

HB1360\_L.002

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Public Health Care & Human Services.

HB14-1360 be amended as follows:

- 1 Amend proposed committee amendment (HB1360\_L.001), page 1, line  
2 2, after "(IX)," insert "(4)".
- 3 Page 1 of the amendment, after line 8 insert:
- 4 "Page 3 of the bill, after line 18 insert:
- 5 "(4) "Home care consumer" means a person who receives skilled  
6 home health services or personal care services in his or her temporary or  
7 permanent home or place of residence from a home care agency or FROM  
8 A PROVIDER REFERRED BY A home care placement agency."
- 9 Page 3 of the bill, line 21, strike "AGENCY." and substitute "AGENCY OR  
10 HOME CARE PLACEMENT AGENCY."
- 11 Page 3 of the bill, line 25, strike "WHO:" and substitute "WHO HAS AT  
12 LEAST A FIFTY-PERCENT OWNERSHIP INTEREST IN THE BUSINESS ENTITY."
- 13 Page 3 of the bill, strike lines 26 and 27.
- 14 Page 4 of the bill, strike lines 1 and 2."
- 15 Page 1 of the amendment, line 21, after "(1.5)" insert "and (2)".
- 16 Page 1 of the amendment, line 22, strike "License required" and  
17 substitute "**Home care agency license required - home care placement**  
18 **agency registration required**".
- 19 Page 2 of the amendment, line 16, strike "article." and substitute  
20 "article.
- 21 (2) (a) (I) ~~On or after June 1, 2009, any home care placement~~  
22 ~~agency shall notify the department in writing that it provides referrals for~~  
23 ~~skilled home health services or personal care services and shall annually~~  
24 ~~update such notice.~~ 2015, IT IS UNLAWFUL FOR A PERSON TO CONDUCT OR  
25 MAINTAIN A HOME CARE PLACEMENT AGENCY UNLESS THE PERSON HAS  
26 SUBMITTED A COMPLETED APPLICATION FOR REGISTRATION AS A HOME  
27 CARE PLACEMENT AGENCY TO THE DEPARTMENT, INCLUDING EVIDENCE OF  
28 GENERAL LIABILITY INSURANCE COVERAGE AS REQUIRED IN



1 SUBPARAGRAPH (II) OF THIS PARAGRAPH (a). ON OR AFTER JANUARY 1,  
2 2016, IT IS UNLAWFUL FOR A PERSON TO CONDUCT OR MAINTAIN A HOME  
3 CARE PLACEMENT AGENCY WITHOUT A VALID, CURRENT HOME CARE  
4 PLACEMENT AGENCY REGISTRATION ISSUED BY THE DEPARTMENT. The  
5 department shall maintain a ~~list~~ REGISTRY of all REGISTERED home care  
6 placement agencies and shall make the ~~list~~ REGISTRY accessible to the  
7 public. WHILE A HOME CARE PLACEMENT AGENCY MUST BE REGISTERED  
8 BY THE DEPARTMENT, a home care placement agency is not licensed or  
9 certified by the department and shall not claim or assert that the  
10 department licenses or certifies the home care placement agency.

11 (II) AS A CONDITION OF OBTAINING AN INITIAL OR RENEWAL HOME  
12 CARE PLACEMENT AGENCY REGISTRATION PURSUANT TO THIS SUBSECTION  
13 (2), A PERSON APPLYING FOR INITIAL OR RENEWAL REGISTRATION SHALL  
14 SUBMIT TO THE DEPARTMENT, IN THE FORM AND MANNER REQUIRED BY  
15 THE DEPARTMENT, PROOF THAT THE PERSON HAS OBTAINED AND IS  
16 MAINTAINING GENERAL LIABILITY INSURANCE COVERAGE THAT COVERS  
17 THE HOME CARE PLACEMENT AGENCY AND THE PROVIDERS IT REFERS TO  
18 HOME CARE CONSUMERS IN AN AMOUNT DETERMINED BY THE STATE  
19 BOARD BY RULE PURSUANT TO SECTION 25-27.5-104 (1) (h).

20 (b) A HOME CARE PLACEMENT AGENCY SHALL PROVIDE TO ITS  
21 HOME CARE CONSUMER CLIENTS, BEFORE REFERRING A PROVIDER TO THE  
22 CLIENT, A WRITTEN DISCLOSURE CONTAINING THE INFORMATION REQUIRED  
23 IN SECTION 25-27.5-104 (1) (c) AND IN STATE BOARD RULES ADOPTED  
24 PURSUANT TO THAT SECTION.

25 ~~(b)~~ (c) A person who violates this ~~section~~ SUBSECTION (2):

26 (I) IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION  
27 THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN FIFTY  
28 DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS; AND

29 (II) May be subject to a civil penalty assessed by the department  
30 ~~that is not less than five hundred dollars per year or more than one~~  
31 ~~thousand dollars per year for failure to register with the department or for~~  
32 ~~claiming to be licensed or certified by the department~~ OF UP TO TEN  
33 THOUSAND DOLLARS FOR EACH VIOLATION. The department shall assess,  
34 enforce, and collect the penalty in accordance with article 4 of title 24,  
35 C.R.S. ~~Any moneys~~ THE DEPARTMENT SHALL TRANSFER ANY PENALTIES  
36 ~~collected shall be deposited~~ IT COLLECTS TO THE STATE TREASURER FOR  
37 DEPOSIT in the home care agency cash fund created in section  
38 25-27.5-105."."

39 Page 2 of the amendment, strike line 18 and substitute:



1 "Page 4 of the bill, line 15, strike "portion;" and substitute "portion, (1)  
2 (c), (1) (g), and (1) (h);".

3 Page 4 of the bill, line 17, after "agencies" insert "**and home care**  
4 **placement agencies**".

5 Page 4 of the bill, line 20, after "agencies" insert "AND HOME CARE  
6 PLACEMENT AGENCIES" and strike "Colorado." and substitute "Colorado  
7 THAT APPLY REGARDLESS OF THE SOURCE OF PAYMENT FOR THE HOME  
8 CARE SERVICES OR THE DIAGNOSIS OF THE HOME CARE CONSUMER.".

9 Page 2 of the amendment, after line 19 insert:

10 ""(c) Requirements for disclosure notices to be provided by home  
11 care agencies and home care placement agencies to home care consumers  
12 concerning the duties and employment status of the individual providing  
13 services. WITH REGARD TO HOME CARE PLACEMENT AGENCIES, THE RULES  
14 MUST REQUIRE A HOME CARE PLACEMENT AGENCY TO DISCLOSE IN  
15 WRITING, AT A MINIMUM, THE FOLLOWING TO EACH HOME CARE CONSUMER  
16 CLIENT IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT  
17 BEFORE REFERRING A PROVIDER TO THE CLIENT:

18 (I) THAT THE HOME CARE PLACEMENT AGENCY IS NOT THE  
19 EMPLOYER OF ANY PROVIDER IT REFERS TO A HOME CARE CONSUMER; AND

20 (II) THAT THE HOME CARE PLACEMENT AGENCY DOES NOT DIRECT,  
21 CONTROL, SCHEDULE, OR TRAIN ANY PROVIDER IT REFERS;".

22 Page 2 of the amendment, line 20, strike ""(g)" and substitute "(g)".

23 Page 3 of the amendment, strike line 12 and substitute "APPROPRIATE.

24 (h) Requirements for home care agencies to provide evidence of  
25 and maintain either liability insurance coverage or a surety bond in lieu  
26 of liability insurance coverage AND FOR HOME CARE PLACEMENT  
27 AGENCIES TO PROVIDE EVIDENCE OF AND MAINTAIN LIABILITY INSURANCE  
28 COVERAGE AS REQUIRED IN SECTION 25-27.5-103 (2) (a) (II) in amounts  
29 set through rules of the state board;".

30 Page 7 of the bill, after line 11 insert:

31 "SECTION 4. In Colorado Revised Statutes, amend 25-27.5-105  
32 as follows:

33 **25-27.5-105. Home care agency cash fund created.** The



1 DEPARTMENT SHALL TRANSMIT THE fees collected pursuant to section  
2 25-27.5-104 (1), plus any civil penalty collected pursuant to section  
3 25-27.5-103 (1) (b) ~~shall be transmitted~~ AND (2) (c) (II), to the state  
4 treasurer, who shall credit the ~~same~~ FEES AND PENALTIES to the home care  
5 agency cash fund, which fund is hereby created. The moneys in the fund  
6 ~~shall be~~ ARE subject to annual appropriation by the general assembly for  
7 the direct and indirect costs of the department in performing its duties  
8 under this article. At the end of any fiscal year, all unexpended and  
9 unencumbered moneys in the fund shall remain in the fund and shall  
10 MUST not be credited or transferred to the general fund or any other  
11 fund.".

12 Renumber succeeding sections accordingly."

13 Page 3 of the amendment, line 13, strike ""(2) (a) and (3) (a);" and  
14 substitute ""(1), (2), (3), (4), and (5);".

15 Page 3 of the amendment, line 14, strike "and (8)".

16 Page 3 of the amendment, strike lines 15 and 16 and substitute:

17 "Page 7 of the bill, strike lines 14 and 15 and substitute:

18 **"25-27.5-106. License or registration - application - inspection**  
19 **- issuance - repeal.** (1) A PERSON APPLYING FOR A HOME CARE AGENCY  
20 LICENSE OR A HOME CARE PLACEMENT AGENCY REGISTRATION SHALL  
21 SUBMIT an application for a license to operate a home care agency shall  
22 be submitted to the department annually upon such A form and in such A  
23 manner as prescribed by the department.

24 (2) (a) (I) The department shall investigate and review each  
25 original application and each renewal application for a HOME CARE  
26 AGENCY license OR HOME CARE PLACEMENT AGENCY REGISTRATION. The  
27 department shall determine an applicant's compliance with THIS ARTICLE  
28 AND the rules adopted pursuant to section 25-27.5-104 before THE  
29 DEPARTMENT ISSUES a license is issued or renewed OR REGISTRATION. A  
30 certified home care agency that applies for a license by June 1, 2009, shall  
31 be exempt from licensure inspection prior to issuance of the initial  
32 license."."

33 Page 3 of the amendment, line 25, after "agency's" insert "OR HOME CARE  
34 PLACEMENT AGENCY'S".



1 Page 3 of the amendment, line 28, after "agency" insert "OR HOME CARE  
2 PLACEMENT AGENCY".

3 Page 3 of the amendment, after line 32 insert:

4 "(III) THE DEPARTMENT MAY INSPECT, AS IT DEEMS NECESSARY,  
5 A HOME CARE PLACEMENT AGENCY'S RECORDS ON WEEKDAYS BETWEEN  
6 9 A.M. AND 5 P.M. TO ENSURE THAT THE HOME CARE PLACEMENT AGENCY  
7 IS IN COMPLIANCE WITH THE CRIMINAL HISTORY RECORD CHECK, GENERAL  
8 LIABILITY INSURANCE, AND DISCLOSURE REQUIREMENTS SET FORTH IN  
9 SECTIONS 25-27.3-103 (2) (b), 25-27.5-104 (1) (c) AND (1) (h), AND  
10 25-27.5-107."

11 Page 6 of the amendment, strike lines 38 and 39 and substitute:

12 "(b) The department shall keep all medical records INFORMATION  
13 OR DOCUMENTS obtained during an inspection or investigation of a home  
14 care agency, HOME CARE PLACEMENT AGENCY, OR HOME CARE  
15 CONSUMER'S HOME confidential. ~~and the medical~~ ALL records, shall be  
16 INFORMATION, OR DOCUMENTS SO OBTAINED ARE exempt from disclosure  
17 pursuant to sections 24-72-204, C.R.S., and 25-1-124.

18 (3) (a) With the submission of an application for a license OR  
19 REGISTRATION granted".

20 Page 7 of the bill, line 16, strike "article," and substitute "article OR  
21 WITHIN TEN DAYS AFTER A CHANGE IN THE OWNER, MANAGER, OR  
22 ADMINISTRATOR,".

23 Page 8 of the bill, strike lines 7 through 24 and substitute:

24 "(b) The DEPARTMENT SHALL USE THE information ~~shall be used~~  
25 ~~by the department~~ FROM THE CRIMINAL HISTORY RECORD CHECK in  
26 ascertaining whether the person applying for licensure OR REGISTRATION  
27 has been convicted of a felony or of a misdemeanor, which felony or  
28 misdemeanor ~~involves moral turpitude or~~ involves conduct that the  
29 department determines could pose a risk to the health, safety, or welfare  
30 of home care consumers of the home care agency OR HOME CARE  
31 PLACEMENT AGENCY. The department shall maintain information obtained  
32 in accordance with this section.

33 (4) ~~No license shall be issued or renewed by~~ The department  
34 SHALL NOT ISSUE A LICENSE OR REGISTRATION if the owner, applicant, or



1 ~~licensee~~ MANAGER, OR ADMINISTRATOR of the home care agency OR HOME  
2 CARE PLACEMENT AGENCY has been convicted of a felony or of a  
3 misdemeanor, which felony or misdemeanor involves moral turpitude or  
4 involves conduct that the department determines could pose a risk to the  
5 health, safety, or welfare of the home care consumers of the home care  
6 agency OR HOME CARE PLACEMENT AGENCY.

7 (5) Except as otherwise provided in subsections (6) and (7) of this  
8 section, the department shall issue or renew a license OR REGISTRATION  
9 when it is satisfied that the applicant, ~~or licensee,~~ OR REGISTRANT is in  
10 compliance with the requirements set out in this article and the rules  
11 promulgated pursuant to this article. Except for provisional licenses  
12 issued in accordance with subsections (6) and (7) of this section, a license  
13 OR REGISTRATION issued or renewed pursuant to this section ~~shall expire~~  
14 EXPIRES one year after the date of issuance or renewal."

15 Page 8 of the bill, line 27, after "Employee" insert "or referred service  
16 provider".

17 Page 9 of the bill, line 9, after "employment" insert "OR PLACEMENT".

18 Page 10 of the bill, after line 3 insert:

19 "SECTION 7. In Colorado Revised Statutes, amend 25-27.5-108  
20 as follows:

21 **25-27.5-108. License or registration denial - suspension -**  
22 **revocation.** (1) Upon denial of an application for an original license OR  
23 REGISTRATION, the department shall notify the applicant in writing of  
24 ~~such~~ THE denial by mailing a notice to the applicant at the address shown  
25 on his or her application. Any applicant ~~believing himself or herself~~  
26 aggrieved by ~~such~~ THE denial may pursue the remedy for review provided  
27 in article 4 of title 24, C.R.S., if the applicant, within thirty days after  
28 receiving ~~such~~ THE notice OF DENIAL, petitions the department to set a  
29 date and place for hearing, affording the applicant an opportunity to be  
30 heard in person or by counsel. All hearings on the denial of original  
31 licenses ~~shall~~ OR REGISTRATIONS MUST be conducted in conformity with  
32 the provisions and procedures specified in article 4 of title 24, C.R.S.

33 (2) (a) The department may suspend, revoke, or refuse to renew  
34 the license OR REGISTRATION of ~~any~~ A home care agency OR HOME CARE  
35 PLACEMENT AGENCY that is out of compliance with the requirements of  
36 this article or the rules promulgated pursuant to this article. ~~Such~~  
37 ~~suspension, revocation, or refusal shall be done after~~ BEFORE TAKING



1 FINAL ACTION TO SUSPEND, REVOKE, OR REFUSE TO RENEW A LICENSE OR  
2 REGISTRATION, THE DEPARTMENT SHALL CONDUCT a hearing ~~thereon and~~  
3 ON THE MATTER in conformance with the provisions and procedures  
4 specified in article 4 of title 24, C.R.S.; except that the department may  
5 implement a summary suspension prior to a hearing in accordance with  
6 article 4 of title 24, C.R.S. IF THE DEPARTMENT SUSPENDS, REVOKES, OR  
7 REFUSES TO RENEW A HOME CARE PLACEMENT AGENCY REGISTRATION,  
8 THE DEPARTMENT SHALL REMOVE THE HOME CARE PLACEMENT AGENCY  
9 FROM THE REGISTRY MAINTAINED BY THE DEPARTMENT PURSUANT TO  
10 SECTION 25-27.3-103 (2) (a) (I).

11 (b) (I) The department may impose intermediate restrictions or  
12 conditions on a ~~licensee~~ LICENSED HOME CARE AGENCY OR REGISTERED  
13 HOME CARE PLACEMENT AGENCY that may include at least one of the  
14 following:

- 15 (A) Retaining a consultant to address corrective measures;
- 16 (B) Monitoring by the department for a specific period;
- 17 (C) Providing additional training to employees, owners, or  
18 operators of the home care agency OR HOME CARE PLACEMENT AGENCY;
- 19 (D) Complying with a directed written plan to correct the  
20 violation; or
- 21 (E) Paying a civil fine not to exceed ten thousand dollars per  
22 calendar year for all violations.

23 (II) (A) If the department imposes an intermediate restriction or  
24 condition that is not a result of a serious and immediate threat to health  
25 or welfare, the ~~licensee shall receive~~ DEPARTMENT SHALL PROVIDE written  
26 notice of the restriction or condition TO THE LICENSED HOME CARE  
27 AGENCY OR REGISTERED HOME CARE PLACEMENT AGENCY. No later than  
28 ten days after the date the notice is received from the department, the  
29 ~~licensee~~ LICENSED HOME CARE AGENCY OR REGISTERED HOME CARE  
30 PLACEMENT AGENCY shall submit a written plan that includes the time  
31 frame for completing the plan and addresses the restriction or condition  
32 specified.

33 (B) If the department imposes an intermediate restriction or  
34 condition that is the result of a serious and immediate threat to health,  
35 safety, or welfare, the department shall notify the ~~licensee~~ LICENSED  
36 HOME CARE AGENCY OR REGISTERED HOME CARE PLACEMENT AGENCY in  
37 writing, by telephone, or in person during an on-site visit. The ~~licensee~~  
38 LICENSED HOME CARE AGENCY OR REGISTERED HOME CARE PLACEMENT  
39 AGENCY shall remedy the circumstances creating harm or potential harm  
40 immediately upon receiving notice of the restriction or condition. If the  
41 department provides notice of a restriction or condition by telephone or



1 in person, the department shall send written confirmation of the  
2 restriction or condition to the ~~licensee~~ LICENSED HOME CARE AGENCY OR  
3 REGISTERED HOME CARE PLACEMENT AGENCY within two business days.

4 (III) (A) After submission of an approved written plan, a ~~licensee~~  
5 LICENSED HOME CARE AGENCY OR REGISTERED HOME CARE PLACEMENT  
6 AGENCY may first appeal any intermediate restriction or condition on its  
7 license OR REGISTRATION to the department through an informal review  
8 process as established by the department.

9 (B) If the restriction or condition requires payment of a civil fine,  
10 the ~~licensee~~ LICENSED HOME CARE AGENCY OR REGISTERED HOME CARE  
11 PLACEMENT AGENCY may request, and the department shall grant, a stay  
12 in payment of the fine until final disposition of the restriction or  
13 condition.

14 (C) If a ~~licensee~~ LICENSED HOME CARE AGENCY OR REGISTERED  
15 HOME CARE PLACEMENT AGENCY is not satisfied with the result of the  
16 informal review or chooses not to seek informal review, ~~no~~ THE  
17 DEPARTMENT SHALL NOT IMPOSE AN intermediate restriction or condition  
18 on the ~~licensee shall be imposed~~ LICENSED HOME CARE AGENCY OR  
19 REGISTERED HOME CARE PLACEMENT AGENCY until after THE LICENSED  
20 HOME CARE AGENCY OR REGISTERED HOME CARE PLACEMENT AGENCY IS  
21 AFFORDED an opportunity for a hearing ~~has been afforded the licensee~~  
22 pursuant to section 24-4-105, C.R.S.

23 (IV) If the department assesses a civil fine pursuant to this  
24 paragraph (b), ~~THE DEPARTMENT SHALL TRANSMIT moneys received by the~~  
25 ~~department shall be transmitted~~ THE FINES to the state treasurer, who shall  
26 credit the ~~same~~ FINES to the home care agency cash fund created in  
27 section 25-27.5-105.

28 (V) THE DEPARTMENT SHALL USE civil fines collected pursuant to  
29 this paragraph (b) ~~shall be used~~ for expenses related to:

30 (A) Continuing monitoring required pursuant to this paragraph  
31 (b);

32 (B) Education for ~~licensee~~ LICENSED HOME CARE AGENCY OR  
33 REGISTERED HOME CARE PLACEMENT AGENCY to avoid restrictions or  
34 conditions or facilitate the application process or the change of ownership  
35 process;

36 (C) Education for home care consumers and their families about  
37 resolving problems with a home care agency OR HOME CARE PLACEMENT  
38 AGENCY, rights of home care consumers, and responsibilities of home  
39 care agencies AND HOME CARE PLACEMENT AGENCIES;

40 (D) Providing technical assistance to any home care agency OR  
41 HOME CARE PLACEMENT AGENCY for the purpose of complying with





1 changes in rules or state or federal law;  
2 (E) Monitoring and assisting in the transition of home care  
3 consumers to other home care agencies OR HOME CARE PLACEMENT  
4 AGENCIES, when the transition is a result of the revocation of a license OR  
5 REGISTRATION, or TO other appropriate medical services; or

6 (F) Maintaining the operation of a home care agency OR HOME  
7 CARE PLACEMENT AGENCY pending correction of violations, as determined  
8 necessary by the department.

9 (3) The department shall revoke or refuse to renew the license of  
10 a home care agency OR THE REGISTRATION OF A HOME CARE PLACEMENT  
11 AGENCY where the owner, or licensee, OR REGISTRANT has been convicted  
12 of a felony or misdemeanor ~~involving moral turpitude~~ or involving  
13 conduct that the department determines could pose a risk to the health,  
14 safety, or welfare of the home care consumers of such THE home care  
15 agency ~~Such revocation or refusal shall be made~~ OR HOME CARE  
16 PLACEMENT AGENCY. THE DEPARTMENT MAY REVOKE OR REFUSE TO  
17 RENEW A LICENSE OR REGISTRATION only after CONDUCTING a hearing is  
18 provided ON THE MATTER in accordance with article 4 of title 24, C.R.S."

19 Renumber succeeding sections accordingly.

20 Page 10 of the bill, line 10, after "reviewed" insert "AND THE REGISTERING  
21 OF HOME CARE PLACEMENT AGENCIES" and after "24-34-104, C.R.S." add  
22 "IN CONDUCTING ITS REVIEW AND COMPILING ITS REPORT PURSUANT TO  
23 SECTION 24-34-104 (8), C.R.S., THE DEPARTMENT OF REGULATORY  
24 AGENCIES SHALL SEGREGATE THE DATA IN THE REPORT BASED ON THE  
25 TYPE OF AGENCY, SPECIFYING WHETHER THE AGENCY IS:

26 (a) A HOME CARE AGENCY THAT PROVIDES SKILLED HOME HEALTH  
27 SERVICES;

28 (b) A HOME CARE AGENCY THAT ONLY PROVIDES PERSONAL CARE  
29 SERVICES; OR

30 (c) A HOME CARE PLACEMENT AGENCY."

31 Page 10 of the bill, line 21, strike "THE" and substitute  
32 "NOTWITHSTANDING PARAGRAPH (a) OF SUBSECTION (11) OF THIS  
33 SECTION, THE FUNCTIONS OF THE DEPARTMENT OF PUBLIC HEALTH AND  
34 ENVIRONMENT RELATING TO THE" after "AGENCIES" insert "AND THE  
35 REGISTERING OF HOME CARE PLACEMENT AGENCIES".

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