

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

PREAMENDED

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

LLS NO. 02-0961.01 Debbie Haskins

SENATE BILL 02-206

SENATE SPONSORSHIP

Hernandez,

HOUSE SPONSORSHIP

Stafford,

Senate Committees

Health, Environment, Children & Families

House Committees

A BILL FOR AN ACT

101 **CONCERNING STATUTES RELATING TO THE POWERS OF THE**
102 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

[Drafting note: This bill reorganizes existing provisions of statutory law for purposes of clarity. Section and subsection numbers and paragraph letters have changed, but no substantive amendments to the operative provisions have been made except where indicated by capitalized or stricken type. Where section and subsection numbers and paragraph letters have changed, the prior designations are indicated by bold, bracketed type.]

Reorganizes the statutory section that contains the list of powers

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.*

and duties of the department of public health and environment and relocates the section into a new article. Makes conforming amendments.

Requires the state board of health to promulgate rules requiring administration of the hepatitis A vaccination as a requirement for school entry for any child entering kindergarten on or after September 1, 2003. Specifies that federally funded vaccine programs, private insurance programs, and grants and donations are to be used to fund the hepatitis A vaccinations and that no state general fund revenues are to be used.

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

2 **SECTION 1. Repeal of provision being relocated.** 25-1-107,
3 Colorado Revised Statutes, is repealed.

4 **SECTION 2.** Title 25, Colorado Revised Statutes, is amended
5 BY THE ADDITION OF A NEW ARTICLE, CONTAINING
6 RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

7 **ARTICLE 1.5**

8 **Powers and Duties of the Department of Public Health**
9 **and Environment**

10 PART 1

11 GENERAL POWERS AND DUTIES

12 **25-1.5-101. [Formerly 25-1-107 (1) (c), (1) (e), (1) (f), (1) (g),**
13 **(1) (h), (1) (i), (1) (j), (1) (m), (1) (n), (1) (q), (1) (s), (1) (t), (1) (u), (1)**
14 **(v), (1) (w), (1) (y), (1) (z), (1) (aa), (1) (bb), (1) (cc), (1) (ff), (1) (hh),**
15 **(1) (ii), and (1) (kk)] Powers and duties of the department.** (1) The
16 department has, in addition to all other powers and duties imposed upon
17 it by law, the ~~following~~ powers and duties PROVIDED IN THIS SECTION AS
18 FOLLOWS:

19 (☞) (a) To close theatres, schools, and other public places, and to
20 forbid gatherings of people when necessary to protect the public health;

21 (☞) (b) (I) To establish and enforce minimum general sanitary

1 standards as to the quality of wastes discharged upon land and the quality
2 of fertilizer derived from excreta of human beings or from the sludge of
3 sewage disposal plants.

4 (II) THE PHRASE "MINIMUM GENERAL SANITARY STANDARDS" AS
5 USED IN THIS SECTION MEANS THE MINIMUM STANDARDS REASONABLY
6 CONSISTENT WITH ASSURING ADEQUATE PROTECTION OF THE PUBLIC
7 HEALTH. THE WORD "STANDARDS" AS USED IN THIS SECTION MEANS
8 STANDARDS REASONABLY DESIGNED TO PROMOTE AND PROTECT THE
9 PUBLIC HEALTH.

10 (f) (c) (I) To collect, compile, and tabulate reports of marriages,
11 dissolution of marriages, declaration of invalidity of marriages, births,
12 deaths, and morbidity and to require any person having information with
13 regard to the same to make such reports and submit such information as
14 the board shall by rule or regulation provide.

15 (II) For the purposes of this paragraph (f) (c), the board is
16 authorized to require reporting of morbidity and mortality in accordance
17 with the provisions of section 25-1-122.

18 (g) (d) To regulate the disposal, transportation, interment, and
19 disinterment of the dead;

20 (h) (e) To establish, maintain, and approve chemical,
21 bacteriological, and biological laboratories, and to conduct such
22 laboratory investigations and examinations as it may deem necessary or
23 proper for the protection of the public health;

24 (i) (f) To make, approve, and establish standards for diagnostic
25 tests by chemical, bacteriological, and biological laboratories, and to
26 require such laboratories to conform thereto; and to prepare, distribute,
27 and require the completion of forms or certificates with respect thereto;

1 (†) (g) To purchase, and to distribute to licensed physicians and
2 veterinarians, with or without charge, as the board may determine upon
3 considerations of emergency or need, such vaccines, serums, toxoids, and
4 other approved biological or therapeutic products as may be necessary for
5 the protection of the public health;

6 (†) (h) To establish and enforce sanitary standards for the
7 operation and maintenance of orphanages, day care nurseries, foster
8 homes, family care homes, summer camps for children, lodging houses,
9 hotels, public conveyances and stations, schools, factories, workshops,
10 industrial and labor camps, recreational resorts and camps, swimming
11 pools, public baths, mobile home parks, and other buildings, centers, and
12 places used for public gatherings;

13 (†) (i) (I) To establish sanitary standards and make sanitary,
14 sewerage, and health inspections and examinations for charitable, penal,
15 and other public institutions, and, with respect to the state institutions
16 under the department of human services specified in section 27-1-104,
17 C.R.S., or under the department of corrections specified in section
18 17-1-104.3 (1) (b), C.R.S., such inspections and examinations shall be
19 made at least once each year. Reports on such inspections of institutions
20 under control of the department of human services or the department of
21 corrections shall be made to the executive director of the appropriate
22 department for appropriate action, if any.

23 (II) Notwithstanding the provisions of subparagraph (I) of this
24 paragraph (†) (i), the standards adopted pursuant to subparagraph (I) of
25 this paragraph (†) (i) with regard to space requirements, furnishing
26 requirements, required special use areas or special management housing,
27 and environmental condition requirements, including but not limited to

1 standards pertaining to light, ventilation, temperature, and noise level,
2 shall not apply to any penal institution operated by or under contract with
3 a county or municipality if the penal institution begins operations on or
4 after August 30, 1999, and if the governing body of the jurisdiction
5 operating the penal institution has adopted standards pertaining to such
6 issues for the penal institution pursuant to section 30-11-104 (1), C.R.S.,
7 or section 31-15-711.5, C.R.S., whichever is applicable.

8 ~~(q)~~ (j) To disseminate public health information other than poison
9 control information;

10 ~~(s)~~ (k) To establish and enforce standards for exposure to toxic
11 materials in the gaseous, liquid, or solid phase that may be deemed
12 necessary for the protection of public health;

13 ~~(t)~~ (l) To establish and enforce standards for exposure to
14 environmental conditions, including radiation, that may be deemed
15 necessary for the protection of the public health;

16 ~~(u)~~ (I) ~~(Deleted by amendment, L. 93, p. 1096, § 13, effective July~~
17 ~~1, 1994.)~~

18 ~~(H)~~ (m) (I) To accept on behalf of and in the name of the state,
19 gifts, donations, and grants for any purpose connected with the work and
20 programs of the department.

21 (II) Any such property so given shall be held by the state
22 treasurer, but the department shall have the power to direct the
23 disposition of any property so given for any purpose consistent with the
24 terms and conditions under which such gift was created.

25 ~~(H)~~ ~~(Deleted by amendment, L. 93, p. 1096, § 13, effective July~~
26 ~~1, 1994.)~~

27 ~~(v)~~ (n) To carry out the policies of the state as set forth in part 1

1 of article 6 of this title with respect to family planning;

2 ~~(w)~~ (o) To carry out the policies of this state RELATING TO THE
3 "COLORADO HEALTH CARE COVERAGE ACT"; as set forth in parts 1 and
4 4 of article 16 of title 10, C.R.S.;

5 ~~(y)~~ (p) To compile and maintain current information necessary to
6 enable the department to answer any inquiry concerning the proper action
7 to take to counteract, eliminate, or minimize the public health hazards of
8 a hazardous substance incident involving any specific kind of hazardous
9 substance. To make such information available and to facilitate the
10 reporting of hazardous substance incidents, the department shall establish,
11 maintain, and publicize an environmental emergency telephone service
12 that shall be available to the public twenty-four hours each day. With
13 respect to the powers and duties specified in this paragraph ~~(y)~~ (p), the
14 department shall have no rule-making authority and shall avail itself of
15 all available private resources. As used in this paragraph ~~(y)~~ (p), the
16 terms "hazardous substance" and "hazardous substance incident" shall
17 have the meanings ascribed to them in section 29-22-101, C.R.S. The
18 department shall coordinate its activities pursuant to this section with the
19 Colorado state patrol.

20 ~~(z)~~ (q) (I) To establish and maintain a statewide cancer registry
21 providing for compilation and analysis of appropriate information
22 regarding incidence, diagnosis, treatment, and end results and any other
23 data designed to provide more effective cancer control for the citizens of
24 Colorado.

25 (II) For the purposes of this paragraph ~~(z)~~ (q), the board is
26 authorized to require reports relating to cancer in accordance with the
27 provisions of section 25-1-122 and to have access to medical records

1 relating to cancer in accordance with the provisions of section 25-1-122.

2 ~~(aa)~~ (r) To operate and maintain a program for children with
3 disabilities to provide and expedite provision of health care services to
4 children who have congenital birth defects or who are the victims of
5 burns or trauma or children who have acquired disabilities;

6 ~~(bb)~~ (s) To annually enter into an agreement with a qualified
7 person to perform necessary hazardous substance incident response
8 actions when such actions are beyond the ability of the local and state
9 response capabilities. Such response actions may include, but are not
10 limited to, containment, clean-up, and disposal of a hazardous substance.
11 Nothing in this article shall prevent the attorney general's office from
12 pursuing cost recovery against responsible persons.

13 ~~(cc)~~ (t) To operate special health programs for migrant and
14 seasonal farm workers and their dependent family members and to accept
15 and employ federal and other moneys appropriated to implement such
16 programs;

17 ~~(ff)~~ (u) To carry out the duties prescribed in article 11.5 of title
18 16, C.R.S., RELATING TO SUBSTANCE ABUSE IN THE CRIMINAL JUSTICE
19 SYSTEM;

20 ~~(hh)~~ (v) To establish and maintain a statewide gulf war syndrome
21 registry pursuant to part 19 of article 4 of this title providing for
22 compilation and analysis of information regarding incidence, diagnosis,
23 treatment, and treatment outcomes of veterans or family members of
24 veterans suffering from gulf war syndrome;

25 ~~(ii)~~ (w) (I) To act as the coordinator for suicide prevention
26 programs throughout the state.

27 (II) The department is authorized to accept gifts, grants, and

1 donations to assist it in performing its duties as the coordinator for
2 suicide prevention programs. All such gifts, grants, and donations shall
3 be transmitted to the state treasurer who shall credit the same to the
4 suicide prevention coordination cash fund, which fund is hereby created.
5 Any moneys remaining in the suicide prevention coordination cash fund
6 at the end of any fiscal year shall remain in the fund and shall not be
7 transferred or credited to the general fund. The general assembly shall
8 make appropriations from the suicide prevention coordination cash fund
9 for expenditures incurred by the department in the performance of its
10 duties under this paragraph ~~(ii)~~ (w).

11 (III) (A) As part of its duties as coordinator for suicide prevention
12 programs, on or before November 1, 2000, and on or before each
13 November 1 thereafter, the department shall submit to the ~~chairs~~ CHAIR
14 of the health, environment, welfare, and institutions ~~committees~~
15 COMMITTEE of ~~the senate and the house of representatives~~, TO THE CHAIR
16 OF THE HEALTH, ENVIRONMENT, CHILDREN AND FAMILIES COMMITTEE OF
17 THE SENATE, and to the members of the joint budget committee a report
18 listing all suicide prevention programs in the state and describing the
19 effectiveness of the department acting as the coordinator for suicide
20 prevention programs.

21 (B) On or before January 15, 2004, the ~~chairs~~ CHAIR of the health,
22 environment, welfare, and institutions ~~committees~~ COMMITTEE OF THE
23 HOUSE OF REPRESENTATIVES AND THE CHAIR OF THE HEALTH,
24 ENVIRONMENT, CHILDREN AND FAMILIES COMMITTEE OF THE SENATE shall
25 decide whether to recommend that the reports required by
26 sub-subparagraph (A) of this subparagraph (III) be discontinued.

27 ~~(kk)~~ (x) To implement the state dental loan repayment program

1 created in article 23 of this title.

2 **25-1.5-102. [Formerly 25-1-107 (1) (a), (1) (a.5), (1) (b), and (1)**
3 **(d)] Epidemic and communicable diseases - powers and duties of the**
4 **department.** (1) THE DEPARTMENT HAS, IN ADDITION TO ALL OTHER
5 POWERS AND DUTIES IMPOSED UPON IT BY LAW, THE POWERS AND DUTIES
6 PROVIDED IN THIS SECTION AS FOLLOWS:

7 (a) (I) To investigate and control the causes of epidemic and
8 communicable diseases affecting the public health.

9 (II) For the purposes of this paragraph (a), the board shall
10 determine, by rule and regulation, those epidemic and communicable
11 diseases and conditions that are dangerous to the public health. The
12 board is authorized to require reports relating to such designated diseases
13 in accordance with the provisions of section 25-1-122 and to have access
14 to medical records relating to such designated diseases in accordance with
15 the provisions of section 25-1-122.

16 (III) For the purposes of this paragraph (a), "epidemic diseases"
17 means cases of an illness or condition, communicable or
18 noncommunicable, in excess of normal expectancy, compared to the
19 usual frequency of the illness or condition in the same area, among the
20 specified population, at the same season of the year. A single case of a
21 disease long absent from a population may require immediate
22 investigation.

23 (IV) For the purposes of this paragraph (a), "communicable
24 diseases" means an illness due to a specific infectious agent or its toxic
25 products that arises through transmission of that agent or its products
26 from an infected person, animal, or reservoir to a susceptible host, either
27 directly or indirectly through an intermediate plant or animal host, vector,

1 or the inanimate environment.

2 ~~(a.5)~~ (b) (I) To investigate and monitor the spread of disease that
3 is considered part of an emergency epidemic as defined in section
4 24-32-2103 (1.7), C.R.S., to determine the extent of environmental
5 contamination resulting from the emergency epidemic, and to rapidly
6 provide epidemiological and environmental information to the governor's
7 expert emergency epidemic response committee, created in section
8 24-32-2104 (8), C.R.S.

9 (II) Except as otherwise directed by executive order of the
10 governor, the department shall exercise its powers and duties to control
11 epidemic and communicable diseases and protect the public health as set
12 out in this section.

13 (III) The department may accept and expend federal funds, gifts,
14 grants, and donations for the purposes of an emergency epidemic or
15 preparation for an emergency epidemic.

16 (IV) When a public safety worker, emergency medical service
17 provider, or staff member of a detention facility has been exposed to
18 blood or other bodily fluid which there is a reason to believe may be
19 infectious with hepatitis C, state and local health departments within their
20 respective jurisdictions shall assist in evaluation and treatment of any
21 involved persons by:

22 (A) Accessing information on the incident and any persons
23 involved to determine whether a potential exposure to hepatitis C
24 occurred;

25 (B) Examining and testing such involved persons to determine
26 hepatitis C infection when the fact of an exposure has been established
27 by the state or local health department;

1 (C) Communicating relevant information and laboratory test
2 results on the involved persons to such persons' attending physicians or
3 directly to the involved persons if the confidentiality of such information
4 and test results is acknowledged by the recipients and adequately
5 protected, as determined by the state or local health department; and

6 (D) Providing counseling to the involved persons on the potential
7 health risks resulting from exposure and the available methods of
8 treatment.

9 (V) The employer of an exposed person shall ensure that relevant
10 information and laboratory test results on the involved person are kept
11 confidential. Such information and laboratory results are considered
12 medical information and protected from unauthorized disclosure.

13 (VI) For purposes of this paragraph ~~(a.5)~~ (b), "public safety
14 worker" includes, but is not limited to, law enforcement officers, peace
15 officers, and firefighters.

16 ~~(b)~~ (c) To establish, maintain, and enforce isolation and
17 quarantine, and, in pursuance thereof and for this purpose only, to
18 exercise such physical control over property and the persons of the people
19 within this state as the department may find necessary for the protection
20 of the public health;

21 (d) To abate nuisances when necessary for the purpose of
22 eliminating sources of epidemic and communicable diseases affecting the
23 public health.

24 **25-1.5-103. [Formerly 25-1-107 (1) (l), (3), and (4)] Hospitals**
25 **and community mental health centers - powers and duties of the**
26 **department - limitations on rules promulgated by the department.**

27 (1) THE DEPARTMENT HAS, IN ADDITION TO ALL OTHER POWERS AND

1 DUTIES IMPOSED UPON IT BY LAW, THE POWERS AND DUTIES PROVIDED IN
2 THIS SECTION AS FOLLOWS:

3 ⊕ (a) (I) To annually license and to establish and enforce
4 standards for the operation of general hospitals, hospital units as defined
5 in section 25-3-101 (2), psychiatric hospitals, community clinics,
6 rehabilitation centers, convalescent centers, community mental health
7 centers, facilities for persons with developmental disabilities, habilitation
8 centers for brain-damaged children, chiropractic centers and hospitals,
9 maternity hospitals, nursing care facilities, residential care facilities, the
10 pilot project rehabilitative nursing facility, hospice care, personal care
11 boarding homes, dialysis treatment clinics, ambulatory surgical centers,
12 birthing centers, and other facilities of a like nature, except those wholly
13 owned and operated by any governmental unit or agency. In establishing
14 and enforcing such standards and in addition to the required announced
15 inspections, the department shall, within available appropriations, make
16 additional inspections without prior notice to the facility. Such
17 inspections shall be made only during the hours of 7 a.m. to 7 p.m. The
18 issuance, suspension, renewal, revocation, annulment, or modification of
19 licenses shall be governed by the provisions of section 24-4-104, C.R.S.,
20 and section 25-3-102, and all licenses shall bear the date of issue and
21 cover a twelve-month period. Nothing contained in this paragraph ⊕ (a)
22 shall be construed to prevent the department from adopting and enforcing,
23 with respect to projects for which federal assistance has been obtained or
24 shall be requested, such higher standards as may be required by
25 applicable federal laws or regulations of federal agencies responsible for
26 the administration of such federal laws.

27 (II) To establish and enforce standards for the operation and

1 maintenance of the health facilities named in subparagraph (I) of this
2 paragraph ~~(H)~~ (a), wholly owned and operated by the state or any of its
3 political subdivisions, and no such facility shall be operated or
4 maintained without an annual certificate of compliance;

5 ~~(H.1)~~ (b) To suspend, revoke, or refuse to renew any license
6 issued to a health facility pursuant to subparagraph (I) or (II) of ~~this~~
7 paragraph ~~(H)~~ (a) OF THIS SUBSECTION (1) if such health facility has
8 committed abuse of health insurance pursuant to section 18-13-119,
9 C.R.S., or if such health facility has advertised through newspapers,
10 magazines, circulars, direct mail, directories, radio, television, or
11 otherwise that it will perform any act prohibited by section 18-13-119 (3),
12 C.R.S., unless the health facility is exempted from ~~said~~ section ~~in~~
13 ~~accordance with subsection (5) thereof~~ 18-13-119 (5), C.R.S.;

14 ~~(H.2)~~ (c) (I) To establish and enforce standards for licensure of
15 community mental health centers.

16 (II) The department of public health and environment shall have
17 the primary responsibility for the licensure of such facilities. The
18 department of human services shall have primary responsibility for
19 program approval.

20 ~~(H.5)~~ ~~(Deleted by amendment, L. 94, p. 2606, § 7, effective July~~
21 ~~1, 1994.)~~

22 ~~(HH)~~ (2) For purposes of this ~~paragraph (H)~~ SECTION, unless the
23 context otherwise requires:

24 ~~(A)~~ (a) "Community mental health center" means either a physical
25 plant or a group of services under unified administration and including at
26 least the following: Inpatient services; outpatient services; day
27 hospitalization; emergency services; and consultation and educational

1 services, which services are provided principally for mentally ill persons
2 residing in a particular community in or near which the facility is
3 situated.

4 ~~(B)~~ (b) "Facility for persons with developmental disabilities"
5 means a facility specially designed for the active treatment and
6 habilitation of persons with developmental disabilities or a community
7 residential home, as defined in section 27-10.5-102 (4), C.R.S., which is
8 licensed and certified pursuant to section 27-10.5-109, C.R.S.

9 ~~(C)~~ (c) "Hospice care" means an entity that administers services
10 to a terminally ill person utilizing palliative care or treatment.

11 (3) (a) In the exercise of its powers pursuant to ~~paragraph (1) of~~
12 ~~subsection (1) of~~ this section, the department shall not promulgate any
13 rule, regulation, or standard relating to nursing personnel for rural nursing
14 care facilities, rural intermediate care facilities, and other rural facilities
15 of a like nature more stringent than the applicable federal standards and
16 regulations.

17 (b) For purposes of this subsection (3), "rural" means:

18 (I) A county of less than fifteen thousand population; or

19 (II) A municipality of less than fifteen thousand population which
20 is located ten miles or more from a municipality of over fifteen thousand
21 population; or

22 (III) The unincorporated part of a county ten miles or more from
23 a municipality of fifteen thousand population or more.

24 ~~(F)~~ (c) ~~(F)~~ A nursing care facility which is not rural as defined in
25 paragraph (b) of this subsection (3) shall meet the licensing requirements
26 of the department for nursing care facilities. However, if a registered
27 nurse hired pursuant to department regulations is temporarily unavailable,

1 a nursing care facility may use a licensed practical nurse in place of a
2 registered nurse if such licensed practical nurse is a current employee of
3 the nursing care facility.

4 ~~(H) and (H)~~ ~~(Deleted by amendment, L. 94, pp. 695, 1638, § § 1,~~
5 ~~55, effective April 19, 1994.)~~

6 (4) In the exercise of its powers, the department shall not
7 promulgate any rule, regulation, or standard which limits or interferes
8 with the ability of an individual to enter into a contract with a private pay
9 facility concerning the programs or services provided at the private pay
10 facility. For the purposes of this subsection (4), "private pay facility"
11 means a skilled nursing facility or intermediate care facility subject to the
12 requirements of section 25-1-120 or a personal care boarding home
13 licensed pursuant to section 25-27-105 that is not publicly funded or is
14 not certified to provide services that are reimbursed from state or federal
15 assistance funds.

16 **25-1.5-104. [Formerly 25-1-107 (1) (k), (1) (o), and (1)**
17 **(p)] Regulation of standards relating to food - powers and duties of**
18 **the department.** (1) THE DEPARTMENT HAS, IN ADDITION TO ALL OTHER
19 POWERS AND DUTIES IMPOSED UPON IT BY LAW, THE POWERS AND DUTIES
20 PROVIDED IN THIS SECTION AS FOLLOWS:

21 ~~(k)~~ (a) To impound any vegetables and other edible crops and
22 meat and animal products intended for and unfit for human consumption,
23 and, upon five days' notice and after affording reasonable opportunity for
24 a hearing to the interested parties, to condemn and destroy the same if
25 deemed necessary for the protection of the public health;

26 ~~(o)~~ (b) (I) To promulgate and enforce rules, regulations, and
27 standards for the grading, labeling, classification, and composition of

1 milk, milk products, and dairy products, including imitation dairy
2 products; to establish minimum general sanitary standards of quality of
3 all milk, milk products, dairy products, and imitation dairy products sold
4 for human consumption in this state; to inspect and supervise, in dairy
5 plants or dairy farms and in other establishments handling any milk, milk
6 products, dairy products, or imitation dairy products, the sanitation of
7 production, processing, and distribution of all milk, milk products, dairy
8 products, and imitation dairy products sold for human consumption in
9 this state and, to this end, to take samples of milk, milk products, dairy
10 products, and imitation dairy products for bacteriological, chemical, and
11 other analyses; and to enforce the standards for milk, milk products, dairy
12 products, and imitation dairy products in processing plants, dairy farms,
13 and other facilities and establishments handling, transporting, or selling
14 such products; to certify persons licensed by the department under the
15 provisions of section 25-5.5-107 as duly qualified persons for the purpose
16 of collecting raw milk samples for official analyses in accordance with
17 minimum qualifications established by the department; to issue, for the
18 fees established by law, licenses and temporary permits to operate milk
19 plants, dairy plants, receiving stations, dairy farms, and other facilities
20 manufacturing any milk, milk products, dairy products, or imitation dairy
21 products for human consumption.

22 (II) THE PHRASE "MINIMUM GENERAL SANITARY STANDARDS" AS
23 USED IN THIS SECTION MEANS THE MINIMUM STANDARDS REASONABLY
24 CONSISTENT WITH ASSURING ADEQUATE PROTECTION OF THE PUBLIC
25 HEALTH. THE WORD "STANDARDS" AS USED IN THIS SECTION MEANS
26 STANDARDS REASONABLY DESIGNED TO PROMOTE AND PROTECT THE
27 PUBLIC HEALTH.

1 ~~(H)~~ (c) To promulgate and enforce rules and regulations for the
2 labeling and sale of oleomargarine and for the governing of milk- or
3 cream-weighing-and-testing operations;

4 ~~(H)~~ (d) To approve all oils used in reading tests of samples of
5 cream and milk;

6 ~~(V)~~ (e) To examine and license persons to sample or test milk,
7 cream, or other dairy products for the purpose of determining the value
8 of such products or to instruct other persons in the sampling and testing
9 of such products and to cancel licenses issued by the department on
10 account of incompetency or any violation of the provisions of the dairy
11 laws or the rules and regulations promulgated by the board;

12 ~~(V)~~ (f) To license manufacturers of oleomargarine;

13 ~~(p)~~ (g) To establish and enforce sanitary standards for the
14 operation of slaughtering, packing, canning, and rendering establishments
15 and stores, shops, and vehicles wherein meat and animal products
16 intended for human consumption may be offered for sale or transported,
17 but this shall not be construed to authorize any state officer or employee
18 to interfere with regulations or inspections made by anyone acting under
19 the laws of the United States.

20 **25-1.5-105. [Formerly 25-1-107 (1) (dd)] Detection of diseases**
21 **- powers and duties of the department.** (1) THE DEPARTMENT HAS, IN
22 ADDITION TO ALL OTHER POWERS AND DUTIES IMPOSED UPON IT BY LAW,
23 THE POWERS AND DUTIES PROVIDED IN THIS SECTION AS FOLLOWS:

24 ~~(dd)~~ ~~(I)~~ ~~(A)~~ (a) To establish and operate programs which the
25 department determines are important in promoting, protecting, and
26 maintaining the public's health by preventing, delaying, or detecting the
27 onset of environmental and chronic diseases;

1 ~~(B)~~ (b) To develop and maintain a system for detecting and
2 monitoring environmental and chronic diseases within the state and to
3 investigate and determine the epidemiology of those conditions which
4 contribute to preventable or premature sickness and to death and
5 disability;

6 ~~(C)~~ (c) To establish programs of community and professional
7 education relevant to the detection, prevention, and control of
8 environmental and chronic diseases.

9 ~~(H)~~ (2) For purposes of this ~~paragraph (dd)~~ SECTION, "chronic
10 disease" means impairment or deviation from the normal functioning of
11 the human body which:

12 ~~(A)~~ (a) Is permanent;

13 ~~(B)~~ (b) Leaves residual disability;

14 ~~(C)~~ (c) Is caused by nonreversible pathological alterations;

15 ~~(D)~~ (d) Requires special patient education and instruction for
16 rehabilitation; or

17 ~~(E)~~ (e) May require a long period of supervision, observation, and
18 care.

19 ~~(H)~~ (3) For the purposes of this ~~paragraph (dd)~~ SECTION,
20 "environmental disease" means an impairment or deviation from the
21 normal functioning of the human body which:

22 ~~(A)~~ (a) May be either temporary or permanent;

23 ~~(B)~~ (b) May leave residual disability;

24 ~~(C)~~ (c) May result in birth defects, damage to tissues and organs,
25 and chronic illness; and

26 ~~(D)~~ (d) Is caused by exposure to hazardous chemical or
27 radiological materials present in the environment.

1 ~~(IV)~~ (4) For the purposes of this ~~paragraph (dd)~~ SECTION, the
2 board shall determine, by rule and regulation, those environmental and
3 chronic diseases that are dangerous to the public health. The board is
4 authorized to require reports relating to such designated diseases in
5 accordance with the provisions of section 25-1-122 and to have access to
6 medical records relating to such designated diseases in accordance with
7 the provisions of section 25-1-122.

8 **25-1.5-106. [Formerly 25-1-107 (1) (jj)] Medical marijuana**
9 **program - powers and duties of the department.** ~~(jj)~~ ~~(j)~~ (1) The
10 department shall, pursuant to section 14 of article XVIII of the state
11 constitution, promulgate rules of administration concerning the
12 implementation of the medical marijuana program established by such
13 section and that specifically govern the following:

14 ~~(A)~~ (a) The establishment and maintenance of a confidential
15 registry of patients who have applied for and are entitled to receive a
16 registry identification card;

17 ~~(B)~~ (b) The development by the department of an application form
18 and making such form available to residents of this state seeking to be
19 listed on the confidential registry of patients who are entitled to receive
20 a registry identification card;

21 ~~(C)~~ (c) The verification by the department of medical information
22 concerning patients who have applied for a confidential registry card;

23 ~~(D)~~ (d) The issuance and form of confidential registry
24 identification cards;

25 ~~(E)~~ (e) Communications with law enforcement officials about
26 confidential registry identification cards that have been suspended where
27 a patient is no longer diagnosed as having a debilitating medical

1 condition; and

2 ~~(F)~~ (f) The manner in which the department may consider adding
3 debilitating medical conditions to the list of debilitating medical
4 conditions contained in section 14 of article XVIII of the state
5 constitution.

6 ~~(H)~~ (2) The department may collect fees from patients who,
7 pursuant to section 14 of article XVIII of the state constitution, apply to
8 the medical marijuana program established by such section for a
9 marijuana registry identification for the purpose of offsetting the
10 department's direct and indirect costs of administering the program. The
11 amount of such fees shall be set by rule of the state board of health. All
12 fees collected by the department through the medical marijuana program
13 shall be transferred to the state treasurer who shall credit the same to the
14 medical marijuana program cash fund, which fund is hereby created.

15 ~~(H)~~ (3) The medical marijuana program cash fund shall be subject
16 to annual appropriation by the general assembly to the department for the
17 purpose of establishing, operating, and maintaining the medical marijuana
18 program established by section 14 of article XVIII of the state
19 constitution. All moneys credited to the medical marijuana program cash
20 fund and all interest derived from the deposit of such moneys that are not
21 expended during the fiscal year shall be retained in the fund for future use
22 and may not be credited or transferred to the general fund or any other
23 fund.

24 PART 2

25 POWERS AND DUTIES OF THE DEPARTMENT

26 WITH RESPECT TO WATER

27 **25-1.5-201. [Formerly 25-1-107 (1) (x) (V) and (1) (x) (VI)]**

1 **Definitions.** ~~(x)~~~~(V)~~ As used in this ~~part 1~~ PART 2, UNLESS THE CONTEXT
2 OTHERWISE REQUIRES:

3 (1) "Public water systems" means systems for the provision to the
4 public of piped water for human consumption, if such system has at least
5 fifteen service connections or regularly serves at least twenty-five
6 individuals. Such term includes:

7 ~~(A)~~ (a) Any collection, treatment, storage, and distribution
8 facilities under control of the operator of such system and used primarily
9 in connection with such system; and

10 ~~(B)~~ (b) Any collection or pretreatment storage facilities not under
11 such control which are used primarily in connection with such system.

12 ~~(VI)~~ (2) ~~As used in this part 1,~~ "Supplier of water" means any
13 person who owns or operates a public water system.

14 **25-1.5-202. [Formerly 25-1-107 (2)] Water - minimum general**
15 **sanitary standards.** ~~(2)~~~~(a)~~ (1) The phrase "minimum general sanitary
16 standards" as used in this ~~section~~ PART 2 and section 25-1-109 (1) (h)
17 means the minimum standards reasonably consistent with assuring
18 adequate protection of the public health, and, in the case of minimum
19 general sanitary standards as to the quality of water supplied to the
20 public, the same shall be established by rule and regulation and shall be
21 appropriate to promote and protect the public health from endangerment
22 presented by carcinogenic, mutagenic, teratogenic, pathogenic, or toxic
23 contaminants or substances. Such standards shall be based on the best
24 available endangerment assessment evidence and the best available
25 treatment technology or methodology. The word "standards" as used in
26 this ~~section~~ PART 2 and section 25-1-109 (1) (h) means standards
27 reasonably designed to promote and protect the public health.

1 ~~(b)~~ (2) Minimum general sanitary standards for the quality of
2 water supplied to the public shall be no more stringent than the drinking
3 water standards promulgated pursuant to the federal "Safe Drinking
4 Water Act", if such standards exist. If no standards have been
5 promulgated pursuant to the federal "Safe Drinking Water Act" regarding
6 the permissible concentration of any contaminant or any substance in
7 drinking water, the department may recommend to the board for
8 promulgation minimum general sanitary standards regarding such
9 contaminant or substance.

10 ~~(c)~~~~(H)~~ (3) (a) The department shall annually establish and revise
11 a priority list of contaminants or substances for which standards may be
12 considered and shall submit said list to the board for review and approval.

13 ~~(H)~~ (b) The priority list of contaminants or substances, together
14 with the department's evaluation of the considerations listed in this
15 ~~subparagraph~~ ~~(H)~~ PARAGRAPH (b), shall be submitted to the board for
16 review and approval. The priority list shall be prepared according to a
17 ranking process which incorporates the following considerations:

18 ~~(A)~~ (I) The actual presence of a contaminant or substance in a
19 drinking water supply system or the relative imminence of threat of
20 contamination of a drinking water supply source;

21 ~~(B)~~ (II) The identifiability of a potential pathway or continued
22 pathway of contamination;

23 ~~(C)~~ (III) The availability of analytical techniques for measuring
24 and identifying the contaminant or substance in a reasonable manner;

25 ~~(D)~~ (IV) Sufficient available information concerning the
26 contaminant or substance to allow an appropriate standard to be
27 developed, including information on the health effects of the contaminant

1 or substance as well as available treatment technology;

2 ~~(E)~~ (V) The magnitude of potential health risks of the contaminant
3 or substance at reasonably anticipated exposure levels, utilizing the same
4 exposure considerations, criteria for health risk, and criteria for data
5 availability which are used by the criteria and standards division of the
6 office of drinking water, United States environmental protection agency,
7 in establishing the federal drinking water priority list;

8 ~~(F)~~ (VI) The fact that the contaminant or substance will be the
9 subject of a national primary drinking water regulation in the near future;

10 ~~(G)~~ (VII) An analysis of the environmental fate and transport
11 mechanisms within relevant environmental media;

12 ~~(H)~~ (VIII) Identification, characterization, and analysis of the
13 populations and drinking water supplies at risk; and

14 ~~(I)~~ (IX) The level of effort and scope of work that will be
15 necessary to develop sufficient data for the purpose of supporting an
16 appropriate standard.

17 ~~(d)~~~~(f)~~ (4) (a) Following the department's submission of
18 recommended standards to the board, the board may promulgate
19 standards for contaminants or substances that are not the subject of a
20 standard set pursuant to the federal "Safe Drinking Water Act".

21 ~~(H)~~ (b) In the promulgation of such standards, the board shall find
22 that the standards are necessary to protect public health and have a
23 demonstrated medical, technological, and scientific basis and that:

24 ~~(A)~~ (I) Based on credible medical and toxicological evidence that
25 has been subjected to peer review, there exists a substantial risk to the
26 public health;

27 ~~(B)~~ (II) The analytical techniques for measuring and identifying

1 the contaminant or substance are reasonably available;

2 ~~(C)~~ (III) The adverse health effects posed by the contaminant or
3 substance are known to a reasonable degree of scientific certainty; and

4 ~~(D)~~ (IV) Compliance with such standard is feasible utilizing the
5 best technology or methodology which is generally available.

6 **25-1.5-203. [Formerly 25-1-107 (1) (r), (1) (x) (I), (1) (x) (II),**
7 **(1) (x.2), (1) (x.5), and (1) (gg)] Water - powers and duties of the**
8 **department.** (1) THE DEPARTMENT HAS, IN ADDITION TO ALL OTHER
9 POWERS AND DUTIES IMPOSED UPON IT BY LAW, THE POWERS AND DUTIES
10 PROVIDED IN THIS SECTION:

11 ~~(r)~~ (a) **Construction of community water facilities.** To examine
12 plans, specifications, and other related data pertaining to the proposed
13 construction of any publicly or privately owned community water
14 facilities submitted for review of sanitary engineering features prior to
15 construction of such facilities;

16 ~~(x)~~ (b) **Quality of drinking water.** (I) To adopt and enforce
17 minimum general sanitary standards and regulations to protect the quality
18 of drinking water supplied to the public, including the authority to require
19 disinfection and treatment of such water.

20 (II) Standards and regulations adopted pursuant to this paragraph
21 ~~(x)~~ (b) may also include such minimum standards and regulations as are
22 necessary to assume enforcement of the federal "Safe Drinking Water
23 Act" with regard to public water systems, including, but not limited to,
24 requirements for:

25 (A) Review and approval by the department, prior to initiation of
26 construction, of the technical plans and specifications, long-term financial
27 plans, and operations and management plans for any new waterworks or

1 technical plans and specifications for substantial modifications to existing
2 waterworks. For the purposes of this subparagraph (II), "waterworks"
3 means the facilities that are directly involved in the production, treatment,
4 or distribution of water for public water systems, as defined in section
5 141.2 of the national primary drinking water regulations. The department
6 shall approve those new or substantially modified waterworks it
7 determines are capable of complying with the Colorado primary drinking
8 water regulations.

9 (B) Maintenance of records by the supplier of water relating to the
10 results of tests and procedures required by the standards and regulations,
11 including filing periodic reports with the department;

12 (C) Public notification by the supplier of water, pursuant to the
13 provisions of the federal "Safe Drinking Water Act";

14 (D) Granting exemptions and variances from the minimum
15 general sanitary standards to allow appropriate time for compliance, when
16 such procedure can be effected without seriously jeopardizing the public
17 health.

18 ~~(x.2)~~ (c) **Exemption of public water systems.** (I) To exempt a
19 water supplier from any further documentation requirements for purposes
20 of establishing that it does not meet the definition of a public water
21 system and is not subject to the requirements of the federal "Safe
22 Drinking Water Act", where such water supplier has provided to the
23 department evidence of the following:

24 (A) An ordinance, resolution, contractual provision, or other
25 similarly enforceable enactment that prohibits connection to the system
26 for the purpose of obtaining water for human consumption; and

27 (B) Either an annual visual inspection of the water supply system

1 for the purpose of determining the presence of any unauthorized
2 connections to the water supply system, or an annual written survey of
3 those individuals or entities with whom the supplier has a contractual
4 relationship governing the uses to which such water is placed by the
5 contracting parties.

6 (II) Nothing in subparagraph (I) of this paragraph ~~(x.2)~~ (c) shall
7 be construed to eliminate from the provisions of the federal "Safe
8 Drinking Water Act" any exclusion that may otherwise be available under
9 federal law or regulation.

10 ~~(x.5)~~ (d) **Lab certification program for testing drinking water.**

11 (I) To establish and maintain a laboratory certification program for the
12 purpose of ensuring competent testing of drinking water as required by
13 the federal "Safe Drinking Water Act" and ~~subsection (2) of this section~~
14 MINIMUM GENERAL SANITARY STANDARDS AS SET FORTH IN SECTION
15 25-1.5-202. Certification procedures shall, at a minimum, include water
16 supply evaluation verification and on-site inspections. The laboratory
17 certification program shall consist of certification levels which
18 correspond to the testing capability and capacity of each laboratory. In
19 addition to certifying laboratories for contaminants regulated as of May
20 11, 1988, the department shall adopt and implement a schedule for
21 certifying sufficient laboratory capacity for the testing and analysis of
22 contaminants for which reference methods are available and which are
23 scheduled to be regulated under the federal "Safe Drinking Water Act".

24 (II) Upon request, the department shall refer a public water
25 supplier to a laboratory, either the department's or one certified by the
26 department, which is determined to be equipped to perform the required
27 testing and analysis on a timely basis.

1 (III) To facilitate an effective laboratory certification program, the
2 department shall work with local public water suppliers toward creating
3 and maintaining a centralized data base which:

4 (A) Quantifies the current and expected demands for the
5 monitoring, testing, and analysis of each supplier, grouped according to
6 the size of the supply system, the source of its supply, and the
7 requirements imposed on each supplier;

8 (B) Includes an updated list of laboratories certified and available
9 for the testing and analysis of specific contaminants; and

10 (C) Tracks violations of drinking water standards for the purpose
11 of facilitating an exchange among public water suppliers in addressing
12 similar problems posed by specific contaminants.

13 ~~(gg)~~ (e) **Drinking water list.** To cooperate with and assist the
14 Colorado water resources and power development authority in the
15 administration of the drinking water revolving fund created by section
16 37-95-107.8, C.R.S., including adopting rules governing the drinking
17 water project eligibility list provided by said section and modifications to
18 the eligibility list for submission to the general assembly, and to take any
19 other actions necessary to assist the authority in complying with the
20 requirements of the federal "Safe Drinking Water Act".

21 **25-1.5-204. [Formerly 25-1-107 (1) (x) (III)] Inspection for**
22 **violations of minimum general sanitary standards relating to quality**
23 **of drinking water.** ~~(x)~~~~(HH)~~~~(A)~~ (1) Upon presentation of proper
24 credentials, authorized inspectors of the department may enter and
25 inspect, at any reasonable time and in a reasonable manner, any property,
26 premises, or place for the purpose of investigating any actual, suspected,
27 or potential violations of minimum general sanitary standards adopted

1 pursuant to ~~this subsection (1)~~ SECTION 25-1.5-202. Samples of drinking
2 water may be obtained by such inspectors, and a portion of any samples
3 to be used as evidence in an enforcement action shall be left with the
4 owner, operator, or person in charge of the premises. A copy of the
5 results of any analysis of such sample shall be furnished promptly to the
6 owner, operator, or person in charge.

7 ~~(B)~~ (2) If such entry or inspection is denied or not consented to,
8 the department is empowered to and shall obtain, from the district or
9 county court for the judicial district or county in which such property,
10 premises, or place is located, a warrant to enter and inspect said property,
11 premises, or place. The said district and county courts of the state are
12 empowered to issue such warrants upon a proper showing of the need for
13 such entry and inspection, and a copy of any inspection report shall be
14 provided the court within a reasonable time after making the inspection.

15 **25-1.5-205. [Formerly 25-1-107 (1) (x) (IV)] Advice to other**
16 **entities.** ~~(x) (IV)~~ The department may advise ~~with~~ municipalities,
17 utilities, institutions, organizations, and individuals concerning the
18 methods or processes believed best suited to provide the protection or
19 purification of water to meet minimum general sanitary standards adopted
20 pursuant to ~~this paragraph (x)~~ SECTION 25-1.5-202.

21 **25-1.5-206. [Formerly 25-1-107 (1) (x) (VII)] Applicability.**
22 ~~(x) (VII)~~ (1) Except as otherwise provided in the federal "Safe Drinking
23 Water Act", the provisions of this ~~section~~ PART 2 shall apply to each
24 public water system in this state; except that the provisions of this ~~section~~
25 PART 2 shall not apply to a public water system that:

26 ~~(A)~~ (a) Consists only of distribution and storage facilities (and
27 does not have any collection and treatment facilities);

- 1 ~~(B)~~ (b) Obtains all of its water from, but is not owned or operated
2 by, a public water system to which such regulations apply;
3 ~~(C)~~ (c) Does not sell water to any person;
4 ~~(C.5)~~ (d) Does not authorize incidental use of untreated water;
5 AND
6 ~~(D)~~ (e) Is not a carrier that conveys passengers in interstate
7 commerce; or
8 ~~(E)~~ (f) Prohibits, through ordinance, resolution, or other
9 enforceable enactment, the use of its system, or connections thereto, for
10 the delivery of water to the public for human consumption, except to the
11 extent that such user is a public water system subject to the provisions of
12 this section.

13 **25-1.5-207. [Formerly 25-1-107 (1) (x) (VIII)] Damages and**
14 **injunctive relief to prevent or abate release of contaminants in water.**

15 ~~(x)~~ ~~(VIII)~~ (1) (a) Except as provided in section 25-1-114.1 (3), any
16 political subdivision or public water system which stores, releases,
17 carries, conveys, supplies, or treats water for human consumption may
18 bring suit to collect damages and for injunctive relief, in addition to all
19 remedies otherwise available to prevent or abate any release or imminent
20 release of contaminants or substances which, in water withdrawn for use,
21 results or would likely result in:

22 ~~(A)~~ (I) A violation, at the point where the contaminant or
23 substance enters or would enter the intake of the water treatment system
24 of the same or another political subdivision or public water system, of
25 any minimum general sanitary standard or regulation adopted pursuant to
26 this ~~section~~ PART 2, and the existing treatment system cannot effectively
27 treat the contaminant or substance in question so as to assure that treated

1 water complies with such standard or regulation; or

2 ~~(B)~~ (II) Significant impairment of the normal operational
3 capability of a water treatment system which meets the applicable
4 specifications of the department for water treatment; or

5 ~~(C)~~ (III) Rendering the system's drinking water supply unfit for
6 human consumption. Where there are no minimum general sanitary
7 standards, water shall be deemed unfit for human consumption where it
8 is shown that the risk of adverse human health effects from exposure to
9 carcinogens in that water is greater than one times ten to the minus sixth
10 power or greater than the acceptable levels of exposure to noncarcinogens
11 as determined by the reference dose method.

12 ~~(D)~~ (b) Such an action may be maintained against any person who
13 owns or operates the source or sources of the release of the contaminants,
14 but no such action may be maintained with regard to surface or
15 underground agricultural return flows except as otherwise provided in the
16 "Colorado Chemigation Act", article 11 of title 35, C.R.S. Damages,
17 including the costs of any remedy ordered or approved by the court shall
18 include, as appropriate, those incurred in providing an interim substitute
19 drinking water supply and monitoring and responding to the release or
20 imminent release of contaminants or substances.

21 ~~(E)~~ (2) **Other remedies.** Except as provided in this
22 ~~sub-subparagraph (E) SUBSECTION (2), nothing in this paragraph (x)~~
23 SECTION shall be construed to restrict or preempt any right which the
24 state, the department, any public water system, or any other person may
25 have under any other law to seek enforcement, in any court or in any
26 administrative proceeding, of any provision of this ~~paragraph (x)~~ SECTION
27 or any other relief regarding contamination of any drinking water supply.

1 In addition, nothing in this ~~paragraph (x)~~ SECTION shall be construed to
2 condition, restrict, or prevent any other civil or criminal actions which
3 may be brought by the state or any political subdivision pursuant to any
4 other state or federal statute or regulation or any local ordinance or
5 regulation; except that, with respect to any release or substantial threat of
6 release of a hazardous substance, pollutant, or contaminant addressed in
7 pleadings or otherwise in a lawsuit brought pursuant to the federal
8 "Comprehensive Environmental Response, Compensation and Liability
9 Act", 42 U.S.C. sec. 9601 et seq., or by the terms and conditions of a
10 remedial action plan, removal order, consent decree, or other order or
11 decree entered or issued by a court or administrative body of competent
12 jurisdiction pursuant to such federal act, any person or entity which is a
13 defendant in such a lawsuit or is subject to the terms and conditions of
14 such a remedial action plan, removal order, consent decree, or other order
15 or decree, shall not be subjected with respect to the same release or
16 substantial threat of release of a hazardous substance, pollutant, or
17 contaminant to any suit, action, or liability pursuant to section 25-1-114.1
18 (3); nor shall such person or entity be subject to any suit, action, or
19 liability initiated or prosecuted by a political subdivision or a public water
20 system pursuant to this ~~subparagraph (VIII)~~ SECTION with respect to any
21 release or substantial threat of release of a hazardous substance, pollutant,
22 or contaminant which has been addressed by relief granted, or by
23 measures implemented or legally required to be implemented, pursuant
24 to a lawsuit brought pursuant to such federal act or the terms and
25 conditions of a remedial action plan, removal order, consent decree, or
26 other order or decree entered or issued by a court or administrative body
27 of competent jurisdiction pursuant to such federal act. Nothing in this

1 ~~paragraph (x)~~ SECTION shall be construed to bar a political subdivision or
2 public water system from seeking to recover pursuant to applicable law
3 its damages which have been reasonably incurred for the protection of the
4 human health if enforceable arrangements to pay such damages have not
5 otherwise been made.

6 **25-1.5-208. [Formerly 25-1-107 (1) (x) (IX)] Water - grant**
7 **program for water treatment systems.** (1) THE DEPARTMENT HAS, IN
8 ADDITION TO ALL OTHER POWERS AND DUTIES IMPOSED UPON IT BY LAW,
9 THE POWERS AND DUTIES PROVIDED IN THIS SECTION AS FOLLOWS:

10 ~~(IX)~~(A) (a) To assist suppliers of water in the state with meeting
11 their responsibilities with respect to protection of public health, the
12 department, in the name of the state and to the extent that state funds are
13 appropriated therefor, may enter into contracts with both governmental
14 and not-for-profit public water systems, as defined in ~~subparagraph (V)~~
15 ~~of this paragraph (x)~~ SECTION 25-1.5-201 (1), or to counties representing
16 unincorporated areas, which serve a population of not more than five
17 thousand people, to grant moneys for projects including the planning,
18 design, and construction of water treatment systems.

19 ~~(B)~~ (b) The department may use up to five percent of the
20 appropriated funds for the administration and management of such project
21 grants.

22 ~~(C)~~ (2) The state board of health shall promulgate rules for the
23 administration of any appropriated grant moneys PURSUANT TO THIS
24 SECTION and for prioritizing proposed water treatment system projects
25 based upon public health impact and compliance with applicable
26 regulations.

27 ~~(D)~~ (3) During the grant application process, the department shall

1 seek from the division of local government in the department of local
2 affairs a fiscal analysis of the applying entity to determine financial need.
3 Based upon its fiscal analysis, the division of local government shall issue
4 or deny a certificate of financial need. If a certificate of financial need
5 is issued, the department may authorize a state grant to the project in
6 accordance with the project prioritization adopted by the department.

7 PART 3

8 ADMINISTRATION OF MEDICATIONS

9 **25-1.5-301. [Formerly 25-1-107 (1) (ee) (I.5) (A), (1) (ee) (I.5)**
10 **(B), (1) (ee) (II), (1) (ee) (II.5), and (1) (ee) (III) (A)] Definitions.** AS
11 USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

12 ~~(ee) (II) For purposes of this paragraph (ee),~~ (1) "Administration"
13 means assisting a person in the ingestion, application, inhalation, or,
14 using universal precautions, rectal or vaginal insertion of medication,
15 including prescription drugs, according to the legibly written or printed
16 directions of the attending physician or other authorized practitioner or
17 as written on the prescription label and making a written record thereof
18 with regard to each medication administered, including the time and the
19 amount taken, but "administration" does not include judgment,
20 evaluation, or assessments or the injections of medication, the monitoring
21 of medication, or the self-administration of medication, including
22 prescription drugs and including the self-injection of medication by the
23 resident. "Administration" also means ingestion through gastrostomy
24 tubes or naso-gastric tubes, if administered by an individual authorized
25 pursuant to section 27-10.5-103 (2) (k), C.R.S., as part of residential or
26 day program services provided through service agencies approved by the
27 department of human services and supervised by a licensed physician or

1 nurse.

2 ~~(H.5)~~ For purposes of this paragraph ~~(ee)~~, (2) "Facility" means:

3 ~~(A)~~ (a) The correctional facilities under the supervision of the
4 executive director of the department of corrections including, but not
5 limited to: Those facilities provided for in article 20 of title 17, C.R.S.;
6 minimum security facilities provided for in article 25 of title 17, C.R.S.;
7 jails provided for in article 26 of title 17, C.R.S.; community correctional
8 facilities and programs provided for in article 27 of title 17, C.R.S.; the
9 regimented inmate discipline and treatment program provided for in
10 article 27.7 of title 17, C.R.S.; AND the Denver regional diagnostic center
11 provided for in article 40 of title 17, C.R.S.; ~~and the Limon correctional~~
12 ~~facility provided for in section 24-35-210 (4) (f) (I) (B), C.R.S.;~~

13 ~~(B)~~ (b) Institutions for juveniles provided for in part 4 of article
14 2 of title 19, C.R.S.;

15 ~~(C)~~ (c) Personal care boarding homes as defined in section
16 25-27-102 (8);

17 ~~(D)~~ (d) Adult foster care facilities provided for in section
18 26-2-122.3, C.R.S.;

19 ~~(E)~~ (e) Alternate care facilities provided for in section 26-4-603
20 (3), C.R.S.;

21 ~~(F)~~ (f) Residential child care facilities for children as defined in
22 section 26-6-102 (8), C.R.S.;

23 ~~(G)~~ (g) Secure residential treatment centers as defined in section
24 26-6-102 (9), C.R.S.;

25 ~~(H)~~ (h) Facilities that provide treatment for mentally ill persons
26 as defined in section 27-10-102 (4.5), C.R.S., except for those facilities
27 which are publicly or privately licensed hospitals;

1 ~~(F)~~ (i) All services funded through and regulated by the
2 department of human services pursuant to article 10.5 of title 27, C.R.S.,
3 in support of persons with developmental disabilities; and

4 ~~(F)~~ (j) Adult day care facilities providing services in support of
5 persons as defined in section 26-4-603 (1), C.R.S.

6 ~~(H)(A)~~ For the purposes of this paragraph ~~(ee)~~, (3) "Monitoring"
7 means: Reminding the resident to take medication or medications at the
8 time ordered by the physician or other authorized licensed practitioner;
9 handing a resident a container or package of medication lawfully labeled
10 previously for the individual resident by a licensed physician or other
11 authorized licensed practitioner; visual observation of the resident to
12 ensure compliance; making a written record of the resident's compliance
13 with regard to each medication, including the time taken; notification to
14 the physician or other authorized practitioner if the resident refuses to or
15 is not able to comply with the physician's or other practitioner's
16 instructions with regard to the medication.

17 (4) "QUALIFIED MANAGER" MEANS A PERSON WHO:

18 ~~(I.5)(A)~~ (a) Is the owner or operator of the facility or a supervisor
19 designated by the owner or operator of the facility for the purpose of
20 implementing ~~this subparagraph (I.5)~~ SECTION 25-1.5-303; and

21 ~~(B)~~ (b) Has completed training in the administration of
22 medications pursuant to this ~~subparagraph (I.5)~~ SECTION 25-1.5-303 or is
23 a licensed nurse pursuant to article 38 of title 12, C.R.S., a licensed
24 physician pursuant to article 36 of title 12, C.R.S., or a licensed
25 pharmacist pursuant to article 22 of title 12, C.R.S. Every unlicensed
26 person who is a "qualified manager" within the meaning of this
27 ~~subparagraph (I.5)~~ SUBSECTION (4) shall, every four years, successfully

1 complete a test approved by the department of ~~public health and~~
2 ~~environment~~ pertaining to the administration of medications.

3 (5) "SELF-ADMINISTRATION" MEANS THE ABILITY OF A PERSON TO
4 TAKE MEDICATION INDEPENDENTLY WITHOUT ANY ASSISTANCE FROM
5 ANOTHER PERSON.

6 **25-1.5-302. [Formerly 25-1-107 (1) (ee) (I) and (1) (ee) (I.3)]**
7 **Administration of medications - powers and duties of the department.**

8 ~~(ee) (I)~~ (1) THE DEPARTMENT HAS, IN ADDITION TO ALL OTHER POWERS
9 AND DUTIES IMPOSED UPON IT BY LAW, THE POWER AND DUTY to establish
10 and maintain by rule and regulation a program for the administration of
11 medications in facilities, which program shall be developed and
12 conducted by the department of human services and the department of
13 corrections, AS PROVIDED IN THIS PART 3, within the following guidelines:

14 ~~(A)~~ (a) As a condition to authorizing or renewing the
15 authorization to operate any facility that administers medications to
16 persons under its care, the authorizing agency shall require that the
17 facility have a staff member qualified pursuant to ~~sub-subparagraph (B)~~
18 ~~of this subparagraph (I)~~ PARAGRAPH (b) OF THIS SUBSECTION (1) on duty
19 at any time that the facility administers such medications and that the
20 facility maintain a written record of each medication administered to each
21 resident, including the time and the amount of the medication. Such
22 record will be subject to review by the authorizing agency as a part of its
23 procedure in authorizing the continued operation of the facility.
24 Notwithstanding any exemption enumerated in ~~sub-subparagraph (B)~~ of
25 ~~this subparagraph (I)~~ PARAGRAPH (b) OF THIS SUBSECTION (1), any facility
26 may establish a policy which requires a person authorized to administer
27 medication to report to, be supervised by, or to be otherwise accountable

1 for the performance of such administration to a registered nurse as
2 defined in section 12-38-103, C.R.S.

3 ~~(B)~~ (b) Any individual who is not otherwise authorized by law to
4 administer medication in a facility shall be allowed to perform such
5 duties only after passing a competency evaluation. An individual who
6 administers medications in facilities in compliance with the provisions of
7 this ~~paragraph~~ ~~(cc)~~ PART 3 shall be exempt from the licensing
8 requirements of the "Colorado Medical Practice Act", the "Nurse Practice
9 Act", and the laws of this state pertaining to possession of controlled
10 substances as contained in part 1 of article 22 of title 12, C.R.S., or the
11 "Uniform Controlled Substances Act of 1992", article 18 of title 18,
12 C.R.S.

13 ~~(B.5)~~ (2) The department, in cooperation with appropriate
14 agencies or advisory bodies, shall develop or approve training curricula
15 and competency evaluation procedures for those who administer
16 medications in facilities.

17 ~~(C)~~ (3) If either the department of human services or the
18 department of corrections wishes to use a different training curriculum
19 and competency evaluation procedure for those who administer
20 medications in the facilities whose operation is authorized by those
21 departments, such department shall ensure that such training curriculum
22 and competency evaluation procedure are first submitted to the
23 department of public health and environment for its review. If, after such
24 review, the department of public health and environment has no
25 objection, the submitting department shall assume responsibility for the
26 cost and implementation of such curriculum and evaluation in keeping
27 with the other provisions of this medications administration program for

1 those facilities whose operation is authorized by such department. Any
2 department that administers competency evaluations shall maintain a list
3 of those who have successfully completed such competency evaluation
4 and shall forward a copy of such list to the department of public health
5 and environment within forty-five days of AFTER administration of such
6 evaluation.

7 ~~(D)~~ (4) The department shall assure that training sessions, each
8 followed by a competency evaluation set to measure basic competency
9 only, are offered at various geographic locations in the state. An
10 individual who does not pass the competency evaluation may apply to
11 retake it. An appropriate fee must be paid each time the competency
12 evaluation is taken. An individual may apply for and take the
13 competency evaluation only once without having first attended a training
14 session approved by the department. If such individual fails to meet a
15 minimum competency level on such first evaluation, the applicant must
16 attend an approved training session before again taking the competency
17 evaluation.

18 ~~(E)~~ (5) The department shall set and collect a uniform fee for any
19 training session given and a uniform fee for any competency evaluation
20 administered under the provisions of this ~~paragraph (ee)~~ SECTION whether
21 the department administers such training or testing or contracts with a
22 private provider pursuant to ~~subparagraph (I.3) of this paragraph (ee)~~
23 SUBSECTION (7) OF THIS SECTION, so that the revenue generated from such
24 fees approximates the direct and indirect costs incurred by the department
25 in the performance of its duties under this ~~paragraph (ee)~~ SECTION. No
26 person shall enroll in a training session or take the competency evaluation
27 test until such person applies and makes payment of the appropriate fees

1 to the department.

2 ~~(F)~~ (6) If the individual authorized to administer medication
3 pursuant to ~~sub-paragraph (D) of this subparagraph (F)~~ SUBSECTION (1)
4 OF THIS SECTION is found, during the course of any review by the
5 authorizing agency as part of its procedure in authorizing the continued
6 operation of the facility, to be unable or unwilling to comply with the
7 training regimen established for medication administration, the
8 department may order retraining as a remedial measure.

9 ~~(I.3)(A)~~ (7) (a) If the department determines that it is not able to
10 provide the training and administer competency evaluations pursuant to
11 ~~subparagraph (I) of this paragraph (cc)~~ THIS SECTION, the department
12 may contract with a private provider or instructor to provide such training
13 and administer such competency evaluations.

14 ~~(B)~~ (b) Before any private contractor may offer training pursuant
15 to ~~sub-paragraph (A) of this subparagraph (I.3)~~ THIS SUBSECTION (7),
16 such private contractor shall be reviewed by the department. Only those
17 private contractors approved by the department may offer training. Any
18 such approved private contractor shall offer only a medication
19 administration training program which has been approved by the
20 department. The department shall maintain a list of approved medication
21 administration contractors. The department shall compensate contractors
22 from the fees collected from each trainee in attendance at any such
23 privately contracted training session or competency evaluation.

24 ~~(C)~~ (c) All private contractors shall provide the department with
25 a list of all persons who have taken such contractor's approved training
26 sessions or have passed the competency evaluation or both. Such
27 contractors shall also provide the department with any other pertinent

1 information reasonably requested by the department pursuant to its
2 obligations and authority under this ~~paragraph (ee)~~ SECTION.

3 **25-1.5-303. [Formerly 25-1-107 IP (1) (ee) (I.5), (1) (ee) (I.6),**
4 **(1) (ee) (III) (B), (1) (ee) (IV), (1) (ee) (IV.5), and (1) (ee) (V)]**
5 **Medication reminder boxes or systems - medication cash fund.**

6 ~~(ee)(I.5)~~ (1) Medication reminder boxes or systems may be used if such
7 containers have been filled and properly labeled by a pharmacist licensed
8 pursuant to article 22 of title 12, C.R.S., a nurse licensed pursuant to
9 article 38 of title 12, C.R.S., an unlicensed person trained pursuant to this
10 ~~subparagraph (I.5)~~ SECTION, or filled and properly labeled through the
11 gratuitous care by members of one's family or friends. Nothing in this
12 ~~subparagraph (I.5)~~ SECTION authorizes or shall be construed to authorize
13 the practice of pharmacy, as defined in section 12-22-102 (26), C.R.S.
14 No unlicensed person shall fill and label medication reminder boxes
15 pursuant to this ~~subparagraph (I.5)~~ SECTION until such person has
16 completed appropriate training approved by the department of public
17 health and environment, and no facility shall use an unlicensed person to
18 perform such services unless such facility has a qualified manager to
19 oversee the work of such unlicensed person or persons. Every unlicensed
20 person and qualified manager described in this ~~subparagraph (I.5)~~
21 SECTION shall sign a disclosure statement under penalty of perjury stating
22 that he or she never had a professional license to practice nursing,
23 medicine, or pharmacy revoked in this or any other state for reasons
24 directly related to the administration of medications. ~~For purposes of this~~
25 ~~subparagraph (I.5), a "qualified manager" means a person who:~~

26 ~~(I.6)~~ (2) THE DEPARTMENT HAS, IN ADDITION TO ALL OTHER
27 POWERS AND DUTIES IMPOSED UPON IT BY LAW, THE POWERS AND DUTIES

1 PROVIDED IN THIS SECTION to develop and implement policies and
2 procedures with respect to the provisions in ~~subparagraph (I.5) of this~~
3 ~~paragraph (ee)~~ SUBSECTION (1) OF THIS SECTION concerning the
4 administration of medication reminder boxes.

5 ~~(HH) (B)~~ (3) The executive directors of the departments that
6 control the "facilities" defined in ~~sub-subparagraphs (A) and (B) of~~
7 ~~subparagraph (H.5) of this paragraph (ee)~~ SECTION 25-1.5-301 (2) (a) AND
8 (2) (b) may direct the unlicensed staff of any such facility to monitor
9 medications in any part of any such facility. Administration of
10 medications in any such facility shall be allowed only in those areas of
11 any such facility that have a licensed physician or other licensed
12 practitioner on duty. Notwithstanding other training requirements
13 established in ~~subparagraph (I.5) of this paragraph (ee)~~ THIS SECTION, the
14 operator or administrator of every facility that hires an unlicensed person
15 to administer medications pursuant to this ~~paragraph (ee)~~ SECTION shall
16 provide on-the-job training for such person, and all such unlicensed
17 persons hired on or after July 1, 1998, shall be adequately supervised
18 until they have completed such training. Such on-the-job training shall
19 be appropriate to the job responsibilities of each trainee. Facility
20 operators and administrators shall document each unlicensed person's
21 satisfactory completion of on-the-job training in their permanent
22 personnel file.

23 ~~(IV) (Deleted by amendment, L. 92, p. 1151, § 8, effective July~~
24 ~~1, 1992.)~~

25 ~~(IV.5) For purposes of this paragraph (ee), "self-administration"~~
26 ~~means the ability of a person to take medication independently without~~
27 ~~any assistance from another person. Such (4) A person WHO~~

1 SELF-ADMINISTERS MEDICATION is personally responsible for medication
2 administration. No facility shall be responsible for observing or
3 documenting the self-administration of medication. Compliance with the
4 requirements for the training of unlicensed persons in medication
5 administration pursuant to this ~~paragraph (ee)~~ SECTION is not required
6 when persons being cared for are self-administering.

7 ~~(V)(A)~~ (5) (a) All fees collected pursuant to this ~~article~~ SECTION
8 shall be transmitted to the state treasurer, who shall credit the same to the
9 medication administration cash fund, which fund is hereby created.

10 ~~(B)~~ (b) The general assembly shall make annual appropriations
11 from the medication administration cash fund for expenditures of the
12 department incurred in the performance of its duties under this ~~paragraph~~
13 ~~(ee)~~ SECTION.

14 ~~(C)~~ (c) Any moneys collected by the department from persons
15 taking a training program or a competency examination from a private
16 contractor approved pursuant to ~~subparagraph (I.3) of this paragraph (ee)~~
17 SECTION 25-1.5-302 (7) shall be transmitted to the state treasurer, who
18 shall credit the same to the medication administration cash fund created
19 in ~~sub-subparagraph (A) of this subparagraph (V)~~ PARAGRAPH (a) OF THIS
20 SUBSECTION (5). Such moneys collected from the fees charged for any
21 such training program or competency examination shall be annually
22 appropriated by the general assembly to the department for the purpose
23 of paying private contractors for services rendered and for paying the
24 department's direct and indirect costs incurred pursuant to ~~subparagraph~~
25 ~~(I.3) of this paragraph (ee)~~ SECTION 25-1.5-302 (7).

26 ~~(D)~~ (d) In accordance with section 24-36-114, C.R.S., all interest
27 derived from the deposit and investment of the medication administration

1 cash fund created in ~~sub-subparagraph (A) of this subparagraph (V)~~
2 PARAGRAPH (a) OF THIS SUBSECTION (5) shall be credited to the general
3 fund.

4 **25-1.5-304. [Formerly 25-1-107 (1) (ee) (VI) and (1) (ee) (VII)]**
5 **Repeal of part.** ~~(VI) (A)~~ (1) This ~~paragraph (ee)~~ PART 3 is repealed,
6 effective July 1, 2009.

7 ~~(B)~~ (2) Prior to such repeal, the program established by this
8 ~~paragraph (ee)~~ PART 3 shall be subject to review by a legislative
9 committee of reference designated pursuant to section 2-3-1201, C.R.S.,
10 to conduct the review pursuant to section 24-34-104, C.R.S., and the
11 provisions of section 24-34-104 (5) to (12), C.R.S., concerning a wind-up
12 period, an analysis and evaluation, public hearings, and claims by or
13 against an agency shall apply to the operation of the program specified in
14 this ~~paragraph (ee)~~ PART 3. Such review shall include an examination of
15 the regulatory process that governs facilities using trained but unlicensed
16 persons to monitor and administer medication.

17 ~~(VII) Repealed.~~

18 **SECTION 3.** 25-4-904 (1), Colorado Revised Statutes, is
19 amended, and the said 25-4-904 is further amended BY THE ADDITION
20 OF A NEW SUBSECTION, to read:

21 **25-4-904. Rules and regulations - immunization rules -**
22 **rule-making authority of state board of health.** (1) The state board of
23 health shall establish rules ~~and regulations~~ for administering this part 9.
24 Such rules ~~and regulations~~ shall establish which immunizations shall be
25 required and the manner and frequency of their administration and shall
26 conform to recognized standard medical practices. Such rules ~~and~~
27 ~~regulations~~ may also require the reporting of statistical information and

1 names of noncompliers by the schools. The department of public health
2 and environment shall administer and enforce the immunization
3 requirements.

4 (1.5) (a) IN PROMULGATING THE RULES ESTABLISHING
5 IMMUNIZATIONS REQUIRED FOR SCHOOL ENTRY PURSUANT TO THIS PART 9,
6 THE STATE BOARD OF HEALTH SHALL REQUIRE THE HEPATITIS A
7 VACCINATION TO BE ADMINISTERED FOR ANY CHILD ENTERING
8 KINDERGARTEN ON OR AFTER SEPTEMBER 1, 2003.

9 (b) THIS SUBSECTION (1.5) SHALL BE CONTINGENT UPON THE
10 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT RECEIVING
11 SUFFICIENT FEDERAL FUNDS AND GRANTS AND DONATIONS TO SUPPORT THE
12 IMPLEMENTATION OF A HEPATITIS A VACCINATION PROGRAM.

13 **SECTION 4.** 25-4-905, Colorado Revised Statutes, is amended
14 to read:

15 **25-4-905. Immunization of indigent children.** The local health
16 department, a public health or school nurse (under the supervision of a
17 licensed physician), or the department of public health and environment
18 in the absence of a local health department or public health nurse shall
19 provide, at public expense to the extent that funds are available,
20 immunizations required by this part 9 to each child whose parents or
21 guardians cannot afford to have the child immunized or, if emancipated,
22 who cannot himself OR HERSELF afford immunization and who has not
23 been exempted. The department of public health and environment shall
24 provide all vaccines necessary to comply with this section as far as funds
25 will permit. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT
26 FEDERALLY FUNDED VACCINE PROGRAMS, PRIVATE INSURANCE PROGRAMS,
27 AND GRANTS AND DONATIONS ARE TO BE USED TO PROVIDE FUNDING FOR

1 THE COSTS OF INCLUDING HEPATITIS A AS A REQUIRED VACCINATION
2 PURSUANT TO THE PROVISIONS OF SECTION 25-4-904 AND THAT NO STATE
3 GENERAL FUND REVENUES SHALL BE USED TO MEET THIS REQUIREMENT.

4 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL NOT
5 IMPLEMENT THE HEPATITIS A VACCINATION REQUIREMENTS UNTIL AND
6 UNLESS FEDERAL FUNDS AND GRANTS AND DONATIONS BECOME
7 AVAILABLE TO FULLY SUPPORT THE HEPATITIS A VACCINATION PROGRAM.

8 Nothing in this section shall preclude the department of public health and
9 environment from distributing vaccines to physicians or others as
10 required by law or the regulations of the department. No indigent child
11 shall be excluded, suspended, or expelled from school unless the
12 immunizations have been available and readily accessible to the child at
13 public expense.

14 **SECTION 5.** 6-1-102 (4.6) (d), Colorado Revised Statutes, is
15 amended to read:

16 **6-1-102. Definitions.** As used in this article, unless the context
17 otherwise requires:

18 (4.6) "Health club" means an establishment which provides health
19 club services or facilities which purport to improve or maintain the user's
20 physical condition or appearance through exercise. The term may
21 include, but shall not be limited to, a spa, exercise club, exercise gym,
22 health studio, or playing courts. The term shall not apply to any of the
23 following:

24 (d) Health care facilities licensed or certified by the department
25 of public health and environment pursuant to its authority under ~~section~~
26 ~~25-1-107~~ SECTION 25-1.5-103, C.R.S.

27 **SECTION 6.** 6-19-102 (3), Colorado Revised Statutes, is

1 amended to read:

2 **6-19-102. Definitions.** As used in this article, unless the context
3 otherwise requires:

4 (3) "Hospital" means a licensed or certified hospital as described
5 in ~~section 25-1-107 (1) (I) (I) and (1) (I) (H)~~ SECTION 25-1.5-103 (1) (a)
6 (I) AND (1) (a) (II), C.R.S.

7 **SECTION 7.** 10-16-104 (8) (a) (II), Colorado Revised Statutes,
8 is amended to read:

9 **10-16-104. Mandatory coverage provisions. (8) Availability**
10 **of hospice care coverage.** (a) As used in this subsection (8), unless the
11 context otherwise requires:

12 (II) "Hospice care" means hospice services provided to a
13 terminally ill individual by a hospice care program, licensed and
14 regulated by the department of public health and environment pursuant
15 to ~~sections 25-1-107 (1) (I) (I)~~ SECTIONS 25-1.5-103 (1) (a) (I) and
16 25-3-101, C.R.S., or by others under arrangements made by such hospice
17 care program.

18 **SECTION 8.** 12-22-304 (5) (e) (I), Colorado Revised Statutes,
19 is amended to read:

20 **12-22-304. License required - controlled substances - drug**
21 **precursors - fund created - repeal.** (5) The following persons need not
22 be licensed by the department or by the board to lawfully possess
23 controlled substances under this part 3:

24 (e) (I) Employees of facilities who are administering and
25 monitoring medications to persons under the care or jurisdiction thereof
26 pursuant to the provisions of ~~section 25-1-107 (1) (ee)~~ PART 3 OF ARTICLE
27 1.5 OF TITLE 25, C.R.S.

1 **SECTION 9.** 12-32-202 (3), Colorado Revised Statutes, is
2 amended to read:

3 **12-32-202. Board authorized to issue regulations.** (3) The
4 required number of hours of training and education for all unlicensed
5 persons operating machine sources of ionizing radiation and
6 administering such radiation to patients shall be established by the board
7 by rule on or before July 1, 1992. This standard shall apply to all persons
8 in podiatric settings other than hospitals and similar facilities licensed by
9 the department of public health and environment pursuant to ~~section~~
10 ~~25-1-107~~ SECTION 25-1.5-103, C.R.S. Such training and education may
11 be obtained through programs approved by the appropriate authority of
12 any state or through equivalent programs and training experience
13 including on-the-job training as determined by the board.

14 **SECTION 10.** 12-33-202 (3), Colorado Revised Statutes, is
15 amended to read:

16 **12-33-202. Board authorized to issue regulations.** (3) The
17 required number of hours of training and education for all unlicensed
18 persons operating machine sources of ionizing radiation and
19 administering such radiation to patients shall be established by the board
20 by rule on or before July 1, 1992. This standard shall apply to all persons
21 in chiropractic settings other than hospitals and similar facilities licensed
22 by the department of public health and environment pursuant to ~~section~~
23 ~~25-1-107~~ SECTION 25-1.5-103, C.R.S. Such training and education may
24 be obtained through programs approved by the appropriate authority of
25 any state or through equivalent programs and training experience
26 including on-the-job training as determined by the board.

27 **SECTION 11.** 12-34-108.5 (1), Colorado Revised Statutes, is

1 amended to read:

2 **12-34-108.5. Anatomical gift protocol required.** (1) In order to
3 ensure that donors or families of donors be informed of the option to
4 make an anatomical gift, every hospital licensed or certified pursuant to
5 ~~section 25-1-107 (1) (I) (I) or (1) (I) (H)~~ SECTION 25-1.5-103 (1) (a) (I) OR
6 (1) (a) (II), C.R.S., shall develop and implement, by October 1, 1987, an
7 organ and tissue procurement protocol for the purpose of identifying
8 potential donors.

9 **SECTION 12.** 12-35-202 (3), Colorado Revised Statutes, is
10 amended to read:

11 **12-35-202. Board authorized to issue regulations.** (3) The
12 required number of hours of training and education for all unlicensed
13 persons operating machine sources of ionizing radiation and
14 administering such radiation to patients shall be established by the board
15 by rule on or before July 1, 1992. This standard shall apply to all persons
16 in dental settings other than hospitals and similar facilities licensed by the
17 department of public health and environment pursuant to ~~section~~
18 ~~25-1-107~~ SECTION 25-1.5-103, C.R.S. Such training and education may
19 be obtained through programs approved by the appropriate authority of
20 any state or through equivalent programs and training experience
21 including on-the-job training as determined by the board.

22 **SECTION 13.** 12-36-106 (3) (o) (I), Colorado Revised Statutes,
23 is amended to read:

24 **12-36-106. Practice of medicine defined - exemptions from**
25 **licensing requirements - repeal.** (3) Nothing in this section shall be
26 construed to prohibit, or to require a license under this article with respect
27 to, any of the following acts:

1 (o) (I) The administration and monitoring of medications in
2 facilities as provided in ~~section 25-1-107 (1) (cc)~~ PART 3 OF ARTICLE 1.5
3 OF TITLE 25, C.R.S.

4 **SECTION 14.** 12-36-202 (3), Colorado Revised Statutes, is
5 amended to read:

6 **12-36-202. Board authorized to issue regulations.** (3) The
7 required number of hours of training and education for all unlicensed
8 persons operating machine sources of ionizing radiation and
9 administering such radiation to patients shall be established by the board
10 by rule on or before July 1, 1992. This standard shall apply to all persons
11 in medical settings other than hospitals and similar facilities licensed by
12 the department of public health and environment pursuant to ~~section~~
13 ~~25-1-107~~ SECTION 25-1.5-103, C.R.S. Such training and education may
14 be obtained through programs approved by the appropriate authority of
15 any state or through equivalent programs and training experience
16 including on-the-job training as determined by the board.

17 **SECTION 15.** 12-36.5-104 (4) (a), Colorado Revised Statutes,
18 is amended to read:

19 **12-36.5-104. Establishment of professional review committees**
20 **- function.** (4) Any professional review committee established by any
21 of the following organizations, entities, or professional societies shall be
22 an approved professional review committee under this article if it
23 operates pursuant to written bylaws, policies, or procedures which are in
24 compliance with this article and which have been approved by its
25 governing board:

26 (a) The medical staff of a hospital licensed pursuant to part 1 of
27 article 3 of title 25, C.R.S., or certified pursuant to ~~section 25-1-107 (1)~~

1 ~~(I)~~(H) SECTION 25-1.5-103 (1) (a) (II) C.R.S.;

2 **SECTION 16.** 12-38-125 (1) (h) (I) and (1) (k), Colorado
3 Revised Statutes, are amended to read:

4 **12-38-125. Exclusions - repeal.** (1) No provision of this article
5 shall be construed to prohibit:

6 (h) (I) The administration and monitoring of medications in
7 facilities pursuant to ~~section 25-1-107 (1) (ee)~~ PART 3 OF ARTICLE 1.5 OF
8 TITLE 25, C.R.S.

9 (k) The practice of administration and monitoring as defined in
10 ~~section 25-1-107 (1) (ee) (H) and (1) (ee) (HH)~~ SECTION 25-1.5-301 (1)
11 AND (3), C.R.S.

12 **SECTION 17.** 12-38-132 (6), Colorado Revised Statutes, is
13 amended to read:

14 **12-38-132. Delegation of nursing tasks.** (6) The board may
15 promulgate rules ~~and regulations~~ pursuant to this section, including but
16 not limited to standards on the assessment of the proficiency of the
17 delegatee to perform delegated tasks, and standards for accountability of
18 any nurse who delegates nursing tasks. Such rules and regulations shall
19 be consistent with the provisions of ~~sections 25-1-107 (1) (ee)~~ PART 3 OF
20 ARTICLE 1.5 OF TITLE 25 and SECTION 27-10.5-103 (2) (k), C.R.S.

21 **SECTION 18.** 12-38.1-102 (4), Colorado Revised Statutes, is
22 amended to read:

23 **12-38.1-102. Definitions.** As used in this article, unless the
24 context otherwise requires:

25 (4) "Medical facility" means a nursing facility licensed by the
26 department of PUBLIC health AND ENVIRONMENT or home health agencies
27 certified to receive medicare or medicaid funds, pursuant to the federal

1 "Social Security Act", as amended, distinct part nursing facilities, or
2 home health agencies or entities engaged in nurse aide practices as such
3 practices are defined in subsection (5) of this section. "Medical facility"
4 does not include hospitals and other facilities licensed or certified
5 pursuant to ~~section 25-1-107 (1) (f)~~ SECTION 25-1.5-103 (1) (a), C.R.S.

6 **SECTION 19.** 12-38.1-117 (1) (f), Colorado Revised Statutes, is
7 amended to read:

8 **12-38.1-117. Exclusions.** (1) This article shall not be construed
9 to affect or apply to:

10 (f) Any person performing services pursuant to sections
11 12-38-132 ~~25-1-107 (1) (ee)~~, and 27-10.5-103 (2) (k), C.R.S., AND PART
12 3 OF ARTICLE 1.5 OF TITLE 25, C.R.S.

13 **SECTION 20.** 12-39-102 (4), Colorado Revised Statutes, is
14 amended to read:

15 **12-39-102. Definitions.** As used in this article, unless the context
16 otherwise requires:

17 (4) "Nursing home facility" shall have the same meaning as that
18 set forth in section 25-1-1002, C.R.S., and shall include nursing care
19 facilities, whether proprietary or nonprofit, which are licensed under
20 ~~section 25-1-107 (1) (f) (F)~~ SECTION 25-1.5-103 (1) (a) (D), C.R.S., or
21 pursuant to the rules for nursing homes promulgated by the department
22 of public health and environment. The term "nursing home" includes but
23 is not limited to nursing homes owned or administered by the state
24 government or any agency or political subdivision thereof.

25 **SECTION 21.** 12-41-119 (1) (c), Colorado Revised Statutes, is
26 amended to read:

27 **12-41-119. Professional review committees - immunity.** (1) A

1 professional review committee may be established pursuant to this section
2 to investigate the quality of care being given by a person licensed under
3 this article. It shall include in its membership at least three persons
4 licensed under this article, but such committee may be authorized to act
5 only by:

6 (c) A hospital licensed pursuant to part 1 of article 3 of title 25,
7 C.R.S., or certified pursuant to ~~section 25-1-107 (1) (I) (II)~~ SECTION
8 25-1.5-103 (1) (a) (II), C.R.S.; except that the professional review
9 committee shall include in its membership at least a two-thirds majority
10 of persons licensed under this article. Such review committee may
11 function under the quality management provisions of section 25-3-109,
12 C.R.S.

13 **SECTION 22.** 12-43-214 (4) (f), Colorado Revised Statutes, is
14 amended to read:

15 **12-43-214. Mandatory disclosure of information to clients.**
16 (4) The disclosure of information required by subsection (1) of this
17 section is not required when psychotherapy is being administered in any
18 of the following circumstances:

19 (f) By a social worker practicing in a hospital that is licensed or
20 certified under ~~section 25-1-107 (1) (I) (I) or (1) (I) (II)~~ SECTION
21 25-1.5-103 (1) (a) (I) OR (1) (a) (II),C.R.S.

22 **SECTION 23.** 13-21-115.7 (1) (a), Colorado Revised Statutes,
23 is amended to read:

24 **13-21-115.7. Immunity from civil liability for directors,**
25 **officers, or trustees - nonprofit corporations or nonprofit**
26 **organizations.** (1) As used in this section, unless the context otherwise
27 requires:

1 (a) "Nonprofit corporation" means any corporation which is
2 exempt from taxation pursuant to section 501(a) of the federal "Internal
3 Revenue Code of 1986", 26 U.S.C. sec. 501(a), as amended, and listed as
4 an exempt organization in section 501(c) (2), (3), (4), (5), (6), (7), (8),
5 (11), or (19) of the federal "Internal Revenue Code of 1986", 26 U.S.C.
6 sec. 501(c), as amended. The term includes a not-for-profit corporation.
7 The term includes a public hospital certified pursuant to ~~section 25-1-107~~
8 ~~(1)-(1)~~ SECTION 25-1.5-103 (1) (a), C.R.S.

9 **SECTION 24.** 13-21-116 (2) (b) (I), Colorado Revised Statutes,
10 is amended to read:

11 **13-21-116. Actions not constituting an assumption of duty -**
12 **board member immunity - immunity for volunteers assisting**
13 **organizations for young persons.** (2) (b) (I) No member of the board
14 of directors of a nonprofit corporation or nonprofit organization shall be
15 held liable for actions taken or omissions made in the performance of his
16 OR HER duties as a board member except for wanton and willful acts or
17 omissions. For purposes of this paragraph (b), "the board of directors of
18 a nonprofit corporation or nonprofit organization" shall include, but not
19 be limited to, the board of directors of a public hospital certified pursuant
20 to ~~section 25-1-107 (1)-(1)~~ SECTION 25-1.5-103 (1) (a), C.R.S.

21 **SECTION 25.** 13-21-901 (2), Colorado Revised Statutes, is
22 amended to read:

23 **13-21-901. Definitions.** As used in this part 9, unless the context
24 otherwise requires:

25 (2) "Hospital enterprise" means a hospital owned by the state or
26 a political subdivision that qualifies as an "enterprise" as defined in
27 section 20 of article X of the state constitution and is certified pursuant

1 to ~~section 25-1-107 (1) (I) (H)~~ SECTION 25-1.5-103 (1) (a) (II), C.R.S.

2 **SECTION 26.** 17-1-113.1, Colorado Revised Statutes, is
3 amended to read:

4 **17-1-113.1. Administration or monitoring of medications to**
5 **persons in correctional facilities.** The executive director has the power
6 to direct the administration or monitoring of medications to persons in
7 correctional facilities, as described in ~~section 25-1-107 (1) (ee) (H.5) (A)~~
8 SECTION 25-1.5-301 (2) (a), C.R.S., under the executive director's control,
9 in a manner consistent with ~~section 25-1-107 (1) (ee)~~ PART 3 OF ARTICLE
10 1.5 OF TITLE 25, C.R.S.

11 **SECTION 27.** 18-18-414 (2) (c) (III), Colorado Revised Statutes,
12 is amended to read:

13 **18-18-414. Unlawful acts - licenses - penalties.** (2) (c) (III) For
14 the purposes of this paragraph (c):

15 (A) "Hospice patient" means an individual who is receiving
16 hospice care from an entity licensed and regulated by the department of
17 public health and environment pursuant to ~~sections 25-1-107 (1) (I) (F)~~
18 SECTIONS 25-1.5-103 (1) (a) (I) and 25-3-101, C.R.S.

19 (B) "Long-term care facility" means a facility that is licensed and
20 regulated as a skilled nursing facility or nursing care facility by the
21 department of public health and environment pursuant to ~~sections~~
22 ~~25-1-107 (1) (I) (F)~~ SECTIONS 25-1.5-103 (1) (a) (I) and 25-3-101, C.R.S.

23 **SECTION 28.** 19-2-416, Colorado Revised Statutes, is amended
24 to read:

25 **19-2-416. Administration or monitoring of medications to**
26 **persons in juvenile institutional facilities.** The executive director of the
27 department of human services has the power to direct the administration

1 or monitoring of medications to persons in juvenile institutional facilities
2 as defined in ~~section 25-1-107 (1) (ee)~~ (H.5) (B) SECTION 25-1.5-301 (2)
3 (b), C.R.S., in a manner consistent with ~~section 25-1-107 (1) (ee)~~ PART 3
4 OF ARTICLE 1.5 OF TITLE 25, C.R.S.

5 **SECTION 29.** 24-33.5-108 (2) (b), Colorado Revised Statutes,
6 is amended to read:

7 **24-33.5-108. Statewide fire fighting resource database -**
8 **creation.** (2) (b) The database created pursuant to paragraph (a) of this
9 subsection (2) shall contain apparatus and equipment inventories,
10 personnel counts, resource status, such other information relevant to the
11 efficient tracking and allocation of fire fighting resources, and a listing of
12 all supplemental funding sources available to state and local fire fighting
13 agencies. The information in this database shall be included with the
14 information required to be collected and maintained pursuant to ~~section~~
15 ~~25-1-107 (1) (y)~~ SECTION 25-1.5-101 (1) (p), C.R.S. No data gathered for
16 or stored in this database shall contain personally identifying information
17 without prior notice to the involved individual. The database is not
18 intended to be used in place of the existing interagency wild land fire
19 dispatch system.

20 **SECTION 30.** 24-34-104 (40) (a), (40) (b), (40) (c), and (40) (d),
21 Colorado Revised Statutes, are amended to read:

22 **24-34-104. General assembly review of regulatory agencies and**
23 **functions for termination, continuation, or reestablishment.** (40) The
24 following agencies, functions, or both, shall terminate on July 1, 2009:

25 (a) The program for the administration and monitoring of
26 medications in facilities authorized pursuant to ~~section 25-1-107 (1) (ee)~~
27 PART 3 OF ARTICLE 1.5 OF TITLE 25, C.R.S.;

1 (b) The exemption from licensure under the "Uniform Controlled
2 Substances Act of 1992", article 18 of title 18, C.R.S., pursuant to section
3 12-22-304 (5) (e) (I), C.R.S., for persons who administer or monitor
4 medications in facilities in compliance with the program authorized in
5 ~~section 25-1-107 (1) (ee)~~ PART 3 OF ARTICLE 1.5 OF TITLE 25, C.R.S.;

6 (c) The exemption from licensure under the "Colorado Medical
7 Practice Act" pursuant to section 12-36-106 (3) (o) (I), C.R.S., for
8 persons who administer and monitor medications in facilities in
9 compliance with the program authorized in ~~section 25-1-107 (1) (ee)~~
10 PART 3 OF ARTICLE 1.5 OF TITLE 25, C.R.S.;

11 (d) The exemption from licensure under the "Nurse Practice Act"
12 pursuant to section 12-38-125 (1) (h) (I), C.R.S., for persons who
13 administer and monitor medications in facilities in compliance with the
14 program authorized in ~~section 25-1-107 (1) (ee)~~ PART 3 OF ARTICLE 1.5 OF
15 TITLE 25, C.R.S.;

16 **SECTION 31.** 25-1-105 (2) (b), Colorado Revised Statutes, is
17 amended to read:

18 **25-1-105. Executive director - chief medical officer -**
19 **qualifications - salary - office.** (2) (b) The chief medical officer shall
20 provide independent medical judgment, guidance, and advice to the
21 governor and to the executive director regarding medical and public
22 health issues in all areas identified in ~~section 25-1-107~~ ARTICLE 1.5 OF
23 THIS TITLE.

24 **SECTION 32.** The introductory portion to 25-1-109 (1) and
25 25-1-109 (1) (h), Colorado Revised Statutes, is amended to read:

26 **25-1-109. Powers and duties of the division of administration.**
27 (1) In addition to the other powers and duties conferred and imposed in

1 this part 1 upon the division of administration, the division, through the
2 director or, upon ~~his~~ THE DIRECTOR'S direction and under ~~his~~ THE
3 DIRECTOR'S supervision, through the other officers and employees of the
4 division, has the following powers and duties:

5 (h) To administer and enforce the minimum general sanitary
6 standards and regulations adopted pursuant to ~~section 25-1-107 (1) (x)~~
7 PART 2 OF ARTICLE 1.5 OF THIS TITLE.

8 **SECTION 33.** 25-1-114.1 (1), the introductory portion to
9 25-1-114.1 (2.5) (a), and 25-1-114.1 (2.5) (b), (3), and (7), Colorado
10 Revised Statutes, are amended to read:

11 **25-1-114.1. Civil remedies and penalties.** (1) The division of
12 administration of the department may institute a civil action or
13 administrative action, as described in subsection (2.5) of this section,
14 against any person who violates a final enforcement order of the
15 department issued for a violation of any minimum general sanitary
16 standard or regulation adopted pursuant to ~~section 25-1-107 (1) (x)~~
17 SECTION 25-1.5-202. Such civil action shall be brought in the district
18 court of the county in which the violation of the standard or regulation is
19 alleged to have occurred.

20 (2.5) (a) Any person who violates any minimum general sanitary
21 standard and regulation promulgated pursuant to ~~section 25-1-107 (1) (x)~~
22 SECTION 25-1.5-202 or 25-1-114 (1) (h), or any final enforcement order
23 issued by the department, shall be subject to an administrative penalty as
24 follows:

25 (b) Penalties under this subsection (2.5) shall be determined by
26 the executive director or the executive director's designee and may be
27 collected by the division by an action instituted in a court of competent

1 jurisdiction for collection of such penalty. The final decision of the
2 executive director or the executive director's designee may be appealed
3 to the state board of health. A stay of any order of the division ending
4 judicial review shall not relieve any person from any liability with respect
5 to past or continuing violations of any minimum general sanitary standard
6 or any regulation promulgated pursuant to ~~section 25-7-107 (1) (x)~~
7 SECTION 25-1.5-202 or 25-1-114 (1) (h), but the reason for the request for
8 judicial review shall be considered in the determination of the amount of
9 the penalty. In the event that such an action is instituted for the collection
10 of such penalty, the court may consider the appropriateness of the amount
11 of the penalty, if such issue is raised by the party against whom the
12 penalty was assessed. Any administrative penalty collected under this
13 section shall be credited to the general fund.

14 (3) The department may request the attorney general to bring a
15 suit for a temporary restraining order or a preliminary or permanent
16 injunction to prevent or abate any violation of a minimum general
17 sanitary standard or regulation adopted pursuant to ~~section 25-1-107 (1)~~
18 ~~(x)~~ SECTION 25-1.5-202 or to prevent or abate any release or imminent
19 release that causes or is likely to cause contamination resulting in liability
20 under ~~section 25-1-107 (1) (x) (VIII)~~ SECTION 25-1.5-207, and the
21 department, in such a suit, may collect, on behalf of political subdivisions
22 or public water systems, the damages incurred by such political
23 subdivisions or public water systems under ~~section 25-1-107 (1) (x) (VIII)~~
24 SECTION 25-1.5-207. The department shall pay to such political
25 subdivisions or public water systems all damages collected on their
26 behalf. The department is not required to issue an enforcement order
27 prior to institution of such a suit. Upon a de novo finding by the court

1 that such a violation has occurred, is occurring, or is about to occur or
2 that such release or imminent release exists, the court may enjoin such
3 violation, release, or imminent release and enter such order as the public
4 health may require, taking into consideration, where appropriate, the cost
5 and time necessary to comply. An enforcement settlement with the state
6 under the provisions of this subsection (3) shall bar a separate action by
7 a political subdivision or public water system under ~~section 25-1-107 (1)~~
8 ~~(x)(VIII)~~ SECTION 25-1.5-207 whenever notice and adequate opportunity
9 to comment on the proposed settlement have been given to the political
10 subdivision or public water system, damages have been collected on
11 behalf of and paid to such political subdivision or public water system by
12 the state, and the release or imminent release has been prevented or
13 abated by means of the settlement.

14 (7) Any person subject to an action brought pursuant to subsection
15 (3) of this section or ~~section 25-1-107 (1)(x)(VIII)~~ SECTION 25-1.5-207
16 shall have an affirmative defense to such action if such person's potential
17 liability results from a discharge of contaminants or substances authorized
18 by and in substantial compliance with an existing federal or state permit
19 which controls the quality of the release of the contaminant or substance.

20 **SECTION 34.** 25-1-121 (1), Colorado Revised Statutes, is
21 amended to read:

22 **25-1-121. Patient grievance mechanism and institution's**
23 **obligations to the patient.** (1) As used in this section, "institution"
24 means every hospital or related facility or institution having in excess of
25 fifty beds and required to be licensed under part 1 of article 3 of this title
26 or required to be certified pursuant to ~~section 25-1-107 (1)(I)(II)~~
27 SECTION 25-1.5-103 (1) (a) (II), except skilled nursing facilities and

1 intermediate care facilities which are subject to the provisions of section
2 25-1-120.

3 **SECTION 35.** 25-1-122 (5), Colorado Revised Statutes, is
4 amended to read:

5 **25-1-122. Named reporting of certain diseases and conditions**
6 **- access to medical records - confidentiality of reports and records.**

7 (5) No officer or employee or agent of the state department of public
8 health and environment or local department of health shall be examined
9 in any judicial, executive, legislative, or other proceeding as to the
10 existence or content of any individual's report obtained by such
11 department pursuant to subsection (1) or (2) of this section without that
12 individual's consent. However, this provision shall not apply to
13 individuals who are under isolation or quarantine, school exclusion, or
14 other restrictive action taken pursuant to ~~section 25-1-107(1)(b)~~ SECTION
15 25-1.5-101 (1) (b) or part 4, 5, 6, or 9 of article 4 of this title.

16 **SECTION 36.** The introductory portion to 25-1-124 (2) and
17 25-1-124 (5), Colorado Revised Statutes, are amended to read:

18 **25-1-124. Health care facilities - consumer information -**
19 **reporting - release.** (2) Each health care facility licensed pursuant to

20 section 25-3-101 or certified pursuant to ~~section 25-1-107(1)(I)(H)~~
21 SECTION 25-1.5-103 (1) (a) (II) shall report to the department the
22 following occurrences:

23 (5) The department shall investigate each report submitted
24 pursuant to subsection (2) of this section that it determines was
25 appropriately submitted. For each report investigated, the department
26 shall prepare a summary of its findings, including the department's
27 conclusions and whether there was a violation of licensing standards or

1 a deficiency or whether the facility acted appropriately in response to the
2 occurrence. If the investigation is not conducted on site, the department
3 shall specify in the summary how the investigation was conducted. Any
4 investigation conducted pursuant to this subsection (5) shall be in
5 addition to and not in lieu of any inspection required to be conducted
6 pursuant to ~~section 25-1-107 (1) (1)~~ SECTION 25-1.5-103 (1) (a) with
7 regard to licensing.

8 **SECTION 37.** 25-1-801 (1) (a) and (1) (b) (I), Colorado Revised
9 Statutes, are amended to read:

10 **25-1-801. Patient records in custody of health care facility.**

11 (1) (a) Every patient record in the custody of a health facility licensed or
12 certified pursuant to ~~section 25-1-107 (1)~~ SECTION 25-1.5-103 (1) or
13 article 3 of this title, or both, or any entity regulated under title 10,
14 C.R.S., providing health care services, as defined in section 10-16-102
15 (22), C.R.S., directly or indirectly through a managed care plan, as
16 defined in section 10-16-102 (26.5), C.R.S., or otherwise shall be
17 available for inspection to the patient or the patient's designated
18 representative through the attending health care provider or such
19 provider's designated representative at reasonable times and upon
20 reasonable notice, except records pertaining to mental health problems or
21 notes by a physician that, in the opinion of a licensed physician who
22 practices psychiatry and is an independent third party, would have
23 significant negative psychological impact upon the patient. Such
24 independent third-party physician shall consult with the attending
25 physician prior to making a determination with regard to the availability
26 for inspection of any patient record and shall report in writing findings to
27 the attending physician and to the custodian of said record. A summary

1 of records pertaining to a patient’s mental health problems may, upon
2 written request and signed and dated authorization, be made available to
3 the patient or the patient’s designated representative following termination
4 of the treatment program.

5 (b) (I) Following any treatment, procedure, or health care service
6 rendered by a health facility licensed or certified pursuant to ~~section~~
7 ~~25-1-107 (I)~~ SECTION 25-1.5-103 (1) or article 3 of this title, or both, or
8 by an entity regulated under title 10, C.R.S., providing health care
9 services, as defined in section 10-16-102 (22), C.R.S., directly or
10 indirectly through a managed care plan, as defined in section 10-16-102
11 (26.5), C.R.S., or otherwise, copies of said records, including X rays,
12 shall be furnished to the patient upon submission of a written
13 authorization-request for records, dated and signed by the patient, and
14 upon the payment of the reasonable costs.

15 **SECTION 38.** 25-3-103.1 (2), Colorado Revised Statutes, is
16 amended to read:

17 **25-3-103.1. Health facilities general licensure cash fund.**

18 (2) The general assembly shall make annual appropriations from the
19 health facilities general licensure cash fund to partially reimburse the
20 department of public health and environment for the direct and indirect
21 costs of the department incurred in the performance of its duties under
22 this article. No appropriation shall be made out of the cash fund for
23 expenditures incurred by the department pursuant to ~~section 25-1-107 (I)~~
24 ~~(I)~~ ~~(H)~~ SECTION 25-1.5-103 (1) (a) (II) in carrying out duties relating to
25 health facilities wholly owned and operated by a governmental unit or
26 agency.

27 **SECTION 39.** 25-3-103.7 (1) (a), Colorado Revised Statutes, is

1 amended to read:

2 **25-3-103.7. Employment of physicians - when permissible -**
3 **conditions.** (1) For purposes of this section:

4 (a) "Hospital" means a hospital currently licensed or certified by
5 the department of public health and environment pursuant to the
6 department's authority under ~~section 25-1-107 (1) (I)~~ SECTION 25-1.5-103
7 (1) (a).

8 **SECTION 40.** 25-3-104, Colorado Revised Statutes, is amended
9 to read:

10 **25-3-104. Reports.** Any person, partnership, association, or
11 corporation maintaining any hospital or other facility for the treatment or
12 care of the sick or injured shall make a report to the department of public
13 health and environment upon request but not more frequently than
14 quarterly. The department of public health and environment shall have
15 power to investigate and shall have free access to such facilities
16 consistent with ~~section 25-1-107 (1) (I)~~ SECTION 25-1.5-103 (1) (a).

17 **SECTION 41.** 25-3-107 (1), Colorado Revised Statutes, is
18 amended to read:

19 **25-3-107. Disciplinary actions reported to state board of**
20 **medical examiners or podiatry board.** (1) Any disciplinary action to
21 suspend, revoke, or otherwise limit the privileges of a licensed physician
22 or podiatrist which is taken by the governing board of a hospital required
23 to be licensed or certified pursuant to this part 1 or required to obtain a
24 certificate of compliance pursuant to ~~section 25-1-107 (1) (I) or (II)~~
25 SECTION 25-1.5-103 (1) (a) (I) OR (1) (a) (II) shall be reported to the
26 Colorado state board of medical examiners or the Colorado podiatry
27 board, whichever board is appropriate, in the form prescribed by said

1 board.

2 **SECTION 42.** 25-3-109 (1), Colorado Revised Statutes, is
3 amended to read:

4 **25-3-109. Quality management functions - confidentiality and**
5 **immunity.** (1) The general assembly hereby finds and declares that the
6 implementation of quality management functions to evaluate and improve
7 patient and resident care is essential to the operation of health care
8 facilities licensed or certified by the department of public health and
9 environment pursuant to ~~section 25-1-107 (1) (f)~~ 25-1.5-103 (1) (a). For
10 this purpose, it is necessary that the collection of information and data by
11 such licensed or certified health care facilities be reasonably unfettered
12 so a complete and thorough evaluation and improvement of the quality of
13 patient and resident care can be accomplished. To this end, quality
14 management information relating to the evaluation or improvement of the
15 quality of health care services shall be confidential, subject to the
16 provisions of subsection (4) of this section, and persons performing such
17 functions shall be granted qualified immunity. It is the intent of the
18 general assembly that nothing in this section revise, amend, or alter article
19 36 or part 1 of article 36.5 of title 12, C.R.S.

20 **SECTION 43.** 25-4-1705 (5) (e) (II) (D) and (5) (e) (IV),
21 Colorado Revised Statutes, are amended to read:

22 **25-4-1705. Department of public health and environment -**
23 **powers and duties.** (5) The board of health, in consultation with the
24 medical services board in the state department of health care policy and
25 financing, and such other persons, agencies, or organizations that the
26 board of health deems advisable, shall formulate, adopt, and promulgate
27 rules governing the implementation and operation of the infant

1 immunization program. Such rules shall address the following:

2 (e) (II) Records in the immunization tracking system established
3 pursuant to subparagraph (I) of this paragraph (e) shall be strictly
4 confidential and shall not be released, shared with any agency or
5 institution, or made public upon subpoena, search warrant, discovery
6 proceedings, or otherwise, except under the following circumstances:

7 (D) No officer or employee or agent of the state department of
8 public health and environment or local department of health shall be
9 examined in any judicial, executive, legislative, or other proceeding as to
10 the existence or content of any infant's report obtained by such
11 department without consent of the infant's parent or guardian. However,
12 this provision shall not apply to infants who are under isolation,
13 quarantine, or other restrictive action taken pursuant to ~~section 25-1-107~~
14 ~~(1)(b)~~ SECTION 25-1.5-102 (1) (c).

15 (IV) The department shall not directly contact the parent or legal
16 guardian for the purpose of notifying the parent or legal guardian of
17 immunizations that are recommended or required by the board of health,
18 unless such contact is necessary to control an outbreak of or prevent the
19 spread of a vaccine-preventable disease pursuant to ~~section 25-1-107 (1)~~
20 ~~(a)~~ SECTION 25-1.5-102 (1) (a) or 25-4-908.

21 **SECTION 44.** The introductory portion to 25-11-104 (8) (a),
22 Colorado Revised Statutes, is amended to read:

23 **25-11-104. Rules to be adopted - fees - fund created.**

24 (8) (a) The state board of health shall adopt rules requiring that all
25 machine sources of ionizing radiation which are used for therapeutic or
26 diagnostic use on humans be annually inspected if owned, leased, under
27 contract, or operated on behalf of a facility licensed or certified by

1 ~~section 25-1-107 (1) (I) (I) and (1) (I) (H)~~ SECTION 25-1.5-103 (1) (a) (I)
2 AND (1) (a) (II) or a licensed osteopathic physician, a medical physician,
3 or a chiropractic doctor, and every three years for all other machines used
4 for human treatment or diagnosis and certified by qualified inspectors as
5 safe for the intended uses and in compliance with the specifications of the
6 state board of health and the equipment manufacturer. Such rules shall
7 include the following:

8 **SECTION 45.** 25-11-109, Colorado Revised Statutes, is amended
9 to read:

10 **25-11-109. Provisional license.** In the event the department has
11 failed to issue or has denied a request for a license, or an amendment
12 thereto, as authorized by this article, within thirty days of the date of
13 receipt by the department of a completed application made on the
14 appropriate forms designated by the department to a hospital as licensed
15 or certified pursuant to ~~section 25-1-107 (1) (I) (I) and (1) (I) (H)~~ SECTION
16 25-1.5-103 (1) (a) (I) AND (1) (a) (II), a provisional license shall be
17 deemed to have been issued by the department. In the case of a denial,
18 the department shall provide the applicant in writing with information and
19 substantive reasons in explanation thereof. The provisional license shall
20 be in effect for a period of ninety days and may be continued for one
21 additional ninety-day period. Such provisional license shall apply only
22 to licensed or certified hospitals when the purpose is to acquire, possess,
23 and use radioactive material for diagnostic or therapeutic human use.

24 **SECTION 46.** 25-14-103 (1) (b) (IV), Colorado Revised Statutes,
25 is amended to read:

26 **25-14-103. Smoking prohibited in certain public places.**
27 (1) Except as otherwise provided in this subsection (1), smoking is

1 prohibited in the following public places:

2 (b) (IV) No other restrictions provided in this article shall apply
3 to hospitals licensed pursuant to article 3 of this title or holding a valid
4 certificate of compliance pursuant to ~~section 25-1-107 (1) (I) (H)~~ SECTION
5 25-1.5-103 (1) (a) (II).

6 **SECTION 47.** 25.5-1-503 (3), Colorado Revised Statutes, is
7 amended to read:

8 **25.5-1-503. Definitions.** As used in this part 5, unless the context
9 otherwise requires:

10 (3) "Hospital" means any hospital licensed or certified pursuant
11 to ~~section 25-1-107 (1) (I) (I) or (1) (I) (H)~~ SECTION 25-1.5-103 (1) (a) (I)
12 OR (1) (a) (II), C.R.S., or any entity controlling, controlled by, or under
13 common control with a licensed or certified hospital.

14 **SECTION 48.** The introductory portion to 26-4-103 (8) and
15 26-4-103 (11), Colorado Revised Statutes, are amended to read:

16 **26-4-103. Definitions.** As used in this article, unless the context
17 otherwise requires:

18 (8) "Intermediate nursing facility for the mentally retarded" means
19 a tax-supported, state-administered intermediate nursing facility, or a
20 distinct part of such facility, which meets the state nursing home licensing
21 standards set forth in ~~section 25-1-107 (1) (I) (I)~~ SECTION 25-1.5-103 (1)
22 (a) (I), C.R.S., and the requirements in 42 U.S.C. sec. 1396d and which:

23 (11) "Nursing facility" means a facility, or a distinct part of a
24 facility, which meets the state nursing home licensing standards in ~~section~~
25 ~~25-1-107 (1) (I) (I)~~ SECTION 25-1.5-103 (1) (a) (I), C.R.S., is maintained
26 primarily for the care and treatment of inpatients under the direction of
27 a physician, and meets the requirements in 42 U.S.C. sec. 1396d for

1 certification as a qualified provider of nursing facility services. The
2 patients in such a facility require supportive, therapeutic, or compensating
3 services and the availability of a licensed nurse for observation or
4 treatment on a twenty-four-hour basis. Nursing care may include but is
5 not limited to terminal care; extensive assistance or therapy in the
6 activities of daily living; continual direction, supervision, or therapy;
7 extensive assistance or therapy for loss of mobility; nursing assessment
8 and services which involve assessment of the total needs of the patient,
9 planning of patient care, and observing, monitoring, and recording the
10 patient's response to treatment; and monitoring, observing, and evaluating
11 the drug regimen. "Nursing facility" includes private, nonprofit, or
12 proprietary intermediate nursing facilities for the mentally retarded or
13 developmentally disabled.

14 **SECTION 49.** 26-4-410 (2) (c.5) (VII), Colorado Revised
15 Statutes, is amended to read:

16 **26-4-410. Providers - nursing facility - nursing facility patient**
17 **program improvement fund - reimbursement - maximum allowable -**
18 **nonmonetary incentive program - quality of care incentive payment**
19 **program - legislative declaration.** (2) (c.5) (VII) As used in this
20 paragraph (c.5), "nursing facility provider" means a facility provider that
21 meets the state nursing home licensing standards in ~~section 25-1-107 (I)~~
22 ~~(I) (I) or (I) (I) (H)~~ SECTION 25-1.5-103 (1) (a) (I) OR (1) (a) (II), C.R.S.,
23 is maintained primarily for the care and treatment of inpatients under the
24 direction of a physician, and meets the requirements in 42 U.S.C. sec.
25 1396d for certification as a qualified provider of nursing facility services.

26 **SECTION 50.** 26-4-603 (13.5), Colorado Revised Statutes, is
27 amended to read:

1 **26-4-603. Definitions.** As used in this subpart 1 and subpart 3 of
2 this part 6, unless the context otherwise requires:

3 (13.5) "Medications administration" means the administration or
4 monitoring of medications provided in a manner consistent with ~~section~~
5 ~~25-1-107 (1) (ee)~~ PART 3 OF ARTICLE 1.5 OF TITLE 25, C.R.S., under the
6 authority and direction of the state department, as part of the "alternative
7 care services", as defined in subsection (4) of this section, as provided in
8 an "alternative care facility", as defined in subsection (3) of this section.

9 **SECTION 51.** 26-6-104 (4), Colorado Revised Statutes, is
10 amended to read:

11 **26-6-104. Licenses - out-of-state notices and consent.** (4) No
12 license for a child care center, residential child care facility, or secure
13 residential treatment center shall be issued by the department until the
14 facilities to be operated or maintained by the applicant or licensee are
15 approved by the department of public health and environment as
16 conforming to the sanitary standards prescribed by said department under
17 the provisions of ~~section 25-1-107 (1) (m)~~ SECTION 25-1.5-101 (1) (h),
18 C.R.S., and unless such facilities conform to fire prevention and
19 protection requirements of local fire departments in the locality of the
20 facility or, in lieu thereof, of the division of labor.

21 **SECTION 52.** 26-6-106.1, Colorado Revised Statutes, is
22 amended to read:

23 **26-6-106.1. Administration or monitoring of medications to**
24 **persons - residential child care facilities.** The executive director has the
25 power to direct the administration or monitoring of medications to
26 persons in facilities pursuant to ~~section 25-1-107 (1) (ee) (H.5) (F)~~
27 SECTION 25-1.5-301 (2) (f), C.R.S.

1 **SECTION 53.** 26-15-103 (2), Colorado Revised Statutes, is
2 amended to read:

3 **26-15-103. Definitions.** As used in this article, unless the context
4 otherwise requires:

5 (2) "General provider" means any general hospital, birth center,
6 or community health clinic licensed or certified by the department of
7 public health and environment pursuant to ~~section 25-1-107 (1) (I) (I) or~~
8 ~~(I) (I) (H)~~ SECTION 25-1.5-103 (1) (a) (I) OR (1) (a) (II), C.R.S., any health
9 maintenance organization issued a certificate of authority pursuant to
10 section 10-16-402, C.R.S., and the health sciences center when acting
11 pursuant to section 26-15-106 (5) (a) (I) or (5) (a) (II) (A). A home
12 health agency may also serve as a provider of community maternity
13 services. For the purposes of the program, "general provider" includes
14 associated physicians.

15 **SECTION 54.** 27-10-117.5, Colorado Revised Statutes, is
16 amended to read:

17 **27-10-117.5. Administration or monitoring of medications to**
18 **persons receiving care.** The executive director has the power to direct
19 the administration or monitoring of medications in conformity with
20 ~~section 25-1-107 (1) (ee)~~ PART 3 OF ARTICLE 1.5 OF TITLE 25, C.R.S., to
21 persons receiving treatment in facilities created pursuant to this article.

22 **SECTION 55.** The introductory portion to 27-10.5-103 (2) and
23 27-10.5-103 (2) (k) (III), Colorado Revised Statutes, are amended to read:

24 **27-10.5-103. Duties of the executive director - rules and**
25 **regulations.** (2) The executive director shall adopt such rules, ~~and~~
26 ~~regulations~~, in accordance with section 24-4-103, C.R.S., as are necessary
27 to carry out the provisions and purposes of this article including but not

1 limited to the following subjects:

2 (k) (III) Any individual who is not otherwise authorized by law to
3 administer nutrition and fluids through gastrostomy tubes shall be
4 allowed to perform such duties only under the supervision of a licensed
5 nurse or physician. Any individual who administers nutrition and fluids
6 in compliance with the provisions of this paragraph (k) shall be exempt
7 from the licensing requirements of the "Colorado Medical Practice Act"
8 and the "Nurse Practice Act". Nothing in this paragraph (k) shall be
9 deemed to authorize the administration of medications through
10 gastrostomy tubes. Any individual administering medications through
11 gastrostomy tubes shall be subject to the requirements of ~~section~~
12 ~~25-1-107~~ PART 3 OF ARTICLE 1.5 OF TITLE 25, C.R.S.

13 **SECTION 56.** 27-10.5-114 (3) and (6.5), Colorado Revised
14 Statutes, are amended to read:

15 **27-10.5-114. Right to medical care and treatment.** (3) All
16 service agencies which administer medication shall require that notation
17 of the medication of a person receiving services be kept in the person's
18 medical records. All medications shall be administered pursuant to
19 ~~section 25-1-107~~ PART 3 OF ARTICLE 1.5 OF TITLE 25, C.R.S.

20 (6.5) The executive director has the power to direct the
21 administration or monitoring of medications to persons being cared for
22 and treated in centers for the developmentally disabled pursuant to
23 ~~section 25-1-107 (1) (ee) (H.5) (F)~~ SECTION 25-1.5-301 (2) (i), C.R.S.

24 **SECTION 57.** 30-11-104 (1) (b), Colorado Revised Statutes, is
25 amended to read:

26 **30-11-104. County buildings - acquisition of land or buildings**
27 **by eminent domain authorized.** (1) (b) For any penal institution that

1 begins operations on or after August 30, 1999, that is operated by or
2 under contract with a county, the county may establish standards relating
3 to space requirements, furnishing requirements, required special use areas
4 or special management housing, and environmental condition
5 requirements, including but not limited to standards pertaining to light,
6 ventilation, temperature, and noise level. If a county does not adopt
7 standards pursuant to this paragraph (b), the penal institution operated by
8 or under contract with the county shall be subject to the standards
9 adopted by the department of public health and environment pursuant to
10 ~~section 25-1-107 (1) (n)~~ SECTION 25-1.5-101 (1) (i), C.R.S. In
11 establishing such standards, the county is strongly encouraged to consult
12 with national associations that specialize in policies relating to
13 correctional institutions.

14 **SECTION 58.** 31-15-711.5, Colorado Revised Statutes, is
15 amended to read:

16 **31-15-711.5. Municipal jails - sanitary standards.** Any
17 municipality that chooses to establish and operate a jail, as authorized in
18 section 31-15-401 (1) (j), that begins operations on or after August 30,
19 1999, may establish sanitary standards for such jail relating to space
20 requirements, furnishing requirements, required special use areas or
21 special management housing, and environmental condition requirements,
22 including but not limited to standards pertaining to light, ventilation,
23 temperature, and noise level. If a municipality does not adopt standards
24 pursuant to this section, the jail operated by or under contract with the
25 municipality shall be subject to the standards adopted by the department
26 of public health and environment pursuant to ~~section 25-1-107 (1) (n)~~
27 SECTION 25-1.5-101 (1) (i), C.R.S. In establishing such standards, the

1 municipality is strongly encouraged to consult with national associations
2 that specialize in policies relating to correctional institutions.

3 **SECTION 59.** 32-1-103 (9), Colorado Revised Statutes, is
4 amended to read:

5 **32-1-103. Definitions.** As used in this article, unless the context
6 otherwise requires:

7 (9) "Health service district" means a special district that may
8 establish, maintain, or operate, directly or indirectly through lease to or
9 from other parties or other arrangement, public hospitals, convalescent
10 centers, nursing care facilities, intermediate care facilities, emergency
11 facilities, community clinics, or other facilities licensed or certified
12 pursuant to ~~section 25-1-107 (1) (f)~~ SECTION 25-1.5-103 (1) (a), C.R.S.,
13 providing health and personal care services and may organize, own,
14 operate, control, direct, manage, contract for, or furnish ambulance
15 service.

16 **SECTION 60.** 32-1-1003 (1) (a), Colorado Revised Statutes, is
17 amended to read:

18 **32-1-1003. Health service districts - additional powers.** (1) In
19 addition to the powers specified in section 32-1-1001, the board of any
20 health service district has any or all of the following powers for and on
21 behalf of such district:

22 (a) To establish, maintain, or operate, directly or indirectly
23 through lease to or from other parties or other arrangement, public
24 hospitals, convalescent centers, nursing care facilities, intermediate care
25 facilities, emergency facilities, community clinics, or other facilities
26 licensed or certified pursuant to ~~section 25-1-107 (1) (f)~~ SECTION
27 25-1.5-103 (1) (a), C.R.S., providing health and personal care services

1 and to organize, own, operate, control, direct, manage, contract for, or
2 furnish ambulance service in said district;

3 **SECTION 61. Effective date.** This act shall take effect July 1,
4 2002.

5 **SECTION 62. Safety clause.** The general assembly hereby
6 finds, determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, and safety.