

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 19-0372.01 Richard Sweetman x4333

SENATE BILL 19-146

SENATE SPONSORSHIP

Pettersen,

HOUSE SPONSORSHIP

Kennedy,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING THE CONTINUATION OF THE REGULATION BY THE
102 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OF
103 ENTITIES THAT PROVIDE HOME CARE SERVICES, AND, IN
104 CONNECTION THEREWITH, IMPLEMENTING THE
105 RECOMMENDATIONS CONTAINED IN THE 2018 SUNSET REPORT
106 BY THE DEPARTMENT OF REGULATORY AGENCIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sunset Process - Senate Health and Human Services

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Committee. The bill implements the recommendations of the department of regulatory agencies in its sunset review and report on the licensing of home care agencies and the registering of home care placement agencies by the department of public health and environment (CDPHE) by:

- ! Continuing these functions until September 1, 2028;
- ! Requiring that money assessed and collected by CDPHE as civil fines against agencies is credited to the general fund rather than to the home care agency cash fund;
- ! Repealing the \$10,000 limit on the amount of civil fines that may be assessed against a home care agency or home care placement agency in a calendar year; and
- ! Requiring the home care advisory committee to include representatives of home care placement agencies.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-104, **repeal**
3 (17)(a)(XII); and **add** (29)(a)(V) as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for repeal, continuation, or reestablishment - legislative**
6 **declaration - repeal.** (17) (a) The following agencies, functions, or both,
7 are scheduled for repeal on September 1, 2019:

8 ~~(XII) Notwithstanding paragraph (a) of subsection (7) of this~~
9 ~~section, the functions of the department of public health and environment~~
10 ~~relating to the licensing of home care agencies and the registering of~~
11 ~~home care placement agencies in accordance with article 27.5 of title 25,~~
12 ~~C.R.S.;~~

13 (29) (a) The following agencies, functions, or both, are scheduled
14 for repeal on September 1, 2028:

15 (V) THE FUNCTIONS OF THE DEPARTMENT OF PUBLIC HEALTH AND
16 ENVIRONMENT RELATING TO THE LICENSING OF HOME CARE AGENCIES AND
17 THE REGISTERING OF HOME CARE PLACEMENT AGENCIES IN ACCORDANCE
18 WITH ARTICLE 27.5 OF TITLE 25.

1 **SECTION 2.** In Colorado Revised Statutes, 25-27.5-110, **amend**
2 (1) as follows:

3 **25-27.5-110. Repeal of article - sunset review.** (1) This ~~article~~
4 ARTICLE 27.5 is repealed, effective September 1, ~~2019~~ 2028.

5 **SECTION 3.** In Colorado Revised Statutes, 25-27.5-108, **amend**
6 (2)(b)(I)(E) and (2)(b)(IV); and **repeal** (2)(b)(V) as follows:

7 **25-27.5-108. License or registration denial - suspension -**
8 **revocation.** (2) (b) (I) The department may impose intermediate
9 restrictions or conditions on a licensed home care agency or registered
10 home care placement agency that may include at least one of the
11 following:

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

14 (IV) If the department assesses a civil fine pursuant to this
15 ~~paragraph (b)~~ SUBSECTION (2)(b), the department shall transmit the fines
16 to the state treasurer, who shall credit the fines to the ~~home care agency~~
17 ~~cash fund created in section 25-27.5-105~~ GENERAL FUND.

18 (V) ~~The department shall use civil fines collected pursuant to this~~
19 ~~paragraph (b) for expenses related to:~~

20 (A) ~~Continuing monitoring required pursuant to this paragraph~~
21 ~~(b);~~

22 (B) ~~Education for licensed home care agencies or registered home~~
23 ~~care placement agencies to avoid restrictions or conditions or facilitate the~~
24 ~~application process or the change of ownership process;~~

25 (C) ~~Education for home care consumers and their families about~~
26 ~~resolving problems with a home care agency or home care placement~~
27 ~~agency, rights of home care consumers, and responsibilities of home care~~

1 agencies and home care placement agencies;

2 ~~(D) Providing technical assistance to any home care agency or~~
3 ~~home care placement agency for the purpose of complying with changes~~
4 ~~in rules or state or federal law;~~

5 ~~(E) Monitoring and assisting in the transition of home care~~
6 ~~consumers to other home care agencies or home care placement agencies,~~
7 ~~when the transition is a result of the revocation of a license or~~
8 ~~registration, or to other appropriate medical services; or~~

9 ~~(F) Maintaining the operation of a home care agency or home care~~
10 ~~placement agency pending correction of violations, as determined~~
11 ~~necessary by the department.~~

12 **SECTION 4.** In Colorado Revised Statutes, 25-27.5-103, **amend**
13 **(1)(b) and (2)(c)(II) as follows:**

14 **25-27.5-103. Home care agency license required - home care**
15 **placement agency registration required - civil and criminal penalties.**

16 (1) On or after June 1, 2009, it is unlawful for any person, partnership,
17 association, or corporation to conduct or maintain a home care agency
18 that provides skilled home health services without having submitted a
19 completed application for licensure as a home care agency to the
20 department. On or after January 1, 2010, it is unlawful for any person,
21 partnership, association, or corporation to conduct or maintain a home
22 care agency that provides skilled home health services without having
23 obtained a license therefor from the department. On or after January 1,
24 2010, it is unlawful for any person, partnership, association, or
25 corporation to conduct or maintain a home care agency that provides
26 in-home personal care services without having submitted a completed
27 application for licensure as a home care agency to the department. On or

1 after January 1, 2011, it is unlawful for any person, partnership,
2 association, or corporation to conduct or maintain a home care agency
3 that provides in-home personal care services without having obtained a
4 license therefor from the department. Any person who violates this
5 provision:

6 (b) May be subject to a civil penalty assessed by the department
7 of up to ten thousand dollars for each violation of this section. The
8 department shall assess, enforce, and collect the penalty in accordance
9 with article 4 of title 24 ~~C.R.S.~~, for credit to the ~~home care agency cash~~
10 ~~fund created in section 25-27.5-105.~~ Enforcement and collection of the
11 ~~penalty shall occur~~ GENERAL FUND. THE DEPARTMENT SHALL ENFORCE
12 AND COLLECT EACH PENALTY following ~~the~~ A decision reached in
13 accordance with procedures set forth in section 24-4-105. ~~C.R.S.~~

14 (2) (c) A person who violates this subsection (2):

15 (II) May be subject to a civil penalty assessed by the department
16 of up to ten thousand dollars for each violation. The department shall
17 assess, enforce, and collect the penalty in accordance with article 4 of title
18 24. ~~C.R.S.~~ The department shall transfer any ~~penalties~~ MONEY it collects
19 AS SUCH A PENALTY to the state treasurer, ~~for deposit in the home care~~
20 ~~agency cash fund created in section 25-27.5-105~~ WHO SHALL CREDIT THE
21 MONEY TO THE GENERAL FUND.

22 **SECTION 5.** In Colorado Revised Statutes, 25-27.5-104, **amend**
23 (3) as follows:

24 **25-27.5-104. Minimum standards for home care agencies and**
25 **home care placement agencies - rules - advisory committee.** (3) There
26 is hereby established a home care advisory committee, which shall make
27 recommendations to the department and the state board ~~of health~~

1 concerning the rules promulgated pursuant to this ~~article~~ ARTICLE 27.5
2 and implementation of the licensing of home care agencies. ~~The home~~
3 ~~care advisory committee shall be appointed by~~ The executive director of
4 the department SHALL APPOINT THE MEMBERS OF THE ADVISORY
5 COMMITTEE. The advisory committee ~~shall~~ MUST, at a minimum, ~~consist~~
6 ~~of~~ INCLUDE representatives from skilled home health services agencies,
7 personal care services agencies, members of the disabled community who
8 are home care consumers, seniors or representatives of seniors who are
9 home care consumers, providers of medicaid services, providers of
10 in-home support services, REPRESENTATIVES OF HOME CARE PLACEMENT
11 AGENCIES, and representatives of the departments of health care policy
12 and financing and human services. Members of the advisory committee
13 ~~shall~~ serve at the pleasure of the appointing authority on a voluntary basis
14 ~~and shall serve~~ without compensation.

15 **SECTION 6.** In Colorado Revised Statutes, **amend** 25-27.5-105
16 as follows:

17 **25-27.5-105. Home care agency cash fund - created.** The
18 department shall transmit the fees collected pursuant to section
19 25-27.5-104 (1) ~~plus any civil penalty collected pursuant to section~~
20 ~~25-27.5-103 (1)(b) and (2)(c)(H)~~, to the state treasurer, who shall credit
21 the fees ~~and penalties~~ to the home care agency cash fund, which fund is
22 hereby created. The ~~moneys~~ MONEY in the fund ~~are~~ IS subject to annual
23 appropriation by the general assembly for the direct and indirect costs of
24 the department in performing its duties under this ~~article~~ ARTICLE 27.5. At
25 the end of any fiscal year, all unexpended and unencumbered ~~moneys~~
26 MONEY in the fund ~~remain~~ REMAINS in the fund and must not be credited
27 or transferred to the general fund or any other fund.

1 **SECTION 7. Act subject to petition - effective date.** This act
2 takes effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly (August
4 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
5 referendum petition is filed pursuant to section 1 (3) of article V of the
6 state constitution against this act or an item, section, or part of this act
7 within such period, then the act, item, section, or part will not take effect
8 unless approved by the people at the general election to be held in
9 November 2020 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor.