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An Act

HOUSE BILL 07-1211

BY REPRESENTATIVE(S) Jahn, Balmer, Hodge, Benefield, Carroll T., Casso, Cerbo, Curry, Frangas, Gibbs, Hicks, Liston, Marostica, Massey, Merrifield, Rice, Rose, Solano, Stafford, Todd, White, Witwer, Borodkin, Buescher, Carroll M., Gallegos, Green, Kerr J., Labuda, Lambert, Lundberg, McNulty, Riesberg, Romanoff, Stephens, and Weissmann; also SENATOR(S) Tochtrop, Taylor, Boyd, Fitz-Gerald, Hagedorn, Kester, Kopp, May R., Morse, Romer, Schultheis, Schwartz, Shaffer, Tapia, Tupa, Veiga, Williams, and Windels.

CONCERNING THE CREATION OF THE BOARD OF COMMISSIONERS OF STATE AND VETERANS NURSING HOMES IN THE DEPARTMENT OF HUMAN SERVICES.

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

SECTION 1. Article 12 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 4
BOARD OF COMMISSIONERS OF
STATE AND VETERANS NURSING HOMES

26-12-401. Definitions. AS USED IN THIS PART 4, UNLESS THE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

CONTEXT OTHERWISE REQUIRES:

(1) "BOARD OF COMMISSIONERS" MEANS THE BOARD OF COMMISSIONERS OF STATE AND VETERANS NURSING HOMES CREATED IN SECTION 26-12-402.

(2) "DIVISION" MEANS THE DIVISION OF STATE AND VETERANS NURSING HOMES, OR ITS SUCCESSOR AGENCY, IN THE STATE DEPARTMENT.

26-12-402. Board of commissioners of state and veterans nursing homes - creation - powers and duties. (1) THERE IS HEREBY CREATED THE BOARD OF COMMISSIONERS OF STATE AND VETERANS NURSING HOMES WITHIN THE STATE DEPARTMENT. THE BOARD OF COMMISSIONERS SHALL EXERCISE ITS POWERS, DUTIES, AND FUNCTIONS UNDER THE STATE DEPARTMENT AS IF IT WERE TRANSFERRED TO THE STATE DEPARTMENT BY A TYPE 2 TRANSFER UNDER THE PROVISIONS OF THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S.

(2) THE FUNCTIONS OF THE BOARD OF COMMISSIONERS ARE TO:

(a) ADVISE THE DIVISION, THE STATE NURSING HOME LOCATED IN TRINIDAD, AND THE VETERANS NURSING HOMES LOCATED IN HOMELAKE, FLORENCE, RIFLE, AURORA, AND WALSENBURG, COLORADO;

(b) PROVIDE CONTINUITY, PREDICTABILITY, AND STABILITY IN THE OPERATION OF THE STATE AND VETERANS NURSING HOMES; AND

(c) PROVIDE GUIDANCE TO FUTURE ADMINISTRATORS AT THE STATE AND VETERANS NURSING HOMES BASED ON THE COLLECTIVE INSTITUTIONAL MEMORY OF THE BOARD OF COMMISSIONERS.

(3) (a) THE BOARD OF COMMISSIONERS SHALL CONSIST OF SEVEN MEMBERS, NO MORE THAN FOUR OF WHOM ARE MEMBERS OF THE SAME POLITICAL PARTY, AND ALL OF WHOM SHALL BE SUBJECT TO CONFIRMATION BY THE SENATE.

(b) THE GOVERNOR SHALL APPOINT THE SEVEN MEMBERS OF THE BOARD OF COMMISSIONERS AS FOLLOWS:

(I) THREE VETERANS, ONE OF WHOM SHALL BE EITHER A MEMBER OF

THE STATE BOARD OF VETERANS AFFAIRS OR THAT BOARD'S DESIGNEE;

(II) THREE PERSONS WITH EXPERTISE IN NURSING HOME OPERATIONS, INCLUDING:

(A) A PERSON WHO IS A NURSING HOME ADMINISTRATOR AT THE TIME OF APPOINTMENT AND WHO IS EXPERIENCED IN THE FINANCIAL OPERATIONS OF NURSING HOMES;

(B) A PERSON WHO HAS PRACTICING CLINICAL EXPERIENCE IN NURSING HOMES; AND

(C) A PERSON WHO HAS EXPERIENCE IN MULTI-FACILITY MANAGEMENT OF NURSING HOMES; AND

(III) THE STATE LONG-TERM CARE OMBUDSMAN, AS DEFINED IN SECTION 26-11.5-103 (7), OR A LOCAL OMBUDSMAN, AS DEFINED IN SECTION 26-11.5-103 (2), THAT IS RECOMMENDED TO THE GOVERNOR BY THE STATE LONG-TERM CARE OMBUDSMAN.

(c) THE APPOINTED MEMBERS OF THE BOARD OF COMMISSIONERS SHALL SERVE TERMS OF FOUR YEARS; EXCEPT THAT, OF THE MEMBERS FIRST APPOINTED, THE GOVERNOR SHALL SELECT THREE MEMBERS WHO SHALL SERVE TERMS OF TWO YEARS.

(4) AN APPOINTED MEMBER MAY BE REMOVED FOR CAUSE AT ANY TIME DURING THE MEMBER'S TERM BY THE GOVERNOR. VACANCIES ON THE BOARD OF COMMISSIONERS SHALL BE FILLED BY APPOINTMENT BY THE GOVERNOR WITH THE CONSENT OF THE SENATE FOR THE UNEXPIRED TERMS IN THE MANNER DESCRIBED IN SUBSECTION (3) OF THIS SECTION.

(5) MEMBERS OF THE BOARD OF COMMISSIONERS SHALL SERVE WITHOUT PAY BUT SHALL BE REIMBURSED FOR REASONABLE AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

(6) ALL MEMBERS OF THE BOARD OF COMMISSIONERS SHALL BE VOTING MEMBERS. THE MEMBERS OF THE BOARD OF COMMISSIONERS SHALL ELECT A CHAIR, A VICE-CHAIR, AND A SECRETARY FROM AMONG THE MEMBERSHIP OF THE BOARD. BOARD ACTION SHALL REQUIRE THE AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE BOARD OF

COMMISSIONERS.

(7) THE BOARD OF COMMISSIONERS SHALL:

(a) ENDEAVOR TO ENSURE THAT THE HIGHEST QUALITY OF CARE IS BEING PROVIDED AT THE STATE AND VETERANS NURSING HOMES AND THAT THE FINANCIAL STATUS OF THE HOMES IS MAINTAINED ON A SOUND BASIS;

(b) OBTAIN INFORMATION CONCERNING THE FOLLOWING:

(I) THE STATUS OF THE CENTRAL FUND, AS DESCRIBED IN SECTION 26-12-108, AND THE PROGRESS OF CAPITAL CONSTRUCTION PROJECTS THAT ARE PROPOSED OR UNDERWAY; AND

(II) ISSUES OF RESIDENT CARE ARISING FROM SOURCES, INCLUDING BUT NOT LIMITED TO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SURVEYS, VETERANS ADMINISTRATION SURVEYS, CONSULTANT CONTRACTOR REPORTS, PLANS OF CORRECTION TO BOTH SURVEYS AND CONSULTANT REPORTS, VACANT POSITION REPORTS, AND REPORTS FROM THE DIVISION;

(c) HAVE DIRECT ACCESS TO ANY CONSULTING CONTRACTOR WORKING WITH THE STATE AND VETERANS NURSING HOMES AND OBTAIN WRITTEN AND ORAL REPORTS;

(d) HAVE DIRECT ACCESS TO THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT AND THE STATE BOARD FOR THE PURPOSES OF ALERTING STATE DEPARTMENT POLICYMAKERS OF POTENTIAL PROBLEMS IN STATE AND VETERANS NURSING HOMES AND ESTABLISHING EFFECTIVE WORKING RELATIONSHIPS AND LINES OF COMMUNICATION WITH THE STATE DEPARTMENT AND STATE BOARD AT ALL LEVELS;

(e) HAVE THE AUTHORITY TO VISIT AND REVIEW THE OPERATION OF THE STATE AND VETERANS NURSING HOMES;

(f) PARTICIPATE IN ANY REQUEST FOR PROPOSAL PANEL THAT SELECTS DIVISION-WIDE CONSULTING FIRMS FOR THE STATE AND VETERANS NURSING HOMES;

(g) HAVE AUTHORITY TO REVIEW AND COMMENT ON RULES PROMULGATED BY THE STATE DEPARTMENT AND THE STATE BOARD

CONCERNING THE STATE AND VETERANS NURSING HOMES BEFORE THE RULES ARE SUBMITTED FOR PUBLIC COMMENT;

(h) MEET AS OFTEN AS NECESSARY BUT NOT LESS THAN THREE TIMES PER YEAR; AND

(i) (I) ON OR BEFORE JANUARY 1, 2008, AND ON OR BEFORE EACH JANUARY 1 THEREAFTER, MAKE AN ANNUAL REPORT OF ISSUES AND RECOMMENDATIONS DEVELOPED BY THE BOARD OF COMMISSIONERS TO THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT AND THE GOVERNOR; AND

(II) TRANSMIT ELECTRONIC VERSIONS OF EACH ANNUAL REPORT TO:

(A) THE MEMBERS OF THE GENERAL ASSEMBLY WHO SIT ON THE HEALTH AND HUMAN SERVICES COMMITTEES AND THE STATE, VETERANS, AND MILITARY AFFAIRS COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES; AND

(B) THE MEMBERS OF THE STATE BOARD OF VETERANS AFFAIRS.

(8) NOTHING IN THIS PART 4 SHALL BE CONSTRUED TO ABRIDGE, AMEND, OR SUPERSEDE ANY PROVISION OF A CONTRACTUAL AGREEMENT THAT THE STATE DEPARTMENT HAS ENTERED INTO WITH ANY OF THE STATE AND VETERANS NURSING HOMES.

26-12-403. Repeal of part. (1) THIS PART 4 IS REPEALED, EFFECTIVE JULY 1, 2017.

(2) PRIOR TO REPEAL, THE BOARD OF COMMISSIONERS APPOINTED PURSUANT TO THIS PART 4 SHALL BE REVIEWED AS PROVIDED IN SECTION 2-3-1203, C.R.S.

SECTION 2. 24-1-120 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-1-120. Department of human services - creation - repeal.

(5) The department of human services shall include the following:

(k) THE BOARD OF COMMISSIONERS OF STATE AND VETERANS NURSING HOMES, CREATED IN SECTION 26-12-402, C.R.S. SAID BOARD AND

ITS POWERS, DUTIES, AND FUNCTIONS ARE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF HUMAN SERVICES.

SECTION 3. 2-3-1203 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(dd) JULY 1, 2017: THE BOARD OF COMMISSIONERS OF STATE AND VETERANS NURSING HOMES, CREATED IN SECTION 26-12-402, C.R.S.

SECTION 4. Effective date. This act shall take effect July 1, 2007.

SECTION 5. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Joan Fitz-Gerald
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO