

**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

Tochtrop, Boyd, Mitchell, Neville, White

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), and (2) (a.5) introductory portion; and **add** (1) (a) (III)
27 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~~ HOSPITALS, convalescent centers, community mental
9 health centers, acute treatment units, facilities for persons with
10 developmental disabilities, ~~habilitation centers for brain-damaged~~
11 ~~children, chiropractic centers and hospitals, maternity hospitals, nursing~~
12 ~~care facilities, the pilot project rehabilitative nursing facility, hospice~~
13 ~~care, assisted living~~ residences, dialysis treatment clinics, ambulatory
14 surgical centers, birthing centers, home care agencies, and other facilities
15 of a like nature, except those wholly owned and operated by any
16 governmental unit or 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 A TIERED~~ INSPECTION OR SURVEY OF A HEALTH FACILITY
25 LICENSED FOR AT LEAST THREE YEARS AND AGAINST WHICH NO
26 ENFORCEMENT ACTIVITY HAS BEEN TAKEN, ~~NO PATTERNS OF DEFICIENT~~
27 ~~PRACTICES EXIST, AS DOCUMENTED IN THE INSPECTION AND SURVEY~~

1 REPORTS ISSUED BY THE DEPARTMENT, AND NO SUBSTANTIATED
2 COMPLAINT RESULTING IN THE DISCOVERY OF SIGNIFICANT DEFICIENCIES
3 THAT MAY NEGATIVELY AFFECT THE LIFE, HEALTH, OR SAFETY OF
4 CONSUMERS OF THE HEALTH FACILITY HAS BEEN RECEIVED WITHIN THE
5 THREE YEARS PRIOR TO THE DATE OF THE INSPECTION. THE DEPARTMENT
6 MAY EXPAND THE SCOPE OF THE INSPECTION OR SURVEY TO AN EXTENDED
7 OR FULL SURVEY IF THE DEPARTMENT FINDS DEFICIENT PRACTICE DURING
8 THE TIERED INSPECTION OR SURVEY. THE DEPARTMENT, BY RULE, SHALL
9 ESTABLISH A SCHEDULE FOR AN EXTENDED SURVEY CYCLE OR A TIERED
10 INSPECTION OR SURVEY SYSTEM DESIGNED, AT A MINIMUM, TO: REDUCE
11 THE TIME NEEDED FOR AND COSTS OF LICENSURE INSPECTIONS FOR BOTH
12 THE DEPARTMENT AND THE LICENSED HEALTH FACILITY; REDUCE THE
13 NUMBER, FREQUENCY, AND DURATION OF ON-SITE INSPECTIONS; REDUCE
14 THE SCOPE OF DATA AND INFORMATION THAT HEALTH FACILITIES ARE
15 REQUIRED TO SUBMIT OR PROVIDE TO THE DEPARTMENT IN CONNECTION
16 WITH THE LICENSURE INSPECTION; REDUCE THE AMOUNT AND SCOPE OF
17 DUPLICATIVE DATA, REPORTS, AND INFORMATION REQUIRED TO COMPLETE
18 THE LICENSURE INSPECTION; AND BE BASED ON A SAMPLE OF THE FACILITY
19 SIZE. NOTHING IN THIS SUB-SUBPARAGRAPH (C) LIMITS THE ABILITY OF
20 THE DEPARTMENT TO CONDUCT A PERIODIC INSPECTION OR SURVEY THAT
21 IS REQUIRED TO MEET ITS OBLIGATIONS AS A STATE SURVEY AGENCY ON
22 BEHALF OF THE CENTERS FOR MEDICARE AND MEDICAID SERVICES OR THE
23 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING TO ASSURE THAT
24 THE HEALTH FACILITY MEETS THE REQUIREMENTS FOR PARTICIPATION IN
25 THE MEDICARE AND MEDICAID PROGRAMS.

26 (D) IN CONNECTION WITH THE RENEWAL OF LICENSES ISSUED
27 PURSUANT TO THIS SUBPARAGRAPH (I), THE DEPARTMENT SHALL

1 INSTITUTE A PERFORMANCE INCENTIVE SYSTEM PURSUANT TO SECTION
2 25-3-105 (1) (a) (I) (C).

3 (E) THE DEPARTMENT SHALL NOT CITE AS A DEFICIENCY IN A
4 REPORT ■ ■ RESULTING FROM A SURVEY OR INSPECTION OF A LICENSED
5 HEALTH FACILITY ANY DEFICIENCY FROM AN ISOLATED EVENT IDENTIFIED
6 BY THE DEPARTMENT THAT CAN BE EFFECTIVELY ■ REMEDIED DURING
7 THE SURVEY OR INSPECTION OF THE HEALTH FACILITY, UNLESS THE
8 DEFICIENCY CAUSED HARM OR A POTENTIAL FOR HARM, CREATED A LIFE-
9 OR LIMB-THREATENING EMERGENCY, OR WAS DUE TO ABUSE OR NEGLIGENCE.

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

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

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

3 (II) The department of public health and environment ~~shall have~~
4 ~~the~~ HAS primary responsibility for the licensure of ~~such facilities~~
5 COMMUNITY MENTAL HEALTH CENTERS AND ACUTE TREATMENTS UNITS.
6 The department of human services ~~shall have~~ HAS primary responsibility
7 for program approval AT THESE FACILITIES. IN PERFORMING THEIR
8 RESPECTIVE RESPONSIBILITIES PURSUANT TO THIS SUBPARAGRAPH (II),
9 BOTH DEPARTMENTS SHALL TAKE INTO ACCOUNT CHANGES IN HEALTH
10 CARE POLICY AND PRACTICE INCORPORATING THE CONCEPT AND PRACTICE
11 OF INTEGRATION OF SERVICES AND THE DEVELOPMENT OF A SYSTEM THAT
12 COMMINGLES AND INTEGRATES HEALTH CARE SERVICES.

13 (2) For purposes of this section, unless the context otherwise
14 requires:

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

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

27 **SECTION 3.** In Colorado Revised Statutes, 25-3-101, **amend** (1)

1 and (2) (a); and **add** (4) as follows:

2 **25-3-101. Hospitals - health facilities - licensed - definitions.**

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

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

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

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

24 (B) PROVIDES EMERGENCY SERVICES AT THE FACILITY.

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

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

1 ⊕ (A) A federally qualified health center, as defined in section
2 1861 (aa) (4) of the federal "Social Security Act", 42 U.S.C. sec. 1395x
3 (aa) (4);

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

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

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

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

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

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

26 (c) The department shall issue licenses to applicants furnishing
27 satisfactory evidence of fitness to conduct and maintain a HEALTH facility

1 described in section 25-3-101 in accordance with ~~the provisions of this~~
2 part 1 and the rules ~~and regulations~~ adopted by ~~such~~ THE department. THE
3 DEPARTMENT SHALL NOT REQUIRE, AS SATISFACTORY EVIDENCE OF
4 FITNESS, EVIDENCE AS TO WHETHER AN APPLICANT HAS PROVIDED SELF
5 DECLARATIONS, AFFIDAVITS, OR OTHER ATTESTATIONS AS TO ITS GENERAL
6 COMPLIANCE WITH REGULATORY REQUIREMENTS. THE DEPARTMENT
7 SHALL DETERMINE AN APPLICANT'S FITNESS SOLELY BASED ON THE
8 SPECIFIC FITNESS INFORMATION OR DOCUMENTATION SUBMITTED BY THE
9 APPLICANT UPON THE DEPARTMENT'S REQUEST OR AS OTHERWISE
10 ACQUIRED BY THE DEPARTMENT THROUGH ITS OWN REVIEW OR
11 INVESTIGATION OF THE APPLICANT.

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

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

1 OF OWNERSHIP.

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

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

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

21 (b) (I) IN THE APPLICATION FOR THE RENEWAL OF A LICENSE
22 FOR A HEALTH FACILITY DESCRIBED IN SECTION 25-3-101, OTHER THAN AN
23 AMBULATORY SURGICAL CENTER, THE DEPARTMENT OF PUBLIC HEALTH
24 AND ENVIRONMENT SHALL DEEM HEALTH FACILITIES THAT ARE
25 CURRENTLY ACCREDITED BY AN ACCREDITING ORGANIZATION
26 RECOGNIZED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID
27 SERVICES AS SATISFYING THE REQUIREMENTS FOR RENEWAL OF THE

1 LICENSE.

2 (II) IF THE STANDARDS FOR NATIONAL ACCREDITATION ARE LESS
3 STRINGENT THAN THE STATE'S LICENSURE STANDARDS FOR A PARTICULAR
4 HEALTH FACILITY, THE DEPARTMENT OF PUBLIC HEALTH AND
5 ENVIRONMENT MAY CONDUCT A SURVEY THAT FOCUSES ON THE MORE
6 STRINGENT STATE STANDARDS. BEGINNING ONE YEAR AFTER THE
7 DEPARTMENT FIRST GRANTS DEEMED STATUS TO A HEALTH FACILITY
8 PURSUANT TO THIS PARAGRAPH (b), THE DEPARTMENT MAY CONDUCT
9 VALIDATION SURVEYS, BASED ON A VALID SAMPLE METHODOLOGY, OF UP
10 TO TEN PERCENT OF THE TOTAL NUMBER OF ACCREDITED HEALTH
11 FACILITIES IN THE INDUSTRY, EXCLUDING HOSPITALS. IF THE DEPARTMENT
12 CONDUCTS A VALIDATION SURVEY OF A HEALTH FACILITY, THE
13 VALIDATION SURVEY IS IN LIEU OF A LICENSING RENEWAL SURVEY THAT
14 THE HEALTH FACILITY WOULD HAVE UNDERGONE IF THE HEALTH FACILITY
15 DID NOT HAVE DEEMED STATUS PURSUANT TO THIS PARAGRAPH (b).

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

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

1 (2) In determining fees otherwise payable by ~~an ambulatory~~
2 ~~surgical center~~ A HEALTH FACILITY for license renewal, the department OF
3 PUBLIC HEALTH AND ENVIRONMENT shall give due consideration to
4 efficiencies and savings generated in connection with the deemed status
5 process in subsection (1) of this section and shall specifically provide an
6 appropriate credit or reduced fee to ~~an ambulatory surgical center~~ A
7 HEALTH FACILITY that achieves license renewal through deemed status.

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

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

1 (c) ON OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (c),
2 THE STATE BOARD OF HEALTH SHALL NOT INCREASE THE AMOUNT OF A
3 PROVISIONAL LICENSE FEE ESTABLISHED PURSUANT TO PARAGRAPH (a) OF
4 THIS SUBSECTION (1) ABOVE THE AMOUNT OF A PROVISIONAL LICENSE FEE
5 THAT IS IN EFFECT ON THE EFFECTIVE DATE OF THIS PARAGRAPH (c).
6 NOTHING IN THIS PARAGRAPH (c) LIMITS THE ABILITY OF THE STATE
7 BOARD OF HEALTH TO REDUCE THE AMOUNT OF A PROVISIONAL LICENSE
8 FEE IN EFFECT ON SUCH DATE OR TO MODIFY FEES IN ACCORDANCE WITH
9 PARAGRAPH (b) OF THIS SUBSECTION (1) AS NECESSARY TO COMPLY WITH
10 SECTION 24-75-402, C.R.S.

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

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

1 assess fees in accordance with the fee schedule established by the state
2 board against health facilities licensed by the department. All fees
3 collected pursuant to the fee schedule ~~shall~~ MUST be deposited in the
4 health facilities general licensure cash fund created in section 25-3-103.1
5 (1) and ~~shall be~~ ARE subject to appropriation by the general assembly in
6 accordance with section 25-3-103.1 (2).

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

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

1 WITH THE DEPARTMENT DURING THE ON-SITE INSPECTION; THE
2 DEPARTMENT HAS FOUND NO DOCUMENTED ACTUAL OR POTENTIAL HARM
3 TO CONSUMERS; AND, IN THE CASE WHERE ANY SIGNIFICANT DEFICIENCIES
4 ARE FOUND THAT DO NOT NEGATIVELY AFFECT THE LIFE, SAFETY, OR
5 HEALTH OF CONSUMERS, THE LICENSED HEALTH FACILITY HAS SUBMITTED,
6 AND THE DEPARTMENT HAS ACCEPTED, A PLAN OF CORRECTION AND THE
7 HEALTH FACILITY HAS CORRECTED THE DEFICIENT PRACTICE, AS VERIFIED
8 BY THE DEPARTMENT, WITHIN THE PERIOD REQUIRED BY THE DEPARTMENT.

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

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

18 **25-3-112. Health care facility stakeholder forum -**
19 **creation - membership - duties.** (1) THERE IS HEREBY CREATED IN THE
20 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT THE HEALTH CARE
21 FACILITY STAKEHOLDER FORUM, REFERRED TO IN THIS SECTION AS THE
22 "STAKEHOLDER FORUM". THE STAKEHOLDER FORUM MUST CONSIST OF
23 REPRESENTATIVES FROM VARIOUS TYPES OF PROVIDER FACILITIES
24 LICENSED BY THE DEPARTMENT, CONSUMERS, CONSUMER ADVOCATES,
25 OMBUDSMEN, AND OTHER INTERESTED PARTIES. THE DEPARTMENT SHALL
26 MEET AT LEAST FOUR TIMES EACH YEAR WITH THE STAKEHOLDER FORUM
27 TO DISCUSS AND TAKE INTO CONSIDERATION THE CONCERNS AND ISSUES

1 OF INTEREST TO THE FORUM MEMBERS AND OTHER ATTENDEES REGARDING
2 THE DEVELOPMENT AND IMPLEMENTATION OF RULES AND OTHER MATTERS
3 THAT AFFECT ALL HEALTH CARE FACILITIES LICENSED BY THE
4 DEPARTMENT.

5 (2) THE MEMBERS OF THE STAKEHOLDER FORUM SERVE ON A
6 VOLUNTARY BASIS WITHOUT COMPENSATION AND ARE RESPONSIBLE FOR
7 NOTICING, STAFFING, RECORDING, AND REPORTING THE NOTES FROM THE
8 STAKEHOLDER FORUM MEETINGS. THE DEPARTMENT SHALL CONSIDER THE
9 ATTENDANCE OF ITS REPRESENTATIVES AT MEETINGS WITH THE
10 STAKEHOLDER FORUM TO BE WITHIN THE NORMAL COURSE OF BUSINESS,
11 WITH NO ADDITIONAL APPROPRIATION TO OR RESOURCES FROM THE
12 DEPARTMENT REQUIRED.

13 (3) THE STAKEHOLDER FORUM AND THE DEPARTMENT SHALL
14 WORK TO COORDINATE WITH, AND SHALL NOT DUPLICATE THE WORK BEING
15 DONE BY, ESTABLISHED OR STATUTORILY AUTHORIZED ADVISORY
16 COMMITTEES OR WORKING GROUPS ON ISSUES RELATED TO THE
17 DEVELOPMENT AND IMPLEMENTATION OF RULES.

18 (4) FOR PURPOSES OF SECTION 24-4-103 (2), C.R.S., AS AMENDED
19 BY HOUSE BILL 12-1008, ENACTED IN 2012, THE DEPARTMENT MAY USE
20 THE STAKEHOLDER FORUM DESCRIBED IN THIS SECTION, WHEN
21 APPROPRIATE, TO SERVE AS THE REPRESENTATIVE GROUP FOR THE
22 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

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

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

26 (2) (a) On or after June 1, 2009, any home care placement agency shall
27 notify the department in writing that it provides referrals for skilled home

1 health services or personal care services and shall annually update such
2 notice. The department shall maintain a list of all home care placement
3 agencies and shall make the list accessible to the public. A HOME CARE
4 PLACEMENT AGENCY IS NOT LICENSED OR CERTIFIED BY THE DEPARTMENT
5 AND SHALL NOT CLAIM OR ASSERT THAT THE DEPARTMENT LICENSES OR
6 CERTIFIES THE HOME CARE PLACEMENT AGENCY.

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

15 **SECTION 10.** In Colorado Revised Statutes, 25-27.5-104,
16 **amend** (1) introductory portion as follows:

17 **25-27.5-104. Minimum standards for home care agencies -**
18 **rules - advisory committee.** (1) ~~On or before May 1, 2009,~~ The state
19 board shall promulgate rules pursuant to section 24-4-103, C.R.S.,
20 providing minimum standards for the operation of home care agencies
21 within the state of Colorado. In promulgating these rules, the state board
22 shall ~~consider the~~ ESTABLISH different requirements appropriate to the
23 various types of skilled home health and personal care services, including
24 differentiating requirements for providers that are substantially funded
25 through medicare and medicaid reimbursement, providers for the program
26 of all-inclusive care for the elderly established in section 25.5-5-412,
27 C.R.S., providers that are already licensed under this title, and providers

1 that are solely or substantially privately funded. This differentiation may
2 SHALL consider the requirements already imposed by other federal and
3 state regulatory agencies, SHALL REQUIRE THE DEPARTMENT OF HEALTH
4 CARE POLICY AND FINANCING AND THE DEPARTMENT OF PUBLIC HEALTH
5 AND ENVIRONMENT TO WORK JOINTLY TO RESOLVE DIFFERING
6 REQUIREMENTS, AND SHALL ONLY REGULATE A PROVIDER FOR THE
7 PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY CONSISTENT WITH
8 THE FEDERAL REQUIREMENTS ESTABLISHED FOR THE PROVIDER PURSUANT
9 TO A THREE-WAY AGREEMENT BETWEEN THE PROVIDER, THE CENTERS OF
10 MEDICARE AND MEDICAID SERVICES, AND THE DEPARTMENT OF HEALTH
11 CARE POLICY AND FINANCING; EXCEPT THAT THE DEPARTMENT MAY
12 REQUIRE ADDITIONAL INFORMATION FROM THE PROVIDER WITH REGARD
13 TO REPORTING INSTANCES OF ABUSE. Such rules shall MUST include but
14 need not be limited to, the following:

15 SECTION 11. In Colorado Revised Statutes, 27-10.5-109,
16 amend (2) and (3) as follows:

17 27-10.5-109. Community residential home - licenses - rules.

18 (2) (a) The department of public health and environment and the
19 department of human services shall implement a system of joint licensure
20 and certification of community residential homes. Independent residential
21 support services provided by the department of human services do not
22 require licensure by the department of public health and environment.

23 (b) BY DECEMBER 31, 2012, THE DEPARTMENT OF PUBLIC
24 HEALTH AND ENVIRONMENT, THE DEPARTMENT OF HEALTH CARE POLICY
25 AND FINANCING, AND THE DEPARTMENT OF HUMAN SERVICES SHALL
26 DEVELOP AN IMPLEMENTATION PLAN, IN CONSULTATION WITH INDUSTRY
27 REPRESENTATIVES, TO RESOLVE DIFFERING REQUIREMENTS AND TO

1 ELIMINATE OBSOLETE, REDUNDANT RULES AND REPORTING, MONITORING,
2 COMPLIANCE, AUDITING CERTIFICATION, LICENSING, AND WORK PROCESSES
3 PERTAINING TO THE REGULATION OF COMMUNITY RESIDENTIAL HOMES
4 PURSUANT TO THIS SECTION. THE DEPARTMENTS SHALL STUDY THE
5 FEASIBILITY OF IMPLEMENTING A SINGLE, CONSOLIDATED SURVEY AND
6 METHODS FOR CONDUCTING SURVEYS SIMULTANEOUSLY. THE
7 DEPARTMENTS SHALL REPORT THEIR PROGRESS IN MEETING THE
8 REQUIREMENTS OF THIS PARAGRAPH (b) TO THEIR RESPECTIVE
9 COMMITTEES OF REFERENCE WHEN MAKING THEIR DEPARTMENTAL
10 PRESENTATIONS AS REQUIRED BY PART 2 OF ARTICLE 7 OF TITLE 2, C.R.S.
11 THE DEPARTMENTS SHALL SEND COPIES OF THE REPORT TO THE HEALTH
12 CARE FACILITY STAKEHOLDER FORUM CREATED IN SECTION 25-3-112,
13 C.R.S.

14 (3) (a) The department of public health and environment and the
15 department of human services shall develop standards for the licensure
16 and certification of community residential homes. ~~Such~~ THE standards
17 shall include health, life, and fire safety, as well as standards to ensure the
18 effective delivery of services and supports to residents; except that any
19 community residential home must comply with local codes. ~~These~~

20 ~~or the state board of health~~
21 (b) (I) THE DEPARTMENT OF HUMAN SERVICES OR THE STATE
22 BOARD OF HEALTH, AS APPROPRIATE, SHALL ADOPT THE standards ~~shall,~~
23 ~~as appropriate, be adopted in~~ BY rule by the department of human services
24 ~~or the state board of health~~ and shall specify the responsibilities of
25 each department in the program. Surveys undertaken to ensure
26 compliance with these standards shall, as appropriate, be undertaken as
27 joint surveys by the departments.

1 (II) IF A SERVICE AGENCY OPERATES A COMMUNITY RESIDENTIAL
2 HOME AND PROVIDES PERSONAL CARE SERVICES, AS DEFINED IN SECTION
3 25-27.5-102, C.R.S., THE DEPARTMENT OF PUBLIC HEALTH AND
4 ENVIRONMENT OR THE DEPARTMENT OF HUMAN SERVICES, AS
5 APPROPRIATE, IS RESPONSIBLE FOR SURVEYING THOSE SERVICES PROVIDED
6 BY THE SERVICE AGENCY, WHICH SURVEY SHALL BE CONDUCTED
7 SIMULTANEOUSLY WITH THE SURVEY OF THE COMMUNITY RESIDENTIAL
8 HOME.

9 [REDACTED]
10 [REDACTED] [REDACTED]

11 **SECTION 12. No appropriation.** The general assembly has
12 determined that this act can be implemented within existing
13 appropriations, and therefore no separate appropriation of state moneys
14 is necessary to carry out the purposes of this act.

15 **SECTION 13. Effective date.** This act takes effect upon passage;
16 except that section 25-3-112 (4), Colorado Revised Statutes, as enacted
17 in section 8 of this act, takes effect only if House Bill 12-1008 becomes
18 law and takes effect on the effective date of this act or of House Bill
19 12-1008, whichever is later.

20 **SECTION 14. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety.