

CHAPTER 136

HEALTH AND ENVIRONMENT

HOUSE BILL 24-1417

BY REPRESENTATIVE(S) Bird and Sirota, Taggart, Duran, Garcia, McCluskie;
also SENATOR(S) Bridges and Kirkmeyer, Zenzinger, Priola.

AN ACT

CONCERNING LICENSE FEES PAYABLE TO HEALTH-CARE CASH FUNDS.

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

SECTION 1. In Colorado Revised Statutes, **add** 2-3-129 as follows:

2-3-129. Audit of license fees paid to health-care cash funds. THE STATE AUDITOR SHALL COMPLETE OR CAUSE TO BE CONDUCTED AND COMPLETED AN AUDIT OF THE LICENSE FEES PAYABLE INTO THE HEALTH FACILITIES GENERAL LICENSURE CASH FUND PURSUANT TO SECTION 25-3-105, THE ASSISTED LIVING RESIDENCE CASH FUND PURSUANT TO SECTION 25-27-107, AND THE HOME CARE AGENCY CASH FUND PURSUANT TO SECTION 25-27.5-104. THE PURPOSE OF THE AUDIT IS TO DETERMINE IF THE LICENSE FACILITY FEES ARE BEING USED IN THE MOST EFFICIENT MANNER FOR THE ADMINISTRATION AND ENFORCEMENT REQUIREMENTS FOR HEALTH-CARE FACILITIES. THE STATE AUDITOR SHALL IMPLEMENT THIS SECTION USING EXISTING APPROPRIATIONS TO THE OFFICE OF THE STATE AUDITOR.

SECTION 2. In Colorado Revised Statutes, 25-3-105, **amend** (1)(a)(I)(A) and (1)(a)(I)(B); and **add** (1)(a)(I)(B.5) as follows:

25-3-105. License - fee - rules - performance incentive system - penalty.
(1) (a) (I) (A) Subject to the limitations in ~~sub-subparagraph (B) of this subparagraph (1)~~ SUBSECTIONS (1)(a)(I)(B) AND (1)(a)(I)(B.5) OF THIS SECTION, the state board of health shall establish a schedule of fees, which must be set at a level sufficient to meet the direct and indirect costs of administration and enforcement of this ~~article~~ ARTICLE 3, as appropriated by the general assembly for each fiscal year, less any ~~moneys~~ MONEY appropriated for the same fiscal year by the general assembly from any other source to meet such costs. The fee schedule must also

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ensure that the reserve balance in the health facilities general licensure cash fund, created in section 25-3-103.1 (1), is consistent with the limits specified in section 24-75-402 (3) ~~C.R.S.~~; and must be modified, as necessary, to comply with ~~said~~ THE limits. The state board shall establish and modify, as necessary, the fee schedule by rules adopted in accordance with article 4 of title 24. ~~C.R.S.~~ Except as specified in ~~subparagraph (H) of this paragraph (a)~~ SUBSECTION (1)(a)(II) OF THIS SECTION, the department of public health and environment may assess fees in accordance with the fee schedule established by the state board against health facilities licensed by the department. All fees collected pursuant to the fee schedule must be deposited in the health facilities general licensure cash fund, created in section 25-3-103.1 (1), and are subject to appropriation by the general assembly in accordance with section 25-3-103.1 (2).

(B) On or after June 4, 2012, AND UNTIL JUNE 30, 2025, the state board of health may increase the amount of any fee on the schedule of fees established pursuant to subsection (1)(a)(I)(A) of this section that is in effect on June 4, 2012, by an amount not to exceed the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all urban consumers and all goods, or its applicable predecessor or successor index. Nothing in this subsection (1)(a)(I)(B) limits the ability of the state board of health to reduce the amount of any fee on the schedule of fees in effect on such date or to modify fees as necessary to comply with section 24-75-402. Notwithstanding the requirements of this subsection (1)(a)(I)(B), the state board of health may assess fees necessary to cover the costs associated with the surveys conducted pursuant to section 25-3-128.

(B.5) FOR STATE FISCAL YEAR 2025-26 AND EACH STATE FISCAL YEAR THEREAFTER, THE SCHEDULE OF FEES ADOPTED BY THE STATE BOARD OF HEALTH PURSUANT TO SUBSECTION (1)(a)(I)(A) OF THIS SECTION MUST BE UPDATED AND PUBLISHED BY MARCH 1 OF THE YEAR THAT THE FEES WILL TAKE EFFECT. THE FEES ARE NOT SUBJECT TO RULE-MAKING BY THE STATE BOARD OF HEALTH. THE SCHEDULE OF FEES MUST INCREASE EIGHT PERCENT FOR STATE FISCAL YEAR 2025-26; SIX PERCENT FOR EACH OF THE STATE FISCAL YEARS 2026-27, 2027-28, AND 2028-29; AND, FOR STATE FISCAL YEAR 2029-30, AND EACH YEAR THEREAFTER, THE INCREASE MUST BE EQUAL TO THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX, OR A SUCCESSOR INDEX, FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY URBAN CONSUMERS.

SECTION 3. In Colorado Revised Statutes, 25-27-107, **amend** (1.5)(a); and **add** (1.7) as follows:

25-27-107. License fees - rules. (1.5) (a) No later than January 1, 2009, the state board shall promulgate rules establishing a schedule of fees sufficient to meet the direct and indirect costs of administration and enforcement of this article 27. The rules shall set a lower fee for facilities with a high medicaid utilization rate as defined by the state board. The rules shall be adopted in accordance with article 4 of title 24. On or after August 1, 2019, BUT BEFORE JULY 1, 2025, fees established pursuant to this section are subject to the limitations specified in section 25-3-105 (1)(a)(I)(B). The state board may increase a fee on the schedule established pursuant

to this section that is in effect on August 1, 2019, only in accordance with ~~section 25-3-105 (1)(a)(I)(B)~~ SECTION 25-3-105 (1)(a)(I).

(1.7) FOR STATE FISCAL YEAR 2025-26 AND EACH STATE FISCAL YEAR THEREAFTER, THE SCHEDULE OF FEES ADOPTED BY THE STATE BOARD PURSUANT TO SECTION 25-3-105 (1)(a)(I)(A) MUST BE UPDATED AND PUBLISHED BY MARCH 1 OF THE YEAR THAT THE FEES WILL TAKE EFFECT. THE FEES ARE NOT SUBJECT TO RULE-MAKING BY THE STATE BOARD. THE FEES MUST INCREASE:

(a) FOR STATE FISCAL YEAR 2025-26, EIGHT PERCENT FROM THE FEES ON THE SCHEDULE OF FEES ESTABLISHED PURSUANT TO SUBSECTION (1.5)(a) OF THIS SECTION;

(b) FOR EACH OF STATE FISCAL YEARS 2026-27, 2027-28, AND 2028-29, SIX PERCENT; AND

(c) FOR STATE FISCAL YEAR 2029-30 AND FOR EACH STATE FISCAL YEAR THEREAFTER, AN AMOUNT THAT IS EQUAL TO THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX, OR A SUCCESSOR INDEX, FOR DENVER-AURORA-LAKESWOOD FOR ALL ITEMS PAID BY URBAN CONSUMERS.

SECTION 4. In Colorado Revised Statutes, 25-27.5-104, **amend as it will become effective July 1, 2024**, (1)(g) as follows:

25-27.5-104. Minimum standards for home care agencies and home care placement agencies - rules - advisory committee. (1) The state board shall promulgate rules pursuant to section 24-4-103 providing minimum standards for the operation of home care agencies and home care placement agencies within the state of Colorado that apply regardless of the source of payment for the home care services or the diagnosis of the home care consumer. In promulgating these rules, the state board shall establish different requirements appropriate to the various types of skilled home health and personal care services, including differentiating requirements for providers that are substantially funded through medicare and medicaid reimbursement, providers for the program of all-inclusive care for the elderly established in section 25.5-5-412, providers that are already licensed under this title 25, and providers that are solely or substantially privately funded. This differentiation must include consideration of the requirements already imposed by other federal and state regulatory agencies and must require the department of health care policy and financing and the department to work jointly to resolve differing requirements. The rules must include the following:

(g)(I) **Fees for home care agency licensure.** Home care agency fees are payable to the home care agency cash fund. The annual fee must include a component that reflects whether a survey is planned for the year based on the agency's compliance history. FOR STATE FISCAL YEAR 2024-25, the state board shall develop a methodology for establishing differentiating fees for licensure of home care agencies to reflect the differences in type, scope, and volume of services provided by the various types of home care agencies, including their volume of medicaid and medicare services, and that allows for reduced fees for home care agencies that are certified prior to initial license application. The department shall not charge a

duplicate fee for survey work conducted pursuant to its role as state survey agency for the federal centers for medicare and medicaid services or the Colorado department of health care policy and financing.

(II) ~~Notwithstanding section 25-3-105 (1)(a)(I)(B)~~; FOR STATE FISCAL YEAR 2025-26 AND EACH STATE FISCAL YEAR THEREAFTER, THE SCHEDULE OF FEES ADOPTED BY THE STATE BOARD PURSUANT TO SECTION 25-3-105 (1)(a)(I)(A) MUST BE UPDATED AND PUBLISHED BY MARCH 1 OF THE YEAR THAT THE FEES WILL TAKE EFFECT. THE FEES ARE NOT SUBJECT TO RULE-MAKING BY THE STATE BOARD. ~~The state board may set and adjust licensure fees for home care agencies~~ MUST BE INCREASED as appropriate based on the differentiating fee methodology developed by the state board pursuant to this paragraph (g). FOLLOWS:

(A) FOR STATE FISCAL YEAR 2025-26, EIGHT PERCENT FROM THE FEES ON THE SCHEDULE OF FEES ESTABLISHED PURSUANT TO SUBSECTION (1)(g)(I) OF THIS SECTION;

(B) FOR EACH OF STATE FISCAL YEARS 2026-27, 2027-28, AND 2028-29, SIX PERCENT; AND

(C) FOR STATE FISCAL YEAR 2029-30 AND FOR EACH STATE FISCAL YEAR THEREAFTER, AN AMOUNT EQUAL TO THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX, OR A SUCCESSOR INDEX, FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY URBAN CONSUMERS.

SECTION 5. Effective date. This act takes effect July 1, 2024.

SECTION 6. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: April 29, 2024