

**Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0520.01 Christy Chase x2008

HOUSE BILL 12-1294

HOUSE SPONSORSHIP

Liston, Todd, Acree, Baumgardner, Gardner B., Kerr J., Massey, Miklosi, Murray, Priola,
Ramirez, Soper, Swalm, Swerdfeger, Szabo

SENATE SPONSORSHIP

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House Committees

Economic and Business Development
Health and Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE SYSTEM OF REGULATION OF**
102 **HEALTH FACILITIES CURRENTLY REGULATED BY THE**
103 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, the department of public health and environment (CDPHE) licenses and establishes, and enforces standards for the operation of, health facilities in the state, including rehabilitation centers, community mental health centers, acute treatment units, facilities

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.

for persons with developmental disabilities, nursing care facilities, hospice care, assisted living residences, and home care agencies. CDPHE conducts periodic, announced and unannounced inspections of licensed facilities to ensure compliance with the standards it develops. The state board of health (board) is required to establish by rule a schedule of fees to be assessed against health facilities that is sufficient to meet CDPHE's direct and indirect costs in regulating health facilities.

Additionally, under current law, both CDPHE and the department of human services (DHS) jointly regulate community residential homes for persons with developmental disabilities.

Section 1 of the bill declares that the legislative intent of the bill is to eliminate duplication and unnecessary government oversight in the regulation of health facilities in Colorado.

Sections 2, 3, 4, and 12 eliminate CDPHE's authority to license and develop standards for the operation of community residential homes, shifting oversight of these homes solely to DHS. Additionally, if home care agency personal care services, which are otherwise regulated by CDPHE, are provided by a service agency that delivers services and supports to persons with developmental disabilities, DHS is tasked with inspecting those services in conjunction and simultaneously with its inspection of the community residential home. DHS is directed to institute an abbreviated, periodic inspection system for community residential homes and a performance incentive system to reduce license renewal fees for community residential homes for which no significant deficiencies that negatively affect the life, health, and safety of their consumers have been found by DHS.

Sections 2, 3, and 4 also:

- ! Require CDPHE to develop an abbreviated, periodic inspection system, which it must use for health facilities that have been licensed for at least 3 years and have not been subject to any enforcement activity or substantiated complaints resulting in the discovery of significant deficiencies that negatively affect the life, health, or safety of consumers of the facilities within the prior 3 years;
- ! Restrict the ability of CDPHE, when considering a license application or a request to approve new construction or remodel of a health facility, to impose standards for construction that are more stringent than, or do not comply with, applicable national, state, and local building and fire codes;
- ! With regard to the dual responsibilities of CDPHE and DHS over community mental health centers and acute treatment units, require the departments to consider changes in health care policy and practice that incorporate integrated health care services;

- ! Limit CDPHE's licensure authority over community clinics to those community clinics that: Provide health care services on an ambulatory basis; are not licensed as an on-campus department or service of a hospital or listed as an off-campus location under a hospital's license; and either operate inpatient beds or provide emergency services at the facility. CDPHE retains authority to license prison clinics regulated by the department of corrections.
- ! Require CDPHE to determine an applicant's fitness to conduct and maintain a health facility based solely on specific fitness information or documentation submitted by the applicant or obtained by CDPHE through its own review or investigation of the applicant; and
- ! Eliminate the ability of CDPHE to conduct a fitness review of a new owner of a facility unless the transfer of ownership results in a transfer of at least 50% of direct or indirect ownership interest in the facility or business to one or more new owners.

Under **sections 5 and 12**, a licensed health facility, program of all-inclusive care for the elderly (PACE) provider, or community residential home that applies to renew its license may submit evidence of its accreditation by a nationally recognized accrediting body or regulation pursuant to a 3-way agreement between the PACE provider, the centers for medicare and medicaid services (CMS), and the department of health care policy and financing (HCPF), as applicable, in which case CDPHE or, for purposes of community residential homes, DHS is to deem that accreditation, regulation, or certification as satisfaction of the state licensing requirements. CDPHE or DHS, as applicable, is permitted to request additional information from a facility if the state's standards for licensure of that type of facility are more stringent than the applicable standards for accreditation, regulation, or certification.

Sections 6 and 7 prohibit the board from increasing provisional or full license fees above the levels set in rules as of the effective date of the sections. The board retains the ability to lower the fee amounts. Section 7 further requires CDPHE to develop a performance incentive system to provide a reduction in license renewal fees for health facilities that have no significant deficiencies that negatively affect the life, health, or safety of consumers of the facility.

Section 8 establishes the health care industry facility advisory council (advisory council) in CDPHE to advise the department and the board on matters related to state licensure of health care facilities. The purpose of the advisory council is to:

- ! Advise CDPHE and the board on proposed standards for the operation of licensed health care facilities;
- ! Review and make recommendations to CDPHE and the

board on proposed new or amended rules regarding health care facility licensure;

- ! Review and make recommendations to CDPHE and the board regarding modifications to licensing fees;
- ! Review and make recommendations concerning CDPHE guidelines, policies, and procedures for licensure; and
- ! Seek advice and counsel from outside experts when it deems necessary.

CDPHE and the board are required to accept and take the advisory council's recommendations into consideration before taking action on any of the matters on which the advisory council submits recommendations. Under **section 9**, the advisory council is subject to sunset review by the department of regulatory agencies and repeal on September 1, 2022, unless continued by the general assembly.

Section 10 clarifies that home care placement agencies are not licensed or certified by CDPHE and prohibits home care placement agencies from making such a claim. Noncompliance with this prohibition subjects a home care placement agency to a civil penalty imposed by CDPHE.

For purposes of board rules pertaining to the regulation of home care agencies, **section 11** requires the board to establish different requirements that are appropriate based on the type of facility or provider delivering the services to the home care consumer and prohibits the board from requiring PACE providers to submit information that is redundant or inconsistent with the federal requirements the PACE provider is subject to pursuant to its 3-way agreement with CMS and HCPF.

Section 13 prohibits an appropriation of state funds to implement the bill.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds, determines, and declares that:

4 (a) In his state of the state address to the general assembly in
5 2011, the governor spoke of his goal that government should be effective,
6 efficient, and elegant;

7 (b) The purpose of this measure is to facilitate that goal by
8 eliminating duplication and unnecessary government oversight and
9 regulation of health facilities in the state;

1 (c) While state regulation and oversight of health facilities that
2 house or care for patients is needed to protect patients from abuse or
3 avoidable accidents, overly burdensome regulations and unrestrained
4 licensure and fees diminish the viability of businesses and the
5 productivity of caregivers;

6 (d) When regulation is onerous and superfluous, providers waste
7 resources and a client's quality of care is diminished. Eliminating and
8 reducing regulation provides vitality to businesses and an opportunity to
9 deliver an even higher quality of care.

10 (e) The regulatory system that governs health facilities needs to
11 reward providers that have commendable records of patient service and
12 protection and offer relief from the burdens and costs associated with
13 wasteful state regulation;

14 (f) Overly burdensome and inefficient regulation can result in
15 fewer private sector jobs and can lower the quality of care as vital
16 resources are diverted to red tape and paperwork. Savings to the state and
17 to health facilities are likely if inefficient and ineffective regulation is
18 reduced.

19 (g) If initiatives to reduce such regulation are adopted:

20 (I) Health facilities will be able to better apply their resources,
21 produce needed jobs, provide better health care, and stimulate the
22 economy in these difficult times; and

23 (II) The state will save costs and be able to divert those savings to
24 other critical areas.

25 **SECTION 2.** In Colorado Revised Statutes, 25-1.5-103, **amend**
26 (1) (a) (I), (1) (c), (2) (a.5) introductory portion, and (2) (c); and **add** (1)
27 (a) (III) and (2) (b.5) as follows:

1 **25-1.5-103. Health facilities - powers and duties of department**
2 **- limitations on rules promulgated by department.** (1) The department

3 has, in addition to all other powers and duties imposed upon it by law, the
4 powers and duties provided in this section as follows:

5 (a) (I) (A) To annually license and to establish and enforce
6 standards for the operation of general hospitals, hospital units as defined
7 in section 25-3-101 (2), psychiatric hospitals, community clinics,
8 rehabilitation centers, convalescent centers, community mental health
9 centers, acute treatment units, facilities for persons with developmental
10 disabilities, habilitation centers for brain-damaged children, chiropractic
11 centers and hospitals, maternity hospitals, nursing care facilities, the pilot
12 project rehabilitative nursing facility, hospice care, assisted living
13 residences, dialysis treatment clinics, ambulatory surgical centers,
14 birthing centers, home care agencies, and other facilities of a like nature,
15 except those wholly owned and operated by any governmental unit or
16 agency.

17 (B) In establishing and enforcing such standards and in addition
18 to the required announced inspections, the department shall, within
19 available appropriations, make additional inspections without prior notice
20 to the HEALTH facility, SUBJECT TO SUB-SUBPARAGRAPH (C) OF THIS
21 SUBPARAGRAPH (I). Such inspections shall be made only during the hours
22 of 7 a.m. to 7 p.m.

23 (C) THE DEPARTMENT SHALL EXTEND THE SURVEY CYCLE OR
24 CONDUCT ■ AN ABBREVIATED, PERIODIC INSPECTION OR SURVEY OF A
25 HEALTH FACILITY LICENSED FOR AT LEAST THREE YEARS AND AGAINST
26 WHICH NO ENFORCEMENT ACTIVITY HAS BEEN TAKEN AND NO
27 SUBSTANTIATED COMPLAINT RESULTING IN THE DISCOVERY OF

1 SIGNIFICANT DEFICIENCIES THAT MAY NEGATIVELY AFFECT THE LIFE,
2 HEALTH, OR SAFETY OF CONSUMERS OF THE HEALTH FACILITY HAS BEEN
3 RECEIVED WITHIN THE THREE YEARS PRIOR TO THE DATE OF THE
4 INSPECTION. THE DEPARTMENT, BY RULE, SHALL ESTABLISH A SCHEDULE
5 FOR EXTENDED SURVEY CYCLES OR AN ABBREVIATED, PERIODIC
6 INSPECTION OR SURVEY SYSTEM DESIGNED, AT A MINIMUM, TO: REDUCE
7 THE TIME NEEDED FOR AND COSTS OF LICENSURE INSPECTIONS FOR BOTH
8 THE DEPARTMENT AND THE LICENSED HEALTH FACILITY; REDUCE THE
9 NUMBER, FREQUENCY, AND DURATION OF ON-SITE INSPECTIONS; REDUCE
10 THE SCOPE OF DATA AND INFORMATION THAT HEALTH FACILITIES ARE
11 REQUIRED TO SUBMIT OR PROVIDE TO THE DEPARTMENT IN CONNECTION
12 WITH THE LICENSURE INSPECTION; REDUCE THE AMOUNT AND SCOPE OF
13 DUPLICATIVE DATA, REPORTS, AND INFORMATION REQUIRED TO COMPLETE
14 THE LICENSURE INSPECTION; AND BE BASED ON A SAMPLE OF THE FACILITY
15 SIZE. NOTHING IN THIS SUB-SUBPARAGRAPH (C) LIMITS THE ABILITY OF
16 THE DEPARTMENT TO CONDUCT A PERIODIC INSPECTION OR SURVEY THAT
17 IS REQUIRED TO MEET ITS OBLIGATIONS AS A STATE SURVEY AGENCY ON
18 BEHALF OF THE CENTERS FOR MEDICARE AND MEDICAID SERVICES OR THE
19 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING TO ASSURE THAT
20 THE HEALTH FACILITY MEETS THE REQUIREMENTS FOR PARTICIPATION IN
21 THE MEDICARE AND MEDICAID PROGRAMS.

22 (D) IN CONNECTION WITH THE RENEWAL OF LICENSES ISSUED
23 PURSUANT TO THIS SUBPARAGRAPH (I), THE DEPARTMENT SHALL
24 INSTITUTE A PERFORMANCE INCENTIVE SYSTEM PURSUANT TO SECTION
25 25-3-105 (1) (a) (I) (C).

26 (E) THE DEPARTMENT SHALL NOT INCLUDE IN A REPORT OR PLAN
27 OF CORRECTION RESULTING FROM A SURVEY OR INSPECTION OF A LICENSED

1 HEALTH FACILITY ANY DEFICIENCY IDENTIFIED BY THE DEPARTMENT THAT
2 CAN BE EFFECTIVELY AND EFFICIENTLY REMEDIED DURING THE SURVEY OR
3 INSPECTION OF THE HEALTH FACILITY.

4 (F) SECTIONS 24-4-104, C.R.S., AND 25-3-102 GOVERN the
5 issuance, suspension, renewal, revocation, annulment, or modification of
6 licenses. ~~shall be governed by the provisions of section 24-4-104, C.R.S.,~~
7 ~~and section 25-3-102, and~~ All licenses ~~shall bear~~ ISSUED BY THE
8 DEPARTMENT MUST CONTAIN the date of issue and cover a twelve-month
9 period. Nothing contained in this paragraph (a) ~~shall be construed to~~
10 ~~prevent~~ PREVENTS the department from adopting and enforcing, with
11 respect to projects for which federal assistance has been obtained or ~~shall~~
12 ~~be~~ IS requested, ~~such~~ higher standards as may be required by applicable
13 federal laws or regulations of federal agencies responsible for the
14 administration of ~~such~~ APPLICABLE federal laws.

15 (III) WHEN REVIEWING A LICENSE APPLICATION OR A REQUEST FOR
16 APPROVAL OF A NEWLY CONSTRUCTED OR REMODELED HEALTH FACILITY
17 LISTED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), THE DEPARTMENT
18 SHALL NOT IMPOSE STANDARDS FOR CONSTRUCTION THAT ARE MORE
19 STRINGENT THAN, OR DO NOT COMPLY WITH, NATIONAL, STATE, AND
20 LOCAL BUILDING AND FIRE CODES APPLICABLE TO THE LOCATION AND
21 HEALTH FACILITY.

22 (c) (I) To establish and enforce standards for licensure of
23 community mental health centers and acute treatment units.

24 (II) The department of public health and environment ~~shall have~~
25 ~~the~~ HAS primary responsibility for the licensure of ~~such facilities~~
26 COMMUNITY MENTAL HEALTH CENTERS AND ACUTE TREATMENTS UNITS.
27 The department of human services ~~shall have~~ HAS primary responsibility

1 for program approval AT THESE FACILITIES. IN PERFORMING THEIR
2 RESPECTIVE RESPONSIBILITIES PURSUANT TO THIS SUBPARAGRAPH (II),
3 BOTH DEPARTMENTS SHALL TAKE INTO ACCOUNT CHANGES IN HEALTH
4 CARE POLICY AND PRACTICE INCORPORATING THE CONCEPT AND PRACTICE
5 OF INTEGRATION OF SERVICES AND THE DEVELOPMENT OF A SYSTEM THAT
6 COMMINGLES AND INTEGRATES HEALTH CARE SERVICES.

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

9 (a.5) "Community clinic" HAS THE SAME MEANING AS SET FORTH
10 IN SECTION 25-3-101 AND does not include:

11 (b.5) "ENFORCEMENT ACTIVITY" MEANS THE IMPOSITION OF
12 REMEDIES SUCH AS CIVIL MONEY PENALTIES; APPOINTMENT OF A RECEIVER
13 OR TEMPORARY MANAGER; CONDITIONAL LICENSURE; SUSPENSION OR
14 REVOCATION OF A LICENSE; A DIRECTED PLAN OF CORRECTION;
15 INTERMEDIATE RESTRICTIONS OR CONDITIONS, INCLUDING RETAINING A
16 CONSULTANT, DEPARTMENT MONITORING, OR PROVIDING ADDITIONAL
17 TRAINING TO EMPLOYEES, OWNERS, OR OPERATORS; OR ANY OTHER
18 REMEDY PROVIDED BY STATE OR FEDERAL LAW OR AS AUTHORIZED BY
19 FEDERAL SURVEY, CERTIFICATION, AND ENFORCEMENT REGULATIONS AND
20 AGREEMENTS FOR VIOLATIONS OF FEDERAL OR STATE LAW.

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

26 **SECTION 3.** In Colorado Revised Statutes, 25-3-101, **amend** (1)
27 and (2) (a); and **add** (4) as follows:

1 **25-3-101. Hospitals - health facilities - licensed - definitions.**

2 (1) It is unlawful for any person, partnership, association, or corporation
3 to open, conduct, or maintain any general hospital, hospital unit,
4 psychiatric hospital, community clinic, rehabilitation center, convalescent
5 center, community mental health center, acute treatment unit, facility for
6 persons with developmental disabilities, AS DEFINED IN SECTION
7 25-1.5-103 (2) (c), habilitation center for children with brain damage,
8 chiropractic center and hospital, maternity hospital, nursing care facility,
9 pilot project rehabilitative nursing facility, hospice care, assisted living
10 residence, except an assisted living residence shall be assessed a license
11 fee as set forth in section 25-27-107, dialysis treatment clinic, ambulatory
12 surgical center, birthing center, home care agency, or other facility of a
13 like nature, except those wholly owned and operated by any governmental
14 unit or agency, without first having obtained a license ~~therefor~~ from the
15 department of public health and environment.

16 (2) As used in this section, unless the context otherwise requires:

17 (a) (I) "COMMUNITY CLINIC" MEANS A HEALTH CARE FACILITY
18 THAT PROVIDES HEALTH CARE SERVICES ON AN AMBULATORY BASIS, IS
19 NEITHER LICENSED AS AN ON-CAMPUS DEPARTMENT OR SERVICE OF A
20 HOSPITAL NOR LISTED AS AN OFF-CAMPUS LOCATION UNDER A HOSPITAL'S
21 LICENSE, AND MEETS AT LEAST ONE OF THE FOLLOWING CRITERIA:

22 (A) OPERATES INPATIENT BEDS AT THE FACILITY; OR

23 (B) PROVIDES EMERGENCY SERVICES AT THE FACILITY.

24 (II) "COMMUNITY CLINIC" INCLUDES A PRISON CLINIC REGULATED
25 BY THE DEPARTMENT OF CORRECTIONS.

26 (III) "Community clinic" does not include:

27 ⊕ (A) A federally qualified health center, as defined in section

1 1861 (aa) (4) of the federal "Social Security Act", 42 U.S.C. sec. 1395x
2 (aa) (4);

3 ~~(H)~~ (B) A rural health clinic, as defined in section 1861 (aa) (2)
4 of the federal "Social Security Act", 42 U.S.C. sec. 1395x (aa) (2);

5 (C) A FACILITY THAT FUNCTIONS ONLY AS AN OFFICE FOR THE
6 PRACTICE OF MEDICINE OR THE DELIVERY OF PRIMARY CARE SERVICES BY
7 OTHER LICENSED OR CERTIFIED PRACTITIONERS.

8 (4) A HEALTH CARE FACILITY IS NOT REQUIRED TO BE LICENSED AS
9 A COMMUNITY CLINIC SOLELY DUE TO THE FACILITY'S OWNERSHIP STATUS,
10 CORPORATE STRUCTURE, OR ENGAGEMENT OF OUTSIDE VENDORS TO
11 PERFORM NONCLINICAL MANAGEMENT SERVICES. THIS SECTION PERMITS
12 REGULATION OF A PHYSICIAN'S OFFICE ONLY TO THE EXTENT THE OFFICE
13 IS A COMMUNITY CLINIC AS DEFINED IN THIS SECTION.

14 **SECTION 4.** In Colorado Revised Statutes, 25-3-102, **amend** (1)
15 as follows:

16 **25-3-102. License - application - issuance.** (1) (a) An
17 ~~application~~ APPLICANT for a license described in section 25-3-101 shall
18 ~~be made~~ APPLY to the department of public health and environment
19 annually upon such form and in such manner as prescribed by the
20 department. ~~except that a community residential home shall make~~
21 ~~application for a license pursuant to section 27-10.5-109, C.R.S.~~

22 (b) The department has authority to administer oaths, subpoena
23 witnesses or documents, and take testimony in all matters relating to
24 issuing, denying, limiting, suspending, or revoking ~~such~~ A license.

25 (c) The department shall issue licenses to applicants furnishing
26 satisfactory evidence of fitness to conduct and maintain a HEALTH facility
27 described in section 25-3-101 in accordance with ~~the provisions of this~~

1 part 1 and the rules and regulations adopted by such THE department. THE
2 DEPARTMENT SHALL NOT REQUIRE, AS SATISFACTORY EVIDENCE OF
3 FITNESS, EVIDENCE AS TO WHETHER AN APPLICANT HAS PROVIDED SELF
4 DECLARATIONS, AFFIDAVITS, OR OTHER ATTESTATIONS AS TO ITS GENERAL
5 COMPLIANCE WITH REGULATORY REQUIREMENTS. THE DEPARTMENT
6 SHALL DETERMINE AN APPLICANT'S FITNESS SOLELY BASED ON THE
7 SPECIFIC FITNESS INFORMATION OR DOCUMENTATION SUBMITTED BY THE
8 APPLICANT UPON THE DEPARTMENT'S REQUEST OR AS OTHERWISE
9 ACQUIRED BY THE DEPARTMENT THROUGH ITS OWN REVIEW OR
10 INVESTIGATION OF THE APPLICANT.

11 (d) The license shall be signed by the president and attested by the
12 secretary of the state board of health and have the STATE BOARD'S seal
13 ~~thereof affixed thereto.~~ Such TO THE LICENSE. THE license expires one
14 year from the date of issuance.

15 (e) (I) IN DETERMINING WHETHER A HEALTH FACILITY IS
16 UNDERGOING A CHANGE OF OWNERSHIP THAT IS SUBJECT TO THE
17 DEPARTMENT'S APPROVAL FOR LICENSING PURPOSES, THE DEPARTMENT
18 SHALL REVIEW THE FITNESS OF A NEW OWNER ONLY WHEN A TRANSACTION
19 RESULTS IN A TRANSFER TO ONE OR MORE NEW OWNERS OF AT LEAST FIFTY
20 PERCENT OF DIRECT OR INDIRECT OWNERSHIP INTEREST IN THE HEALTH
21 FACILITY. IF A FITNESS REVIEW IS TRIGGERED, THE DEPARTMENT SHALL
22 CONDUCT THE REVIEW ONLY OF A NEW OWNER ACQUIRING A DIRECT
23 OWNERSHIP INTEREST, AND THE DEPARTMENT SHALL NOT CONDUCT A
24 FITNESS REVIEW OF A NEW OWNER THAT HAS BEEN SUBJECT TO A FITNESS
25 REVIEW WITH RESPECT TO A HEALTH FACILITY LICENSE CONDUCTED
26 WITHIN THREE YEARS OF THE DATE OF THE APPLICATION FOR A TRANSFER
27 OF OWNERSHIP.

1 (II) A CONVERSION OF THE HEALTH FACILITY'S LEGAL STRUCTURE,
2 OR THE LEGAL STRUCTURE OF AN ENTITY THAT HAS AN INDIRECT
3 OWNERSHIP INTEREST IN THE HEALTH FACILITY, IS NOT A CHANGE OF
4 OWNERSHIP UNLESS THE CONVERSION ALSO INCLUDES A TRANSFER OF AT
5 LEAST FIFTY PERCENT OF THE LICENSED FACILITY'S DIRECT OR INDIRECT
6 OWNERSHIP INTEREST TO ONE OR MORE NEW OWNERS.

7 **SECTION 5.** In Colorado Revised Statutes, **amend 25-3-102.1**
8 as follows:

9 **25-3-102.1. Deemed status for certain facilities.** (1) (a) In the
10 licensing of an ambulatory surgical center following the issuance of initial
11 licensure by the department OF PUBLIC HEALTH AND ENVIRONMENT, the
12 voluntary submission of satisfactory evidence that the applicant is
13 accredited by the joint commission, the American association for
14 accreditation of ambulatory surgery facilities, inc., the accreditation
15 association for ambulatory health care, the American osteopathic
16 association, or any successor entities shall be deemed to meet certain
17 requirements for license renewal so long as the standards for accreditation
18 applied by the accrediting organization are at least as stringent as the
19 licensure requirements otherwise specified by the department.

20 (b) (I) IN THE APPLICATION FOR OR RENEWAL OF A LICENSE OF A
21 HEALTH FACILITY DESCRIBED IN SECTION 25-3-101, OTHER THAN AN
22 AMBULATORY SURGICAL CENTER, THE DEPARTMENT OF PUBLIC HEALTH
23 AND ENVIRONMENT SHALL DEEM AN ACCREDITATION AS SATISFACTION
24 OF THE REQUIREMENTS FOR A NEW LICENSE OR LICENSE RENEWAL IF THE
25 HEALTH FACILITY SUBMITS SATISFACTORY EVIDENCE THAT THE HEALTH
26 FACILITY IS ACCREDITED BY THE JOINT COMMISSION, THE COMMUNITY
27 HEALTH ACCREDITATION PROGRAM, OR ANY OTHER NATIONALLY

1 ACCREDITED ORGANIZATION OR BODY RECOGNIZED BY THE CENTERS FOR
2 MEDICARE AND MEDICAID SERVICES THAT SURVEYS OR ACCREDITS THE
3 PARTICULAR HEALTH FACILITY. █

4 (II) IF THE STANDARDS FOR ACCREDITATION BY A NATIONALLY
5 ACCREDITED ORGANIZATION OR BODY RECOGNIZED BY THE CENTERS FOR
6 MEDICARE AND MEDICAID SERVICES FOR THE PARTICULAR █ HEALTH
7 FACILITY ARE LESS STRINGENT THAN THE STATE'S LICENSURE STANDARDS
8 FOR THAT TYPE OF HEALTH FACILITY, THE DEPARTMENT OF PUBLIC HEALTH
9 AND ENVIRONMENT MAY REQUEST ADDITIONAL INFORMATION REQUIRED
10 FOR LICENSURE OF THAT TYPE OF HEALTH FACILITY █ UNDER STATE LAW
11 THAT WAS NOT PREVIOUSLY SUBMITTED FOR ACCREDITATION. █

12 (III) IF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
13 TAKES AN ENFORCEMENT ACTIVITY, AS DEFINED IN SECTION 25-1.5-103 (2)
14 (b.5), AGAINST A HEALTH FACILITY TO WHICH IT HAS GRANTED DEEMED
15 STATUS PURSUANT TO THIS PARAGRAPH (b), THE DEPARTMENT MAY
16 REVOKE THE HEALTH FACILITY'S DEEMED STATUS.

17 (c) Upon submission of a completed application for license
18 renewal, the department OF PUBLIC HEALTH AND ENVIRONMENT shall
19 accept proof of the accreditation in lieu of licensing inspections or other
20 requirements. Nothing in this section ~~shall be construed to exempt~~
21 EXEMPTS an accredited ambulatory surgical center HEALTH FACILITY from
22 inspections or from other forms of oversight by the department as
23 necessary to ensure public health and safety.

24 (2) In determining fees otherwise payable by an ambulatory
25 surgical center A HEALTH FACILITY for license renewal, the department OF
26 PUBLIC HEALTH AND ENVIRONMENT shall give due consideration to
27 efficiencies and savings generated in connection with the deemed status

1 process in subsection (1) of this section and shall specifically provide an
2 appropriate credit or reduced fee to ~~an ambulatory surgical center~~ A
3 HEALTH FACILITY that achieves license renewal through deemed status.

4 **SECTION 6.** In Colorado Revised Statutes, 25-3-103, **amend** (1)
5 (a); and **add** (1) (c) as follows:

6 **25-3-103. License denial or revocation - provisional license -**
7 **rules.** (1) (a) The department of public health and environment may deny
8 an application for a new or renewal license under this part 1 or revoke a
9 license if the applicant or licensee has not satisfied the requirements of
10 this part 1 or part 6 of this article and the rules of the department or the
11 state board of health. If a license is denied or revoked, the department
12 may grant the applicant or licensee a provisional license upon payment of
13 a fee established by the state board of health by rule, SUBJECT TO THE
14 LIMITATIONS IN PARAGRAPH (c) OF THIS SUBSECTION (1). The provisional
15 license ~~shall be~~ IS valid for no longer than ninety days and may be issued
16 to allow the applicant or licensee time to comply with the requirements
17 for a regular license. A second provisional license may be issued if the
18 department determines it is necessary to effect compliance. The second
19 provisional license ~~shall~~ MUST be issued for the same duration as the first
20 provisional license upon payment of the fee established by the state board
21 of health by rule, SUBJECT TO THE LIMITATIONS IN PARAGRAPH (c) OF THIS
22 SUBSECTION (1). No further provisional licenses may be issued for the
23 then current year after the second issuance.

24 (c) ON OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (c),
25 THE STATE BOARD OF HEALTH SHALL NOT INCREASE THE AMOUNT OF A
26 PROVISIONAL LICENSE FEE ESTABLISHED PURSUANT TO PARAGRAPH (a) OF
27 THIS SUBSECTION (1) ABOVE THE AMOUNT OF A PROVISIONAL LICENSE FEE

1 THAT IS IN EFFECT ON THE EFFECTIVE DATE OF THIS PARAGRAPH (c).
2 NOTHING IN THIS PARAGRAPH (c) LIMITS THE ABILITY OF THE STATE
3 BOARD OF HEALTH TO REDUCE THE AMOUNT OF A PROVISIONAL LICENSE
4 FEE IN EFFECT ON SUCH DATE OR TO MODIFY FEES IN ACCORDANCE WITH
5 PARAGRAPH (b) OF THIS SUBSECTION (1) AS NECESSARY TO COMPLY WITH
6 SECTION 24-75-402, C.R.S.

7 **SECTION 7.** In Colorado Revised Statutes, 25-3-105, **amend** (1)
8 (a) (I) and (2) as follows:

9 **25-3-105. License - fee - rules - penalty.** (1) (a) (I) (A) SUBJECT
10 TO THE LIMITATIONS IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH
11 (I), the state board of health shall establish a schedule of fees, which ~~shall~~
12 MUST be set at a level sufficient to meet the direct and indirect costs of
13 administration and enforcement of this article, as appropriated by the
14 general assembly for each fiscal year, less any moneys appropriated for
15 the same fiscal year by the general assembly from any other source to
16 meet such costs. The fee schedule ~~shall~~ MUST also ensure that the reserve
17 balance in the health facilities general licensure cash fund created in
18 section 25-3-103.1 (1) is consistent with the limits specified in section
19 24-75-402 (3), C.R.S., and ~~shall~~ MUST be modified, as necessary, to
20 comply with said limits. The state board shall establish and modify, as
21 necessary, the fee schedule by rules adopted in accordance with article 4
22 of title 24, C.R.S. Except as specified in subparagraph (II) of this
23 paragraph (a), the department OF PUBLIC HEALTH AND ENVIRONMENT may
24 assess fees in accordance with the fee schedule established by the state
25 board against health facilities licensed by the department. All fees
26 collected pursuant to the fee schedule ~~shall~~ MUST be deposited in the
27 health facilities general licensure cash fund created in section 25-3-103.1

1 (1) and ~~shall be~~ ARE subject to appropriation by the general assembly in
2 accordance with section 25-3-103.1 (2).

3 (B) ON OR AFTER THE EFFECTIVE DATE OF THIS
4 SUB-SUBPARAGRAPH (B), THE STATE BOARD OF HEALTH MAY INCREASE
5 THE AMOUNT OF ANY FEE ON THE SCHEDULE OF FEES ESTABLISHED
6 PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I) THAT
7 IS IN EFFECT ON THE EFFECTIVE DATE OF THIS SUB-SUBPARAGRAPH (B),
8 UPON THE RECOMMENDATION OF THE HEALTH CARE INDUSTRY FACILITY
9 ADVISORY COUNCIL CREATED IN SECTION 25-3-112, BY AN AMOUNT NOT
10 TO EXCEED THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES
11 DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE
12 INDEX FOR DENVER-BOULDER-GREELEY FOR ALL URBAN CONSUMERS, ALL
13 GOODS, OR ITS SUCCESSOR INDEX. NOTHING IN THIS SUB-SUBPARAGRAPH
14 (B) LIMITS THE ABILITY OF THE STATE BOARD OF HEALTH TO REDUCE THE
15 AMOUNT OF ANY FEE ON THE SCHEDULE OF FEES IN EFFECT ON SUCH DATE
16 OR TO MODIFY FEES AS NECESSARY TO COMPLY WITH SECTION 24-75-402,
17 C.R.S.

18 (C) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
19 SHALL INSTITUTE, BY RULE, A PERFORMANCE INCENTIVE SYSTEM FOR
20 LICENSED HEALTH FACILITIES UNDER WHICH A LICENSED HEALTH FACILITY
21 WOULD BE ELIGIBLE FOR A ■ REDUCTION IN ITS LICENSE RENEWAL FEE IF:
22 THE DEPARTMENT'S ON-SITE RELICENSURE INSPECTION DEMONSTRATES
23 THAT THE HEALTH FACILITY HAS NO SIGNIFICANT DEFICIENCIES THAT HAVE
24 NEGATIVELY AFFECTED THE LIFE, SAFETY, OR HEALTH OF ITS CONSUMERS;
25 THE LICENSED HEALTH FACILITY HAS FULLY AND TIMELY COOPERATED
26 WITH THE DEPARTMENT DURING THE ON-SITE INSPECTION; THE
27 DEPARTMENT HAS FOUND NO DOCUMENTED ACTUAL OR POTENTIAL HARM

1 TO CONSUMERS; AND, IN THE CASE WHERE ANY SIGNIFICANT DEFICIENCIES
2 ARE FOUND THAT DO NOT NEGATIVELY AFFECT THE LIFE, SAFETY, OR
3 HEALTH OF CONSUMERS, THE LICENSED HEALTH FACILITY HAS SUBMITTED,
4 AND THE DEPARTMENT HAS ACCEPTED, A PLAN OF CORRECTION AND THE
5 HEALTH FACILITY HAS CORRECTED THE DEFICIENT PRACTICE, AS VERIFIED
6 BY THE DEPARTMENT, WITHIN THE PERIOD REQUIRED BY THE DEPARTMENT.

7 (2) The department of public health and environment shall
8 maintain a full, true, and accurate ~~cost~~ ACCOUNTING OF THE COSTS of
9 providing services under this article ~~including indirect costs~~ AND, AT
10 LEAST ANNUALLY, SHALL PROVIDE A DETAILED COST ACCOUNTING REPORT
11 TO THE HEALTH CARE INDUSTRY FACILITY ADVISORY COUNCIL CREATED
12 IN SECTION 25-3-112. The department of ~~public health and environment~~
13 shall regularly evaluate and update its cost-accounting methods.

14 **SECTION 8.** In Colorado Revised Statutes, **add** 25-3-112 as
15 follows:

16 **25-3-112. Health care industry facility advisory council -**
17 **creation - membership - duties - repeal.** (1) THERE IS HEREBY CREATED
18 IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT THE HEALTH
19 CARE INDUSTRY FACILITY ADVISORY COUNCIL, REFERRED TO IN THIS
20 SECTION AS THE "ADVISORY COUNCIL". THE PURPOSE OF THE ADVISORY
21 COUNCIL IS TO ADVISE THE DEPARTMENT AND THE STATE BOARD OF
22 HEALTH ON MATTERS RELATED TO STATE LICENSURE OF HEALTH CARE
23 FACILITIES LISTED IN SECTIONS 25-1.5-103 (1) AND 25-3-101.

24 (2) (a) **(I)** THE ADVISORY COUNCIL CONSISTS OF ONE MEMBER
25 REPRESENTING EACH TYPE OF HEALTH CARE FACILITY THAT IS LICENSED
26 BY THE DEPARTMENT PURSUANT TO SECTION 25-1.5-103 (1). BY JANUARY
27 1, 2013, THE GOVERNOR, THE SPEAKER OF THE HOUSE OF

1 REPRESENTATIVES, AND THE PRESIDENT OF THE SENATE SHALL MAKE AN
2 EQUAL NUMBER OF APPOINTMENTS TO THE ADVISORY COUNCIL, BUT IF THE
3 NUMBER OF MEMBERS NEEDED CANNOT BE EQUALLY APPOINTED AMONG
4 THE THREE APPOINTING OFFICERS, THE GOVERNOR SHALL APPOINT THE
5 REMAINING MEMBERS TO THE ADVISORY COUNCIL.

6 (II) IN ADDITION TO THE MEMBERS APPOINTED PURSUANT TO
7 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), THE GOVERNOR SHALL
8 APPOINT ONE ADDITIONAL MEMBER TO THE ADVISORY COUNCIL WHO IS A
9 HEALTH CARE CONSUMER.

10 (b) MEMBERS OF THE ADVISORY COUNCIL SHALL SERVE TERMS OF
11 THREE YEARS; EXCEPT THAT, OF THE MEMBERS FIRST APPOINTED,
12 ONE-THIRD SHALL SERVE INITIAL ONE-YEAR TERMS, ONE-THIRD SHALL
13 SERVE INITIAL TWO-YEAR TERMS, AND THE REMAINING MEMBERS SHALL
14 SERVE INITIAL THREE-YEAR TERMS.

15 (c) IN THE EVENT OF A VACANCY ON THE ADVISORY COUNCIL, THE
16 VACANCY MUST BE FILLED BY A NEW MEMBER APPOINTED BY THE
17 ORIGINAL APPOINTING OFFICER FOR THE POSITION VACATED AND FOR THE
18 REMAINDER OF THE UNEXPIRED TERM. ANY MEMBER WHO HAS TWO
19 CONSECUTIVE UNEXCUSED ABSENCES FROM MEETINGS OF THE ADVISORY
20 COUNCIL IS DEEMED TO HAVE VACATED HIS OR HER MEMBERSHIP ON THE
21 ADVISORY COUNCIL AND MUST BE REPLACED BY A VACANCY APPOINTMENT
22 IN THE MANNER DESCRIBED IN THIS PARAGRAPH (c), AND THE PERSON SO
23 APPOINTED SHALL SERVE THE REMAINDER OF THAT MEMBER'S UNEXPIRED
24 TERM.

25 (d) MEMBERS OF THE ADVISORY COUNCIL SHALL SERVE WITHOUT
26 COMPENSATION OR REIMBURSEMENT OF THEIR EXPENSES INCURRED IN THE
27 PERFORMANCE OF THEIR DUTIES.

1 (e) A MAJORITY OF MEMBERS OF THE ADVISORY COUNCIL
2 CONSTITUTES A QUORUM.

3 (f) THE ADVISORY COUNCIL MUST MEET AT LEAST QUARTERLY, AT
4 THE CALL OF THE CHAIRPERSON OR AT THE REQUEST OF ANY MEMBER, AND
5 MAY MEET AS OFTEN AS DEEMED NECESSARY BY THE ADVISORY COUNCIL
6 TO CARRY OUT ITS DUTIES AS SET FORTH IN THIS SECTION. AT THE FIRST
7 MEETING AFTER THE INITIAL APPOINTMENTS OF MEMBERS TO THE
8 ADVISORY COUNCIL, AND EACH YEAR THEREAFTER, THE MEMBERS OF THE
9 ADVISORY COUNCIL SHALL ELECT A CHAIRPERSON TO SERVE A ONE-YEAR
10 TERM.

11 (3) THE ADVISORY COUNCIL SHALL PERFORM THE FOLLOWING
12 FUNCTIONS:

13 (a) ADVISE THE DEPARTMENT OF PUBLIC HEALTH AND
14 ENVIRONMENT AND THE STATE BOARD OF HEALTH ON PROPOSED
15 STANDARDS FOR THE OPERATION OF LICENSED HEALTH CARE FACILITIES
16 IDENTIFIED IN SECTIONS 25-1.5-103 AND 25-3-101;

17 (b) PRIOR TO THE ADOPTION OF NEW RULES REGARDING HEALTH
18 CARE FACILITY LICENSURE OR AMENDMENTS TO HEALTH CARE FACILITY
19 LICENSURE RULES EXISTING PRIOR TO JULY 1, 2012, REVIEW AND MAKE
20 RECOMMENDATIONS TO THE DEPARTMENT OF PUBLIC HEALTH AND
21 ENVIRONMENT AND THE STATE BOARD OF HEALTH REGARDING PROPOSED
22 NEW LICENSURE RULES AND MODIFICATIONS TO LICENSURE RULES
23 EXISTING PRIOR TO JULY 1, 2012;

24 (c) REVIEW AND MAKE RECOMMENDATIONS TO THE DEPARTMENT
25 OF PUBLIC HEALTH AND ENVIRONMENT AND THE STATE BOARD OF HEALTH
26 REGARDING MODIFICATIONS TO LICENSING FEES ESTABLISHED PRIOR TO
27 JULY 1, 2012;

1 (d) REVIEW AND MAKE RECOMMENDATIONS CONCERNING
2 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT GUIDELINES,
3 POLICIES, AND PROCEDURES FOR THE LICENSURE OF HEALTH FACILITIES
4 PRIOR TO IMPLEMENTATION OF THE GUIDELINES, POLICIES, AND
5 PROCEDURES; AND

6 (e) SEEK ADVICE AND COUNSEL, INCLUDING THE ESTABLISHMENT
7 OF AD HOC COMMITTEES COMPRISED OF OTHER INDIVIDUALS, GROUPS,
8 ORGANIZATIONS, OR ASSOCIATIONS, WHEN, IN THE JUDGMENT OF THE
9 ADVISORY COUNCIL, IT IS ADVISABLE TO OBTAIN NECESSARY EXPERTISE
10 FOR THE PURPOSE OF MEETING THE ADVISORY COUNCIL'S RESPONSIBILITIES
11 UNDER THIS SECTION.

12 (4) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND
13 THE STATE BOARD OF HEALTH SHALL ACCEPT AND TAKE INTO
14 CONSIDERATION THE RECOMMENDATIONS MADE BY THE ADVISORY
15 COUNCIL PURSUANT TO THIS SECTION BEFORE TAKING ACTION ON ANY OF
16 THE MATTERS ON WHICH THE ADVISORY COUNCIL SUBMITS
17 RECOMMENDATIONS.

18 (5) FOR PURPOSES OF SECTION 24-4-103 (2), C.R.S., AS AMENDED
19 BY HOUSE BILL 12-1008, ENACTED IN 2012, THE ADVISORY COUNCIL
20 ESTABLISHED PURSUANT TO THIS SECTION SHALL SERVE AS THE
21 REPRESENTATIVE GROUP FOR THE DEPARTMENT OF PUBLIC HEALTH AND
22 ENVIRONMENT.

23 (6) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.
24 PRIOR TO ITS REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES SHALL
25 CONDUCT A REVIEW OF THE FUNCTIONS OF THE ADVISORY COUNCIL IN
26 ACCORDANCE WITH SECTION 2-3-1203, C.R.S.

27 **SECTION 9.** In Colorado Revised Statutes, 2-3-1203, **add** (3)

1 (ii.5) as follows:

2 **2-3-1203. Sunset review of advisory committees.** (3) The
3 following dates are the dates for which the statutory authorization for the
4 designated advisory committees is scheduled for repeal:

5 (ii.5) SEPTEMBER 1, 2022:

6 (I) THE HEALTH CARE INDUSTRY FACILITY ADVISORY COUNCIL
7 CREATED IN SECTION 25-3-112, C.R.S.

8 **SECTION 10.** In Colorado Revised Statutes, 25-27.5-103,
9 **amend** (2) as follows:

10 **25-27.5-103. License required - civil and criminal penalties.**

11 (2) (a) On or after June 1, 2009, any home care placement agency shall
12 notify the department in writing that it provides referrals for skilled home
13 health services or personal care services and shall annually update such
14 notice. The department shall maintain a list of all home care placement
15 agencies and shall make the list accessible to the public. A HOME CARE
16 PLACEMENT AGENCY IS NOT LICENSED OR CERTIFIED BY THE DEPARTMENT
17 AND SHALL NOT CLAIM OR ASSERT THAT THE DEPARTMENT LICENSES OR
18 CERTIFIES THE HOME CARE PLACEMENT AGENCY.

19 (b) A person who violates this section may be subject to a civil
20 penalty assessed by the department that is not less than five hundred
21 dollars per year or more than one thousand dollars per year for failure to
22 register with the department OR FOR CLAIMING TO BE LICENSED OR
23 CERTIFIED BY THE DEPARTMENT. The department shall assess, enforce,
24 and collect the penalty in accordance with article 4 of title 24, C.R.S. Any
25 moneys collected shall be deposited in the home care agency cash fund
26 created in section 25-27.5-105.

27 **SECTION 11.** In Colorado Revised Statutes, 25-27.5-104,

1 **amend** (1) introductory portion as follows:

2 **25-27.5-104. Minimum standards for home care agencies -**
3 **rules - advisory committee.** (1) ~~On or before May 1, 2009,~~ The state
4 board shall promulgate rules pursuant to section 24-4-103, C.R.S.,
5 providing minimum standards for the operation of home care agencies
6 within the state of Colorado. In promulgating these rules, the state board
7 shall ~~consider the~~ ESTABLISH different requirements appropriate to the
8 various types of skilled home health and personal care services, including
9 differentiating requirements for providers that are substantially funded
10 through medicare and medicaid reimbursement, providers for the program
11 of all-inclusive care for the elderly established in section 25.5-5-412,
12 C.R.S., providers that are already licensed under this title, and providers
13 that are solely or substantially privately funded. This differentiation ~~may~~
14 SHALL consider the requirements already imposed by other federal and
15 state regulatory agencies AND SHALL ONLY REGULATE A PROVIDER FOR
16 THE PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY CONSISTENT
17 WITH THE FEDERAL REQUIREMENTS ESTABLISHED FOR THE PROVIDER
18 PURSUANT TO A THREE-WAY AGREEMENT BETWEEN THE PROVIDER, THE
19 CENTERS OF MEDICARE AND MEDICAID SERVICES, AND THE DEPARTMENT
20 OF HEALTH CARE POLICY AND FINANCING; EXCEPT THAT THE DEPARTMENT
21 MAY REQUIRE ADDITIONAL INFORMATION FROM THE PROVIDER WITH
22 REGARD TO REPORTING INSTANCES OF ABUSE. Such rules ~~shall~~ MUST
23 include ~~but need not be limited to,~~ the following:

24 **SECTION 12.** In Colorado Revised Statutes, 27-10.5-109,
25 **amend** (2), (3), (4), (5), and (6) introductory portion; and **add** (7) as
26 follows:

27 **27-10.5-109. Community residential home - licenses - rules.**

1 (2) (a) ~~The department of public health and environment and the~~
2 department of human services shall implement a system of joint licensure
3 and certification of community residential homes. Independent residential
4 support services provided by the department of human services do not
5 require licensure by the department of public health and environment.

6 (b) (I) IN THE APPLICATION FOR OR RENEWAL OF A LICENSE AND
7 CERTIFICATION OF A COMMUNITY RESIDENTIAL HOME, IF THE COMMUNITY
8 RESIDENTIAL HOME SUBMITS SATISFACTORY EVIDENCE THAT IT IS
9 ACCREDITED BY A NATIONALLY ACCREDITED ORGANIZATION OR BODY
10 RECOGNIZED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES
11 THAT SURVEYS OR ACCREDITS COMMUNITY RESIDENTIAL HOMES, THE
12 DEPARTMENT SHALL DEEM THAT ACCREDITATION OR SURVEY AS
13 SATISFACTION OF THE REQUIREMENTS FOR A NEW LICENSE AND
14 CERTIFICATION OR LICENSE AND CERTIFICATION RENEWAL. IF THE
15 STANDARDS FOR NATIONAL ACCREDITATION OF A COMMUNITY
16 RESIDENTIAL HOME ARE LESS STRINGENT THAN THE STATE'S STANDARDS
17 FOR LICENSURE AND CERTIFICATION, THE DEPARTMENT MAY REQUEST
18 ADDITIONAL INFORMATION REQUIRED FOR LICENSURE AND CERTIFICATION
19 OF COMMUNITY RESIDENTIAL HOMES UNDER STATE LAW THAT WAS NOT
20 PREVIOUSLY SUBMITTED FOR THE ACCREDITATION.

21 (II) IF THE DEPARTMENT TAKES AN ENFORCEMENT ACTIVITY
22 AGAINST A COMMUNITY RESIDENTIAL HOME TO WHICH IT HAS GRANTED
23 DEEMED STATUS PURSUANT TO THIS PARAGRAPH (b), THE DEPARTMENT
24 MAY REVOKE THE HEALTH FACILITY'S DEEMED STATUS.

25 (3) (a) ~~The department of public health and environment and the~~
26 department of human services, IN CONSULTATION WITH THE DEPARTMENT
27 OF PUBLIC HEALTH AND ENVIRONMENT, shall develop standards for the

1 licensure and certification of community residential homes. ~~Such~~ THE
2 standards shall include health, life, and fire safety, as well as standards to
3 ensure the effective delivery of services and supports to residents; except
4 that any community residential home must comply with local codes.
5 ~~These~~

6 (b) WHEN REVIEWING A LICENSE AND CERTIFICATION APPLICATION
7 OR A REQUEST FOR APPROVAL OF A NEWLY CONSTRUCTED OR REMODELED
8 COMMUNITY RESIDENTIAL HOME, THE DEPARTMENT SHALL NOT IMPOSE
9 STANDARDS FOR CONSTRUCTION THAT ARE MORE STRINGENT THAN OR DO
10 NOT COMPLY WITH NATIONAL, STATE, AND LOCAL BUILDING CODES
11 APPLICABLE TO THE LOCATION AND COMMUNITY RESIDENTIAL HOME.

12 (c) (I) THE DEPARTMENT SHALL ADOPT THE standards ~~shall, as~~
13 ~~appropriate, be adopted in~~ BY rule by the department of human services
14 ~~or the state board of health and shall specify the responsibilities of each~~
15 ~~department in the program. Surveys undertaken~~ AND SHALL SURVEY
16 COMMUNITY RESIDENTIAL HOMES to ensure compliance with ~~these~~ THE
17 standards. ~~shall, as appropriate, be undertaken as joint surveys by the~~
18 ~~departments.~~

19 (II) IF A SERVICE AGENCY OPERATES A COMMUNITY RESIDENTIAL
20 HOME AND PROVIDES PERSONAL CARE SERVICES, AS DEFINED IN SECTION
21 25-27.5-102, C.R.S., THE DEPARTMENT IS RESPONSIBLE FOR SURVEYING
22 THOSE SERVICES PROVIDED BY THE SERVICE AGENCY, WHICH SURVEY
23 SHALL BE CONDUCTED SIMULTANEOUSLY WITH THE SURVEY OF THE
24 COMMUNITY RESIDENTIAL HOME.

25 (III) THE DEPARTMENT SHALL EXTEND THE SURVEY CYCLE OR
26 CONDUCT AN ABBREVIATED, PERIODIC INSPECTION OR SURVEY OF A
27 COMMUNITY RESIDENTIAL HOME LICENSED AND CERTIFIED FOR AT LEAST

1 THREE YEARS AND AGAINST WHICH NO ENFORCEMENT ACTIVITY HAS BEEN
2 TAKEN AND NO SUBSTANTIATED COMPLAINT RESULTING IN THE DISCOVERY
3 OF SIGNIFICANT DEFICIENCIES THAT MAY NEGATIVELY AFFECT THE LIFE,
4 HEALTH, OR SAFETY OF CONSUMERS OF THE COMMUNITY RESIDENTIAL
5 HOME HAS BEEN RECEIVED WITHIN THE THREE YEARS PRIOR TO THE DATE
6 OF THE INSPECTION OR SURVEY. THE DEPARTMENT, BY RULE, SHALL
7 ESTABLISH A SCHEDULE FOR AN EXTENDED SURVEY CYCLE OR AN
8 ABBREVIATED, PERIODIC INSPECTION OR SURVEY SYSTEM DESIGNED, AT A
9 MINIMUM, TO:

10 (A) REDUCE THE TIME NEEDED FOR AND COSTS OF INSPECTIONS
11 AND LICENSE AND CERTIFICATION RENEWALS FOR BOTH THE DEPARTMENT
12 AND THE COMMUNITY RESIDENTIAL HOME;

13 (B) REDUCE THE NUMBER, FREQUENCY, AND DURATION OF ON-SITE
14 INSPECTIONS;

15 (C) REDUCE THE SCOPE OF DATA THAT COMMUNITY RESIDENTIAL
16 HOMES ARE REQUIRED TO SUBMIT OR PROVIDE TO THE DEPARTMENT IN
17 CONNECTION WITH THE INSPECTION OR SURVEY AND LICENSE AND
18 CERTIFICATION RENEWAL;

19 (D) REDUCE THE AMOUNT OF DUPLICATIVE DATA, REPORTS, AND
20 INFORMATION REQUIRED TO COMPLETE THE INSPECTION OR SURVEY OR
21 THE LICENSE AND CERTIFICATION RENEWAL; AND

22 (E) BE BASED ON A SAMPLE OF THE COMMUNITY RESIDENTIAL
23 HOME SIZE.

24 (IV) NOTHING IN SUBPARAGRAPH (III) OF THIS PARAGRAPH (c)
25 LIMITS THE ABILITY OF THE DEPARTMENT OF HUMAN SERVICES TO
26 CONDUCT A PERIODIC INSPECTION OR SURVEY THAT IS REQUIRED TO MEET
27 ITS OBLIGATIONS AS A STATE SURVEY AGENCY ON BEHALF OF THE CENTERS

1 FOR MEDICARE AND MEDICAID SERVICES OR THE DEPARTMENT OF HEALTH
2 CARE POLICY AND FINANCING TO ASSURE THAT THE COMMUNITY
3 RESIDENTIAL HOME MEETS THE REQUIREMENTS FOR PARTICIPATION IN THE
4 MEDICARE AND MEDICAID PROGRAMS.

5 (d) THE DEPARTMENT SHALL INSTITUTE, BY RULE, A PERFORMANCE
6 INCENTIVE SYSTEM FOR COMMUNITY RESIDENTIAL HOMES UNDER WHICH
7 A COMMUNITY RESIDENTIAL HOME WOULD BE ELIGIBLE FOR A [REDACTED] [REDACTED]
8 REDUCTION IN ITS LICENSE AND CERTIFICATION RENEWAL FEE IF:

9 (I) THE DEPARTMENT'S ON-SITE RELICENSURE INSPECTION
10 DEMONSTRATES THAT THE COMMUNITY RESIDENTIAL HOME HAS NO
11 SIGNIFICANT DEFICIENCIES THAT HAVE NEGATIVELY AFFECTED THE LIFE,
12 SAFETY, OR HEALTH OF ITS CONSUMERS;

13 (II) THE COMMUNITY RESIDENTIAL HOME HAS FULLY AND TIMELY
14 COOPERATED WITH THE DEPARTMENT DURING THE ON-SITE INSPECTION;

15 (III) THE DEPARTMENT HAS FOUND NO DOCUMENTED ACTUAL OR
16 POTENTIAL HARM TO CONSUMERS; AND

17 (IV) IN THE CASE WHERE ANY SIGNIFICANT DEFICIENCIES ARE
18 FOUND THAT DO NOT NEGATIVELY AFFECT THE LIFE, SAFETY, OR HEALTH
19 OF CONSUMERS, THE COMMUNITY RESIDENTIAL HOME HAS SUBMITTED,
20 AND THE DEPARTMENT HAS ACCEPTED, A PLAN OF CORRECTION AND THE
21 HOME HAS CORRECTED THE DEFICIENT PRACTICE, AS VERIFIED BY THE
22 DEPARTMENT, WITHIN THE PERIOD REQUIRED BY THE DEPARTMENT.

23 (4) Any community residential home applying for a license ~~or~~ AND
24 certification on or after January 1, 1986, shall accommodate at least four
25 but no more than eight persons with developmental disabilities. All
26 licenses and certificates issued by ~~the department of public health and~~
27 ~~environment~~ or the department of human services ~~shall~~ MUST bear the

1 date of issuance and ~~shall be~~ ARE valid for not more than a
2 twenty-four-month period.

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

12 (6) The department ~~of human services and the state board of~~
13 ~~health~~ shall promulgate ~~such~~ rules as ~~are~~ necessary to implement this
14 section, pursuant to the provisions specified in article 4 of title 24, C.R.S.
15 The rules shall include ~~but shall not be limited to~~, the following:

16 (7) AS USED IN THIS SECTION, "ENFORCEMENT ACTIVITY" MEANS
17 THE IMPOSITION OF REMEDIES SUCH AS CIVIL MONEY PENALTIES;
18 APPOINTMENT OF A RECEIVER OR TEMPORARY MANAGER; CONDITIONAL
19 LICENSURE; SUSPENSION OR REVOCATION OF A LICENSE; A DIRECTED PLAN
20 OF CORRECTION; INTERMEDIATE RESTRICTIONS OR CONDITIONS, INCLUDING
21 RETAINING A CONSULTANT, DEPARTMENT MONITORING, OR PROVIDING
22 ADDITIONAL TRAINING TO EMPLOYEES, OWNERS, OR OPERATORS; OR ANY
23 OTHER REMEDY PROVIDED BY STATE OR FEDERAL LAW OR AS AUTHORIZED
24 BY FEDERAL SURVEY, CERTIFICATION, AND ENFORCEMENT REGULATIONS
25 AND AGREEMENTS FOR VIOLATIONS OF FEDERAL OR STATE LAW.

26 **SECTION 13. No appropriation.** The general assembly has
27 determined that this act can be implemented within existing

1 appropriations, and therefore no separate appropriation of state moneys
2 is necessary to carry out the purposes of this act.

3 **SECTION 14. Effective date.** This act takes effect upon passage;
4 except that section 25-3-112 (5), Colorado Revised Statutes, as enacted
5 in section 8 of this act, takes effect only if House Bill 12-1008 becomes
6 law and takes effect on the effective date of this act or of House Bill
7 12-1008, whichever is later.

8 **SECTION 15. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.