

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 23-0787.01 Christy Chase x2008

SENATE BILL 23-261

SENATE SPONSORSHIP

Danielson and Exum, Buckner, Coleman, Cutter, Fenberg, Fields, Gonzales, Hinrichsen, Kolker, Marchman, Moreno, Mullica, Priola, Roberts, Rodriguez, Sullivan, Winter F., Bridges, Ginal, Jaquez Lewis

HOUSE SPONSORSHIP

Duran and Willford, Amabile, Bacon, Boesenecker, Brown, deGruy Kennedy, Dickson, Epps, Froelich, Garcia, Gonzales-Gutierrez, Hamrick, Jodeh, Joseph, Kipp, Lieder, Lindsay, Lindstedt, Mabrey, Marshall, Martinez, Michaelson Jenet, Ortiz, Parenti, Ricks, Sharbini, Sirota, Snyder, Titone, Valdez, Velasco, Vigil, Woodrow, Young, Bird, English, Herod, Lukens, Mauro, McCluskie, McLachlan, Story, Weinberg, Weissman

Senate Committees

Business, Labor, & Technology
Appropriations

House Committees

State, Civic, Military, & Veterans Affairs
Appropriations

HOUSE
3rd Reading Unamended
April 29, 2023

HOUSE
Amended 2nd Reading
April 28, 2023

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE DIRECT CARE WORKFORCE**
102 **STABILIZATION BOARD TO DEVELOP RECOMMENDATIONS**
103 **REGARDING DIRECT CARE WORKERS, AND, IN CONNECTION**
104 **THEREWITH, MAKING AN APPROPRIATION.**

SENATE
3rd Reading Unamended
April 24, 2023

SENATE
Amended 2nd Reading
April 21, 2023

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>.)

The bill creates the direct care workforce stabilization board (board) in the department of labor and employment (department) to review the direct care industry, which is the industry of workers who

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

1 (3) "DIRECT CARE CONSUMER" MEANS:
2 (a) A HOME CARE CONSUMER;
3 (b) AN ELIGIBLE PERSON, AS DEFINED IN SECTION 25.5-6-1101 (4),
4 INCLUDING AN ELIGIBLE PERSON WHO PARTICIPATES IN THE
5 CONSUMER-DIRECTED CARE SERVICE MODEL PURSUANT TO PART 11 OF
6 ARTICLE 6 OF TITLE 25.5; OR
7 (c) AN ELIGIBLE PERSON WITH A DISABILITY, AS DEFINED IN
8 SECTION 25.5-6-1302 (2).
9 (4) (a) "DIRECT CARE EMPLOYER" MEANS:
10 (I) A HOME CARE EMPLOYER; OR
11 (II) A PROVIDER AGENCY OR ORGANIZATION THAT PROVIDES
12 DIRECT CARE SERVICES.
13 (b) "DIRECT CARE EMPLOYER" DOES NOT INCLUDE AN ELIGIBLE
14 PERSON, AS DEFINED IN SECTION 25.5-6-1101 (4), WHO PARTICIPATES IN
15 THE CONSUMER-DIRECTED CARE SERVICE MODEL PURSUANT TO PART 11
16 OF ARTICLE 6 OF TITLE 25.5; EXCEPT THAT, SUCH ELIGIBLE PERSON IS A
17 DIRECT CARE EMPLOYER FOR PURPOSES OF APPOINTMENT OF DIRECT CARE
18 EMPLOYERS TO THE BOARD PURSUANT TO SECTION 8-7.5-103 (2)(a)(I)(B).
19 (5) "DIRECT CARE INDUSTRY" MEANS THE INDUSTRY IN WHICH
20 DIRECT CARE WORKERS DELIVER DIRECT CARE SERVICES TO DIRECT CARE
21 CONSUMERS IN COLORADO.
22 (6) "DIRECT CARE SERVICES" MEANS:
23 (a) PERSONAL CARE SERVICES; OR
24 (b) ANY SERVICES DESCRIBED IN PARTS 3 TO 13 OF ARTICLE 6 OF
25 TITLE 25.5 THAT DO NOT REQUIRE THE INDIVIDUAL PROVIDING THE
26 SERVICES TO BE LICENSED OR CERTIFIED BY THE STATE OR THE FEDERAL
27 GOVERNMENT IN ORDER TO PERFORM THE SERVICES.

- 1 (7) "DIRECT CARE WORKER" MEANS:
- 2 (a) A HOME CARE WORKER;
- 3 (b) AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF A DIRECT
- 4 CARE EMPLOYER, AS DEFINED IN SUBSECTION (4)(a)(II) OF THIS SECTION,
- 5 WHO PROVIDES DIRECT CARE SERVICES TO DIRECT CARE CONSUMERS, AS
- 6 DEFINED IN SUBSECTION (3)(b) OF THIS SECTION; OR
- 7 (c) AN INDIVIDUAL WHO PROVIDES DIRECT CARE SERVICES TO
- 8 DIRECT CARE CONSUMERS, AS DEFINED IN SUBSECTION (3)(c) OF THIS
- 9 SECTION.
- 10 (8) "EMPLOYER ORGANIZATION" MEANS:
- 11 (a) AN ORGANIZATION EXEMPT FROM FEDERAL INCOME TAXATION
- 12 UNDER SECTION 501 (c)(6) OF THE FEDERAL "INTERNAL REVENUE CODE
- 13 OF 1986", 26 U.S.C. SEC. 501, AS AMENDED, THAT REPRESENTS DIRECT
- 14 CARE EMPLOYERS; OR
- 15 (b) AN ENTITY SELECTED BY AND REPRESENTING EMPLOYERS.
- 16 (9) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
- 17 THE DEPARTMENT.
- 18 (10) "HOME CARE CONSUMER" MEANS A HOME CARE CONSUMER,
- 19 AS DEFINED IN SECTION 25-27.5-102 (4), WHO RECEIVES PERSONAL CARE
- 20 SERVICES.
- 21 (11) "HOME CARE EMPLOYER" MEANS A HOME CARE AGENCY, AS
- 22 DEFINED IN SECTION 25-27.5-102 (3), OR OTHER ENTITY THAT EMPLOYS
- 23 HOME CARE WORKERS.
- 24 (12) "HOME CARE WORKER" MEANS A WORKER PROVIDING
- 25 PERSONAL CARE SERVICES TO A HOME CARE CONSUMER.
- 26 (13) "PERSONAL CARE SERVICES" HAS THE SAME MEANING AS SET
- 27 FORTH IN SECTION 25-27.5-102 (6).

- 1 (14) "WORKER ORGANIZATION" MEANS AN ORGANIZATION THAT:
2 (a) IS EXEMPT FROM FEDERAL INCOME TAXATION UNDER SECTION
3 501 (c)(3), (c)(4), (c)(5), OR (c)(6) OF THE FEDERAL "INTERNAL REVENUE
4 CODE OF 1986", 26 U.S.C. SEC. 501, AS AMENDED;
5 (b) IS NOT DOMINATED, CONTROLLED, OR FUNDED BY ANY DIRECT
6 CARE EMPLOYER; AND
7 (c) HAS AT LEAST TWO YEARS OF DEMONSTRATED EXPERIENCE
8 ENGAGING AND ADVOCATING FOR DIRECT CARE WORKERS.

9 **8-7.5-103. Direct care workforce stabilization board - creation**
10 **- membership - repeal. (1) Board creation.** THE DIRECT CARE
11 WORKFORCE STABILIZATION BOARD IS CREATED IN THE DEPARTMENT AS
12 A **TYPE 2** ENTITY, AS DEFINED IN SECTION 24-1-105, AND EXERCISES ITS
13 POWERS AND PERFORMS ITS DUTIES AND FUNCTIONS UNDER THE
14 DEPARTMENT AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT.

15 (2) **Board membership.** (a) THE BOARD CONSISTS OF FIFTEEN
16 MEMBERS APPOINTED AS FOLLOWS:

17 (I) THE EXECUTIVE DIRECTOR SHALL APPOINT THE FOLLOWING
18 MEMBERS TO THE BOARD:

19 (A) A REPRESENTATIVE OF THE DEPARTMENT;

20 (B) FOUR MEMBERS REPRESENTING DIRECT CARE EMPLOYERS OR
21 EMPLOYER ORGANIZATIONS, INCLUDING AT LEAST ONE MEMBER THAT
22 SERVES A RURAL OR FRONTIER AREA OF THE STATE;

23 (C) FOUR MEMBERS REPRESENTING DIRECT CARE WORKERS OR
24 WORKER ORGANIZATIONS, INCLUDING AT LEAST ONE MEMBER FROM A
25 RURAL OR FRONTIER AREA OF THE STATE; AND

26 (D) FOUR MEMBERS REPRESENTING DIRECT CARE CONSUMERS WHO
27 RECEIVE DIRECT CARE SERVICES FROM DIRECT CARE WORKERS, INCLUDING

1 ONE MEMBER FROM AN ORGANIZATION REPRESENTING INDIVIDUALS WITH
2 DISABILITIES, ONE MEMBER FROM AN ORGANIZATION REPRESENTING
3 OLDER ADULTS, AND AT LEAST ONE MEMBER FROM A RURAL OR FRONTIER
4 AREA OF THE STATE;

5 (II) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HEALTH
6 CARE POLICY AND FINANCING SHALL APPOINT A REPRESENTATIVE OF THE
7 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING TO SERVE ON THE
8 BOARD; AND

9 (III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC
10 HEALTH AND ENVIRONMENT SHALL APPOINT A REPRESENTATIVE OF THE
11 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO SERVE ON THE
12 BOARD.

13 (b) THE APPOINTING AUTHORITIES SHALL MAKE INITIAL
14 APPOINTMENTS TO THE BOARD BY OCTOBER 1, 2023. TO THE EXTENT
15 POSSIBLE, THE APPOINTING AUTHORITIES SHALL APPOINT BOARD MEMBERS
16 WHO REPRESENT COLORADO'S DIVERSITY WITH REGARD TO ETHNICITY,
17 RACE, GENDER, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER
18 EXPRESSION, DISABILITY, AGE, AND SOCIOECONOMIC BACKGROUND.

19 (3) **Terms.** (a) (I) EXCEPT AS PROVIDED IN SUBSECTION (3)(a)(II)
20 OF THIS SECTION, MEMBERS OF THE BOARD SERVE THREE-YEAR TERMS OF
21 OFFICE AND SHALL NOT SERVE MORE THAN TWO CONSECUTIVE TERMS OF
22 OFFICE.

23 (II) TO ENSURE STAGGERED TERMS OF OFFICE:

24 (A) THE INITIAL TERM OF OFFICE OF ONE MEMBER INITIALLY
25 APPOINTED PURSUANT TO SUBSECTION (2)(a)(I)(B) OF THIS SECTION, OF
26 ONE MEMBER INITIALLY APPOINTED PURSUANT TO SUBSECTION (2)(a)(I)(C)
27 OF THIS SECTION, AND OF ONE MEMBER INITIALLY APPOINTED PURSUANT

1 TO SUBSECTION (2)(a)(I)(D) OF THIS SECTION IS ONE YEAR; AND

2 (B) THE INITIAL TERM OF OFFICE OF ONE MEMBER INITIALLY
3 APPOINTED PURSUANT TO SUBSECTION (2)(a)(I)(B) OF THIS SECTION, OF
4 ONE MEMBER INITIALLY APPOINTED PURSUANT TO SUBSECTION (2)(a)(I)(C)
5 OF THIS SECTION, AND OF ONE MEMBER INITIALLY APPOINTED PURSUANT
6 TO SUBSECTION (2)(a)(I)(D) OF THIS SECTION IS TWO YEARS.

7 (III) SUBSECTION (3)(a)(II) OF THIS SECTION AND THIS SUBSECTION
8 (3)(a)(III) ARE REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

9 (b) IF A VACANCY OCCURS ON THE BOARD, THE APPOINTING
10 AUTHORITY FOR THE VACANT POSITION SHALL FILL THE POSITION ON THE
11 BOARD FOR THE REMAINDER OF THE UNEXPIRED TERM WITH A MEMBER
12 QUALIFIED FOR THE VACATED POSITION.

13 (4) **Board chair.** THE BOARD SHALL ELECT BY A MAJORITY VOTE
14 A MEMBER OF THE BOARD TO SERVE AS THE CHAIR OF THE BOARD.

15 (5) **Meetings and hearings.** (a) THE BOARD SHALL CONVENE ITS
16 FIRST MEETING NO LATER THAN NOVEMBER 15, 2023, AND SHALL MEET AT
17 LEAST QUARTERLY THEREAFTER AND AT OTHER TIMES AS DETERMINED BY
18 THE CHAIR FOR PURPOSES OF DEVELOPING RECOMMENDATIONS FOR
19 MINIMUM DIRECT CARE EMPLOYMENT STANDARDS PURSUANT TO SECTION
20 8-7.5-104.

21 (b) IN ADDITION TO THE MEETINGS DESCRIBED IN SUBSECTION
22 (5)(a) OF THIS SECTION, THE BOARD SHALL HOST PUBLIC HEARINGS AS
23 DESCRIBED IN SECTION 8-7.5-104 (2)(c) TO ENGAGE WITH AND OBTAIN
24 INPUT FROM DIRECT CARE WORKERS, DIRECT CARE EMPLOYERS, AND
25 DIRECT CARE CONSUMERS.

26 (c) ALL MEETINGS AND HEARINGS OF THE BOARD MUST INCLUDE
27 AN OPTION FOR REMOTE PARTICIPATION BY BOARD MEMBERS AND ANY

1 OTHER PARTICIPANTS IN THE MEETINGS OR HEARINGS.

2 (6) **Voting.** THE BOARD MAY TAKE ACTION, INCLUDING ACTION TO
3 RECOMMEND MINIMUM DIRECT CARE EMPLOYMENT STANDARDS UNDER
4 SECTION 8-7.5-104, ONLY UPON THE AFFIRMATIVE VOTE OF AT LEAST
5 EIGHT MEMBERS OF THE BOARD.

6 (7) **Staffing.** THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT TO
7 THE BOARD AS NEEDED.

8 (8) **No compensation - expense reimbursement.** MEMBERS OF
9 THE BOARD SERVE WITHOUT COMPENSATION BUT ARE ENTITLED TO
10 REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN
11 PERFORMING THEIR DUTIES UNDER THIS ARTICLE 7.5.

12 **8-7.5-104. Duties of the board - recommendations for**
13 **minimum direct care employment standards - analysis of market**
14 **conditions - public outreach - report.** (1) (a) (I) BY SEPTEMBER 1,
15 2024, AND EVERY TWO YEARS THEREAFTER, THE BOARD SHALL DEVELOP
16 RECOMMENDATIONS FOR MINIMUM DIRECT CARE EMPLOYMENT
17 STANDARDS THAT ARE REASONABLY NECESSARY OR APPROPRIATE TO
18 PROTECT AND ENSURE THE HEALTH AND WELFARE OF DIRECT CARE
19 WORKERS WITHOUT IMPEDING THE DIGNITY AND INDEPENDENCE OF DIRECT
20 CARE CONSUMERS. THE RECOMMENDATIONS MUST INCLUDE, AS
21 APPROPRIATE, STANDARDS FOR COMPENSATION, WORKING HOURS, AND
22 OTHER WORKING CONDITIONS FOR DIRECT CARE WORKERS. THE BOARD
23 SHALL ALSO DEVELOP RECOMMENDATIONS ON HOW THE STATE CAN
24 BETTER COMMUNICATE INFORMATION TO DIRECT CARE WORKERS ABOUT
25 THEIR RIGHTS AND ABOUT THE OBLIGATIONS OF DIRECT CARE EMPLOYERS.

26 (II) NOTWITHSTANDING SECTION 8-7.5-103 (6) AND SUBSECTION
27 (1)(c) OF THIS SECTION, THE BOARD MAY EXTEND ANY

1 RECOMMENDATIONS FOR MINIMUM DIRECT CARE EMPLOYMENT
2 STANDARDS DEVELOPED PURSUANT TO THIS SECTION TO ADDITIONAL
3 TYPES OF WORKERS WHO ARE DETERMINED TO PROVIDE SERVICES THAT
4 ARE DIRECT CARE IN NATURE WITHIN COLORADO'S LONG-TERM CARE
5 DELIVERY SYSTEM IF DEEMED APPROPRIATE BY THE MEMBERS OF THE
6 BOARD APPOINTED PURSUANT TO SECTION 8-7.5-103 (2)(a)(I)(A),
7 (2)(a)(II), AND (2)(a)(III).

8 (b) ANY STANDARDS RECOMMENDED BY THE BOARD PURSUANT TO
9 THIS ARTICLE 7.5 MUST BE AT LEAST AS PROTECTIVE OF OR BENEFICIAL TO
10 DIRECT CARE WORKERS AS ANY OTHER APPLICABLE STATE STATUTE OR
11 RULE.

12 (c) AS SPECIFIED IN SECTION 8-7.5-103 (6), THE BOARD SHALL NOT
13 MAKE ANY RECOMMENDATION THAT DOES NOT RECEIVE THE AFFIRMATIVE
14 VOTE OF AT LEAST EIGHT VOTING MEMBERS OF THE BOARD. THE BOARD
15 SHALL RECORD THE VOTE ON EACH RECOMMENDATION ON WHICH THE
16 BOARD VOTES.

17 (2) (a) IN DEVELOPING RECOMMENDATIONS FOR MINIMUM DIRECT
18 CARE EMPLOYMENT STANDARDS, THE BOARD SHALL:

19 (I) INVESTIGATE THE MARKET CONDITIONS OF THE DIRECT CARE
20 INDUSTRY IN RELATION TO THE COLORADO LABOR MARKET, INCLUDING
21 EXISTING WAGES, BENEFITS, WORKING HOURS, AND OTHER WORKING
22 CONDITIONS OF DIRECT CARE WORKERS AND CHALLENGES TO DIRECT CARE
23 EMPLOYERS THROUGHOUT THE STATE AND IN SPECIFIC AREAS OF THE
24 STATE SPECIFIED BY THE BOARD;

25 (II) INVESTIGATE OTHER DIRECT CARE INDUSTRY MODELS,
26 INCLUDING DIRECT-CARE-WORKER-OWNED OPPORTUNITIES AND THE
27 IMPACT OF ACCESS TO WORKER ORGANIZATIONS;

1 (III) INVESTIGATE THE IMPACTS OF RACIAL AND ECONOMIC
2 INJUSTICES ON DIRECT CARE WORKERS AND THE DIRECT CARE CONSUMERS
3 TO WHOM THEY PROVIDE DIRECT CARE SERVICES;

4 (IV) INVESTIGATE THE ADEQUACY OF THE REIMBURSEMENT RATE
5 AVAILABLE THROUGH THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED
6 IN ARTICLES 4, 5, AND 6 OF TITLE 25.5;

7 (V) HOST PUBLIC MEETINGS IN ACCORDANCE WITH SUBSECTION
8 (2)(c) OF THIS SECTION FOR PURPOSES OF ENGAGING WITH AND OBTAINING
9 INPUT FROM DIRECT CARE WORKERS, DIRECT CARE EMPLOYERS, AND
10 DIRECT CARE CONSUMERS; AND

11 (VI) ENDEAVOR TO DEVELOP MINIMUM DIRECT CARE EMPLOYMENT
12 STANDARDS THAT MEET OR EXCEED THE EXISTING INDUSTRY CONDITIONS
13 THAT APPLY TO A MAJORITY OF DIRECT CARE WORKERS IN THE STATE OR
14 IN SPECIFIED AREAS OF THE STATE.

15 (b) THE BOARD SHALL CONSIDER THE FOLLOWING INFORMATION IN
16 DEVELOPING RECOMMENDATIONS FOR MINIMUM DIRECT CARE
17 EMPLOYMENT STANDARDS:

18 (I) DATA CONCERNING WAGE RATES, BENEFITS, WORKING HOURS,
19 AND OTHER WORKING CONDITIONS, WHICH DATA IS COLLECTED BY OR
20 SUBMITTED TO THE BOARD AND RELATES TO DIRECT CARE WORKERS IN
21 THE STATE OR IN THE AREAS SPECIFIED BY THE BOARD;

22 (II) DATA CONCERNING THE REIMBURSEMENT RATE THROUGH THE
23 MEDICAL ASSISTANCE PROGRAM ESTABLISHED IN ARTICLES 4, 5, AND 6 OF
24 TITLE 25.5;

25 (III) STATEMENTS SHOWING WAGE RATES PAID TO, BENEFITS
26 PROVIDED TO, AND WORKING HOURS AND OTHER WORKING CONDITIONS OF
27 DIRECT CARE WORKERS IN THE AREAS SPECIFIED BY THE BOARD;

1 (IV) SIGNED COLLECTIVE BARGAINING AGREEMENTS APPLICABLE
2 TO DIRECT CARE WORKERS IN THE STATE OR IN THE AREAS SPECIFIED BY
3 THE BOARD;

4 (V) TESTIMONY AND INFORMATION PROVIDED BY CURRENT AND
5 FORMER DIRECT CARE WORKERS, WORKER ORGANIZATIONS, DIRECT CARE
6 EMPLOYERS, EMPLOYER ORGANIZATIONS, DIRECT CARE CONSUMERS, AND
7 ORGANIZATIONS REPRESENTING DIRECT CARE CONSUMERS;

8 (VI) LOCAL JURISDICTION MINIMUM DIRECT CARE EMPLOYMENT
9 STANDARDS;

10 (VII) ANY RECOMMENDATIONS AND FINDINGS FROM PREVIOUS
11 ANDEXISTING WORKING GROUPS THAT THE BOARD CONSIDERS RELEVANT,
12 INCLUDING ANY DIRECT CARE WORKFORCE COLLABORATIVE STAKEHOLDER
13 GROUPS CONVENED BY THE DEPARTMENT OF HEALTH CARE POLICY AND
14 FINANCING AND THE HOME CARE ADVISORY COMMITTEE CREATED IN
15 SECTION 25-27.5-104 (3);

16 (VIII) INFORMATION SUBMITTED BY OR OBTAINED FROM STATE
17 AND LOCAL GOVERNMENT AGENCIES;

18 (IX) DATA AND ANALYSIS THAT THE DEPARTMENT OF HEALTH
19 CARE POLICY AND FINANCING SHALL PROVIDE TO THE BOARD REGARDING
20 THE DIRECT CARE WORKFORCE THAT SERVES RECIPIENTS OF THE MEDICAL
21 ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO ARTICLES 4, 5, AND 6
22 OF TITLE 25.5 AND CONTEXT, EXPERTISE, OR FEEDBACK THAT THE
23 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING SHALL PROVIDE TO
24 THE BOARD, WHEN RELEVANT TO THE RECOMMENDATIONS THE BOARD IS
25 DEVELOPING, THAT IS SPECIFIC TO THE POTENTIAL IMPACTS OF THE
26 RECOMMENDATIONS ON THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED
27 PURSUANT TO ARTICLES 4, 5, AND 6 OF TITLE 25.5; AND

1 (X) ANY OTHER INFORMATION PERTINENT TO THE DETERMINATION
2 OF MINIMUM DIRECT CARE EMPLOYMENT STANDARDS.

3 (c) (I) THE BOARD SHALL ENDEAVOR TO ENGAGE AS MANY DIRECT
4 CARE WORKERS AS POSSIBLE IN INVESTIGATING THE DIRECT CARE
5 INDUSTRY MARKET CONDITIONS AND IN DEVELOPING RECOMMENDATIONS
6 FOR MINIMUM DIRECT CARE EMPLOYMENT STANDARDS AND IMPROVED
7 COMMUNICATIONS. TO FACILITATE OUTREACH TO DIRECT CARE WORKERS
8 AND DIRECT CARE CONSUMERS, THE BOARD SHALL DEVELOP A PUBLIC
9 EDUCATION AND COMMUNICATION PLAN IN ORDER TO INFORM DIRECT
10 CARE WORKERS AND DIRECT CARE CONSUMERS OF THE BOARD, ITS
11 PURPOSE, ITS MEETINGS AND HEARINGS, AND THE RIGHT OF DIRECT CARE
12 WORKERS AND DIRECT CARE CONSUMERS TO PARTICIPATE IN THE BOARD'S
13 MEETINGS AND HEARINGS, ITS MARKET CONDITIONS INVESTIGATION, AND
14 ITS DEVELOPMENT OF RECOMMENDATIONS FOR MINIMUM DIRECT CARE
15 EMPLOYMENT STANDARDS. THE PLAN MUST BE CULTURALLY COMPETENT
16 AND USE TARGETED METHODS THAT WILL EFFECTIVELY ENGAGE DIRECT
17 CARE WORKERS AND DIRECT CARE CONSUMERS, INCLUDING ADVERTISING
18 AND OTHER MARKETING TOOLS, AND MUST INCLUDE AN OPTION FOR
19 DIRECT CARE WORKERS AND DIRECT CARE CONSUMERS TO PROVIDE THE
20 DIRECT CARE WORKER'S, DIRECT CARE EMPLOYER'S, OR DIRECT CARE
21 CONSUMER'S NAME, MAILING ADDRESS, E-MAIL ADDRESS, AND TELEPHONE
22 NUMBER FOR PURPOSES OF RECEIVING ONGOING COMMUNICATIONS FROM
23 THE BOARD ABOUT OPPORTUNITIES FOR ENGAGEMENT WITH THE BOARD.

24 (II) FOR PURPOSES OF FACILITATING ENGAGEMENT WITH AND
25 INPUT FROM DIRECT CARE WORKERS, DIRECT CARE EMPLOYERS, AND
26 DIRECT CARE CONSUMERS, THE BOARD SHALL HOST AT LEAST FOUR PUBLIC
27 HEARINGS BEFORE FINALIZING ITS INITIAL RECOMMENDATIONS FOR

1 MINIMUM DIRECT CARE EMPLOYMENT STANDARDS. THE BOARD SHALL:

2 (A) SCHEDULE PUBLIC HEARINGS AT VARIABLE TIMES OF THE DAY
3 AND DAYS OF THE WEEK THROUGHOUT THE YEAR, INCLUDING AT LEAST
4 ONE MEETING SCHEDULED ON A WEEKEND, ONE MEETING SCHEDULED IN
5 THE EVENING, AND ONE MEETING SCHEDULED IN THE MORNING;

6 (B) PROVIDE NOTICE OF EACH HEARING, INCLUDING THE DATE,
7 TIME, AND LOCATION OF THE HEARING AND THE NAME AND CONTACT
8 INFORMATION FOR EACH MEMBER OF THE BOARD, AT LEAST THIRTY DAYS
9 IN ADVANCE OF THE HEARING AND SHALL ENLIST ASSISTANCE FROM THE
10 DEPARTMENT OF LABOR AND EMPLOYMENT AND THE DEPARTMENT OF
11 HEALTH CARE POLICY AND FINANCING, AS WELL AS EMPLOYER
12 ORGANIZATIONS, WORKER ORGANIZATIONS, CONSUMER ADVOCACY
13 GROUPS, AND OTHER STAKEHOLDERS IN THE DIRECT CARE INDUSTRY, TO
14 PROVIDE NOTICE OF THE HEARING TO DIRECT CARE WORKERS, DIRECT CARE
15 EMPLOYERS, DIRECT CARE CONSUMERS, AND OTHER INTERESTED PARTIES;
16 AND

17 (C) INCLUDE IN THE NOTICE AN OPTION FOR DIRECT CARE
18 WORKERS, DIRECT CARE EMPLOYERS, AND DIRECT CARE CONSUMERS TO
19 PROVIDE THE DIRECT CARE WORKER'S, DIRECT CARE EMPLOYER'S, OR
20 DIRECT CARE CONSUMER'S NAME, MAILING ADDRESS, E-MAIL ADDRESS,
21 AND TELEPHONE NUMBER FOR PURPOSES OF RECEIVING ONGOING
22 COMMUNICATIONS FROM THE BOARD REGARDING THE ACTIVITIES OF THE
23 BOARD AND OPPORTUNITIES FOR DIRECT CARE WORKERS, DIRECT CARE
24 EMPLOYERS, AND DIRECT CARE CONSUMERS TO PARTICIPATE IN HEARINGS
25 AND TO PROVIDE INPUT TO THE BOARD. A DEPARTMENT OR OTHER ENTITY
26 THAT RECEIVES AN INDICATION OF INTEREST FROM A DIRECT CARE
27 WORKER, A DIRECT CARE EMPLOYER, OR A DIRECT CARE CONSUMER SHALL

1 FORWARD THAT INFORMATION TO THE BOARD.

2 (3) (a) BY SEPTEMBER 1, 2024, THE BOARD SHALL REPORT ANY
3 RECOMMENDATIONS FOR INITIAL STANDARDS FOR DIRECT CARE WORKER
4 COMPENSATION, WORKING HOURS, AND OTHER WORKING CONDITIONS,
5 INCLUDING RECOMMENDATIONS FOR LEGISLATION OR ADMINISTRATIVE
6 RULES OR ORDERS, THAT THE BOARD APPROVES IN ACCORDANCE WITH
7 SECTION 8-7.5-103 (6) TO THE GOVERNOR AND TO THE BUSINESS AFFAIRS
8 AND LABOR COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE
9 BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR
10 THEIR SUCCESSOR COMMITTEES.

11 (b) NO LATER THAN TWO YEARS AFTER THE BOARD REPORTS ITS
12 INITIAL MINIMUM DIRECT CARE EMPLOYMENT STANDARDS
13 RECOMMENDATIONS PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION,
14 AND AT LEAST ONCE EVERY TWO YEARS THEREAFTER, THE BOARD SHALL
15 CONDUCT A REVIEW OF THE DIRECT CARE INDUSTRY AND DEVELOP
16 RECOMMENDATIONS IN ACCORDANCE WITH SUBSECTIONS (1) AND (2) OF
17 THIS SECTION. THE BOARD SHALL REPORT ITS RECOMMENDATIONS AS
18 SPECIFIED IN SUBSECTION (3)(a) OF THIS SECTION.

19 (c) IN ADDITION TO THE BOARD'S BIENNIAL REVIEW OF THE DIRECT
20 CARE INDUSTRY PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION, THE
21 EXECUTIVE DIRECTOR MAY CONVENE THE BOARD AT OTHER TIMES TO
22 CONDUCT A REVIEW OF MINIMUM DIRECT CARE EMPLOYMENT STANDARDS
23 IF THE EXECUTIVE DIRECTOR DETERMINES THAT A REVIEW IS NECESSARY.

24 (4) NOTHING IN THIS SECTION:

25 (a) LIMITS THE RIGHTS OF PARTIES TO A COLLECTIVE BARGAINING
26 AGREEMENT TO BARGAIN AND AGREE WITH RESPECT TO DIRECT CARE
27 EMPLOYMENT STANDARDS;

1 (b) DIMINISHES THE OBLIGATION OF A DIRECT CARE EMPLOYER TO
2 COMPLY WITH ANY CONTRACT, COLLECTIVE BARGAINING AGREEMENT, OR
3 EMPLOYMENT BENEFIT PROGRAM OR PLAN THAT MEETS OR EXCEEDS, AND
4 DOES NOT CONFLICT WITH, ANY MINIMUM DIRECT CARE EMPLOYMENT
5 STANDARDS ENACTED INTO LAW OR ADOPTED BY RULE; OR

6 (c) DIMINISHES THE RIGHTS OF AN ELIGIBLE PERSON, AS DEFINED
7 IN SECTION 25.5-6-1101 (4), PARTICIPATING IN THE CONSUMER-DIRECTED
8 CARE SERVICE MODEL PURSUANT TO PART 11 OF ARTICLE 6 OF TITLE 25.5
9 TO CONTROL AND MANAGE THE ELIGIBLE PERSON'S SERVICES, INCLUDING
10 THE RIGHT TO HIRE, FIRE, SCHEDULE, AND SET WAGES FOR DIRECT CARE
11 WORKERS WHO PROVIDE DIRECT CARE SERVICES TO THE ELIGIBLE PERSON
12 WITHIN PARAMETERS SET IN CURRENT STATE AND LOCAL LAW.

13 **8-7.5-105. Notice to direct care workers - duty of direct care**
14 **employers - posting on state websites - board review and**
15 **recommendations - rules.** (1) (a) STARTING JANUARY 1, 2025, EACH
16 DIRECT CARE EMPLOYER SHALL ANNUALLY PROVIDE A NOTICE TO DIRECT
17 CARE WORKERS EMPLOYED BY THE DIRECT CARE EMPLOYER INFORMING
18 THE DIRECT CARE WORKERS OF THE FOLLOWING:

19 (I) THE RIGHTS OF DIRECT CARE WORKERS AND THE OBLIGATIONS
20 OF DIRECT CARE EMPLOYERS PROVIDED UNDER THIS ARTICLE 7.5,
21 INCLUDING THEIR RIGHTS TO PARTICIPATE IN PUBLIC HEARINGS THAT THE
22 BOARD CONDUCTS AND TO PROVIDE WRITTEN OR ORAL TESTIMONY TO THE
23 BOARD;

24 (II) ALL CURRENT MINIMUM DIRECT CARE EMPLOYMENT
25 STANDARDS AND ANY LOCAL JURISDICTION MINIMUM DIRECT CARE
26 EMPLOYMENT STANDARDS; AND

27 (III) THE CONTACT INFORMATION FOR, AND A STATEMENT THAT

1 THE DIRECT CARE WORKER MAY CONTACT, THE DEPARTMENT FOR
2 ASSISTANCE AND INFORMATION REGARDING THE RIGHTS AND OBLIGATIONS
3 UNDER THIS ARTICLE 7.5 AND ANY STANDARDS DESCRIBED IN SUBSECTION
4 (1)(a)(II) OF THIS SECTION.

5 (b) A DIRECT CARE EMPLOYER SHALL PROVIDE THE NOTICE
6 DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION USING THE SAME MEANS
7 THAT THE DIRECT CARE EMPLOYER USES TO PROVIDE OTHER
8 WORK-RELATED NOTICES TO DIRECT CARE WORKERS.

9 (c) (I) THE BOARD SHALL MAKE AVAILABLE TO DIRECT CARE
10 EMPLOYERS A TEMPLATE OR SAMPLE NOTICE THAT SATISFIES THE
11 REQUIREMENTS OF THIS SECTION AND RULES ADOPTED BY THE
12 DEPARTMENT PURSUANT TO THIS TITLE 8 REGARDING OTHER REQUIRED
13 EMPLOYER NOTICES PERTAINING TO WAGES, PAY EQUITY, LABOR
14 CONDITIONS, AND FAMILY AND MEDICAL LEAVE BENEFITS. DIRECT CARE
15 EMPLOYERS SHALL PROVIDE THE BOARD WITH COPIES OF ANY NOTICES
16 GIVEN TO DIRECT CARE WORKERS PURSUANT TO THIS SECTION.

17 (II) THE BOARD SHALL PROVIDE, IN AN ACCESSIBLE FORMAT, THE
18 TEMPLATE OR SAMPLE NOTICE DESCRIBED IN SUBSECTION (1)(c)(I) OF THIS
19 SECTION TO AN ELIGIBLE PERSON, AS DEFINED IN SECTION 25.5-6-1101 (4),
20 PARTICIPATING IN THE CONSUMER-DIRECTED CARE SERVICE MODEL
21 PURSUANT TO PART 11 OF ARTICLE 6 OF TITLE 25.5.

22 (2) THE DEPARTMENT OF LABOR AND EMPLOYMENT, THE
23 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AND THE
24 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL POST THE
25 NOTICE DESCRIBED IN SUBSECTION (1) OF THIS SECTION ON THEIR
26 RESPECTIVE PUBLIC-FACING WEBSITES.

27 (3) (a) THE BOARD SHALL REVIEW THE MANNER IN WHICH DIRECT

1 CARE WORKERS ARE INFORMED OF THEIR RIGHTS AND THE OBLIGATIONS OF
2 DIRECT CARE EMPLOYERS UNDER THIS ARTICLE 7.5 AND UNDER OTHER
3 APPLICABLE STATE STATUTES AND RULES AND SHALL MAKE
4 RECOMMENDATIONS TO THE DEPARTMENT OF LABOR AND EMPLOYMENT,
5 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AND THE
6 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT ON METHODS TO
7 IMPROVE THE STATE'S ABILITY TO COMMUNICATE WITH DIRECT CARE
8 WORKERS REGARDING THE WORKERS' RIGHTS AND THE OBLIGATIONS OF
9 DIRECT CARE EMPLOYERS.

10 (b) THE DEPARTMENTS SPECIFIED IN SUBSECTION (3)(a) OF THIS
11 SECTION SHALL REVIEW THE BOARD RECOMMENDATIONS AND ADOPT OR
12 AMEND ANY RULES THE DEPARTMENTS DETERMINE WOULD IMPROVE THE
13 TRANSMISSION OF INFORMATION TO DIRECT CARE WORKERS.

14 **8-7.5-106. Retaliation.** (1) A DIRECT CARE EMPLOYER SHALL NOT
15 RETALIATE AGAINST A DIRECT CARE WORKER, INCLUDING TAKING
16 RETALIATORY PERSONNEL ACTION, FOR:

17 (a) EXERCISING ANY RIGHT AFFORDED TO THE DIRECT CARE
18 WORKER UNDER THIS ARTICLE 7.5; OR

19 (b) PARTICIPATING IN ANY PROCESS OR PROCEEDING UNDER THIS
20 ARTICLE 7.5, INCLUDING BOARD HEARINGS, INVESTIGATIONS, OR OTHER
21 PROCEEDINGS.

22 (2) A DIRECT CARE EMPLOYER SHALL NOT RETALIATE AGAINST A
23 DIRECT CARE CONSUMER FOR ADVOCATING FOR A DIRECT CARE WORKER
24 OR ASSISTING A DIRECT CARE WORKER IN REPORTING MISCONDUCT TO THE
25 DEPARTMENT. RETALIATION INCLUDES DROPPING A DIRECT CARE
26 CONSUMER FROM SERVICES BECAUSE THE DIRECT CARE CONSUMER
27 ADVOCATED FOR DIRECT CARE WORKERS.

1 **8-7.5-107. Repeal of article - subject to review.** THIS ARTICLE
2 7.5 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2029. BEFORE THE REPEAL,
3 THE BOARD IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION
4 24-34-104.

5 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **add**
6 (30)(a)(VIII) as follows:

7 **24-34-104. General assembly review of regulatory agencies**
8 **and functions for repeal, continuation, or reestablishment - legislative**
9 **declaration - repeal.** (30) (a) The following agencies, functions, or both,
10 are scheduled for repeal on September 1, 2029:

11 (VIII) THE DIRECT CARE WORKFORCE STABILIZATION BOARD
12 CREATED IN ARTICLE 7.5 OF TITLE 8.

13 **SECTION 3. Appropriation.** (1) For the 2023-24 state fiscal
14 year, \$186,876 is appropriated to the department of labor and employment
15 for use by the executive directors' office. This appropriation is from the
16 general fund. To implement this act, the office may use this appropriation
17 as follows:

18 (a) \$77,915 for personal services, which amount is based on an
19 assumption that the office will require an additional 0.9 FTE; and

20 (b) \$108,961 for operating expenses.

21 (2) Of the money appropriated under subsection (1)(b) of this
22 section not expended prior to July 1, 2024, \$75,000 is further
23 appropriated to the department for the 2024-25 state fiscal year.

24 (3) For the 2023-24 state fiscal year, \$60,358 is appropriated to
25 the department of health care policy and financing for use by the
26 executive director's office. This appropriation is from the general fund.
27 To implement this act, the office may use this appropriation as follows:

1 (a) \$52,608 for personal services, which amount is based on an
2 assumption that the office will require an additional 1.6 FTE; and

3 (b) \$7,750 for operating expenses.

4 (4) For the 2023-24 state fiscal year, the general assembly
5 anticipates that the department of health care policy and financing will
6 receive \$60,358 in federal funds to implement this act, which amount is
7 subject to the "(I)" notation as defined in the annual general appropriation
8 act for the same fiscal year. The appropriation in subsection (2) of this
9 section is based on the assumption that the department will receive this
10 amount of federal funds to be used as follows:

11 (a) \$52,608 for personal services; and

12 (b) \$7,750 for operating expenses.

13 **SECTION 4. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly; except
16 that, if a referendum petition is filed pursuant to section 1 (3) of article V
17 of the state constitution against this act or an item, section, or part of this
18 act within such period, then the act, item, section, or part will not take
19 effect unless approved by the people at the general election to be held in
20 November 2024 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.