Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

DRAFT
10.13.09

BILL 7

LLS NO. 10-0164.01 Kate Meyer

INTERIM COMMITTEE BILL

Health Care Task Force

SHORT TITLE: "Regulate Personal Care Service Providers"

A BILL FOR AN ACT

101 **CONCERNING REGULATION OF PROVIDERS OF PERSONAL CARE**
102 **SERVICES.**

Bill Summary

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

Health Care Task Force. This bill creates the "Personal Care Services Providers Act" (act) to regulate persons engaged in the business of rendering in-home assistance with activities of daily living. If enacted, the bill will require such persons to possess a valid registration issued by the division of registrations (division) in the department of regulatory agencies (department).

The following persons will be excluded from the scope of

regulation:

- Uncompensated providers of personal care services; and
- Persons regulated under laws pertaining to another profession who provide personal care services incidentally.

This bill requires persons seeking registration to complete an application in the form and manner determined by the director of the division (director), pay a fee in an amount set by the director, and submit to a criminal history record check.

This bill sets forth grounds for discipline and for denial, suspension, or revocation of a registration. Further, the use of certain titles will be restricted to persons registered under the act. The bill also describes the disciplinary process and specifies penalties for the unauthorized practice of providing personal care services.

This bill requires the director to promulgate rules to implement the act, and establishes September 1, 2020, as the date that the act is repealed, subject to the review provisions of the sunset law.

Under the terms of the bill, home care agencies and home care placement agencies that employ or place personal care providers will be required to employ or place registered providers only.

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

2 **SECTION 1.** Title 12, Colorado Revised Statutes, is amended BY

3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 43.3**

5 **Providers of Personal Care Services**

6 **12-43.3-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND

7 MAY BE CITED AS THE "PERSONAL CARE SERVICES PROVIDERS ACT".

8 **12-43.3-102. Legislative declaration.** THE GENERAL ASSEMBLY

9 HEREBY FINDS, DETERMINES, AND DECLARES THAT PERSONAL CARE

10 SERVICES CONSUMERS WHO RELY ON PERSONAL CARE SERVICES

11 PROVIDERS FOR ASSISTANCE WITH BASIC TASKS ARE OFTEN AT RISK OF

12 ABUSE, EXPLOITATION, OR HARM. THEREFORE, IT IS IN THE INTEREST OF

13 THE PUBLIC HEALTH, SAFETY, AND WELFARE TO REGULATE PERSONS

14 RENDERING PERSONAL CARE SERVICES TO HOME CONSUMERS.

1 **12-43.3-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
2 CONTEXT OTHERWISE REQUIRES:
3 (1) "APPLICANT" MEANS A PERSON APPLYING FOR REGISTRATION
4 UNDER THIS ARTICLE.
5 (2) "COMPENSATION" MEANS SOMETHING OF VALUE OR BENEFIT,
6 WHETHER IN CASH, IN KIND, OR IN ANY OTHER FORM.
7 (3) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.
8 (4) "DIVISION" MEANS THE DIVISION OF REGISTRATIONS IN THE
9 DEPARTMENT OF REGULATORY AGENCIES.
10 (5) "IS ENGAGED IN THE BUSINESS OF" MEANS REGULARLY ENTERS
11 INTO AS A SOURCE OF INCOME OR IN EXPECTATION OF COMPENSATION.
12 (6) "PERSON" MEANS A NATURAL PERSON ONLY.
13 (7) "PERSONAL CARE SERVICES" MEANS ASSISTANCE WITH
14 ACTIVITIES OF DAILY LIVING, INCLUDING BATHING, DRESSING, EATING,
15 TRANSFERRING, WALKING OR MOBILITY, TOILETING, AND CONTINENCE
16 CARE. IT ALSO INCLUDES HOUSEKEEPING, PERSONAL LAUNDRY,
17 MEDICATION REMINDERS, AND COMPANIONSHIP SERVICES FURNISHED TO
18 A PERSONAL CARE SERVICES CONSUMER IN THE PERSONAL CARE SERVICES
19 CONSUMER'S TEMPORARY OR PERMANENT HOME OR PLACE OF RESIDENCE,
20 AND THOSE NORMAL DAILY ROUTINES THAT THE PERSONAL CARE SERVICES
21 CONSUMER COULD PERFORM FOR HIMSELF OR HERSELF WERE HE OR SHE
22 PHYSICALLY CAPABLE, WHICH SERVICES ARE INTENDED TO ENABLE THAT
23 INDIVIDUAL TO REMAIN SAFELY AND COMFORTABLY IN THE PERSONAL
24 CARE SERVICES CONSUMER'S TEMPORARY OR PERMANENT HOME OR PLACE
25 OF RESIDENCE.
26 (8) "REGISTRANT" MEANS A PERSONAL CARE SERVICES PROVIDER
27 REGISTERED PURSUANT TO THIS ARTICLE.

1 **12-43.3-104. Registration required.** EXCEPT AS OTHERWISE
2 PROVIDED UNDER THIS ARTICLE, A PERSON WHO IS ENGAGED IN THE
3 BUSINESS OF PROVIDING PERSONAL CARE SERVICES SHALL POSSESS A
4 VALID REGISTRATION ISSUED BY THE DIRECTOR PURSUANT TO THIS
5 ARTICLE AND RULES PROMULGATED UNDER THIS ARTICLE.
6 **12-43.3-105. Scope of article - exclusions.** (1) THIS ARTICLE
7 SHALL NOT APPLY TO PERSONS RENDERING PERSONAL HOME CARE
8 SERVICES WITHOUT COMPENSATION.
9 (2) THIS ARTICLE SHALL NOT PREVENT OR RESTRICT THE PRACTICE,
10 SERVICES, OR ACTIVITIES OF A PERSON LICENSED OR OTHERWISE
11 REGULATED IN THIS STATE BY ANY OTHER LAW FROM ENGAGING IN HIS OR
12 HER PROFESSION OR OCCUPATION AS DEFINED IN THE ARTICLE UNDER
13 WHICH HE OR SHE IS LICENSED OR REGULATED. IF A PERSON PROVIDES ANY
14 PERSONAL CARE SERVICES IN CONJUNCTION WITH AND INCIDENTAL TO THE
15 PERSON'S OTHER REGULATED PROFESSION OR ACTIVITIES, THE PERSON
16 SHALL NOT BE REQUIRED TO REGISTER CONCURRENTLY UNDER THIS
17 ARTICLE.
18 **12-43.3-106. Registration - application.** (1) EVERY APPLICANT
19 FOR A REGISTRATION TO PROVIDE PERSONAL CARE SERVICES SHALL:
20 (a) SUBMIT AN APPLICATION IN THE FORM AND MANNER SPECIFIED
21 BY THE DIRECTOR;
22 (b) PAY A FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR; AND
23 (c) (I) SUBMIT TO A CRIMINAL HISTORY RECORD CHECK IN THE
24 FORM AND MANNER DESCRIBED IN SUBPARAGRAPH (II) OF THIS
25 PARAGRAPH (c).
26 (II) EACH APPLICANT SHALL HAVE HIS OR HER FINGERPRINTS
27 TAKEN BY A LOCAL LAW ENFORCEMENT AGENCY FOR THE PURPOSE OF

1 OBTAINING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.
2 THE APPLICANT IS REQUIRED TO SUBMIT PAYMENT BY CERTIFIED CHECK OR
3 MONEY ORDER FOR THE FINGERPRINTS AND FOR THE ACTUAL COSTS OF THE
4 RECORD CHECK AT THE TIME THE FINGERPRINTS ARE SUBMITTED TO THE
5 COLORADO BUREAU OF INVESTIGATION. UPON RECEIPT OF FINGERPRINTS
6 AND RECEIPT OF THE PAYMENT FOR COSTS, THE COLORADO BUREAU OF
7 INVESTIGATION SHALL CONDUCT A STATE AND NATIONAL
8 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK UTILIZING
9 RECORDS OF THE COLORADO BUREAU OF INVESTIGATION AND THE
10 FEDERAL BUREAU OF INVESTIGATION AND SHALL FORWARD THE RESULTS
11 OF THE CRIMINAL HISTORY RECORD CHECK TO THE DIRECTOR.
12 (2) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS
13 SUBSECTION (2), AFTER AN APPLICANT HAS FULFILLED THE REQUIREMENTS
14 OF SUBSECTION (1) OF THIS SECTION, THE DIRECTOR SHALL ISSUE A
15 REGISTRATION TO THE APPLICANT.
16 (b) THE INFORMATION OBTAINED THROUGH THE CRIMINAL
17 HISTORY RECORD CHECKS CONDUCTED PURSUANT TO PARAGRAPH (a) OF
18 THIS SUBSECTION (3) SHALL BE USED BY THE DIRECTOR IN ASCERTAINING
19 WHETHER THE PERSON APPLYING FOR LICENSURE HAS BEEN CONVICTED OF
20 A FELONY OR MISDEMEANOR THAT INVOLVES MORAL TURPITUDE OR
21 CONDUCT THAT THE DIRECTOR DETERMINES COULD POSE A RISK TO THE
22 HEALTH, SAFETY, OR WELFARE OF PERSONAL CARE SERVICES CONSUMERS.
23 THE DEPARTMENT SHALL MAINTAIN INFORMATION OBTAINED IN
24 ACCORDANCE WITH THIS SECTION.
25 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
26 THE DIRECTOR SHALL DENY A REGISTRATION IF THE APPLICANT HAS
27 COMMITTED ANY ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY

1 ACTION UNDER SECTION 12-43.3-110.

2 **12-43.3-107. Registration expiration - effect - renewal -**
3 **reinstatement - penalty.** (1) REGISTRATIONS ISSUED PURSUANT TO THIS
4 ARTICLE SHALL BE VALID FOR A PERIOD ESTABLISHED BY THE DIRECTOR,
5 NOT TO EXCEED THREE YEARS. REGISTRATIONS SHALL BE RENEWED IN
6 ACCORDANCE WITH THE SCHEDULE SET FORTH BY THE DIRECTOR.

7 (2) A REGISTRATION NOT RENEWED WITHIN THE TIME PERIOD
8 SPECIFIED IN THE SCHEDULE ESTABLISHED BY THE DIRECTOR SHALL BE
9 DEEMED EXPIRED. A PERSON IN POSSESSION OF AN EXPIRED REGISTRATION
10 SHALL NOT PROVIDE PERSONAL CARE SERVICES FOR COMPENSATION UNTIL
11 HE OR SHE REINSTATES SUCH REGISTRATION.

12 (3) THE DIRECTOR SHALL ESTABLISH APPLICATION FORMS AND FEE
13 AMOUNTS FOR RENEWAL OF REGISTRATIONS AND REINSTATEMENT OF
14 EXPIRED REGISTRATIONS. A PERSON RENEWING OR REINSTATING A
15 REGISTRATION SHALL SUBMIT AN APPLICATION IN THE FORM AND MANNER
16 SET FORTH BY THE DIRECTOR AND SHALL PAY A FEE IN AN AMOUNT SET
17 FORTH BY THE DIRECTOR.

18 **12-43.3-108. Fees.** ALL FEES COLLECTED PURSUANT TO THIS
19 ARTICLE SHALL BE DETERMINED, COLLECTED, AND APPROPRIATED IN THE
20 MANNER SET FORTH IN SECTION 24-34-105, C.R.S., AND PERIODICALLY
21 ADJUSTED IN ACCORDANCE WITH SECTION 24-75-402, C.R.S. THE FEES
22 SHALL BE ADEQUATE TO COVER THE DIRECT AND INDIRECT EXPENSES
23 INCURRED FOR IMPLEMENTATION OF THIS ARTICLE.

24 **12-43.3-109. Use of titles restricted.** ONLY A PERSON
25 REGISTERED UNDER THIS ARTICLE MAY USE THE TITLE "REGISTERED
26 PERSONAL CARE SERVICES PROVIDER" OR ANY OTHER TITLES OR TERMS
27 THAT INDICATE THAT THE PERSON IS REGISTERED TO PROVIDE PERSONAL

1 CARE SERVICES.

2 **12-43.3-110. Grounds for discipline - disciplinary proceedings**
3 **- judicial review.** (1) THE DIRECTOR MAY TAKE DISCIPLINARY ACTION
4 AGAINST A REGISTRANT IF THE DIRECTOR FINDS THAT THE REGISTRANT
5 HAS REPRESENTED HIMSELF OR HERSELF AS A REGISTERED PROVIDER OF
6 PERSONAL CARE SERVICES AFTER THE EXPIRATION, SUSPENSION, OR
7 REVOCATION OF HIS OR HER REGISTRATION.

8 (2) THE DIRECTOR MAY REVOKE, SUSPEND, DENY, OR REFUSE TO
9 RENEW A REGISTRATION, OR ISSUE A CEASE-AND-DESIST ORDER TO A
10 REGISTRANT IN ACCORDANCE WITH THIS SECTION, UPON PROOF THAT THE
11 REGISTRANT:

12 (a) HAS ENGAGED IN A SEXUAL ACT WITH A PERSON RECEIVING
13 SERVICES WHILE A PROFESSIONAL RELATIONSHIP EXISTED. FOR THE
14 PURPOSES OF THIS PARAGRAPH (a), "SEXUAL ACT" MEANS SEXUAL
15 CONTACT, SEXUAL INTRUSION, OR SEXUAL PENETRATION, AS DEFINED IN
16 SECTION 18-3-401, C.R.S.;

17 (b) HAS FALSIFIED INFORMATION IN AN APPLICATION OR HAS
18 ATTEMPTED TO OBTAIN OR HAS OBTAINED A REGISTRATION BY FRAUD,
19 DECEPTION, OR MISREPRESENTATION;

20 (c) IS AN EXCESSIVE OR HABITUAL USER OR ABUSER OF ALCOHOL
21 OR HABIT-FORMING DRUGS OR IS A HABITUAL USER OF A CONTROLLED
22 SUBSTANCE, AS DEFINED IN SECTION 18-18-102, C.R.S., OR OTHER DRUGS
23 HAVING SIMILAR EFFECTS; EXCEPT THAT THE DIRECTOR HAS THE
24 DISCRETION NOT TO DISCIPLINE THE REGISTRANT IF HE OR SHE IS
25 PARTICIPATING IN GOOD FAITH IN A PROGRAM TO END SUCH USE OR ABUSE
26 THAT THE DIRECTOR HAS APPROVED;

27 (d) HAS A PHYSICAL OR MENTAL CONDITION OR DISABILITY THAT

1 RENDERS THE REGISTRANT UNABLE TO PROVIDE PERSONAL CARE SERVICES
2 WITH REASONABLE SKILL AND SAFETY OR THAT MAY ENDANGER THE
3 HEALTH OR SAFETY OF INDIVIDUALS RECEIVING SERVICES;
4 (e) HAS VIOLATED THIS ARTICLE OR AIDED OR ABETTED OR
5 KNOWINGLY PERMITTED ANY PERSON TO VIOLATE THIS ARTICLE, A RULE
6 ADOPTED UNDER THIS ARTICLE, OR ANY LAWFUL ORDER OF THE DIRECTOR;
7 (f) HAS BEEN CONVICTED OF, OR PLED GUILTY OR NOLO
8 CONTENDERE TO, A FELONY OR COMMITTED AN ACT SPECIFIED IN SECTION
9 12-43.3-111. A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF
10 COMPETENT JURISDICTION OF THE CONVICTION OR PLEA SHALL BE
11 CONCLUSIVE EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE
12 DISCIPLINARY ACTION, THE DIRECTOR SHALL BE GOVERNED BY SECTION
13 24-5-101, C.R.S.
14 (g) HAS FRAUDULENTLY OBTAINED, FURNISHED, OR SOLD ANY
15 PERSONAL CARE SERVICES PROVIDER REGISTRATION, RENEWAL OF
16 REGISTRATION, OR RECORD OR AIDED OR ABETTED SUCH ACT;
17 (h) HAS FAILED TO NOTIFY THE DIRECTOR OF THE SUSPENSION OR
18 REVOCATION OF THE PERSON'S PAST OR CURRENTLY HELD LICENSE,
19 CERTIFICATE, OR REGISTRATION REQUIRED TO PROVIDE PERSONAL CARE
20 SERVICES IN ANY OTHER JURISDICTION;
21 (i) HAS ENGAGED IN ANY CONDUCT THAT WOULD CONSTITUTE A
22 CRIME AS DEFINED IN TITLE 18, C.R.S., AND WHICH CONDUCT RELATES TO
23 SUCH PERSON'S EMPLOYMENT AS A PROVIDER OF PERSONAL CARE
24 SERVICES. IN CONJUNCTION WITH ANY DISCIPLINARY PROCEEDING
25 PERTAINING TO THIS PARAGRAPH (i), THE DIRECTOR SHALL BE GOVERNED
26 BY THE PROVISIONS OF SECTION 24-5-101, C.R.S.; OR
27 (j) HAS OTHERWISE VIOLATED ANY PROVISION OF THIS ARTICLE OR

1 LAWFUL ORDER OR RULE OF THE DIRECTOR.

2 (3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS
3 SECTION, THE DIRECTOR NEED NOT FIND THAT THE ACTIONS THAT ARE
4 GROUNDS FOR DISCIPLINE WERE WILLFUL BUT MAY CONSIDER WHETHER
5 SUCH ACTIONS WERE WILLFUL WHEN DETERMINING THE NATURE OF
6 DISCIPLINARY SANCTIONS TO BE IMPOSED.

7 (4) (a) THE DIRECTOR MAY COMMENCE A PROCEEDING TO
8 DISCIPLINE A REGISTRANT WHEN THE DIRECTOR HAS REASONABLE
9 GROUNDS TO BELIEVE THAT THE REGISTRANT HAS COMMITTED AN ACT
10 ENUMERATED IN THIS SECTION OR HAS VIOLATED A LAWFUL ORDER OR
11 RULE OF THE DIRECTOR.

12 (b) IN ANY PROCEEDING UNDER THIS SECTION, THE DIRECTOR MAY
13 ACCEPT AS EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION ANY
14 DISCIPLINARY ACTION TAKEN AGAINST A REGISTRANT IN ANOTHER
15 JURISDICTION IF THE VIOLATION THAT PROMPTED THE DISCIPLINARY
16 ACTION IN THE OTHER JURISDICTION WOULD BE GROUNDS FOR
17 DISCIPLINARY ACTION UNDER THIS ARTICLE.

18 (5) DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED IN
19 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND THE HEARING AND
20 OPPORTUNITY FOR REVIEW SHALL BE CONDUCTED PURSUANT TO THAT
21 ARTICLE BY THE DIRECTOR OR BY AN ADMINISTRATIVE LAW JUDGE, AT THE
22 DIRECTOR'S DISCRETION. THE DIRECTOR HAS THE AUTHORITY TO EXERCISE
23 ALL POWERS AND DUTIES CONFERRED BY THIS ARTICLE DURING THE
24 DISCIPLINARY PROCEEDINGS.

25 (6) (a) NO LATER THAN THIRTY DAYS FOLLOWING THE DATE OF THE
26 DIRECTOR'S ACTION, A REGISTRANT DISCIPLINED UNDER THIS SECTION
27 SHALL BE NOTIFIED BY THE DIRECTOR, BY A CERTIFIED LETTER TO THE

1 MOST RECENT ADDRESS PROVIDED TO THE DIRECTOR BY THE REGISTRANT,
2 OF THE ACTION TAKEN, THE SPECIFIC CHARGES GIVING RISE TO THE
3 ACTION, AND THE REGISTRANT'S RIGHT TO REQUEST A HEARING ON THE
4 ACTION TAKEN.
5 (b) WITHIN THIRTY DAYS AFTER NOTIFICATION IS SENT BY THE
6 DIRECTOR PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6),THE
7 REGISTRANT MAY FILE A WRITTEN REQUEST WITH THE DIRECTOR FOR A
8 HEARING ON THE ACTION TAKEN. UPON RECEIPT OF THE REQUEST, THE
9 DIRECTOR SHALL GRANT A HEARING TO THE REGISTRANT. IF THE
10 REGISTRANT FAILS TO FILE A WRITTEN REQUEST FOR A HEARING WITHIN
11 THIRTY DAYS, THE ACTION OF THE DIRECTOR SHALL BE FINAL ON THE
12 THIRTY-FIRST DAY.
13 (c) IF A HEARING IS SCHEDULED, FAILURE OF THE REGISTRANT TO
14 APPEAR AT THE HEARING WITHOUT GOOD CAUSE SHALL BE DEEMED A
15 WITHDRAWAL OF HIS OR HER REQUEST FOR A HEARING, AND THE
16 DIRECTOR'S ACTION SHALL BE FINAL ON THAT DATE. FAILURE, WITHOUT
17 GOOD CAUSE, OF THE DIRECTOR TO APPEAR AT THE HEARING SHALL BE
18 DEEMED CAUSE TO DISMISS THE PROCEEDING.
19 (7) (a) THE DIRECTOR MAY REQUEST THE ATTORNEY GENERAL TO
20 SEEK AN INJUNCTION, IN ANY COURT OF COMPETENT JURISDICTION, TO
21 ENJOIN A PERSON FROM COMMITTING AN ACT PROHIBITED BY THIS
22 ARTICLE. WHEN SEEKING AN INJUNCTION UNDER THIS PARAGRAPH (a),
23 THE ATTORNEY GENERAL SHALL NOT BE REQUIRED TO ALLEGE OR PROVE
24 THE INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR
25 IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED
26 VIOLATION OF THIS ARTICLE.
27 (b) (I) IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND

1 THIS ARTICLE, THE DIRECTOR IS AUTHORIZED TO INVESTIGATE, HOLD
2 HEARINGS, AND GATHER EVIDENCE IN ALL MATTERS RELATED TO THE
3 EXERCISE AND PERFORMANCE OF THE POWERS AND DUTIES OF THE
4 DIRECTOR.
5 (II) TO AID THE DIRECTOR IN ANY HEARING OR INVESTIGATION
6 INSTITUTED PURSUANT TO THIS SECTION, THE DIRECTOR OR AN
7 ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO PARAGRAPH (c) OF
8 THIS SUBSECTION (7) IS AUTHORIZED TO ADMINISTER OATHS, TAKE
9 AFFIRMATIONS OF WITNESSES, AND ISSUE SUBPOENAS COMPELLING THE
10 ATTENDANCE OF WITNESSES AND THE PRODUCTION OF ALL RELEVANT
11 RECORDS, PAPERS, BOOKS, DOCUMENTARY EVIDENCE, AND MATERIALS IN
12 ANY HEARING, INVESTIGATION, ACCUSATION, OR OTHER MATTER BEFORE
13 THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE.
14 (III) UPON FAILURE OF ANY WITNESS OR REGISTRANT TO COMPLY
15 WITH A SUBPOENA OR PROCESS AND UPON APPLICATION BY THE DIRECTOR
16 WITH NOTICE TO THE SUBPOENAED PERSON OR REGISTRANT, THE DISTRICT
17 COURT OF THE COUNTY IN WHICH THE SUBPOENAED PERSON OR
18 REGISTRANT RESIDES OR CONDUCTS BUSINESS MAY ISSUE TO THE PERSON
19 OR REGISTRANT AN ORDER REQUIRING THAT PERSON OR REGISTRANT TO
20 APPEAR BEFORE THE DIRECTOR; TO PRODUCE THE RELEVANT PAPERS,
21 BOOKS, RECORDS, DOCUMENTARY EVIDENCE, OR MATERIALS; OR TO GIVE
22 EVIDENCE REGARDING THE MATTER UNDER INVESTIGATION OR IN
23 QUESTION. IF THE PERSON OR REGISTRANT FAILS TO OBEY THE ORDER OF
24 THE COURT, THE PERSON OR REGISTRANT MAY BE HELD IN CONTEMPT OF
25 COURT.
26 (c) THE DIRECTOR MAY APPOINT AN ADMINISTRATIVE LAW JUDGE
27 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO CONDUCT

1 HEARINGS, TAKE EVIDENCE, MAKE FINDINGS, AND REPORT SUCH FINDINGS
2 TO THE DIRECTOR.
3 (8) (a) THE DIRECTOR, THE DIRECTOR'S STAFF, ANY PERSON ACTING
4 AS A WITNESS OR CONSULTANT TO THE DIRECTOR, ANY WITNESS
5 TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS ARTICLE, AND ANY
6 PERSON WHO LODGES A COMPLAINT PURSUANT TO THIS ARTICLE SHALL BE
7 IMMUNE FROM LIABILITY IN ANY CIVIL ACTION BROUGHT AGAINST HIM OR
8 HER FOR ACTS OCCURRING WHILE ACTING IN HIS OR HER CAPACITY AS
9 DIRECTOR, STAFF, CONSULTANT, OR WITNESS, RESPECTIVELY, IF SUCH
10 INDIVIDUAL WAS ACTING IN GOOD FAITH WITHIN THE SCOPE OF HIS OR HER
11 RESPECTIVE CAPACITY, MADE A REASONABLE EFFORT TO OBTAIN THE
12 FACTS OF THE MATTER AS TO WHICH HE OR SHE ACTED, AND ACTED IN THE
13 REASONABLE BELIEF THAT THE ACTION TAKEN BY HIM OR HER WAS
14 WARRANTED BY THE FACTS.
15 (b) A PERSON PARTICIPATING IN GOOD FAITH IN MAKING A
16 COMPLAINT OR REPORT OR IN AN INVESTIGATIVE OR ADMINISTRATIVE
17 PROCEEDING PURSUANT TO THIS SECTION SHALL BE IMMUNE FROM ANY
18 CIVIL OR CRIMINAL LIABILITY THAT OTHERWISE MIGHT RESULT BY REASON
19 OF THE PARTICIPATION.
20 (9) A FINAL ACTION OF THE DIRECTOR IS SUBJECT TO JUDICIAL
21 REVIEW BY THE COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11),
22 C.R.S.
23 (10) AN EMPLOYER OF A REGISTRANT SHALL REPORT TO THE
24 DIRECTOR ANY DISCIPLINARY ACTION TAKEN AGAINST THE REGISTRANT OR
25 THE RESIGNATION OF THE REGISTRANT IN LIEU OF DISCIPLINARY ACTION
26 FOR CONDUCT THAT VIOLATES THIS ARTICLE.
27 (11) WHEN A COMPLAINT OR AN INVESTIGATION DISCLOSES AN

1 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR,
2 WARRANTS FORMAL ACTION, THE COMPLAINT SHALL NOT BE RESOLVED BY
3 A DEFERRED SETTLEMENT, ACTION, JUDGMENT, OR PROSECUTION.
4 (12) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
5 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT BY ANY PERSON, THAT
6 A REGISTRANT IS ACTING IN A MANNER THAT IS AN IMMINENT THREAT TO
7 THE HEALTH AND SAFETY OF THE PUBLIC, OR A PERSON IS ACTING OR HAS
8 ACTED WITHOUT THE REQUIRED REGISTRATION, THE DIRECTOR MAY ISSUE
9 AN ORDER TO CEASE AND DESIST SUCH ACTIVITY. THE ORDER SHALL SET
10 FORTH THE STATUTES AND RULES ALLEGED TO HAVE BEEN VIOLATED, THE
11 FACTS ALLEGED TO HAVE CONSTITUTED THE VIOLATION, AND THE
12 REQUIREMENT THAT ALL UNLAWFUL ACTS OR UNREGISTERED PRACTICES
13 IMMEDIATELY CEASE.
14 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND
15 DESIST PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (12), THE
16 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER
17 ACTS OR PRACTICES IN VIOLATION OF THIS ARTICLE HAVE OCCURRED. THE
18 HEARING SHALL BE CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND
19 24-4-105, C.R.S.
20 (13) (a) IF, BASED ON CREDIBLE EVIDENCE AS PRESENTED IN A
21 WRITTEN COMPLAINT BY ANY PERSON, IT APPEARS TO THE DIRECTOR THAT
22 A PERSON HAS VIOLATED ANY OTHER PROVISION OF THIS ARTICLE, IN
23 ADDITION TO ANY SPECIFIC POWERS GRANTED PURSUANT TO THIS ARTICLE,
24 THE DIRECTOR MAY ISSUE TO THE PERSON AN ORDER TO SHOW CAUSE AS
25 TO WHY THE DIRECTOR SHOULD NOT ISSUE A FINAL ORDER DIRECTING THE
26 PERSON TO CEASE AND DESIST FROM THE UNLAWFUL ACT OR
27 UNREGISTERED PRACTICE.

1 (b) A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
2 BEEN ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (13)
3 SHALL BE NOTIFIED PROMPTLY BY THE DIRECTOR OF THE ISSUANCE OF THE
4 ORDER, ALONG WITH A COPY OF THE ORDER, THE FACTUAL AND LEGAL
5 BASIS FOR THE ORDER, AND THE DATE SET BY THE DIRECTOR FOR A
6 HEARING ON THE ORDER. THE NOTICE MAY BE SERVED ON THE PERSON
7 AGAINST WHOM THE ORDER HAS BEEN ISSUED BY PERSONAL SERVICE, BY
8 FIRST-CLASS, POSTAGE PREPAID UNITED STATES MAIL, OR IN ANOTHER
9 MANNER AS MAY BE PRACTICABLE. PERSONAL SERVICE OR MAILING OF AN
10 ORDER OR DOCUMENT PURSUANT TO THIS PARAGRAPH (b) SHALL
11 CONSTITUTE NOTICE OF THE ORDER TO THE PERSON.
12 (c) (I) THE HEARING ON AN ORDER TO SHOW CAUSE SHALL BE HELD
13 NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE CALENDAR DAYS
14 AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE NOTIFICATION BY
15 THE DIRECTOR AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (13).
16 THE HEARING MAY BE CONTINUED BY AGREEMENT OF ALL PARTIES BASED
17 UPON THE COMPLEXITY OF THE MATTER, NUMBER OF PARTIES TO THE
18 MATTER, AND LEGAL ISSUES PRESENTED IN THE MATTER, BUT IN NO EVENT
19 SHALL THE HEARING BE HELD LATER THAN SIXTY CALENDAR DAYS AFTER
20 THE DATE OF TRANSMISSION OR SERVICE OF THE NOTIFICATION.
21 (II) IF A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
22 BEEN ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (13) DOES
23 NOT APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT EVIDENCE
24 THAT NOTIFICATION WAS PROPERLY SENT OR SERVED ON THE PERSON
25 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (13) AND SUCH OTHER
26 EVIDENCE RELATED TO THE MATTER AS THE DIRECTOR DEEMS
27 APPROPRIATE. THE DIRECTOR SHALL ISSUE THE ORDER WITHIN TEN DAYS

1 AFTER THE DIRECTOR'S DETERMINATION RELATED TO REASONABLE
2 ATTEMPTS TO NOTIFY THE RESPONDENT, AND THE ORDER SHALL BECOME
3 FINAL AS TO THAT PERSON BY OPERATION OF LAW. SUCH HEARING SHALL
4 BE CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND 24-4-105, C.R.S.
5 (III) IF THE DIRECTOR REASONABLY FINDS THAT THE PERSON
6 AGAINST WHOM THE ORDER TO SHOW CAUSE WAS ISSUED IS ACTING OR
7 HAS ACTED WITHOUT THE REQUIRED REGISTRATION OR HAS OR IS ABOUT
8 TO ENGAGE IN ACTS OR PRACTICES CONSTITUTING VIOLATIONS OF THIS
9 ARTICLE, A FINAL CEASE-AND-DESIST ORDER MAY BE ISSUED, DIRECTING
10 THE PERSON TO CEASE AND DESIST FROM FURTHER UNLAWFUL ACTS OR
11 UNREGISTERED PRACTICES.
12 (IV) THE DIRECTOR SHALL PROVIDE NOTICE, IN THE MANNER SET
13 FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (13), OF THE FINAL
14 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE
15 HEARING CONDUCTED PURSUANT TO THIS PARAGRAPH (c) TO EACH PERSON
16 AGAINST WHOM THE FINAL ORDER HAS BEEN ISSUED. THE FINAL ORDER
17 ISSUED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) SHALL
18 BE EFFECTIVE WHEN ISSUED AND SHALL BE A FINAL ORDER FOR PURPOSES
19 OF JUDICIAL REVIEW.
20 (14) THE DIRECTOR MAY ENTER INTO A STIPULATION WITH A
21 PERSON IF, BASED ON CREDIBLE EVIDENCE PRESENTED TO THE DIRECTOR,
22 IT APPEARS TO THE DIRECTOR THAT THE PERSON HAS ENGAGED OR IS
23 ABOUT TO ENGAGE IN AN UNREGISTERED ACT OR PRACTICE; AN ACT OR
24 PRACTICE CONSTITUTING A VIOLATION OF THIS ARTICLE, A RULE
25 PROMULGATED PURSUANT TO THIS ARTICLE, OR AN ORDER ISSUED
26 PURSUANT TO THIS ARTICLE; OR AN ACT OR PRACTICE CONSTITUTING
27 GROUNDS FOR ADMINISTRATIVE SANCTION PURSUANT TO THIS ARTICLE.

1 (15) IF ANY PERSON FAILS TO COMPLY WITH A FINAL
2 CEASE-AND-DESIST ORDER OR A STIPULATION, THE DIRECTOR MAY
3 REQUEST THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE
4 JUDICIAL DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING,
5 AND IF SO REQUESTED SUCH ATTORNEY SHALL BRING, SUIT FOR A
6 TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO
7 PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER.
8 (16) A PERSON AGGRIEVED BY THE FINAL CEASE-AND-DESIST
9 ORDER MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION
10 OR OF THE DIRECTOR'S FINAL ORDER AS PROVIDED IN SUBSECTION (9) OF
11 THIS SECTION.
12 **12-43.3-111. Unauthorized practice - penalties.** A PERSON WHO
13 PRACTICES, OR OFFERS OR ATTEMPTS TO PRACTICE, THE PROVISION OF
14 PERSONAL CARE SERVICES WITHOUT AN ACTIVE REGISTRATION ISSUED
15 UNDER THIS ARTICLE COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE
16 PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S., FOR THE FIRST
17 OFFENSE. FOR THE SECOND OR ANY SUBSEQUENT OFFENSE, THE PERSON
18 COMMITS A CLASS 6 FELONY AND SHALL BE PUNISHED AS PROVIDED IN
19 SECTION 18-1.3-401, C.R.S.
20 **12-43.3-112. Rules.** THE DIRECTOR SHALL PROMULGATE RULES
21 AS NECESSARY FOR THE ADMINISTRATION OF THIS ARTICLE.
22 **12-43.3-113. Repeal of article - review of functions.** (1) THIS
23 ARTICLE IS REPEALED, EFFECTIVE SEPTEMBER 1, 2020.
24 (2) PRIOR TO SUCH REPEAL, THE REGISTRATION FUNCTIONS OF THE
25 DIRECTOR AS SET FORTH IN THIS ARTICLE SHALL BE REVIEWED PURSUANT
26 TO SECTION 24-34-104, C.R.S.
27 **SECTION 3.** 24-34-104 (51.5), Colorado Revised Statutes, is

1 amended to read:

2 **24-34-104. General assembly review of regulatory agencies**
3 **and functions for termination, continuation, or reestablishment.**
4 (51.5) The following agencies, functions, or both, shall terminate on
5 September 1, 2020:

6 (a) The certification of nurse aides by the state board of nursing
7 in accordance with article 38.1 of title 12, C.R.S.;

8 (b) THE REGISTRATION OF PERSONAL CARE SERVICES PROVIDERS
9 BY THE DIRECTOR OF THE DIVISION OF REGISTRATIONS PURSUANT TO
10 ARTICLE 43.3 OF TITLE 12, C.R.S.

11 **SECTION 4.** 25-27.5-107, Colorado Revised Statutes, is
12 amended to read:

13 **25-27.5-107. Employee criminal history record check -**
14 **employee registration required.** (1) On and after June 1, 2009, prior
15 to employing or placing any person, the home care agency or home care
16 placement agency shall require the person seeking employment or
17 placement to submit to a criminal history record check. The home care
18 agency or home care placement agency or the person seeking employment
19 with the home care agency shall pay the costs of such inquiry. The
20 criminal history record check shall be conducted not more than ninety
21 days prior to the employment of the applicant.

22 (2) A PERSON EMPLOYED OR PLACED BY A HOME CARE AGENCY OR
23 HOME CARE PLACEMENT AGENCY SHALL POSSESS A VALID REGISTRATION
24 ISSUED UNDER ARTICLE 43.3 OF TITLE 12, C.R.S.

25 **SECTION 5. Act subject to petition - specified effective date**
26 **- applicability.** (1) This act shall take effect September 1, 2010; except
27 that, if a referendum petition is filed pursuant to section 1 (3) of article V

1 of the state constitution against this act or an item, section, or part of this
2 act within the ninety-day period after final adjournment of the general
3 assembly, then the act, item, section, or part shall not take effect unless
4 approved by the people at the general election to be held in November
5 2010 and shall take effect on December 1, 2010, or on the date of the
6 official declaration of the vote thereon by the governor, whichever is
7 later.
8 (2) The provisions of this act shall apply to the practice of
9 providing personal care services on or after the applicable effective date
10 of this act.