND STATE REGULATORY
22 AGENCIES. SUCH RULES SHALL INCLUDE BUT NEED NOT BE LIMITED TO THE
23 FOLLOWING:

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

26 (b) MINIMUM EDUCATIONAL, TRAINING, AND EXPERIENCE
27 STANDARDS FOR THE ADMINISTRATOR AND STAFF OF AN AGENCY,

1 INCLUDING A REQUIREMENT THAT SUCH PERSONS BE OF GOOD, MORAL,
2 AND RESPONSIBLE CHARACTER;

3 (c) REQUIREMENTS FOR DISCLOSURE NOTICES TO BE PROVIDED BY
4 HOME CARE AGENCIES AND HOME CARE PLACEMENT AGENCIES TO HOME
5 CARE CONSUMERS CONCERNING THE DUTIES AND EMPLOYMENT STATUS OF
6 THE INDIVIDUAL PROVIDING SERVICES;

7 (d) INTERMEDIATE ENFORCEMENT REMEDIES AS AUTHORIZED BY
8 SECTION 25-27.5-108;

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

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

15 (g) FEES FOR HOME CARE AGENCY LICENSURE, WHICH SHALL NOT
16 EXCEED ONE THOUSAND FIVE HUNDRED DOLLARS PER YEAR FOR TWO
17 YEARS FROM THE EFFECTIVE DATE OF FEES ESTABLISHED BY RULE FOR
18 HOME CARE AGENCIES THAT ARE CERTIFIED PROVIDERS THROUGH THE
19 FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES OR THE
20 COLORADO DEPARTMENT OF HEALTH CARE POLICY AND FINANCING. HOME
21 CARE AGENCY FEES SHALL BE PAYABLE TO THE HOME CARE AGENCY CASH
22 FUND. THE ANNUAL FEE SHALL INCLUDE A COMPONENT THAT REFLECTS
23 WHETHER A SURVEY IS PLANNED FOR THE YEAR BASED ON THE AGENCY'S
24 COMPLIANCE HISTORY. THE FEE SCHEDULE SHALL ALSO BE TIERED TO
25 REFLECT THE DIFFERENCES IN TYPE AND VOLUME OF SERVICES OF VARIOUS
26 HOME CARE AGENCIES, INCLUDING BUT NOT LIMITED TO THEIR VOLUME OF
27 MEDICAID AND MEDICARE SERVICES. THE FEE SCHEDULE SHALL ALSO

1 PROVIDE FOR REDUCED FEES FOR HOME CARE AGENCIES THAT ARE
2 CERTIFIED PRIOR TO INITIAL LICENSE APPLICATION. THE DEPARTMENT OF
3 PUBLIC HEALTH AND ENVIRONMENT SHALL NOT CHARGE A DUPLICATE FEE
4 FOR SURVEY WORK CONDUCTED PURSUANT TO ITS ROLE AS STATE SURVEY
5 AGENCY FOR THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID
6 SERVICES OR THE COLORADO DEPARTMENT OF HEALTH CARE POLICY AND
7 FINANCING. NO LATER THAN JANUARY 1, 2011, THE DEPARTMENT OF
8 PUBLIC HEALTH AND ENVIRONMENT SHALL ISSUE AN INDEPENDENT REPORT
9 DETAILING THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE
10 ADMINISTRATION OF HOME CARE AGENCY LICENSURE.

11 (h) REQUIREMENTS FOR ALL HOME CARE AGENCIES TO PROVIDE
12 EVIDENCE OF AND MAINTAIN EITHER COMMERCIAL PROFESSIONAL
13 LIABILITY INSURANCE COVERAGE OR A SURETY BOND IN LIEU OF
14 COMMERCIAL PROFESSIONAL LIABILITY INSURANCE COVERAGE, IN
15 AMOUNTS SET THROUGH RULES OF THE STATE BOARD.

16 (2) RULES PROMULGATED BY THE STATE BOARD ARE SUBJECT TO
17 JUDICIAL REVIEW IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION
18 24-4-106, C.R.S.

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

1 COMMUNITY WHO ARE HOME CARE CONSUMERS, SENIORS WHO ARE HOME
2 CARE CONSUMERS OR WHO REPRESENT SENIORS, PROVIDERS OF MEDICAID
3 SERVICES, PROVIDERS OF IN-HOME SUPPORT SERVICES, AND
4 REPRESENTATIVES OF THE DEPARTMENTS OF HEALTH CARE POLICY AND
5 FINANCING AND HUMAN SERVICES. MEMBERS OF THE ADVISORY
6 COMMITTEE SHALL SERVE AT THE PLEASURE OF THE APPOINTING
7 AUTHORITY ON A VOLUNTARY BASIS AND SHALL SERVE WITHOUT
8 COMPENSATION.

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

21 **25-27.5-106. License - application - inspection - issuance.**

22 (1) AN APPLICATION FOR A LICENSE TO OPERATE A HOME CARE AGENCY
23 SHALL BE SUBMITTED TO THE DEPARTMENT ANNUALLY UPON SUCH FORM
24 AND IN SUCH MANNER AS PRESCRIBED BY THE DEPARTMENT.

25 (2) THE DEPARTMENT SHALL INVESTIGATE AND REVIEW EACH
26 ORIGINAL APPLICATION AND EACH RENEWAL APPLICATION FOR A LICENSE.
27 THE DEPARTMENT SHALL DETERMINE AN APPLICANT'S COMPLIANCE WITH

1 THE RULES ADOPTED PURSUANT TO SECTION 25-27.5-104 BEFORE A
2 LICENSE IS ISSUED OR RENEWED. A CERTIFIED HOME CARE AGENCY THAT
3 APPLIES FOR A LICENSE BY JUNE 1, 2009, SHALL BE EXEMPT FROM
4 LICENSURE INSPECTION PRIOR TO ISSUANCE OF THE INITIAL LICENSE. THE
5 DEPARTMENT SHALL MAKE SUCH INSPECTIONS AS IT DEEMS NECESSARY
6 TO ENSURE THAT THE HEALTH, SAFETY, AND WELFARE OF THE HOME CARE
7 AGENCY PATIENTS ARE BEING PROTECTED. THE HOME CARE AGENCY
8 SHALL SUBMIT IN WRITING, IN A FORM PRESCRIBED BY THE DEPARTMENT,
9 A PLAN DETAILING THE MEASURES THAT WILL BE TAKEN TO CORRECT ANY
10 VIOLATIONS FOUND BY THE DEPARTMENT AS A RESULT OF INSPECTIONS
11 UNDERTAKEN PURSUANT TO THIS SUBSECTION (2).

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

23 (b) THE INFORMATION SHALL BE USED BY THE DEPARTMENT IN
24 ASCERTAINING WHETHER THE PERSON APPLYING FOR LICENSURE HAS BEEN
25 CONVICTED OF A FELONY OR OF A MISDEMEANOR, WHICH FELONY OR
26 MISDEMEANOR INVOLVES MORAL TURPITUDE OR INVOLVES CONDUCT THAT
27 THE DEPARTMENT DETERMINES COULD POSE A RISK TO THE HEALTH,

1 SAFETY, OR WELFARE OF PATIENTS OF THE HOME CARE AGENCY. THE
2 DEPARTMENT SHALL MAINTAIN INFORMATION OBTAINED IN ACCORDANCE
3 WITH THIS SECTION.

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

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

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

1 DEPARTMENT THAT ATTEMPTS ARE BEING MADE TO CONFORM AND
2 COMPLY WITH APPLICABLE STANDARDS. NO PROVISIONAL LICENSE SHALL
3 BE GRANTED PRIOR TO THE COMPLETION OF A CRIMINAL BACKGROUND
4 CHECK IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION AND A
5 FINDING IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION. A
6 SECOND PROVISIONAL LICENSE MAY BE ISSUED, FOR A LIKE TERM AND FEE,
7 TO EFFECT COMPLIANCE. NO FURTHER PROVISIONAL LICENSES MAY BE
8 ISSUED FOR THE CURRENT YEAR AFTER THE SECOND ISSUANCE.

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

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

1 OF THE APPLICANT.

2 **25-27.5-108. License denial - suspension - revocation.**

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

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

24 (b) (I) THE DEPARTMENT MAY IMPOSE INTERMEDIATE
25 RESTRICTIONS OR CONDITIONS ON A LICENSEE THAT MAY INCLUDE AT
26 LEAST ONE OF THE FOLLOWING:

27 (A) RETAINING A CONSULTANT TO ADDRESS CORRECTIVE

1 MEASURES;

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

3 (C) PROVIDING ADDITIONAL TRAINING TO EMPLOYEES, OWNERS,
4 OR OPERATORS OF THE HOME CARE AGENCY;

5 (D) COMPLYING WITH A DIRECTED WRITTEN PLAN TO CORRECT THE
6 VIOLATION; OR

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

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

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

27 (III) (A) AFTER SUBMISSION OF AN APPROVED WRITTEN PLAN, A

1 LICENSEE MAY FIRST APPEAL ANY INTERMEDIATE RESTRICTION OR
2 CONDITION ON ITS LICENSE TO THE DEPARTMENT THROUGH AN INFORMAL
3 REVIEW PROCESS AS ESTABLISHED BY THE DEPARTMENT.

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

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

13 (IV) IF THE DEPARTMENT ASSESSES A CIVIL FINE PURSUANT TO
14 THIS PARAGRAPH (b), MONEYS RECEIVED BY THE DEPARTMENT SHALL BE
15 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
16 TO THE HOME CARE AGENCY CASH FUND CREATED IN SECTION
17 25-27.5-105.

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

20 (A) CONTINUING MONITORING REQUIRED PURSUANT TO THIS
21 PARAGRAPH (b);

22 (B) EDUCATION FOR LICENSEES TO AVOID RESTRICTIONS OR
23 CONDITIONS OR FACILITATE THE APPLICATION PROCESS OR THE CHANGE OF
24 OWNERSHIP PROCESS;

25 (C) EDUCATION FOR PATIENTS AND THEIR FAMILIES ABOUT
26 RESOLVING PROBLEMS WITH A HOME CARE AGENCY, RIGHTS OF PATIENTS,
27 AND RESPONSIBILITIES OF HOME CARE AGENCIES;

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

4 (E) MONITORING AND ASSISTING IN THE TRANSITION OF PATIENTS
5 TO OTHER HOME CARE AGENCIES, WHEN THE TRANSITION IS A RESULT OF
6 THE REVOCATION OF A LICENSE, OR OTHER APPROPRIATE MEDICAL
7 SERVICES; OR

8 (F) MAINTAINING THE OPERATION OF A HOME CARE AGENCY
9 PENDING CORRECTION OF VIOLATIONS, AS DETERMINED NECESSARY BY
10 THE DEPARTMENT.

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

19 **25-27.5-109. Enforcement.** THE DEPARTMENT IS RESPONSIBLE
20 FOR THE ENFORCEMENT OF THIS ARTICLE AND THE RULES ADOPTED
21 PURSUANT TO THIS ARTICLE.

22 **25-27.5-110. Repeal of article - sunset review.** (1) THIS
23 ARTICLE IS REPEALED, EFFECTIVE JULY 1, 2014.

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

27 **SECTION 4.** 24-34-104 (45), Colorado Revised Statutes, is

1 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2 **24-34-104. General assembly review of regulatory agencies**
3 **and functions for termination, continuation, or reestablishment.**

4 (45) The following agencies, functions, or both shall terminate on July
5 1, 2014:

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

8 **SECTION 5. Appropriation.** (1) In addition to any other
9 appropriation, there is hereby appropriated, out of any moneys in the
10 home care agency cash fund created in section 25-27.5-105, Colorado
11 Revised Statutes, not otherwise appropriated, to the department of public
12 health and environment, for the fiscal year beginning July 1, 2008, the
13 sum of one hundred eighty-four thousand three hundred eighty-nine
14 dollars (\$184,389) cash funds, and 2.9 FTE, or so much thereof as may
15 be necessary, for the implementation of this act. Of said sum, two
16 thousand eight hundred eighty-one dollars (\$2,881) shall be allocated to
17 administration and support for the purchase of legal services from the
18 department of law and one hundred eighty-one thousand five hundred
19 eight dollars (\$181,508) and 2.9 FTE shall be allocated to the health
20 facilities and emergency medical services division.

21 (2) In addition to any other appropriation, there is hereby
22 appropriated, to the department of law, for the fiscal year beginning July
23 1, 2008, the sum of two thousand eight hundred eighty-one dollars
24 (\$2,881) or so much thereof as may be necessary, for the provision of
25 legal services to the department of public health and environment related
26 to the implementation of this act. Said sum shall be from reappropriated
27 funds received from the department of public health and environment,

1 executive director's office out of the appropriation for legal services in
2 subsection 1 of this section.

3 (3) In addition to any other appropriation, there is hereby
4 appropriated, to the department of public safety, Colorado bureau of
5 investigation, for the fiscal year beginning July 1, 2008, the sum of
6 eighteen thousand one hundred seventy dollars (\$18,170), or so much
7 thereof as may be necessary, for fingerprint processing services related to
8 the implementation of this act. Of this sum, ten thousand two hundred
9 thirty-five dollars (\$10,235) shall be cash funds from fingerprint and
10 name check processing fees collected by the department, and seven
11 thousand nine hundred thirty-five dollars (\$7,935) shall be cash funds
12 from fingerprint and name check processing fees collected by the
13 department for transmittal to the federal bureau of investigation.

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