

HB1360_L.001

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Public Health Care & Human Services.HB14-1360 be amended as follows:

1 Amend printed bill, page 3, line 1, strike "(3) (b) (VIII) and (3) (b) (IX);"
2 and substitute "(1.5), (3) (b) (VIII), (3) (b) (IX), and (6.7);".

3 Page 3, after line 7 insert:

4 "(1.5) "Community-centered board" ~~has the meaning set forth~~
5 MEANS A COMMUNITY-CENTERED BOARD, AS DEFINED in section
6 25.5-10-202, C.R.S., THAT IS DESIGNATED PURSUANT TO SECTION
7 25.5-10-209, C.R.S., BY THE DEPARTMENT OF HEALTH CARE POLICY AND
8 FINANCING."

9 Page 4, after line 13 insert:

10 "(6.7) "Service agency" ~~has the meaning set forth~~ MEANS A
11 SERVICE AGENCY, AS DEFINED in section 25.5-10-202, C.R.S., THAT HAS
12 RECEIVED PROGRAM APPROVAL FROM THE DEPARTMENT OF HEALTH CARE
13 POLICY AND FINANCING AS A DEVELOPMENTAL DISABILITIES SERVICE
14 AGENCY UNDER RULES PROMULGATED BY THE MEDICAL SERVICES BOARD
15 AND IS PROVIDING SERVICES PURSUANT TO THE SUPPORTED LIVING
16 SERVICES WAIVER OR THE CHILDREN'S EXTENSIVE SUPPORT WAIVER OF THE
17 HOME- AND COMMUNITY-BASED SERVICES WAIVERS ADMINISTERED BY
18 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING UNDER PART
19 4 OF ARTICLE 6 OF TITLE 25.5, C.R.S.

20 **SECTION 2.** In Colorado Revised Statutes, 25-27.5-103, **amend**
21 (1.5) as follows:

22 **25-27.5-103. License required - civil and criminal penalties.**
23 (1.5) (a) ~~Notwithstanding any provision of law to the contrary, by March~~
24 ~~1, 2011, the following providers of skilled home health services or~~
25 ~~in-home personal care services shall apply for licensure as a home care~~
26 ~~agency to the department:~~

27 ~~(f) Community-centered boards designated pursuant to section~~
28 ~~25.5-10-209, C.R.S., and~~

29 ~~(ff) Service agencies that have received program approval from~~
30 ~~the department of human services as a developmental disabilities service~~
31 ~~agency under rules promulgated by the department of human services that~~
32 ~~are providing services pursuant to the supported living services waiver or~~
33 ~~the children's extensive support waiver of the home- and~~
34 ~~community-based services waivers administered by the department of~~



1 ~~health care policy and financing and the department of human services~~
2 ~~under part 4 of article 6 of title 25.5, C.R.S.~~
3 ~~(b) On or after September 1, 2011, It is unlawful for any~~
4 ~~community-centered A COMMUNITY-CENTERED board that is directly~~
5 ~~providing home care services or any A service agency as described in~~
6 ~~paragraph (a) of this subsection (1.5); to conduct or maintain a home care~~
7 ~~agency that provides skilled home health services or in-home personal~~
8 ~~care services without having obtained a license therefor from the~~
9 ~~department. Any person who violates this provision SUBSECTION (1.5) is~~
10 ~~guilty of a misdemeanor and is subject to the civil and criminal penalties~~
11 ~~described in paragraphs (a) and (b) of subsection (1) of this section.~~
12 ~~Nothing in this section relieves an entity that contracts or arranges with~~
13 ~~a community-centered COMMUNITY-CENTERED board or service agency~~
14 ~~and that meets the definition of a "home care agency" under section~~
15 ~~25-27.5-102, from the entity's obligation to apply for and operate under~~
16 ~~a license in accordance with this article."~~

17 Renumber succeeding sections accordingly.

18 Page 4, line 15, strike "portion;" and substitute "portion and (1) (g);".

19 Page 5, after line 12 insert:

20 "(g) (I) Fees for home care agency licensure, which shall not
21 CANNOT exceed one thousand five hundred dollars per year for two years
22 from AFTER the effective date of fees established by rule for home care
23 agencies that are certified providers through the federal centers for
24 medicare and medicaid services or the Colorado department of health care
25 policy and financing. Home care agency fees shall be ARE payable to the
26 home care agency cash fund. The annual fee shall MUST include a
27 component that reflects whether a survey is planned for the year based on
28 the agency's compliance history. The STATE BOARD SHALL ESTABLISH A
29 TIERED fee schedule shall also be tiered to reflect the differences in type
30 and volume of services of various home care agencies, including but not
31 limited to their volume of medicaid and medicare services, The fee
32 schedule shall also provide AND THAT ALLOWS for reduced fees for home
33 care agencies that are certified prior to initial license application. The
34 department of public health and environment shall not charge a duplicate
35 fee for survey work conducted pursuant to its role as state survey agency
36 for the federal centers for medicare and medicaid services or the Colorado
37 department of health care policy and financing. No later than January 1;



1 2011, the department of public health and environment shall issue an
2 independent report detailing the direct and indirect costs associated with
3 the administration of home care agency licensure.

4 (II) WITH REGARD TO HOME CARE LICENSURE FEES, IN ADDITION
5 TO THE REQUIREMENTS IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (g), THE
6 STATE BOARD SHALL DEVELOP A METHODOLOGY FOR ESTABLISHING
7 DIFFERENTIATING FEES FOR LICENSURE OF COMMUNITY-CENTERED BOARDS
8 AND SERVICES AGENCIES, CONSIDERING THE SCOPE OF SERVICES PROVIDED
9 UNDER LICENSURE. NOTWITHSTANDING SECTION 25-3-105 (1) (a) (I) (B),
10 THE STATE BOARD MAY SET AND ADJUST LICENSURE FEES FOR
11 COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES AS
12 APPROPRIATE."

13 Page 7, strike line 13 and substitute "(2) (a) and (3) (a); and **add** (2) (a.5)
14 and (8) as follows:".

15 Page 7, line 14, strike "issuance." and substitute "issuance - repeal."

16 Page 7, strike line 15 and substitute "(2) (a) (I) The department shall
17 investigate and review each original application and each renewal
18 application for a license. The department shall determine an applicant's
19 compliance with the rules adopted pursuant to section 25-27.5-104 before
20 a license is issued or renewed. A certified home care agency that applies
21 for a license by June 1, 2009, shall be IS exempt from licensure inspection
22 prior to issuance of the initial license.

23 (II) EXCEPT AS PROVIDED IN PARAGRAPH (a.5) OF THIS SUBSECTION
24 (2), the department shall make such inspections as it deems necessary to
25 ensure that the health, safety, and welfare of the home care agency's home
26 care consumers are being protected. Inspections of a home care
27 consumer's home shall be ARE subject to the consent of the home care
28 consumer to access the property. The home care agency shall submit in
29 writing, in a form prescribed by the department, a plan detailing the
30 measures that will be taken to correct any violations found by the
31 department as a result of inspections undertaken pursuant to this
32 subsection (2).

33 (a.5) (I) (A) ON OR AFTER JULY 1, 2014, A COMMUNITY-CENTERED
34 BOARD OR SERVICE AGENCY THAT HAS BEEN CERTIFIED OR RECERTIFIED BY
35 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING WITHIN THE
36 LAST TWELVE MONTHS AND THAT IS CURRENTLY IN COMPLIANCE WITH
37 CERTIFICATION REQUIREMENTS MAY APPLY FOR AND OBTAIN AN INITIAL
38 HOME CARE AGENCY LICENSE TO PROVIDE IN-HOME PERSONAL CARE



1 SERVICES IF THE COMMUNITY-CENTERED BOARD OR SERVICE AGENCY
2 SATISFIES THE REQUIREMENTS FOR HOME CARE AGENCY LICENSURE
3 ADOPTED BY THE STATE BOARD THAT EXCEED OR DIFFER FROM THE
4 REQUIREMENTS FOR CERTIFICATION APPLICABLE TO
5 COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES THAT RELATE TO
6 PROTECTING THE HEALTH, SAFETY, OR WELFARE OF HOME CARE
7 CONSUMERS.

8 (B) BETWEEN JULY 1, 2014, AND JULY 1, 2016, THE DEPARTMENT
9 SHALL NOT CONDUCT INSPECTIONS IN CONNECTION WITH A LICENSE
10 RENEWAL APPLICATION SUBMITTED BY A COMMUNITY-CENTERED BOARD
11 OR SERVICE AGENCY THAT PROVIDES IN-HOME PERSONAL CARE SERVICES
12 EXCLUSIVELY TO CONSUMERS WHO ARE RECIPIENTS OF SERVICES
13 PURSUANT TO THE SUPPORTED LIVING SERVICES WAIVER OR THE
14 CHILDREN'S EXTENSIVE SUPPORT WAIVER OF THE HOME- AND
15 COMMUNITY-BASED SERVICES WAIVERS ADMINISTERED BY THE
16 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING. DURING THIS
17 PERIOD, COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES WHO ARE
18 LICENSED HOME CARE AGENCIES SHALL COMPLY WITH THE
19 DEVELOPMENTAL DISABILITIES SERVICES RULES ADOPTED BY THE MEDICAL
20 SERVICES BOARD. THE DEPARTMENTS OF PUBLIC HEALTH AND
21 ENVIRONMENT AND HEALTH CARE POLICY AND FINANCING MAY SHARE
22 INFORMATION REGARDING COMMUNITY-CENTERED BOARDS AND SERVICE
23 AGENCIES AND THEIR COMPLIANCE WITH THE APPLICABLE RULES.

24 (C) AT THE TIME A COMMUNITY-CENTERED BOARD OR SERVICE
25 AGENCY COMMENCES IN-HOME PERSONAL CARE SERVICES FOR A RECIPIENT
26 OF THE SERVICES PROVIDED PURSUANT TO THE SUPPORTED LIVING
27 SERVICES WAIVER OR THE CHILDREN'S EXTENSIVE SUPPORT WAIVER OF THE
28 HOME- AND COMMUNITY-BASED SERVICES WAIVERS ADMINISTERED BY
29 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, THE
30 COMMUNITY-CENTERED BOARD OR SERVICE AGENCY SHALL GIVE THE
31 SERVICES RECIPIENT THE DEPARTMENT'S CONTACT INFORMATION IN
32 WRITING TO ALLOW THE RECIPIENT TO REPORT ANY COMPLAINTS THAT
33 MAY ARISE OUT OF THE RECIPIENT'S IN-HOME PERSONAL CARE SERVICES.
34 THE DEPARTMENT SHALL UNDERTAKE ANY INVESTIGATION ARISING FROM
35 THE COMPLAINT, OTHER THAN ALLEGATIONS OF MATTERS THAT ARE
36 OUTSIDE THE DEPARTMENT'S LICENSING AUTHORITY.

37 (II) (A) DURING THE PERIOD DESCRIBED IN SUB-SUBPARAGRAPH
38 (B) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a.5), THE DEPARTMENT
39 SHALL ESTABLISH A WORK GROUP COMPOSED OF REPRESENTATIVES FROM
40 OR OF: THE DEPARTMENT; THE DEPARTMENT OF HEALTH CARE POLICY
41 AND FINANCING; COMMUNITY-CENTERED BOARDS; SERVICE AGENCIES;

1 AND RECIPIENTS OF SUPPORTED LIVING SERVICES OR CHILDREN'S
2 EXTENSIVE SUPPORT UNDER THE HOME- AND COMMUNITY-BASED SERVICES
3 WAIVERS ADMINISTERED BY THE DEPARTMENT OF HEALTH CARE POLICY
4 AND FINANCING. THE WORK GROUP SHALL: EXAMINE THE
5 DEVELOPMENTAL DISABILITIES SERVICES RULES ADOPTED BY THE MEDICAL
6 SERVICES BOARD TO DETERMINE IF THE RULES CONTAIN SUFFICIENT
7 SAFEGUARDS TO PROTECT THE HEALTH, SAFETY, AND RIGHTS OF THE
8 SERVICE RECIPIENTS; IDENTIFY GAPS OR CONFLICTS BETWEEN THE LICENSE
9 REQUIREMENTS UNDER THIS ARTICLE AND RULES ADOPTED BY THE STATE
10 BOARD UNDER THIS ARTICLE AND THE REQUIREMENTS FOR STATE
11 CERTIFICATION AS A PROVIDER OF SERVICES UNDER THE SUPPORTED
12 LIVING SERVICES WAIVER OR THE CHILDREN'S EXTENSIVE SUPPORT WAIVER
13 OF THE HOME- AND COMMUNITY-BASED SERVICES WAIVERS IMPOSED BY
14 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND RULES
15 ADOPTED BY THE MEDICAL SERVICES BOARD; AND DEVELOP A PLAN TO
16 ELIMINATE CONFLICTS AND GAPS BETWEEN THE REQUIREMENTS OF THE
17 DEPARTMENTS AND BOARDS. THE WORK GROUP SHALL REQUEST SERVICE
18 PROVIDERS TO PROVIDE A COMPREHENSIVE LIST OF THE GAPS OR
19 CONFLICTS IN THE REQUIREMENTS IMPOSED BY EACH DEPARTMENT AND
20 BOARD OR SHALL SURVEY PROVIDERS TO ASCERTAIN ANY GAPS AND
21 CONFLICTS IN THE REQUIREMENTS. THE SERVICE PROVIDERS SHALL
22 PROVIDE THE COMPREHENSIVE LIST OR RESPOND TO THE SURVEY BY
23 SEPTEMBER 1, 2014.

24 (B) ONCE THE DEPARTMENT HAS A COMPREHENSIVE LIST OF
25 CONFLICTING REQUIREMENTS AND GAPS IN THE REQUIREMENTS, THE WORK
26 GROUP SHALL ANALYZE THE INFORMATION AND DEVELOP A PLAN FOR
27 RESOLVING THE CONFLICTS AND ADDRESSING GAPS IN THE REQUIREMENTS.
28 BY SEPTEMBER 1, 2015, THE WORK GROUP SHALL SUBMIT ITS
29 RECOMMENDATIONS FOR RESOLVING THE CONFLICTS AND GAPS IN THE
30 REQUIREMENTS, INCLUDING PROPOSED RULE CHANGES OR ADDITIONS, TO
31 THE STATE BOARD AND THE MEDICAL SERVICES BOARD. THE
32 RECOMMENDATIONS MUST SPECIFY THE PARTICULAR RULES OF EACH
33 BOARD THAT NEED TO BE MODIFIED OR ADDED TO RESOLVE ANY
34 CONFLICTS AND ADDRESS GAPS IN REQUIREMENTS.

35 (C) NO LATER THAN JULY 1, 2016, THE STATE BOARD AND THE
36 MEDICAL SERVICES BOARD SHALL ADOPT RULES AS NECESSARY TO
37 ELIMINATE ANY CONFLICTS BETWEEN AND GAPS IN THEIR RESPECTIVE
38 RULES PERTAINING TO THE REQUIREMENTS IMPOSED ON
39 COMMUNITY-CENTERED BOARD AND SERVICE AGENCIES THAT PROVIDE
40 IN-HOME PERSONAL CARE SERVICES EXCLUSIVELY TO CONSUMERS WHO
41 ARE RECIPIENTS OF SERVICES PURSUANT TO THE SUPPORTED LIVING



1 SERVICES WAIVER OR THE CHILDREN'S EXTENSIVE SUPPORT WAIVER OF THE
2 HOME- AND COMMUNITY-BASED SERVICES WAIVERS ADMINISTERED BY
3 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

4 (D) AS PART OF THEIR ANNUAL PRESENTATIONS TO THE JOINT
5 COMMITTEE OF REFERENCE TO WHICH EACH DEPARTMENT IS ASSIGNED
6 UNDER THE "STATE MEASUREMENTS FOR ACCOUNTABLE, RESPONSIBLE,
7 AND TRANSPARENT (SMART) ACT", PART 2 OF ARTICLE 7 OF TITLE 2,
8 C.R.S., THE DEPARTMENTS OF PUBLIC HEALTH AND ENVIRONMENT AND
9 HEALTH CARE POLICY AND FINANCING SHALL REPORT THEIR PROGRESS IN
10 ANALYZING AND DEVELOPING A PLAN TO RESOLVE CONFLICTS AND GAPS
11 IN THE REQUIREMENTS APPLICABLE TO COMMUNITY-CENTERED BOARDS
12 AND SERVICE AGENCIES THAT PROVIDE IN-HOME PERSONAL CARE
13 SERVICES. THE DEPARTMENTS SHALL INDICATE WHETHER THEY ARE
14 MEETING THE DEADLINES SPECIFIED IN THIS SUBPARAGRAPH (II), AND IF
15 NOT, DETAIL THE REASONS FOR FAILING TO MEET THE DEADLINES. IN THEIR
16 PRESENTATIONS MADE IN THE INTERIM BETWEEN NOVEMBER 1, 2015, AND
17 THE START OF THE 2016 REGULAR LEGISLATIVE SESSION, THE
18 DEPARTMENTS SHALL REPORT PROGRESS ON: THE ADOPTION OF RULES BY
19 THE STATE BOARD AND THE MEDICAL SERVICES BOARD AND SHALL
20 PROVIDE THE JOINT COMMITTEES COPIES OF DRAFT RULES, IF AVAILABLE;
21 AND ANY PROGRAM EFFICIENCIES THAT COULD IMPACT LICENSURE FEE
22 AMOUNTS. IF THE DEPARTMENTS ARE NOT MEETING THE DEADLINES
23 OUTLINED IN THIS SUBPARAGRAPH (II), THE JOINT COMMITTEE OF
24 REFERENCE SHALL CONSIDER WHETHER FURTHER LEGISLATION IS NEEDED,
25 INCLUDING LEGISLATION TO MODIFY THE DEADLINES, EXTEND THE PERIOD
26 SPECIFIED IN SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF THIS
27 PARAGRAPH (a.5) DURING WHICH THE DEPARTMENT IS NOT ALLOWED TO
28 CONDUCT RELICENSURE INSPECTIONS, COMPEL THE DEPARTMENTS TO
29 COMPLETE THEIR TASKS, OR MODIFY THE MANNER IN WHICH
30 COMMUNITY-CENTERED BOARDS AND SERVICES AGENCIES PROVIDING
31 IN-HOME PERSONAL CARE SERVICES ARE REGULATED BY THE STATE OR THE
32 ABILITY OF THE DEPARTMENT TO SET AND IMPOSE LICENSURE FEES.

33 (III) THIS PARAGRAPH (a.5) DOES NOT LIMIT THE ABILITY OF THE
34 DEPARTMENT TO INVESTIGATE COMPLAINTS AND OCCURRENCES
35 INVOLVING, AND ISSUE ANY ASSOCIATED ENFORCEMENT AGAINST,
36 COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES.

37 (IV) THIS PARAGRAPH (a.5) IS REPEALED, EFFECTIVE JULY 1, 2017.

38 (3) (a) With the submission of an application for a license
39 granted".

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