Report to the Colorado General Assembly

Health Care Task Force

Prepared by

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Health Care Task Force

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Table of Contents

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Executive Summary

Committee Charge

Pursuant to Section 10-16-221, C.R.S., the Health Care Task Force is charged with studying provider reimbursement issues, network adequacy, and other health care issues that affect health insurance in this state.[1] The task force must meet at least four times each year, and continues until July 1, 2010.

Committee Activities

The Health Care Task Force met four times during the 2008 interim. Each meeting focused on a variety of health-related topics. The task force heard testimony from health care providers, advocacy organizations, individuals involved in health information technology, insurance industry personnel, representatives of state departments, and small businesses. In addition, as permitted by House Joint Resolution 08-1031, the Vulnerable Populations Task Force presented its recommendations to the task force. An opportunity for public testimony was provided at each meeting.

Mental health care. The task force received an update on the status of the mental health care system in Colorado. Specifically, representatives of the Colorado Behavioral Healthcare Council briefed the task force on a variety of issues regarding mental health in Colorado, including caring for mentally ill offenders in the criminal justice system and mental health services for veterans. In response to these discussions, the task force recommended Bill A, which creates a Behavioral Health Commission with the purpose of guiding the development of an integrated mental health care system in the state.

Oral health care. Members of the advocacy community updated the committee on the status of oral health care benefits for clients of public health care programs. Currently, children enrolled in Medicaid and in the Children's Basic Health Care Program (CHP+) have oral health care coverage, although coverage for children enrolled in CHP+ is limited to $600 per year. Adults enrolled in the Medicaid program and pregnant woman enrolled in the CHP+ program do not have coverage for oral health care. Presenters discussed the need for oral health care for low-income individuals, noting that a lack of oral health care can cause a number of physical health problems, as well as social stigmatization and difficulty in obtaining employment. To address these concerns, the task force recommended Bill B, which adds oral health benefits for adults in the Medicaid program and the CHP+.

Recommendations from the Vulnerable Populations Task Force. House Joint Resolution 08-1031 created the Vulnerable Populations Task Force to meet during the 2008 legislative interim to study issues related to individuals with special health care needs. Pursuant to the resolution, the Vulnerable Populations Task Force was permitted to make legislative recommendations to the Health Care Task Force. Among the recommendations was the creation of a process by which individuals who receive treatment through the Colorado Indigent Care Program may lodge complaints. The Health Care Task Force recommended Bill C to implement this recommendation.

[1] Up until its repeal on July 1, 2004, the Health Care Task Force existed in Section 26-15-107, C.R.S. The Health Care Task Force was reinstated in 2005 with the passage of Senate Bill 05-227.

Health information technology. The task force discussed recent developments in health information technology. Members of the Colorado Regional Health Information Organization (CORHIO) explained their efforts to create a statewide network for the exchange of electronic health information, including links between an array of providers, organizations, and networks throughout the state, and eventually to other states as well. In addition, the task force received information from the Chief Medical Officer of the Denver Region of the federal Centers for Medicare and Medicaid services regarding the use of electronic prescribing in the Medicare program. Task force members discussed extending this program to the state's Medicaid program, and recommended Bill D to study this possibility.

Health care professionals. The task force received a variety of presentations pertaining to the practice of various health care professionals. Specifically, the task force was updated on the implementation of several pieces of legislation related to advanced practice nurses passed during the 2008 legislative session. The task force also heard from the Colorado Medical Society regarding methods to reduce administrative costs for physicians and the importance of physical education for children.

Currently, physicians are authorized to establish peer review committees to review incidents of inappropriate care. The activities and records of the peer review committees are not subject to discovery in a legal proceeding. The task force recommended Bill E, which allows peer review committees to be established by other health care professionals.

Health facility reporting requirements. The task force received an update on various reporting requirements for health care facilities. Legislation passed in 2006 required the development of a hospital report card to allow the public to compare different hospitals' clinical outcomes for a variety of procedures. The task force received a demonstration of how the public can access the report card from the Colorado Hospital Association (CHA). CHA, who administers the report card, informed the task force that additional measures will be included in the future.

House Bill 08-1393 required the task force to study whether or not ambulatory surgical centers should report charge information to the CHA for inclusion in the hospital report card. The charge information would be included on a web site designed to provide consumers with information on average charges for common hospital procedures in different facilities. The task force discussed the issue with representatives of ambulatory surgical centers, who explained the differences in charges between hospitals and ambulatory surgical centers, and noted that the Colorado Ambulatory Surgery Center Association is working with the CHA on efforts related to cost transparency. The task force did not make any recommendations related to reporting of charges by ambulatory surgical centers.

Passed in 2006, House Bill 06-1045 requires health facilities to collect data on hospital-acquired infections and regularly report the data to the National Healthcare Safety Network. House Bill 06-1045 additionally required that individuals who collect data on hospital-acquired infections be certified in infection control. Representatives of ambulatory surgical centers explained that maintaining certification requires approximately 800 hours of on-going training and experience in infection control. Current state law exempts hospitals with 50 beds or less from the certification requirements due to the size of these facilities. The representatives of the ambulatory surgical centers informed the task force that it is not feasible for staff collecting data on hospital-acquired infections to maintain his or her certification while employed at small facilities, such as ambulatory surgical centers and certified dialysis treatment centers. Thus, it is difficult for such facilities to employ the appropriate personnel to comply with the requirement. In response

to this testimony, the task force recommended Bill F, which exempts ambulatory surgical centers and certified dialysis treatment centers from the current requirement that individuals who collect infection data be certified.

Other health-related issues. Throughout the interim, the task force touched on a number of other health-related issues. The task force received an update from Cover Kids by 2010 initiative representatives who stated that legislation passed in 2008 eased eligibility requirements for children to be enrolled in the CHP+ and spoke to legislation for the 2009 session which will address further reducing barriers to enrollment in public health programs. The task force heard from the Colorado Advance Directives Consortium regarding end of life directives and their goal of establishing and implementing a standardized end of life form for Colorado. Finally, the task force heard from the Department of Health Care Policy and Financing (DHCPF) regarding efforts to simplify the enrollment process for Medicaid and CHP+. No draft legislation was proposed by the task force as a result of the discussions regarding these health-related issues.

Task Force Recommendations

As a result of the task force's discussion and deliberation, the task force recommended six bills for consideration in the 2009 legislative session.

Bill A — Creation of the Behavioral Health Commission. Bill A creates a 27-member Behavioral Health Commission within the Department of Human Services to guide the development and implementation of an integrated behavioral health system in Colorado. Members of the commission will include representatives of state departments and the judicial branch, mental health professionals, behavioral health organizations, consumers, and advocates. The commission is charged to collaborate with various entities to create a financing system to support long-term needs of individuals suffering from behavioral health issues, and to develop a comprehensive behavioral healthcare system. The commission is also charged with identifying federal and state funding barriers that preclude the state from addressing behavioral health needs. In addition, the bill requires that the commission coordinate with the Governor's Behavioral Health Coordinating Council in developing an integrated behavioral health system in Colorado. The commission must provide a report to the House and Senate Health and Human Services committees by January 30 of each year. The commission repeals July 1, 2019.

Bill B — Add Adult Dental to Medicaid and CHP+. Currently, Colorado's Medicaid program does not include coverage for adult dental services. The Children's Basic Health Plan (CHP+) provides dental services up to an annual cap of $600 for children enrolled in the program, but does not include dental services for prenatal or postpartum women. Bill B adds adult dental services to services provided under Medicaid and to prenatal and postpartum care for pregnant women under the CHP+.

Bill C — Creation of the Colorado Indigent Care Accountability Board. The Colorado Indigent Care Program (CICP) provides discounted health care services to low-income individuals at participating hospitals and clinics. CICP is not a health insurance program; rather the program distributes federal and state dollars to partially compensate participating providers who provide health care to the uninsured and underinsured with incomes at or below 250 percent of the Federal Poverty Level (FPL). Bill C establishes the Colorado Indigent Care Program Accountability Board within the DHCPF to review grievances concerning the administration of the CICP and the medical services provided under the program. The state Medical Services Board must adopt rules establishing the accountability board, and create a process for selecting grievances for review and

possible remedies. In cases where the accountability board determines that a grievance has merit, it must submit its findings and possible remedy to the DHCPF. The bill directs the DHCPF to either accept the remedy, or, if the department does not accept the remedy, provide a written statement as to why the remedy will not be pursued. The bill requires that the executive director of the DCHPF appoint a minium of four people to the board. The board must include an advocate for the medically indigent, two medically indigent individuals, and a health care provider for the medically indigent. The accountability board must make quarterly reports to the DHCPF regarding the number of grievances reviewed by the board and their outcomes. The board is set to repeal July 1, 2016.

Bill D — E-prescribing in Medicaid. Bill D directs the DHCPF to study the feasability of using electronic prescriptions in the Medicaid program. The bill requires the DHCPF to study whether federal law permits incentives for e-prescriptions in Medicaid and if the state would realize any cost savings from implementing the program. The DHCPF is required to provide a report of its findings to the General Assembly by June 30, 2010.

Bill E — Peer Review Protections. Currently, physicians may establish peer review committees to review incidents of inappropriate care. Bill E extends the peer review practice to other health care professionals to review and investigate the quality and appropriateness of patient care. Health care professionals that may participate in peer review include: podiatrists, chiropractors, dentists, dental hygienists, midwives, nurses, nursing home administrators, optometrists, occupational therapists, physical therapists, respiratory therapists, emergency medical technicians, social workers, physician assistants, nurse aides, psychiatric technicians, and psychologists. The bill also authorizes professional review committees to be formed by organizations and entities as defined in the bill. Such entities and organizations could include the medical staff of corporations, community clinics, rehabilitation centers, or community mental health centers. Associations of health care providers and individual practice associations or preferred provider organizations composed of at least 25 health care providers may also form professional review committees. Finally, the bill establishes confidentiality of proceedings and records of a professional review committee and ensures that participants in the professional review process are immune from liability if acting in good faith.

Bill F — Report Hospital Infection Rate Criteria. Bill F exempts ambulatory surgical centers and certified dialysis treatment centers from the requirement that an individual who collects data on infection rates in such facilities be nationally certified, and instead requires the qualifications for these individuals to be met through on-going education, training, experience, or other certification.

Task Force Charge

Pursuant to Section 10-16-221, C.R.S., the Health Care Task Force must consider a variety of issues between July 1, 2005 and July 1, 2010, that include, but are not limited to the following:

- emerging trends in Colorado health care and their impacts on consumers, including, but not limited to:
  - the effect of recent shifts in the way health care is delivered and paid for;
  - changes in relationships among health care providers, patients, and payors;
  - restrictions in health care options available to consumers;
  - professional liability issues arising from such restrictions;
  - medical and patient record confidentiality;
  - health care work force requirements; and
  - home care in the continuum of care;

- issues concerning health insurance, including:
  - the ability of consumers to obtain and keep adequate, affordable health insurance coverage, including coverage for catastrophic illnesses;
  - the effect of managed care on the ability of consumers to obtain timely access to quality care;
  - network adequacy and the adequacy of access to providers; and
  - reimbursement processes for health care services by third-party payors and cooperation between providers and carriers;

- options for addressing the needs of uninsured individuals, including the operation of the Colorado Indigent Care Program, in order to give guidance and direction to the Department of Health Care Policy and Financing in the development and operation of programs for the uninsured;

- various other health-related topics, including:
  - costs and benefits of providing preventive care and early treatment for people with chronic illnesses who may eventually need long-term care;
  - rural health care issues;
  - certificates of need;
  - increased access to health care through the use of appropriate communication technologies, including the use of telemedicine; and
  - the establishment of a new system to reimburse emergency responders and trauma care providers for unreimbursed costs.

House Bill 06-1278 created the Colorado Hospital Report Card to allow consumers to compare the performance of hospitals through statewide reporting of hospital data and clinical outcomes. The hospital report card is available on a website administered by the Colorado Hospital Association. House Bill 08-1393, the Consumer Health Care Transparency Act, required the task force, during the 2008 interim, to study the feasibility of adding ambulatory surgical centers charges to the hospital report card. The task force was required to study the method of reporting the appropriate data concerning ambulatory surgical centers and the time frame in which the data needs to be collected.

In addition to the items listed above, the task force was required to review legislative recommendations from the newly created Vulnerable Population Task Force. The Vulnerable Population Task Force, established in House Joint Resolution 08-1031, was charged with studying various issues related to health care, such as improving access and delivery of services to the disabled community, easing barriers to enrollment in public programs, and financing the CoverColorado program.

Task Force Activities

The committee met four times during the 2008 interim. At these hearings, the committee received briefings on a broad range of health-related topics. The task force heard testimony from health care providers, advocacy organizations, representatives involved in health information technology, and state department representatives.

Mental Health Care

The task force received an update on issues related to mental health care in Colorado. The task force was briefed by representatives of the Colorado Behavioral Healthcare Council, a membership organization for community health centers in Colorado, which is involved in a number of different projects related to mental health care throughout the state.

Task force members voiced interest in programs that assist mentally ill individuals who are involved with the criminal justice system. The task force received information on programs such as the John Eachon Reentry Program, which help nonviolent offenders with mental health problems reintegrate into society. In recent months, metro area county commissioners have been studying issues related to mentally ill offenders in county jails. Concerned with the high cost of housing such offenders, the commissioners explored alternatives to incarceration, including transitional and diversion programs. Their study found that it cost $25,000 to $30,000 annually to house a mentally ill offender in a county jail versus $6,000 to $8,000 to serve that individual in a transitional or a diversion treatment program. There are a number of barriers to serving individuals with mental illness who are involved in the criminal justice system, including that such individuals often do not have the necessary identification to enroll in public health programs. Presenters noted that legislation passed in the previous legislative session which suspends, rather than terminates, public benefits for individuals who are involved with the criminal justice system may help improve the transition of mentally ill offenders from prison or jail.

The task force also received a briefing on mental health issues for veterans. Presenters described programs created in Colorado to assist veterans returning from areas of conflict, as well as their families, receive mental health services. Participation in the programs has been low, and the presenters attributed this to a belief amongst military personnel that receiving mental health services may affect their careers. Presenters noted that efforts are being made to reach out to members of the military and their families in need of mental health services.

Finally, the representatives of the Behavioral Health Care Council briefed the task force regarding the report *Transforming Colorado's Behavioral Health System: A Model for the Delivery and Financing of Mental Health and Substance Use Care,* which was recently completed by the Behavioral Health Care Council. The report proposes a comprehensive model of behavioral health care in Colorado, and estimates the cost implementing the model. The report includes

recommendations related to preventative mental health services, coordination of mental health and physical health services, and parity in coverage for mental health and physical health services.

Committee recommendation. As a result of the task force's discussions regarding mental health care, the task force recommended Bill A, which creates a Behavioral Health Commission to guide the development and implementation of an integrated behavioral health system in Colorado.

Oral Health Care

The task force received briefings regarding the need for oral health care treatment for children and adults in Colorado. A representative of the Colorado Dental Association updated the task force on recent efforts to provide dental care to low-income Colorado residents. In 2007, the legislature adopted Senate Bill 07-152, which allows dentists from outside of the state to provide dental services in Colorado for a short period of time without being licensed in Colorado. The authority granted by the bill allows the Colorado Dental Association to sponsor mobile weekend dental events in which out-of-state dental professionals and Colorado dentists and hygienists come together to treat individuals in need of dental care. In May of 2008 in Larimer County, dental services were provided at no cost to over 1,500 people over the course of a weekend.

The task force also received a briefing from community health advocates regarding the need for an oral health care benefit for individuals enrolled in Colorado's public health care programs. Currently, children enrolled in Medicaid and in the Children's Basic Health Care Program (CHP+) have oral health care coverage, although coverage for children enrolled in CHP+ is limited to $600 per year. Adults enrolled in the Medicaid program and pregnant woman enrolled in the CHP+ program do not have coverage for oral health care. Presenters discussed the need for oral health care for low-income individuals, noting that a lack of oral health care can cause a number of physical health problems such as infections, as well as social stigmatization and difficulty in obtaining employment.

Committee recommendation. To address concerns with a lack of oral health care coverage in public health programs, the task force recommended Bill B, which adds oral health benefits for adults in the Medicaid program and the CHP+.

Recommendations from the Vulnerable Populations Task Force

House Joint Resolution 08-1031 created the Vulnerable Populations Task Force to meet during the 2008 legislative interim to study issues related to individuals with special health care needs. The Vulnerable Populations Task Force consists of 9 members, and was required to meet at least three times between July 1, 2008, and August 31, 2008. The task force was permitted to make recommendations for legislation to the Health Care Task Force.

The Vulnerable Populations Task Force presented 39 recommendations to the Health Care Task Force. Overall, the Vulnerable Populations Task Force found a lack of accountability in the health care system, misaligned incentives in the health care system, a poor understanding of the health care system and insurance coverage by the general public. The task force's recommendations fell into three broad themes: private health insurance reform; public health insurance reform; and regulatory reform. Specific recommendations of the Vulnerable Populations Task Force included creating an educational program to provide information to consumers on insurance; prohibiting mandates for basic health care plans; reviewing mental health licensing and supervision requirements; and investigating the feasibility of a single-payer health care system.

The Vulnerable Populations Task Force made a specific recommendation with regard to the Colorado Indigent Care Program. This program allows individuals with incomes of 250 percent of the federal poverty level or less to receive discounted health care services through participating providers. There is currently no formal system through which enrolled individuals can register complaints about the care they receive through the program. The Vulnerable Populations Task Force recommended that a complaint process be created within the Department of Health Care Policy and Financing (DHCPF), the department that oversees the program.

Committee recommendation. The Health Care Task Force recommended Bill C, which implements the recommendation of the Vulnerable Populations Task Force that a process be created within the DHCPF to review grievances filed by enrollees in the Colorado Indigent Care Program.

Health Information Technology

The task force heard updates regarding the status of Colorado's statewide network for the exchange of electronic health information. In addition, the task force was briefed on the use of electronic prescribing (e-prescribing) in the Medicare program.

Colorado Regional Health Information Organization (CORHIO). Members of the Colorado Regional Health Information Organization (CORHIO) explained their efforts to create a statewide network for the exchange of electronic health information, including links between an array of providers, organizations, and networks throughout the state, and eventually to other states as well. CORHIO members stated that four institutions are part of the CORHIO system — Kaiser Permanente, Children's Hospital, University of Colorado Hospital, and Denver Health. These institutions have come on-line since CORHIO presented to the task force in 2007. Some of the technical services provided through the health information exchange are:

- clinical data exchange, which includes the ability to view a patient's clinical health record;
- clinical messaging, including e-prescribing and the ability to review laboratory tests;
- population/public health services, which allows for analysis of information on health care quality and disparities; and
- administrative services, such as claims submission and eligibility determination.

CORHIO members demonstrated the CORHIO system to the task force. Issues regarding privacy and security were addressed during the presentation. CORHIO members expressed that policies and procedures have been implemented addressing security of information transmitted, as well as measures to ensure privacy of those that participate in the statewide health information exchange. CORHIO members stated that if an entity or physician is caught utilizing the health information exchange improperly, the entity or individual is banned from further access. CORHIO members also stated they have taken security and privacy very seriously in developing the prototype.

E-prescribing. The Chief Medical Officer of the Denver Region of the federal Centers for Medicare and Medicaid Services (CMS) described legislation recently passed by Congress which provides incentives to physicians to use e-prescribing in the Medicare program. E-prescribing systems allow health care professionals to send prescriptions electronically to a pharmacy. Such systems may help to eliminate medication dispensing errors and reduce instances when patients do not fill ordered prescriptions.

The Medicare e-prescription program will be implemented in January 2009, and will provide a payment incentive of 2 percent to physicians who use e-prescribing. Task force members were interested in a possible extension of the e-prescribing program to the state's Medicaid program.

Committee recommendations. As a result of the discussion regarding e-prescribing, the task force recommended Bill D, which requires the DHCPF to study the feasability of using electronic prescriptions in the Medicaid program.

Health Care Professionals

The Health Care Task Force received a number of presentations regarding health care professionals. Specifically, the Health Care Task Force was updated on recent legislation regarding advanced practice nurses and efforts of the Colorado Medical Society (CMS) related to administrative simplification and physical education in schools. The task force also discussed peer review committees for health care professionals.

Advanced practice nurses. During the 2008 legislative session, the General Assembly passed several bills related to advanced practice nurses. The task force heard from the Colorado Nurses Association regarding the implementation of the bills: House Bill 08-1060, House Bill 08-1061, and House Bill 08-1094.

- House Bill 08-1094 allows advanced practice nurses (APNs) to be reimbursed through Medicaid.
- House Bill 08-1060 allows APNs to apply for participating provider status for a health benefit plan and requires that objective and reasonable criteria be used to evaluate the application. If an APN's application is denied, specific reasons for the denial must be provided. The act also allows patients to pick APNs as their healthcare provider, but stated that the provision does not go into effect until January 1, 2009.
- House Bill 08-1061 allows APNs to sign various documents, but does not go into effect until January 1, 2009.

Representatives of the Colorado Nurses Association stated that the passage of these bills has been received positively. However, representatives from the Department of Human Services (DHS) described issues with the implementation of House Bill 08-1061. An amendment to House Bill 08-1061 authorizes APNs to examine, certify, and testify concerning involuntary commitments of individuals for drug and alcohol abuse. In response to concerns raised by the DHS and county attorneys, an amendment was added to another 2008 House bill which delayed implementation of the sections of the bill related to APNs' authority with involuntary commitments until July 1, 2009. It was noted that negotiations on those provisions of the bill are continuing and possible legislation may be brought forward during the 2009 legislative session in order to address the concerns. No recommendations were put forward by the task force regarding House Bill 08-1061.

Colorado Medical Society. The CMS addressed the task force regarding two of its priorities: administrative simplification for physicians and physical education for children.

With regard to administrative simplification, a CMS representative explained that administrative activities of physicians, such as eligibility verification and filling out paperwork, add greatly to the cost of health care. CMS estimates that in Colorado:

- filling out different credentialing forms costs the health care system an estimated $8.1 million per year;
- resubmitting denied claims costs about $9.3 million annually; and
- verifying eligibility costs about $38.8 million per year.

CMS indicated its hope that efforts such as Senate Bill 08-135, which standardizes health insurance benefit cards, may help to improve the situation for physicians. The increased use of information technology in health care may also reduce the administrative burden on physicians.

CMS is also involved in efforts to increase the physical activity of children in order to prevent the health problems associated with obesity. The task force was presented with economic data related to overweight and obese adolescents, noting that such children are more likely to be overweight or obese adults. In Colorado, annual obesity-related medical costs for adults are approximately $874 million, and much of that amount is financed by public health programs. The presenter noted that increased physical education in schools can help address childhood obesity, and that while there are obstacles to increasing physical education in schools, the rewards from increased levels of physical activity are great. Specifically, physical activity can improve students' social skills and mental health, and reduce risk-taking behavior. Physical activity can also lead to higher test scores and may spark biological changes that encourage the brain to make connections that help children learn. In conjunction with the Junior League of Denver, CMS is working on legislation to be introduced in the 2009 legislative session regarding physical activity in schools.

Peer review committees for health care professionals. The task force also discussed current law related to peer review committees for health care professionals. Peer review committees allow health care professionals to meet and review instances of inappropriate care in order to identify methods to improve care in the future. Currently, physicians and the staff of hospitals are authorized by Colorado law to form peer review committees. The activities and findings of these committees are protected from discovery during legal proceedings.

Committee recommendation. As a result of its discussions, the task force recommended Bill E, which allows peer review committees to be formed by other health care professionals, including nurses, dentists, midwives, physical therapists, and emergency medical technicians. The bill specifies that any records and findings of peer review committees are confidential may not be used in a legal proceeding.

Health Facility Reporting Requirements

The task force received an update on various reporting requirements for health care facilities, including a demonstration of the Colorado Hospital Report Card and a briefing on required reports on hospital-acquired infections.

Colorado Hospital Report Card. The task force had a presentation from the Colorado Hospital Association (CHA) on the Colorado Hospital Report Card. The Colorado Hospital Report Card was established in House Bill 06-1278 and required public reporting of clinical outcomes and data for a wide range of quality improvement measures for hospitals. The Colorado Department of Public Health and Environment (CDPHE) has authority for oversight of the content of the hospital report card and the CHA is designated as the primary entity to administer the report card. CHA demonstrated how the hospital report card works and discussed other quality improvement measures that may be added to the report card in the future.

House Bill 08-1393 required the Commissioner of Insurance to work with the CHA to include in the hospital report card information about charges for the 25 most common inpatient procedures. The bill also required the task force to consider whether charge information for ambulatory surgical centers should be added to the hospital report card. Representatives of ambulatory surgical centers explained the differences in charges between hospitals and ambulatory surgical centers, and noted that the Colorado Ambulatory Surgery Center Association is working with the CHA on efforts related to cost transparency. The task force did not make any recommendations related to reporting of charges by ambulatory surgical centers.

Reporting of hospital-acquired infection rates. House Bill 06-1045 required health facilities to collect data on hospital-acquired infections and regularly report the data to the National Healthcare Safety Network. House Bill 06-1045 additionally required that individuals who collect data on hospital-acquired infections receive national certification for infection control. The task force heard testimony from ambulatory surgical center representatives who explained that maintaining certification requires approximately 800 hours of on-going training and experience in infection control. Current state law exempts hospitals with 50 beds or less from the certification requirements due to the size of these facilities. The representatives of the ambulatory surgical centers informed the task force that it is not feasible for a staff member collecting infection data to maintain his or her certification while employed at small facilities, such as ambulatory surgical centers and certified dialysis treatment centers. Thus, it is difficult for such facilities to employ the appropriate personnel to comply with the requirement.

Committee recommendation. In response to this testimony, the task force recommended Bill F, which exempts ambulatory surgical centers and certified dialysis treatment centers from the current requirement that individuals who collect infection data be certified.

Other Health-related Issues

Throughout the interim, the task force touched on a number of other health-related issues including an update from Cover Kids by 2010, advanced care directives, 2008 ballot initiatives concerning health care, and efforts to centralize eligibility for Medicaid and the Children's Basic Health Plan (CHP+).

Cover Kids by 2010. The task force also heard from the Cover Kids by 2010 initiative. The initiative's goal is to put in place policy goals that ensure health insurance coverage for all kids by 2010. Approximately 100,000 children in Colorado are eligible for CHP+, but are not enrolled. Initiative representatives spoke about the various barriers to enrollment, including lack of coordinating between Medicaid and CHP+, a complicated application process, and a difficult renewal process. Representatives stated that legislation passed in 2008 eased eligibility requirements for children to be enrolled in the program and spoke to legislation for the 2009 session designed to further reduce enrollment barriers.

Advance Care Directives. The task force heard from the Colorado Advance Directives Consortium regarding end of life directives. The Colorado Advance Directives Consortium was established to address a number of questions related to advance directives, including patient and family goals, ethical and legal considerations, the validity of end of life documents, and current and future considerations. Representatives from the Colorado Advance Directives Consortium stated they may pursue legislation during the 2009 legislative session to establish and implement a standardized end of life directive form.

2008 Ballot Initiatives. Two ballot initiatives — Amendment 51, Sales Tax Increase for Individuals with Developmentally Disabilities, and Amendment 56, Employer Responsibility Health Insurance — addressed health care issues in Colorado. The task force heard from the proponents of Amendment 51, which increases the states sales and use tax from 2.9 to 3.1 percent to fund services for individuals with developmental disabilities. Amendment 51 was not adopted by voters.

The task force also heard from the opponents and proponents of Amendment 56, which would have required employers with 20 or more employees to provide health insurance. Amendment 56 was withdrawn from the ballot by the proponents of the measure prior to the election.

Efforts to centralize eligibility for Medicaid and the Children's Basic Health Plan (CHP+). The task force heard from the DHCPF on efforts to create a centralized enrollment process for Medicaid and CHP+. The department's project goals are to simplify the process to apply for aid and reduce access barriers to health care for individuals. The department's first step for the project is to create a uniform business model to be implemented in all Colorado counties. The department also intends to create a website for individuals to access information and sign-up for Medicaid and CHP+ in one central location. The department stated that eligibility modernization will make auditing of Medicaid or CHP+ easier. Several members of the task force expressed concern regarding any changes to the Colorado Benefits Management System (CBMS) which is the program used by the state and county departments to determine eligibility for public assistance programs. Advocacy groups expressed that various policy changes and eligibility verification processes continue to create barriers for enrollment in public assistance programs.

No draft legislation was proposed by the task force with regard to these various health-related issues.

Summary of Recommendations

As a result of the committee's activities, the following bills are recommended to the Colorado General Assembly.

Bill A — Creation of the Behavioral Health Care Commission

Bill A creates a 27-member Behavioral Health Commission within the Department of Human Services to guide the development and implementation of an integrated behavioral health system in Colorado. Membership includes:

- Nine representatives in total are to be appointed from the Judicial Branch, the Executive Branch, and representatives with behavioral health knowledge from various state departments, such as the Departments of Corrections, Human Services, and Public Safety.
- Six members appointed by the Governor. These members include professional organizations that represent the mental health community, psychiatrists, a representative from a health care plan, and representatives from behavioral health organizations.
- Six members from the Senate and six member from the House of Representatives, appointed by the majority and minority leaders. These members include representatives of advocacy organizations, family members of individuals with behavioral health issues, county commissioners, and professionals who work with individuals with developmental disabilities who have co-occurring disorders.

The Behavioral Health Care Commission is charged to collaborate with various entities to create a system of financing to support long-term needs of individuals suffering from behavioral health issues, and to develop a comprehensive behavioral healthcare system. The commission is also charged with identifying federal and state funding barriers that preclude the state from addressing behavioral health needs. In addition, the bill requires that the commission coordinate with the Governor's Behavioral Health Coordinating Council in developing an integrated behavioral health system in Colorado. The commission must provide a report to the House and Senate Health and Human Services committees by January 30 of each year. The commission repeals July 1, 2019.

Bill B — Dental Services for Persons Participating in Certain State-funded Medical Services Programs

Currently, Colorado's Medicaid program does not include coverage for adult dental services. The Children's Basic Health Plan (CHP+) provides dental services up to an annual cap of $600 for children enrolled in the program, but does not include dental services for prenatal or postpartum women. Bill B adds adult dental services to services provided under Medicaid and to prenatal and postpartum care for pregnant women under the CHP+.

Bill C — Creation of an Accountability Board to Review Grievances Related to the Colorado Indigent Care Program

The Colorado Indigent Care Program (CICP) provides discounted health care services to low-income individuals at participating hospitals and clinics. CICP is not a health insurance program; rather the program distributes federal and state dollars to partially compensate participating providers who provide health care to the uninsured and underinsured with incomes at or below 250 percent of the FPL. Bill C establishes the Colorado Indigent Care Program Accountability Board within the DHCPF to review grievances concerning the administration of the CICP and the medical services provided under the program. The state medical services board must adopt rules establishing the accountability board, and create a process for selecting grievances for review and possible remedies. In cases where the accountability board determines that a grievance has merit, it must submit its findings and possible remedy to the DHCPF. The bill directs the DHCPF to either accept the remedy, or, if the department does not accept the remedy, provide a written statement as to why the remedy will not be pursued. The bill requires that the executive director of the DHCPF appoint a minimum of four people to the board. The board must include an advocate for the medically indigent, two medically indigent individuals, and a health care provider for the medically indigent. The accountability board must make quarterly reports to the DHCPF regarding the number of grievances reviewed by the board and their outcomes. The bill repeals in July 1, 2016.

Bill D — Electronic Prescriptions in the Medical Assistance Program

Bill D directs the DHCPF to study the feasability of using electronic prescriptions in the Medicaid program. The bill requires the DHCPF to study whether federal law permits incentives for e-prescriptions in Medicaid and if the state would realize any cost savings from implementing the program. The DHCPF is required to provide a report of its findings to the General Assembly by June 30, 2010.

Bill E — Professional Review of Health Care Providers

Currently, physicians may establish peer review committees to review incidents of inappropriate care. Bill E extends the peer review practice to other health care professionals to review and investigate the quality and appropriateness of patient care. Health care professionals that may participate in peer review include: podiatrists, chiropractors, dentists, dental hygienists, midwives, nurses, nursing home administrators, optometrists, occupational therapists, physical therapists, respiratory therapists, emergency medical technicians, social workers, physician assistants, nurse aides, psychiatric technicians, and psychologists. The bill also authorizes professional review committees to be formed by organizations and entities as defined in the bill. Such entities and organizations could include the medical staff of corporations, community clinics, rehabilitation centers, or community mental health centers. Associations of health care providers and individual practice associations or preferred provider organizations composed of at least 25 health care providers may also form professional review committees. Finally, the bill establishes confidentiality of proceedings and records of a professional review committee and ensures that participants in the professional review process are immune from liability if acting in good faith.

Bill F — Requirements for Individuals Who Collect Data on Hospital-acquired Infection Rates

Bill F exempts ambulatory surgical centers and certified dialysis treatment centers from the requirement that an individual who collects data on infection rates in such facilities be nationally certified, and instead requires the qualifications for these individuals to be met through on-going education, training, experience, or other certification.

Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-4900). The listing below contains the dates of committee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2008/08interim.htm

Meeting Date and Topics Discussed

August 1, 2008

- Health information technology
- Update on advanced practice nurse legislation
- Mental health care in Colorado
- Update on Cover Kids by 2010 initiative
- Triple Aim Quality Project

August 15, 2008

- Update on federal legislation concerning health care
- Demonstration of the Colorado Hospital Report Card
- Discussion regarding adding ambulatory surgical center charges to the Colorado Hospital Report Card
- Requirements for ambulatory surgical centers for infection reporting
- Overview of the small group health insurance market
- List billing

September 5, 2008

- Presentation from the Colorado Advance Directives Consortium
- Oral health care coverage in Medicaid and CHP+
- Efforts to centralize eligibility for Medicaid and CHP+
- Overview of Colorado's safety net providers
- Discussion of 2008 ballot initiatives concerning health care in Colorado
- Discussion of potential draft legislation

September 25, 2008

- Presentation from the Chronic Care Collaborative
- Medicare e-prescribing
- Public health in schools
- Administrative streamlining of Medicaid and CHP+

- Rural health care
- Advanced practice nurses and involuntary commitments for alcohol and drug abuse
- Update on health insurance legislation
- Discussion and approval of proposed committee legislation

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

BILL A

LLS NO. 09-0111.02 Kristen Forrestal **SENATE BILL**

SENATE SPONSORSHIP

Boyd, Morse

HOUSE SPONSORSHIP

Frangas, Green, Riesberg

Senate Committees **House Committees**

A BILL FOR AN ACT

CONCERNING THE CREATION OF THE BEHAVIORAL HEALTH COMMISSION FOR THE PURPOSE OF GUIDING THE DEVELOPMENT OF AN INTEGRATED BEHAVIORAL HEALTH SYSTEM IN COLORADO, AND, IN CONNECTION THEREWITH, REQUIRING A POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THIS ACT.

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. Creates the behavioral health commission (commission) within the department of human services for

the purpose of guiding the development and implementation of an integrated behavioral health system in Colorado. Requires the commission to exercise its powers and duties as if transferred by a **type 1** transfer. Requires members of the commission to include representatives of each executive department involved in behavioral health care services, a representative of the judicial branch, a representative from the governor's office, and members of the community involved in behavioral health issues.

Requires the commission to perform duties in order to implement a behavioral health system. Allows the commission to contract out services, develop and implement demonstration projects, and promulgate rules.

Repeals the commission on July 1, 2019.

Requires a post-enactment review of the implementation of the act.

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

SECTION 1. 24-1-120, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

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

(10) THE POWERS, DUTIES, AND FUNCTIONS OF THE BEHAVIORAL HEALTH COMMISSION, CREATED IN PART 5 OF ARTICLE 1 OF TITLE 26, C.R.S., ARE TRANSFERRED BY A **TYPE 1** TRANSFER TO THE DEPARTMENT OF HUMAN SERVICES.

SECTION 2. Article 1 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 5

BEHAVIORAL HEALTH COMMISSION

26-1-501. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

(a) BEHAVIORAL HEALTH IS INTEGRAL TO OVERALL HEALTH CARE;

(b) THERE IS NO SINGLE BEHAVIORAL HEALTH SYSTEM IN COLORADO, LEAVING CONSUMERS WITH BEHAVIORAL HEALTH DISORDERS

AND THEIR FAMILIES TO RELY ON RECEIVING SERVICES FROM A NUMBER OF PUBLIC SYSTEMS, INCLUDING BEHAVIORAL HEALTH, CHILD WELFARE, JUVENILE AND CRIMINAL JUSTICE, EDUCATION, HIGHER EDUCATION, AND OTHERS;

(c) ADULT, YOUTH, AND CHILD CONSUMERS AND THEIR FAMILIES NEED QUALITY BEHAVIORAL HEALTH CARE THAT IS INDIVIDUALIZED AND COORDINATED TO MEET THEIR CHANGING NEEDS THROUGH A COMPREHENSIVE, INTEGRATED SYSTEM;

(d) TIMELY ACCESS THROUGH MULTIPLE POINTS OF ENTRY TO A FULL CONTINUUM OF CULTURALLY RESPONSIVE SERVICES, INCLUDING PREVENTION, EARLY INTERVENTION, CRISIS RESPONSE, TREATMENT, AND RECOVERY IS NEEDED IN AN INTEGRATED SYSTEM;

(e) THE INDEPENDENT PROCESSES THAT EACH COLORADO DEPARTMENT UNDERTAKES TO CREATE SEPARATE BUDGET REQUESTS TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY RESULTS IN COMPETITION FOR DOLLARS TO OVERSEE AND PROVIDE BEHAVIORAL HEALTH SERVICES AND LEADS TO FURTHER FRAGMENTATION OF THE BEHAVIORAL HEALTH SYSTEM;

(f) STATE-LEVEL LEADERSHIP SUPPORTING AN INTEGRATED BEHAVIORAL HEALTH SYSTEM HELPS TO ENSURE THAT THE SYSTEM IS STREAMLINED AND COST-EFFECTIVE AND THAT FUNDING IS MAXIMIZED;

(g) THE USE OF EVIDENCE-BASED AND PROMISING PRACTICES, WHEN POSSIBLE, RESULTS IN FAVORABLE OUTCOMES FOR COLORADO'S ADULT, YOUTH, AND CHILD CONSUMERS AND THEIR FAMILIES AND THE COMMUNITIES IN WHICH THEY LIVE; AND

(h) LACK OF PUBLIC AWARENESS REGARDING BEHAVIORAL HEALTH ISSUES CREATES A NEED FOR PUBLIC EDUCATION TO EMPHASIZE THE

IMPORTANCE OF BEHAVIORAL HEALTH AS PART OF OVERALL HEALTH AND WELLNESS AND TO CREATE THE WILL TO INVEST IN AND SUPPORT AN INTEGRATED BEHAVIORAL HEALTH SYSTEM IN COLORADO.

(2) THE GENERAL ASSEMBLY THEREFORE DETERMINES THAT IT IS IN THE BEST INTEREST OF THE STATE TO CREATE A BEHAVIORAL HEALTH COMMISSION TO ANALYZE, GUIDE, DEVELOP, AND IMPLEMENT AN INTEGRATED BEHAVIORAL HEALTH SYSTEM IN COLORADO.

(3) THE GENERAL ASSEMBLY FURTHER DETERMINES THAT IN ORDER TO ENSURE THE PROPER IMPLEMENTATION OF THE INTENT OF THE GENERAL ASSEMBLY AND THE BEHAVIORAL HEALTH COMMISSION AND ITS DUTIES AS SET FORTH IN THIS PART 5, THE LEGISLATIVE SERVICE AGENCIES OF THE GENERAL ASSEMBLY SHALL CONDUCT A POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THIS PART 5 IN ACCORDANCE WITH SECTION 2-2-1201, C.R.S.

26-1-502. Definitions. AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BEHAVIORAL HEALTH" MEANS AN INTEGRATED APPROACH TO MENTAL HEALTH AND SUBSTANCE USE CARE.

(2) "BLEND" MEANS TO COMBINE REVENUES INTO A SINGLE POOL FROM WHICH THEY CAN BE ALLOCATED TO PROVIDERS WITHOUT DISCERNING THEIR SOURCE AND SPECIFIC REQUIREMENTS.

(3) "BRAID" MEANS TO USE REVENUES FROM VARIOUS SOURCES TO PAY FOR A SERVICE PACKAGE WHERE THE TRACKING AND ACCOUNTABILITY FOR EACH POT OF MONEY IS MAINTAINED AT THE ADMINISTRATIVE LEVEL.

(4) "COMMISSION" MEANS THE BEHAVIORAL HEALTH COMMISSION CREATED IN SECTION 26-1-503.

26-1-503. Behavioral health commission - creation - members - appointment. (1) (a) THERE IS HEREBY CREATED WITHIN THE DEPARTMENT OF HUMAN SERVICES THE BEHAVIORAL HEALTH COMMISSION, THE HEAD OF WHICH SHALL BE THE CHAIR OF THE COMMISSION. THE CHAIR OF THE COMMISSION SHALL BE APPOINTED AND ASSISTED BY THE MEMBERS OF THE COMMISSION. THE COMMISSION SHALL EXERCISE ITS POWERS AND DUTIES AS IF TRANSFERRED BY A **TYPE 1** TRANSFER.

(b) THE PURPOSE OF THE COMMISSION IS TO DEVELOP AND IMPLEMENT A SET OF SHARED OUTCOMES ACROSS KEY SYSTEMS TO ENABLE JOINT ACCOUNTABILITY AND TO IMPROVE THE LIVES OF PERSONS IN COLORADO WITH BEHAVIORAL HEALTH ISSUES, THEIR FAMILIES, AND THE COMMUNITIES IN WHICH THEY LIVE.

(2) THE COMMISSION SHALL CONSIST OF TWENTY-SEVEN MEMBERS TO BE APPOINTED, ON OR BEFORE SEPTEMBER 1, 2009, AS FOLLOWS:

(a) A REPRESENTATIVE OF THE JUDICIAL BRANCH OF GOVERNMENT TO BE APPOINTED BY THE CHIEF JUSTICE OF THE SUPREME COURT;

(b) A REPRESENTATIVE OF THE GOVERNOR'S OFFICE TO BE APPOINTED BY THE GOVERNOR;

(c) A REPRESENTATIVE WITH SPECIALIZED INVOLVEMENT IN BEHAVIORAL HEALTH SERVICES AND FUNDING FROM EACH OF THE FOLLOWING DEPARTMENTS, WHO SHALL BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT:

(I) THE DEPARTMENT OF CORRECTIONS;

(II) THE DEPARTMENT OF EDUCATION;

(III) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING;

(IV) THE DEPARTMENT OF HUMAN SERVICES;

(V) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT; AND

(VI) THE DEPARTMENT OF PUBLIC SAFETY;

(d) A REPRESENTATIVE OF THE DEPARTMENT OF LAW APPOINTED BY THE ATTORNEY GENERAL;

(e) A REPRESENTATIVE OF EACH OF THE FOLLOWING, TO BE APPOINTED BY THE GOVERNOR:

(I) HEALTH PLANS;

(II) THE MEMBERSHIP ORGANIZATION REPRESENTING COLORADO'S COMMUNITY MENTAL HEALTH CENTERS;

(III) PSYCHIATRISTS;

(IV) BEHAVIORAL HEALTH ORGANIZATIONS;

(V) BEHAVIORAL HEALTH PROFESSIONAL ASSOCIATIONS; AND

(VI) A CONSUMER ADVOCACY ORGANIZATION;

(f) A REPRESENTATIVE OF EACH OF THE FOLLOWING, TO BE APPOINTED JOINTLY BY THE MAJORITY LEADER OF THE SENATE AND THE MAJORITY LEADER OF THE HOUSE OF REPRESENTATIVES:

(I) CONSUMERS IN URBAN AREAS OF COLORADO;

(II) CONSUMERS IN RURAL AREAS OF COLORADO;

(III) THE MEMBERSHIP ORGANIZATION REPRESENTING COLORADO'S SUBSTANCE ABUSE PROVIDERS;

(IV) A STATEWIDE FAMILY ORGANIZATION;

(V) COUNTY COMMISSIONERS IN COLORADO; AND

(VI) A VETERANS SERVICE ORGANIZATION WITH EXPERIENCE WORKING WITH VETERANS WITH SUBSTANCE ABUSE AND MENTAL HEALTH DISORDERS;

(g) A REPRESENTATIVE OF EACH OF THE FOLLOWING, TO BE APPOINTED JOINTLY BY THE MINORITY LEADER OF THE SENATE AND THE

MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES:

(I) AN ASSOCIATION REPRESENTING PHYSICIANS;

(II) AN ASSOCIATION REPRESENTING COMMUNITY HEALTH CENTERS;

(III) A MENTAL HEALTH ADVOCACY ORGANIZATION;

(IV) A SUBSTANCE ABUSE ADVOCACY ORGANIZATION;

(V) A STATEWIDE ASSOCIATION OF PSYCHOLOGISTS OR LICENSED CLINICAL SOCIAL WORKERS; AND

(VI) PROFESSIONALS WHO WORK WITH INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES WHO ALSO HAVE CO-OCCURRING DISORDERS.

(3) ALL MEMBERS OF THE COMMISSION SHALL BE PAID NECESSARY TRAVEL EXPENSES, AND MEMBERS OF THE COMMISSION WHO ARE NOT EMPLOYED BY THE STATE SHALL BE PAID A REASONABLE PER DIEM AND EXPENSES.

26-1-504. Behavioral health commission - powers and duties - rules. (1) THE COMMISSION SHALL:

(a) DEVELOP AND IMPLEMENT A SET OF SHARED OUTCOMES ACROSS KEY SYSTEMS TO ENABLE JOINT ACCOUNTABILITY;

(b) IDENTIFY AND IMPLEMENT CROSS-SYSTEM COLLABORATIONS AND JOINT FINANCING STRATEGIES AT THE STATE AND LOCAL LEVEL WITH THE GOAL OF ALLOWING ACCESS TO A FULL CONTINUUM OF APPROPRIATE AND TIMELY BEHAVIORAL HEALTH SERVICES;

(c) EXTEND THE USE OF JOINT AUDITING ACROSS SYSTEMS THAT COULD INCLUDE FISCAL OR PROGRAMMATIC AUDITS, TAKING INTO CONSIDERATION THAT EACH SYSTEM HAS DIFFERENT CONTRACTUAL REPORTING REQUIREMENTS TO STATE, FEDERAL, AND OTHER FUNDING

SOURCES;

(d) DESIGN AND IMPLEMENT A MULTI-YEAR JOINT BUDGET AND STRATEGIC PLANNING PROCESS ACROSS DEPARTMENTS TO SUPPORT LONG-TERM AND CROSS-SYSTEM NEEDS;

(e) ADDRESS THE BARRIERS CREATED BY STATE AND FEDERAL FUNDING REQUIREMENTS;

(f) DEVELOP AND IMPLEMENT A FINANCING REFORM PLAN AND STRUCTURE THAT SUPPORTS THE FULL CONTINUUM OF BEHAVIORAL HEALTH SERVICES STATEWIDE, MINIMIZES THE BARRIERS AND EFFECTS OF FUNDING SILOS, MAXIMIZES THE USE OF CROSS-SYSTEM FUNDING, REDUCES BARRIERS THAT CURRENTLY HINDER THE STATE'S ABILITY TO BRAID AND BLEND FUNDING SOURCES, AND RECOGNIZES THAT NEW AND ADDITIONAL FUNDING WILL BE NEEDED, AS WELL AS LOOKING AT SHIFTING EXISTING FUNDING, FOR THE PLANNING AND INITIAL STAGES OF IMPLEMENTATION;

(g) MAKE LEGISLATIVE RECOMMENDATIONS TO THE GENERAL ASSEMBLY REGARDING STATE GENERAL FUNDS THAT ARE SAVED BY IMPLEMENTING A COLLABORATIVE SYSTEM AT THE LOCAL AND STATE LEVEL TO ENSURE THAT THE SAVINGS ARE REINVESTED IN BEHAVIORAL HEALTH TO PROVIDE SERVICES TO PEOPLE WHO ARE UNINSURED IN THAT LOCAL REGION OR COMMUNITY;

(h) WITH OTHER APPROPRIATE PARTNERS, SUCH AS THE OFFICE OF INFORMATION TECHNOLOGY CREATED IN SECTION 24-37.5-103, C.R.S., INVESTIGATE AND DEVELOP RECOMMENDATIONS FOR UTILIZATION OF AN ELECTRONIC, CROSS-SYSTEM DATA COLLECTION, SHARING, AND EVALUATION SYSTEM;

(i) DEVELOP AND IMPLEMENT CULTURAL COMPETENCY STANDARDS, DEFINITIONS, AND REQUIREMENTS, INCLUDING TRAINING AND

REPORTING, TO PROVIDE EQUITABLE TREATMENT OF CULTURALLY DIVERSE ADULT, YOUTH, AND CHILD CONSUMERS WITH BEHAVIORAL HEALTH ISSUES AND THEIR FAMILIES;

(j) DEVELOP AND IMPLEMENT STANDARDS FOR THE MEANINGFUL INVOLVEMENT OF ADULT, YOUTH, AND CHILD CONSUMERS AND THEIR FAMILIES AT BOTH THE SYSTEM AND SERVICE DELIVERY LEVELS AND ADDRESS BARRIERS TO INVOLVEMENT, SUCH AS REIMBURSEMENT FOR TRAVEL AND OTHER EXPENSES RELATED TO PARTICIPATING IN POLICY-MAKING EFFORTS;

(k) DEVELOP AND MAINTAIN A PLAN TO ENSURE WORK FORCE CAPACITY TO MEET THE BEHAVIORAL HEALTH NEEDS OF COLORADANS ACROSS THE STATE THAT INCLUDES, BUT IS NOT LIMITED TO, CONSIDERATION OF STANDARDS FOR CO-OCCURRING DISORDER TRAINING CURRICULA AND CROSS-TRAINING ON MENTAL HEALTH AND SUBSTANCE ABUSE, THE USE OF TELEMEDICINE, THE AVAILABILITY OF CONSULTATION SERVICES FOR PRIMARY CARE PHYSICIANS, ADDRESSING COMPENSATION LEVELS, AND PROVIDING TUITION REIMBURSEMENT FOR NEEDED BEHAVIORAL HEALTH SPECIALISTS IN UNDERSERVED AREAS OF THE STATE; AND

(l) COORDINATE WITH THE COLORADO GOVERNOR'S BEHAVIORAL HEALTH COORDINATING COUNCIL AND OTHER BEHAVIORAL HEALTH ORGANIZATIONS DEEMED APPROPRIATE BY THE COMMISSION.

(2) (a) THE COMMISSION MAY CONTRACT OUT SERVICES IN ORDER TO IMPLEMENT THE PROVISIONS OF THIS PART 5.

(b) THE COMMISSION MAY DEVELOP AND IMPLEMENT DEMONSTRATION PROJECTS IN ORDER TO CARRY OUT ITS DUTIES PURSUANT TO THIS PART 5.

(3) IN CARRYING OUT ITS DUTIES, THE COMMISSION SHALL CONSULT THE JANUARY 2008 REPORT OF THE BEHAVIORAL HEALTH INTERIM TASK FORCE CREATED BY HOUSE JOINT RESOLUTION 07-1050; THE MAY 2008 REPORT TITLED "TRANSFORMING COLORADO'S BEHAVIORAL HEALTH SYSTEM" FROM THE COLORADO BEHAVIORAL HEALTHCARE COUNCIL AND THE COLORADO ASSOCIATION OF ALCOHOL AND DRUG SERVICE PROVIDERS; THE STUDIES AND WORK PRODUCT OF THE COLORADO PREVENTION LEADERSHIP COUNCIL, COLORADO LINKS FOR MENTAL HEALTH, AND THE CENTER FOR SYSTEMS INTEGRATION; AND ANY OTHER MATERIAL DEEMED NECESSARY BY THE COMMISSION FOR BACKGROUND AND GUIDANCE.

(4) THE COMMISSION MAY PROMULGATE RULES AS NECESSARY TO IMPLEMENT THIS PART 5 PURSUANT TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S. THE RULES MAY INCLUDE, BUT SHALL NOT BE LIMITED TO, RULES REGARDING AN INTEGRATED BEHAVIORAL HEALTH SYSTEM.

(5) ON OR BEFORE JANUARY 30 OF EACH YEAR, THE COMMISSION SHALL REPORT ITS PROGRESS AND FINDINGS TO THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OR THEIR SUCCESSOR COMMITTEES. THE FIRST REPORT TO THE COMMITTEES SHALL INCLUDE TIMELINES FOR IMPLEMENTING THE DUTIES OF THE COMMISSION.

26-1-505. Repeal. THIS PART 5 IS REPEALED, EFFECTIVE JULY 1, 2019. PRIOR TO SUCH REPEAL, THE COMMISSION SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

SECTION 3. 24-34-104 (50), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (50) The following agencies, functions, or both, shall terminate on July 1, 2019:

(c) THE BEHAVIORAL HEALTH COMMISSION CREATED IN PART 5 OF ARTICLE 1 OF TITLE 26, C.R.S.

SECTION 4. Accountability. Five years after this act becomes law and in accordance with section 2-2-1201, Colorado Revised Statutes, the legislative service agencies of the Colorado general assembly shall conduct a post-enactment review of the implementation of this act using information contained in the legislative declaration in section 2 of this act.

SECTION 5. Effective date. This act shall take effect July 1, 2009.

SECTION 6. 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.

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

BILL B

LLS NO. 09-0144.01 Brita Darling **SENATE BILL**

SENATE SPONSORSHIP

Boyd, Morse

HOUSE SPONSORSHIP

Massey, Frangas, Green, Riesberg

Senate Committees **House Committees**

A BILL FOR AN ACT

CONCERNING DENTAL SERVICES FOR PERSONS PARTICIPATING IN CERTAIN STATE-FUNDED MEDICAL SERVICES PROGRAMS.

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. Adds adult dental services to optional services provided under the "Colorado Medical Assistance Act". Allows the medical services board to adopt rules specifying the particular dental services that will be provided.

Adds dental services to prenatal and postpartum care for pregnant women under the "Children's Basic Health Plan Act".

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

SECTION 1. 25.5-5-202 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25.5-5-202. Basic services for the categorically needy - optional services - repeal. (1) Subject to the provisions of subsection (2) of this section, the following are services for which federal financial participation is available and which Colorado has selected to provide as optional services under the medical assistance program:

(u) DENTAL SERVICES.

SECTION 2. Part 3 of article 5 of title 25.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25.5-5-322. Dental services. THE MEDICAL SERVICES PROGRAM IN THIS STATE SHALL INCLUDE THE PROVISION OF CERTAIN DENTAL SERVICES FOR PREVENTION AND WELLNESS. DENTAL SERVICES SHALL BE PROVIDED IN ACCORDANCE WITH RULES ADOPTED BY THE STATE BOARD.

SECTION 3. 25.5-8-107 (1) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

25.5-8-107. Duties of the department - schedule of services - premiums - copayments - subsidies. (1) In addition to any other duties pursuant to this article, the department shall have the following duties:

(a) (IV) IN ADDITION TO THE ITEMS SPECIFIED IN SUBPARAGRAPHS (I) TO (III) OF THIS PARAGRAPH (a) AND ANY ADDITIONAL ITEMS APPROVED BY THE STATE BOARD, THE STATE BOARD SHALL INCLUDE PRENATAL AND POSTPARTUM DENTAL SERVICES FOR PREGNANT WOMEN IN ITS SCHEDULE OF HEALTH CARE SERVICES.

SECTION 4. Effective date. This act shall take effect July 1, 2009.

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.

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

BILL C

LLS NO. 09-0145.01 Brita Darling **HOUSE BILL**

HOUSE SPONSORSHIP

Frangas,

SENATE SPONSORSHIP

(None),

House Committees **Senate Committees**

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A BILL FOR AN ACT

CONCERNING THE CREATION OF AN ACCOUNTABILITY BOARD TO REVIEW GRIEVANCES RELATED TO THE COLORADO INDIGENT CARE PROGRAM.

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. Creates an accountability board ("board") in the department of health care policy and financing ("state department") to review grievances concerning the administration of the Colorado indigent care program ("program") and the medical services provided under the program.

Requires the medical services board to adopt rules for the

administration of the board and the process by which the board will review selected grievances. Requires the rules to include possible remedies that the board may recommend to the state department for resolution of a grievance.

Requires the board to refer any report of malfeasance or of the misuse or abuse of funds to the executive director of the state department, who shall notify the appropriate supervisory or regulatory authority.

Requires the executive director of the state department to appoint members to the board. Provides that members of the board shall serve without compensation.

Allows the board to review grievances relating to the need for, type, or quality of medical services provided to medically indigent persons under the program.

Requires the board to report quarterly, in writing, concerning the nature of grievances reviewed and the recommendation of the board.

Repeals the statute creating the board.

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

SECTION 1. Part 1 of article 3 of title 25.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25.5-3-108.5. Colorado indigent care program accountability board - legislative declaration - creation - rules - duties - repeal. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT COLORADO HAS LIMITED ECONOMIC RESOURCES AVAILABLE TO MEET THE SIGNIFICANT NEED FOR MEDICAL SERVICES THAT EXISTS IN OUR COMMUNITIES. ACCORDINGLY, COLORADO HAS AN OBLIGATION TO MONITOR STATE-FUNDED HEALTH CARE PROGRAMS TO ENSURE THAT QUALITY CARE IS BEING PROVIDED AND RESOURCES ARE NOT LOST TO WASTE, FRAUD, NEGLECT, INDIFFERENCE, OR ABUSE. BY CREATING AN ACCOUNTABILITY BOARD AS PART OF THE COLORADO INDIGENT CARE PROGRAM, THE STATE MAY BETTER MONITOR THE INTENDED CARE THAT PROVIDERS HAVE A DUTY TO PROVIDE UNDER THE PROGRAM AND THAT

HAS BEEN PAID FOR WITH TAXPAYERS' MONEY. MOREOVER, MEDICALLY INDIGENT PERSONS RECEIVING CARE UNDER THE PROGRAM SHOULD HAVE A VOICE IN HELPING TO ENSURE THAT THE PROGRAM IS PROVIDING THE TYPE OF MEDICAL CARE AND THE QUALITY OF MEDICAL CARE THAT THE PROGRAM IS INTENDED TO PROVIDE.

(2) THERE IS HEREBY CREATED IN THE STATE DEPARTMENT THE COLORADO INDIGENT CARE PROGRAM ACCOUNTABILITY BOARD, REFERRED TO IN THIS SECTION AS THE "BOARD", TO REVIEW SELECTED GRIEVANCES SUBMITTED BY MEDICALLY INDIGENT PERSONS WHO HAVE RECEIVED OR ARE RECEIVING MEDICAL SERVICES PURSUANT TO THIS PART 1.

(3) (a) THE MEDICAL SERVICES BOARD SHALL ADOPT RULES FOR THE CREATION AND ADMINISTRATION OF THE BOARD AND THE PROCESS FOR REVIEWING GRIEVANCES. THE RULES SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

(I) THE REQUIREMENT THAT THE BOARD REFER ANY REPORT OF MALFEASANCE OR OF THE MISUSE OR ABUSE OF FUNDS TO THE EXECUTIVE DIRECTOR, WHO SHALL NOTIFY THE APPROPRIATE SUPERVISORY OR REGULATORY AUTHORITY OF THE REPORT;

(II) THE METHOD FOR SUBMITTING GRIEVANCES;

(III) THE CRITERIA FOR SELECTING GRIEVANCES FOR REVIEW BY THE BOARD, INCLUDING GRADUATED LEVELS OF REVIEW, IF NECESSARY;

(IV) THE PROCESS FOR ENSURING THAT THE BOARD IS PRESENTED WITH ALL OF THE FACTS RELATED TO A GRIEVANCE AND THAT ALL INTERESTED PARTIES HAVE THE OPPORTUNITY TO BE HEARD CONCERNING THE GRIEVANCE; AND

(V) THE REMEDIES THAT THE BOARD MAY RECOMMEND TO THE STATE DEPARTMENT IF THE BOARD FINDS THAT A GRIEVANCE HAS MERIT

OR THAT RESOLUTION OF THE GRIEVANCE IS WARRANTED. THE REMEDIES MAY INCLUDE, BUT ARE NOT LIMITED TO:

(A) A MANDATORY SECOND OPINION OF A DIAGNOSIS BY A DIFFERENT MEDICAL SERVICES PROVIDER;

(B) THE TRANSFER OF THE MEDICALLY INDIGENT PERSON INTO THE CARE OF A DIFFERENT MEDICAL SERVICES PROVIDER;

(C) THE TREATMENT OF THE MEDICALLY INDIGENT PERSON BY A PRIVATE MEDICAL SERVICES PROVIDER; OR

(D) THE REQUIREMENT THAT THE MEDICAL SERVICES PROVIDER ATTEND MEDIATION WITH THE MEDICALLY INDIGENT PERSON OR HIS OR HER REPRESENTATIVE.

(b) A RECOMMENDATION BY THE BOARD CONCERNING A POSSIBLE REMEDY OR RESOLUTION OF A GRIEVANCE SHALL BE TRANSMITTED TO THE STATE DEPARTMENT WITHIN TEN BUSINESS DAYS FOLLOWING THE BOARD MEETING AT WHICH THE RECOMMENDATION IS MADE.

(4) IF THE STATE DEPARTMENT DOES NOT FOLLOW THE RECOMMENDATIONS OF THE BOARD REGARDING APPROPRIATE REMEDIES FOR RESOLVING THE GRIEVANCE, THE STATE DEPARTMENT SHALL NOTIFY THE MEDICAL SERVICES BOARD, THE BOARD, AND THE PERSON FILING THE GRIEVANCE, IN WRITING, OF THE STATE DEPARTMENT'S REASONS FOR NOT FOLLOWING THE BOARD'S RECOMMENDATIONS.

(5) (a) ON OR BEFORE OCTOBER 1, 2009, THE EXECUTIVE DIRECTOR SHALL APPOINT THE MEMBERS OF THE BOARD, WHICH SHALL INCLUDE BUT NEED NOT BE LIMITED TO AN ADVOCATE FOR THE MEDICALLY INDIGENT, A PROVIDER OF MEDICAL SERVICES FOR THE MEDICALLY INDIGENT PURSUANT TO THIS PART 1 WHO HAS EXPERTISE IN COMMUNITY STANDARDS OF CARE, AND TWO MEDICALLY INDIGENT PERSONS WHO, AT

THE TIME OF THEIR APPOINTMENT TO THE BOARD, HAVE RECEIVED MEDICAL SERVICES PURSUANT TO THIS PART 1 WITHIN THE PAST TWENTY-FOUR MONTHS.

(b) MEMBERS OF THE BOARD SHALL SERVE TWO-YEAR TERMS; EXCEPT THAT, OF THE MEMBERS INITIALLY APPOINTED, HALF SHALL SERVE ONE-YEAR TERMS.

(c) MEMBERS OF THE BOARD SHALL NOT RECEIVE COMPENSATION BUT MAY RECEIVE REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE CONDUCT OF THE OFFICIAL BUSINESS OF THE BOARD.

(d) THE EXECUTIVE DIRECTOR SHALL CONVENE THE FIRST MEETING OF THE BOARD. AT ITS FIRST MEETING AND ANNUALLY THEREAFTER, THE BOARD SHALL SELECT FROM AMONG ITS MEMBERS PERSONS TO SERVE AS PRESIDENT, VICE-PRESIDENT, AND ANY OTHER NECESSARY BOARD OFFICERS. THEREAFTER, THE BOARD SHALL MEET AS NECESSARY UPON THE CALL OF THE PRESIDENT TO REVIEW SELECTED GRIEVANCES BUT SHALL MEET NOT LESS THAN ONCE EVERY THREE MONTHS.

(6) THE STATE DEPARTMENT SHALL PROVIDE ADMINISTRATIVE SUPPORT TO THE BOARD.

(7) THE GRIEVANCES REVIEWED BY THE BOARD SHALL RELATE TO THE NEED FOR, TYPE, OR QUALITY OF THE MEDICAL SERVICES PROVIDED TO A MEDICALLY INDIGENT PERSON.

(8) THE BOARD SHALL HAVE NO AUTHORITY OVER THE STATE DEPARTMENT'S ADMINISTRATION OF MEDICAL SERVICES PURSUANT TO THIS PART 1 OR THE REIMBURSEMENT OF MEDICAL SERVICES PURSUANT TO THIS PART 1 BUT MAY MAKE RECOMMENDATIONS TO THE STATE DEPARTMENT CONCERNING THESE ISSUES.

(9) THE BOARD SHALL FILE A SUMMARY REPORT WITH THE STATE DEPARTMENT ON A QUARTERLY BASIS CONCERNING THE NATURE OF THE GRIEVANCES REVIEWED BY THE BOARD AND THE BOARD'S RECOMMENDATIONS CONCERNING THE GRIEVANCES.

(10) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016. PRIOR TO THE REPEAL, THE BOARD SHALL BE REVIEWED AS PROVIDED IN SECTION 2-3-1203 (3), C.R.S.

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

(cc) July 1, 2016:

(III) THE COLORADO INDIGENT CARE PROGRAM ACCOUNTABILITY BOARD CREATED IN SECTION 25.5-3-108.5, C.R.S.;

SECTION 3. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 4, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

BILL D

LLS NO. 09-0146.01 Jerry Barry **HOUSE BILL**

HOUSE SPONSORSHIP

Massey, Frangas, Kerr J., Riesberg

SENATE SPONSORSHIP

Boyd and Kopp, Morse

A BILL FOR AN ACT

CONCERNING ELECTRONIC PRESCRIPTIONS IN THE MEDICAL ASSISTANCE PROGRAM.

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. Directs the department of health care policy and financing to study and report to the health and human services committees of the general assembly on the ability and feasability of using electronic prescriptions in the medical assistance program.

Repeals the statute authorizing the study.

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

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

SECTION 1. Part 5 of article 5 of title 25.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25.5-5-508. Electronic prescriptions - study - report - repeal. (1) THE STATE DEPARTMENT SHALL STUDY THE FEASABILITY AND ADVISABILITY OF THE USE OF ELECTRONIC PRESCRIPTIONS, REFERRED TO IN THIS SECTION AS "E-PRESCRIPTIONS", IN THE MEDICAL ASSISTANCE PROGRAM CONSISTENT WITH FEDERAL REGULATIONS. ON OR BEFORE JUNE 30, 2010, THE STATE DEPARTMENT SHALL SUBMIT A REPORT ON ITS STUDY TO THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE GENERAL ASSEMBLY, OR ANY SUCCESSOR COMMITTEES. THE REPORT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

(a) WHETHER FEDERAL LAW WOULD PERMIT INCENTIVES FOR E-PRESCRIPTIONS;

(b) WHETHER THE STATE WOULD REALIZE A COST SAVINGS THROUGH THE USE OF E-PRESCRIPTIONS; AND

(c) WHETHER ANY ADDITIONAL LEGISLATION IS NECESSARY FOR THE USE OF E-PRESCRIPTIONS OR THE IMPLEMENTATION OF INCENTIVES FOR E PRESCRIPTIONS.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2010.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 4, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item,

section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

BILL E

LLS NO. 09-0150.01 Christy Chase **SENATE BILL**

SENATE SPONSORSHIP

Morse and Kopp, Boyd

HOUSE SPONSORSHIP

Frangas and Massey, Riesberg

Senate Committees **House Committees**

A BILL FOR AN ACT

101 **CONCERNING PROFESSIONAL REVIEW OF HEALTH CARE PROVIDERS.**

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. Authorizes the creation of professional review committees to review and investigate the quality and appropriateness of patient care provided by and the professional conduct of health care providers engaged in specified health care professions. Defines "health care profession" as:

- The practice of podiatry, chiropractic, dentistry, dental hygiene, midwifery, nursing, nursing home administration, optometry, occupational therapy, physical therapy, respiratory therapy, or psychology; or

- Practice as an emergency medical technician, physician assistant, nurse aide, or psychiatric technician.

Authorizes professional review committees to be formed by the following organizations, entities, or professional societies:

- The medical staff of a corporation or other entity that employs health care providers to provide care to patients;
- The medical staff of a community clinic, rehabilitation center, convalescent center, community mental health center, acute treatment unit, facility for persons with developmental disabilities, habilitation center for brain-damaged children, chiropractic center, nursing care facility, pilot project rehabilitative nursing facility, hospice care, assisted living residence, dialysis treatment clinic, ambulatory surgical center, birthing center, or home care agency, that is licensed by the department of public health and environment;
- A society or association of health care providers whose membership includes not less than 1/3 of the health care providers engaged in the particular health care profession and residing in this state, if the health care provider whose services are the subject of the review is a member of the society or association;
- A society or association of health care providers authorized to practice and residing in this state and specializing in a specific discipline of their health care profession, if the health care provider whose services are the subject of the review is a member of the specialty society or association;
- An individual practice association or a preferred provider organization composed of at least 25 health care providers or a medical group that predominantly serves members of a health maintenance organization;
- A corporation authorized to insure health care providers in this state when so designated by a regulatory entity;
- Governing boards of any entity that has a professional review committee;
- Any peer review committee established or created by a combination or pooling of any of the organizations authorized by this section to have a professional review committee.

Establishes confidentiality of proceedings and records of a professional review committee. Makes participants in the professional review process immune from liability if they acted in good faith.

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

SECTION 1. 12-29.1-101, Colorado Revised Statutes, is amended to read:

12-29.1-101. Legislative declaration. The general assembly hereby finds and declares that the proper practice of ~~the healing arts~~ HEALTH CARE professions requires the supervision and discipline of licensed, ~~practitioners~~ CERTIFIED, OR REGISTERED HEALTH CARE PROVIDERS for the benefit of the public, and, to this end, the ~~licensing boards~~ REGULATORY ENTITIES and their duly constituted professional review committees shall have the power, duty, and responsibility to conduct proceedings to determine facts so that the ~~boards~~ REGULATORY ENTITIES may invoke discipline fairly and progressively where required, and that such proceedings shall accommodate the requirements of full professional and technical disclosure, as well as due process of law for the ~~licensee~~ HEALTH CARE PROVIDER under investigation.

SECTION 2. Article 29.1 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

12-29.1-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BOARD" MEANS A REGULATORY BOARD ESTABLISHED PURSUANT TO THIS TITLE TO REGULATE A PARTICULAR HEALTH CARE PROFESSION AND THE STATE BOARD OF HEALTH CREATED PURSUANT TO SECTION 25-1-103, C.R.S.

(2) "GOVERNING BOARD" MEANS ANY BOARD, BOARD OF TRUSTEES, GOVERNING BOARD, OR OTHER BODY, OR DULY AUTHORIZED SUBCOMMITTEE THEREOF, OF ANY ORGANIZATION OF HEALTH CARE PROVIDERS, WHICH BOARD OR BODY HAS FINAL AUTHORITY PURSUANT TO

SUCH ORGANIZATION'S WRITTEN BYLAWS, POLICIES, OR PROCEDURES TO TAKE FINAL ACTION REGARDING THE RECOMMENDATIONS OF ANY AUTHORIZED PROFESSIONAL REVIEW COMMITTEE.

(3) "HEALTH CARE PRACTICE" OR "HEALTH CARE PROFESSION" MEANS:

(a) PRACTICE AS AN EMERGENCY MEDICAL TECHNICIAN, PHYSICIAN ASSISTANT, NURSE AIDE, OR PSYCHIATRIC TECHNICIAN; OR

(b) THE PRACTICE OF PODIATRY, CHIROPRACTIC, DENTISTRY, DENTAL HYGIENE, MIDWIFERY, NURSING, NURSING HOME ADMINISTRATION, OPTOMETRY, OCCUPATIONAL THERAPY, PHYSICAL THERAPY, RESPIRATORY THERAPY, OR PSYCHOLOGY.

(4) "HEALTH CARE PROVIDER" MEANS THE FOLLOWING:

(a) EMERGENCY MEDICAL TECHNICIANS LICENSED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO PART 2 OF ARTICLE 3.5 OF TITLE 25, C.R.S.;

(b) PODIATRISTS LICENSED BY THE COLORADO PODIATRY BOARD PURSUANT TO ARTICLE 32 OF THIS TITLE;

(c) CHIROPRACTORS LICENSED BY THE STATE BOARD OF CHIROPRACTIC EXAMINERS PURSUANT TO ARTICLE 33 OF THIS TITLE;

(d) DENTISTS AND DENTAL HYGIENISTS LICENSED BY THE STATE BOARD OF DENTAL EXAMINERS PURSUANT TO ARTICLE 35 OF THIS TITLE;

(e) PHYSICIAN ASSISTANTS LICENSED BY THE STATE BOARD OF MEDICAL EXAMINERS PURSUANT TO ARTICLE 36 OF THIS TITLE;

(f) DIRECT-ENTRY MIDWIVES REGISTERED BY THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO ARTICLE 37 OF THIS TITLE;

(g) NURSES LICENSED BY THE STATE BOARD OF NURSING

PURSUANT TO ARTICLE 38 OF THIS TITLE;

(h) NURSE AIDES CERTIFIED BY THE STATE BOARD OF NURSING PURSUANT TO ARTICLE 38.1 OF THIS TITLE;

(i) NURSING HOME ADMINISTRATORS LICENSED BY THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS PURSUANT TO ARTICLE 39 OF THIS TITLE;

(j) OPTOMETRISTS LICENSED BY THE STATE BOARD OF OPTOMETRIC EXAMINERS PURSUANT TO ARTICLE 40 OF THIS TITLE;

(k) OCCUPATIONAL THERAPISTS REGISTERED BY THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO ARTICLE 40.5 OF THIS TITLE;

(l) PHYSICAL THERAPISTS LICENSED BY THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO ARTICLE 41 OF THIS TITLE;

(m) RESPIRATORY THERAPISTS LICENSED BY THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO ARTICLE 41.5 OF THIS TITLE;

(n) PSYCHIATRIC TECHNICIANS LICENSED BY THE STATE BOARD OF NURSING PURSUANT TO ARTICLE 42 OF THIS TITLE; OR

(o) PSYCHOLOGISTS LICENSED BY THE STATE BOARD OF PSYCHOLOGIST EXAMINERS PURSUANT TO PART 3 OF ARTICLE 43 OF THIS TITLE;

(5) "PROFESSIONAL REVIEW COMMITTEE" MEANS ANY COMMITTEE AUTHORIZED UNDER THIS ARTICLE TO REVIEW AND EVALUATE THE PROFESSIONAL CONDUCT OF AND THE QUALITY AND APPROPRIATENESS OF PATIENT CARE PROVIDED BY A HEALTH CARE PROVIDER.

(6) "RECORDS" MEANS ALL WRITTEN OR VERBAL

COMMUNICATIONS BY ANY PERSON, MEMBER OF AN INVESTIGATIVE BODY, OR PROFESSIONAL REVIEW COMMITTEE OR GOVERNING BOARD, OR THE STAFF THEREOF, ARISING FROM ANY ACTIVITIES OF A PROFESSIONAL REVIEW COMMITTEE AUTHORIZED BY THIS ARTICLE, INCLUDING COMPLAINT, RESPONSE, CORRESPONDENCE RELATED THERETO, RECORDINGS OR TRANSCRIPTS OF PROCEEDINGS, MINUTES, FORMAL RECOMMENDATIONS, DECISIONS, EXHIBITS, AND OTHER SIMILAR ITEMS OR DOCUMENTS TYPICALLY CONSTITUTING THE RECORDS OF ADMINISTRATIVE PROCEEDINGS.

(7) "REGULATORY ENTITY" MEANS THE ENTITY RESPONSIBLE FOR REGULATING, SUPERVISING, AND DISCIPLINING A PARTICULAR HEALTH CARE PROFESSION. THE TERM INCLUDES A BOARD, THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND ANY OTHER ENTITY RESPONSIBLE FOR REGULATING A PARTICULAR HEALTH CARE PROFESSION.

12-29.1-104. Use of professional review committees. (1) (a) THE GENERAL ASSEMBLY RECOGNIZES THAT REGULATORY ENTITIES, WHILE ASSUMING AND RETAINING ULTIMATE AUTHORITY FOR REGULATION, SUPERVISION, OR DISCIPLINE OF HEALTH CARE PROVIDERS IN ACCORDANCE WITH THIS TITLE OR TITLE 25, C.R.S., AS APPLICABLE, CANNOT PRACTICALLY AND ECONOMICALLY ASSUME RESPONSIBILITY OVER EVERY ALLEGATION OR INSTANCE OF PURPORTED DEVIATION FROM THE STANDARDS OF:

(I) QUALITY FOR THE PRACTICE OF A PARTICULAR HEALTH CARE PRACTICE;

(II) PROFESSIONAL CONDUCT; OR

(III) APPROPRIATE CARE.

(b) THE GENERAL ASSEMBLY FURTHER RECOGNIZES THAT AN ATTEMPT TO EXERCISE SUCH OVERSIGHT WOULD RESULT IN EXTRAORDINARY DELAYS IN THE DETERMINATION OF THE LEGITIMACY OF ALLEGATIONS AND WOULD RESULT IN THE INAPPROPRIATE AND UNEQUAL EXERCISE OF REGULATORY ENTITIES' AUTHORITY TO REGULATE AND DISCIPLINE HEALTH CARE PROVIDERS. IT IS THEREFORE THE INTENT OF THE GENERAL ASSEMBLY THAT REGULATORY ENTITIES UTILIZE AND ALLOW PROFESSIONAL REVIEW COMMITTEES AND GOVERNING BOARDS TO ASSIST THEM IN MEETING THEIR RESPONSIBILITIES UNDER THIS TITLE OR TITLE 25, C.R.S., AS APPLICABLE.

(2) HEALTH CARE PROVIDERS ARE ENCOURAGED TO SERVE ON PROFESSIONAL REVIEW COMMITTEES FOR THEIR PARTICULAR HEALTH CARE PROFESSION WHEN CALLED TO DO SO AND TO STUDY AND REVIEW IN GOOD FAITH THE PROFESSIONAL CONDUCT OF HEALTH CARE PROVIDERS, INCLUDING THE QUALITY AND APPROPRIATENESS OF PATIENT CARE.

(3) (a) THE USE OF PROFESSIONAL REVIEW COMMITTEES IS DECLARED TO BE AN EXTENSION OF THE AUTHORITY OF THE REGULATORY ENTITY RESPONSIBLE FOR REGULATING A PARTICULAR HEALTH CARE PROFESSION. HOWEVER, EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, NOTHING IN THIS ARTICLE SHALL LIMIT THE AUTHORITY OF PROFESSIONAL REVIEW COMMITTEES PROPERLY CONSTITUTED UNDER THIS ARTICLE.

(b) PROFESSIONAL REVIEW COMMITTEES, THE MEMBERS WHO CONSTITUTE SUCH COMMITTEES, GOVERNING BOARDS, AND PERSONS WHO PARTICIPATE DIRECTLY OR INDIRECTLY IN PROFESSIONAL REVIEW PROCEEDINGS ARE GRANTED CERTAIN IMMUNITIES FROM LIABILITY

ARISING FROM ACTIONS THAT ARE WITHIN THE SCOPE OF THEIR ACTIVITIES AND TAKEN IN GOOD FAITH AS PROVIDED IN SECTION 12-29.1-106. GRANTS OF IMMUNITY FROM LIABILITY ARE DECLARED TO BE NECESSARY TO ENSURE THAT PROFESSIONAL REVIEW COMMITTEES AND GOVERNING BOARDS CAN EXERCISE THEIR PROFESSIONAL KNOWLEDGE AND JUDGMENT.

12-29.1-105. Establishment of professional review committees - function - rules. (1) A PROFESSIONAL REVIEW COMMITTEE MAY BE ESTABLISHED PURSUANT TO THIS SECTION TO REVIEW AND EVALUATE THE QUALITY AND APPROPRIATENESS OF PATIENT CARE PROVIDED BY AND THE PROFESSIONAL CONDUCT OF A HEALTH CARE PROVIDER.

(2) WHEN A PROFESSIONAL REVIEW COMMITTEE IS ESTABLISHED PURSUANT TO THIS SECTION TO INVESTIGATE THE QUALIFICATIONS OR PROFESSIONAL CONDUCT OF OR PATIENT CARE PROVIDED BY A HEALTH CARE PROVIDER, A MAJORITY OF THE PROFESSIONAL REVIEW COMMITTEE SHALL CONSIST OF PERSONS AUTHORIZED TO ENGAGE AND ACTIVELY ENGAGED IN THE SAME HEALTH CARE PROFESSION AS THE HEALTH CARE PROVIDER UNDER INVESTIGATION, EXCEPT FOR THOSE PROFESSIONAL REVIEW COMMITTEES AUTHORIZED BY PARAGRAPH (f) OF SUBSECTION (4) OF THIS SECTION.

(3) A UTILIZATION AND QUALITY CONTROL PEER REVIEW ORGANIZATION, AS DEFINED PURSUANT TO 42 U.S.C. SEC. 1320c-1, OR ANY OTHER ORGANIZATION PERFORMING SIMILAR REVIEW SERVICES UNDER FEDERAL OR STATE LAW SHALL BE AN APPROVED PROFESSIONAL REVIEW COMMITTEE UNDER THIS ARTICLE.

(4) ANY PROFESSIONAL REVIEW COMMITTEE ESTABLISHED BY ANY OF THE FOLLOWING ORGANIZATIONS, ENTITIES, OR PROFESSIONAL SOCIETIES SHALL BE AN APPROVED PROFESSIONAL REVIEW COMMITTEE

UNDER THIS ARTICLE IF IT OPERATES PURSUANT TO WRITTEN BYLAWS, POLICIES, OR PROCEDURES THAT ARE IN COMPLIANCE WITH THIS ARTICLE AND THAT HAVE BEEN APPROVED BY THE GOVERNING BOARD OF THE ORGANIZATION, ENTITY, OR PROFESSIONAL SOCIETY:

(a) THE MEDICAL STAFF OF A CORPORATION OR OTHER ENTITY THAT EMPLOYS HEALTH CARE PROVIDERS TO PROVIDE CARE TO PATIENTS;

(b) THE MEDICAL STAFF OF A COMMUNITY CLINIC, REHABILITATION CENTER, CONVALESCENT CENTER, COMMUNITY MENTAL HEALTH CENTER, ACUTE TREATMENT UNIT, FACILITY FOR PERSONS WITH DEVELOPMENTAL DISABILITIES, HABILITATION CENTER FOR BRAIN-DAMAGED CHILDREN, CHIROPRACTIC CENTER, NURSING CARE FACILITY, PILOT PROJECT REHABILITATIVE NURSING FACILITY, HOSPICE CARE, ASSISTED LIVING RESIDENCE, DIALYSIS TREATMENT CLINIC, AMBULATORY SURGICAL CENTER, BIRTHING CENTER, OR HOME CARE AGENCY, THAT IS LICENSED PURSUANT TO PART 1 OF ARTICLE 3 OF TITLE 25, C.R.S.;

(c) A SOCIETY OR ASSOCIATION OF HEALTH CARE PROVIDERS WHOSE MEMBERSHIP INCLUDES NOT LESS THAN ONE-THIRD OF THE HEALTH CARE PROVIDERS ENGAGED IN THE PARTICULAR HEALTH CARE PROFESSION AND RESIDING IN THIS STATE, IF THE HEALTH CARE PROVIDER WHOSE SERVICES ARE THE SUBJECT OF THE REVIEW IS A MEMBER OF THE SOCIETY OR ASSOCIATION;

(d) A SOCIETY OR ASSOCIATION OF HEALTH CARE PROVIDERS AUTHORIZED TO PRACTICE AND RESIDING IN THIS STATE AND SPECIALIZING IN A SPECIFIC DISCIPLINE OF THEIR HEALTH CARE PROFESSION, WHOSE SOCIETY OR ASSOCIATION HAS BEEN DESIGNATED BY THE REGULATORY ENTITY FOR THE HEALTH CARE PROFESSION AS THE SPECIALTY SOCIETY OR ASSOCIATION REPRESENTATIVE OF HEALTH CARE PROVIDERS PRACTICING

SUCH SPECIFIC DISCIPLINE OF THE HEALTH CARE PROFESSION, IF THE HEALTH CARE PROVIDER WHOSE SERVICES ARE THE SUBJECT OF THE REVIEW IS A MEMBER OF THE SPECIALTY SOCIETY OR ASSOCIATION;

(e) AN INDIVIDUAL PRACTICE ASSOCIATION OR A PREFERRED PROVIDER ORGANIZATION COMPOSED OF AT LEAST TWENTY-FIVE HEALTH CARE PROVIDERS OR A MEDICAL GROUP THAT PREDOMINANTLY SERVES MEMBERS OF A HEALTH MAINTENANCE ORGANIZATION LICENSED PURSUANT TO PARTS 1 AND 4 OF ARTICLE 16 OF TITLE 10, C.R.S. A PROFESSIONAL REVIEW COMMITTEE ESTABLISHED PURSUANT TO THIS PARAGRAPH (e) SHALL HAVE JURISDICTION TO REVIEW ONLY HEALTH CARE PROVIDERS WHO ARE MEMBERS OF THE ASSOCIATION OR ORGANIZATION CREATING AND AUTHORIZING THAT COMMITTEE; EXCEPT THAT SUCH PROFESSIONAL REVIEW COMMITTEE MAY REVIEW THE CARE PROVIDED TO A PARTICULAR PATIENT REFERRED BY A MEMBER OF SUCH ASSOCIATION OR ORGANIZATION TO ANOTHER HEALTH CARE PROVIDER WHO IS NOT A MEMBER OF THE ASSOCIATION OR ORGANIZATION.

(f) A CORPORATION AUTHORIZED PURSUANT TO ARTICLE 3 OF TITLE 10, C.R.S., TO INSURE HEALTH CARE PROVIDERS OR ANY OTHER CORPORATION AUTHORIZED TO INSURE HEALTH CARE PROVIDERS IN THIS STATE WHEN DESIGNATED BY A REGULATORY ENTITY UNDER SUBSECTION (5) OF THIS SECTION;

(g) A GOVERNING BOARD OF ANY ENTITY THAT HAS A PROFESSIONAL REVIEW COMMITTEE ESTABLISHED PURSUANT TO THIS ARTICLE;

(h) ANY PEER REVIEW COMMITTEE ESTABLISHED OR CREATED BY A COMBINATION OR POOLING OF ANY OF THE ORGANIZATIONS AUTHORIZED BY THIS SECTION TO HAVE A PROFESSIONAL REVIEW COMMITTEE.

(5) A REGULATORY ENTITY MAY ESTABLISH PROCEDURES NECESSARY TO AUTHORIZE OTHER HEALTH CARE ORGANIZATIONS OR PROFESSIONAL SOCIETIES TO ESTABLISH PROFESSIONAL REVIEW COMMITTEES. THE PROCEDURES SHALL BE ADOPTED BY RULE IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

(6) (a) A PROFESSIONAL REVIEW COMMITTEE ACTING PURSUANT TO THIS ARTICLE MAY INVESTIGATE OR CAUSE TO BE INVESTIGATED:

(I) THE QUALIFICATIONS OF A HEALTH CARE PROVIDER WHO SEEKS TO SUBJECT HIMSELF OR HERSELF TO THE AUTHORITY OF ANY ORGANIZATION, ENTITY, OR PROFESSIONAL SOCIETY LISTED IN SUBSECTION (4) OF THIS SECTION OR ANY ORGANIZATION OR PROFESSIONAL SOCIETY THAT HAS BEEN AUTHORIZED BY A REGULATORY ENTITY TO ESTABLISH A PROFESSIONAL REVIEW COMMITTEE PURSUANT TO SUBSECTION (5) OF THIS SECTION; OR

(II) THE QUALITY OR APPROPRIATENESS OF PATIENT CARE RENDERED BY OR THE PROFESSIONAL CONDUCT OF A HEALTH CARE PROVIDER WHO IS SUBJECT TO THE AUTHORITY OF SUCH ORGANIZATION, ENTITY, OR PROFESSIONAL SOCIETY.

(b) AN INVESTIGATION OF A HEALTH CARE PROVIDER PURSUANT TO THIS SUBSECTION (6) SHALL BE CONDUCTED IN CONFORMITY WITH WRITTEN BYLAWS, POLICIES, OR PROCEDURES ADOPTED BY THE ORGANIZATION, ENTITY, OR PROFESSIONAL SOCIETY.

(7) THE WRITTEN BYLAWS, POLICIES, OR PROCEDURES OF ANY PROFESSIONAL REVIEW COMMITTEE SHALL PROVIDE FOR AT LEAST THE FOLLOWING:

(a) IF THE FINDINGS OF ANY INVESTIGATION INDICATE THAT THE HEALTH CARE PROVIDER WHO IS THE SUBJECT OF THE INVESTIGATION IS

LACKING IN QUALIFICATIONS, HAS PROVIDED SUBSTANDARD OR INAPPROPRIATE PATIENT CARE, OR HAS EXHIBITED INAPPROPRIATE PROFESSIONAL CONDUCT, THE PROFESSIONAL REVIEW COMMITTEE SHALL HOLD A HEARING, UNLESS THE HEALTH CARE PROVIDER WAIVES HIS OR HER RIGHT TO A HEARING, TO CONSIDER THE FINDINGS; EXCEPT THAT, IF THE PROFESSIONAL REVIEW COMMITTEE IS SUBMITTING ITS FINDINGS TO ANOTHER PROFESSIONAL REVIEW COMMITTEE FOR REVIEW, ONLY ONE HEARING SHALL BE NECESSARY PRIOR TO ANY APPEAL BEFORE THE GOVERNING BODY.

(b) ANY PERSON WHO HAS PARTICIPATED IN THE COURSE OF ANY INVESTIGATION SHALL NOT SERVE AS A MEMBER OF THE COMMITTEE AT ANY HEARING HELD PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (7), BUT THE PERSON MAY PARTICIPATE AS A WITNESS AT THE HEARING.

(c) THE HEALTH CARE PROVIDER WHO IS THE SUBJECT OF AN INVESTIGATION SHALL BE GIVEN REASONABLE NOTICE OF THE HEARING AND SHALL HAVE A RIGHT TO BE PRESENT, TO BE REPRESENTED BY LEGAL COUNSEL AT THE HEARING, AND TO OFFER EVIDENCE ON HIS OR HER OWN BEHALF.

(d) AFTER THE HEARING, THE PROFESSIONAL REVIEW COMMITTEE SHALL MAKE ANY RECOMMENDATIONS IT DEEMS NECESSARY TO THE GOVERNING BOARD UNLESS FEDERAL LAW OR REGULATION REQUIRES A PARTICULAR OUTCOME BASED ON THE FINDINGS OF THE COMMITTEE.

(e) A COPY OF THE RECOMMENDATIONS SHALL BE GIVEN TO THE HEALTH CARE PROVIDER. THE HEALTH CARE PROVIDER SHALL HAVE THE RIGHT TO APPEAL THE FINDINGS AND RECOMMENDATIONS OF THE PROFESSIONAL REVIEW COMMITTEE TO THE GOVERNING BOARD TO WHICH THE RECOMMENDATIONS ARE MADE.

(f) A COPY OF ANY RECOMMENDATIONS MADE PURSUANT TO PARAGRAPH (d) OF THIS SUBSECTION (7) SHALL BE PROMPTLY FORWARDED TO THE REGULATORY ENTITY THAT REGULATES THE HEALTH CARE PROFESSION IN WHICH THE HEALTH CARE PROVIDER IS ENGAGED.

(8) (a) ALL GOVERNING BOARDS SHALL ADOPT WRITTEN BYLAWS, POLICIES, OR PROCEDURES THAT PROVIDE A HEALTH CARE PROVIDER WHO IS THE SUBJECT OF AN ADVERSE RECOMMENDATION BY A PROFESSIONAL REVIEW COMMITTEE THE ABILITY TO APPEAL THE ADVERSE RECOMMENDATION TO THE GOVERNING BOARD. THE BYLAWS, POLICIES, OR PROCEDURES SHALL REQUIRE THAT THE HEALTH CARE PROVIDER BE GIVEN REASONABLE NOTICE OF HIS OR HER RIGHT TO APPEAL AND, UNLESS WAIVED BY THE HEALTH CARE PROVIDER, SHALL HAVE THE RIGHT TO APPEAR BEFORE THE GOVERNING BOARD, TO BE REPRESENTED BY LEGAL COUNSEL, AND TO OFFER ANY ARGUMENT ON THE RECORD THE HEALTH CARE PROVIDER DEEMS APPROPRIATE.

(b) THE BYLAWS MAY PROVIDE THAT A COMMITTEE OF NOT FEWER THAN THREE MEMBERS OF THE GOVERNING BOARD MAY HEAR THE APPEAL. THE BYLAWS MAY ALSO ALLOW FOR AN APPEAL TO BE HEARD BY AN INDEPENDENT THIRD PARTY DESIGNATED BY THE REGULATORY ENTITY.

(9) ALL GOVERNING BOARDS THAT ARE REQUIRED TO REPORT THEIR FINAL ACTIONS TO A REGULATORY ENTITY ARE NOT OTHERWISE RELIEVED OF THIS OBLIGATION BY VIRTUE OF ANY PROVISION OF THIS ARTICLE.

(10) (a) THE RECORDS OF A PROFESSIONAL REVIEW COMMITTEE OR A GOVERNING BOARD SHALL NOT BE SUBJECT TO SUBPOENA OR DISCOVERY AND SHALL NOT BE ADMISSIBLE IN ANY CIVIL SUIT BROUGHT AGAINST A HEALTH CARE PROVIDER WHO IS THE SUBJECT OF THE RECORDS.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (10), THE RECORDS SHALL BE SUBJECT TO SUBPOENA AND AVAILABLE FOR USE:

(I) BY EITHER PARTY IN ANY APPEAL OR DE NOVO PROCEEDING BROUGHT PURSUANT TO THIS ARTICLE;

(II) BY A HEALTH CARE PROVIDER IN A SUIT SEEKING JUDICIAL REVIEW OF ANY ACTION BY THE GOVERNING BOARD; OR

(III) BY A GOVERNING BOARD SEEKING JUDICIAL REVIEW.

(11) AT THE REQUEST OF A REGULATORY ENTITY, A GOVERNING BOARD SHALL PROVIDE THE REGULATORY ENTITY WITH THE COMPLETE RECORD OF ALL PROFESSIONAL REVIEW PROCEEDINGS, INCLUDING, BUT NOT LIMITED TO, THE FINDINGS, RECOMMENDATIONS, AND ACTIONS TAKEN.

(12) (a) INVESTIGATIONS, EXAMINATIONS, HEARINGS, MEETINGS, OR ANY OTHER PROCEEDINGS OF A PROFESSIONAL REVIEW COMMITTEE OR GOVERNING BOARD CONDUCTED PURSUANT TO THIS ARTICLE SHALL BE EXEMPT FROM THE OPEN MEETINGS LAW, PART 4 OF ARTICLE 6 OF TITLE 24, C.R.S., THE "COLORADO OPEN RECORDS ACT", ARTICLE 72 OF TITLE 24, C.R.S., OR ANY OTHER LAW REQUIRING THAT PROCEEDINGS BE CONDUCTED PUBLICLY OR THAT THE MINUTES OR RECORDS BE OPEN TO PUBLIC INSPECTION.

(b) ALL PROCEEDINGS, RECOMMENDATIONS, RECORDS, AND REPORTS INVOLVING PROFESSIONAL REVIEW COMMITTEES OR GOVERNING BOARDS SHALL BE CONFIDENTIAL.

(13) A PROFESSIONAL REVIEW COMMITTEE OR GOVERNING BOARD THAT IS CONSTITUTED AND CONDUCTS ITS REVIEWS AND ACTIVITIES PURSUANT TO THIS ARTICLE IS DECLARED NOT TO BE AN UNLAWFUL

CONSPIRACY IN VIOLATION OF SECTION 6-4-104 OR 6-4-105, C.R.S.

12-29.1-106. Immunity from liability. (1) A MEMBER OF A PROFESSIONAL REVIEW COMMITTEE, A WITNESS BEFORE A PROFESSIONAL REVIEW COMMITTEE, OR ANY PERSON WHO FILES A COMPLAINT OR OTHERWISE PARTICIPATES IN THE PROFESSIONAL REVIEW PROCESS SHALL BE IMMUNE FROM SUIT IN ANY CIVIL OR CRIMINAL ACTION, INCLUDING ANTITRUST ACTIONS, BROUGHT BY A HEALTH CARE PROVIDER WHO IS THE SUBJECT OF THE REVIEW BY THE PROFESSIONAL REVIEW COMMITTEE, IF:

(a) THE MEMBER MADE A REASONABLE EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO WHICH HE OR SHE ACTED, ACTED IN THE REASONABLE BELIEF THAT THE ACTION TAKEN BY HIM OR HER WAS WARRANTED BY THE FACTS, AND OTHERWISE ACTED IN GOOD FAITH WITHIN THE SCOPE OF THE PROFESSIONAL REVIEW COMMITTEE PROCESS; OR

(b) THE WITNESS, PARTICIPANT, OR COMPLAINANT ACTED IN GOOD FAITH WITHIN THE SCOPE OF THE PROFESSIONAL REVIEW COMMITTEE PROCESS.

(2) THE GOVERNING BOARD, THE INDIVIDUAL MEMBERS OF THE GOVERNING BOARD, THE ENTITY THAT HAS ESTABLISHED A PEER REVIEW COMMITTEE PURSUANT TO SECTION 12-29.1-105, THE GOVERNING BOARD'S STAFF, ANY PERSON ACTING AS A WITNESS OR CONSULTANT TO THE GOVERNING BOARD, ANY WITNESS TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS ARTICLE, AND ANY PERSON WHO LODGES A COMPLAINT PURSUANT TO THIS ARTICLE SHALL BE IMMUNE FROM LIABILITY IN ANY CIVIL ACTION BROUGHT AGAINST HIM OR HER FOR ACTS OCCURRING WHILE ACTING IN HIS OR HER CAPACITY AS GOVERNING BOARD MEMBER, STAFF, CONSULTANT, OR WITNESS, RESPECTIVELY, IF THE

INDIVIDUAL WAS ACTING IN GOOD FAITH WITHIN THE SCOPE OF HIS OR HER RESPECTIVE CAPACITY, MADE A REASONABLE EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO WHICH HE OR SHE ACTED, AND ACTED IN THE REASONABLE BELIEF THAT THE ACTION TAKEN BY HIM OR HER WAS WARRANTED BY THE FACTS. ANY PERSON PARTICIPATING IN GOOD FAITH IN LODGING A COMPLAINT OR PARTICIPATING IN ANY INVESTIGATIVE OR ADMINISTRATIVE PROCEEDING PURSUANT TO THIS ARTICLE SHALL BE IMMUNE FROM ANY CIVIL OR CRIMINAL LIABILITY THAT MAY RESULT FROM SUCH PARTICIPATION.

SECTION 3. 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.

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

BILL F

LLS NO. 09-0151.01 Kristen Forrestal **HOUSE BILL**

HOUSE SPONSORSHIP

Riesberg, Frangas, Green, Massey

SENATE SPONSORSHIP

Boyd, Kopp, Morse

House Committees **Senate Committees**

A BILL FOR AN ACT

CONCERNING REQUIREMENTS FOR INDIVIDUALS WHO COLLECT DATA ON HOSPITAL-ACQUIRED INFECTION RATES.

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. Exempts ambulatory surgical centers and certified dialysis treatment centers from the requirement that an individual who collects data on hospital-acquired infection rates take a test for the appropriate national certification for infection control and become certified within 6 months after the individual becomes eligible to take the certification test.

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

SECTION 1. 25-3-602 (1) (c), Colorado Revised Statutes, is amended to read:

25-3-602. Health facility reports - repeal. (1) (c) An individual who collects data on hospital-acquired infection rates shall take the test for the appropriate national certification for infection control and become certified within six months after the individual becomes eligible to take the certification test. Mandatory national certification requirements shall not apply to individuals collecting data on hospital-acquired infections in hospitals licensed for fifty beds or less, LICENSED AMBULATORY SURGICAL CENTERS, AND CERTIFIED DIALYSIS TREATMENT CENTERS. Qualifications for these individuals may be met through ongoing education, training, experience, or certification, AS DEFINED BY THE DEPARTMENT.

SECTION 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 4, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.