

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

April 15, 2014  
Date

Committee on Public Health Care & Human Services.

After consideration on the merits, the Committee recommends the following:

HB14-1360 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

1 Amend printed bill, page 3, line 1, strike "(3) (b) (VIII) and (3) (b) (IX);"  
2 and substitute "(1.5), (3) (b) (VIII), (3) (b) (IX), (4), and (6.7);".

3 Page 3, after line 7 insert:

4 "(1.5) "Community-centered board" ~~has the meaning set forth~~  
5 MEANS A COMMUNITY-CENTERED BOARD, AS DEFINED in section  
6 25.5-10-202, C.R.S., THAT IS DESIGNATED PURSUANT TO SECTION  
7 25.5-10-209, C.R.S., BY THE DEPARTMENT OF HEALTH CARE POLICY AND  
8 FINANCING."

9 Page 3, after line 18 insert:

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

14 Page 3, line 21, strike "AGENCY." and substitute "AGENCY OR HOME CARE  
15 PLACEMENT AGENCY."

16 Page 3, line 25, strike "WHO:" and substitute "WHO HAS AT LEAST A FIFTY-  
17 PERCENT OWNERSHIP INTEREST IN THE BUSINESS ENTITY."

18 Page 3, strike lines 26 and 27.

1 Page 4, strike lines 1 and 2.

2 Page 4, after line 13 insert:

3 "(6.7) "Service agency" ~~has the meaning set forth~~ MEANS A  
4 SERVICE AGENCY, AS DEFINED in section 25.5-10-202, C.R.S., THAT HAS  
5 RECEIVED PROGRAM APPROVAL FROM THE DEPARTMENT OF HEALTH CARE  
6 POLICY AND FINANCING AS A DEVELOPMENTAL DISABILITIES SERVICE  
7 AGENCY UNDER RULES PROMULGATED BY THE MEDICAL SERVICES BOARD  
8 AND IS PROVIDING SERVICES PURSUANT TO THE SUPPORTED LIVING  
9 SERVICES WAIVER OR THE CHILDREN'S EXTENSIVE SUPPORT WAIVER OF THE  
10 HOME- AND COMMUNITY-BASED SERVICES WAIVERS ADMINISTERED BY  
11 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING UNDER PART  
12 4 OF ARTICLE 6 OF TITLE 25.5, C.R.S.

13 **SECTION 2.** In Colorado Revised Statutes, 25-27.5-103, **amend**  
14 (1.5) and (2) as follows:

15 **25-27.5-103. Home care agency license required - home care**  
16 **placement agency registration required - civil and criminal penalties.**

17 (1.5) (a) ~~Notwithstanding any provision of law to the contrary, by March~~  
18 ~~1, 2011, the following providers of skilled home health services or~~  
19 ~~in-home personal care services shall apply for licensure as a home care~~  
20 ~~agency to the department:~~

21 ~~(I) Community-centered boards designated pursuant to section~~  
22 ~~25.5-10-209, C.R.S.; and~~

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

31 ~~(b) On or after September 1, 2011, It is unlawful for any~~  
32 ~~community centered~~ A COMMUNITY-CENTERED board that is directly  
33 providing home care services or ~~any~~ A service agency ~~as described in~~  
34 ~~paragraph (a) of this subsection (1.5); to conduct or maintain a home care~~  
35 ~~agency that provides skilled home health services or in-home personal~~  
36 ~~care services without having obtained a license therefor from the~~  
37 ~~department. Any person who violates this provision~~ SUBSECTION (1.5) is  
38 guilty of a misdemeanor and is subject to the civil and criminal penalties

1 described in paragraphs (a) and (b) of subsection (1) of this section.  
2 Nothing in this section relieves an entity that contracts or arranges with  
3 a ~~community-centered~~ COMMUNITY-CENTERED board or service agency  
4 and that meets the definition of a "home care agency" ~~under section~~  
5 ~~25-27.5-102~~, from the entity's obligation to apply for and operate under  
6 a license in accordance with this article.

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

25 (II) AS A CONDITION OF OBTAINING AN INITIAL OR RENEWAL HOME  
26 CARE PLACEMENT AGENCY REGISTRATION PURSUANT TO THIS SUBSECTION  
27 (2), A PERSON APPLYING FOR INITIAL OR RENEWAL REGISTRATION SHALL  
28 SUBMIT TO THE DEPARTMENT, IN THE FORM AND MANNER REQUIRED BY  
29 THE DEPARTMENT, PROOF THAT THE PERSON HAS OBTAINED AND IS  
30 MAINTAINING GENERAL LIABILITY INSURANCE COVERAGE THAT COVERS  
31 THE HOME CARE PLACEMENT AGENCY AND THE PROVIDERS IT REFERS TO  
32 HOME CARE CONSUMERS IN AN AMOUNT DETERMINED BY THE STATE  
33 BOARD BY RULE PURSUANT TO SECTION 25-27.5-104 (1) (h).

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

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

40 (I) IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION  
41 THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN FIFTY

1 DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS; AND  
2 (II) May be subject to a civil penalty assessed by the department  
3 ~~that is not less than five hundred dollars per year or more than one~~  
4 ~~thousand dollars per year for failure to register with the department or for~~  
5 ~~claiming to be licensed or certified by the department~~ OF UP TO TEN  
6 THOUSAND DOLLARS FOR EACH VIOLATION. The department shall assess,  
7 enforce, and collect the penalty in accordance with article 4 of title 24,  
8 C.R.S. ~~Any moneys~~ THE DEPARTMENT SHALL TRANSFER ANY PENALTIES  
9 ~~collected shall be deposited~~ IT COLLECTS TO THE STATE TREASURER FOR  
10 DEPOSIT in the home care agency cash fund created in section  
11 25-27.5-105."

12 Renumber succeeding sections accordingly.

13 Page 4, line 15, strike "portion;" and substitute "portion, (1) (c), (1) (g),  
14 and (1) (h);".

15 Page 4, line 17, after "**agencies**" insert "**and home care placement**  
16 **agencies**".

17 Page 4, line 20, after "agencies" insert "AND HOME CARE PLACEMENT  
18 AGENCIES" and strike "Colorado." and substitute "Colorado THAT APPLY  
19 REGARDLESS OF THE SOURCE OF PAYMENT FOR THE HOME CARE SERVICES  
20 OR THE DIAGNOSIS OF THE HOME CARE CONSUMER.".

21 Page 5, after line 12 insert:

22 "(c) Requirements for disclosure notices to be provided by home  
23 care agencies and home care placement agencies to home care consumers  
24 concerning the duties and employment status of the individual providing  
25 services. WITH REGARD TO HOME CARE PLACEMENT AGENCIES, THE RULES  
26 MUST REQUIRE A HOME CARE PLACEMENT AGENCY TO DISCLOSE IN  
27 WRITING, AT A MINIMUM, THE FOLLOWING TO EACH HOME CARE CONSUMER  
28 CLIENT IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT  
29 BEFORE REFERRING A PROVIDER TO THE CLIENT:

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

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

34 (g) (I) Fees for home care agency licensure, which ~~shall not~~  
35 CANNOT exceed one thousand five hundred dollars per year for two years

1 from AFTER the effective date of fees established by rule for home care  
2 agencies that are certified providers through the federal centers for  
3 medicare and medicaid services or the Colorado department of health care  
4 policy and financing. Home care agency fees shall be ARE payable to the  
5 home care agency cash fund. The annual fee shall MUST include a  
6 component that reflects whether a survey is planned for the year based on  
7 the agency's compliance history. The STATE BOARD SHALL ESTABLISH A  
8 TIERED fee schedule shall also be tiered to reflect the differences in type  
9 and volume of services of various home care agencies, including but not  
10 limited to their volume of medicaid and medicare services, The fee  
11 schedule shall also provide AND THAT ALLOWS for reduced fees for home  
12 care agencies that are certified prior to initial license application. The  
13 department of public health and environment shall not charge a duplicate  
14 fee for survey work conducted pursuant to its role as state survey agency  
15 for the federal centers for medicare and medicaid services or the Colorado  
16 department of health care policy and financing. No later than January 1,  
17 2011, the department of public health and environment shall issue an  
18 independent report detailing the direct and indirect costs associated with  
19 the administration of home care agency licensure.

20 (II) WITH REGARD TO HOME CARE LICENSURE FEES, IN ADDITION  
21 TO THE REQUIREMENTS IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (g), THE  
22 STATE BOARD SHALL DEVELOP A METHODOLOGY FOR ESTABLISHING  
23 DIFFERENTIATING FEES FOR LICENSURE OF COMMUNITY-CENTERED BOARDS  
24 AND SERVICES AGENCIES, CONSIDERING THE SCOPE OF SERVICES PROVIDED  
25 UNDER LICENSURE. NOTWITHSTANDING SECTION 25-3-105 (1) (a) (I) (B),  
26 THE STATE BOARD MAY SET AND ADJUST LICENSURE FEES FOR  
27 COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES AS APPROPRIATE.

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

34 Page 7, after line 11 insert:

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

37 **25-27.5-105. Home care agency cash fund created.** The  
38 DEPARTMENT SHALL TRANSMIT THE fees collected pursuant to section  
39 25-27.5-104 (1), plus any civil penalty collected pursuant to section

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

10 Renumber succeeding sections accordingly.

11 Page 7, strike line 13 and substitute "(1), (2), (3), (4), and (5) as follows:".

12 Page 7, strike lines 14 and 15 and substitute:

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.~~

28 (II) EXCEPT AS PROVIDED IN PARAGRAPH (a.5) OF THIS SUBSECTION  
29 (2), the department shall make ~~such~~ inspections as it deems necessary to  
30 ensure that the health, safety, and welfare of the home care agency's OR  
31 HOME CARE PLACEMENT AGENCY'S home care consumers are being  
32 protected. Inspections of a home care consumer's home ~~shall be~~ ARE  
33 subject to the consent of the home care consumer to access the property.  
34 The home care agency OR HOME CARE PLACEMENT AGENCY shall submit  
35 in writing, in a form prescribed by the department, a plan detailing the  
36 measures that will be taken to correct any violations found by the  
37 department as a result of inspections undertaken pursuant to this

1 subsection (2).

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

9 (a.5) (I) (A) ON OR AFTER JULY 1, 2014, A COMMUNITY-CENTERED  
10 BOARD OR SERVICE AGENCY THAT HAS BEEN CERTIFIED OR RECERTIFIED BY  
11 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING WITHIN THE  
12 LAST TWELVE MONTHS AND THAT IS CURRENTLY IN COMPLIANCE WITH  
13 CERTIFICATION REQUIREMENTS MAY APPLY FOR AND OBTAIN AN INITIAL  
14 HOME CARE AGENCY LICENSE TO PROVIDE IN-HOME PERSONAL CARE  
15 SERVICES IF THE COMMUNITY-CENTERED BOARD OR SERVICE AGENCY  
16 SATISFIES THE REQUIREMENTS FOR HOME CARE AGENCY LICENSURE  
17 ADOPTED BY THE STATE BOARD THAT EXCEED OR DIFFER FROM THE  
18 REQUIREMENTS FOR CERTIFICATION APPLICABLE TO  
19 COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES THAT RELATE TO  
20 PROTECTING THE HEALTH, SAFETY, OR WELFARE OF HOME CARE  
21 CONSUMERS.

22 (B) BETWEEN JULY 1, 2014, AND JULY 1, 2016, THE DEPARTMENT  
23 SHALL NOT CONDUCT INSPECTIONS IN CONNECTION WITH A LICENSE  
24 RENEWAL APPLICATION SUBMITTED BY A COMMUNITY-CENTERED BOARD  
25 OR SERVICE AGENCY THAT PROVIDES IN-HOME PERSONAL CARE SERVICES  
26 EXCLUSIVELY TO CONSUMERS WHO ARE RECIPIENTS OF SERVICES  
27 PURSUANT TO THE SUPPORTED LIVING SERVICES WAIVER OR THE  
28 CHILDREN'S EXTENSIVE SUPPORT WAIVER OF THE HOME- AND  
29 COMMUNITY-BASED SERVICES WAIVERS ADMINISTERED BY THE  
30 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING. DURING THIS  
31 PERIOD, COMMUNITY-CENTERED BOARDS AND SERVICE AGENCIES WHO ARE  
32 LICENSED HOME CARE AGENCIES SHALL COMPLY WITH THE  
33 DEVELOPMENTAL DISABILITIES SERVICES RULES ADOPTED BY THE MEDICAL  
34 SERVICES BOARD. THE DEPARTMENTS OF PUBLIC HEALTH AND  
35 ENVIRONMENT AND HEALTH CARE POLICY AND FINANCING MAY SHARE  
36 INFORMATION REGARDING COMMUNITY-CENTERED BOARDS AND SERVICE  
37 AGENCIES AND THEIR COMPLIANCE WITH THE APPLICABLE RULES.

38 (C) NOTWITHSTANDING SECTION 25-27.5-104 (1) (g) AND STATE  
39 BOARD RULES ADOPTED PURSUANT TO THAT SECTION THE DEPARTMENT  
40 SHALL NOT ASSESS FEES BETWEEN JULY 1, 2014, AND JULY 1, 2016, FOR A  
41 NEW OR RENEWAL HOME CARE AGENCY LICENSE ISSUED TO A

1 COMMUNITY-CENTERED BOARD OR SERVICE AGENCY, AND THE  
2 DEPARTMENT'S COSTS INCURRED IN CONNECTION WITH ISSUING NEW OR  
3 RENEWAL HOME CARE AGENCY LICENSES TO COMMUNITY-CENTERED  
4 BOARDS AND SERVICE AGENCIES IS PAYABLE FROM THE INTELLECTUAL  
5 AND DEVELOPMENTAL DISABILITIES SERVICES CASH FUND, CREATED IN  
6 SECTION 25.5-10-207 (1), C.R.S., AS PART OF A SYSTEM OF CAPACITY  
7 EXPANSION FOR HOME- AND COMMUNITY-BASED INTELLECTUAL AND  
8 DEVELOPMENTAL DISABILITIES PROGRAMS, SERVICES, AND SUPPORTS  
9 PURSUANT TO SECTION 25.5-10-207 (3) (c), C.R.S., ENACTED IN HOUSE  
10 BILL 14-1252 IN 2014.

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

24 (II) (A) DURING THE PERIOD DESCRIBED IN SUB-SUBPARAGRAPH  
25 (B) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a.5), THE DEPARTMENT  
26 SHALL ESTABLISH A WORK GROUP COMPOSED OF REPRESENTATIVES FROM  
27 OR OF: THE DEPARTMENT; THE DEPARTMENT OF HEALTH CARE POLICY  
28 AND FINANCING; COMMUNITY-CENTERED BOARDS; SERVICE AGENCIES;  
29 AND RECIPIENTS OF SUPPORTED LIVING SERVICES OR CHILDREN'S  
30 EXTENSIVE SUPPORT UNDER THE HOME- AND COMMUNITY-BASED SERVICES  
31 WAIVERS ADMINISTERED BY THE DEPARTMENT OF HEALTH CARE POLICY  
32 AND FINANCING. THE WORK GROUP SHALL: EXAMINE THE  
33 DEVELOPMENTAL DISABILITIES SERVICES RULES ADOPTED BY THE MEDICAL  
34 SERVICES BOARD TO DETERMINE IF THE RULES CONTAIN SUFFICIENT  
35 SAFEGUARDS TO PROTECT THE HEALTH, SAFETY, AND RIGHTS OF THE  
36 SERVICE RECIPIENTS; IDENTIFY GAPS OR CONFLICTS BETWEEN THE LICENSE  
37 REQUIREMENTS UNDER THIS ARTICLE AND RULES ADOPTED BY THE STATE  
38 BOARD UNDER THIS ARTICLE AND THE REQUIREMENTS FOR STATE  
39 CERTIFICATION AS A PROVIDER OF SERVICES UNDER THE SUPPORTED  
40 LIVING SERVICES WAIVER OR THE CHILDREN'S EXTENSIVE SUPPORT WAIVER  
41 OF THE HOME- AND COMMUNITY-BASED SERVICES WAIVERS IMPOSED BY

1 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND RULES  
2 ADOPTED BY THE MEDICAL SERVICES BOARD; AND DEVELOP A PLAN TO  
3 ELIMINATE CONFLICTS AND GAPS BETWEEN THE REQUIREMENTS OF THE  
4 DEPARTMENTS AND BOARDS. THE WORK GROUP SHALL REQUEST SERVICE  
5 PROVIDERS TO PROVIDE A COMPREHENSIVE LIST OF THE GAPS OR  
6 CONFLICTS IN THE REQUIREMENTS IMPOSED BY EACH DEPARTMENT AND  
7 BOARD OR SHALL SURVEY PROVIDERS TO ASCERTAIN ANY GAPS AND  
8 CONFLICTS IN THE REQUIREMENTS. THE SERVICE PROVIDERS SHALL  
9 PROVIDE THE COMPREHENSIVE LIST OR RESPOND TO THE SURVEY BY  
10 SEPTEMBER 1, 2014.

11 (B) ONCE THE DEPARTMENT HAS A COMPREHENSIVE LIST OF  
12 CONFLICTING REQUIREMENTS AND GAPS IN THE REQUIREMENTS, THE WORK  
13 GROUP SHALL ANALYZE THE INFORMATION AND DEVELOP A PLAN FOR  
14 RESOLVING THE CONFLICTS AND ADDRESSING GAPS IN THE REQUIREMENTS.  
15 BY SEPTEMBER 1, 2015, THE WORK GROUP SHALL SUBMIT ITS  
16 RECOMMENDATIONS FOR RESOLVING THE CONFLICTS AND GAPS IN THE  
17 REQUIREMENTS, INCLUDING PROPOSED RULE CHANGES OR ADDITIONS, TO  
18 THE STATE BOARD AND THE MEDICAL SERVICES BOARD. THE  
19 RECOMMENDATIONS MUST SPECIFY THE PARTICULAR RULES OF EACH  
20 BOARD THAT NEED TO BE MODIFIED OR ADDED TO RESOLVE ANY  
21 CONFLICTS AND ADDRESS GAPS IN REQUIREMENTS.

22 (C) NO LATER THAN JULY 1, 2016, THE STATE BOARD AND THE  
23 MEDICAL SERVICES BOARD SHALL ADOPT RULES AS NECESSARY TO  
24 ELIMINATE ANY CONFLICTS BETWEEN AND GAPS IN THEIR RESPECTIVE  
25 RULES PERTAINING TO THE REQUIREMENTS IMPOSED ON  
26 COMMUNITY-CENTERED BOARD AND SERVICE AGENCIES THAT PROVIDE  
27 IN-HOME PERSONAL CARE SERVICES EXCLUSIVELY TO CONSUMERS WHO  
28 ARE RECIPIENTS OF SERVICES PURSUANT TO THE SUPPORTED LIVING  
29 SERVICES WAIVER OR THE CHILDREN'S EXTENSIVE SUPPORT WAIVER OF THE  
30 HOME- AND COMMUNITY-BASED SERVICES WAIVERS ADMINISTERED BY  
31 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

32 (D) AS PART OF THEIR ANNUAL PRESENTATIONS TO THE JOINT  
33 COMMITTEE OF REFERENCE TO WHICH EACH DEPARTMENT IS ASSIGNED  
34 UNDER THE "STATE MEASUREMENTS FOR ACCOUNTABLE, RESPONSIBLE,  
35 AND TRANSPARENT (SMART) ACT", PART 2 OF ARTICLE 7 OF TITLE 2,  
36 C.R.S., THE DEPARTMENTS OF PUBLIC HEALTH AND ENVIRONMENT AND  
37 HEALTH CARE POLICY AND FINANCING SHALL REPORT THEIR PROGRESS IN  
38 ANALYZING AND DEVELOPING A PLAN TO RESOLVE CONFLICTS AND GAPS  
39 IN THE REQUIREMENTS APPLICABLE TO COMMUNITY-CENTERED BOARDS  
40 AND SERVICE AGENCIES THAT PROVIDE IN-HOME PERSONAL CARE  
41 SERVICES. THE DEPARTMENTS SHALL INDICATE WHETHER THEY ARE

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

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

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

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

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

33 Page 7, line 16, strike "article," and substitute "article OR WITHIN TEN  
34 DAYS AFTER A CHANGE IN THE OWNER, MANAGER, OR ADMINISTRATOR,".

35 Page 8, strike lines 7 through 24 and substitute:

36 "(b) The DEPARTMENT SHALL USE THE information ~~shall be used~~  
37 ~~by the department~~ FROM THE CRIMINAL HISTORY RECORD CHECK in  
38 ascertaining whether the person applying for licensure OR REGISTRATION

1 has been convicted of a felony or of a misdemeanor, which felony or  
2 misdemeanor ~~involves moral turpitude or~~ involves conduct that the  
3 department determines could pose a risk to the health, safety, or welfare  
4 of home care consumers of the home care agency OR HOME CARE  
5 PLACEMENT AGENCY. The department shall maintain information obtained  
6 in accordance with this section.

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

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

23 Page 8, line 27, after "**Employee**" insert "**or referred service provider**".

24 Page 9, line 9, after "employment" insert "OR PLACEMENT".

25 Page 10, after line 3 insert:

26 "**SECTION 7.** In Colorado Revised Statutes, **amend** 25-27.5-108  
27 as follows:

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

1 licenses ~~shall~~ OR REGISTRATIONS MUST be conducted in conformity with  
2 the provisions and procedures specified in article 4 of title 24, C.R.S.

3 (2) (a) The department may suspend, revoke, or refuse to renew  
4 the license OR REGISTRATION of ~~any~~ A home care agency OR HOME CARE  
5 PLACEMENT AGENCY that is out of compliance with the requirements of  
6 this article or the rules promulgated pursuant to this article. ~~Such~~  
7 ~~suspension, revocation, or refusal shall be done after~~ BEFORE TAKING  
8 FINAL ACTION TO SUSPEND, REVOKE, OR REFUSE TO RENEW A LICENSE OR  
9 REGISTRATION, THE DEPARTMENT SHALL CONDUCT a hearing ~~thereon and~~  
10 ON THE MATTER in conformance with the provisions and procedures  
11 specified in article 4 of title 24, C.R.S.; except that the department may  
12 implement a summary suspension prior to a hearing in accordance with  
13 article 4 of title 24, C.R.S. IF THE DEPARTMENT SUSPENDS, REVOKES, OR  
14 REFUSES TO RENEW A HOME CARE PLACEMENT AGENCY REGISTRATION,  
15 THE DEPARTMENT SHALL REMOVE THE HOME CARE PLACEMENT AGENCY  
16 FROM THE REGISTRY MAINTAINED BY THE DEPARTMENT PURSUANT TO  
17 SECTION 25-27.3-103 (2) (a) (I).

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

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

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

40 (B) If the department imposes an intermediate restriction or  
41 condition that is the result of a serious and immediate threat to health,

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

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

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

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

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

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

37 (A) Continuing monitoring required pursuant to this paragraph  
38 (b);

39 (B) Education for ~~licensee~~ LICENSED HOME CARE AGENCY OR  
40 REGISTERED HOME CARE PLACEMENT AGENCY to avoid restrictions or  
41 conditions or facilitate the application process or the change of ownership

1 process;

2 (C) Education for home care consumers and their families about  
3 resolving problems with a home care agency OR HOME CARE PLACEMENT  
4 AGENCY, rights of home care consumers, and responsibilities of home  
5 care agencies AND HOME CARE PLACEMENT AGENCIES;

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

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

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

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

26 Renumber succeeding sections accordingly.

27 Page 10, line 10, after "~~reviewed~~" insert "AND THE REGISTERING OF HOME  
28 CARE PLACEMENT AGENCIES" and after "24-34-104, C.R.S." add "IN  
29 CONDUCTING ITS REVIEW AND COMPILING ITS REPORT PURSUANT TO  
30 SECTION 24-34-104 (8), C.R.S., THE DEPARTMENT OF REGULATORY  
31 AGENCIES SHALL SEGREGATE THE DATA IN THE REPORT BASED ON THE  
32 TYPE OF AGENCY, SPECIFYING WHETHER THE AGENCY IS:

- 33 (a) A HOME CARE AGENCY THAT PROVIDES SKILLED HOME HEALTH  
34 SERVICES;
- 35 (b) A HOME CARE AGENCY THAT ONLY PROVIDES PERSONAL CARE  
36 SERVICES; OR
- 37 (c) A HOME CARE PLACEMENT AGENCY."

38 Page 10, line 21, strike "THE" and substitute "NOTWITHSTANDING

1 PARAGRAPH (a) OF SUBSECTION (11) OF THIS SECTION, THE FUNCTIONS OF  
2 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT RELATING TO  
3 THE" and after "AGENCIES" insert "AND THE REGISTERING OF HOME CARE  
4 PLACEMENT AGENCIES".

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