

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 13-0912.01 Brita Darling x2241

HOUSE BILL 13-1314

HOUSE SPONSORSHIP

Levy and Gerou, Duran

SENATE SPONSORSHIP

Hodge, Steadman, Lambert

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE TRANSFER OF THE ADMINISTRATION OF LONG-TERM**
102 **SERVICES FOR PERSONS WITH INTELLECTUAL AND**
103 **DEVELOPMENTAL DISABILITIES TO THE DEPARTMENT OF**
104 **HEALTH CARE POLICY AND FINANCING.**

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>.)

Joint Budget Committee. The bill transfers the powers, duties, and functions of the department of human services (DHS) relating to the

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.

HOUSE
Amended 2nd Reading
April 25, 2013

programs, services, and supports for persons with intellectual and developmental disabilities contained in article 10.5 of title 27, Colorado Revised Statutes (C.R.S.) to the department of health care policy and financing (HCPF) on March 1, 2014. The transferred provisions are repealed and relocated, with amendments, to a new article 10 of title 25.5, C.R.S.

The following provisions of article 10.5 of title 27 are being relocated:

! Part 1 - Rights of Developmentally Disabled

! Part 4 - Family Support Services

! Part 5 - Colorado Family Support Loan Fund

Provisions relating to regional centers and the coordinated system of payment for early intervention services for infants and toddlers will remain in article 10.5 of title 27 and will continue to be administered by DHS. Because certain programs and responsibilities will remain with DHS, certain provisions in article 10.5 of title 27 relating to definitions for the article and the duties of the department are amended in the bill.

The transferred programs, services, and supports will be administered by the newly created division of intellectual and developmental disabilities (division) within the newly created office of community living (office). The director of the office will be appointed by the executive director of HCPF and will report to the executive director. The office is created as of July 1, 2013.

In September and November 2013, HCPF, in conjunction with intellectual and developmental disability advocates and service providers, will report to the joint budget committee of the general assembly concerning any issues relating to the set up of the office and the upcoming transfer of programs. Additionally, quarterly, commencing after the March 2014 transfer and concluding in December 2014, HCPF, along with the above-referenced advocates and providers will report to the joint budget committee and the health care committees of the general assembly concerning the operation of the division and its administration of the transferred programs, services, and supports.

The bill changes certain terminology in the provisions contained in the bill, including changing the phrase, "developmental disabilities" to "intellectual and developmental disabilities". Additionally, the bill makes conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add with amended**
3 **and relocated provisions** article 10 to title 25.5 as follows:

4 **ARTICLE 10**

1 **Community Living**

2 **PART 1**

3 **OFFICE OF COMMUNITY LIVING**

4 **25.5-10-101. Office of community living - creation - transfer**
5 **of duties and functions - rules - legislative declaration - repeal.**

6 (1) THERE IS HEREBY CREATED IN THE STATE DEPARTMENT THE OFFICE OF
7 COMMUNITY LIVING, REFERRED TO IN THIS ARTICLE AS THE "OFFICE". THE
8 HEAD OF THE OFFICE IS THE DIRECTOR OF COMMUNITY LIVING APPOINTED
9 BY THE EXECUTIVE DIRECTOR IN ACCORDANCE WITH SECTION 13 OF
10 ARTICLE XII OF THE STATE CONSTITUTION. THE DIRECTOR OF COMMUNITY
11 LIVING REPORTS DIRECTLY TO THE EXECUTIVE DIRECTOR.

12 (2) (a) ON AND AFTER MARCH 1, 2014, THE POWERS, DUTIES, AND
13 FUNCTIONS RELATING TO THE PROGRAMS, SERVICES, AND SUPPORTS
14 CONTAINED IN THIS ARTICLE ARE TRANSFERRED FROM THE DEPARTMENT
15 OF HUMAN SERVICES TO THE DEPARTMENT OF HEALTH CARE POLICY AND
16 FINANCING BY A **TYPE 2** TRANSFER AS SUCH TRANSFER IS DEFINED IN THE
17 "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24,
18 C.R.S., AND ALLOCATED TO THE DIVISION OF INTELLECTUAL AND
19 DEVELOPMENTAL DISABILITIES OF THE OFFICE, WHICH DIVISION IS CREATED
20 IN PART 2 OF THIS ARTICLE.

21 (b) (I) ON MARCH 1, 2014, ALL POSITIONS OF EMPLOYMENT IN THE
22 DEPARTMENT OF HUMAN SERVICES RELATED TO THE ADMINISTRATION OF
23 COMMUNITY-BASED LONG-TERM SERVICES AND SUPPORTS ARE
24 TRANSFERRED TO THE DIVISION OF INTELLECTUAL AND DEVELOPMENTAL
25 DISABILITIES OF THE OFFICE AND BECOME EMPLOYMENT POSITIONS
26 THEREIN.

27 (II) ON MARCH 1, 2014, ALL EMPLOYEES IN POSITIONS

1 TRANSFERRED TO THE DIVISION OF INTELLECTUAL AND DEVELOPMENTAL
2 DISABILITIES ARE CONSIDERED EMPLOYEES OF THE DIVISION OF
3 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES OF THE OFFICE. SUCH
4 EMPLOYEES RETAIN ALL RIGHTS UNDER THE STATE PERSONNEL SYSTEM
5 AND TO RETIREMENT BENEFITS PURSUANT TO THE LAWS OF THIS STATE,
6 AND THEIR SERVICES SHALL BE DEEMED TO HAVE BEEN CONTINUOUS.

7 (c) ON MARCH 1, 2014, ALL ITEMS OF PROPERTY, REAL AND
8 PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS,
9 DOCUMENTS, AND RECORDS OF THE DEPARTMENT OF HUMAN SERVICES
10 RELATED TO THE ADMINISTRATION OF COMMUNITY-BASED LONG-TERM
11 SERVICES AND SUPPORTS ARE TRANSFERRED TO THE DIVISION OF
12 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES OF THE OFFICE AND
13 BECOME THE PROPERTY THEREOF.

14 (d) ON AND AFTER MARCH 1, 2014, WHENEVER THE EXECUTIVE
15 DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES OR THE DEPARTMENT
16 OF HUMAN SERVICES IS REFERRED TO OR DESIGNATED BY ANY CONTRACT
17 OR OTHER DOCUMENT IN CONNECTION WITH THE POWERS, DUTIES, AND
18 FUNCTIONS TRANSFERRED TO THE DEPARTMENT OF HEALTH CARE POLICY
19 AND FINANCING, THE REFERENCE OR DESIGNATION SHALL BE DEEMED TO
20 APPLY TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING. ALL
21 CONTRACTS ENTERED INTO BY THE EXECUTIVE DIRECTOR OF THE
22 DEPARTMENT OF HUMAN SERVICES PRIOR TO MARCH 1, 2014, IN
23 CONNECTION WITH THE POWERS, DUTIES, AND FUNCTIONS TRANSFERRED
24 TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING ARE
25 HEREBY VALIDATED, WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT
26 OF HEALTH CARE POLICY AND FINANCING SUCCEEDING TO ALL THE RIGHTS
27 AND OBLIGATIONS OF SUCH CONTRACTS.

1 (3) ALL RULES AND ORDERS OF THE DEPARTMENT OF HUMAN
2 SERVICES, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN
3 SERVICES, AND THE STATE BOARD OF HUMAN SERVICES IN CONNECTION
4 WITH THE PROGRAMS TRANSFERRED TO THE DEPARTMENT OF HEALTH
5 CARE POLICY AND FINANCING SHALL CONTINUE TO BE EFFECTIVE UNTIL
6 REVISED, AMENDED, REPEALED, OR NULLIFIED PURSUANT TO LAW.

7 (4) (a) THE STATE DEPARTMENT SHALL REPORT TO THE JOINT
8 BUDGET COMMITTEE OF THE GENERAL ASSEMBLY DURING A MEETING OF
9 THE JOINT BUDGET COMMITTEE IN SEPTEMBER AND NOVEMBER 2013, IN
10 CONJUNCTION WITH A REPRESENTATIVE OF THE COMMUNITY-CENTERED
11 BOARDS, A REPRESENTATIVE OF SERVICE PROVIDERS, AND A
12 REPRESENTATIVE OF A STATEWIDE ORGANIZATION ADVOCATING AND
13 PROVIDING SUPPORT FOR CHILDREN AND ADULTS WITH INTELLECTUAL AND
14 DEVELOPMENTAL DISABILITIES CONCERNING THE CREATION OF THE OFFICE
15 AND ANY ISSUES RELATING TO THE TRANSFER OF POWERS, DUTIES, AND
16 FUNCTIONS TO THE STATE DEPARTMENT PURSUANT TO THIS PART 1.

17 (b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2014.

18 PART 2

19 INTELLECTUAL AND
20 DEVELOPMENTAL DISABILITIES

21 **25.5-10-201. [Formerly 27-10.5-101.] Legislative declaration.**

22 (1) In recognition of the varied, extensive, and substantial needs of
23 persons with INTELLECTUAL AND developmental disabilities, including the
24 urgent need to enhance the development of children with INTELLECTUAL
25 AND developmental disabilities, the general assembly, subject to available
26 appropriations and subject to the existence of appropriate services and
27 supports with available resources, hereby declares that the purposes of

1 this article are:

2 (a) To provide appropriate services and supports to persons with
3 INTELLECTUAL AND developmental disabilities throughout their lifetimes
4 regardless of their age or degree of disability;

5 (b) To prohibit deprivation of liberty of persons with
6 INTELLECTUAL AND developmental disabilities, except when such
7 deprivation is for the purpose of providing services and supports which
8 constitute the least restrictive available alternative adequate to meet the
9 person's needs, and to ensure that these services and supports afford due
10 process protections;

11 (c) To ensure the fullest measure of privacy, dignity, rights, and
12 privileges to persons with INTELLECTUAL AND developmental disabilities;

13 (d) To ensure the provision of services and supports to all persons
14 with INTELLECTUAL AND developmental disabilities on a statewide basis;

15 (e) To enable persons with INTELLECTUAL AND developmental
16 disabilities to remain with their families and in ~~their home communities~~
17 THE COMMUNITY OF THEIR CHOICE, to minimize the likelihood of
18 out-of-home placement, and to enhance the capacity of families to meet
19 the needs of children with INTELLECTUAL AND developmental disabilities;

20 (f) To provide community services and supports for persons with
21 INTELLECTUAL AND developmental disabilities which reflect typical
22 patterns of everyday living;

23 (g) To encourage state and local agencies to provide a wide array
24 of innovative and cost-effective services and supports for persons with
25 INTELLECTUAL AND developmental disabilities;

26 (h) To ensure that persons with INTELLECTUAL AND developmental
27 disabilities receive services and supports which encourage and build on

1 existing social networks and natural sources of support, and result in
2 increased interdependence, contribution TO, and inclusion in community
3 life; and

4 (i) To recognize the efficacy of early intervention services and
5 supports in minimizing developmental delays and reducing the future
6 education costs to our society.

7 **25.5-10-202. [Similar to former 27-10.5-102.] Definitions.** AS
8 USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 (1) "AUTHORIZED REPRESENTATIVE" MEANS A PERSON
10 DESIGNATED BY THE PERSON RECEIVING SERVICES, OR BY THE PARENT OR
11 GUARDIAN OF THE PERSON RECEIVING SERVICES, IF APPROPRIATE, TO
12 ASSIST THE PERSON RECEIVING SERVICES IN ACQUIRING OR UTILIZING
13 SERVICES OR SUPPORTS PURSUANT TO THIS ARTICLE. THE EXTENT OF THE
14 AUTHORIZED REPRESENTATIVE'S INVOLVEMENT SHALL BE DETERMINED
15 UPON DESIGNATION.

16 (2) "CASE MANAGEMENT SERVICES" MEANS THE FOLLOWING:

17 (a) THE DETERMINATION OF ELIGIBILITY FOR SERVICES AND
18 SUPPORTS;

19 (b) SERVICE AND SUPPORT COORDINATION; AND

20 (c) THE MONITORING OF ALL SERVICES AND SUPPORTS DELIVERED
21 PURSUANT TO THE INDIVIDUALIZED PLAN AND THE EVALUATION OF
22 RESULTS IDENTIFIED IN THE INDIVIDUALIZED PLAN.

23 (3) "CASE MANAGER" MEANS A PERSON WHO ASSISTS WITH CASE
24 MANAGEMENT SERVICES AND SUPPORTS PROVIDED PURSUANT TO THIS
25 ARTICLE FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL
26 DISABILITIES.

27 (4) "COMMUNITY-CENTERED BOARD" MEANS A PRIVATE

1 CORPORATION, FOR-PROFIT OR NOT-FOR-PROFIT, THAT, WHEN DESIGNATED
2 PURSUANT TO SECTION 25.5-10-208, PROVIDES CASE MANAGEMENT
3 SERVICES TO PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL
4 DISABILITIES, IS AUTHORIZED TO DETERMINE ELIGIBILITY OF THOSE
5 PERSONS WITHIN A SPECIFIED GEOGRAPHICAL AREA, SERVES AS THE SINGLE
6 POINT OF ENTRY FOR PERSONS TO RECEIVE SERVICES AND SUPPORTS UNDER
7 THIS ARTICLE, AND PROVIDES AUTHORIZED SERVICES AND SUPPORTS TO
8 THOSE PERSONS EITHER DIRECTLY OR BY PURCHASING SERVICES AND
9 SUPPORTS FROM SERVICE AGENCIES.

10 (5) "COMMUNITY RESIDENTIAL HOME" MEANS A GROUP LIVING
11 SITUATION ACCOMMODATING AT LEAST FOUR BUT NO MORE THAN EIGHT
12 PERSONS, WHICH IS LICENSED BY THE STATE AND IN WHICH SERVICES AND
13 SUPPORTS ARE PROVIDED TO PERSONS WITH INTELLECTUAL AND
14 DEVELOPMENTAL DISABILITIES.

15 (6) "CONSENT" MEANS AN INFORMED ASSENT THAT IS EXPRESSED
16 IN WRITING AND FREELY GIVEN. CONSENT SHALL ALWAYS BE PRECEDED BY
17 THE FOLLOWING:

18 (a) A FAIR EXPLANATION OF THE PROCEDURES TO BE FOLLOWED,
19 INCLUDING AN IDENTIFICATION OF PROCEDURES THAT ARE EXPERIMENTAL;

20 (b) A DESCRIPTION OF THE ATTENDANT DISCOMFORTS AND RISKS;

21 (c) A DESCRIPTION OF THE EXPECTED BENEFITS;

22 (d) A DISCLOSURE OF APPROPRIATE ALTERNATIVE PROCEDURES
23 TOGETHER WITH AN EXPLANATION OF THE RESPECTIVE BENEFITS,
24 DISCOMFORTS, AND RISKS;

25 (e) AN OFFER TO ANSWER ANY INQUIRIES CONCERNING
26 PROCEDURES;

27 (f) AN INSTRUCTION THAT THE PERSON GIVING CONSENT IS FREE TO

1 WITHDRAW CONSENT AND TO DISCONTINUE PARTICIPATION IN THE PROJECT
2 OR ACTIVITY AT ANY TIME; AND

3 (g) A STATEMENT THAT WITHHOLDING OR WITHDRAWAL OF
4 CONSENT SHALL NOT PREJUDICE FUTURE PROVISION OF APPROPRIATE
5 SERVICES AND SUPPORTS TO PERSONS.

6 (7) "CONTRIBUTION" MEANS THE BENEFITS GAINED BY THE
7 HOUSEHOLD OR COMMUNITY IN WHICH A PERSON LIVES AS THE RESULT OF
8 THE PERSON ENGAGING IN MEANINGFUL ACTIVITIES, INCLUDING BUT NOT
9 LIMITED TO INCOME-PRODUCING WORK, VOLUNTEER WORK, CONTINUING
10 EDUCATION, AND PARTICIPATION IN COMMUNITY ACTIVITIES.

11 (8) "COURT" MEANS A DISTRICT COURT OF THE STATE OF
12 COLORADO OR THE PROBATE COURT IN THE APPROPRIATE JURISDICTION.

13 (9) "DESIGNATED SERVICE AREA" MEANS THE GEOGRAPHICAL
14 AREA SPECIFIED BY THE EXECUTIVE DIRECTOR TO BE SERVED BY A
15 DESIGNATED COMMUNITY-CENTERED BOARD.

16 (10) "DEVELOPMENTAL DISABILITIES PROFESSIONAL" HAS THE
17 SAME MEANING AS "INTELLECTUAL AND DEVELOPMENTAL DISABILITIES
18 PROFESSIONAL" AS SET FORTH IN SUBSECTION (25) OF THIS SECTION.

19 (11) (a) "DEVELOPMENTAL DISABILITY" HAS THE SAME MEANING
20 AS "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" AS SET FORTH IN
21 PARAGRAPH (a) OF SUBSECTION (26) OF THIS SECTION.

22 (b) "PERSON WITH A DEVELOPMENTAL DISABILITY" OR
23 "INDIVIDUAL WITH A DEVELOPMENTAL DISABILITY" HAS THE SAME
24 MEANING AS "PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL
25 DISABILITY" AS SET FORTH IN PARAGRAPH (b) OF SUBSECTION (26) OF THIS
26 SECTION.

27 (c) "CHILD WITH A DEVELOPMENTAL DELAY" HAS THE SAME

1 MEANING AS SET FORTH IN PARAGRAPH (c) OF SUBSECTION (26) OF THIS
2 SECTION.

3 (12) "DIVISION" MEANS THE DIVISION OF INTELLECTUAL AND
4 DEVELOPMENTAL DISABILITIES, CREATED IN THIS PART 2.

5 (13) "EARLY INTERVENTION SERVICES AND SUPPORTS" HAS THE
6 SAME MEANING AS SET FORTH IN SECTION 27-10.5-102, C.R.S.

7 (14) "ELIGIBLE FOR SUPPORTS AND SERVICES" REFERS TO ANY
8 PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY AS
9 DETERMINED ELIGIBLE BY THE COMMUNITY-CENTERED BOARDS,
10 PURSUANT TO SECTION 25.5-10-210.

11 (15) "ENROLLED" MEANS THAT A PERSON WITH AN INTELLECTUAL
12 AND DEVELOPMENTAL DISABILITY WHO IS ELIGIBLE FOR SUPPORTS AND
13 SERVICES HAS BEEN AUTHORIZED, AS DEFINED BY RULES PROMULGATED
14 BY THE STATE BOARD, TO PARTICIPATE IN THE PROGRAM FUNDED
15 PURSUANT TO THIS SECTION.

16 (16) (a) "FAMILY" MEANS THE INTERDEPENDENT GROUP OF
17 PERSONS THAT CONSISTS OF:

18 (I) A PARENT, CHILD, SIBLING, GRANDPARENT, AUNT, UNCLE,
19 SPOUSE, OR ANY COMBINATION THEREOF AND A FAMILY MEMBER WITH AN
20 INTELLECTUAL AND DEVELOPMENTAL DISABILITY;

21 (II) AN ADOPTIVE PARENT OF AND A FAMILY MEMBER WITH AN
22 INTELLECTUAL AND DEVELOPMENTAL DISABILITY;

23 (III) ONE OR MORE PERSONS TO WHOM LEGAL CUSTODY OF A
24 PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY HAS
25 BEEN GIVEN BY A COURT AND IN WHOSE HOME SUCH PERSON RESIDES; OR

26 (IV) ANY OTHER FAMILY UNIT AS MAY BE DEFINED IN RULES
27 DEVELOPED PURSUANT TO SECTION 25.5-10-306.

1 (b) STATE BOARD RULES MUST DEFINE THE FAMILIES THAT ARE
2 ELIGIBLE TO RECEIVE SERVICES AND SUPPORTS PURSUANT TO THIS
3 ARTICLE, AND RULES OF THE STATE BOARD OF HUMAN SERVICES MUST
4 DEFINE THE FAMILIES THAT ARE ELIGIBLE TO RECEIVE SERVICES AND
5 SUPPORTS PURSUANT TO ARTICLE 10.5 OF TITLE 27, C.R.S.

6 (17) "FAMILY CAREGIVER" MEANS A FAMILY MEMBER OF THE
7 PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY WHO
8 PROVIDES CARE TO THE PERSON WITH AN INTELLECTUAL AND
9 DEVELOPMENTAL DISABILITY IN THE FAMILY HOME, WHO MEETS THE
10 REQUIREMENTS FOR A QUALIFIED FAMILY CAREGIVER, AS ESTABLISHED BY
11 RULE OF THE STATE BOARD, AND WHO IS WORKING THROUGH A
12 PROGRAM-APPROVED SERVICE AGENCY, AS ESTABLISHED BY RULE OF THE
13 STATE BOARD.

14 (18) "GASTROSTOMY TUBE" MEANS A TUBE THAT HAS BEEN
15 SURGICALLY INSERTED INTO THE STOMACH THROUGH THE ABDOMINAL
16 WALL, OR A TUBE THAT HAS BEEN INSERTED THROUGH THE NASAL
17 PASSAGE INTO THE STOMACH, OR BOTH.

18 (19) "HUMAN RIGHTS COMMITTEE" MEANS A THIRD-PARTY
19 MECHANISM TO ADEQUATELY SAFEGUARD THE LEGAL RIGHTS OF PERSONS
20 RECEIVING SERVICES BY PARTICIPATING IN THE GRANTING OF INFORMED
21 CONSENT, MONITORING THE SUSPENSION OF RIGHTS OF PERSONS RECEIVING
22 SERVICES, MONITORING BEHAVIORAL DEVELOPMENT PROGRAMS IN WHICH
23 PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES ARE
24 INVOLVED, MONITORING THE USE OF PSYCHOTROPIC MEDICATION BY
25 PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AND,
26 AT THE COMMITTEE'S OPTION, EITHER PROVIDING OR ENSURING THE
27 INVESTIGATION OF ALLEGATIONS OF ABUSE OR NEGLECT OF PERSONS WITH

1 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WHO ARE RECEIVING
2 SERVICES OR SUPPORTS UNDER THIS ARTICLE.

3 (20) "IDEA" HAS THE SAME MEANING AS SET FORTH IN SECTION
4 27-10.5-102, C.R.S.

5 (21) "INCLUSION" MEANS:

6 (a) THE USE BY PERSONS WITH INTELLECTUAL AND
7 DEVELOPMENTAL DISABILITIES OF THE SAME COMMUNITY RESOURCES
8 THAT ARE USED BY AND AVAILABLE TO OTHER PERSONS;

9 (b) THE PARTICIPATION BY PERSONS WITH INTELLECTUAL AND
10 DEVELOPMENTAL DISABILITIES IN THE SAME COMMUNITY ACTIVITIES IN
11 WHICH PERSONS WITHOUT INTELLECTUAL AND DEVELOPMENTAL
12 DISABILITIES PARTICIPATE. PARTICIPATION INCLUDES REGULAR CONTACT
13 WITH PERSONS WITHOUT INTELLECTUAL AND DEVELOPMENTAL
14 DISABILITIES.

15 (c) VOCATIONAL EXPERIENCES FOR PERSONS WITH INTELLECTUAL
16 AND DEVELOPMENTAL DISABILITIES IN COMMUNITY SETTINGS THAT OFFER
17 OPPORTUNITIES TO ASSOCIATE WITH OTHER PERSONS WHO DO NOT HAVE
18 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES; AND

19 (d) LIVING IN HOMES THAT ARE IN RESIDENTIAL NEIGHBORHOODS
20 AND IN PROXIMITY TO COMMUNITY RESOURCES.

21 (22) "INDEPENDENT RESIDENTIAL SUPPORT SERVICES" MEANS A
22 COMMUNITY LIVING SITUATION, DEFINED BY RULE OF THE STATE BOARD,
23 IN WHICH SERVICES AND SUPPORTS ARE PROVIDED TO NO MORE THAN
24 THREE PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES
25 AND FOR WHICH A STATE LICENSE IS NOT REQUIRED.

26 (23) "INDIVIDUALIZED FAMILY SERVICE PLAN" OR "IFSP" HAS THE
27 SAME MEANING AS SET FORTH IN SECTION 27-10.5-102, C.R.S.

1 (24) (a) "INDIVIDUALIZED PLAN" MEANS A WRITTEN PLAN
2 DESIGNED BY AN INTERDISCIPLINARY TEAM FOR THE PURPOSE OF
3 IDENTIFYING:

4 (I) THE NEEDS AND PREFERENCES OF THE PERSON OR FAMILY
5 RECEIVING SERVICES;

6 (II) THE SPECIFIC SERVICES AND SUPPORTS APPROPRIATE TO MEET
7 THOSE NEEDS AND PREFERENCES;

8 (III) THE PROJECTED DATE FOR INITIATION OF SERVICES AND
9 SUPPORTS; AND

10 (IV) THE ANTICIPATED RESULTS TO BE ACHIEVED BY RECEIVING
11 THE SERVICES AND SUPPORTS.

12 (b) EVERY INDIVIDUALIZED PLAN MUST INCLUDE A STATEMENT OF
13 AGREEMENT WITH THE PLAN, SIGNED BY THE PERSON RECEIVING SERVICES
14 OR OTHER SUCH PERSON LEGALLY AUTHORIZED TO SIGN ON BEHALF OF THE
15 PERSON AND BY A REPRESENTATIVE OF THE COMMUNITY-CENTERED
16 BOARD.

17 (c) ANY OTHER SERVICE OR SUPPORT PLAN DESIGNATED BY THE
18 STATE DEPARTMENT THAT MEETS ALL OF THE REQUIREMENTS OF AN
19 INDIVIDUALIZED PLAN IS CONSIDERED TO BE AN INDIVIDUALIZED PLAN
20 PURSUANT TO THIS ARTICLE.

21 (d) (I) EVERY INDIVIDUALIZED PLAN THAT INCLUDES THE
22 PROVISION OF RESPITE CARE FOR MEDICAL PURPOSES, PURSUANT TO
23 SECTION 25.5-10-205, SHALL INCLUDE A PROCESS BY WHICH THE PERSON
24 RECEIVING SERVICES AND SUPPORTS MAY RECEIVE NECESSARY CARE IF
25 THE PERSON'S FAMILY OR CAREGIVER IS UNAVAILABLE DUE TO AN
26 EMERGENCY SITUATION OR UNFORESEEN CIRCUMSTANCES. THE FAMILY OR
27 CAREGIVER MUST BE DULY INFORMED BY THE INTERDISCIPLINARY TEAM

1 OF THESE ALTERNATIVE CARE PROVISIONS AT THE TIME THE
2 INDIVIDUALIZED PLAN IS INITIATED.

3 (II) NOTHING IN THIS PARAGRAPH (d) REQUIRES THE PROVISION OF
4 RESPITE CARE. HOWEVER, ANY INDIVIDUAL PLAN THAT INCLUDES THE
5 PROVISION OF RESPITE CARE FOR MEDICAL PURPOSES MUST CONTAIN A
6 CONTINGENCY PLAN.

7 (25) "INTELLECTUAL AND DEVELOPMENTAL DISABILITIES
8 PROFESSIONAL" MEANS A PERSON WHO HAS PROFESSIONAL TRAINING AND
9 EXPERIENCE IN THE INTELLECTUAL AND DEVELOPMENTAL DISABILITIES
10 FIELD, AS DEFINED BY RULE OF THE STATE BOARD.

11 (26) (a) "INTELLECTUAL AND DEVELOPMENTAL DISABILITY"
12 MEANS A DISABILITY THAT MANIFESTS BEFORE THE PERSON REACHES
13 TWENTY-TWO YEARS OF AGE, THAT CONSTITUTES A SUBSTANTIAL
14 DISABILITY TO THE AFFECTED PERSON, AND THAT IS ATTRIBUTABLE TO
15 MENTAL RETARDATION OR RELATED CONDITIONS, WHICH INCLUDE
16 CEREBRAL PALSY, EPILEPSY, AUTISM, OR OTHER NEUROLOGICAL
17 CONDITIONS WHEN THOSE CONDITIONS RESULT IN IMPAIRMENT OF
18 GENERAL INTELLECTUAL FUNCTIONING OR ADAPTIVE BEHAVIOR SIMILAR
19 TO THAT OF A PERSON WITH MENTAL RETARDATION. UNLESS OTHERWISE
20 SPECIFICALLY STATED, THE FEDERAL DEFINITION OF "DEVELOPMENTAL
21 DISABILITY" FOUND IN 42 U.S.C. SEC. 15001 ET SEQ. SHALL NOT APPLY.

22 (b) "PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL
23 DISABILITY" MEANS A PERSON DETERMINED BY A COMMUNITY-CENTERED
24 BOARD TO HAVE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY AND
25 SHALL INCLUDE A CHILD WITH A DEVELOPMENTAL DELAY.

26 (c) "CHILD WITH A DEVELOPMENTAL DELAY" MEANS:

27 (I) A PERSON LESS THAN FIVE YEARS OF AGE WITH DELAYED

1 DEVELOPMENT AS DEFINED BY RULE OF THE STATE BOARD; OR

2 (II) A PERSON LESS THAN FIVE YEARS OF AGE WHO IS AT RISK OF
3 HAVING A DEVELOPMENTAL DISABILITY AS DEFINED BY RULE OF THE
4 STATE BOARD.

5 (27) "INTERDEPENDENCE" MEANS THOSE MULTIPLE INTERACTIVE
6 RELATIONSHIPS THAT ARE NECESSARY TO CREATE A SENSE OF BELONGING
7 AND SUPPORT BETWEEN AND AMONG PEOPLE THAT ARE MUTUALLY
8 SOUGHT, SUSTAINED OVER TIME, AND BENEFICIAL TO THOSE INVOLVED.

9 (28) "INTERDISCIPLINARY TEAM" MEANS A GROUP OF PEOPLE
10 CONVENED BY A DESIGNATED COMMUNITY-CENTERED BOARD THAT
11 INCLUDES THE PERSON RECEIVING SERVICES; THE PARENTS OR GUARDIAN
12 OF A MINOR; A GUARDIAN OR AN AUTHORIZED REPRESENTATIVE, AS
13 APPROPRIATE; THE PERSON WHO COORDINATES THE PROVISIONS OF
14 SERVICES AND SUPPORTS; AND OTHERS AS DETERMINED BY THE PERSON'S
15 NEEDS AND PREFERENCE, WHO ARE ASSEMBLED TO WORK IN A
16 COOPERATIVE MANNER TO DEVELOP OR REVIEW THE INDIVIDUALIZED
17 PLAN.

18 (29) "LEAST RESTRICTIVE ENVIRONMENT" MEANS AN
19 ENVIRONMENT THAT REPRESENTS THE LEAST DEPARTURE FROM THE
20 TYPICAL PATTERNS OF LIVING AND THAT EFFECTIVELY MEETS THE NEEDS
21 AND PREFERENCES OF THE PERSON RECEIVING SERVICES. "LEAST
22 RESTRICTIVE ENVIRONMENT" MAY INCLUDE, BUT NEED NOT BE LIMITED TO,
23 RECEIVING SERVICES FROM A COMMUNITY-CENTERED BOARD, SERVICE
24 AGENCY, OR A FAMILY CAREGIVER IN THE FAMILY HOME.

25 (30) "OFFICE" MEANS THE OFFICE OF COMMUNITY LIVING CREATED
26 IN PART 1 OF THIS ARTICLE.

27 (31) "PERSON RECEIVING SERVICES" MEANS A PERSON WITH AN

1 INTELLECTUAL AND DEVELOPMENTAL DISABILITY WHO IS ENROLLED IN A
2 PROGRAM FUNDED PURSUANT TO THIS ARTICLE.

3 (32) "PROGRAM" MEANS A SPECIFIC GROUP OF SERVICES OR
4 SUPPORTS AS DEFINED BY RULES PROMULGATED BY THE STATE BOARD AND
5 FOR WHICH FUNDING IS AVAILABLE PURSUANT TO THIS ARTICLE TO A
6 PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY WHO
7 IS ELIGIBLE FOR SUPPORTS AND SERVICES.

8 (33) "REGIONAL CENTER" HAS THE SAME MEANING AS SET FORTH
9 IN SECTION 27-10.5-102, C.R.S.

10 (34) "SERVICE AGENCY" MEANS A PERSON OR ANY PUBLICLY OR
11 PRIVATELY OPERATED PROGRAM, ORGANIZATION, OR BUSINESS PROVIDING
12 SERVICES OR SUPPORTS FOR PERSONS WITH INTELLECTUAL AND
13 DEVELOPMENTAL DISABILITIES.

14 (35) "SERVICE AND SUPPORT COORDINATION" MEANS PLANNING,
15 LOCATING, FACILITATING ACCESS TO, COORDINATING, AND REVIEWING ALL
16 ASPECTS OF NEEDED SERVICES, SUPPORTS, AND RESOURCES THAT ARE
17 PROVIDED IN COOPERATION WITH THE PERSON RECEIVING SERVICES, THE
18 PERSON'S FAMILY, AS APPROPRIATE, THE FAMILY OF A CHILD WITH A
19 DEVELOPMENTAL DELAY, AND THE INVOLVED PUBLIC OR PRIVATE
20 AGENCIES. PLANNING INCLUDES THE DEVELOPMENT OR REVIEW OF AN
21 EXISTING INDIVIDUALIZED PLAN. "SERVICE AND SUPPORT COORDINATION"
22 ALSO INCLUDES THE REASSESSMENT OF THE NEEDS AND PREFERENCES OF
23 THE PERSON RECEIVING SERVICES OR THE NEEDS OF THE FAMILY OF THE
24 PERSON, WITH MAXIMUM PARTICIPATION OF THE PERSON RECEIVING
25 SERVICES AND THE PERSON'S PARENTS, GUARDIAN, OR AUTHORIZED
26 REPRESENTATIVE, AS APPROPRIATE.

27 (36) "SERVICES AND SUPPORTS" MEANS ONE OR MORE OF THE

1 FOLLOWING: EDUCATION, TRAINING, INDEPENDENT OR SUPPORTED LIVING
2 ASSISTANCE, THERAPIES, IDENTIFICATION OF NATURAL SUPPORTS, AND
3 OTHER ACTIVITIES PROVIDED:

4 (a) TO ENABLE PERSONS WITH INTELLECTUAL AND
5 DEVELOPMENTAL DISABILITIES TO MAKE RESPONSIBLE CHOICES, EXERT
6 GREATER CONTROL OVER THEIR LIVES, EXPERIENCE PRESENCE AND
7 INCLUSION IN THEIR COMMUNITIES, DEVELOP THEIR COMPETENCIES AND
8 TALENTS, MAINTAIN RELATIONSHIPS, FOSTER A SENSE OF BELONGING, AND
9 EXPERIENCE PERSONAL SECURITY AND SELF-RESPECT;

10 (b) TO ENHANCE CHILD DEVELOPMENT AND HEALTHY
11 PARENT-CHILD AND FAMILY INTERACTION FOR ELIGIBLE PERSONS AND
12 THEIR FAMILIES; AND

13 (c) TO ENABLE FAMILIES, WHO CHOOSE OR DESIRE TO MAINTAIN A
14 FAMILY MEMBER WITH AN INTELLECTUAL AND DEVELOPMENTAL
15 DISABILITY AT HOME, TO OBTAIN SUPPORT AND TO ENJOY A TYPICAL
16 LIFESTYLE.

17 (37) "STERILIZATION" MEANS ANY SURGICAL OR OTHER MEDICAL
18 PROCEDURE THAT HAS AS ITS PRIMARY PURPOSE TO RENDER A PERSON
19 PERMANENTLY INCAPABLE OF REPRODUCTION.

20 (38) "WAITING LIST" MEANS THE LIST OF PERSONS WITH
21 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WHO ARE WAITING FOR
22 ENROLLMENT INTO A PROGRAM PROVIDED PURSUANT TO THIS ARTICLE.

23 **25.5-10-203. Division of intellectual and developmental**
24 **disabilities - creation - functions - reporting - legislative declaration**
25 **- repeal.** (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

26 (I) AN EFFECTIVE SYSTEM OF COMMUNITY-BASED SERVICES AND
27 SUPPORTS IS ESSENTIAL TO ENABLE CHILDREN AND ADULTS WITH

1 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES TO LIVE IN THEIR
2 COMMUNITIES;

3 (I) THE DEMAND FOR HIGH-QUALITY INTELLECTUAL AND
4 DEVELOPMENTAL DISABILITIES SERVICES IS EXPECTED TO GROW; AND

5 (III) PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL
6 DISABILITIES NEED A SYSTEM THAT PROMOTES SELF-DIRECTION OF
7 SERVICES AND SELF-DETERMINATION AND THAT IS DESIGNED TO IMPROVE
8 PERSONAL OUTCOMES.

9 (b) (I) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES
10 THAT STATE AGENCIES SHOULD BE ORGANIZED IN A MANNER THAT ALLOWS
11 FOR IMPROVED DELIVERY OF LONG-TERM SERVICES AND SUPPORTS FOR
12 PERSONS AND PROVIDERS; AND

13 (II) THE TRANSFER PURSUANT TO PART 1 OF THIS ARTICLE OF THE
14 POWERS, DUTIES, AND FUNCTIONS RELATING TO THE PROGRAMS, SERVICES,
15 AND SUPPORTS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL
16 DISABILITIES TO THE OFFICE FOR ADMINISTRATION BY THE DIVISION OF
17 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, CREATED IN THIS
18 SECTION, IS AN INITIAL STEP IN THE PROCESS OF REDESIGNING COLORADO'S
19 LONG-TERM CARE SYSTEM.

20 (2) THERE IS HEREBY CREATED WITHIN THE OFFICE THE DIVISION
21 OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

22 (3) THE DIVISION SHALL ADMINISTER THE PROGRAMS, SERVICES,
23 AND SUPPORTS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL
24 DISABILITIES CONTAINED IN THIS ARTICLE.

25 (4) BECAUSE OF THE UNIQUE GOAL OF THE DIVISION IN
26 ADMINISTERING LIFELONG PROGRAMS, SERVICES, AND SUPPORTS FOR
27 PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AS

1 PART OF ITS ANNUAL BRIEFING TO THE JOINT BUDGET COMMITTEE, THE
2 STATE DEPARTMENT SHALL ALLOW SUFFICIENT BRIEFING TIME DEVOTED
3 SOLELY TO ISSUES RELATING TO THE DIVISION AND ITS ADMINISTRATION
4 OF THE PROGRAMS, SERVICES AND SUPPORTS CONTAINED IN THIS ARTICLE.

5 (5) (a) THE STATE DEPARTMENT, IN CONJUNCTION WITH A
6 REPRESENTATIVE OF THE COMMUNITY-CENTERED BOARDS, A
7 REPRESENTATIVE OF SERVICE PROVIDERS, AND A REPRESENTATIVE OF A
8 STATEWIDE ORGANIZATION ADVOCATING AND PROVIDING SUPPORT FOR
9 CHILDREN AND ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL
10 DISABILITIES, SHALL REPORT CONCERNING THE OPERATIONAL STATUS OF
11 THE DIVISION AND ANY UNRESOLVED ISSUES RELATING TO THE TRANSFER
12 OF POWERS, DUTIES, AND FUNCTIONS TO THE STATE DEPARTMENT
13 PURSUANT TO PART 1 OF THIS ARTICLE. THE REPORT SHALL BE MADE
14 QUARTERLY TO THE JOINT BUDGET COMMITTEE OF THE GENERAL
15 ASSEMBLY AND TO THE PUBLIC HEALTH CARE AND HUMAN SERVICES
16 COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE HEALTH AND
17 HUMAN SERVICES COMMITTEE OF THE SENATE, OR ANY SUCCESSOR
18 COMMITTEES, COMMENCING IN MARCH 2014 AND CONCLUDING IN
19 DECEMBER 2014.

20 (b) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JULY 1, 2015.

21 **25.5-10-204. [Similar to former 27-10.5-103.] Duties of the**
22 **executive director - state board rules.** (1) IN ORDER TO IMPLEMENT THE
23 PROVISIONS OF THIS ARTICLE, THE EXECUTIVE DIRECTOR SHALL, SUBJECT
24 TO AVAILABLE APPROPRIATIONS, CARRY OUT THE FOLLOWING DUTIES:

25 (a) CONDUCT MONITORING AND REVIEW ACTIVITIES THAT INCLUDE
26 COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES;

27 (b) PROVIDE OR OBTAIN TRAINING AND TECHNICAL ASSISTANCE

1 THROUGH COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES IN
2 ORDER TO IMPROVE THE QUALITY OF SERVICES AND SUPPORTS PROVIDED
3 TO PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES;

4 (c) PREPARE AND TRANSMIT ANNUALLY TO THE GOVERNOR AND
5 THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, IN THE FORM
6 AND MANNER PRESCRIBED PURSUANT TO SECTION 24-1-136, C.R.S., A
7 REPORT DETAILING THE FOLLOWING INFORMATION, AS AVAILABLE AND
8 APPROPRIATE, THAT IS BROKEN DOWN INTO DESIGNATED SERVICE AREAS
9 AS WELL AS PROVIDED IN AN OVERALL STATEWIDE FORMAT:

10 (I) THE TOTAL NUMBER OF PERSONS RECEIVING SERVICES
11 PURSUANT TO THIS ARTICLE;

12 (II) THE TYPES OF SERVICES AND SUPPORTS PROVIDED;

13 (III) THE COSTS OF SERVICES AND SUPPORTS REGARDLESS OF
14 FUNDING SOURCE;

15 (IV) AN EVALUATION OF THE QUALITY OF THE SERVICES AND
16 SUPPORTS RENDERED;

17 (V) AN EVALUATION OF THE EFFECTIVENESS OF THE SERVICES AND
18 SUPPORTS RENDERED IN IMPLEMENTING THE INDIVIDUALIZED PLANS OF
19 PERSONS RECEIVING SERVICES;

20 (VI) THE NUMBERS, TYPES, AND RESOLUTION OF APPEALS THAT
21 WERE HEARD BY THE STATE DEPARTMENT ARISING FROM DISPUTES
22 SPECIFIED IN SECTION 25.5-10-212; AND

23 (VII) THE NUMBER OF PERSONS DETERMINED TO BE ELIGIBLE TO
24 RECEIVE SERVICES AND SUPPORTS WHO ARE NOT RECEIVING SERVICES OR
25 SUPPORTS PURSUANT TO THIS ARTICLE ALONG WITH AN ANALYSIS OF THE
26 REASONS THEY ARE NOT RECEIVING SERVICES AND SUPPORTS;

27 (d) DESIGNATE A COMMUNITY-CENTERED BOARD IN EACH

1 DESIGNATED SERVICE AREA IN THE STATE;

2 (e) IMPLEMENT THE PROVISION OF HOME- AND COMMUNITY-BASED
3 SERVICES TO ELIGIBLE PERSONS WITH INTELLECTUAL AND
4 DEVELOPMENTAL DISABILITIES AND PURSUE OTHER MEDICAID-FUNDED
5 SERVICES DETERMINED BY THE STATE DEPARTMENT TO BE APPROPRIATE
6 FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES,
7 PURSUANT TO PART 4 OF ARTICLE 6 OF THIS TITLE AND SUBJECT TO
8 AVAILABLE APPROPRIATIONS; AND

9 (f) PROMOTE EFFECTIVE COORDINATION WITH AGENCIES SERVING
10 PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES IN
11 ORDER TO IMPROVE CONTINUITY OF SERVICES AND SUPPORTS FOR PERSONS
12 FACING LIFE TRANSITIONS FROM TODDLER TO PRESCHOOL, SCHOOL TO
13 ADULT LIFE, AND WORK TO RETIREMENT.

14 (2) THE STATE BOARD SHALL ADOPT SUCH RULES, IN ACCORDANCE
15 WITH SECTION 24-4-103, C.R.S., AS ARE NECESSARY TO CARRY OUT THE
16 PROVISIONS AND PURPOSES OF THIS ARTICLE, INCLUDING BUT NOT LIMITED
17 TO THE FOLLOWING SUBJECTS:

18 (a) STANDARDS FOR SERVICES AND SUPPORTS, INCLUDING
19 PREPARATION OF INDIVIDUALIZED PLANS;

20 (b) THE DESIGNATION OF COMMUNITY-CENTERED BOARDS AND THE
21 ORGANIZATION OF THOSE ENTITIES, INCLUDING STANDARDS OF
22 ORGANIZATION, STAFF QUALIFICATIONS, AND OTHER FACTORS NECESSARY
23 TO ENSURE PROGRAM INTEGRITY;

24 (c) PURCHASE OF SERVICES AND SUPPORTS AND FINANCIAL
25 ADMINISTRATION;

26 (d) PROCEDURES FOR RESOLVING DISPUTES OVER ELIGIBILITY
27 DETERMINATION AND THE MODIFICATION, DENIAL, OR TERMINATION OF

1 SERVICES;

2 (e) ELIGIBILITY DETERMINATION, THE CRITERIA FOR
3 DETERMINATION, AND ADMISSION TO THE PROGRAM;

4 (f) SYSTEMS OF QUALITY ASSURANCE AND DATA COLLECTION;

5 (g) THE RIGHTS OF A PERSON RECEIVING SERVICES;

6 (h) CONFIDENTIALITY OF RECORDS OF A PERSON RECEIVING
7 SERVICES;

8 (i) DESIGNATION OF AUTHORIZED REPRESENTATIVES AND
9 DELINEATION OF THEIR RIGHTS AND DUTIES PURSUANT TO THIS ARTICLE;

10 (j) (I) THE ESTABLISHMENT OF GUIDELINES AND PROCEDURES FOR
11 AUTHORIZATION OF PERSONS FOR ADMINISTRATION OF NUTRITION AND
12 FLUIDS THROUGH GASTROSTOMY TUBES.

13 (II) THE STATE DEPARTMENT SHALL REQUIRE THAT A SERVICE
14 AGENCY PROVIDING RESIDENTIAL OR DAY PROGRAM SERVICES OR
15 SUPPORTS HAVE A STAFF MEMBER QUALIFIED PURSUANT TO
16 SUBPARAGRAPH (III) OF THIS PARAGRAPH (j) ON DUTY AT ANY TIME THE
17 FACILITY ADMINISTERS SAID NUTRITION AND FLUIDS THROUGH
18 GASTROSTOMY TUBES, AND THAT THE FACILITY MAINTAIN A WRITTEN
19 RECORD OF EACH NUTRIENT OR FLUID ADMINISTERED TO EACH PERSON
20 RECEIVING SERVICES, INCLUDING THE TIME AND THE AMOUNT OF THE
21 NUTRIENT OR FLUID.

22 (III) A PERSON WHO IS NOT OTHERWISE AUTHORIZED BY LAW TO
23 ADMINISTER NUTRITION AND FLUIDS THROUGH GASTROSTOMY TUBES IS
24 ALLOWED TO PERFORM THE DUTIES ONLY UNDER THE SUPERVISION OF A
25 LICENSED NURSE OR PHYSICIAN. A PERSON WHO ADMINISTERS NUTRITION
26 AND FLUIDS IN COMPLIANCE WITH THE PROVISIONS OF THIS PARAGRAPH (j)
27 IS EXEMPT FROM THE LICENSING REQUIREMENTS OF THE "COLORADO

1 MEDICAL PRACTICE ACT", ARTICLE 36 OF TITLE 12, C.R.S., AND THE
2 "NURSE PRACTICE ACT", ARTICLE 38 OF TITLE 12, C.R.S. NOTHING IN THIS
3 PARAGRAPH (j) SHALL BE DEEMED TO AUTHORIZE THE ADMINISTRATION OF
4 MEDICATIONS THROUGH GASTROSTOMY TUBES. A PERSON ADMINISTERING
5 MEDICATIONS THROUGH GASTROSTOMY TUBES IS SUBJECT TO THE
6 REQUIREMENTS OF PART 3 OF ARTICLE 1.5 OF TITLE 25, C.R.S.

7 (IV) FOR PURPOSES OF THIS PARAGRAPH (j), "ADMINISTRATION"
8 MEANS ASSISTING A PERSON IN THE INGESTION OF NUTRITION OR FLUIDS
9 ACCORDING TO THE DIRECTION AND SUPERVISION OF A LICENSED NURSE OR
10 PHYSICIAN.

11 **25.5-10-205. [Formerly 27-10.5-103.5.] Community-centered**
12 **boards and service agencies - local public procurement units.** For
13 purposes of entering into a cooperative purchasing agreement pursuant to
14 section 24-110-201, C.R.S., a nonprofit community-centered board or a
15 nonprofit service agency may be certified as a local public procurement
16 unit as provided in section 24-110-207.5, C.R.S.

17 **25.5-10-206. [Similar to 27-10.5-104.] Authorized services and**
18 **supports - conditions of funding - purchase of services and supports**
19 **- boards of county commissioners - appropriation.** (1) SUBJECT TO
20 ANNUAL APPROPRIATIONS BY THE GENERAL ASSEMBLY, THE STATE
21 DEPARTMENT SHALL PROVIDE OR PURCHASE, PURSUANT TO SUBSECTION
22 (4) OF THIS SECTION, AUTHORIZED SERVICES AND SUPPORTS FROM
23 COMMUNITY-CENTERED BOARDS OR SERVICE AGENCIES FOR PERSONS WHO
24 HAVE BEEN DETERMINED TO BE ELIGIBLE FOR SUCH SERVICES AND
25 SUPPORTS PURSUANT TO SECTION 25.5-10-211 AND AS SPECIFIED IN THE
26 ELIGIBLE PERSON'S INDIVIDUALIZED PLAN. THOSE SERVICES AND SUPPORTS
27 MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING:

1 (a) FAMILY SUPPORT SERVICES, INCLUDING AN ARRAY OF
2 SUPPORTIVE SERVICES PROVIDED TO THE PERSON RECEIVING SERVICES AND
3 THE PERSON'S FAMILY, THAT ENABLE THE FAMILY TO MAINTAIN THE
4 PERSON IN THE FAMILY HOME, THEREBY PREVENTING OR DELAYING THE
5 NEED FOR OUT-OF-HOME PLACEMENT THAT IS UNWANTED BY THE PERSON
6 OR THE FAMILY, PURSUANT TO SECTION 25.5-10-301;

7 (b) CASE MANAGEMENT SERVICES;

8 (c) RESPITE CARE SERVICES, INCLUDING TEMPORARY CARE OF A
9 PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY TO
10 OFFER RELIEF TO THE PERSON'S FAMILY OR CAREGIVER OR TO ALLOW THE
11 FAMILY OR CAREGIVER TO DEAL WITH EMERGENCY SITUATIONS OR TO
12 ENGAGE IN PERSONAL, SOCIAL, OR ROUTINE ACTIVITIES AND TASKS THAT
13 OTHERWISE MAY BE NEGLECTED, POSTPONED, OR CURTAILED DUE TO THE
14 DEMANDS OF SUPPORTING A PERSON WHO HAS AN INTELLECTUAL AND
15 DEVELOPMENTAL DISABILITY;

16 (d) DAY SERVICES AND SUPPORTS THAT OFFER OPPORTUNITIES FOR
17 PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES TO
18 EXPERIENCE AND ACTIVELY PARTICIPATE IN VALUED ADULT ROLES IN THE
19 COMMUNITY. THESE SERVICES AND SUPPORTS WILL ENABLE PERSONS
20 RECEIVING SERVICES TO ACCESS AND PARTICIPATE IN COMMUNITY
21 ACTIVITIES, SUCH AS WORK, RECREATION, HIGHER EDUCATION, AND
22 SENIOR CITIZEN ACTIVITIES. DAY SERVICES MAY ALSO INCLUDE THE
23 ADMINISTRATION OF NUTRITION OR FLUIDS THROUGH GASTROSTOMY
24 TUBES, IF ADMINISTERED BY A PERSON AUTHORIZED PURSUANT TO
25 SECTION 25.5-10-204 (2) (j) AND SUPERVISED BY A LICENSED NURSE OR
26 PHYSICIAN.

27 (e) RESIDENTIAL SERVICES AND SUPPORTS, INCLUDING AN ARRAY

1 OF TRAINING, LEARNING, EXPERIENTIAL, AND SUPPORT ACTIVITIES
2 PROVIDED IN LIVING ALTERNATIVES DESIGNED TO MEET THE INDIVIDUAL
3 NEEDS AND PREFERENCES OF PERSONS RECEIVING SERVICES AND MAY
4 INCLUDE THE ADMINISTRATION OF NUTRITION OR FLUIDS THROUGH
5 GASTROSTOMY TUBES, IF ADMINISTERED BY A PERSON AUTHORIZED
6 PURSUANT TO SECTION 25.5-10-204 (2) (j) AND SUPERVISED BY A
7 LICENSED NURSE OR PHYSICIAN; AND

8 (f) ANCILLARY SERVICES, INCLUDING ACTIVITIES THAT ARE
9 SECONDARY BUT INTEGRAL TO THE PROVISION OF THE SERVICES AND
10 SUPPORTS SPECIFIED IN THIS SUBSECTION (1).

11 (2) SERVICE AGENCIES RECEIVING FUNDS PURSUANT TO
12 SUBSECTION (1) OF THIS SECTION SHALL COMPLY WITH ALL OF THE
13 PROVISIONS OF THIS ARTICLE AND THE RULES PROMULGATED
14 THEREUNDER.

15 (3) SERVICE AND SUPPORT COORDINATION SHALL BE PURCHASED
16 FROM THE COMMUNITY-CENTERED BOARD DESIGNATED PURSUANT TO
17 SECTION 25.5-10-209 EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4)
18 OF THIS SECTION.

19 (4) (a) THE STATE DEPARTMENT MAY PURCHASE SERVICES AND
20 SUPPORTS, INCLUDING SERVICE AND SUPPORT COORDINATION, DIRECTLY
21 FROM SERVICE AGENCIES IF:

22 (I) REQUIRED BY THE FEDERAL REQUIREMENTS FOR THE STATE TO
23 QUALIFY FOR FEDERAL FUNDS UNDER TITLE XIX OF THE FEDERAL "SOCIAL
24 SECURITY ACT", AS AMENDED, INCLUDING PROGRAMS AUTHORIZED
25 PURSUANT TO PART 4 OF ARTICLE 6 OF THIS TITLE; OR

26 (II) THE EXECUTIVE DIRECTOR HAS DETERMINED THAT A SERVICE
27 OR SUPPORT PROVIDED OR PURCHASED BY A DESIGNATED

1 COMMUNITY-CENTERED BOARD DOES NOT MEET ESTABLISHED STANDARDS
2 AND THE CONTINUATION OF PURCHASE OF THE SERVICE OR SUPPORT
3 THROUGH THE COMMUNITY-CENTERED BOARD IS NOT IN THE BEST
4 INTERESTS OF THE PERSONS RECEIVING SERVICES.

5 (b) THE STATE DEPARTMENT SHALL ONLY PURCHASE SERVICES
6 AND SUPPORTS DIRECTLY FROM THOSE COMMUNITY-CENTERED BOARDS OR
7 SERVICE AGENCIES THAT MEET ESTABLISHED STANDARDS.

8 (c) THE STATE DEPARTMENT MAY PURCHASE SERVICES AND
9 SUPPORTS, INCLUDING SERVICE AND SUPPORT COORDINATION, FROM A
10 FAMILY CAREGIVER IF THE EXECUTIVE DIRECTOR HAS DETERMINED THAT
11 THE PROVISION OF A SERVICE OR SUPPORT BY A FAMILY CAREGIVER IN THE
12 FAMILY HOME WOULD PROVIDE THE PERSON RECEIVING THE SERVICE OR
13 SUPPORT WITH THE LEAST RESTRICTIVE ENVIRONMENT.

14 (d) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT
15 THE PROVISION OF SERVICES AND SUPPORTS, INCLUDING CASE
16 MANAGEMENT SERVICES, DIRECTLY BY THE DEPARTMENT OF HUMAN
17 SERVICES THROUGH REGIONAL CENTERS, FOR PERSONS RECEIVING
18 SERVICES IN REGIONAL CENTERS.

19 (e) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE
20 THE PROVISION OF SERVICES AND SUPPORTS, INCLUDING CASE
21 MANAGEMENT SERVICES, DIRECTLY BY THE STATE DEPARTMENT.

22 (5) GOVERNMENTAL UNITS, INCLUDING BUT NOT LIMITED TO
23 COUNTIES, MUNICIPALITIES, SCHOOL DISTRICTS, HEALTH SERVICE
24 DISTRICTS, AND STATE INSTITUTIONS OF HIGHER EDUCATION, ARE
25 AUTHORIZED AT THEIR OWN EXPENSE TO FURNISH MONEY, MATERIALS, OR
26 SERVICES AND SUPPORTS TO PERSONS WITH INTELLECTUAL AND
27 DEVELOPMENTAL DISABILITIES, OR TO PURCHASE SERVICES AND SUPPORTS

1 FOR SUCH PERSONS THROUGH DESIGNATED COMMUNITY-CENTERED
2 BOARDS OR SERVICE AGENCIES, SO LONG AS NO CONDITIONS OR
3 REQUIREMENTS IMPOSED AS A RESULT OF THE PROVISION OR PURCHASE
4 THROUGH A COMMUNITY-CENTERED BOARD OR SERVICE AGENCY
5 CONFLICT WITH THE PROVISIONS OF THIS ARTICLE OR THE RULES
6 PROMULGATED THEREUNDER.

7 (6) BOARDS OF COUNTY COMMISSIONERS MAY LEVY UP TO ONE
8 MILL FOR THE PURPOSE OF PURCHASING SERVICES AND SUPPORTS FOR
9 PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES. TO THE
10 EXTENT AUTHORIZED BY FEDERAL LAW, AND SUBJECT TO ANNUAL
11 APPROPRIATION BY THE GENERAL ASSEMBLY, AND PURSUANT TO RULES
12 ESTABLISHED BY THE STATE BOARD, A COUNTY MAY TRANSFER THE
13 REVENUE RAISED PURSUANT TO THE MILL LEVY TO THE STATE
14 DEPARTMENT TO RECEIVE MATCHING FEDERAL FUNDS TO PROVIDE
15 MEDICAID-APPROVED WAIVER SERVICES TO PERSONS WITH INTELLECTUAL
16 AND DEVELOPMENTAL DISABILITIES.

17 (7) (a) EACH YEAR THE GENERAL ASSEMBLY SHALL APPROPRIATE
18 MONEYS TO THE STATE DEPARTMENT TO PROVIDE OR PURCHASE SERVICES
19 AND SUPPORTS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL
20 DISABILITIES PURSUANT TO THIS SECTION. UNLESS SPECIFICALLY
21 PROVIDED OTHERWISE, SERVICES AND SUPPORTS SHALL BE PURCHASED ON
22 THE BASIS OF STATE FUNDING LESS ANY FEDERAL OR CASH FUNDS
23 RECEIVED FOR GENERAL OPERATING EXPENSES FROM ANY OTHER STATE OR
24 FEDERAL SOURCE, LESS FUNDS AVAILABLE TO A PERSON RECEIVING
25 RESIDENTIAL SERVICES OR SUPPORTS AFTER SUCH PERSON RECEIVES AN
26 ALLOWANCE FOR PERSONAL NEEDS OR FOR MEETING OTHER OBLIGATIONS
27 IMPOSED BY FEDERAL OR STATE LAW, AND LESS THE REQUIRED LOCAL

1 SCHOOL DISTRICT FUNDS SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION
2 (7). THE YEARLY APPROPRIATION, WHEN COMBINED WITH ALL OTHER
3 SOURCES OF FUNDS, SHALL IN NO CASE EXCEED ONE HUNDRED PERCENT OF
4 THE APPROVED PROGRAM COSTS AS DETERMINED BY THE GENERAL
5 ASSEMBLY.

6 (b) EACH SCHOOL DISTRICT SHALL PAY TO THE
7 COMMUNITY-CENTERED BOARD PROVIDING PROGRAMS ATTENDED BY A
8 STUDENT WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, WHO
9 IS DOMICILED IN THE SCHOOL DISTRICT AND MAY BE COUNTED IN THE
10 DISTRICT'S PUPIL ENROLLMENT, AN AMOUNT AT LEAST EQUAL TO THE
11 DISTRICT'S PER PUPIL REVENUES AS DETERMINED PURSUANT TO THE
12 "PUBLIC SCHOOL FINANCE ACT OF 1994", ARTICLE 54 OF TITLE 22, C.R.S.
13 THIS SUBSECTION (7) APPLIES TO STUDENTS WHO ARE LESS THAN
14 TWENTY-TWO YEARS OF AGE.

15 **25.5-10-207. [Formerly 27-10.5-104.2.] Services and supports**
16 **- waiting list reduction - cash fund.** (1) There is hereby created in the
17 state treasury the developmental disabilities services cash fund, consisting
18 of moneys appropriated thereto by the general assembly. Any interest
19 derived from the deposit and investment of moneys in the developmental
20 disabilities services cash fund shall be credited to the fund. Any moneys
21 remaining in the fund at the end of a fiscal year shall remain in the fund
22 and shall not revert to the general fund or any other fund.

23 (2) During each regular session of the general assembly, the joint
24 budget committee and the health and human services committees of the
25 senate and the house of representatives, or any successor committees,
26 shall hold a joint hearing and take public testimony on the status of the
27 waiting lists for adult comprehensive services, adult supported living

1 services, and family support services for persons with INTELLECTUAL AND
2 developmental disabilities and the availability of general fund moneys to
3 reduce the number of persons on the waiting lists and the amount of time
4 eligible persons wait for such services. The goal of the hearing shall be
5 to propose an appropriation from the general fund to the developmental
6 disabilities services cash fund.

7 (3) The general assembly may annually appropriate moneys in the
8 developmental disabilities services cash fund to:

9 (a) TO the STATE department for program costs for adult
10 comprehensive services, adult supported living services, and family
11 support services for persons with INTELLECTUAL AND developmental
12 disabilities provided pursuant to this article or part 4 of article 6 of THIS
13 title. ~~25.5, C.R.S.; and~~

14 ~~(b) The department of health care policy and financing for~~
15 ~~program costs for adult comprehensive services and adult supported~~
16 ~~living services for persons with developmental disabilities provided~~
17 ~~pursuant to this article or part 4 of article 6 of title 25.5, C.R.S.~~

18 (4) Any moneys appropriated from the developmental disabilities
19 services cash fund pursuant to subsection (3) of this section that are
20 unexpended at the end of a fiscal year shall revert to the fund.

21 (5) It is the intent of the general assembly that the moneys in the
22 developmental disabilities services cash fund be used to reduce the
23 number of persons on the waiting lists for such services and the amount
24 of time eligible persons wait for such services.

25 **25.5-10-208. [Similar to 27-10.5-104.5.] Service agencies -**
26 **moneys - rules.** (1) A SERVICE AGENCY, INCLUDING A
27 COMMUNITY-CENTERED BOARD WHEN ACTING AS A SERVICE AGENCY,

1 SHALL COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS ARTICLE AND
2 THE RULES PROMULGATED THEREUNDER.

3 (2) THE STATE BOARD SHALL PROMULGATE RULES TO IMPLEMENT
4 THE PURCHASE OF SERVICES AND SUPPORTS FROM A
5 COMMUNITY-CENTERED BOARD, SERVICE AGENCY, OR FAMILY CAREGIVER.
6 THE RULES SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

7 (a) TERMS AND CONDITIONS NECESSARY TO PROMOTE THE
8 EFFECTIVE DELIVERY OF SERVICES AND SUPPORTS, INCLUDING THOSE
9 SERVICES AND SUPPORTS DELIVERED BY A FAMILY CAREGIVER;

10 (b) PROCEDURES FOR OBTAINING AN ANNUAL AUDIT OF
11 DESIGNATED COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES NOT
12 AFFILIATED WITH A DESIGNATED COMMUNITY-CENTERED BOARD TO
13 PROVIDE FINANCIAL INFORMATION DEEMED NECESSARY BY THE STATE
14 DEPARTMENT TO ESTABLISH COSTS OF SERVICES AND SUPPORTS AND TO
15 ENSURE PROPER MANAGEMENT OF MONEYS RECEIVED PURSUANT TO
16 SECTION 25.5-10-206;

17 (c) DELINEATION OF A SYSTEM TO RESOLVE CONTRACTUAL
18 DISPUTES BETWEEN THE STATE DEPARTMENT AND DESIGNATED
19 COMMUNITY-CENTERED BOARDS OR SERVICE AGENCIES AND BETWEEN
20 DESIGNATED COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES,
21 INCLUDING THE CONTESTING OF ANY RATES THAT THE DESIGNATED
22 COMMUNITY-CENTERED BOARDS CHARGE TO SERVICE AGENCIES BASED
23 UPON A PERCENTAGE OF THE RATES THAT SERVICE AGENCIES CHARGE FOR
24 SERVICES AND SUPPORTS;

25 (d) SPECIFICATION OF WHICH SERVICES AND SUPPORTS ARE TO BE
26 REIMBURSED BY THE STATE DEPARTMENT AND SECONDARILY BY THE
27 COMMUNITY-CENTERED BOARD, THE SOURCE OF REIMBURSEMENT, ACTUAL

1 SERVICE OR SUPPORT COSTS, INCENTIVES, AND PROGRAM SERVICE
2 OBJECTIVES THAT AFFECT REIMBURSEMENT;

3 (e) THE METHODS OF COORDINATING THE PURCHASE OF SERVICES
4 AND SUPPORTS, INCLUDING BUT NOT LIMITED TO SERVICE AND SUPPORT
5 COORDINATION, WITH OTHER FEDERAL, STATE, AND LOCAL PROGRAMS
6 THAT PROVIDE FUNDING FOR AUTHORIZED SERVICES AND SUPPORTS; AND

7 (f) CRITERIA FOR AND LIMITATIONS ON ANY RATES THAT
8 DESIGNATED COMMUNITY-CENTERED BOARDS CHARGE TO SERVICE
9 AGENCIES BASED UPON A PERCENTAGE OF THE RATES THAT SERVICE
10 AGENCIES CHARGE FOR SERVICES AND SUPPORTS.

11 (3) ANY INCORPORATED SERVICE AGENCY THAT IS REGISTERED IN
12 COLORADO AS A FOREIGN CORPORATION SHALL ORGANIZE A LOCAL
13 ADVISORY BOARD CONSISTING OF PERSONS WHO RESIDE WITHIN THE
14 DESIGNATED SERVICE AREA. SUCH ADVISORY BOARD SHALL BE
15 REPRESENTATIVE OF THE COMMUNITY AT LARGE AND PERSONS RECEIVING
16 SERVICES AND THEIR FAMILIES.

17 (4) UPON A DETERMINATION BY THE EXECUTIVE DIRECTOR THAT
18 SERVICES OR SUPPORTS HAVE NOT BEEN PROVIDED IN ACCORDANCE WITH
19 THE PROGRAM OR FINANCIAL ADMINISTRATION STANDARDS SPECIFIED IN
20 THIS ARTICLE AND THE RULES PROMULGATED THEREUNDER, THE
21 EXECUTIVE DIRECTOR MAY REDUCE, SUSPEND, OR WITHHOLD PAYMENT TO
22 A DESIGNATED COMMUNITY-CENTERED BOARD, SERVICE AGENCY UNDER
23 CONTRACT WITH A DESIGNATED COMMUNITY-CENTERED BOARD, OR
24 SERVICE AGENCY FROM WHICH THE STATE DEPARTMENT PURCHASED
25 SERVICES OR SUPPORTS DIRECTLY. WHEN THE EXECUTIVE DIRECTOR
26 DECIDES TO REDUCE, SUSPEND, OR WITHHOLD PAYMENT, THE EXECUTIVE
27 DIRECTOR SHALL SPECIFY THE REASONS THEREFOR AND THE ACTIONS THAT

1 ARE NECESSARY TO BRING THE DESIGNATED COMMUNITY-CENTERED
2 BOARD OR SERVICE AGENCY INTO COMPLIANCE.

3 (5) NOTHING IN THIS ARTICLE OR IN ANY RULES PROMULGATED
4 PURSUANT THERETO AND NO ACTIONS TAKEN BY THE EXECUTIVE
5 DIRECTOR PURSUANT TO THIS ARTICLE SHALL BE CONSTRUED TO AFFECT
6 THE OBTAINING OF FUNDS FROM LOCAL AUTHORITIES, INCLUDING THOSE
7 FUNDS OBTAINED FROM A MILL LEVY ASSESSED BY A COUNTY OR
8 MUNICIPALITY FOR THE PURPOSE OF PURCHASING SERVICES OR SUPPORTS
9 FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, OR
10 TO REQUIRE THAT SUCH FUNDS FROM LOCAL AUTHORITIES BE USED TO
11 SUPPLANT STATE OR FEDERAL FUNDS AVAILABLE FOR PURCHASING
12 SERVICES AND SUPPORTS FOR PERSONS WITH DEVELOPMENTAL
13 DISABILITIES.

14 **25.5-10-209. [Similar to former 27-10.5-105.]**
15 **Community-centered boards - designation - purchase of services and**
16 **supports by community-centered boards.** (1) IN ORDER TO BE
17 DESIGNATED AS THE COMMUNITY-CENTERED BOARD IN A PARTICULAR
18 DESIGNATED SERVICE AREA, A PRIVATE FOR-PROFIT OR NOT-FOR-PROFIT
19 CORPORATION SHALL ANNUALLY APPLY FOR SUCH DESIGNATION TO THE
20 STATE DEPARTMENT IN THE FORM AND MANNER SPECIFIED BY THE
21 EXECUTIVE DIRECTOR. DESIGNATION SHALL BE BASED ON THE FOLLOWING
22 FACTORS:

23 (a) UTILIZATION OF EXISTING SERVICE AGENCIES OR EXISTING
24 SOCIAL NETWORKS OR NATURAL SOURCES OF SUPPORT IN THE DESIGNATED
25 SERVICE AREA;

26 (b) ENCOURAGEMENT OF COMPETITION AMONG SERVICE AGENCIES
27 WITHIN THE DESIGNATED SERVICE AREA TO PROVIDE NEWLY IDENTIFIED

1 SERVICES OR SUPPORTS, THE VARIETY OF SERVICE AGENCIES AVAILABLE
2 TO THE PERSON RECEIVING SERVICES WITHIN THE DESIGNATED SERVICE
3 AREA, AND THE DEMONSTRATED EFFORT TO PURCHASE NEW OR EXPANDED
4 SERVICES OR SUPPORTS FROM SERVICE AGENCIES OTHER THAN THOSE
5 AFFILIATED WITH THE COMMUNITY-CENTERED BOARD;

6 (c) UTILIZATION OF STATE-FUNDED SERVICES AND SUPPORTS
7 ADMINISTERED AT THE LOCAL LEVEL, INCLUDING BUT NOT LIMITED TO
8 PUBLIC EDUCATION, SOCIAL SERVICES, PUBLIC HEALTH, AND
9 REHABILITATION PROGRAMS;

10 (d) QUALITY OF SERVICES AND SUPPORTS PROVIDED DIRECTLY OR
11 BY CONTRACT FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL
12 DISABILITIES;

13 (e) THE ESTABLISHMENT OF NEW SERVICES AND SUPPORTS FOR THE
14 PREVENTION OF INSTITUTIONALIZATION, THE SUPPORT OF
15 DEINSTITUTIONALIZATION, AND A COMMITMENT TO INNOVATIVE,
16 EFFECTIVE, AND INCLUSIVE SERVICES AND SUPPORTS FOR PERSONS WITH
17 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES; AND

18 (f) THE WILLINGNESS OF THE APPLICANT TO PURSUE AUTHORIZED
19 SERVICES AND SUPPORTS FROM ALL ELIGIBLE PERSONS WITHIN THE
20 DESIGNATED SERVICE AREA.

21 (2) ONCE A COMMUNITY-CENTERED BOARD HAS BEEN DESIGNATED
22 PURSUANT TO THIS SECTION, IT SHALL, SUBJECT TO AVAILABLE
23 APPROPRIATIONS:

24 (a) BE UNDER THE CONTROL AND DIRECTION OF A BOARD OF
25 DIRECTORS OR TRUSTEES COMPOSED OF ONE OR MORE PERSONS FROM
26 EACH OF THE FOLLOWING CATEGORIES:

27 (I) INTERESTED PERSONS REPRESENTING THE COMMUNITY AT

1 LARGE;

2 (II) FAMILY MEMBERS OF PERSONS WITH INTELLECTUAL AND
3 DEVELOPMENTAL DISABILITIES WHO ARE RECEIVING SERVICES OR
4 SUPPORTS; AND

5 (III) PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL
6 DISABILITIES WHO ARE RECEIVING SERVICES OR SUPPORTS;

7 (b) ADOPT BY-LAW PROVISIONS TO ENSURE THAT:

8 (I) MEMBERS OF THE GOVERNING BOARD ARE PROHIBITED FROM
9 VOTING ON ISSUES IN WHICH THEY HAVE A CONFLICT OF INTEREST;

10 (II) STAFF MEMBERS OF THE COMMUNITY-CENTERED BOARD AND
11 EMPLOYEES OR BOARD MEMBERS OF SERVICE AGENCIES MAY NOT SERVE
12 ON THE GOVERNING BOARD;

13 (III) STAFF MEMBERS OF THE COMMUNITY-CENTERED BOARD AND
14 EMPLOYEES OR BOARD MEMBERS OF SERVICE AGENCIES ARE PROHIBITED
15 FROM VOTING IN ELECTIONS FOR MEMBERS OF THE GOVERNING BOARD;
16 AND

17 (IV) BOARD MEETINGS MUST BE SCHEDULED AFTER ADEQUATE
18 NOTICE AND MUST BE OPEN TO THE PUBLIC; EXCEPT THAT, BY VOTE OF A
19 TWO-THIRDS MAJORITY OF MEMBERS PRESENT, THE BOARD MAY ELECT TO
20 ADDRESS THE FOLLOWING MATTERS IN EXECUTIVE SESSION:

21 (A) THE PURCHASE, ACQUISITION, LEASE, TRANSFER, OR SALE OF
22 ANY REAL, PERSONAL, OR OTHER PROPERTY INTEREST;

23 (B) CONFERENCES WITH AN ATTORNEY FOR THE PURPOSE OF
24 RECEIVING LEGAL ADVICE ON SPECIFIC LEGAL QUESTIONS;

25 (C) MATTERS REQUIRED TO BE KEPT CONFIDENTIAL BY FEDERAL
26 OR STATE LAW OR RULES;

27 (D) SPECIALIZED DETAILS OF SECURITY ARRANGEMENTS OR

1 INVESTIGATIONS;

2 (E) DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE
3 SUBJECT TO NEGOTIATIONS;

4 (F) DEVELOPING STRATEGY FOR NEGOTIATIONS AND INSTRUCTING
5 NEGOTIATORS; AND

6 (G) PERSONNEL MATTERS;

7 (c) DETERMINE THE NEEDS OF ELIGIBLE PERSONS WITHIN THE
8 COMMUNITY-CENTERED BOARD DESIGNATED SERVICE AREA AND PREPARE
9 AND IMPLEMENT A LONG-RANGE PLAN AND ANNUAL UPDATES TO THAT
10 PLAN FOR THE DEVELOPMENT AND COORDINATION OF SERVICES AND
11 SUPPORTS TO ADDRESS THOSE NEEDS. THE NEEDS DETERMINATION AND
12 DESIGNATED SERVICE AREA PLANS OR ANNUAL UPDATE SHALL BE
13 SUBMITTED TO THE STATE DEPARTMENT.

14 (d) DETERMINE ELIGIBILITY AND DEVELOP AN INDIVIDUALIZED
15 PLAN FOR EACH PERSON WHO RECEIVES SERVICES OR SUPPORTS PURSUANT
16 TO SECTION 25.5-10-211; EXCEPT THAT, FOR A CHILD FROM BIRTH
17 THROUGH TWO YEARS OF AGE, ELIGIBILITY DETERMINATION AND
18 DEVELOPMENT OF AN INDIVIDUALIZED FAMILY SERVICE PLAN ARE MADE
19 PURSUANT TO THE PROVISIONS OF PART 7 OF ARTICLE 10.5 OF TITLE 27,
20 C.R.S.;

21 (e) PROVIDE CASE MANAGEMENT SERVICES, INCLUDING SERVICE
22 AND SUPPORT COORDINATION AND PERIODIC REVIEWS, FOR PERSONS
23 RECEIVING SERVICES AND FAMILIES WITH CHILDREN WITH INTELLECTUAL
24 AND DEVELOPMENTAL DISABILITIES OR DELAYS;

25 (f) OBTAIN OR PROVIDE EARLY INTERVENTION SERVICES AND
26 SUPPORTS PURSUANT TO THE PROVISIONS OF PART 7 OF ARTICLE 10.5 OF
27 TITLE 27, C.R.S.;

1 (g) TAKE STEPS TO NOTIFY ELIGIBLE PERSONS, AND THEIR FAMILIES
2 AS APPROPRIATE, REGARDING THE AVAILABILITY OF SERVICES AND
3 SUPPORTS; AND

4 (h) ESTABLISH A HUMAN RIGHTS COMMITTEE. THE HUMAN RIGHTS
5 COMMITTEE IS COMPOSED, TO THE EXTENT POSSIBLE, OF TWO
6 PROFESSIONAL PERSONS TRAINED IN THE APPLICATION OF BEHAVIOR
7 DEVELOPMENT TECHNIQUES AND THREE REPRESENTATIVES OF PERSONS
8 RECEIVING SERVICES, THEIR PARENTS, LEGAL GUARDIANS, OR AUTHORIZED
9 REPRESENTATIVES. AN EMPLOYEE OR BOARD MEMBER OF A SERVICE
10 AGENCY WITHIN THE COMMUNITY-CENTERED BOARD'S DESIGNATED
11 SERVICE AREA SHALL NOT SERVE AS A MEMBER OF THE HUMAN RIGHTS
12 COMMITTEE.

13 (3) THE EXECUTIVE DIRECTOR SHALL REVIEW EACH DESIGNATED
14 COMMUNITY-CENTERED BOARD PROGRAM TO ENSURE THAT THE PROGRAM
15 COMPLIES WITH THE REQUIREMENTS AND STANDARDS SET FORTH IN THIS
16 ARTICLE AND THE RULES PROMULGATED THEREUNDER.

17 **25.5-10-210. [Formerly 27-10.5-105.5.] Revocation of**
18 **designation.** (1) The executive director may revoke the designation of
19 a community-centered board upon a finding that the community-centered
20 board is in violation of the provisions of this article and the rules ~~and~~
21 ~~regulations~~ promulgated thereunder. Such revocation shall conform to the
22 provisions and procedures specified in article 4 of title 24, C.R.S., and
23 shall be made only after a hearing is provided as specified in that article.

24 (2) Once a designation has been revoked pursuant to subsection
25 (1) of this section, the executive director may designate a service agency
26 to perform the case management services of the designated
27 community-centered board pending designation of a new

1 community-centered board.

2 (3) ~~(Deleted by amendment, L. 92, p. 1368, § 7, effective July 1,~~
3 ~~1992.)~~

4 **25.5-10-211. [Similar to former 27-10.5-106.] Eligibility**
5 **determination - individualized plan - periodic review - rules.**

6 (1) (a) ANY PERSON MAY REQUEST AN EVALUATION TO DETERMINE
7 WHETHER HE OR SHE HAS AN INTELLECTUAL AND DEVELOPMENTAL
8 DISABILITY AND IS ELIGIBLE TO RECEIVE SERVICES AND SUPPORTS
9 PURSUANT TO THIS ARTICLE. THE PERSON MUST APPLY FOR ELIGIBILITY
10 DETERMINATION TO THE DESIGNATED COMMUNITY-CENTERED BOARD IN
11 THE DESIGNATED SERVICE AREA WHERE THE PERSON RESIDES.

12 (b) PURSUANT TO THE CONTRACT WITH THE STATE DEPARTMENT,
13 DESIGNATED COMMUNITY-CENTERED BOARDS SHALL DETERMINE
14 WHETHER A PERSON IS ELIGIBLE TO RECEIVE SERVICES AND SUPPORTS
15 PURSUANT TO THIS ARTICLE AND, IF SO, SHALL DEVELOP AN
16 INDIVIDUALIZED PLAN FOR HIM OR HER AS PART OF HIS OR HER
17 ENROLLMENT INTO A PROGRAM. THE STATE BOARD SHALL PROMULGATE
18 RULES, PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., SETTING FORTH THE
19 PROCEDURE AND CRITERIA FOR DETERMINATION OF ELIGIBILITY AND
20 INDIVIDUALIZED PLAN DEVELOPMENT. THE PROCEDURE AND CRITERIA
21 SHALL BE UNIFORM IN NATURE AND APPLIED THROUGHOUT THE STATE IN
22 A CONSISTENT MANNER.

23 (2) FOLLOWING INTAKE AND ASSESSMENT, THE DESIGNATED
24 COMMUNITY-CENTERED BOARD SHALL DEVELOP AN INDIVIDUALIZED PLAN
25 AS PROVIDED BY RULES PROMULGATED BY THE STATE BOARD. THE
26 DESIGNATED COMMUNITY-CENTERED BOARD SHALL DEVELOP AN
27 INDIVIDUALIZED FAMILY SERVICE PLAN FOR A CHILD WITH DISABILITIES

1 FROM BIRTH THROUGH TWO YEARS OF AGE PURSUANT TO SECTION
2 27-10.5-703, C.R.S.

3 (3) SUBJECT TO AVAILABLE APPROPRIATIONS PURSUANT TO
4 SECTION 25.5-10-206 AND TO THE CAPACITY OF AN INDIVIDUAL SERVICE
5 AGENCY, THE PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL
6 DISABILITY MUST BE PROVIDED OPTIONS FOR SERVICES AND SUPPORTS
7 WITHIN THE DESIGNATED SERVICE AREA THAT CAN APPROPRIATELY MEET
8 THE PERSON'S IDENTIFIED NEEDS, AS IDENTIFIED PURSUANT TO SUBSECTION
9 (2) OF THIS SECTION, AND MAY SELECT THE SERVICE AGENCY FROM WHICH
10 TO RECEIVE SERVICES OR SUPPORTS.

11 (4) (a) EACH PERSON RECEIVING SERVICES MUST RECEIVE PERIODIC
12 AND ADEQUATE REVIEWS TO ASCERTAIN WHETHER THE SERVICES AND
13 SUPPORTS SPECIFIED IN HIS OR HER INDIVIDUALIZED PLAN HAVE BEEN
14 PROVIDED, DETERMINE THE APPROPRIATENESS OF CURRENT SERVICES AND
15 SUPPORTS, IDENTIFY WHETHER THE OUTCOMES SPECIFIED IN THE PERSON'S
16 INDIVIDUALIZED PLAN HAVE BEEN ACHIEVED, AND MODIFY AND REVISE
17 CURRENT SERVICES OR SUPPORTS TO MEET THE IDENTIFIED NEEDS AND
18 PREFERENCES OF THE PERSON RECEIVING SERVICES. THE DESIGNATED
19 COMMUNITY-CENTERED BOARD SHALL DEVELOP MODIFICATIONS OR
20 REVISIONS TO THE INDIVIDUALIZED FAMILY SERVICE PLAN FOR A CHILD
21 WITH DISABILITIES FROM BIRTH THROUGH TWO YEARS OF AGE PURSUANT
22 TO SECTION 27-10.5-703, C.R.S.

23 (b) IN ORDER TO ACCURATELY REVIEW THE SERVICES AND
24 SUPPORTS BEING PROVIDED, THE COMMUNITY-CENTERED BOARD OR
25 REGIONAL CENTER MAY MAKE COGNITIVE, PHYSICAL, MEDICAL,
26 BEHAVIORAL, SOCIAL, VOCATIONAL, EDUCATIONAL, OR OTHER NECESSARY
27 TYPES OF EVALUATIONS OF A PERSON RECEIVING SERVICES. AN

1 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PROFESSIONAL SHALL
2 SUPERVISE THE REVIEWS. THE PERSON RECEIVING SERVICES, THE PARENTS
3 OR GUARDIAN OF A MINOR, OR THE GUARDIAN OF THE PERSON RECEIVING
4 SERVICES, AND THE AUTHORIZED REPRESENTATIVE OF THE PERSON
5 RECEIVING SERVICES MAY ATTEND AND SHALL RECEIVE ADEQUATE
6 ADVANCE NOTICE OF THE REVIEWS. PARENTAL OR LEGAL GUARDIAN
7 CONSENT MUST BE OBTAINED PRIOR TO ADMINISTERING EVALUATIONS FOR
8 PROGRAM REVIEW TO MINORS. THE RESULTS OF A REVIEW MUST BE GIVEN
9 TO THE PERSON RECEIVING SERVICES AND TO THE PERSON'S PARENT, OR
10 GUARDIAN, AS APPROPRIATE, AND MUST BE MADE A PART OF THE PERSON'S
11 RECORD.

12 (c) A PERSON'S INDIVIDUALIZED PLAN MUST BE REVIEWED AT
13 LEAST ANNUALLY; EXCEPT THAT AN INDIVIDUALIZED FAMILY SERVICE
14 PLAN FOR A CHILD WITH DISABILITIES FROM BIRTH THROUGH TWO YEARS
15 OF AGE MUST BE REVIEWED AS REQUIRED PURSUANT TO PART 7 OF ARTICLE
16 10.5 OF TITLE 27, C.R.S.

17 (5) AN INDIVIDUALIZED PLAN IS NOT REQUIRED FOR A PERSON
18 WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WHO IS ELIGIBLE
19 FOR SUPPORTS AND SERVICES AND WHO IS ON A WAITING LIST FOR
20 ENROLLMENT INTO A PROGRAM FUNDED PURSUANT TO THIS ARTICLE.
21 EACH COMMUNITY-CENTERED BOARD SHALL PROVIDE INFORMATION AND
22 REFERRAL SERVICES TO EACH PERSON ON THE WAITING LIST FOR
23 ENROLLMENT IN A PROGRAM, AT THE TIME OF HIS OR HER ELIGIBILITY AND
24 ANNUALLY THEREAFTER, REGARDING SERVICES AND SUPPORTS THAT ARE
25 RELEVANT TO PERSONS AND ARE COMMONLY USED BY PERSONS WITH
26 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES AS PROVIDED BY RULES
27 PROMULGATED BY THE STATE BOARD. THE CRITERIA FOR INFORMATION

1 AND REFERRAL SHALL BE UNIFORM IN NATURE AND APPLIED THROUGHOUT
2 THE STATE IN A CONSISTENT MANNER.

3 **25.5-10-212. [Similar to 27-10.5-107.] Procedure for resolving**
4 **disputes over eligibility, modification of services or supports, and**
5 **termination of services or supports.** (1) EVERY STATE OR LOCAL
6 SERVICE AGENCY RECEIVING STATE MONEYS PURSUANT TO SECTION
7 25.5-10-206 SHALL ADOPT A PROCEDURE FOR THE RESOLUTION OF
8 DISPUTES ARISING BETWEEN THE SERVICE AGENCY AND ANY RECIPIENT OF,
9 OR APPLICANT FOR, SERVICES OR SUPPORTS AUTHORIZED UNDER SECTION
10 25.5-10-206. PROCEDURES FOR THE RESOLUTION OF DISPUTES REGARDING
11 EARLY INTERVENTION SERVICES MUST COMPLY WITH IDEA AND WITH
12 PART 7 OF ARTICLE 10.5 OF TITLE 27, C.R.S. THE PROCEDURES MUST BE
13 CONSISTENT WITH RULES PROMULGATED BY THE STATE BOARD PURSUANT
14 TO ARTICLE 4 OF TITLE 24, C.R.S., AND MUST APPLY TO THE FOLLOWING
15 DISPUTES:

16 (a) A CONTESTED DECISION THAT THE APPLICANT IS NOT ELIGIBLE
17 FOR SERVICES OR SUPPORTS;

18 (b) A CONTESTED DECISION TO PROVIDE, MODIFY, REDUCE, OR
19 DENY SERVICES OR SUPPORTS SET FORTH IN THE INDIVIDUALIZED PLAN OR
20 INDIVIDUALIZED FAMILY SERVICE PLAN OF THE PERSON RECEIVING
21 SERVICES;

22 (c) A CONTESTED DECISION TO TERMINATE SERVICES OR SUPPORTS;

23 (d) A CONTESTED DECISION THAT THE PERSON RECEIVING
24 SERVICES IS NO LONGER ELIGIBLE FOR SERVICES OR SUPPORTS.

25 (2) THE STATE BOARD SHALL PROMULGATE RULES PURSUANT TO
26 ARTICLE 4 OF TITLE 24, C.R.S., SETTING FORTH PROCEDURES FOR THE
27 RESOLUTION OF DISPUTES SPECIFIED IN SUBSECTION (1) OF THIS SECTION

1 THAT MUST:

2 (a) REQUIRE THAT ALL APPLICANTS FOR SERVICES AND SUPPORTS
3 AND THE PARENTS OR GUARDIAN OF A MINOR, THE GUARDIAN, OR AN
4 AUTHORIZED REPRESENTATIVE BE INFORMED ORALLY AND IN WRITING, IN
5 THEIR NATIVE LANGUAGE, OF THE DISPUTE RESOLUTION PROCEDURES AT
6 THE TIME OF APPLICATION, AT THE TIME THE INDIVIDUALIZED PLAN IS
7 DEVELOPED, AND ANY TIME CHANGES IN THE PLAN ARE CONTEMPLATED;

8 (b) REQUIRE THAT A SERVICE AGENCY KEEP A WRITTEN RECORD OF
9 ALL PROCEEDINGS SPECIFIED PURSUANT TO THIS SECTION;

10 (c) REQUIRE THAT NO PERSON RECEIVING SERVICES BE
11 TERMINATED FROM SUCH SERVICES OR SUPPORTS DURING THE RESOLUTION
12 PROCESS;

13 (d) REQUIRE THAT UTILIZING THE DISPUTE RESOLUTION
14 PROCEDURE MUST NOT PREJUDICE THE FUTURE PROVISION OF APPROPRIATE
15 SERVICES OR SUPPORTS TO PERSONS; AND

16 (e) REQUIRE THAT THE INTENDED ACTION NOT OCCUR UNTIL AFTER
17 REASONABLE NOTICE HAS BEEN PROVIDED TO THE PERSON, THE PARENTS
18 OR GUARDIAN OF A MINOR, THE GUARDIAN, OR AN AUTHORIZED
19 REPRESENTATIVE, ALONG WITH AN OPPORTUNITY TO UTILIZE THE
20 RESOLUTION PROCESS, EXCEPT IN EMERGENCY SITUATIONS, AS
21 DETERMINED BY THE STATE DEPARTMENT.

22 (3) THE RESOLUTION PROCESS NEED NOT CONFORM TO THE
23 REQUIREMENTS OF SECTION 24-4-105, C.R.S., AS LONG AS THE RULES
24 ADOPTED BY THE STATE BOARD INCLUDE PROVISIONS SPECIFICALLY
25 SETTING FORTH PROCEDURES, TIME FRAMES, NOTICE, AN OPPORTUNITY TO
26 BE HEARD AND TO PRESENT EVIDENCE, AND THE OPPORTUNITY FOR
27 IMPARTIAL REVIEW OF THE DECISION IN DISPUTE BY THE EXECUTIVE

1 DIRECTOR OR DESIGNEE, IF THE RESOLUTION PROCESS HAS FAILED.

2 **25.5-10-213. [Similar to 27-10.5-108.] Discharge.** (1) A PERSON
3 RECEIVING SERVICES MUST BE DISCHARGED FROM SERVICES OR SUPPORTS
4 UPON A DETERMINATION, MADE PURSUANT TO THE INDIVIDUALIZED
5 PLANNING PROCESS, THAT THE SERVICES OR SUPPORTS ARE NO LONGER
6 APPROPRIATE. AT LEAST TEN DAYS PRIOR TO EFFECTUATION OF THE
7 DISCHARGE, NOTIFICATION OF DISCHARGE MUST BE GIVEN TO THE PERSON
8 RECEIVING SERVICES, THE PARENTS OR GUARDIAN OF SUCH A PERSON WHO
9 IS A MINOR, AND THE PERSON'S LEGAL GUARDIAN AND AUTHORIZED
10 REPRESENTATIVE WHEN APPLICABLE.

11 (2) WHEN A PERSON RECEIVING SERVICES NOTIFIES A SERVICE
12 AGENCY THAT THE PERSON NO LONGER WISHES TO RECEIVE A SERVICE OR
13 SUPPORT, THE PERSON MUST BE DISCHARGED FROM THE SERVICE OR
14 SUPPORT UNLESS THE PERSON IS SUBJECT TO A PETITION TO IMPOSE A
15 LEGAL DISABILITY OR TO REMOVE A LEGAL RIGHT, FILED PURSUANT TO
16 SECTION 25.5-10-216, OR FOR WHOM A LEGAL GUARDIAN HAS BEEN
17 APPOINTED, AFFECTING THE PERSON'S ABILITY TO VOLUNTARILY
18 TERMINATE SERVICES OR SUPPORTS. THE PARENTS OF THE PERSON
19 RECEIVING SERVICES WHO IS A MINOR AND SUCH PERSON'S GUARDIAN
20 MUST BE NOTIFIED OF THE PERSON'S WISH TO TERMINATE SERVICES OR
21 SUPPORTS, BUT NO MINOR WILL BE DISCHARGED WITHOUT THE CONSENT
22 OF THE PARENT OR LEGAL GUARDIAN.

23 **25.5-10-214. [Formerly 27-10.5-109.] Community residential**
24 **home - licenses - rules.** (1) ~~(Deleted by amendment, L. 92, p. 1371, § 11,~~
25 ~~effective July 1, 1992.)~~

26 ~~(2)(a)~~ (1) The department of public health and environment and
27 the STATE department of ~~human services~~ shall implement a system of

1 joint licensure and certification of community residential homes.
2 Independent residential support services provided by the STATE
3 department of human services do not require licensure by the department
4 of public health and environment.

5 ~~(b) By December 31, 2012, the department of public health and~~
6 ~~environment, the department of health care policy and financing, and the~~
7 ~~department of human services shall develop an implementation plan, in~~
8 ~~consultation with industry representatives, to resolve differing~~
9 ~~requirements and to eliminate obsolete, redundant rules and reporting,~~
10 ~~monitoring, compliance, auditing certification, licensing, and work~~
11 ~~processes pertaining to the regulation of community residential homes~~
12 ~~pursuant to this section. The departments shall study the feasibility of~~
13 ~~implementing a single, consolidated survey and methods for conducting~~
14 ~~surveys simultaneously. The departments shall report their progress in~~
15 ~~meeting the requirements of this paragraph (b) to their respective~~
16 ~~committees of reference when making their departmental presentations~~
17 ~~as required by part 2 of article 7 of title 2, C.R.S. The departments shall~~
18 ~~send copies of the report to the health care facility stakeholder forum~~
19 ~~created in section 25-3-113, C.R.S.~~

20 ~~(3) (2) (a)~~ The department of public health and environment and
21 the STATE department of human services shall develop standards for the
22 licensure and certification of community residential homes. The standards
23 shall include health, life, and fire safety, as well as standards to ensure the
24 effective delivery of services and supports to residents; except that any
25 community residential home must comply with local codes.

26 (b) (I) The STATE department of human services or the state board
27 of health, as appropriate, shall adopt the standards by rule and shall

1 specify the responsibilities of each department in the program. Surveys
2 undertaken to ensure compliance with these standards shall, as
3 appropriate, be undertaken as joint surveys by the departments.

4 (II) If a service agency operates a community residential home
5 and provides personal care services, as defined in section 25-27.5-102,
6 C.R.S., the department of public health and environment or the STATE
7 department, ~~of human services~~ as appropriate, is responsible for surveying
8 those services provided by the service agency, which survey shall be
9 conducted simultaneously with the survey of the community residential
10 home.

11 ~~(4)~~ (3) Any community residential home applying for a license or
12 certification on or after January 1, 1986, shall accommodate at least four
13 but no more than eight persons with INTELLECTUAL AND developmental
14 disabilities. All licenses and certificates issued by the department of
15 public health and environment or the STATE department ~~of human~~
16 ~~services~~ shall bear the date of issuance and shall be valid for not more
17 than a twenty-four-month period.

18 ~~(5)~~ (4) The issuance, suspension, revocation, modification,
19 renewal, or denial of a license or certification shall be governed by the
20 provisions of section 24-4-104, C.R.S. The failure of a community
21 residential home to comply with the provisions of this article and the rules
22 promulgated thereunder, or any local fire, safety, and health codes shall
23 be sufficient grounds for the department of public health and environment
24 or the STATE department ~~of human services~~ to deny, suspend, revoke, or
25 modify the community residential home's license or certification.

26 ~~(6)~~ (5) The STATE department ~~of human services~~ and the state
27 board of health shall promulgate such rules as are necessary to implement

1 this section, pursuant to the provisions specified in article 4 of title 24,
2 C.R.S. The rules shall include, but shall not be limited to, the following:

3 (a) ~~(Deleted by amendment, L. 92, p. 1371, § 11, effective July 1,~~
4 ~~1992.)~~

5 ~~(b)~~ (a) Requirements concerning the distance between the location
6 of community residential homes and factors to be considered in waiving
7 such requirements for existing community residential homes; AND

8 ~~(c)~~ (b) Procedures to secure the health and safety of persons
9 receiving services or supports residing in a community residential home
10 in the event the community residential home closes or its license is
11 denied, suspended, or revoked pursuant to this section.

12 **25.5-10-215. [Formerly 27-10.5-109.5.] Compliance with local**

13 **government zoning regulations - notice to local governments -**

14 **provisional licensure.** (1) The STATE department shall require any

15 community residential home seeking licensure pursuant to section

16 ~~27-10.5-109~~ 25.5-10-214 to comply with any applicable zoning

17 regulations of the municipality, city and county, or county where the

18 home is situated. Failure to comply with applicable zoning regulations

19 shall constitute grounds for the denial of a license to a home; except that

20 nothing in this section shall be construed to supersede the provisions of

21 sections 30-28-115 (2), 31-23-301 (4), and 31-23-303 (2), C.R.S.

22 (2) The STATE department shall ~~assure~~ ENSURE that timely written

23 notice is provided to the municipality, city and county, or county where

24 a community residential home is situated, including the address of the

25 home and the population and number of persons to be served by the

26 home, when any of the following occurs:

27 (a) An application for a license to operate a community residential

1 home pursuant to section ~~27-10.5-109~~ 25.5-10-214 is made;

2 (b) A license is granted to a community residential home pursuant
3 to section ~~27-10.5-109~~ 25.5-10-214;

4 (c) A change in the license of a community residential home
5 occurs; or

6 (d) The license of a community residential home is revoked or
7 otherwise terminated for any reason.

8 (3) In the event of a zoning or other delay or dispute between a
9 community residential home and the municipality, city and county, or
10 county where the home is situated, the STATE department may grant a
11 provisional license to the home for up to one hundred twenty days
12 pending resolution of the delay or dispute.

13 **25.5-10-216. [Similar to former 27-10.5-110.] Imposition of**
14 **legal disability - removal of legal right.** (1) ANY INTERESTED PERSON
15 MAY PETITION THE COURT TO IMPOSE A LEGAL DISABILITY ON OR TO
16 REMOVE A LEGAL RIGHT FROM A PERSON WITH AN INTELLECTUAL AND
17 DEVELOPMENTAL DISABILITY AS DEFINED IN SECTION 25.5-10-202. THE
18 PETITION MUST SET FORTH THE DISABILITY TO BE IMPOSED OR THE LEGAL
19 RIGHT TO BE REMOVED AND THE REASONS THEREFOR. THE PETITION MAY
20 AFFECT THE RIGHT TO CONTRACT, THE RIGHT TO DETERMINE PLACE OF
21 ABODE OR PROVISIONS OF SERVICES AND SUPPORTS, THE RIGHT TO
22 OPERATE A MOTOR VEHICLE, AND OTHER SIMILAR RIGHTS.

23 (2) (a) PRIOR TO GRANTING THE PETITION, THE COURT MUST FIND:

24 (I) THAT THE PERSON SUBJECT TO THE PETITION HAS BEEN
25 DETERMINED TO BE A PERSON WITH AN INTELLECTUAL AND
26 DEVELOPMENTAL DISABILITY PURSUANT TO THE PROVISIONS OF THIS
27 ARTICLE; AND

1 (II) THAT THE REQUESTED DISABILITY OR REMOVAL IS BOTH
2 NECESSARY AND DESIRABLE TO IMPLEMENT THE INDIVIDUALIZED PLAN
3 DEVELOPED FOR THE PERSON RECEIVING SERVICES OR SUPPORTS UNDER
4 THE SUPERVISION OF AN INTELLECTUAL AND DEVELOPMENTAL
5 DISABILITIES PROFESSIONAL AND THE INTERDISCIPLINARY TEAM. SUCH
6 PROFESSIONAL MUST HAVE AN UNDERSTANDING OF THE RIGHTS OF
7 PERSONS RECEIVING SERVICES AS SET FORTH IN SECTIONS 25.5-10-218 TO
8 25.5-10-229. SUCH PLAN MUST BE SUBMITTED TO THE COURT AND MUST
9 BE SIGNED BY THE INTELLECTUAL AND DEVELOPMENTAL DISABILITIES
10 PROFESSIONAL.

11 (b) WHEN A PETITION FILED PURSUANT TO SUBSECTION (1) OF THIS
12 SECTION SEEKS TO IMPOSE A DISABILITY OR TO REMOVE A LEGAL RIGHT,
13 RELATED TO THE SELECTION OF PLACE OF ABODE BY THE PERSON WITH AN
14 INTELLECTUAL AND DEVELOPMENTAL DISABILITY, THE COURT MUST ALSO
15 FIND:

16 (I) THAT, BASED ON THE RECENT OVERT ACTIONS OR OMISSIONS OF
17 THE PERSON SUBJECT TO THE PETITION, AND BECAUSE OF THE PRESENCE OF
18 AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY, WITHOUT THE
19 RELIEF REQUESTED IN THE PETITION SUCH PERSON POSES A PROBABLE
20 THREAT OF SERIOUS PHYSICAL HARM TO SUCH PERSON OR OTHERS OR IS
21 UNABLE TO CARE FOR SUCH PERSON'S OWN NEEDS TO THE EXTENT THAT
22 SUCH PERSON'S OWN LIFE OR SAFETY IS SERIOUSLY THREATENED; AND

23 (II) THAT THE PLACE OF ABODE REQUESTED IN THE PETITION IS THE
24 LEAST RESTRICTIVE RESIDENTIAL SETTING THAT IS APPROPRIATE FOR THE
25 INDIVIDUAL NEEDS OF THE PERSON WITH AN INTELLECTUAL AND
26 DEVELOPMENTAL DISABILITY.

27 (3) WITHIN SIX MONTHS AFTER A LEGAL DISABILITY HAS BEEN

1 IMPOSED OR A LEGAL RIGHT HAS BEEN REMOVED, THE COURT SHALL HOLD
2 A HEARING TO REVIEW ITS ORDER AND EITHER REAFFIRM THE FINDINGS
3 MADE PURSUANT TO SUBSECTION (2) OF THIS SECTION AND CONTINUE THE
4 LEGAL DISABILITY OR REMOVAL OR REMOVE THE LEGAL DISABILITY OR
5 RESTORE THE LEGAL RIGHTS TO THE PERSON SUBJECT TO THE PETITION.
6 THE COURT MAY REMOVE A LEGAL DISABILITY FROM OR RESTORE A LEGAL
7 RIGHT TO A PERSON WITHOUT A HEARING UPON THE FILING OF A MOTION
8 REQUESTING SUCH RELIEF CONTAINING AFFIDAVITS IN SUPPORT OF THE
9 MOTION SIGNED BY ALL OF THE PARTIES.

10 (4) ANY INTERESTED PERSON MAY MOVE THAT THE COURT
11 REMOVE A LEGAL DISABILITY OR RESTORE A LEGAL RIGHT. IF SUCH
12 MOTION IS CONTESTED, IT MUST BE SERVED ON THE PERSON WHOSE RIGHTS
13 ARE AFFECTED AND UPON THE PARTY WHO FILED THE ORIGINAL PETITION
14 IF THE PERSON IS NOT THE MOVING PARTY.

15 (5) THE FOLLOWING PROCEDURES MUST APPLY TO ANY
16 PROCEEDINGS INSTITUTED PURSUANT TO THIS SECTION:

17 (a) WHEN A PETITION IS FILED PURSUANT TO SUBSECTION (1) OF
18 THIS SECTION, THE PERSON SUBJECT TO THE PETITION SHALL BE ADVISED
19 BY THE COURT OF SUCH PERSON'S RIGHT TO RETAIN AND CONSULT WITH AN
20 ATTORNEY AT ANY TIME, AND THAT IF SUCH PERSON CANNOT AFFORD TO
21 PAY AN ATTORNEY, ONE WILL BE APPOINTED BY THE COURT WITHOUT
22 COST. ATTORNEY FEES FOR COURT-APPOINTED COUNSEL SHALL BE PAID BY
23 THE COURT.

24 (b) UPON THE REQUEST OF AN INDIGENT RESPONDENT OR SUCH
25 RESPONDENT'S ATTORNEY, THE COURT SHALL APPOINT ONE OR MORE
26 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PROFESSIONALS OF THE
27 RESPONDENT'S CHOICE TO ASSIST THE RESPONDENT IN THE PREPARATION

1 OF THE RESPONDENT'S CASE. THE COURT SHALL PAY THE FEES FOR SUCH
2 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PROFESSIONALS.

3 (c) THE COURT MAY ISSUE A TEMPORARY ORDER IMPOSING A
4 LEGAL DISABILITY OR REMOVING A LEGAL RIGHT, PENDING A HEARING, FOR
5 A PERIOD NOT TO EXCEED TEN DAYS, BASED UPON THE STANDARDS
6 REQUIRED FOR ISSUANCE OF A TEMPORARY RESTRAINING ORDER. NO
7 INDIVIDUALIZED PLAN SHALL BE REQUIRED BY THE COURT TO SUPPORT THE
8 ISSUANCE OF SUCH ORDER.

9 (d) THE BURDEN OF PROOF IS AT ALL TIMES UPON THE PARTY
10 SEEKING IMPOSITION OF A DISABILITY OR REMOVAL OF A LEGAL RIGHT OR
11 OPPOSING REMOVAL OF A DISABILITY OR RESTORATION OF A LEGAL RIGHT,
12 AND THE STANDARD OF PROOF IS BY CLEAR AND CONVINCING EVIDENCE.

13 (e) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (5), ALL
14 PROCEEDINGS MUST BE HELD IN CONFORMANCE WITH THE COLORADO
15 RULES OF CIVIL PROCEDURE, BUT NO COSTS MUST BE ASSESSED AGAINST
16 THE RESPONDENT.

17 (6) IN ORDER TO PROVIDE REPRESENTATION TO ELIGIBLE PERSONS
18 AS PROVIDED IN THIS SECTION, THE JUDICIAL DEPARTMENT MAY PAY
19 MONEYS, OUT OF APPROPRIATIONS MADE THEREFOR BY THE GENERAL
20 ASSEMBLY, DIRECTLY TO APPOINTED COUNSEL OR INTELLECTUAL AND
21 DEVELOPMENTAL DISABILITIES PROFESSIONALS ON A CASE-BY-CASE BASIS
22 OR, ON BEHALF OF THE STATE, TO CONTRACT WITH INDIVIDUAL
23 ATTORNEYS, LEGAL PARTNERSHIPS, LEGAL PROFESSIONAL CORPORATIONS,
24 PUBLIC INTEREST LAW FIRMS, OR NONPROFIT LEGAL SERVICES
25 CORPORATIONS TO PROVIDE LEGAL REPRESENTATION FOR AN
26 AGREED-UPON LUMP SUM.

27 (7) A PERSON SHALL NOT BE ADMITTED TO A REGIONAL CENTER,

1 AS DEFINED IN SECTION 27-10.5-102, C.R.S., WITHOUT A COURT ORDER
2 ISSUED PURSUANT TO THIS SECTION EXCEPT IN AN EMERGENCY OR FOR THE
3 PURPOSE OF TEMPORARY RESPITE CARE.

4 **25.5-10-217. [Formerly 27-10.5-111.] Conduct of court**
5 **proceedings.** All court proceedings arising under section ~~27-10.5-110~~
6 25.5-10-216 shall be conducted by the district attorney of the county
7 where the proceeding is held or by a qualified attorney acting for the
8 district attorney appointed by the district court for that purpose; except
9 that, in any county or in any city and county having a population
10 exceeding one hundred thousand persons, the proceedings shall be
11 conducted by the county attorney or by a qualified attorney acting for the
12 county attorney appointed by the district court. In any case in which there
13 has been a change of venue to a county other than the county of residence
14 of the respondent or the county in which the proceeding was commenced,
15 the county from which the proceeding was transferred shall either
16 reimburse the county in which the proceeding was held for the reasonable
17 costs incurred in conducting the proceeding or conduct the proceeding
18 itself using its own personnel and resources, including its own district or
19 county attorney, as the case may be.

20 **25.5-10-218. [Formerly 27-10.5-112.] Persons' rights.**
21 (1) Unless a person's rights are modified by court order, a person with a
22 AN INTELLECTUAL AND developmental disability ~~shall have~~ HAS the same
23 legal rights and responsibilities guaranteed to all other ~~individuals~~
24 PERSONS under the federal and state constitutions and federal and state
25 laws. No otherwise qualified person, by reason of having a AN
26 INTELLECTUAL AND developmental disability, ~~shall~~ MAY be excluded from
27 participation in, denied the benefits of, or subjected to discrimination

1 under any program or activity which receives public funds.

2 (2) The receipt of services and supports pursuant to this article
3 ~~shall not operate to~~ DOES NOT deprive any person of any other rights,
4 benefits, or privileges or cause the person to be declared legally
5 incompetent.

6 (3) The rights of any person receiving services which are specified
7 in this article may be suspended to protect the person receiving services
8 from endangering such person, others, or property. Such rights may be
9 suspended only by the INTELLECTUAL AND developmental disabilities
10 professional with subsequent review by the interdisciplinary team and by
11 the human rights committee in order to provide specific services or
12 supports to the person receiving services, which will promote the least
13 restriction on the person's rights. Such person's legal rights may be
14 removed by a court pursuant to section ~~27-10.5-110~~ 25.5-10-216.

15 (4) None of the rights established pursuant to this article shall be
16 construed to interfere with the rights and privileges of parents regarding
17 their minor child.

18 **25.5-10-219. [Formerly 27-10.5-113.] Right to individualized**
19 **plan or individualized family service plan.** (1) Each person receiving
20 services shall have an individualized plan, an individualized family
21 service plan, or a similar plan specified by the STATE department that
22 qualifies as an individualized plan that is developed by the person's
23 interdisciplinary team. The individualized family service plan for a child
24 with disabilities from birth through two years of age shall be developed
25 in compliance with part 7 of ~~this article 10.5~~ OF TITLE 27, C.R.S.

26 (2) Pursuant to section ~~27-10.5-106~~ 25.5-10-211, the
27 individualized plan for each person who receives services or supports

1 shall be reviewed at least annually and modified as necessary or
2 appropriate; except that an individualized family service plan for a child
3 with disabilities from birth through two years of age shall be reviewed as
4 required pursuant to part 7 of ~~this~~ article 10.5 OF TITLE 27, C.R.S. A
5 review shall consist of, but is not limited to, the determination by the
6 interdisciplinary team as to whether the needs AND PREFERENCES of the
7 person receiving services or supports are accurately reflected in the plan,
8 whether the services and supports provided pursuant to the plan are
9 appropriate to meet the person's needs AND PREFERENCES, and what
10 actions are necessary for the plan to be achieved.

11 **25.5-10-220. [Formerly 27-10.5-114.] Right to medical care**
12 **and treatment.** (1) Each person receiving services ~~shall~~ MUST have
13 access to appropriate dental and medical care and treatment for any
14 physical ailments and for the prevention of any illness or disability.

15 (2) No medication for which a prescription is required shall be
16 administered without the written order of a physician. A physician shall
17 conduct a review of all prescriptions and other orders for medications in
18 order to determine the appropriateness of the person's medication regimen
19 annually, or more often, if required by law.

20 (3) All service agencies which administer medication shall require
21 that notation of the medication of a person receiving services be kept in
22 the person's medical records. All medications ~~shall~~ MUST be administered
23 pursuant to part 3 of article 1.5 of title 25, C.R.S.

24 (4) Persons receiving services ~~shall~~ MUST have a right to be free
25 from unnecessary or excessive medication. The service agency's records
26 ~~shall~~ MUST state the effects of psychoactive medication if administered to
27 the person receiving services. When dosages of such are changed or other

1 psychoactive medications are prescribed, a notation ~~shall~~ MUST be made
2 in such person's record concerning the effect of the new medication or
3 new dosages and the behavior changes, if any, which occur.

4 (5) Medication ~~shall~~ MUST not be used for the convenience of the
5 staff, for punishment, as a substitute for a treatment program, or in
6 quantities that interfere with the treatment program of the person
7 receiving services.

8 (6) Only appropriately trained staff shall be allowed to administer
9 ~~drugs~~ MEDICATIONS.

10 ~~(6.5)~~ (7) The executive director has the power to direct the
11 administration or monitoring of medications to persons ~~being cared for~~
12 ~~and treated~~ RECEIVING SERVICES AND SUPPORTS in centers for ~~the~~
13 ~~developmentally disabled~~ PERSONS WITH INTELLECTUAL AND
14 DEVELOPMENTAL DISABILITIES pursuant to section 25-1.5-301 (2) (h),
15 C.R.S.

16 ~~(7)~~ (8) No person receiving services ~~shall~~ MAY be subjected to any
17 experimental research or hazardous treatment procedures without the
18 consent of such person, if the person is over eighteen years of age and is
19 able to give such consent, or of the person's parent, if the person is under
20 eighteen years of age, or of the person's legal guardian. Such consent may
21 be given only after consultation with the interdisciplinary team and a AN
22 INTELLECTUAL AND developmental disabilities professional not affiliated
23 with the facility or community residential home in which the person
24 receiving services resides. However, no such person of any age ~~shall~~ MAY
25 be subjected to experimental research or hazardous treatment procedures
26 if said person implicitly or expressly objects to such procedure.

27 ~~(8)~~ (9) No person receiving services ~~shall~~ MAY have any organs

1 removed for the purpose of transplantation without the consent of such
2 person, if the person is over eighteen years of age and is able to give such
3 consent. If the person's ability to give consent to the medical procedure
4 is challenged by the physician, the same procedures as those set forth in
5 section ~~27-10.5-129~~ 25.5-10-232 shall be followed. Consent for the
6 removal of organs for transplantation may be given by the parents of a
7 person receiving services, if the person is under eighteen years of age, or
8 by the person's legal guardian. Such consent may be given only after
9 consultation with the interdisciplinary team and a AN INTELLECTUAL AND
10 developmental disabilities professional not affiliated with the facility or
11 community residential home in which the person receiving services
12 resides. However, no person receiving services of any age shall MAY be
13 a donor of an organ if the person implicitly or expressly objects to such
14 procedure.

15 ~~(9)~~ (10) (a) As used in subsections ~~(7) and (8)~~ AND (9) of this
16 section, consent also shall require REQUIRES that the person whose
17 consent is sought has been adequately and effectively informed as to the:

18 (I) Method of experimental research, hazardous treatment, or
19 transplantation;

20 (II) Nature and consequence of such procedures; and

21 (III) Risks, benefits, and purposes of such procedures.

22 (b) The consent of any person may be revoked at any time.

23 ~~(10)~~ (11) Subsections ~~(7), (8), and (9)~~ (8), (9), AND (10) of this
24 section shall DO not apply when a physician renders emergency medical
25 care or treatment to any resident.

26 **25.5-10-221. [Formerly 27-10.5-115.] Right to humane**
27 **treatment.** (1) Corporal punishment of persons with a AN INTELLECTUAL

1 AND developmental disability ~~shall~~ IS not be permitted.

2 (2) All service agencies shall prohibit mistreatment, exploitation,
3 neglect, or abuse in any form of any person receiving services.

4 (3) Service agencies shall provide every person receiving services
5 with a humane physical environment.

6 (4) Each person receiving services ~~shall~~ MUST be attended to by
7 qualified staff in numbers sufficient to provide appropriate services and
8 supports.

9 (5) Seclusion, defined as the placement of a person receiving
10 services alone in a closed room for the purpose of punishment, is
11 prohibited.

12 (6) "Time out" procedures, defined as separation from other
13 persons receiving services and group activities, may be employed under
14 close and direct professional supervision, as defined BY RULE by the
15 ~~department~~ STATE BOARD, and only as a technique in behavior-shaping
16 programs. Behavior-shaping programs utilizing a "time out" procedure
17 ~~shall~~ MAY be implemented only when it incorporates a positive approach
18 designed to result in the acquisition of adaptive behaviors. Such behavior
19 programs ~~shall~~ MAY only be implemented following the completion of a
20 comprehensive functional analysis, when alternative nonrestrictive
21 procedures have been proven to be ineffective, and only with the
22 informed consent of the ~~individual~~ PERSON, parents, or legal guardian.
23 Such behavior programs ~~shall~~ MAY be implemented only following the
24 review and approval process defined in rules. ~~and regulations~~. Behavior
25 development programs ~~shall~~ MUST be developed in conjunction with the
26 interdisciplinary team and implemented only following review by the
27 human rights committee. Behavior development programs involving the

1 use of the procedure in a "time out room" are prohibited.

2 (7) Behavior development programs involving the use of aversive
3 or noxious stimuli are prohibited.

4 (8) Physical restraint, defined as the use of manual methods
5 intended to restrict the movement or normal functioning of a portion of
6 ~~an individual's~~ A PERSON'S body through direct contact by staff, ~~shall~~ MAY
7 be employed only when necessary to protect the person receiving services
8 from injury to self or others. Physical restraint ~~shall~~ MAY not be employed
9 as punishment, for the convenience of staff, or as a substitute for a
10 program of services and supports. Physical guidance or prompting
11 techniques of short duration such as those employed in training
12 techniques are not considered physical restraint. Physical restraint ~~shall~~
13 MAY be applied only if alternative techniques have failed and only if such
14 restraint imposed the least possible restriction consistent with its purpose.
15 If physical restraint is used in an emergency or on a continuing basis its
16 use shall be reviewed by the interdisciplinary team and the human rights
17 committee in accordance with the rules ~~and regulations~~ of the department
18 STATE BOARD.

19 (9) The use of a mechanical restraint, defined as the use of
20 mechanical devices intended to restrict the movement or normal
21 functioning of a portion of ~~an individual's~~ A PERSON'S body, is subject to
22 special review and oversight, as defined in rules. ~~and regulations~~. Use of
23 mechanical restraints ~~shall~~ MAY be applied only in an emergency if
24 alternative techniques have failed and in conjunction with a behavior
25 development program. Mechanical restraints ~~shall~~ MUST be designed and
26 used so as not to cause physical injury to the person receiving services
27 and so as to cause the least possible discomfort. The use of mechanical

1 restraints shall be reviewed by the human rights committee. The use of
2 posey vests, straight jackets, ankle and wrist restraints, and other devices
3 defined in rules ~~and regulations~~ is prohibited.

4 (10) A record ~~shall~~ MUST be maintained of all physical injuries to
5 any person receiving services, all incidents of mistreatment, exploitation,
6 neglect, or abuse, and all uses of physical or mechanical restraint. All
7 records ~~shall be~~ ARE subject to review by the human rights committee.

8 (11) Behavior development programs ~~shall~~ MUST be supervised by
9 a AN INTELLECTUAL AND developmental disabilities professional having
10 specific knowledge and skills to develop and implement positive
11 behavioral intervention strategies.

12 **25.5-10-222. [Formerly 27-10.5-116.] Right to religious belief,**
13 **practice, and worship.** No person receiving services ~~shall be~~ IS required
14 to perform any act or be subject to any procedure whatsoever which is
15 contrary to the person's religious belief, and each such person ~~shall have~~
16 HAS the right to practice such religious belief and be accorded the
17 opportunity for religious worship. Provisions for religious worship ~~shall~~
18 MUST be made available to all persons receiving services on a
19 nondiscriminatory basis. No such person shall be coerced into engaging
20 in or refraining from any religious activity, practice, or belief.

21 **25.5-10-223. [Formerly 27-10.5-117.] Rights to**
22 **communications and visits.** (1) Each person receiving services has the
23 right to communicate freely and privately with others of the person's own
24 choosing.

25 (2) Each person receiving services has the right to receive and
26 send sealed, unopened correspondence. No such person's incoming or
27 outgoing correspondence shall be opened, delayed, held, or censored by

1 any person.

2 (3) Each person receiving services shall have the right to receive
3 and send packages. No such person's outgoing packages shall be opened,
4 delayed, held, or censored by any person.

5 ~~(4) Repealed.~~

6 ~~(5)~~ (4) Each person receiving services ~~shall~~ MUST have reasonable
7 access to telephones, both to make and to receive calls in privacy, and
8 ~~shall~~ MUST be afforded reasonable and frequent opportunities to meet
9 with visitors.

10 ~~(6)~~ (5) All service agencies shall ensure that persons receiving
11 services have suitable opportunities for interaction with persons of their
12 choice. Nothing in this section will limit the protections provided under
13 article 3.1 of title 26, C.R.S.

14 ~~(7) Repealed.~~

15 **25.5-10-224. [Formerly 27-10.5-118.] Right to fair**
16 **employment practices.** (1) No person receiving services shall be
17 required to perform labor; except that persons receiving services may
18 voluntarily engage in such labor if the labor is compensated in accordance
19 with applicable minimum wage laws.

20 (2) No person receiving services shall be involved in the physical
21 care, care and treatment, training, or supervision of other persons
22 receiving services unless such person has volunteered, has been
23 specifically trained in the necessary skills, and has the judgment required
24 for such activities, is adequately supervised, and is reimbursed in
25 accordance with the applicable minimum wage laws.

26 (3) Each person receiving services may perform vocational
27 training tasks, subject to a presumption that an assignment longer than

1 three months to any task is not a training task, if the specific task or any
2 change in task assignment is an integral part of such person's
3 individualized plan. If such person performs vocational training tasks for
4 which the service agency is receiving compensation from any outside
5 source, the person shall be compensated in accordance with the applicable
6 minimum wage laws.

7 (4) Each person receiving services may voluntarily engage in
8 labor for which the service agency would otherwise have to pay an
9 employee if the specific labor or any change in labor is an integral part of
10 such person's individualized plan and the person is compensated in
11 accordance with the applicable minimum wage laws.

12 (5) Each person receiving services may be required to perform
13 tasks of a personal housekeeping nature or tasks oriented to improving
14 community living skills in accordance with the person's individualized
15 plan.

16 (6) Payment to persons receiving services pursuant to this section
17 shall not be collected by the service agency to offset the costs of
18 providing services and supports to such person.

19 **25.5-10-225. [Formerly 27-10.5-119.] Right to vote.** Each
20 person receiving services who is eligible to vote according to law has the
21 right to vote in all primary and general elections. As necessary, all service
22 agencies shall assist such persons to register to vote, to obtain
23 applications for mail-in ballots and to obtain mail-in ballots, to comply
24 with other requirements which are prerequisite to voting, and to vote.

25 **25.5-10-226. [Formerly 27-10.5-120.] Records and**
26 **confidentiality of information pertaining to eligible persons or their**
27 **families.** (1) A record for each person receiving services shall be

1 diligently maintained by the community-centered board. The record ~~shall~~
2 MUST include, but not be limited to, information pertaining to the
3 determination of eligibility for services and the individualized plan. The
4 record ~~shall~~ IS not be a public record.

5 (2) Except as otherwise provided by law, all information obtained
6 and any records prepared in the course of determining eligibility or
7 providing services and supports pursuant to this article ~~shall be~~ ARE
8 confidential and subject to the evidentiary privileges established by law.
9 The disclosure of this information and these records in any manner shall
10 be permitted only:

11 (a) To the applicant or person receiving services, to the parents of
12 a minor, TO such person's legal guardian, and to any person authorized by
13 the above named person;

14 (b) In communications between qualified professional personnel,
15 including the board of directors of community-centered boards and
16 service agencies providing services to persons with INTELLECTUAL AND
17 developmental disabilities, to the extent necessary for the acquisition,
18 provision, oversight, or referral of services and supports;

19 (c) ~~(Deleted by amendment, L. 92, p. 1380, § 21, effective July 1,~~
20 ~~1992.)~~

21 ~~(d)~~ (c) To the extent necessary to make claims for aid, insurance,
22 or medical assistance to which a person receiving services may be
23 entitled, or to access services and supports pursuant to the individualized
24 plan;

25 ~~(e)~~ (d) For the purposes of evaluation, gathering statistics, or
26 research when no identifying information concerning an individual person
27 or family is disclosed. Identifying information is information which could

1 reasonably be expected to identify a specific ~~individual~~ PERSON and
2 includes, but is not limited to, name, address, telephone number, social
3 security number, medicaid number, household number, and photograph.

4 ~~(f)~~ (e) To the court when necessary to implement the provisions
5 of this article;

6 ~~(g)~~ (f) To persons authorized by an order of court issued after a
7 hearing, notice of which was given to the person, parents or legal
8 guardian, where appropriate, and the custodian of the information;

9 ~~(h)~~ (g) To the agency designated pursuant to 42 U.S.C. sec. 6012
10 as the protection and advocacy system for Colorado when:

11 (I) A complaint has been received by the protection and advocacy
12 system from or on behalf of a person with a AN INTELLECTUAL AND
13 developmental disability; and

14 (II) Such person does not have a legal guardian or the state or the
15 designee of the state is the legal guardian of such person;

16 ~~(i)~~ (h) To the STATE department or its designees as deemed
17 necessary by the executive director to fulfill the duties prescribed by this
18 article.

19 (3) Nothing in this section shall be construed to limit access by a
20 person receiving services to such person's records.

21 (4) Nothing in this section shall be construed to interfere with the
22 protections afforded to a person under the federal "Health Insurance
23 Portability and Accountability Act of 1996", 42 U.S.C. sec. 1320d, and
24 the federal "Family Education Rights and Privacy Act of 1974", 20
25 U.S.C. sec. 1232g.

26 **25.5-10-227. [Formerly 27-10.5-121.] Right to personal**
27 **property.** (1) Each person receiving services has the right to the

1 possession and use of such person's own clothing and personal effects. If
2 the service agency holds any of such person's personal effects for any
3 reason, such retention shall be promptly recorded in such person's record
4 and the reason for retention shall also be recorded.

5 (2) Upon the request of a person receiving services, a service
6 agency may hold money or funds belonging to the person receiving
7 services, received by such person, or received by the service agency for
8 such person. All such money or funds shall be held by the service agency
9 as trustee for the person receiving services. Upon request, an accounting
10 shall be rendered by the service agency.

11 (3) Upon request, a person receiving services ~~shall be~~ IS entitled
12 to receive reasonable amounts of such person's money or funds held in
13 trust.

14 **25.5-10-228. [Formerly 27-10.5-122.] Right to influence**
15 **policy.** The persons receiving services of a service agency ~~shall be~~ ARE
16 entitled to establish a committee to hear the views and represent the
17 interests of all such persons served by the agency and to attempt to
18 influence the policies of the agency to the extent that they influence
19 provision of services and supports.

20 **25.5-10-229. [Formerly 27-10.5-123.] Right to notification.**
21 Each person receiving services ~~shall have~~ HAS the right to read or have
22 explained, in each person's or family's native language, any rules ~~or~~
23 ~~regulations~~ adopted by the service agency and pertaining to such person's
24 activities.

25 **25.5-10-230. [Formerly 27-10.5-124.] Discrimination.** No
26 person who has received services or supports under any provision of this
27 article shall be discriminated against because of such status. For purposes

1 of this section, "discrimination" means the giving of any unfavorable
2 weight to the fact that a person has received such services or supports.

3 **25.5-10-231. [Formerly 27-10.5-128.] Sterilization rights.**

4 (1) It is the intent of the general assembly that the procedures set forth in
5 the following subsections be utilized when sterilization is being
6 considered for the primary purpose of rendering the ~~individual~~ PERSON
7 incapable of reproduction.

8 (2) Any person with a AN INTELLECTUAL AND developmental
9 disability over eighteen years of age who has given informed consent has
10 the right to be sterilized, subject to the following:

11 (a) Prior to the procedure, competency to give informed consent
12 and assurance that such consent is voluntarily and freely given shall be
13 evaluated by the following:

14 (I) A psychiatrist, psychologist, or physician who does not provide
15 services or supports to the person and who has consulted with and
16 interviewed the person with a AN INTELLECTUAL AND developmental
17 disability; and

18 (II) A AN INTELLECTUAL AND developmental disabilities
19 professional who does not provide services or supports in which said
20 person participates, and who has consulted with and interviewed the
21 person with a AN INTELLECTUAL AND developmental disability.

22 (b) The professionals who conducted the evaluation pursuant to
23 paragraph (a) of this subsection (2) shall consult with the physician who
24 is to perform the operation concerning each professional's opinion in
25 regard to the informed consent of the person requesting the sterilization.

26 (3) Any person with a AN INTELLECTUAL AND developmental
27 disability whose capacity to give an informed consent is challenged by the

1 INTELLECTUAL AND developmental disabilities professional or the
2 physician may file a petition with the court to declare competency to give
3 consent pursuant to the procedures set forth in section ~~27-10.5-129~~
4 25.5-10-232.

5 (4) No person with a AN INTELLECTUAL AND developmental
6 disability who is over eighteen years of age and has the capacity to
7 participate in the decision-making process regarding sterilization shall be
8 sterilized in the absence of the person's informed consent. No minor may
9 be sterilized without a court order pursuant to section ~~27-10.5-130~~
10 25.5-10-233.

11 (5) Sterilization conducted pursuant to this section shall be legal.
12 Consent given by any person pursuant to subsection (2) of this section
13 ~~shall~~ IS not be revocable after sterilization, and no person shall be liable
14 for acting pursuant to such consent.

15 **25.5-10-232. [Formerly 27-10.5-129.] Competency to give**
16 **consent to sterilization.** (1) If the competency of the person with a AN
17 INTELLECTUAL AND developmental disability to give consent to
18 sterilization is disputed by the INTELLECTUAL AND developmental
19 disabilities professional, the psychiatrist or psychologist, or physician,
20 said person may file a petition for declaration of competency to give
21 consent to sterilization with the court. Upon the filing of a petition which
22 shows that said person is over eighteen years of age and desires to give
23 consent to sterilization, the court shall immediately set a hearing to
24 determine the person's competency to give such consent. For the purpose
25 of determining competency, the court shall appoint two or more
26 independent professional persons with expertise in the field of
27 INTELLECTUAL AND developmental disabilities who do not provide

1 services and supports to said person to examine said person and to present
2 their findings as to said person's competency to give consent to
3 sterilization at the competency hearing.

4 (2) If the court determines that the person has given consent to
5 sterilization and is competent to give such consent, the court ~~shall~~ MAY
6 order that the sterilization be performed unless the person withdraws
7 consent to sterilization prior to the sterilization being performed. If the
8 court determines that the person is incompetent to give consent to
9 sterilization, the court shall order that no sterilization be performed
10 without further court proceedings pursuant to section ~~27-10.5-130~~
11 25.5-10-233.

12 (3) Determination of competency in these proceedings is specific
13 to the ability to give consent to sterilization and does not determine legal
14 competency for any other purpose.

15 **25.5-10-233. [Formerly 27-10.5-130.] Court-ordered**
16 **sterilization.** (1) A person with a AN INTELLECTUAL AND developmental
17 disability who has been determined to be incompetent to give consent, the
18 person's legal guardian, or the parents of a minor with a AN
19 INTELLECTUAL AND developmental disability, may petition the court to
20 hold a hearing to determine whether said person should be ordered to be
21 sterilized. The petition shall set forth the following:

- 22 (a) The name, age, and residence of the person to be sterilized;
- 23 (b) The name, address, and relation to said person of the
24 petitioner;
- 25 (c) The names and addresses of any parents, spouse, legal
26 guardian, or custodian of said person;
- 27 (d) The mental condition of the person to be sterilized;

1 (e) A statement that the sterilization is medically necessary to
2 preserve the life or physical or mental health of the person, including a
3 short and plain description of the reasons behind the determination of
4 medical necessity;

5 (f) A statement that other less intrusive measures were considered
6 and the reasons behind the determination that less intrusive means would
7 not protect the interests of the ~~individual~~ PERSON.

8 (2) Upon petition to the court, the court shall appoint an attorney
9 who will represent the interests of the person with a AN INTELLECTUAL
10 AND developmental disability and one or more experts in the
11 INTELLECTUAL AND developmental disability field to examine the person
12 and to give testimony at the hearing regarding the person's mental and
13 physical status and other relevant matters.

14 (3) The hearing on the petition ~~shall~~ MUST be held promptly. The
15 person with a AN INTELLECTUAL AND developmental disability ~~shall~~ MUST
16 be represented by an attorney and ~~shall~~ MUST have the opportunity to
17 present testimony and to cross-examine witnesses.

18 (4) Copies of the petition and notices of the time and place of the
19 hearing shall be mailed, not less than ten days prior to the hearing, to the
20 person with a AN INTELLECTUAL AND developmental disability, that
21 person's attorney, a parent or next of kin, and legal guardian or custodian.

22 (5) Reasonable fees and costs incurred pursuant to this section
23 shall be paid by the court for a person who is indigent.

24 (6) Prior to ordering sterilization, the court must find:

25 (a) That the person lacks the capacity to effectively participate in
26 the decision-making process regarding sterilization or is a minor with a
27 AN INTELLECTUAL AND developmental disability;

1 (b) That the court has heard from the person regarding that
2 person's desires, if possible, and the court has considered the desires of
3 the person;

4 (c) That the person lacks the capacity to make a decision
5 regarding sterilization and that the person's capacity to make such a
6 decision is unlikely to improve in the future;

7 (d) That the person is capable of reproduction and is likely to
8 engage in activities at the present or in the near future which could result
9 in pregnancy;

10 (e) By clear and convincing evidence, that the sterilization is
11 medically necessary to preserve the life or physical or mental health of the
12 person, including a short and plain description of the reasons behind the
13 determination of medical necessity;

14 (f) That other less intrusive measures were considered and the
15 reasons behind the determination that less intrusive means would not
16 protect the interests of the person.

17 **25.5-10-234. [Formerly 27-10.5-131.] Confidentiality of**
18 **sterilization proceedings.** All records, hearings, and proceedings
19 pursuant to sections ~~27-10.5-128 to 27-10.5-130~~ shall be 25.5-10-231 TO
20 25.5-10-233 ARE strictly confidential unless requested to be open to the
21 public by the person with a AN INTELLECTUAL AND developmental
22 disability or the person's legal guardian.

23 **25.5-10-235. [Formerly 27-10.5-132.] Limitations on**
24 **sterilization.** (1) Consent to sterilization shall be made neither a
25 condition for release from any institution nor a condition for the exercise
26 of any right, privilege, or freedom.

27 (2) Nothing in this article shall require REQUIRES any hospital or

1 any person to participate in any sterilization, nor shall any hospital or any
2 person be civilly or criminally liable for refusing to participate in any
3 sterilization.

4 **25.5-10-236. [Formerly 27-10.5-134.] Civil action and attorney**
5 **fees.** A violation of any provision of this article ~~shall give~~ GIVES rise to a
6 civil cause of action by the person adversely affected by such violation,
7 and any judgment may include plaintiff's reasonable attorney fees.

8 **25.5-10-237. [Formerly 27-10.5-135.] Terminology.**

9 (1) Whenever the terms "insane", "insanity", "mentally or mental
10 incompetent", "mental incompetency", or "of unsound mind" are used in
11 the laws of the state of Colorado, they shall be deemed to refer to the
12 insane, as defined in section 16-8-101, C.R.S., or to a person with a AN
13 INTELLECTUAL AND developmental disability, as defined in section
14 ~~27-10.5-102~~ 25.5-10-202, as the context of the particular law requires.

15 (2) Whenever the term "mentally deficient person" is used in the
16 laws of the state of Colorado, it shall be deemed to mean and be included
17 with the term "person with a AN INTELLECTUAL AND developmental
18 disability", as defined in section ~~27-10.5-102 (11) (b)~~ 25.5-10-202.

19 **25.5-10-238. [Formerly 27-10.5-137.] Federal funds.** The STATE
20 department is authorized to accept, on behalf of the state, any grants of
21 federal funds made available for any purposes consistent with the
22 provisions of this article. The executive director of the STATE department,
23 with the approval of the governor, shall have power to direct the
24 disposition of any such grants so accepted in conformity with the terms
25 and conditions under which they are given.

26 **25.5-10-239. [Formerly 27-10.5-139.] Evaluations to determine**
27 **whether a defendant is mentally retarded for purposes of class 1**

1 **felony trials.** Upon request of the court, the executive director, or his or
2 her designee, shall recommend specific professionals who are qualified to
3 perform an evaluation to determine whether a defendant is mentally
4 retarded, as defined in section 18-1.3-1101, C.R.S. Any professional who
5 is recommended shall be licensed as a psychologist in the state of
6 Colorado and shall have experience in and shall have demonstrated
7 competence in determination and evaluation of persons with mental
8 retardation. The executive director shall convene a panel of not fewer than
9 three ~~individuals~~ PERSONS with expertise in mental retardation who shall
10 assess the qualifications of licensed psychologists and make
11 recommendations to the executive director.

12 **25.5-10-240. [Formerly 27-10.5-141.] Retaliation prohibited.**

13 No person shall be discriminated against because he or she has made a
14 complaint, testified, assisted, or participated in any manner in an
15 investigation, proceeding, or hearing pursuant to this article, including the
16 dispute resolution procedures in section 25.5-10-212 AND SECTION
17 27-10.5-107, C.R.S. A service agency, including the ~~STATE~~ department
18 and any community-centered board, shall not coerce, intimidate, threaten,
19 or interfere with any ~~individual~~ PERSON in the exercise or enjoyment of
20 any right pursuant to this article, or on account of his or her having
21 exercised or enjoyed any right pursuant to this article, or on account of his
22 or her having aided or encouraged any other ~~individual~~ PERSON in the
23 exercise or enjoyment of any right pursuant to this article.

24

PART 3

25

FAMILY SUPPORT SERVICES

26 **25.5-10-301. [Formerly 27-10.5-401.] Legislative declaration.**

27 (1) It is the intent of the general assembly that the service delivery system

1 for ~~individuals~~ PERSONS with INTELLECTUAL AND developmental
2 disabilities emphasize community living for persons with INTELLECTUAL
3 AND developmental disabilities and provide supports to ~~individuals~~
4 PERSONS that enable them to enjoy typical lifestyles. One way to
5 accomplish this is to recognize that families are the greatest resource
6 available to ~~individuals~~ PERSONS who have a AN INTELLECTUAL AND
7 developmental disability and that families must be supported in their role
8 as primary care givers. The general assembly finds that supporting
9 families in their effort to ~~care~~ PROVIDE SUPPORTS for their family members
10 at home is more efficient, cost-effective, and humane than maintaining
11 ~~people~~ PERSONS with INTELLECTUAL AND developmental disabilities in
12 out-of-home residential settings. In recognition of the importance of
13 families, the general assembly states that the following principles should
14 be used as guidelines in developing programs to support ~~families who~~
15 ~~have children~~ A FAMILY THAT HAS A CHILD with disabilities:

16 (a) Families of ~~individuals~~ PERSONS with INTELLECTUAL AND
17 developmental disabilities are best able to determine their own needs AND
18 PREFERENCES and should be empowered to make decisions concerning
19 necessary, desirable, and appropriate services and supports;

20 (b) Families must receive the services and supports necessary to
21 care for their children at home;

22 (c) Family support must be responsive to the needs of the entire
23 family unit;

24 (d) Family support must be sensitive to the unique strengths and
25 needs of individual families;

26 (e) Family support must build on existing social networks and
27 natural sources of support;

1 (f) Family support is needed throughout the lifespan of the
2 ~~individual~~ PERSON who ~~is disabled~~ HAS A DISABILITY;

3 (g) Family support must encourage the inclusion of people with
4 INTELLECTUAL AND developmental disabilities within the community;

5 (h) Family support services must be flexible enough to
6 accommodate unique needs of families as they evolve over time;

7 (i) Family support services must be consistent with the cultural
8 preferences and orientations of individual families;

9 (j) Family support services should be comprehensive and
10 coordinated across the numerous agencies likely to provide resources,
11 supports, or services to families;

12 (k) Family support services should be based on the principles of
13 sharing ordinary places, developing meaningful relationships, learning
14 things that are useful, making choices, as well as increasing the status and
15 enhancing the reputation of people served;

16 (l) Supports should be developed by the state that are necessary,
17 desirable, and appropriate to support families;

18 (m) INTELLECTUAL AND developmental disabilities programs and
19 policies must enhance the development of the ~~individual~~ PERSON with a
20 AN INTELLECTUAL AND developmental disability and the family;

21 (n) State programs should provide sufficient services and supports
22 to enable families to keep their family members with INTELLECTUAL AND
23 developmental disabilities at home;

24 (o) A comprehensive, coordinated system of supports to families
25 effectively uses existing resources and minimizes gaps in supports to
26 families and ~~individuals~~ PERSONS in all areas of the state;

27 (p) Services and supports provided through the family support

1 program ~~shall~~ MUST be closely coordinated with early intervention
2 services and ~~shall~~ MUST foster collaboration and cooperation with all
3 agencies providing services and supports to infants and preschool
4 children; and

5 (q) Any rights, entitlements, services, or supports created by this
6 ~~part 4~~ PART 3 are not to be considered a limitation, modification, or
7 infringement on any existing rights, entitlements, services, or supports,
8 otherwise expressly provided by this article.

9 (2) In addition, the general assembly recognizes that the STATE
10 department has for several years developed and maintained a family
11 resource service program that provides support services to families of
12 children with INTELLECTUAL AND developmental disabilities who are at
13 risk of out-of-home placement. Because of the success of this program the
14 general assembly recommends that this valuable program be continued
15 and expanded so that more families in this state are able to receive
16 appropriate services, supports, and assistance needed to stabilize the
17 family unit. In recognition of the basic goal to support families, on an
18 individual family basis, in maintaining a person with a AN INTELLECTUAL
19 AND developmental disability at home and in recognition of the principles
20 stated in subsection (1) of this section, the general assembly declares that
21 its purpose in enacting this ~~part 4~~ PART 3 is to create, subject to annual
22 appropriation, a comprehensive statewide family support service program.

23 **25.5-10-302. [Formerly 27-10.5-402.] Purpose.** The purpose of
24 the family support services program created in this ~~part 4~~ PART 3 is to
25 provide support to families in their role as primary care givers for a family
26 member with a AN INTELLECTUAL AND developmental disability.

27 **25.5-10-303. [Formerly 27-10.5-404.] Administration - duties**

1 **of department.** (1) Subject to annual appropriation by the general
2 assembly, the STATE department shall administer the family support
3 services program and shall coordinate family support services with other
4 existing services provided to families and individuals. Family support
5 services ~~shall~~ MUST be provided in a manner ~~which~~ THAT develops
6 comprehensive, responsive, and flexible support to families in their role
7 as the primary care givers for a family member with a AN INTELLECTUAL
8 AND developmental disability.

9 (2) The STATE department ~~is authorized to~~ MAY contract with
10 community-centered boards and other service providers approved by the
11 STATE department to provide family support services in accordance with
12 this ~~part 4~~ PART 3. Programs developed shall be flexible in order to
13 address individual family needs.

14 (3) In administering the family support services program, the
15 STATE department shall have the following duties:

16 (a) To design the program;

17 (b) To pursue a family support model 200 waiver for approval by
18 the federal health care financing administration in order to utilize
19 medicaid funds for the provision of family support services, implemented
20 subject to appropriation;

21 (c) To develop ~~and promulgate~~ rules ~~and regulations~~ TO BE
22 PROMULGATED BY THE STATE BOARD pursuant to section ~~27-10.5-407~~
23 25.5-10-306, with consultation from service providers, including
24 representatives of families of persons with INTELLECTUAL AND
25 developmental disabilities;

26 (d) To allocate funds;

27 (e) To coordinate training and provide technical assistance to

- 1 community-centered boards and service providers;
- 2 (f) To monitor and evaluate the program;
- 3 (g) To coordinate contracts, expenditures, and billing of the
- 4 program; and
- 5 (h) To recommend changes in the program.

6 (4) Subject to annual appropriation by the general assembly, out
7 of the appropriation to the STATE department ~~of human services~~ for
8 community programs in the general appropriation act, the STATE
9 department is authorized to use up to seven percent of such appropriation
10 allocated for family support services to pay for administrative costs within
11 the STATE department and the community-centered boards.

12 **25.5-10-304. [Formerly 27-10.5-405.] Family support councils.**

13 (1) The STATE department shall ~~assure~~ ENSURE that each
14 community-centered board establishes a family support council in each
15 community-centered board designated service area. The family support
16 councils shall consist of professionals, interested citizens, family members
17 of persons with ~~a~~ AN INTELLECTUAL AND developmental disability, and
18 persons with ~~a~~ AN INTELLECTUAL AND developmental disability with a
19 majority of the council being made up of family members.

- 20 (2) The family support council shall:
 - 21 (a) Provide direction and assistance to the community-centered
 - 22 board in the development of a family support plan for the designated
 - 23 service area;
 - 24 (b) Make recommendations regarding other family supports or
 - 25 services not specifically listed in this ~~part 4~~ PART 3;
 - 26 (c) Monitor the implementation of the supports or services
 - 27 provided pursuant to the plan; AND

1 (d) Provide a written report to the STATE department of its
2 involvement in the duties specified in this subsection (2).

3 **25.5-10-305. [Formerly 27-10.5-406.] Authorized family**
4 **support services.** (1) The family support services included in this
5 program include, but are not limited to, family support grants, family
6 support services coordination, information and referral, educational
7 materials, emergency and outreach services, and other ~~individual~~ PERSON
8 and family centered assistance services such as:

9 (a) Medical and dental expenses not covered by medical or health
10 insurance or other programs;

11 (b) Insurance expenses;

12 (c) Respite; ~~child care, and sitter services;~~

13 (d) Mobility aids; adaptive equipment; assistive technology,
14 including the cost of therapies essential for a child's development, as
15 prescribed by a physician or specialized therapist; and home adaptations;

16 (e) Home health services and therapies;

17 (f) Family counseling, training, and support groups;

18 (g) Recreation and leisure needs;

19 (h) Transportation;

20 (i) Special diets, clothing, materials, and equipment; AND

21 (j) Homemaker services.

22 **25.5-10-306. [Formerly 27-10.5-407.] Rules.** (1) The
23 ~~department~~ STATE BOARD shall develop rules ~~and regulations~~ concerning:

24 (a) Further definition of services and supports to be provided by
25 the family support services program described in this ~~part 4~~ PART 3;

26 (b) The requirements for eligibility for services and supports;

27 (c) The manner of providing services and supports; and

1 (d) The size, makeup, and duties of family support councils.

2 PART 4

3 COLORADO FAMILY SUPPORT LOAN FUND

4 **25.5-10-401. [Formerly 27-10.5-501.] Legislative declaration.**

5 The general assembly hereby finds and declares that there is a need to
6 establish a Colorado family support loan fund to assist families in
7 obtaining family support services for those families who choose to
8 maintain a dependent family member with a AN INTELLECTUAL AND
9 developmental disability in their home setting.

10 **25.5-10-402. [Formerly 27-10.5-502.] Colorado family support**

11 **loan fund - creation - loans to families.** (1) There is hereby created in
12 the state treasury a fund to be known as the Colorado family support loan
13 fund, referred to in this ~~part 5~~ PART 4 as the "fund", which shall be
14 administered by the STATE department and which ~~shall consist~~ CONSISTS
15 of moneys appropriated to the fund by the general assembly, interest
16 earned on loans made out of the fund, and any moneys received pursuant
17 to subsection (5) of this section.

18 (2) Moneys in the fund ~~shall be~~ ARE continuously appropriated to
19 the STATE department for the purposes of this ~~part 5~~ PART 4. At the end of
20 any fiscal year, all unexpended and unencumbered moneys in the fund
21 ~~shall~~ MUST remain in the fund and shall not be credited or transferred to
22 the general fund or any other fund. All interest derived from the deposit
23 and investment of moneys in the fund ~~shall~~ MUST be credited to the fund.

24 (3) The STATE department is authorized to make loans, up to a
25 maximum amount of eight thousand dollars, out of the moneys in the fund
26 to eligible families in order to enable them to obtain family short-term
27 support services or equipment as defined in section ~~27-10.5-406~~

1 25.5-10-305. For purposes of this section, "families" has the same
2 meaning as defined in section ~~27-10.5-102 (15)~~ 25.5-10-202. The STATE
3 department shall only approve loans to families who maintain a person or
4 persons with a AN INTELLECTUAL AND developmental disability at home.
5 The STATE department may establish whatever terms and conditions it
6 deems appropriate in making such loans. The loan amount and any interest
7 assessed to families shall be paid back to the STATE department. All
8 moneys received from families to pay back loans, including the interest
9 assessed thereon, shall be transmitted to the state treasurer, who shall
10 credit the same to the fund. All moneys in the fund may be used by the
11 STATE department to make loans as provided in this subsection (3).

12 (4) Subject to annual appropriation by the general assembly, the
13 STATE department of ~~human services~~ is hereby authorized to transfer from
14 the appropriation for community programs in the general appropriation act
15 up to three percent of such appropriation allocated for family short-term
16 support services or equipment to the Colorado family support loan fund.
17 Any moneys received as a result of this subsection (4) shall be transmitted
18 to the state treasurer and credited to the fund.

19 (5) The STATE department is hereby authorized to receive
20 contributions, grants, services, in-kind donations, and property from
21 federal agencies, local governments, or private sources for use in carrying
22 out the purposes of this ~~part 5~~ PART 4. Any moneys received as a result of
23 this subsection (5) shall be transmitted to the state treasurer and credited
24 to the fund.

25 **25.5-10-403. [Formerly 27-10.5-503.] Duties relating to the**
26 **fund.** (1) The ~~department~~ STATE BOARD has the following duties with
27 regard to the fund:

1 (a) To develop rules ~~and regulations and guidelines~~ for the
2 administration of the fund;

3 (b) To adopt eligibility requirements for access to the fund;

4 (c) To develop application and review criteria for the approval of
5 loans from the fund; AND

6 (d) To establish a low-cost fixed interest rate to be applied to all
7 loans made from the fund.

8 (2) THE STATE DEPARTMENT HAS THE FOLLOWING DUTIES WITH
9 REGARD TO THE FUND:

10 ~~(e)~~ (a) To determine effective ways to communicate the
11 availability of the fund to eligible families;

12 ~~(f)~~ (b) To account for the expenditures and to develop a system to
13 ensure timely payback of any loans made pursuant to this ~~part 5~~ PART 4;

14 ~~(g)~~ (c) To perform a yearly audit of the fund; and

15 ~~(h)~~ (d) To take other measures as needed to ensure the intent and
16 success of this ~~part 5~~ PART 4.

17 **SECTION 2.** In Colorado Revised Statutes, **amend** 27-10.5-102
18 as follows:

19 **27-10.5-102. Definitions.** As used in this article, unless the context
20 otherwise requires:

21 (1) "Authorized representative" ~~means an individual designated by~~
22 ~~the person receiving services, or by the parent or guardian of the person~~
23 ~~receiving services, if appropriate, to assist the person receiving services~~
24 ~~in acquiring or utilizing services or supports pursuant to this article. The~~
25 ~~extent of the authorized representative's involvement shall be determined~~
26 ~~upon designation~~ HAS THE SAME MEANING AS SET FORTH IN SECTION
27 25.5-10-202, C.R.S.

1 (2) "Case management services" means the following:
2 (a) ~~The determination of eligibility for services and supports;~~
3 (b) ~~Service and support coordination; and~~
4 (c) ~~The monitoring of all services and supports delivered pursuant~~
5 ~~to the individualized plan, and the evaluation of results identified in the~~
6 ~~individualized plan~~ HAS THE SAME MEANING AS SET FORTH IN SECTION
7 25.5-10-202, C.R.S.

8 (2.3) "Case manager" means ~~an individual who assists with case~~
9 ~~management services and supports provided pursuant to this article for~~
10 ~~persons with developmental disabilities~~ HAS THE SAME MEANING AS SET
11 FORTH IN SECTION 25.5-10-202, C.R.S.

12 (2.5) (Deleted by amendment, L. 2008, p. 1442, § 1, effective
13 August 5, 2008.)

14 (3) "Community-centered board" means ~~a private corporation, for~~
15 ~~profit or not for profit, that, when designated pursuant to section~~
16 ~~27-10.5-105, provides case management services to persons with~~
17 ~~developmental disabilities, is authorized to determine eligibility of those~~
18 ~~persons within a specified geographical area, serves as the single point of~~
19 ~~entry for persons to receive services and supports under this article, and~~
20 ~~provides authorized services and supports to those persons either directly~~
21 ~~or by purchasing services and supports from service agencies~~ HAS THE
22 SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

23 (4) "Community residential home" means ~~a group living situation~~
24 ~~accommodating at least four but no more than eight persons, licensed by~~
25 ~~the state, where services and supports are provided to persons with~~
26 ~~developmental disabilities.~~

27 (5) "Consent" means ~~an informed assent that is expressed in~~

1 ~~writing and freely given. Consent shall always be preceded by the~~
2 ~~following:~~

3 ~~(a) A fair explanation of the procedures to be followed, including~~
4 ~~an identification of procedures that are experimental;~~

5 ~~(b) A description of the attendant discomforts and risks;~~

6 ~~(c) A description of the expected benefits;~~

7 ~~(d) A disclosure of appropriate alternative procedures together~~
8 ~~with an explanation of the respective benefits, discomforts, and risks;~~

9 ~~(e) An offer to answer any inquiries concerning procedures;~~

10 ~~(f) An instruction that the person giving consent is free to~~
11 ~~withdraw consent and to discontinue participation in the project or activity~~
12 ~~at any time; and~~

13 ~~(g) A statement that withholding or withdrawal of consent shall~~
14 ~~not prejudice future provision of appropriate services and supports to~~
15 ~~individuals~~ HAS THE SAME MEANING AS SET FORTH IN SECTION
16 25.5-10-202, C.R.S.

17 (6) "Contribution" ~~means the benefits gained by the household or~~
18 ~~community in which a person lives as the result of the person engaging in~~
19 ~~meaningful activities, including, but not limited to, income producing~~
20 ~~work, volunteer work, continuing education, and participation in~~
21 ~~community activities~~ HAS THE SAME MEANING AS SET FORTH IN SECTION
22 25.5-10-202, C.R.S.

23 (7) "Court" ~~means a district court of the state of Colorado or the~~
24 ~~probate court in the city and county of Denver~~ HAS THE SAME MEANING AS
25 SET FORTH IN SECTION 25.5-10-202, C.R.S.

26 (8) "Department" means the department of human services.

27 (9) "Designated service area" ~~means the geographical area~~

1 ~~specified by the executive director to be served by a designated~~
2 ~~community-centered board~~ HAS THE SAME MEANING AS SET FORTH IN
3 SECTION 25.5-10-202, C.R.S.

4 (10) "Developmental disabilities professional" ~~means a person~~
5 ~~who has professional training and experience in the developmental~~
6 ~~disabilities field, as defined by the department~~ HAS THE SAME MEANING AS
7 "INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PROFESSIONAL" AS SET
8 FORTH IN SUBSECTION (21.5) OF THIS SECTION.

9 (11) (a) "Developmental disability" ~~means a disability that is~~
10 ~~manifested before the person reaches twenty-two years of age, that~~
11 ~~constitutes a substantial disability to the affected individual, and that is~~
12 ~~attributable to mental retardation or related conditions which include~~
13 ~~cerebral palsy, epilepsy, autism, or other neurological conditions when~~
14 ~~those conditions result in impairment of general intellectual functioning~~
15 ~~or adaptive behavior similar to that of a person with mental retardation.~~
16 ~~Unless otherwise specifically stated, the federal definition of~~
17 ~~"developmental disability" found in 42 U.S.C. sec. 15001 et seq. shall not~~
18 ~~apply~~ HAS THE SAME MEANING AS "INTELLECTUAL AND DEVELOPMENTAL
19 DISABILITY" AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

20 (b) "Person with a developmental disability" ~~means a person~~
21 ~~determined by a community-centered board to have a developmental~~
22 ~~disability and shall include a child with a developmental delay~~ HAS THE
23 SAME MEANING "PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL
24 DISABILITY" AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

25 (c) "Child with a developmental delay" means:

26 (I) A person less than five years of age with delayed development
27 as defined by the department; or

1 (II) A person less than five years of age who is at risk of having a
2 developmental disability as defined by the department.

3 (12) "Early intervention services and supports" means services
4 described in and provided pursuant to part 7 of this article, including
5 education, training, and assistance in child development, parent education,
6 therapies, and other activities for infants and toddlers and their families
7 that are designed to meet the developmental needs of infants and toddlers
8 including, but not limited to, cognition, speech, communication, physical,
9 motor, vision, hearing, social-emotional, and self-help skills.

10 (13) "Eligible for supports and services" refers to any person with
11 ~~a~~ AN INTELLECTUAL AND developmental disability OR DELAY as
12 determined eligible by the community-centered boards, pursuant to section
13 27-10.5-106.

14 (13.5) (Deleted by amendment, L. 2008, p. 1442, § 1, effective
15 August 5, 2008.)

16 (13.7) "Enrolled" means that a person with ~~a~~ AN INTELLECTUAL
17 AND developmental disability who is eligible for supports and services has
18 been authorized, as defined by rules promulgated by the department, to
19 participate in a program funded pursuant to this article.

20 (14) "Executive director" means the executive director of the
21 department of human services.

22 (15) ~~(a) "Family" means the interdependent group of persons that~~
23 ~~consists of:~~

24 ~~(I) A parent, child, sibling, grandparent, aunt, uncle, spouse, or any~~
25 ~~combination thereof and a family member with a developmental disability;~~

26 ~~(II) An adoptive parent of and a family member with a~~
27 ~~developmental disability;~~

1 ~~(III) One or more persons to whom legal custody of a person with~~
2 ~~a developmental disability has been given by a court and in whose home~~
3 ~~such person resides; or~~

4 ~~(IV) Any other family unit as may be defined in rules developed~~
5 ~~pursuant to section 27-10.5-407.~~

6 ~~(b) Department rules shall define the families that are eligible to~~
7 ~~receive services and supports pursuant to this article~~ HAS THE SAME
8 MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

9 (15.5) "Family caregiver" means a family member of the person
10 ~~with a developmental disability who provides care to the person with a~~
11 ~~developmental disability in the family home, who meets the requirements~~
12 ~~for a qualified family caregiver, as established by rule of the department,~~
13 ~~and who is working through a program-approved service agency, as~~
14 ~~established by rule of the department.~~

15 (16) "Gastrostomy tube" means a tube that has been surgically
16 ~~inserted into the stomach through the abdominal wall, or a tube that has~~
17 ~~been inserted through the nasal passage into the stomach, or both~~ HAS THE
18 SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

19 (17) "Human rights committee" means a third-party mechanism to
20 ~~adequately safeguard the legal rights of persons receiving services by~~
21 ~~participating in the granting of informed consent, monitoring the~~
22 ~~suspension of rights of persons receiving services, monitoring behavior~~
23 ~~development programs in which persons with developmental disabilities~~
24 ~~are involved, monitoring the use of psychotropic medication by persons~~
25 ~~with developmental disabilities, and at the committee's option, either~~
26 ~~providing or ensuring the investigation of allegations of abuse or neglect~~
27 ~~of persons with developmental disabilities who are receiving services or~~

1 ~~supports under this article~~ HAS THE SAME MEANING AS SET FORTH IN
2 SECTION 25.5-10-202, C.R.S.

3 (17.5) "IDEA" means the federal "Individuals with Disabilities
4 Education Improvement Act of 2004", 20 U.S.C. sec. 1400 et seq., as
5 amended, and its implementing regulations, 34 CFR part 303.

6 (18) "Inclusion" means:

7 (a) ~~The use by persons with developmental disabilities of the same~~
8 ~~community resources that are used by and available to other persons;~~

9 (b) ~~The participation by persons with developmental disabilities~~
10 ~~in the same community activities in which persons without developmental~~
11 ~~disabilities participate. Participation includes regular contact with persons~~
12 ~~without developmental disabilities.~~

13 (c) ~~Vocational experiences for persons with developmental~~
14 ~~disabilities in community settings that offer opportunities to associate with~~
15 ~~other individuals who do not have developmental disabilities; and~~

16 (d) ~~Living in homes that are in residential neighborhoods and in~~
17 ~~proximity to community resources~~ HAS THE SAME MEANING AS SET FORTH
18 IN SECTION 25.5-10-202, C.R.S.

19 (19) ~~"Independent residential support services" means a~~
20 ~~community living situation, defined by the department, where services and~~
21 ~~supports are provided to no more than three persons with developmental~~
22 ~~disabilities and that is not required to be licensed by the state.~~

23 (19.5) "Individualized family service plan" or "IFSP" means a
24 written plan developed pursuant to 20 U.S.C. sec. 1436 and 34 CFR
25 303.340 that authorizes the provision of early intervention services to an
26 eligible child and the child's family. An IFSP shall serve as the
27 individualized plan, pursuant to paragraph (c) of subsection (20) of this

1 section, for a child from birth through two years of age.

2 (20) (a) "Individualized plan" means a written plan designed by an
3 interdisciplinary team for the purpose of identifying:

4 (I) The needs AND PREFERENCES of the person or family receiving
5 services;

6 (II) The specific services and supports appropriate to meet those
7 needs AND PREFERENCES;

8 (III) The projected date for initiation of services and supports; and

9 (IV) The anticipated ~~results~~ OUTCOMES to be achieved by receiving
10 the services and supports.

11 (b) Every individualized plan will include a statement of
12 agreement with the plan, signed by the person receiving services or other
13 such person legally authorized to sign on behalf of the person and a
14 representative of the community-centered board.

15 (c) Any other service or support plan, designated by the
16 department, that meets all of the requirements of an individualized plan
17 will be considered to be an individualized plan pursuant to this article.

18 ~~(d) (I) Every individualized plan that includes the provision of~~
19 ~~respite care for medical purposes, pursuant to section 27-10.5-104, shall~~
20 ~~include a process by which the person receiving services and supports may~~
21 ~~receive necessary care if the person's family or caregiver is unavailable~~
22 ~~due to an emergency situation or unforeseen circumstances. The family or~~
23 ~~caregiver shall be duly informed by the interdisciplinary team of these~~
24 ~~alternative care provisions at the time the individualized plan is initiated.~~

25 ~~(II) Nothing in this paragraph (d) requires the provision of respite~~
26 ~~care, only that each individual plan that includes the provision of respite~~
27 ~~care for medical purposes have a contingency plan.~~

1 (21) "Infants and toddlers" means a child with a developmental
2 delay from birth through two years of age.

3 (21.5) "INTELLECTUAL AND DEVELOPMENTAL DISABILITIES
4 PROFESSIONAL" MEANS A PERSON WHO HAS PROFESSIONAL TRAINING AND
5 EXPERIENCE IN THE INTELLECTUAL AND DEVELOPMENTAL DISABILITIES
6 FIELD, AS DEFINED BY THE DEPARTMENT.

7 (22) "Interdependence" ~~means those multiple interactive~~
8 ~~relationships that are necessary to create a sense of belonging and support~~
9 ~~between people that are mutually sought, sustained over time, and~~
10 ~~beneficial to those involved~~ HAS THE SAME MEANING AS SET FORTH IN
11 SECTION 25.5-10-202, C.R.S.

12 (23) "Interdisciplinary team" ~~means a group of people convened~~
13 ~~by a designated community-centered board that shall include the person~~
14 ~~receiving services, the parents or guardian of a minor, a guardian or an~~
15 ~~authorized representative, as appropriate, the person who coordinates the~~
16 ~~provisions of services and supports, and others as determined by the~~
17 ~~person's needs and preference, who are assembled to work in a~~
18 ~~cooperative manner to develop or review the individualized plan~~ HAS THE
19 SAME MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

20 (24) "Least restrictive environment" ~~means an environment that~~
21 ~~represents the least departure from the normal patterns of living and that~~
22 ~~effectively meets the needs of the person receiving services. Least~~
23 ~~restrictive environment may include, but need not be limited to, receiving~~
24 ~~services from a community-centered board, service agency, or a family~~
25 ~~caregiver in the family home~~ HAS THE SAME MEANING AS SET FORTH IN
26 SECTION 25.5-10-202, C.R.S.

27 (25) "Person receiving services" means a person with a AN

1 INTELLECTUAL AND developmental disability who is enrolled in a program
2 funded pursuant to this article.

3 (25.5) "Program" means a specific group of services or supports
4 as defined by rules promulgated by the department and for which funding
5 is available pursuant to this article to a person with a AN INTELLECTUAL
6 AND developmental disability who is eligible for supports and services.

7 (26) Repealed.

8 (27) "Regional center" means a facility or program operated
9 directly by the department that provides services and supports to persons
10 with INTELLECTUAL AND developmental disabilities.

11 (28) "Service agency" ~~means an individual or any publicly or~~
12 ~~privately operated program, organization, or business providing services~~
13 ~~or supports for persons with developmental disabilities~~ HAS THE SAME
14 MEANING AS SET FORTH IN SECTION 25.5-10-202, C.R.S.

15 (29) "Service and support coordination" means planning, locating,
16 facilitating access to, coordinating, and reviewing all aspects of needed
17 AND PREFERRED services, supports, and resources that are provided in
18 cooperation with the person receiving services, the person's family, as
19 appropriate, the family of a child with a developmental delay, and the
20 involved public or private agencies. Planning includes the development
21 or review of an existing individualized plan. "Service and support
22 coordination" also includes the reassessment of the needs AND
23 PREFERENCES of the person receiving services or the needs AND
24 PREFERENCES of the family of the person, with maximum participation of
25 the person receiving services and the person's parents, guardian, or
26 authorized representative, as appropriate.

27 (30) "Services and supports" means one or more of the following:

1 Education, training, ~~independent or supported living assistance~~, therapies,
2 identification of natural supports, and other activities provided to:

3 (a) Enable persons with INTELLECTUAL AND developmental
4 disabilities to make ~~increasingly~~ responsible choices, exert greater control
5 over their lives, experience presence and inclusion in their communities,
6 develop their competencies and talents, maintain relationships, foster a
7 sense of belonging, and experience personal security and self-respect;

8 (b) Enhance child development and healthy parent-child and
9 family interaction for eligible infants and toddlers and their families
10 pursuant to part 7 of this article; and

11 (c) Enable families, who choose or desire to maintain a family
12 member with a AN INTELLECTUAL AND developmental disability at home,
13 to obtain support and to enjoy a typical lifestyle.

14 (31) "~~Sterilization~~" ~~means any surgical or other medical procedure~~
15 ~~that has as its primary purpose to render a person permanently incapable~~
16 ~~of reproduction~~ HAS THE SAME MEANING AS SET FORTH IN SECTION
17 25.5-10-202, C.R.S.

18 (32) "~~Waiting list~~" ~~means the list of persons with developmental~~
19 ~~disabilities who are waiting for enrollment into a program provided~~
20 ~~pursuant to this article.~~

21 **SECTION 3.** In Colorado Revised Statutes, **repeal and reenact,**
22 **with amendments,** 27-10.5-103 as follows:

23 **27-10.5-103. Duties of the executive director - rules.** (1) IN
24 ORDER TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE, THE EXECUTIVE
25 DIRECTOR SHALL CARRY OUT THE FOLLOWING DUTIES, SUBJECT TO
26 AVAILABLE APPROPRIATIONS:

27 (a) PROMOTE EFFECTIVE COORDINATION WITH AGENCIES SERVING

1 PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES IN
2 ORDER TO IMPROVE CONTINUITY OF SERVICES AND SUPPORTS FOR PERSONS
3 FACING LIFE TRANSITIONS FROM TODDLER TO PRESCHOOL, SCHOOL TO
4 ADULT LIFE, AND WORK TO RETIREMENT;

5 (b) CONDUCT APPROPRIATE PART C CHILD FIND ACTIVITIES AS
6 DESCRIBED IN SECTION 27-10.5-704. PART C CHILD FIND ACTIVITIES
7 CONDUCTED BY THE DEPARTMENT SHALL INCLUDE, BUT NEED NOT BE
8 LIMITED TO, CASE MANAGEMENT, REFERRAL, TRANSITIONS, AND PUBLIC
9 EDUCATION OUTREACH AND AWARENESS OF EARLY INTERVENTION
10 SERVICES; AND

11 (c) OPERATE REGIONAL CENTERS PURSUANT TO PART 3 OF THIS
12 ARTICLE.

13 (2) IN ACCORDANCE WITH SECTION 24-4-103, C.R.S., AND IN
14 COORDINATION WITH THE REQUIREMENTS OF ARTICLE 10 OF TITLE 25.5,
15 C.R.S., THE DEPARTMENT SHALL ADOPT SUCH RULES AS ARE NECESSARY
16 TO CARRY OUT THE PROVISIONS AND PURPOSES OF THIS ARTICLE,
17 INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

18 (a) STANDARDS FOR SERVICES AND SUPPORTS, INCLUDING
19 PREPARATION OF INDIVIDUALIZED PLANS;

20 (b) PURCHASE OF SERVICES AND SUPPORTS AND FINANCIAL
21 ADMINISTRATION;

22 (c) PROCEDURES FOR RESOLVING DISPUTES OVER ELIGIBILITY
23 DETERMINATION AND THE MODIFICATION, DENIAL, OR TERMINATION OF
24 SERVICES;

25 (d) PROCEDURES FOR ADMISSION TO PROGRAMS CONTAINED IN THIS
26 ARTICLE;

27 (e) SYSTEMS OF QUALITY ASSURANCE AND DATA COLLECTION;

- 1 (f) THE RIGHTS OF A PERSON RECEIVING SERVICES;
- 2 (g) CONFIDENTIALITY OF RECORDS OF A PERSON RECEIVING
3 SERVICES;
- 4 (h) DESIGNATION OF AUTHORIZED REPRESENTATIVES AND
5 DELINEATION OF THEIR RIGHTS AND DUTIES PURSUANT TO THIS ARTICLE;
- 6 (i) (I) THE ESTABLISHMENT OF GUIDELINES AND PROCEDURES FOR
7 AUTHORIZATION OF PERSONS FOR ADMINISTRATION OF NUTRITION AND
8 FLUIDS THROUGH GASTROSTOMY TUBES.
- 9 (II) THE DEPARTMENT SHALL REQUIRE THAT A SERVICE AGENCY
10 PROVIDING RESIDENTIAL OR DAY PROGRAM SERVICES OR SUPPORTS HAVE
11 A STAFF MEMBER QUALIFIED PURSUANT TO SUBPARAGRAPH (III) OF THIS
12 PARAGRAPH (i) ON DUTY AT ANY TIME THE FACILITY ADMINISTERS SAID
13 NUTRITION AND FLUIDS THROUGH GASTROSTOMY TUBES, AND THAT THE
14 FACILITY MAINTAIN A WRITTEN RECORD OF EACH NUTRIENT OR FLUID
15 ADMINISTERED TO EACH PERSON RECEIVING SERVICES, INCLUDING THE
16 TIME AND THE AMOUNT OF THE NUTRIENT OR FLUID.
- 17 (III) A PERSON WHO IS NOT OTHERWISE AUTHORIZED BY LAW TO
18 ADMINISTER NUTRITION AND FLUIDS THROUGH GASTROSTOMY TUBES IS
19 ALLOWED TO PERFORM THE DUTIES ONLY UNDER THE SUPERVISION OF A
20 LICENSED NURSE OR PHYSICIAN. A PERSON WHO ADMINISTERS NUTRITION
21 AND FLUIDS IN COMPLIANCE WITH THE PROVISIONS OF THIS PARAGRAPH (i)
22 IS EXEMPT FROM THE LICENSING REQUIREMENTS OF THE "COLORADO
23 MEDICAL PRACTICE ACT", ARTICLE 36 OF TITLE 12, C.R.S., AND THE
24 "NURSE PRACTICE ACT", ARTICLE 38 OF TITLE 12, C.R.S. NOTHING IN THIS
25 PARAGRAPH (i) SHALL BE DEEMED TO AUTHORIZE THE ADMINISTRATION OF
26 MEDICATIONS THROUGH GASTROSTOMY TUBES. A PERSON ADMINISTERING
27 MEDICATIONS THROUGH GASTROSTOMY TUBES IS SUBJECT TO THE

1 REQUIREMENTS OF PART 3 OF ARTICLE 1.5 OF TITLE 25, C.R.S.

2 (IV) FOR PURPOSES OF THIS PARAGRAPH (i) "ADMINISTRATION"
3 MEANS ASSISTING A PERSON IN THE INGESTION OF NUTRITION OR FLUIDS
4 ACCORDING TO THE DIRECTION AND SUPERVISION OF A LICENSED NURSE OR
5 PHYSICIAN; AND

6 (j) CHILD FIND ACTIVITIES, AS DESCRIBED IN SECTION 27-10.5-704.

7 **SECTION 4.** In Colorado Revised Statutes, **repeal and reenact,**
8 **with amendments,** 27-10.5-104 as follows:

9 **27-10.5-104. Authorized services and supports - conditions of**
10 **funding - purchase of services and supports - boards of county**
11 **commissioners - appropriation.** (1) SUBJECT TO ANNUAL
12 APPROPRIATIONS BY THE GENERAL ASSEMBLY, THE DEPARTMENT SHALL
13 PROVIDE OR PURCHASE, PURSUANT TO SUBSECTION (4) OF THIS SECTION,
14 AUTHORIZED SERVICES AND SUPPORTS FROM COMMUNITY-CENTERED
15 BOARDS OR SERVICE AGENCIES FOR PERSONS WHO HAVE BEEN DETERMINED
16 TO BE ELIGIBLE FOR SUCH SERVICES AND SUPPORTS PURSUANT TO SECTION
17 27-10.5-106, AND AS SPECIFIED IN THE ELIGIBLE PERSON'S INDIVIDUALIZED
18 PLAN. THOSE SERVICES AND SUPPORTS MAY INCLUDE, BUT NEED NOT BE
19 LIMITED TO, THE FOLLOWING:

20 (a) EARLY INTERVENTION SERVICES AND SUPPORTS THAT OFFER
21 INFANTS AND TODDLERS AND THEIR FAMILIES SERVICES AND SUPPORTS TO
22 ENHANCE CHILD DEVELOPMENT IN THE AREAS OF COGNITION, SPEECH,
23 COMMUNICATION, PHYSICAL, MOTOR, VISION, HEARING,
24 SOCIAL-EMOTIONAL DEVELOPMENT, AND SELF-HELP SKILLS; PARENT-CHILD
25 OR FAMILY INTERACTION; AND EARLY IDENTIFICATION, SCREENING, AND
26 ASSESSMENT SERVICES THAT ARE PROVIDED PURSUANT TO PART 7 OF THIS
27 ARTICLE;

1 (b) CASE MANAGEMENT SERVICES;

2 (c) DAY SERVICES AND SUPPORTS THAT OFFER OPPORTUNITIES FOR
3 PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES TO
4 EXPERIENCE AND ACTIVELY PARTICIPATE IN VALUED ADULT ROLES IN THE
5 COMMUNITY. THESE SERVICES AND SUPPORTS WILL ENABLE PERSONS
6 RECEIVING SERVICES TO ACCESS AND PARTICIPATE IN COMMUNITY
7 ACTIVITIES, SUCH AS WORK, RECREATION, HIGHER EDUCATION, AND SENIOR
8 CITIZEN ACTIVITIES. DAY SERVICES AND SUPPORTS, INCLUDING EARLY
9 INTERVENTION SERVICES, MAY ALSO INCLUDE THE ADMINISTRATION OF
10 NUTRITION OR FLUIDS THROUGH GASTROSTOMY TUBES, IF ADMINISTERED
11 BY A PERSON AUTHORIZED PURSUANT TO SECTION 27-10.5-103 (2) (i) AND
12 SUPERVISED BY A LICENSED NURSE OR PHYSICIAN.

13 (d) RESIDENTIAL SERVICES AND SUPPORTS, INCLUDING AN ARRAY
14 OF TRAINING, LEARNING, EXPERIENTIAL, AND SUPPORT ACTIVITIES
15 PROVIDED IN LIVING ALTERNATIVES DESIGNED TO MEET THE INDIVIDUAL
16 NEEDS OF PERSONS RECEIVING SERVICES AND MAY INCLUDE THE
17 ADMINISTRATION OF NUTRITION OR FLUIDS THROUGH GASTROSTOMY
18 TUBES, IF ADMINISTERED BY A PERSON AUTHORIZED PURSUANT TO SECTION
19 27-10.5-103 (2) (i) AND SUPERVISED BY A LICENSED NURSE OR PHYSICIAN;
20 AND

21 (e) ANCILLARY SERVICES, INCLUDING ACTIVITIES THAT ARE
22 SECONDARY BUT INTEGRAL TO THE PROVISION OF THE SERVICES AND
23 SUPPORTS SPECIFIED IN THIS SUBSECTION (1).

24 (2) SERVICE AGENCIES RECEIVING FUNDS PURSUANT TO
25 SUBSECTION (1) OF THIS SECTION SHALL COMPLY WITH ALL OF THE
26 PROVISIONS OF THIS ARTICLE AND THE RULES PROMULGATED THEREUNDER.

27 (3) SERVICE AND SUPPORT COORDINATION SHALL BE PURCHASED

1 PURSUANT TO PART 7 OF THIS ARTICLE.

2 (4) (a) THE DEPARTMENT MAY PURCHASE SERVICES AND SUPPORTS,
3 INCLUDING SERVICE AND SUPPORT COORDINATION, DIRECTLY FROM
4 SERVICE AGENCIES IF:

5 (I) REQUIRED BY THE FEDERAL REQUIREMENTS FOR THE STATE TO
6 QUALIFY FOR FEDERAL FUNDS UNDER TITLE XIX OF THE FEDERAL "SOCIAL
7 SECURITY ACT", AS AMENDED, INCLUDING PROGRAMS AUTHORIZED
8 PURSUANT TO PART 4 OF ARTICLE 6 OF TITLE 25.5, C.R.S.; OR

9 (II) THE EXECUTIVE DIRECTOR HAS DETERMINED THAT A SERVICE
10 OR SUPPORT PROVIDED OR PURCHASED BY A DESIGNATED
11 COMMUNITY-CENTERED BOARD DOES NOT MEET ESTABLISHED STANDARDS
12 AND THE CONTINUATION OF PURCHASE OF THE SERVICE OR SUPPORT
13 THROUGH THE COMMUNITY-CENTERED BOARD IS NOT IN THE BEST
14 INTERESTS OF THE PERSONS RECEIVING SERVICES.

15 (b) THE DEPARTMENT SHALL ONLY PURCHASE SERVICES AND
16 SUPPORTS DIRECTLY FROM THOSE COMMUNITY-CENTERED BOARDS OR
17 SERVICE AGENCIES THAT MEET ESTABLISHED STANDARDS.

18 (c) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT
19 THE PROVISION OF SERVICES AND SUPPORTS, INCLUDING CASE
20 MANAGEMENT SERVICES, DIRECTLY BY THE DEPARTMENT THROUGH
21 REGIONAL CENTERS, FOR PERSONS RECEIVING SERVICES IN REGIONAL
22 CENTERS.

23 (d) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE
24 THE PROVISION OF SERVICES AND SUPPORTS, INCLUDING CASE
25 MANAGEMENT SERVICES, DIRECTLY BY THE DEPARTMENT.

26 (5) (a) EACH YEAR THE GENERAL ASSEMBLY SHALL APPROPRIATE
27 MONEYS TO THE DEPARTMENT TO PROVIDE OR PURCHASE SERVICES AND

1 SUPPORTS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL
2 DISABILITIES PURSUANT TO THIS SECTION. UNLESS SPECIFICALLY PROVIDED
3 OTHERWISE, SERVICES AND SUPPORTS SHALL BE PURCHASED ON THE BASIS
4 OF STATE FUNDING LESS ANY FEDERAL OR CASH FUNDS RECEIVED FOR
5 GENERAL OPERATING EXPENSES FROM ANY OTHER STATE OR FEDERAL
6 SOURCE, LESS FUNDS AVAILABLE TO A PERSON RECEIVING RESIDENTIAL
7 SERVICES OR SUPPORTS AFTER SUCH PERSON RECEIVES AN ALLOWANCE FOR
8 PERSONAL NEEDS OR FOR MEETING OTHER OBLIGATIONS IMPOSED BY
9 FEDERAL OR STATE LAW. THE YEARLY APPROPRIATION, WHEN COMBINED
10 WITH ALL OTHER SOURCES OF FUNDS, SHALL IN NO CASE EXCEED ONE
11 HUNDRED PERCENT OF THE APPROVED PROGRAM COSTS AS DETERMINED BY
12 THE GENERAL ASSEMBLY. FUNDS RECEIVED FOR CAPITAL CONSTRUCTION
13 SHALL NOT BE CONSIDERED IN THE CALCULATION FOR THE DISTRIBUTION
14 OF FUNDS UNDER THE PROVISIONS OF THIS SECTION.

15 (b) THE DEPARTMENT IS AUTHORIZED TO USE UP TO THREE PERCENT
16 OF THE APPROPRIATION ALLOCATED FOR EARLY INTERVENTION SERVICES
17 AND SUPPORTS FOR TRAINING AND TECHNICAL ASSISTANCE TO ENSURE
18 THAT THE LATEST DEVELOPMENTS FOR EARLY INTERVENTION SERVICES
19 AND SUPPORTS ARE RAPIDLY INTEGRATED INTO SERVICE PROVISION
20 THROUGHOUT THE STATE.

21 **SECTION 5.** In Colorado Revised Statutes, 27-10.5-104.5,
22 **amend** (3) as follows:

23 **27-10.5-104.5. Service agencies - moneys - rules.** (3) The
24 department shall promulgate rules to implement the purchase of services
25 and supports from a community-centered board OR A service agency. ~~or~~
26 ~~family caregiver.~~ The rules shall include, but need not be limited to:

27 (a) Terms and conditions necessary to promote the effective

1 delivery of services and supports; ~~including those services and supports~~
2 ~~delivered by a family caregiver;~~

3 (b) Procedures for obtaining an annual audit of designated
4 community-centered boards and service agencies not affiliated with a
5 designated community-centered board to provide financial information
6 deemed necessary by the department to establish costs of services and
7 supports and to ensure proper management of moneys received pursuant
8 to section 27-10.5-104;

9 (c) Delineation of a system to resolve contractual disputes between
10 the department and designated community-centered boards or service
11 agencies and between designated community-centered boards and service
12 agencies, including the contesting of any rates that the designated
13 community-centered boards charge to service agencies based upon a
14 percentage of the rates that service agencies charge for services and
15 supports;

16 (d) Specification of what services and supports are to be
17 reimbursed by the department ~~of human services~~ and secondarily by the
18 community-centered board, the source of reimbursement, actual service
19 or support costs, incentives, and program service objectives which affect
20 reimbursement;

21 (e) The methods of coordinating the purchase of services and
22 supports, including, but not limited to, service and support coordination,
23 with other federal, state, and local programs which provide funding for
24 authorized services and supports;

25 (f) (Deleted by amendment, L. 92, p. 1363, § 5, effective July 1,
26 1992.)

27 (g) and (h) (Deleted by amendment, L. 2008, p. 2219, § 2,

1 effective June 5, 2008.)

2 (i) Criteria for and limitations on any rates that designated
3 community-centered boards charge to service agencies based upon a
4 percentage of the rates that service agencies charge for services and
5 supports.

6 **SECTION 6.** In Colorado Revised Statutes, **repeal and reenact,**
7 **with amendments,** 27-10.5-105 as follows:

8 **27-10.5-105. Community-centered boards - purchase of**
9 **services and supports by community-centered boards.** (1) ONCE A
10 COMMUNITY-CENTERED BOARD HAS BEEN DESIGNATED PURSUANT TO
11 SECTION 25.5-10-108, C.R.S., IT SHALL, SUBJECT TO AVAILABLE
12 APPROPRIATIONS:

13 (a) DETERMINE ELIGIBILITY AND DEVELOP AN INDIVIDUALIZED
14 PLAN FOR EACH PERSON WHO RECEIVES SERVICES OR SUPPORTS PURSUANT
15 TO SECTION 25.5-10-110, C.R.S.; EXCEPT THAT, FOR A CHILD FROM BIRTH
16 THROUGH TWO YEARS OF AGE, ELIGIBILITY DETERMINATION AND
17 DEVELOPMENT OF AN INDIVIDUALIZED FAMILY SERVICE PLAN SHALL BE
18 MADE PURSUANT TO PART 7 OF THIS ARTICLE;

19 (b) PROVIDE CASE MANAGEMENT SERVICES, INCLUDING SERVICE
20 AND SUPPORT COORDINATION AND PERIODIC REVIEWS, FOR PERSONS
21 RECEIVING SERVICES AND FAMILIES WITH CHILDREN WITH INTELLECTUAL
22 AND DEVELOPMENTAL DISABILITIES;

23 (c) OBTAIN OR PROVIDE EARLY INTERVENTION SERVICES AND
24 SUPPORTS PURSUANT TO PART 7 OF THIS ARTICLE;

25 (d) TAKE STEPS TO NOTIFY ELIGIBLE PERSONS, AND THEIR FAMILIES
26 AS APPROPRIATE, REGARDING THE AVAILABILITY OF SERVICES AND
27 SUPPORTS;

1 (e) PURSUANT TO SECTION 27-10.5-704, COLLABORATE WITH THE
2 DEPARTMENT AS IT DEVELOPS AND IMPLEMENTS A STATEWIDE PLAN FOR
3 PUBLIC EDUCATION OUTREACH AND AWARENESS EFFORTS RELATED TO
4 PART C CHILD FIND AND THE AVAILABILITY OF EARLY INTERVENTION
5 SERVICES.

6 **SECTION 7.** In Colorado Revised Statutes, **repeal and reenact,**
7 **with amendments,** 27-10.5-106 as follows:

8 **27-10.5-106. Eligibility determination.** ANY PERSON MAY
9 REQUEST AN EVALUATION PURSUANT TO SECTION 25.5-10-110, C.R.S., TO
10 DETERMINE WHETHER HE OR SHE HAS AN INTELLECTUAL AND
11 DEVELOPMENTAL DISABILITY AND IS ELIGIBLE TO RECEIVE SERVICES AND
12 SUPPORTS PURSUANT TO THIS ARTICLE. APPLICATION FOR ELIGIBILITY
13 DETERMINATION SHALL BE MADE TO THE DESIGNATED
14 COMMUNITY-CENTERED BOARD IN THE DESIGNATED SERVICE AREA WHERE
15 THE PERSON RESIDES.

16 **SECTION 8.** In Colorado Revised Statutes, 27-10.5-107, **amend**
17 (1) introductory portion as follows:

18 **27-10.5-107. Procedure for resolving disputes over eligibility,**
19 **modification of services or supports, and termination of services or**
20 **supports.** (1) Every state or local service agency receiving state moneys
21 pursuant to section 27-10.5-104 OR SECTION 25.5-10-105, C.R.S., shall
22 adopt a procedure for the resolution of disputes arising between the
23 service agency and any recipient of, or applicant for, services or supports
24 authorized under section 27-10.5-104 OR SECTION 25.5-10-105, C.R.S.
25 Procedures for the resolution of disputes regarding early intervention
26 services shall be in compliance with IDEA. The procedures shall be
27 consistent with rules promulgated by the department pursuant to article 4

1 of title 24, C.R.S., and shall be applicable to the following disputes:

2 **SECTION 9.** In Colorado Revised Statutes, 27-10.5-108, **amend**
3 (2) as follows:

4 **27-10.5-108. Discharge.** (2) When a person receiving services
5 notifies a service agency that such person no longer wishes to receive a
6 service or support, the person shall be discharged from such service or
7 support unless the person is subject to a petition to impose a legal
8 disability or to remove a legal right, filed pursuant to section 27-10.5-110
9 OR SECTION 25.5-10-216, C.R.S., or for whom a legal guardian has been
10 appointed, affecting the person's ability to voluntarily terminate services
11 or supports. The parents of the person receiving services who is a minor
12 and such person's guardian shall be notified of the person's wish to
13 terminate services or supports, but no minor will be discharged without
14 the consent of the parent or legal guardian.

15 **SECTION 10.** In Colorado Revised Statutes, **repeal and reenact,**
16 **with amendments,** 27-10.5-110 as follows:

17 **27-10.5-110. Imposition of legal disability - removal of legal**
18 **right.** (1) ANY INTERESTED PERSON MAY PETITION THE COURT PURSUANT
19 TO SECTION 25.5-10-216, C.R.S., TO IMPOSE A LEGAL DISABILITY ON OR TO
20 REMOVE A LEGAL RIGHT FROM A PERSON WITH AN INTELLECTUAL AND
21 DEVELOPMENTAL DISABILITY AS DEFINED IN SECTION 25.5-10-202, C.R.S.
22 THE PETITION SHALL SET FORTH THE DISABILITY TO BE IMPOSED OR THE
23 LEGAL RIGHT TO BE REMOVED AND THE REASONS THEREFOR. THE PETITION
24 MAY AFFECT THE RIGHT TO CONTRACT, THE RIGHT TO DETERMINE PLACE OF
25 ABODE OR PROVISIONS OF SERVICES AND SUPPORTS, THE RIGHT TO OPERATE
26 A MOTOR VEHICLE, AND OTHER SIMILAR RIGHTS.

27 (2) A PERSON SHALL NOT BE ADMITTED TO A REGIONAL CENTER

1 WITHOUT A COURT ORDER ISSUED PURSUANT TO SECTION 25.5-10-216,
2 C.R.S., EXCEPT IN AN EMERGENCY OR FOR THE PURPOSE OF TEMPORARY
3 RESPITE CARE.

4 **SECTION 11.** In Colorado Revised Statutes, **add** 27-10.5-110.5
5 as follows:

6 **27-10.5-110.5. Rights of persons with intellectual and**
7 **developmental disabilities.** EACH PERSON RECEIVING SERVICES PURSUANT
8 TO THIS ARTICLE AND ARTICLE 10 OF TITLE 25.5, C.R.S., SHALL HAVE THE
9 RIGHTS SET FORTH IN SECTIONS 25.5-10-223 TO 25.5-10-230, C.R.S.

10 **SECTION 12. Repeal of provisions being relocated in this act.**
11 In Colorado Revised Statutes, **repeal** sections 27-10.5-101, 27-10.5-103.5,
12 27-10.5-104.2, 27-10.5-105.5, 27-10.5-109, 27-10.5-109.5, 27-10.5-111,
13 27-10.5-112, 27-10.5-113, 27-10.5-114, 27-10.5-115, 27-10.5-116,
14 27-10.5-117, 27-10.5-118, 27-10.5-119, 27-10.5-120, 27-10.5-121,
15 27-10.5-122, 27-10.5-123, 27-10.5-124, 27-10.5-128, 27-10.5-129,
16 27-10.5-130, 27-10.5-131, 27-10.5-132, 27-10.5-134, 27-10.5-135,
17 27-10.5-137, 27-10.5-139, and 27-10.5-141, and parts 4 and 5 of article
18 10.5 of title 27.

19 **SECTION 13.** In Colorado Revised Statutes, **repeal** 27-10.5-142
20 and 27-10.5-143.

21 **SECTION 14.** In Colorado Revised Statutes, 1-1-104, **amend**
22 (18.5) as follows:

23 **1-1-104. Definitions.** As used in this code, unless the context
24 otherwise requires:

25 (18.5) "Group residential facility" means a nursing home, a nursing
26 care facility licensed pursuant to part 1 of article 3 of title 25, C.R.S., a
27 home for persons with INTELLECTUAL AND developmental disabilities as

1 defined in section ~~27-10.5-102~~ 25.5-10-202, C.R.S., an assisted living
2 residence licensed pursuant to section 25-27-105, C.R.S., or a residential
3 treatment facility for mental illness.

4 **SECTION 15.** In Colorado Revised Statutes, 8-2-111.7, **amend**
5 (2), (5) (a), and (5) (b) as follows:

6 **8-2-111.7. Employees working with persons with intellectual**
7 **and developmental disabilities - immunity from civil liability -**
8 **requirements - exception to blacklisting prohibition - legislative**
9 **declaration - definitions.** (2) In response to a request by a current or
10 prospective employer of a caregiver, it is neither unlawful nor a violation
11 of the prohibitions against blacklisting specified in sections 8-2-110 and
12 8-2-111 for an employer, when acting in good faith, to disclose
13 information known about any involvement in the mistreatment,
14 exploitation, neglect, or abuse of persons with INTELLECTUAL AND
15 developmental disabilities as prohibited by section ~~27-10.5-115~~
16 25.5-10-221, C.R.S., by a caregiver.

17 (5) For the purposes of this section:

18 (a) "Caregiver" means ~~an individual~~ A PERSON currently or
19 formerly employed to work with a person with a AN INTELLECTUAL AND
20 developmental disability or a person who provides host home services by
21 contract as part of residential services and supports as described in section
22 ~~27-10.5-104(1)(f)~~ 25.5-10-206(1) (e), C.R.S. "Caregiver" does not mean
23 a person who is employed by or who has contracted to work with a school
24 district.

25 (b) "Person with a AN INTELLECTUAL AND developmental
26 disability" has the same meaning as defined in section ~~27-10.5-102(11)~~
27 (b) 25.5-10-202, C.R.S.

1 **SECTION 16.** In Colorado Revised Statutes, 8-40-301, **amend** (7)
2 as follows:

3 **8-40-301. Scope of term "employee".** (7) Persons who provide
4 host home services as part of residential services and supports, as
5 described in section ~~27-10.5-104 (1)(f)~~ 25.5-10-206 (1) (e), C.R.S., for an
6 eligible person, as defined in section 25.5-6-403 (2) (a), C.R.S., pursuant
7 to the "Home- and Community-based Services for Persons with
8 Developmental Disabilities Act", part 4 of article 6 of title 25.5, C.R.S.,
9 and pursuant to a contract with a community-centered board designated
10 pursuant to section ~~27-10.5-105~~ 25.5-10-209, C.R.S., or a contract with a
11 service agency as defined in section ~~27-10.5-102 (28)~~ 25.5-10-202,
12 C.R.S., shall not be considered employees of the community-centered
13 board or the service agency.

14 **SECTION 17.** In Colorado Revised Statutes, 10-16-104, **amend**
15 (1.4) (a) (VII) as follows:

16 **10-16-104. Mandatory coverage provisions - definitions.**
17 (1.4) **Autism spectrum disorders.** (a) As used in this subsection (1.4),
18 unless the context otherwise requires:

19 (VII) "Individualized plan" ~~shall have~~ HAS the same meaning as
20 provided in section ~~27-10.5-102~~ 25.5-10-202, C.R.S.

21 **SECTION 18.** In Colorado Revised Statutes, 12-36-106, **amend**
22 (3) (q) (I) as follows:

23 **12-36-106. Practice of medicine defined - exemptions from**
24 **licensing requirements - unauthorized practice by physician assistants**
25 **- penalties - rules.** (3) A person may engage in, and shall not be required
26 to obtain a license or a physician training license under this article with
27 respect to, any of the following acts:

1 (q) (I) The administration of nutrition or fluids through
2 gastrostomy tubes as provided in ~~section 27-10.5-103 (2) (k), C.R.S.,~~
3 SECTIONS 25.5-10-204 (2) (j) AND 27-10.5-103 (2) (i), C.R.S., as a part of
4 residential or day program services provided through service agencies
5 approved by the department of ~~human services~~ HEALTH CARE POLICY AND
6 FINANCING pursuant to section ~~27-10.5-104.5~~ 25.5-10-208, C.R.S.;

7 **SECTION 19.** In Colorado Revised Statutes, 12-38-125, **amend**
8 (1) (i) (I) as follows:

9 **12-38-125. Exclusions.** (1) No provision of this article shall be
10 construed to prohibit:

11 (i) (I) The administration of nutrition or fluids through gastrostomy
12 tubes as provided in ~~section 27-10.5-103 (2) (k), C.R.S.,~~ SECTIONS
13 25.5-10-204 (2) (j) AND 27-10.5-103 (2) (i), C.R.S., as a part of residential
14 or day program services provided through service agencies approved by
15 the department of ~~human services~~ HEALTH CARE POLICY AND FINANCING
16 pursuant to section ~~27-10.5-104~~ 25.5-10-206, C.R.S.

17 **SECTION 20.** In Colorado Revised Statutes, 12-38-132, **amend**
18 (6) as follows:

19 **12-38-132. Delegation of nursing tasks.** (6) The board may
20 promulgate rules pursuant to this section, including but not limited to
21 standards on the assessment of the proficiency of the delegatee to perform
22 delegated tasks, and standards for accountability of any nurse who
23 delegates nursing tasks. Such rules shall be consistent with the provisions
24 of part 3 of article 1.5 of title 25, ~~and~~ C.R.S., SECTION 25.5-10-204 (2) (j),
25 C.R.S., AND section 27-10.5-103 ~~(2) (k)~~ (2) (i), C.R.S.

26 **SECTION 21.** In Colorado Revised Statutes, 12-38.1-117, **amend**
27 (1) (f) as follows:

1 **12-38.1-117. Exclusions.** (1) This article shall not be construed
2 to affect or apply to:

3 (f) Any person performing services pursuant to sections
4 12-38-132, ~~and 25.5-10-204 (2) (j), 27-10.5-103 (2) (k)~~ (2) (i), C.R.S., and
5 part 3 of article 1.5 of title 25, C.R.S.

6 **SECTION 22.** In Colorado Revised Statutes, 13-21-117.5, **amend**
7 (2) (a), (2) (c), and (2) (e) as follows:

8 **13-21-117.5. Civil liability - developmental disability service**
9 **providers. (2) Definitions.** As used in this section, unless the context
10 otherwise requires:

11 (a) "Community-centered board" means a private corporation,
12 for-profit or not-for-profit, which, when designated pursuant to section
13 ~~27-10.5-105~~ 25.5-10-209, C.R.S., provides case management to persons
14 with INTELLECTUAL AND developmental disabilities, is authorized to
15 determine eligibility of such persons within a specified geographical area,
16 serves as the single point of entry for persons to receive services and
17 supports under ~~article 10.5 of title 27~~ ARTICLE 10 OF TITLE 25.5, C.R.S.,
18 and provides authorized services and supports to such persons either
19 directly or by purchasing such services and supports from service
20 agencies.

21 (c) "Developmental disability" ~~shall have~~ HAS the same meaning
22 as "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" AS defined in
23 section ~~27-10.5-102 (11)~~, 25.5-10-202, C.R.S.

24 (e) "Host home" means a private home that houses up to three
25 persons with INTELLECTUAL AND developmental disabilities and whose
26 owner or renter provides residential services, as described in section
27 ~~27-10.5-104 (1) (f)~~, 25.5-10-206 (1) (e), C.R.S., to those persons as an

1 independent contractor of a community-centered board or service agency.

2 **SECTION 23.** In Colorado Revised Statutes, 13-25-129.5, **amend**
3 (1), (2) (a), (3), and (4) as follows:

4 **13-25-129.5. Statements of persons with intellectual and**
5 **developmental disabilities - hearsay exception.** (1) An out-of-court
6 statement made by a person with a AN INTELLECTUAL AND developmental
7 disability, as defined in section ~~27-10.5-102(11)(a)~~ 25.5-10-202 (26) (a),
8 C.R.S., not otherwise admissible by a statute or court rule that provides an
9 exception to the objection of hearsay is admissible in any criminal or
10 delinquency proceeding in which the person is alleged to have been a
11 victim if the conditions of subsection (5) of this section are satisfied.

12 (2) (a) An out-of-court statement made by a person with a AN
13 INTELLECTUAL AND developmental disability, as defined in section
14 ~~27-10.5-102(11)(a)~~ 25.5-10-202 (26) (a), C.R.S., that describes all or part
15 of an offense described in paragraph (b) of this subsection (2) performed
16 with, by, on, or in the presence of the declarant, and that is not otherwise
17 admissible by a statute or court rule that provides an exception to the
18 objection of hearsay, is admissible in any criminal, delinquency, or civil
19 proceeding if the conditions of subsection (5) of this section are satisfied.

20 (3) An out-of-court statement by a person with a AN INTELLECTUAL
21 AND developmental disability, as defined in section ~~27-10.5-102(11)(a)~~
22 25.5-10-202 (26) (a), C.R.S., that describes any act of child abuse, as
23 defined in section 18-6-401, C.R.S., to which the declarant was subjected
24 or which the declarant witnessed, and that is not otherwise admissible by
25 a statute or court rule that provides an exception to the objection of
26 hearsay, is admissible in evidence in any criminal, delinquency, or civil
27 proceeding in which a child is alleged to be a victim of child abuse or the

1 subject of a proceeding alleging that a child is neglected or dependent
2 under section 19-1-104 (1) (b), C.R.S., if the conditions of subsection (5)
3 of this section are satisfied.

4 (4) An out-of-court statement made by a person with a AN
5 INTELLECTUAL AND developmental disability, as defined in section
6 ~~27-10.5-102(11)(a)~~ 25.5-10-202 (26) (a), C.R.S., that describes all or part
7 of an offense contained in part 1 of article 3 of title 18, C.R.S., or that
8 describes an act of domestic violence as defined in section 18-6-800.3 (1),
9 C.R.S., not otherwise admissible by statute or court rule that provides an
10 exception to the objection of hearsay, is admissible in evidence in any
11 criminal, delinquency, or civil proceeding if the conditions of subsection
12 (5) of this section are satisfied.

13 **SECTION 24.** In Colorado Revised Statutes, 15-14-310, **amend**
14 (5) (a) introductory portion and (5) (b) as follows:

15 **15-14-310. Who may be guardian - priorities - prohibition of**
16 **dual roles.** (5) (a) Unless the court makes specific findings for good
17 cause shown or the person is a family caregiver as defined in section
18 ~~27-10.5-102(15.5)~~ 25.5-10-202, C.R.S., or the person is a caregiver to an
19 eligible person pursuant to section 25.5-6-1101 (4), C.R.S., the same
20 professional may not act as an incapacitated person's or a protected
21 person's:

22 (b) In addition, a guardian or conservator may not employ the same
23 person to act as both care manager and direct service provider for the
24 incapacitated person or protected person unless the person is a family
25 caregiver as defined in section ~~27-10.5-102(15.5)~~ 25.5-10-202, C.R.S.

26 **SECTION 25.** In Colorado Revised Statutes, 15-14-316, **amend**
27 (4) as follows:

1 **15-14-316. Rights and immunities of guardian - limitations.**

2 (4) A guardian may not initiate the commitment of a ward to a mental
3 health-care institution or facility except in accordance with the state's
4 procedure for involuntary civil commitment. To obtain hospital or
5 institutional care and treatment for mental illness of a ward, a guardian
6 shall proceed as provided under article 65 of title 27, C.R.S. To obtain
7 ~~care and treatment~~ SERVICES AND SUPPORTS from an approved service
8 agency as defined in section ~~27-10.5-102~~ 25.5-10-202, C.R.S., for a ward
9 with INTELLECTUAL AND developmental disabilities, a guardian shall
10 proceed under ~~article 10.5 of title 27~~ ARTICLE 10 OF TITLE 25.5, C.R.S. To
11 obtain care and treatment for alcoholism or substance abuse, a guardian
12 shall proceed as provided under article 80 of title 27, C.R.S. No guardian
13 shall have the authority to consent to any such care or treatment against
14 the will of the ward.

15 **SECTION 26.** In Colorado Revised Statutes, 15-14-413, **amend**
16 (6) (a) introductory portion and (6) (b) as follows:

17 **15-14-413. Who may be conservator - priorities - prohibition**
18 **of dual roles.** (6) (a) Unless the court makes specific findings for good
19 cause shown or the person is a family caregiver as defined in section
20 ~~27-10.5-102~~ (15.5) 25.5-10-202, C.R.S., the same professional may not act
21 as an incapacitated person's or a protected person's:

22 (b) In addition, a guardian or conservator may not employ the same
23 person to act as both care manager and direct service provider for the
24 incapacitated person or protected person unless the person is a family
25 caregiver as defined in section ~~27-10.5-102~~ (15.5) 25.5-10-202, C.R.S.

26 **SECTION 27.** In Colorado Revised Statutes, 16-10-402, **amend**
27 (1) (a) introductory portion as follows:

1 **16-10-402. Use of closed-circuit television - child or witness**
2 **with intellectual and developmental disabilities.** (1) (a) When a witness
3 at the time of a trial is a child less than twelve years of age, or is a person
4 who has a AN INTELLECTUAL AND developmental disability as defined in
5 section ~~27-10.5-102 (11)~~ (a) 25.5-10-202, C.R.S., the court may, upon
6 motion of a party or upon its own motion, order that the witness's
7 testimony be taken in a room other than the courtroom and be televised by
8 closed-circuit television in the courtroom if:

9 **SECTION 28.** In Colorado Revised Statutes, 18-1.3-1104, **amend**
10 (2) as follows:

11 **18-1.3-1104. Evaluation and report.** (2) In ordering an
12 evaluation of the defendant pursuant to subsection (1) of this section, the
13 court shall specify the place where the evaluation is to be conducted and
14 the period of time allocated for the evaluation. In determining the place
15 where the evaluation is to be conducted, the court shall give priority to the
16 place where the defendant is in custody, unless the nature and
17 circumstances of the evaluation requires designation of a different
18 location. The court shall direct one or more psychologists who are
19 recommended by the executive director of the department of ~~human~~
20 ~~services~~ HEALTH CARE POLICY AND FINANCING pursuant to section
21 ~~27-10.5-139~~ 25.5-10-239, C.R.S., or his or her designee, to evaluate the
22 defendant. For good cause shown, upon motion of the prosecution or the
23 defendant or upon the court's own motion, the court may order such
24 further or other evaluation as it deems necessary. Nothing in this section
25 shall abridge the right of the defendant to procure an evaluation as
26 provided in section 18-1.3-1105.

27 **SECTION 29.** In Colorado Revised Statutes, 18-6.5-102, **amend**

1 (3) (d) as follows:

2 **18-6.5-102. Definitions.** As used in this article, unless the context
3 otherwise requires:

4 (3) "Person with a disability" means any person who:

5 (d) ~~Is developmentally disabled~~ A PERSON WITH AN INTELLECTUAL
6 AND DEVELOPMENTAL DISABILITY as defined in section ~~27-10.5-102 (H)~~
7 25.5-10-202, C.R.S.; or

8 **SECTION 30.** In Colorado Revised Statutes, 19-1-103, **amend**
9 (58) as follows:

10 **19-1-103. Definitions.** As used in this title or in the specified
11 portion of this title, unless the context otherwise requires:

12 (58) "Group care facilities and homes" means places other than
13 foster family care homes providing care for small groups of children that
14 are licensed as provided in article 6 of title 26, C.R.S., or meet the
15 requirements of section ~~27-10.5-109~~ 25.5-10-214, C.R.S.

16 **SECTION 31.** In Colorado Revised Statutes, 22-20-107, **amend**
17 (1) as follows:

18 **22-20-107. Authority to contract with institutions of higher**
19 **education or community-centered boards.** (1) An administrative unit
20 may contract with an institution of higher education, or a
21 community-centered board, as provided in section ~~27-10.5-104~~
22 25.5-10-206, C.R.S., for the provision by the administrative unit of an
23 education and training program for children with disabilities. If an
24 agreement is arrived at by the two agencies, the administrative unit shall
25 place the responsibility for administering the program with the director of
26 special education of the administrative unit.

27 **SECTION 32.** In Colorado Revised Statutes, 22-20-118, **amend**

1 (2) (a) as follows:

2 **22-20-118. Child find from birth through two years of age -**
3 **responsibilities - rules - interagency operating agreements - transition**
4 **meetings - funding.** (2) The administrative units shall:

5 (a) Establish local-level interagency operating agreements with
6 community-centered boards, as described in section 27-10.5-102, C.R.S.,
7 as necessary to assist in developing and implementing the department of
8 human services' statewide plan defined in section ~~27-10.5-103~~
9 27-10.5-704, C.R.S., for community education outreach and awareness
10 efforts related to part C child find and the availability of early intervention
11 services. The administrative units' responsibilities shall be limited to those
12 activities that relate to facilitating the implementation of part C child find
13 activities and a collaborative system of early intervention services.

14 **SECTION 33.** In Colorado Revised Statutes, 24-1-119.5, **add** (8)
15 as follows:

16 **24-1-119.5. Department of health care policy and financing -**
17 **creation - repeal.** (8) THE POWERS, DUTIES, AND FUNCTIONS RELATING TO
18 PROGRAMS, SERVICES, AND SUPPORTS FOR PERSONS WITH INTELLECTUAL
19 AND DEVELOPMENTAL DISABILITIES, AS SPECIFIED IN ARTICLE 10 OF TITLE
20 25.5, C.R.S., ARE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE
21 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

22 **SECTION 34.** In Colorado Revised Statutes, 24-103-803, **amend**
23 (2) (d) as follows:

24 **24-103-803. Nonprofit agencies - self-certified vendor list -**
25 **creation.** (2) The department shall accept applications from any nonprofit
26 agency that seeks to become a self-certified vendor to bid on certain
27 services solicitations. In order for a nonprofit agency to become a

1 self-certified vendor, the nonprofit agency shall certify that:

2 (d) The nonprofit agency would be capable of hiring and would
3 employ people to perform any service for which the nonprofit agency bids,
4 and that of those people employed a total of seventy-five percent would
5 be persons with severe disabilities and a minimum of twenty percent
6 would be persons with severe disabilities who have developmental
7 disabilities as defined in section ~~27-10.5-102~~ 25.5-10-202, C.R.S.; and

8 **SECTION 35.** In Colorado Revised Statutes, 24-110-207.5,
9 **amend** (1) (a) as follows:

10 **24-110-207.5. Certification of certain entities as local public**
11 **procurement units - rules - report.** (1) The executive director may
12 certify any of the following entities as a local public procurement unit:

13 (a) Any nonprofit community mental health center, as defined in
14 section 27-66-101, C.R.S., any nonprofit community mental health clinic,
15 as defined in section 27-66-101, C.R.S., any nonprofit
16 community-centered board, as defined in section ~~27-10.5-102~~
17 25.5-10-202, C.R.S., or any nonprofit service agency, as defined in section
18 ~~27-10.5-102~~ 25.5-10-202, C.R.S., if the entity uses the supplies, services,
19 or construction procured for the public mental health system or the public
20 ~~developmentally disabled~~ DEVELOPMENTAL DISABILITY system;

21 **SECTION 36.** In Colorado Revised Statutes, 25-1.5-103, **amend**
22 (1) (a) (I) (A) and (2) (c) as follows:

23 **25-1.5-103. Health facilities - powers and duties of department**
24 **- limitations on rules promulgated by department.** (1) (a) (I) (A) To
25 annually license and to establish and enforce standards for the operation
26 of general hospitals, hospital units as defined in section 25-3-101 (2),
27 psychiatric hospitals, community clinics, rehabilitation hospitals,

1 convalescent centers, community mental health centers, acute treatment
2 units, facilities for persons with INTELLECTUAL AND developmental
3 disabilities, nursing care facilities, hospice care, assisted living residences,
4 dialysis treatment clinics, ambulatory surgical centers, birthing centers,
5 home care agencies, and other facilities of a like nature, except those
6 wholly owned and operated by any governmental unit or agency.

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

9 (c) "Facility for persons with developmental disabilities" means a
10 facility specially designed for the active treatment and habilitation of
11 persons with INTELLECTUAL AND developmental disabilities or a
12 community residential home, as defined in section ~~27-10.5-102~~ (4)
13 25.5-10-202, C.R.S., which is licensed and certified pursuant to section
14 ~~27-10.5-109~~ 25.5-10-214, C.R.S.

15 **SECTION 37.** In Colorado Revised Statutes, 25-1.5-301, **amend**
16 (1) and (2) (h) as follows:

17 **25-1.5-301. Definitions.** As used in this part 3, unless the context
18 otherwise requires:

19 (1) "Administration" means assisting a person in the ingestion,
20 application, inhalation, or, using universal precautions, rectal or vaginal
21 insertion of medication, including prescription drugs, according to the
22 legibly written or printed directions of the attending physician or other
23 authorized practitioner or as written on the prescription label and making
24 a written record thereof with regard to each medication administered,
25 including the time and the amount taken, but "administration" does not
26 include judgment, evaluation, or assessments or the injections of
27 medication, the monitoring of medication, or the self-administration of

1 medication, including prescription drugs and including the self-injection
2 of medication by the resident. "Administration" also means ingestion
3 through gastrostomy tubes or naso-gastric tubes, if administered by an
4 individual A PERSON authorized pursuant to ~~section 27-10.5-103 (2) (k),~~
5 ~~C.R.S.~~, SECTIONS 25.5-10-204 (2) (j) AND 27-10.5-103 (2) (i), C.R.S., as
6 part of residential or day program services provided through service
7 agencies approved by the department of ~~human services~~ HEALTH CARE
8 POLICY AND FINANCING and supervised by a licensed physician or nurse.

9 (2) "Facility" means:

10 (h) All services funded through and regulated by the department
11 of human services pursuant to article 10.5 of title 27, C.R.S., in support of
12 persons with INTELLECTUAL AND developmental disabilities; and

13 **SECTION 38.** In Colorado Revised Statutes, 25-3-102, **amend** (1)
14 (a) as follows:

15 **25-3-102. License - application - issuance - certificate of**
16 **compliance required.** (1) (a) An applicant for a license described in
17 section 25-3-101 shall apply to the department of public health and
18 environment annually upon such form and in such manner as prescribed
19 by the department; except that a community residential home shall make
20 application for a license pursuant to section ~~27-10.5-109~~ 25.5-10-214,
21 C.R.S.

22 **SECTION 39.** In Colorado Revised Statutes, 25-27.5-102, **amend**
23 (1.5) and (6.7) as follows:

24 **25-27.5-102. Definitions.** As used in this article, unless the context
25 otherwise requires:

26 (1.5) "Community-centered board" has the meaning set forth in
27 section ~~27-10.5-102~~ 25.5-10-202, C.R.S.

1 (6.7) "Service agency" has the meaning set forth in section
2 ~~27-10.5-102~~ 25.5-10-202, C.R.S.

3 **SECTION 40.** In Colorado Revised Statutes, 25-27.5-103, **amend**
4 (1.5) (a) (I) as follows:

5 **25-27.5-103. License required - civil and criminal penalties.**

6 (1.5) (a) Notwithstanding any provision of law to the contrary, by March
7 1, 2011, the following providers of skilled home health services or
8 in-home personal care services shall apply for licensure as a home care
9 agency to the department:

10 (I) Community-centered boards designated pursuant to section
11 ~~27-10.5-105~~ 25.5-10-209, C.R.S.; and

12 **SECTION 41.** In Colorado Revised Statutes, 25.5-1-201, **amend**
13 (1) (e) and (1) (f); and **add** (1) (g) as follows:

14 **25.5-1-201. Programs to be administered by the department of**
15 **health care policy and financing.** (1) Programs to be administered and
16 functions to be performed by the department of health care policy and
17 financing shall be as follows:

18 (e) The "Children's Basic Health Plan Act", as specified in article
19 8 of this title; and

20 (f) The old age pension health and medical care program, as
21 specified in section 25.5-2-101; AND

22 (g) PROGRAMS, SERVICES, AND SUPPORTS FOR PERSONS WITH
23 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AS SPECIFIED IN
24 ARTICLE 10 OF THIS TITLE.

25 **SECTION 42.** In Colorado Revised Statutes, 25.5-1-303, **add** (1)
26 (f) and (9) as follows:

27 **25.5-1-303. Powers and duties of the board - scope of authority**

1 - **rules.** (1) The board shall have the authority set forth in subsection (3)
2 of this section over the following programs administered by the state
3 department:

4 (f) PROGRAMS, SERVICES, AND SUPPORTS FOR PERSONS WITH
5 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AS SPECIFIED IN
6 ARTICLE 10 OF THIS TITLE.

7 (9) THE RULES AND ORDERS OF THE DEPARTMENT OF HUMAN
8 SERVICES AND THE STATE BOARD OF HUMAN SERVICES IN CONNECTION
9 WITH THE PROGRAMS, SERVICES, AND SUPPORTS SPECIFIED IN PARAGRAPH
10 (f) OF SUBSECTION (1) OF THIS SECTION SHALL CONTINUE TO BE EFFECTIVE
11 UNTIL REVISED, AMENDED, REPEALED, OR NULLIFIED PURSUANT TO LAW.

12 **SECTION 43.** In Colorado Revised Statutes, 25.5-4-103, **amend**
13 (3), (9) introductory portion, and (9) (a) as follows:

14 **25.5-4-103. Definitions.** As used in this article and articles 5 and
15 6 of this title, unless the context otherwise requires:

16 (3) "Case management services" means services provided by
17 community-centered boards, as defined by section ~~27-10.5-102(3)~~, C.R.S.
18 25.5-10-202, and community mental health centers and community mental
19 health clinics, as defined by section 27-66-101, C.R.S., to assist
20 ~~developmentally disabled~~ persons WITH INTELLECTUAL AND
21 DEVELOPMENTAL DISABILITIES, as defined by section ~~27-10.5-102(11)~~,
22 ~~C.R.S.~~ 25.5-10-202, and persons with mental illness, as defined by section
23 27-65-102 (14), C.R.S., by case management agencies, as defined in
24 section 25.5-6-303 (5), providing services, as defined in sections
25 25.5-6-104 (2) (b) and 25.5-6-303 (6), to PERSONS WHO ARE elderly, blind,
26 and disabled persons and long-term care clients, in gaining access to
27 needed medical, social, educational, and other services.

1 (9) "Intermediate nursing facility for ~~the mentally retarded~~
2 PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES" means
3 a tax-supported, state-administered intermediate nursing facility, or a
4 distinct part of such facility, which meets the state nursing home licensing
5 standards set forth in section 25-1.5-103 (1) (a) (I), C.R.S., and the
6 requirements in 42 U.S.C. sec. 1396d and which:

7 (a) Is maintained primarily to provide health-related care on a
8 regular basis for ~~the mentally retarded~~ or for persons with INTELLECTUAL
9 AND developmental disabilities, as defined in section 27-10.5-102 (11),
10 C.R.S., AND SECTION 25.5-10-202, C.R.S., who do not require the degree
11 of ~~care and treatment which~~ SERVICES AND SUPPORTS THAT a hospital or
12 skilled nursing facility can provide but who, because of their mental or
13 physical condition, require care and services above the level of room and
14 board, which can be made available only through institutional facilities;
15 and

16 **SECTION 44.** In Colorado Revised Statutes, 25.5-5-306, **amend**
17 (1) as follows:

18 **25.5-5-306. Residential child health care - waiver - program -**
19 **rules.** (1) The state department, in cooperation with the department of
20 human services, shall implement a program concerning residential child
21 health care under this article and articles 4 and 6 of this title to provide
22 services pursuant to article 67 of title 27, C.R.S., to medicaid-eligible
23 children residing in residential child care facilities, as that term is defined
24 in section 26-6-102 (8), C.R.S., to medicaid-eligible children residing in
25 psychiatric residential treatment facilities, and children placed by the
26 department of human services or through county departments of social
27 services in licensed or certified out-of-home placement facilities. Children

1 with INTELLECTUAL AND developmental disabilities, as defined in section
2 ~~27-10.5-102 (11), C.R.S.~~ 25.5-10-202, who are placed in such facilities
3 shall meet the out-of-home placement criteria described in section
4 19-1-107, C.R.S., and shall be neglected or dependent as described in
5 section 19-3-102, C.R.S. The state board shall establish the type of
6 rehabilitative or medical assistance services to be provided under the
7 program as described in subsection (3) of this section, to the extent such
8 services are cost-efficient, and the recipient eligibility criteria that may
9 include, but are not limited to, a medical necessity determination and a
10 financial eligibility determination. The state board shall define in rule the
11 staff permitted to order, monitor, and assess seclusion and restraint in
12 psychiatric residential treatment facilities, and the corresponding
13 restrictions on the use of seclusion and restraint.

14 **SECTION 45.** In Colorado Revised Statutes, 25.5-6-204, **amend**
15 (1) (b), (1) (c) (I), and (1) (c) (II) as follows:

16 **25.5-6-204. Providers - reimbursement - intermediate care**
17 **facility for persons with intellectual disabilities - reimbursement -**
18 **maximum allowable.** (1) (b) State-operated intermediate care facilities
19 for ~~the mentally retarded~~ INDIVIDUALS WITH INTELLECTUAL DISABILITIES
20 shall be reimbursed based on the actual costs of administration, property,
21 including capital-related assets, and room and board, and the actual costs
22 of providing health care services, and such costs shall be projected by
23 such facilities and submitted to the state department by July 1 of each year
24 for the ensuing twelve-month period. Reimbursement to state-operated
25 intermediate care facilities for ~~the mentally retarded~~ INDIVIDUALS WITH
26 INTELLECTUAL DISABILITIES shall be adjusted retrospectively at the close
27 of each twelve-month period. The state board shall adopt rules to be

1 effective by June 30, 1988, implementing the provisions of this paragraph
2 (b). In the implementation of such rules, the state department shall ensure,
3 by the establishment of classes of facilities, that the reimbursement to
4 private, nonprofit, or proprietary state-operated intermediate care facilities
5 for ~~the mentally retarded or developmentally disabled~~ INDIVIDUALS WITH
6 INTELLECTUAL DISABILITIES, as defined in section ~~27-10.5-102 (11)~~;
7 ~~C.R.S.~~ 25.5-10-202, is not adversely impacted.

8 (c) (I) Beginning in fiscal year 2003-04, and for each fiscal year
9 thereafter, the STATE department of ~~human services~~ is authorized to charge
10 both privately owned intermediate care facilities for ~~the mentally retarded~~
11 INDIVIDUALS WITH INTELLECTUAL DISABILITIES and state-operated
12 intermediate care facilities for ~~the mentally retarded~~ INDIVIDUALS WITH
13 INTELLECTUAL DISABILITIES a service fee for the purposes of maintaining
14 the quality and continuity of services provided by intermediate care
15 facilities for ~~the mentally retarded~~ INDIVIDUALS WITH INTELLECTUAL
16 DISABILITIES. The service fee charged by the STATE department of ~~human~~
17 ~~services~~ pursuant to this paragraph (c) shall not exceed five percent of the
18 costs incurred by each intermediate care facility for the fiscal year in
19 which the service fee is charged. The state board of ~~human services~~ shall
20 adopt rules consistent with federal law in order to implement the
21 provisions of this paragraph (c).

22 (II) The moneys collected in each fiscal year pursuant to
23 subparagraph (I) of this paragraph (c) shall be transmitted by the STATE
24 department of ~~human services~~ to the state treasurer, who shall credit the
25 same to the service fee fund, which fund is hereby created and referred to
26 in this paragraph (c) as the "fund". The moneys in the fund shall be subject
27 to annual appropriation by the general assembly to the state department to

1 be used toward the state match for the federal financial participation to
2 reimburse intermediate care facilities for ~~the mentally retarded~~
3 INDIVIDUALS WITH INTELLECTUAL DISABILITIES pursuant to this section.
4 Any unexpended and unencumbered moneys remaining in the fund at the
5 end of any fiscal year shall remain in the fund and not be credited or
6 transferred to the general fund or any other fund.

7 **SECTION 46.** In Colorado Revised Statutes, 25.5-6-403, **amend**
8 (1), (3), (5) (a) introductory portion, (5) (a) (II), and (5) (b) as follows:

9 **25.5-6-403. Definitions.** As used in this part 4, unless the context
10 otherwise requires:

11 (1) "Developmentally disabled person" means a person with a AN
12 INTELLECTUAL AND developmental disability as defined in section
13 ~~27-10.5-102, C.R.S.~~ 25.5-10-202.

14 (3) "In-home services" means those services described in section
15 ~~27-10.5-406, C.R.S.~~ 25.5-10-205 provided to support ~~individuals~~ PERSONS
16 living with their family.

17 (5) (a) "Services for persons with INTELLECTUAL AND
18 developmental disabilities" means those services:

19 (II) Necessary to prevent a person, eligible for services under
20 subsection (2) of this section, from being subjected to placement in an
21 intermediate care facility for ~~the mentally retarded~~ INDIVIDUALS WITH
22 INTELLECTUAL DISABILITIES.

23 (b) "Services for ~~the developmentally disabled~~ PERSONS WITH
24 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES" includes, but is not
25 limited to, social, habilitative, remedial, residential, health services, and
26 services provided under the consumer-directed care service model, part 11
27 of this article, which shall include the selection, from a list of qualified

1 entities, of an organization of the eligible person's choice to provide
2 financial management services for the eligible person.

3 **SECTION 47.** In Colorado Revised Statutes, 25.5-6-409, **amend**
4 (1) and (4) introductory portion as follows:

5 **25.5-6-409. Services for persons with intellectual and**
6 **developmental disabilities.** (1) A program to provide home- and
7 community-based services to persons with **INTELLECTUAL AND**
8 developmental disabilities who are in need of the level of care available
9 in an intermediate care facility for ~~the mentally retarded~~ INDIVIDUALS
10 WITH INTELLECTUAL DISABILITIES is hereby established pursuant to the
11 federal "Social Security Act", as amended. This program shall provide for
12 the social, habilitative, remedial, residential, health, and other needs of
13 persons with INTELLECTUAL AND developmental disabilities to avoid
14 placement in an intermediate care facility for ~~the mentally retarded~~
15 INDIVIDUALS WITH INTELLECTUAL DISABILITIES.

16 (4) Any services for ~~the developmentally disabled~~ PERSONS WITH
17 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES provided through this
18 program shall be set forth in a plan of care developed and managed by a
19 community-centered board and subject to review and approval pursuant
20 to section 25.5-6-404. The plan of care shall:

21 **SECTION 48.** In Colorado Revised Statutes, 26-1-201, **amend** (1)
22 (y) as follows:

23 **26-1-201. Programs administered - services provided -**
24 **department of human services.** (1) This section specifies the programs
25 to be administered and the services to be provided by the department of
26 human services. These programs and services include the following:

27 (y) Programs, ~~for the care and treatment of the developmentally~~

1 ~~disabled~~ SERVICES, AND SUPPORTS FOR PERSONS WITH INTELLECTUAL AND
2 DEVELOPMENTAL DISABILITIES, as specified in article 10.5 of title 27,
3 C.R.S.;

4 **SECTION 49.** In Colorado Revised Statutes, 26-2-122.3, **amend**
5 (1) (a) (I) as follows:

6 **26-2-122.3. Adult foster care and home care allowance.**

7 (1) (a) (I) The state department, subject to available appropriations, may
8 provide adult foster care for persons eligible to receive old age pension,
9 aid to the needy disabled, or aid to the blind. For purposes of this
10 paragraph (a), "adult foster care" means care and services that, in addition
11 to room and board, may include, but are not limited to, personal services,
12 recreational opportunities, transportation, utilization of volunteer services,
13 and special diets. Such care and services are provided to recipients of
14 federal supplemental security income benefits who are also eligible for the
15 Colorado supplement program for aid to the needy disabled or aid to the
16 blind and who do not require skilled nursing care or intermediate health
17 care and cannot remain in or return to their residences but who need to
18 reside in a supervised nonmedical setting on a twenty-four-hour basis.
19 Those persons with INTELLECTUAL AND developmental disabilities as
20 defined in section ~~27-10.5-102~~ 25.5-10-202, C.R.S., or who are receiving
21 or are eligible to receive services pursuant to ARTICLE 10 OF TITLE 25.5,
22 C.R.S., OR any provision of title 27, C.R.S., do not qualify for adult foster
23 care under this paragraph (a).

24 **SECTION 50.** In Colorado Revised Statutes, 27-10.5-702, **amend**
25 (3) as follows:

26 **27-10.5-702. Definitions.** As used in this part 7, unless the context
27 otherwise requires:

1 (3) "Certified early intervention service broker" or "broker" means
2 a community-centered board or other entity designated by the department
3 OF HEALTH CARE POLICY AND FINANCING PURSUANT TO SECTION
4 25.5-10-108, C.R.S., to perform the duties and functions specified in
5 section 27-10.5-708 in a particular designated service area.
6 Notwithstanding the provisions of section 27-10.5-104 (4), if the
7 department OF HEALTH CARE POLICY AND FINANCING is unable to designate
8 a community-centered board or other entity to serve as the broker for a
9 particular designated service area, the ■ department shall serve as the
10 broker for the designated service area and may contract directly with early
11 intervention service providers to provide early intervention services to
12 eligible children in the designated service area.

13 **SECTION 51.** In Colorado Revised Statutes, 30-28-115, **amend**
14 (2) (a) as follows:

15 **30-28-115. Public welfare to be promoted - legislative**
16 **declaration - construction.** (2) (a) The general assembly hereby finds
17 and declares that it is the policy of the state to assist ~~developmentally~~
18 ~~disabled~~ persons WHO HAVE AN INTELLECTUAL AND DEVELOPMENTAL
19 DISABILITY to live in ~~normal~~ TYPICAL residential surroundings. Further, the
20 general assembly declares that the establishment of state-licensed group
21 homes for the exclusive use of ~~developmentally disabled~~ persons WITH
22 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, which are known as
23 community residential homes as defined in section ~~27-10.5-102 (4)~~
24 25.5-10-202, C.R.S., is a matter of statewide concern and that a
25 state-licensed group home for eight ~~developmentally disabled~~ persons
26 WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES is a residential
27 use of property for zoning purposes. The phrase "residential use of

1 property for zoning purposes", as used in this subsection (2), includes all
2 forms of residential zoning and specifically, although not exclusively,
3 single-family residential zoning. ~~"Developmentally disabled"~~ AS USED in
4 this section, ~~means a "person with a developmental disability" as defined~~
5 ~~in~~ HAS THE SAME MEANING AS A "PERSON WITH AN INTELLECTUAL AND
6 DEVELOPMENTAL DISABILITY AS SET FORTH IN section ~~27-10.5-102~~
7 25.5-10-202, C.R.S.

8 **SECTION 52.** In Colorado Revised Statutes, 31-23-303, **amend**
9 (2) (a) as follows:

10 **31-23-303. Legislative declaration.** (2) (a) The general assembly
11 declares that the establishment of state-licensed group homes for the
12 exclusive use of ~~developmentally disabled~~ persons WITH INTELLECTUAL
13 AND DEVELOPMENTAL DISABILITIES, which HOMES are known as
14 community residential homes as defined in section ~~27-10.5-102 (4)~~
15 25.5-10-202, C.R.S., is a matter of statewide concern and that a
16 state-licensed group home for eight ~~developmentally disabled~~ persons
17 WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES is a residential
18 use of property for zoning purposes. As used in this subsection (2), the
19 phrase "residential use of property for zoning purposes" includes all forms
20 of residential zoning and specifically, although not exclusively,
21 single-family residential zoning. ~~"Developmentally disabled"~~ AS USED in
22 this section, ~~means a person with a developmental disability as defined~~
23 "PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES" HAS
24 THE SAME MEANING AS SET FORTH in section ~~27-10.5-102~~, 25.5-10-202,
25 C.R.S.

26 **SECTION 53.** In Colorado Revised Statutes, 39-3.7-101, **amend**
27 (1.5) as follows:

1 **39-3.7-101. Definitions.** As used in this article, unless the context
2 otherwise requires:

3 (1.5) "Person with a disability" means any ~~individual~~ PERSON with
4 a physical impairment ~~and~~ OR AN INTELLECTUAL AND developmental
5 disability as defined in section ~~27-10.5-102 (11) (a) or mental retardation~~
6 ~~that substantially limits one or more of the major life activities of the~~
7 ~~individual~~ 25.5-10-202, C.R.S.

8 **SECTION 54.** In Colorado Revised Statutes, 39-22-530, **amend**
9 (1) (b) and (1) (c) as follows:

10 **39-22-530. Credit for employers that hire persons with**
11 **developmental disabilities - definitions.** (1) As used in this section,
12 unless the context otherwise requires:

13 (b) "Developmental disability" ~~shall have~~ HAS the same meaning
14 as "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" AS set forth in
15 section ~~27-10.5-102 (11) (a)~~ 25.5-10-202, C.R.S., and in the rules adopted
16 by the department of ~~human services~~ HEALTH CARE POLICY AND
17 FINANCING pursuant to section ~~27-10.5-103 (2)~~ 25.5-10-204 (2), C.R.S.

18 (c) "Person with a developmental disability" ~~shall have~~ HAS the
19 same meaning as "PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL
20 DISABILITY" AS set forth in section ~~27-10.5-102 (11) (b)~~ 25.5-10-202,
21 C.R.S.

22 **SECTION 55. Effective date.** (1) Except as provided in
23 subsection (2) of this section, this act takes effect March 1, 2014.

24 (2) Section 1 of the bill takes effect July 1, 2013.

25 **SECTION 56. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.