

Second Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

**PREAMENDED**

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

LLS NO. 14-0292.01 Christy Chase x2008

**HOUSE BILL 14-1360**

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**HOUSE SPONSORSHIP**

**Young,** Ginal, Primavera, Schafer, Singer

**SENATE SPONSORSHIP**

**Aguilar,**

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**House Committees**

Public Health Care & Human Services  
Finance

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE CONTINUATION OF THE REGULATION OF HOME CARE**  
102 **AGENCIES BY THE DEPARTMENT OF PUBLIC HEALTH AND**  
103 **ENVIRONMENT, AND, IN CONNECTION THEREWITH,**  
104 **IMPLEMENTING THE RECOMMENDATIONS OF THE 2013 SUNSET**  
105 **REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES, AS**  
106 **MODIFIED BY THE LEGISLATIVE SUNSET COMMITTEE.**

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**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>.)*

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.

**Sunset Process - House Public Health Care and Human Services.** The bill implements the recommendations contained in the department of regulatory agencies' sunset report on the regulation of home care agencies and home care placement agencies by the Colorado department of public health and environment (department), as modified by the house public health care and human services committee (sunset committee) during the sunset hearing, by:

- ! Continuing the department's licensure of home care agencies for 5 years, until 2019;
- ! Clarifying that owners and managers or administrators must obtain a criminal history record check with respect to an application for a home care agency license or home care placement agency registration, and, in connection therewith, defining "owner", "manager" and "administrator";
- ! Excluding from the definition of "home care agency" a program of all-inclusive care for the elderly (PACE) that is regulated by the department of health care policy and financing, but specifying the department's regulatory authority over PACE providers that furnish PACE home care services;
- ! Identifying which convictions may serve as a basis for a home care agency's or a home care placement agency's denial of employment or a referral of a provider and directing the state board of health (state board) to promulgate rules to provide factors for the agencies to consider in determining whether a conviction for an offense should disqualify a provider;
- ! Directing the state board to promulgate rules requiring home care placement agencies to retain their records for inspection by the department and to set fees for home care placement agency registration to cover the direct and indirect costs of the department's oversight of home care placement agencies; and
- ! Authorizing the department to inspect home care placement agencies' records and to remove a home care placement agency from the registry if the inspection reveals that the agency is noncompliant with the statutory requirements connected to the agency's registration.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-27.5-102, **amend**

1 (1.5), (3) (b) (VIII), (3) (b) (IX), (4), and (6.7); and **add** (1.3), (3) (b) (X),  
2 (5.3), (5.5), and (5.7) as follows:

3 **25-27.5-102. Definitions.** As used in this article, unless the  
4 context otherwise requires:

5 (1.3) "CMS" MEANS THE FEDERAL CENTERS FOR MEDICARE AND  
6 MEDICAID SERVICES IN THE UNITED STATES DEPARTMENT OF HEALTH AND  
7 HUMAN SERVICES.

8 (1.5) "Community-centered board" ~~has the meaning set forth~~  
9 MEANS A COMMUNITY-CENTERED BOARD, AS DEFINED in section  
10 25.5-10-202, C.R.S., THAT IS DESIGNATED PURSUANT TO SECTION  
11 25.5-10-209, C.R.S., BY THE DEPARTMENT OF HEALTH CARE POLICY AND  
12 FINANCING.

13 (3) (b) "Home care agency" does not include:

14 (VIII) A home care placement agency as defined in subsection (5)  
15 of this section; ~~or~~

16 (IX) Services provided by a qualified early intervention service  
17 provider and overseen jointly by the department of education and the  
18 department of human services; OR

19 (X) A PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY  
20 ESTABLISHED IN SECTION 25.5-5-412, C.R.S., AND REGULATED BY THE  
21 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND THE CMS;  
22 EXCEPT THAT PACE HOME CARE SERVICES ARE SUBJECT TO REGULATION  
23 IN ACCORDANCE WITH 25-27.5-104 (4).

24 (4) "Home care consumer" means a person who receives skilled  
25 home health services or personal care services in his or her temporary or  
26 permanent home or place of residence from a home care agency or FROM  
27 A PROVIDER REFERRED BY A home care placement agency.

1 (5.3) "MANAGER" OR "ADMINISTRATOR" MEANS ANY PERSON WHO  
2 CONTROLS AND SUPERVISES OR OFFERS OR ATTEMPTS TO CONTROL AND  
3 SUPERVISE THE DAY-TO-DAY OPERATIONS OF A HOME CARE AGENCY OR  
4 HOME CARE PLACEMENT AGENCY.

5 (5.5) "OWNER" MEANS A SHAREHOLDER IN A FOR-PROFIT OR  
6 NONPROFIT CORPORATION, A PARTNER IN A PARTNERSHIP OR LIMITED  
7 PARTNERSHIP, MEMBER IN A LIMITED LIABILITY COMPANY, A SOLE  
8 PROPRIETOR, OR A PERSON WITH A SIMILAR INTEREST IN AN ENTITY, WHO  
9 HAS AT LEAST A FIFTY-PERCENT OWNERSHIP INTEREST IN THE BUSINESS  
10 ENTITY.

11 [REDACTED]

12 [REDACTED]

13 (5.7) "PACE HOME CARE SERVICES" MEANS SKILLED HOME  
14 HEALTH SERVICES OR PERSONAL CARE SERVICES:

15 (a) OFFERED AS PART OF A COMPREHENSIVE SET OF MEDICAL AND  
16 NONMEDICAL BENEFITS, INCLUDING PRIMARY CARE, DAY SERVICES, AND  
17 INTERDISCIPLINARY TEAM CARE PLANNING AND MANAGEMENT, BY PACE  
18 PROVIDERS TO AN ENROLLED PARTICIPANT IN THE PROGRAM OF  
19 ALL-INCLUSIVE CARE FOR THE ELDERLY ESTABLISHED IN SECTION  
20 25.5-5-412, C.R.S., AND REGULATED BY THE DEPARTMENT OF HEALTH  
21 CARE POLICY AND FINANCING AND THE CMS; AND

22 (b) PROVIDED IN THE ENROLLED PARTICIPANT'S TEMPORARY OR  
23 PERMANENT PLACE OF RESIDENCE.

24 (6.7) "Service agency" ~~has the meaning set forth~~ MEANS A SERVICE  
25 AGENCY, AS DEFINED IN SECTION 25.5-10-202, C.R.S., THAT HAS RECEIVED  
26 PROGRAM APPROVAL FROM THE DEPARTMENT OF HEALTH CARE POLICY  
27 AND FINANCING AS A DEVELOPMENTAL DISABILITIES SERVICE AGENCY

1 UNDER RULES PROMULGATED BY THE MEDICAL SERVICES BOARD AND IS  
2 PROVIDING SERVICES PURSUANT TO THE SUPPORTED LIVING SERVICES  
3 WAIVER OR THE CHILDREN'S EXTENSIVE SUPPORT WAIVER OF THE HOME-  
4 AND COMMUNITY-BASED SERVICES WAIVERS ADMINISTERED BY THE  
5 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING UNDER PART 4 OF  
6 ARTICLE 6 OF TITLE 25.5, C.R.S.

7 **SECTION 2.** In Colorado Revised Statutes, 25-27.5-103, **amend**  
8 (1.5) and (2) as follows:

9 **25-27.5-103. Home care agency license required - home care**  
10 **placement agency registration required - civil and criminal penalties.**

11 ~~(1.5) (a) Notwithstanding any provision of law to the contrary, by March~~  
12 ~~1, 2011, the following providers of skilled home health services or~~  
13 ~~in-home personal care services shall apply for licensure as a home care~~  
14 ~~agency to the department:~~

15 ~~(I) Community-centered boards designated pursuant to section~~  
16 ~~25.5-10-209, C.R.S.; and~~

17 ~~(II) Service agencies that have received program approval from~~  
18 ~~the department of human services as a developmental disabilities service~~  
19 ~~agency under rules promulgated by the department of human services that~~  
20 ~~are providing services pursuant to the supported living services waiver or~~  
21 ~~the children's extensive support waiver of the home- and~~  
22 ~~community-based services waivers administered by the department of~~  
23 ~~health care policy and financing and the department of human services~~  
24 ~~under part 4 of article 6 of title 25.5, C.R.S.~~

25 ~~(b) On or after September 1, 2011, It is unlawful for any~~  
26 ~~community centered A COMMUNITY-CENTERED board that is directly~~  
27 ~~providing home care services or any A service agency as described in~~

1 ~~paragraph (a) of this subsection (1.5)~~, to conduct or maintain a home care  
2 agency that provides ~~skilled home health services or in-home personal~~  
3 care services without having obtained a license ~~therefor~~ from the  
4 department. Any person who violates this ~~provision~~ SUBSECTION (1.5) is  
5 guilty of a misdemeanor and is subject to the civil and criminal penalties  
6 described in paragraphs (a) and (b) of subsection (1) of this section.  
7 Nothing in this section relieves an entity that contracts or arranges with  
8 a ~~community centered~~ COMMUNITY-CENTERED board or service agency  
9 and that meets the definition of a "home care agency" ~~under section~~  
10 ~~25-27.5-102~~, from the entity's obligation to apply for and operate under  
11 a license in accordance with this article.

12 (2) (a) (I) On or after June 1, 2009, ~~any home care placement~~  
13 ~~agency shall notify the department in writing that it provides referrals for~~  
14 ~~skilled home health services or personal care services and shall annually~~  
15 ~~update such notice.~~ 2015, IT IS UNLAWFUL FOR A PERSON TO CONDUCT OR  
16 MAINTAIN A HOME CARE PLACEMENT AGENCY UNLESS THE PERSON HAS  
17 SUBMITTED A COMPLETED APPLICATION FOR REGISTRATION AS A HOME  
18 CARE PLACEMENT AGENCY TO THE DEPARTMENT, INCLUDING EVIDENCE OF  
19 GENERAL LIABILITY INSURANCE COVERAGE AS REQUIRED IN  
20 SUBPARAGRAPH (II) OF THIS PARAGRAPH (a). ON OR AFTER JANUARY 1,  
21 2016, IT IS UNLAWFUL FOR A PERSON TO CONDUCT OR MAINTAIN A HOME  
22 CARE PLACEMENT AGENCY WITHOUT A VALID, CURRENT HOME CARE  
23 PLACEMENT AGENCY REGISTRATION ISSUED BY THE DEPARTMENT. The  
24 department shall maintain a ~~list~~ REGISTRY of all REGISTERED home care  
25 placement agencies and shall make the ~~list~~ REGISTRY accessible to the  
26 public. WHILE A HOME CARE PLACEMENT AGENCY MUST BE REGISTERED  
27 BY THE DEPARTMENT, a home care placement agency is not licensed or

1 certified by the department and shall not claim or assert that the  
2 department licenses or certifies the home care placement agency.

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

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

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

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

21 (II) May be subject to a civil penalty assessed by the department  
22 ~~that is not less than five hundred dollars per year or more than one~~  
23 ~~thousand dollars per year for failure to register with the department or for~~  
24 ~~claiming to be licensed or certified by the department~~ OF UP TO TEN  
25 THOUSAND DOLLARS FOR EACH VIOLATION. The department shall assess,  
26 enforce, and collect the penalty in accordance with article 4 of title 24,  
27 C.R.S. Any moneys THE DEPARTMENT SHALL TRANSFER ANY PENALTIES

1 ~~collected shall be deposited~~ IT COLLECTS TO THE STATE TREASURER FOR  
2 DEPOSIT in the home care agency cash fund created in section  
3 25-27.5-105.

4 **SECTION 3.** In Colorado Revised Statutes, 25-27.5-104, **amend**  
5 (1) introductory portion, (1) (c), (1) (g), and (1) (h); and **add** (1) (i), (1)  
6 (j), (1) (k), (1) (l), and (4) as follows:

7 **25-27.5-104. Minimum standards for home care agencies and**  
8 **home care placement agencies - rules - advisory committee.** (1) The  
9 state board shall promulgate rules pursuant to section 24-4-103, C.R.S.,  
10 providing minimum standards for the operation of home care agencies  
11 ~~AND HOME CARE PLACEMENT AGENCIES~~ within the state of Colorado ~~THAT~~  
12 ~~APPLY REGARDLESS OF THE SOURCE OF PAYMENT FOR THE HOME CARE~~  
13 ~~SERVICES OR THE DIAGNOSIS OF THE HOME CARE CONSUMER.~~ In  
14 promulgating these rules, the state board shall establish different  
15 requirements appropriate to the various types of skilled home health and  
16 personal care services, including differentiating requirements for  
17 providers that are substantially funded through medicare and medicaid  
18 reimbursement, providers for the program of all-inclusive care for the  
19 elderly established in section 25.5-5-412, C.R.S., providers that are  
20 already licensed under this title, and providers that are solely or  
21 substantially privately funded. This differentiation ~~shall consider~~ MUST  
22 INCLUDE CONSIDERATION OF the requirements already imposed by other  
23 federal and state regulatory agencies, ~~shall~~ MUST require the department  
24 of health care policy and financing and the department of ~~public health~~  
25 ~~and environment~~ to work jointly to resolve differing requirements. ~~and~~  
26 ~~shall only regulate a provider for the program of all-inclusive care for the~~  
27 ~~elderly consistent with the federal requirements established for the~~



1 provider pursuant to a three-way agreement between the provider, the  
2 centers of medicare and medicaid services, and the department of health  
3 care policy and financing; except that the department may require  
4 additional information from the provider with regard to reporting  
5 instances of abuse. Such THE rules must include the following:

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

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

16 (II) THAT THE HOME CARE PLACEMENT AGENCY DOES NOT DIRECT,  
17 CONTROL, SCHEDULE, OR TRAIN ANY PROVIDER IT REFERS;

18 (g) (I) Fees for home care agency licensure, which shall not  
19 CANNOT exceed one thousand five hundred dollars per year for two years  
20 from AFTER the effective date of fees established by rule for home care  
21 agencies that are certified providers through the federal centers for  
22 medicare and medicaid services or the Colorado department of health care  
23 policy and financing. Home care agency fees shall be ARE payable to the  
24 home care agency cash fund. The annual fee shall MUST include a  
25 component that reflects whether a survey is planned for the year based on  
26 the agency's compliance history. The STATE BOARD SHALL ESTABLISH A  
27 TIERED fee schedule shall also be tiered to reflect the differences in type

1 and volume of services of various home care agencies, including but not  
2 limited to their volume of medicaid and medicare services, The fee  
3 schedule shall also provide AND THAT ALLOWS for reduced fees for home  
4 care agencies that are certified prior to initial license application. The  
5 department of public health and environment shall not charge a duplicate  
6 fee for survey work conducted pursuant to its role as state survey agency  
7 for the federal centers for medicare and medicaid services or the Colorado  
8 department of health care policy and financing. No later than January 1,  
9 2011, the department of public health and environment shall issue an  
10 independent report detailing the direct and indirect costs associated with  
11 the administration of home care agency licensure.

12 (II) WITH REGARD TO HOME CARE LICENSURE FEES, IN ADDITION  
13 TO THE REQUIREMENTS IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (g), THE  
14 STATE BOARD SHALL DEVELOP A METHODOLOGY FOR ESTABLISHING  
15 DIFFERENTIATING FEES FOR LICENSURE OF COMMUNITY-CENTERED BOARDS  
16 AND SERVICES AGENCIES, CONSIDERING THE SCOPE OF SERVICES PROVIDED  
17 UNDER LICENSURE. NOTWITHSTANDING SECTION 25-3-105 (1) (a) (I) (B),  
18 THE STATE BOARD MAY SET AND ADJUST LICENSURE FEES FOR  
19 COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES AS APPROPRIATE.

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

26 (i) PURSUANT TO SECTION 25-27.5-107 (2), FACTORS FOR HOME  
27 CARE AGENCIES AND HOME CARE PLACEMENT AGENCIES TO CONSIDER

1 WHEN DETERMINING WHETHER AN APPLICANT'S CONVICTION OF OR PLEA  
2 OF GUILTY OR NOLO CONTENDERE TO AN OFFENSE OTHER THAN AN  
3 OFFENSE LISTED IN SECTION 25-27.5-107 (2) (a) DISQUALIFIES THE  
4 APPLICANT FROM EMPLOYMENT OR A REFERRAL. THE STATE BOARD MAY  
5 DETERMINE WHICH OFFENSES REQUIRE CONSIDERATION OF THE FACTORS.

6 (j) RULES CONCERNING THE DISQUALIFYING CRIMES LISTED IN  
7 SECTION 25-27.5-107 (2) (a);

8 (k) REQUIREMENTS FOR HOME CARE PLACEMENT AGENCIES TO  
9 RETAIN THEIR RECORDS FOR A LENGTH OF TIME DETERMINED BY THE  
10 STATE BOARD TO BE AVAILABLE FOR INSPECTION BY THE DEPARTMENT  
11 PURSUANT TO SECTION 25-27.5-106 (8); AND

12 (l) FEES FOR THE REGISTRATION OF HOME CARE PLACEMENT  
13 AGENCIES TO COVER THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH  
14 IMPLEMENTING THE DEPARTMENT'S OVERSIGHT OF HOME CARE  
15 PLACEMENT AGENCIES.

16 (4) THE DEPARTMENT SHALL REGULATE A PROVIDER OF PACE  
17 HOME CARE SERVICES FOR MINIMUM STANDARDS FOR THE OPERATION OF  
18 HOME CARE AGENCIES AS FOLLOWS:

19 (a) FOR A PACE PROVIDER THAT SERVES ONLY MEDICAID OR  
20 MEDICARE CLIENTS, IF A FULL FEDERAL RECERTIFICATION SURVEY  
21 REQUIRED BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING  
22 IS CONDUCTED AT LEAST EVERY THREE YEARS, THE DEPARTMENT SHALL  
23 ACCEPT THE FEDERAL RECERTIFICATION SURVEY IN LIEU OF A SEPARATE  
24 SURVEY FOR RELICENSURE;

25 (b) THE DEPARTMENT SHALL NOT IMPOSE ANY REQUIREMENT ON  
26 A PACE PROVIDER THAT IS MORE STRINGENT THAN THE FEDERAL AND  
27 STATE MEDICAID PACE REGULATIONS, THE THREE-WAY AGREEMENT

1 ENTERED INTO BY THE PROVIDER, CMS, AND THE DEPARTMENT OF HEALTH  
2 CARE POLICY AND FINANCING, AND THE PACE PROVIDER'S POLICIES AND  
3 PROCEDURES;

4 (c) IN REVIEWING A PACE PROVIDER'S COMPLIANCE WITH HOME  
5 CARE LICENSURE, THE DEPARTMENT SHALL COORDINATE WITH THE  
6 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING REGARDING BOTH  
7 LICENSE AND CERTIFICATION REQUIREMENTS TO ENSURE THAT THE  
8 DEPARTMENTS' SIMILAR REGULATIONS ARE CONGRUENTLY MET;

9 (d) AT THE TIME THAT A PACE PROVIDER ENROLLS A PACE  
10 PARTICIPANT IN A PACE PROGRAM, THE PACE PROVIDER SHALL GIVE THE  
11 CLIENT THE DEPARTMENT'S CONTACT INFORMATION IN WRITING TO ALLOW  
12 THE CLIENT TO REPORT ANY COMPLAINTS THAT MAY ARISE OUT OF THE  
13 CLIENT'S PACE HOME CARE SERVICES. THE DEPARTMENT SHALL  
14 UNDERTAKE ANY INVESTIGATION ARISING FROM A COMPLAINT, OTHER  
15 THAN A COMPLAINT ALLEGING MATTERS THAT ARE OUTSIDE OF THE  
16 DEPARTMENT'S LICENSING AUTHORITY.

17 (e) UNDER THE DEPARTMENT'S LICENSING AUTHORITY, THE  
18 DEPARTMENT HAS COMPLETE AUTHORITY TO ENFORCE ALL HOME CARE  
19 REQUIREMENTS APPLICABLE TO A PACE PROVIDER. IF THE DEPARTMENT  
20 IS UNABLE TO TAKE CORRECTIVE ACTION CONGRUENTLY WITH THE  
21 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, THE DEPARTMENT  
22 SHALL FORWARD THE PROPOSED CORRECTIVE ACTION TO AND CONSULT  
23 WITH THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING BEFORE  
24 TAKING FINAL ACTION AGAINST A PACE PROVIDER.

25 **SECTION 4.** In Colorado Revised Statutes, **amend 25-27.5-105**  
26 **as follows:**

27 **25-27.5-105. Home care agency cash fund created.** The

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

11 **SECTION 5.** In Colorado Revised Statutes, 25-27.5-106, **amend**  
12 (1), (2), (3), (4), and (5) as follows:

13 **25-27.5-106. License or registration - application - inspection**  
14 **- issuance - repeal.** (1) A PERSON APPLYING FOR A HOME CARE AGENCY  
15 LICENSE OR A HOME CARE PLACEMENT AGENCY REGISTRATION SHALL  
16 SUBMIT an application ~~for a license to operate a home care agency shall~~  
17 ~~be submitted~~ to the department annually upon ~~such~~ A form and in ~~such~~ A  
18 manner as prescribed by the department.

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

1 (II) EXCEPT AS PROVIDED IN PARAGRAPH (a.5) OF THIS SUBSECTION  
2 (2), the department shall make ~~such~~ inspections as it deems necessary to  
3 ensure that the health, safety, and welfare of the home care agency's OR  
4 HOME CARE PLACEMENT AGENCY'S home care consumers are being  
5 protected. Inspections of a home care consumer's home ~~shall be~~ ARE  
6 subject to the consent of the home care consumer to access the property.  
7 The home care agency OR HOME CARE PLACEMENT AGENCY shall submit  
8 in writing, in a form prescribed by the department, a plan detailing the  
9 measures that will be taken to correct any violations found by the  
10 department as a result of inspections undertaken pursuant to this  
11 subsection (2).

12 (III) THE DEPARTMENT MAY INSPECT, AS IT DEEMS NECESSARY, A  
13 HOME CARE PLACEMENT AGENCY'S RECORDS ON WEEKDAYS BETWEEN 9  
14 A.M. AND 5 P.M. TO ENSURE THAT THE HOME CARE PLACEMENT AGENCY IS  
15 IN COMPLIANCE WITH THE CRIMINAL HISTORY RECORD CHECK, GENERAL  
16 LIABILITY INSURANCE, AND DISCLOSURE REQUIREMENTS SET FORTH IN  
17 SECTIONS 25-27.3-103 (2) (b), 25-27.5-104 (1) (c) AND (1) (h), AND  
18 25-27.5-107.

19 (a.5) (I) (A) ON OR AFTER JULY 1, 2014, A COMMUNITY-CENTERED  
20 BOARD OR SERVICE AGENCY THAT HAS BEEN CERTIFIED OR RECERTIFIED BY  
21 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING WITHIN THE  
22 LAST TWELVE MONTHS AND THAT IS CURRENTLY IN COMPLIANCE WITH  
23 CERTIFICATION REQUIREMENTS MAY APPLY FOR AND OBTAIN AN INITIAL  
24 HOME CARE AGENCY LICENSE TO PROVIDE IN-HOME PERSONAL CARE  
25 SERVICES IF THE COMMUNITY-CENTERED BOARD OR SERVICE AGENCY  
26 SATISFIES THE REQUIREMENTS FOR HOME CARE AGENCY LICENSURE  
27 ADOPTED BY THE STATE BOARD THAT EXCEED OR DIFFER FROM THE

1 REQUIREMENTS FOR CERTIFICATION APPLICABLE TO  
2 COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES THAT RELATE TO  
3 PROTECTING THE HEALTH, SAFETY, OR WELFARE OF HOME CARE  
4 CONSUMERS.

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

21 (C) NOTWITHSTANDING SECTION 25-27.5-104 (1) (g) AND STATE  
22 BOARD RULES ADOPTED PURSUANT TO THAT SECTION THE DEPARTMENT  
23 SHALL NOT ASSESS FEES BETWEEN JULY 1, 2014, AND JULY 1, 2016, FOR A  
24 NEW OR RENEWAL HOME CARE AGENCY LICENSE ISSUED TO A  
25 COMMUNITY-CENTERED BOARD OR SERVICE AGENCY, AND THE  
26 DEPARTMENT'S COSTS INCURRED IN CONNECTION WITH ISSUING NEW OR  
27 RENEWAL HOME CARE AGENCY LICENSES TO COMMUNITY-CENTERED

1 BOARDS AND SERVICE AGENCIES IS PAYABLE FROM THE INTELLECTUAL  
2 AND DEVELOPMENTAL DISABILITIES SERVICES CASH FUND, CREATED IN  
3 SECTION 25.5-10-207 (1), C.R.S., AS PART OF A SYSTEM OF CAPACITY  
4 EXPANSION FOR HOME- AND COMMUNITY-BASED INTELLECTUAL AND  
5 DEVELOPMENTAL DISABILITIES PROGRAMS, SERVICES, AND SUPPORTS  
6 PURSUANT TO SECTION 25.5-10-207 (3) (c), C.R.S., ENACTED IN HOUSE  
7 BILL 14-1252 IN 2014.

8 (D) AT THE TIME A COMMUNITY-CENTERED BOARD OR SERVICE  
9 AGENCY COMMENCES IN-HOME PERSONAL CARE SERVICES FOR A RECIPIENT  
10 OF THE SERVICES PROVIDED PURSUANT TO THE SUPPORTED LIVING  
11 SERVICES WAIVER OR THE CHILDREN'S EXTENSIVE SUPPORT WAIVER OF THE  
12 HOME- AND COMMUNITY-BASED SERVICES WAIVERS ADMINISTERED BY  
13 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, THE  
14 COMMUNITY-CENTERED BOARD OR SERVICE AGENCY SHALL GIVE THE  
15 SERVICES RECIPIENT THE DEPARTMENT'S CONTACT INFORMATION IN  
16 WRITING TO ALLOW THE RECIPIENT TO REPORT ANY COMPLAINTS THAT  
17 MAY ARISE OUT OF THE RECIPIENT'S IN-HOME PERSONAL CARE SERVICES.  
18 THE DEPARTMENT SHALL UNDERTAKE ANY INVESTIGATION ARISING FROM  
19 THE COMPLAINT, OTHER THAN ALLEGATIONS OF MATTERS THAT ARE  
20 OUTSIDE THE DEPARTMENT'S LICENSING AUTHORITY.

21 (II) (A) DURING THE PERIOD DESCRIBED IN SUB-SUBPARAGRAPH  
22 (B) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a.5), THE DEPARTMENT  
23 SHALL ESTABLISH A WORK GROUP COMPOSED OF REPRESENTATIVES FROM  
24 OR OF: THE DEPARTMENT; THE DEPARTMENT OF HEALTH CARE POLICY  
25 AND FINANCING; COMMUNITY-CENTERED BOARDS; SERVICE AGENCIES;  
26 AND RECIPIENTS OF SUPPORTED LIVING SERVICES OR CHILDREN'S  
27 EXTENSIVE SUPPORT UNDER THE HOME- AND COMMUNITY-BASED SERVICES



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

22 (B) ONCE THE DEPARTMENT HAS A COMPREHENSIVE LIST OF  
23 CONFLICTING REQUIREMENTS AND GAPS IN THE REQUIREMENTS, THE WORK  
24 GROUP SHALL ANALYZE THE INFORMATION AND DEVELOP A PLAN FOR  
25 RESOLVING THE CONFLICTS AND ADDRESSING GAPS IN THE REQUIREMENTS.  
26 BY SEPTEMBER 1, 2015, THE WORK GROUP SHALL SUBMIT ITS  
27 RECOMMENDATIONS FOR RESOLVING THE CONFLICTS AND GAPS IN THE

1 REQUIREMENTS, INCLUDING PROPOSED RULE CHANGES OR ADDITIONS, TO  
2 THE STATE BOARD AND THE MEDICAL SERVICES BOARD. THE  
3 RECOMMENDATIONS MUST SPECIFY THE PARTICULAR RULES OF EACH  
4 BOARD THAT NEED TO BE MODIFIED OR ADDED TO RESOLVE ANY  
5 CONFLICTS AND ADDRESS GAPS IN REQUIREMENTS.

6 (C) NO LATER THAN JULY 1, 2016, THE STATE BOARD AND THE  
7 MEDICAL SERVICES BOARD SHALL ADOPT RULES AS NECESSARY TO  
8 ELIMINATE ANY CONFLICTS BETWEEN AND GAPS IN THEIR RESPECTIVE  
9 RULES PERTAINING TO THE REQUIREMENTS IMPOSED ON  
10 COMMUNITY-CENTERED BOARD AND SERVICE AGENCIES THAT PROVIDE  
11 IN-HOME PERSONAL CARE SERVICES EXCLUSIVELY TO CONSUMERS WHO  
12 ARE RECIPIENTS OF SERVICES PURSUANT TO THE SUPPORTED LIVING  
13 SERVICES WAIVER OR THE CHILDREN'S EXTENSIVE SUPPORT WAIVER OF THE  
14 HOME- AND COMMUNITY-BASED SERVICES WAIVERS ADMINISTERED BY  
15 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

16 (D) AS PART OF THEIR ANNUAL PRESENTATIONS TO THE JOINT  
17 COMMITTEE OF REFERENCE TO WHICH EACH DEPARTMENT IS ASSIGNED  
18 UNDER THE "STATE MEASUREMENTS FOR ACCOUNTABLE, RESPONSIBLE,  
19 AND TRANSPARENT (SMART) ACT", PART 2 OF ARTICLE 7 OF TITLE 2,  
20 C.R.S., THE DEPARTMENTS OF PUBLIC HEALTH AND ENVIRONMENT AND  
21 HEALTH CARE POLICY AND FINANCING SHALL REPORT THEIR PROGRESS IN  
22 ANALYZING AND DEVELOPING A PLAN TO RESOLVE CONFLICTS AND GAPS  
23 IN THE REQUIREMENTS APPLICABLE TO COMMUNITY-CENTERED BOARDS  
24 AND SERVICE AGENCIES THAT PROVIDE IN-HOME PERSONAL CARE  
25 SERVICES. THE DEPARTMENTS SHALL INDICATE WHETHER THEY ARE  
26 MEETING THE DEADLINES SPECIFIED IN THIS SUBPARAGRAPH (II), AND IF  
27 NOT, DETAIL THE REASONS FOR FAILING TO MEET THE DEADLINES. IN THEIR

1 PRESENTATIONS MADE IN THE INTERIM BETWEEN NOVEMBER 1, 2015, AND  
2 THE START OF THE 2016 REGULAR LEGISLATIVE SESSION, THE  
3 DEPARTMENTS SHALL REPORT PROGRESS ON: THE ADOPTION OF RULES BY  
4 THE STATE BOARD AND THE MEDICAL SERVICES BOARD AND SHALL  
5 PROVIDE THE JOINT COMMITTEES COPIES OF DRAFT RULES, IF AVAILABLE;  
6 AND ANY PROGRAM EFFICIENCIES THAT COULD IMPACT LICENSURE FEE  
7 AMOUNTS. IF THE DEPARTMENTS ARE NOT MEETING THE DEADLINES  
8 OUTLINED IN THIS SUBPARAGRAPH (II), THE JOINT COMMITTEE OF  
9 REFERENCE SHALL CONSIDER WHETHER FURTHER LEGISLATION IS NEEDED,  
10 INCLUDING LEGISLATION TO MODIFY THE DEADLINES, EXTEND THE PERIOD  
11 SPECIFIED IN SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF THIS  
12 PARAGRAPH (a.5) DURING WHICH THE DEPARTMENT IS NOT ALLOWED TO  
13 CONDUCT RELICENSURE INSPECTIONS, COMPEL THE DEPARTMENTS TO  
14 COMPLETE THEIR TASKS, OR MODIFY THE MANNER IN WHICH  
15 COMMUNITY-CENTERED BOARDS AND SERVICES AGENCIES PROVIDING  
16 IN-HOME PERSONAL CARE SERVICES ARE REGULATED BY THE STATE OR THE  
17 ABILITY OF THE DEPARTMENT TO SET AND IMPOSE LICENSURE FEES.

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

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

23 (b) The department shall keep all medical records INFORMATION  
24 OR DOCUMENTS obtained during an inspection or investigation of a home  
25 care agency, HOME CARE PLACEMENT AGENCY, OR HOME CARE  
26 CONSUMER'S HOME confidential. ~~and the medical~~ ALL records, shall be  
27 INFORMATION, OR DOCUMENTS SO OBTAINED ARE exempt from disclosure

1 pursuant to sections 24-72-204, C.R.S., and 25-1-124.

2 (3) (a) With the submission of an application for a license OR  
3 REGISTRATION granted pursuant to this article OR WITHIN TEN DAYS AFTER  
4 A CHANGE IN THE OWNER, MANAGER, OR ADMINISTRATOR, each owner  
5 applicant, or licensee shall OF A HOME CARE AGENCY OR HOME CARE  
6 PLACEMENT AGENCY AND EACH MANAGER OR ADMINISTRATOR OF A HOME  
7 CARE AGENCY OR HOME CARE PLACEMENT AGENCY MUST submit a  
8 complete set of his or her fingerprints to the department. The department  
9 shall forward such fingerprints to the Colorado bureau of investigation for  
10 the purpose of conducting a state and national fingerprint-based criminal  
11 history record check utilizing the records of the Colorado bureau of  
12 investigation and the federal bureau of investigation. The EACH owner  
13 applicant, or licensee shall pay the costs associated with AND EACH  
14 MANAGER OR ADMINISTRATOR IS RESPONSIBLE FOR PAYING THE FEE  
15 ESTABLISHED BY THE COLORADO BUREAU OF INVESTIGATION FOR  
16 CONDUCTING the fingerprint-based criminal history record check to the  
17 Colorado bureau. of investigation. UPON COMPLETION OF THE CRIMINAL  
18 HISTORY RECORD CHECK, THE BUREAU SHALL FORWARD THE RESULTS TO  
19 THE DEPARTMENT. THE DEPARTMENT MAY ACQUIRE A NAME-BASED  
20 CRIMINAL HISTORY RECORD CHECK FOR AN APPLICANT WHO HAS TWICE  
21 SUBMITTED TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK  
22 AND WHOSE FINGERPRINTS ARE UNCLASSIFIABLE.

23 (b) The DEPARTMENT SHALL USE THE information shall be used by  
24 the department FROM THE CRIMINAL HISTORY RECORD CHECK in  
25 ascertaining whether the person applying for licensure OR REGISTRATION  
26 has been convicted of a felony or of a misdemeanor, which felony or  
27 misdemeanor involves moral turpitude or involves conduct that the

1 department determines could pose a risk to the health, safety, or welfare  
2 of home care consumers of the home care agency OR HOME CARE  
3 PLACEMENT AGENCY. The department shall maintain information obtained  
4 in accordance with this section.

5 (4) ~~No license shall be issued or renewed by~~ The department  
6 SHALL NOT ISSUE A LICENSE OR REGISTRATION if the owner, applicant, or  
7 licensee MANAGER, OR ADMINISTRATOR of the home care agency OR HOME  
8 CARE PLACEMENT AGENCY has been convicted of a felony or of a  
9 misdemeanor, which felony or misdemeanor involves moral turpitude or  
10 involves conduct that the department determines could pose a risk to the  
11 health, safety, or welfare of the home care consumers of the home care  
12 agency OR HOME CARE PLACEMENT AGENCY.

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

21 **SECTION 6.** In Colorado Revised Statutes, **amend** 25-27.5-107  
22 as follows:

23 **25-27.5-107. Employee or referred service provider criminal**  
24 **history record check - rules.** (1) ~~On and after June 1, 2009, prior to~~  
25 ~~employing or placing any person,~~ The home care agency or home care  
26 placement agency shall require ~~the~~ A person seeking employment or  
27 placement to submit to a criminal history record check BEFORE

1 EMPLOYMENT OR REFERRAL TO A CONSUMER. The home care agency or  
2 home care placement agency or the person seeking employment with the  
3 home care agency shall pay the costs of ~~such inquiry~~ THE CRIMINAL  
4 HISTORY RECORD CHECK. The criminal history record check shall be  
5 conducted not more than ninety days ~~prior to~~ BEFORE the employment OR  
6 PLACEMENT of the applicant.

7 (2) (a) A HOME CARE AGENCY OR HOME CARE PLACEMENT AGENCY  
8 SHALL DENY EMPLOYMENT OR A REFERRAL TO A PERSON WHOSE CRIMINAL  
9 HISTORY RECORD CHECK SHOWS THAT THE PERSON HAS BEEN CONVICTED  
10 OF OR HAS PLED GUILTY OR NOLO CONTENDERE TO HOMICIDE, ASSAULT, OR  
11 OTHER VIOLENT CRIME; A SEXUAL ASSAULT OR OTHER SEXUAL OFFENSE;  
12 OR A CRIME AGAINST AN ELDERLY ADULT, AN AT-RISK ADULT, AS DEFINED  
13 IN SECTION 26-3.1-101, C.R.S., OR A CHILD.

14 (b) FOR ANY OFFENSE SPECIFIED BY THE STATE BOARD BY RULE,  
15 OTHER THAN THE OFFENSES LISTED IN PARAGRAPH (a) OF THIS SUBSECTION  
16 (2), A HOME CARE AGENCY OR HOME CARE PLACEMENT AGENCY SHALL  
17 CONSIDER FACTORS ESTABLISHED BY THE STATE BOARD BY RULE WHEN  
18 DETERMINING WHETHER A PERSON'S CONVICTION OF OR PLEA OF GUILTY  
19 OR NOLO CONTENDERE TO THE OFFENSE DISQUALIFIES THE PERSON FROM  
20 EMPLOYMENT OR A REFERRAL. THE FACTORS ESTABLISHED BY THE STATE  
21 BOARD MAY INCLUDE:

- 22 (I) THE NUMBER OF OFFENSES; AND
- 23 (II) FOR EACH OFFENSE:
  - 24 (A) THE NATURE AND SERIOUSNESS OF THE OFFENSE;
  - 25 (B) THE TIME THAT HAS ELAPSED SINCE THE OFFENSE; AND
  - 26 (C) WHETHER THERE ARE ANY MITIGATING CIRCUMSTANCES
  - 27 SURROUNDING THE OFFENSE.

1           **SECTION 7.** In Colorado Revised Statutes, **amend** 25-27.5-108  
2 as follows:

3           **25-27.5-108. License or registration denial - suspension -**  
4 **revocation.** (1) Upon denial of an application for an original license OR  
5 REGISTRATION, the department shall notify the applicant in writing of  
6 ~~such~~ THE denial by mailing a notice to the applicant at the address shown  
7 on his or her application. Any applicant ~~believing himself or herself~~  
8 aggrieved by ~~such~~ THE denial may pursue the remedy for review provided  
9 in article 4 of title 24, C.R.S., if the applicant, within thirty days after  
10 receiving ~~such~~ THE notice OF DENIAL, petitions the department to set a  
11 date and place for hearing, affording the applicant an opportunity to be  
12 heard in person or by counsel. All hearings on the denial of original  
13 licenses ~~shall~~ OR REGISTRATIONS MUST be conducted in conformity with  
14 the provisions and procedures specified in article 4 of title 24, C.R.S.

15           (2) (a) The department may suspend, revoke, or refuse to renew  
16 the license OR REGISTRATION of ~~any~~ A home care agency OR HOME CARE  
17 PLACEMENT AGENCY that is out of compliance with the requirements of  
18 this article or the rules promulgated pursuant to this article. ~~Such~~  
19 ~~suspension, revocation, or refusal shall be done after~~ BEFORE TAKING  
20 FINAL ACTION TO SUSPEND, REVOKE, OR REFUSE TO RENEW A LICENSE OR  
21 REGISTRATION, THE DEPARTMENT SHALL CONDUCT a hearing ~~thereon and~~  
22 ON THE MATTER in conformance with the provisions and procedures  
23 specified in article 4 of title 24, C.R.S.; except that the department may  
24 implement a summary suspension prior to a hearing in accordance with  
25 article 4 of title 24, C.R.S. IF THE DEPARTMENT SUSPENDS, REVOKES, OR  
26 REFUSES TO RENEW A HOME CARE PLACEMENT AGENCY REGISTRATION,  
27 THE DEPARTMENT SHALL REMOVE THE HOME CARE PLACEMENT AGENCY

1 FROM THE REGISTRY MAINTAINED BY THE DEPARTMENT PURSUANT TO  
2 SECTION 25-27.3-103 (2) (a) (I).

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

7 (A) Retaining a consultant to address corrective measures;

8 (B) Monitoring by the department for a specific period;

9 (C) Providing additional training to employees, owners, or  
10 operators of the home care agency OR HOME CARE PLACEMENT AGENCY;

11 (D) Complying with a directed written plan to correct the  
12 violation; or

13 (E) Paying a civil fine not to exceed ten thousand dollars per  
14 calendar year for all violations.

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

25 (B) If the department imposes an intermediate restriction or  
26 condition that is the result of a serious and immediate threat to health,  
27 safety, or welfare, the department shall notify the ~~licensee~~ LICENSED



1 HOME CARE AGENCY OR REGISTERED HOME CARE PLACEMENT AGENCY in  
2 writing, by telephone, or in person during an on-site visit. The licensee  
3 LICENSED HOME CARE AGENCY OR REGISTERED HOME CARE PLACEMENT  
4 AGENCY shall remedy the circumstances creating harm or potential harm  
5 immediately upon receiving notice of the restriction or condition. If the  
6 department provides notice of a restriction or condition by telephone or  
7 in person, the department shall send written confirmation of the  
8 restriction or condition to the licensee LICENSED HOME CARE AGENCY OR  
9 REGISTERED HOME CARE PLACEMENT AGENCY within two business days.

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

15 (B) If the restriction or condition requires payment of a civil fine,  
16 the licensee LICENSED HOME CARE AGENCY OR REGISTERED HOME CARE  
17 PLACEMENT AGENCY may request, and the department shall grant, a stay  
18 in payment of the fine until final disposition of the restriction or  
19 condition.

20 (C) If a licensee LICENSED HOME CARE AGENCY OR REGISTERED  
21 HOME CARE PLACEMENT AGENCY is not satisfied with the result of the  
22 informal review or chooses not to seek informal review, ~~no~~ THE  
23 DEPARTMENT SHALL NOT IMPOSE AN intermediate restriction or condition  
24 on the licensee ~~shall be imposed~~ LICENSED HOME CARE AGENCY OR  
25 REGISTERED HOME CARE PLACEMENT AGENCY until after THE LICENSED  
26 HOME CARE AGENCY OR REGISTERED HOME CARE PLACEMENT AGENCY IS  
27 AFFORDED an opportunity for a hearing ~~has been afforded the licensee~~

1 pursuant to section 24-4-105, C.R.S.

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

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

9 (A) Continuing monitoring required pursuant to this paragraph  
10 (b);

11 (B) Education for ~~licensee~~ LICENSED HOME CARE AGENCY OR  
12 REGISTERED HOME CARE PLACEMENT AGENCY to avoid restrictions or  
13 conditions or facilitate the application process or the change of ownership  
14 process;

15 (C) Education for home care consumers and their families about  
16 resolving problems with a home care agency OR HOME CARE PLACEMENT  
17 AGENCY, rights of home care consumers, and responsibilities of home  
18 care agencies AND HOME CARE PLACEMENT AGENCIES;

19 (D) Providing technical assistance to any home care agency OR  
20 HOME CARE PLACEMENT AGENCY for the purpose of complying with  
21 changes in rules or state or federal law;

22 (E) Monitoring and assisting in the transition of home care  
23 consumers to other home care agencies OR HOME CARE PLACEMENT  
24 AGENCIES, when the transition is a result of the revocation of a license OR  
25 REGISTRATION, or TO other appropriate medical services; or

26 (F) Maintaining the operation of a home care agency OR HOME  
27 CARE PLACEMENT AGENCY pending correction of violations, as determined

1 necessary by the department.

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

12 **SECTION 8.** In Colorado Revised Statutes, **amend** 25-27.5-110  
13 as follows:

14 **25-27.5-110. Repeal of article - sunset review.** (1) This article  
15 is repealed, effective ~~July~~ SEPTEMBER 1, ~~2014~~ 2019.

16 (2) ~~Prior to such~~ BEFORE repeal, the DEPARTMENT OF  
17 REGULATORY AGENCIES SHALL REVIEW THE licensing of home care  
18 agencies ~~shall be reviewed~~ AND THE REGISTERING OF HOME CARE  
19 PLACEMENT AGENCIES as provided for in section 24-34-104, C.R.S. ~~IN~~  
20 CONDUCTING ITS REVIEW AND COMPILING ITS REPORT PURSUANT TO  
21 SECTION 24-34-104 (8), C.R.S., THE DEPARTMENT OF REGULATORY  
22 AGENCIES SHALL SEGREGATE THE DATA IN THE REPORT BASED ON THE  
23 TYPE OF AGENCY, SPECIFYING WHETHER THE AGENCY IS:

24 (a) A HOME CARE AGENCY THAT PROVIDES SKILLED HOME HEALTH  
25 SERVICES;

26 (b) A HOME CARE AGENCY THAT ONLY PROVIDES PERSONAL CARE  
27 SERVICES; OR

1 (c) A HOME CARE PLACEMENT AGENCY.

2 **SECTION 9.** In Colorado Revised Statutes, 24-34-104, **repeal**  
3 (45) (g); and **add** (50.5)(h) as follows:

4 **24-34-104. General assembly review of regulatory agencies**  
5 **and functions for termination, continuation, or reestablishment.**

6 (45) The following agencies, functions, or both, terminate on July 1,  
7 2014:

8 (g) ~~The licensing of home care agencies in accordance with article~~  
9 ~~27.5 of title 25, C.R.S.;~~

10 (50.5) The following agencies, functions, or both, terminate on  
11 September 1, 2019:

12 (h) ~~NOTWITHSTANDING PARAGRAPH (a) OF SUBSECTION (11) OF~~  
13 ~~THIS SECTION, THE FUNCTIONS OF THE DEPARTMENT OF PUBLIC HEALTH~~  
14 ~~AND ENVIRONMENT RELATING TO THE LICENSING OF HOME CARE AGENCIES~~  
15 ~~AND THE REGISTERING OF HOME CARE PLACEMENT AGENCIES IN~~  
16 ~~ACCORDANCE WITH ARTICLE 27.5 OF TITLE 25, C.R.S.~~

17 **SECTION 10. Effective date.** This act takes effect July 1, 2014.

18 **SECTION 11. Safety clause.** The general assembly hereby finds,  
19 determines, and declares that this act is necessary for the immediate  
20 preservation of the public peace, health, and safety.