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HOUSE BILL 25-1184

BY REPRESENTATIVE(S) Paschal and Hartsook, Bacon, Bird, Boesenecker, Camacho, Clifford, Duran, English, Feret, Hamrick, Jackson, Joseph, Lindsay, Lukens, Marshall, McCormick, Phillips, Stewart K., Valdez, McCluskie, Lieder;
also SENATOR(S) Roberts and Carson, Frizell, Jodeh, Kipp, Michaelson Jenet, Mullica, Winter F., Coleman.

CONCERNING COMMUNITY-BASED CONTINUING CARE SERVICES FOR SENIORS
AWAITING ADMISSION TO A LIFE CARE INSTITUTION.

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

SECTION 1. In Colorado Revised Statutes, **amend** 11-49-101 as follows:

11-49-101. Definitions. As used in this article 49, unless the context otherwise requires:

(1) "Aged person" means any person sixty-two years of age or older.

(2) "Board" means the financial services board created in section 11-44-101.6.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(3) "Commissioner" means the state commissioner of financial services, serving in accordance with section 11-44-102.

(4) "COMMUNITY-BASED CONTINUING CARE" OR "CBCC" MEANS A PROGRAM PROVIDING OR COMMITTING TO PROVIDE A RANGE OF SERVICES TO A PARTICIPANT PURSUANT TO A CONTRACT EFFECTIVE FOR THE LIFE OF THE INDIVIDUAL AND IN CONSIDERATION OF THE PAYMENT OF A ONE-TIME ENTRANCE FEE OR A MONTHLY FEE. "COMMUNITY-BASED CONTINUING CARE" OR "CBCC" ALSO MEANS THE PROVISION OF SERVICES TO AN INDIVIDUAL IN THE INDIVIDUAL'S PRIVATE RESIDENCE, WHEN MEDICALLY FEASIBLE, AND PROVIDING FACILITY-BASED LONG-TERM CARE SERVICES, WHEN REQUIRED, EITHER DIRECTLY OR INDIRECTLY THROUGH AFFILIATED SERVICES OR CONTRACTUAL ARRANGEMENTS.

(5) "COMMUNITY-BASED CONTINUING CARE ENTRANCE FEE" OR "CBCC ENTRANCE FEE" MEANS AN INITIAL OR DEFERRED TRANSFER TO A CBCC PROVIDER OF A SUM OF MONEY OR OTHER PROPERTY MADE OR PROMISED TO BE MADE IN ADVANCE OR AT SOME FUTURE TIME AS FULL OR PARTIAL CONSIDERATION FOR ACCEPTANCE OF AN INDIVIDUAL AS A PARTICIPANT.

(6) "COMMUNITY-BASED CONTINUING CARE PROVIDER" OR "CBCC PROVIDER" MEANS A PROVIDER WHO PROVIDES OR OFFERS TO PROVIDE COMMUNITY-BASED CONTINUING CARE TO A PARTICIPANT AND HAS OPERATED A LIFE CARE INSTITUTION PURSUANT TO THIS ARTICLE 49 FOR AT LEAST THREE YEARS.

~~(4)~~ (7) "Entrance fee" means the total of any initial or deferred transfer to or for the benefit of a provider MADE PURSUANT TO A LIFE CARE CONTRACT, which transfer:

(a) Is made or promised to be made as full or partial consideration for the acceptance or maintenance of a specified individual as a resident in a facility; and

(b) Is in the form of:

(I) Property; or

(II) A sum of money in an amount that is greater than four times the amount of a regular periodic charge under a life care contract at the facility.

~~(5)~~ (8) "Facility" means the place WITH LIVING UNITS in which a provider undertakes to provide life care to a resident.

~~(6)~~ (9) "Life care" means care ~~provided~~, MADE AVAILABLE TO A RESIDENT OF A LIVING UNIT BY A PROVIDER pursuant to a life care contract, for the life of an aged person, including, but not limited to, services such as ~~occupancy of a living unit~~, health care, nutrition assistance, medical services, ~~and nursing services within a living unit~~ BOARD, LODGING, NURSING SERVICES, OR OTHER SERVICES REQUIRED BY A LIFE CARE CONTRACT.

~~(7)~~ (10) "Life care contract" means a written contract to provide life care to a person for the duration of the person's life conditioned upon the transfer of an entrance fee to the provider of the services in addition to or in lieu of the payment of regular periodic charges for the LIFE care and services involved. A life care contract under which the entrance fee is payable to or for the provider in four or more installments is subject to the provisions of the "Uniform Consumer Credit Code", articles 1 to 9 of title 5.

~~(8)~~ (11) "Living unit" means a room, apartment, or other area that is within a facility and set aside for the use of one or more identified residents and within which life care is ~~provided~~ MADE AVAILABLE by the provider. A resident's living unit may change based on the appropriate care needs of the resident.

(12) "PARTICIPANT" MEANS AN INDIVIDUAL WHO HAS ENTERED INTO A COMMUNITY-BASED CONTINUING CARE CONTRACT.

~~(9)~~ (13) "Person" means all corporations, associations, partnerships, or individuals, including fraternal or benevolent orders or societies.

(14) "PRIVATE RESIDENCE" MEANS THE PLACE WHERE A CBCC PROVIDER PROVIDES CBCC TO A PARTICIPANT AND DOES NOT INCLUDE A LIVING UNIT OR A FACILITY.

~~(10)~~ (15) (a) "Provider" means a person who undertakes to provide

services in a facility pursuant to a life care contract.

(b) "Provider" does not include a unit owners' association, as defined in section 38-33.3-103 (3).

(16) "RANGE OF SERVICES" MEANS SERVICES THAT ENABLE A PARTICIPANT TO LIVE SAFELY IN THE PARTICIPANT'S PRIVATE RESIDENCE.

~~(11)~~ (17) "Resident" means any person entitled pursuant to a life care contract to receive life care in a facility.

~~(12)~~ (18) "Third-party service providers" means any person, other than a provider, who is the holder of a management contract with a provider or who contracts with a provider to provide life care services to residents.

SECTION 2. In Colorado Revised Statutes, 11-49-103, **amend** (2) as follows:

11-49-103. Withdrawal or dismissal of person - refund. (2) If the provider is an organization described in section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, and exempt from income taxation under section 501 (a) of the federal "Internal Revenue Code of 1986", ~~as amended, it shall be~~ OR HAS A POLICY NOT TO TERMINATE A RESIDENT'S LIFE CARE CONTRACT DUE TO THE INABILITY TO PAY IF THE RESIDENT IS OTHERWISE COMPLIANT WITH THE LIFE CARE CONTRACT, THE PROVIDER IS entitled to make a refund according to a schedule provided in its agreement with the resident so long as the schedule provides for amortization of the amount paid by the resident over a period of not less than sixty months or over the life expectancy of the resident if the expectancy is less than sixty months. In such case, the refund may be delayed for a reasonable period thereafter until the securing by the provider of a substitute fee from another resident or prospective resident. The provider may also deduct from any such refund amounts due it from the resident for damage done or for any other legitimate offsetting item.

SECTION 3. In Colorado Revised Statutes, 11-49-105, **add** (4) as follows:

11-49-105. Reserve requirements. (4) A CBCC PROVIDER SHALL MAINTAIN SEPARATE RESERVES TIED TO AN ACTUARIAL ASSESSMENT, IN THE

FORM AND MANNER REQUIRED BY THE COMMISSIONER, IN ORDER FOR THE PROVIDER TO FULLY PERFORM ITS OBLIGATIONS UNDER ITS COMMUNITY-BASED CONTINUING CARE CONTRACTS.

SECTION 4. In Colorado Revised Statutes, 11-49-106, **amend** (1), (2), and (3) as follows:

11-49-106. Annual report by providers - fee. (1) ~~Each~~ A provider AND CBCC PROVIDER shall file ~~an annual report~~ REPORTS with the commissioner within ninety days after the end of ~~its~~ THEIR fiscal year that ~~contains~~ CONTAIN the certified financial statements for each facility OR PROGRAM and ~~such~~ other information as ~~may be~~ required by the commissioner. The annual ~~report shall~~ REPORTS MUST be made in a form prescribed by the commissioner.

(2) A provider AND CBCC PROVIDER shall amend ~~its~~ THEIR annual ~~report~~ REPORTS on file with the commissioner if an amendment is necessary to prevent the ~~report~~ REPORTS from containing a material misstatement of fact or omission of a material fact.

(3) A provider AND CBCC PROVIDER shall make ~~its~~ THEIR annual ~~report~~ REPORTS available to residents OR PARTICIPANTS upon request.

SECTION 5. In Colorado Revised Statutes, **amend** 11-49-107 as follows:

11-49-107. Examination - fees. The commissioner may conduct an examination of the affairs of ~~any~~ A provider OR CBCC PROVIDER as often as the commissioner deems it necessary for the protection of the interests of the people of this state. Providers AND CBCC PROVIDERS shall maintain copies of their books and records in Colorado to provide access for the purposes of this article 49. The commissioner shall assess each provider at least semiannually, to cover the annual direct and indirect costs of examinations, supervision, and administration conducted pursuant to ~~the provisions of~~ this section. The assessments ~~shall~~ MUST be calculated in terms of cents per thousand dollars of total escrowed entrance fees and reserves maintained. The assessment calculation, or ratio of the assessment charged to total escrowed entrance fees and reserves maintained, ~~shall~~ MUST be alike in all cases. On or before the dates specified by the commissioner, each ~~association~~ PROVIDER AND CBCC PROVIDER shall pay its assessment.

If deemed necessary, the commissioner may estimate a per diem rate to be charged for examinations and charge a provider OR CBCC PROVIDER for the actual cost of any examination documented by the commissioner.

SECTION 6. In Colorado Revised Statutes, **amend** 11-49-109 as follows:

11-49-109. Violation. ~~Any~~ A person acting in the capacity of a provider OR CBCC PROVIDER who enters into a life care contract OR CBCC CONTRACT, or extends the term of an existing life care contract OR CBCC CONTRACT, without acting in compliance with ~~the provisions of this article~~ 49 commits a class 2 misdemeanor.

SECTION 7. In Colorado Revised Statutes, **amend** 11-49-110 as follows:

11-49-110. Article does not apply to facilities licensed by department of public health and environment. The provisions of this article 49 shall not apply to any hospital or other facility that the department of public health and environment is authorized to license pursuant to part 1 of article 1.5 and part 1 of article 3 of title 25; except that nursing care facilities, ~~and~~ assisted living residences, AND HOME HEALTH AGENCIES that are part of the facility of a provider as defined in section 11-49-101 ~~shall be~~ ARE subject to the provisions of this article 49.

SECTION 8. In Colorado Revised Statutes, 11-49-111, **add** (2), (3), and (4) as follows:

11-49-111. Life care contract and CBCC contract - content.
(2) A COMMUNITY-BASED CONTINUED CARE CONTRACT MUST BE WRITTEN IN A CLEAR AND COHERENT MANNER USING WORDS WITH COMMON AND EVERYDAY MEANINGS AND MUST:

(a) SHOW THE VALUE OF ALL PROPERTY TRANSFERRED, INCLUDING DONATIONS, SUBSCRIPTIONS, FEES, AND ANY OTHER AMOUNTS PAID OR PAYABLE BY, OR ON BEHALF OF, THE PARTICIPANT;

(b) SHOW ALL SERVICES THAT ARE PROVIDED BY THE CBCC PROVIDER TO THE PROSPECTIVE PARTICIPANT, INCLUDING, IN DETAIL, ALL ITEMS THAT THE PARTICIPANT WILL RECEIVE, WHETHER THE ITEMS WILL BE

PROVIDED FOR A DESIGNATED TIME PERIOD OR FOR THE LIFE OF THE PARTICIPANT, AND THE MONTHLY CHARGE FOR THE SERVICE;

(c) BE ACCOMPANIED BY A FINANCIAL STATEMENT SHOWING IN REASONABLE DETAIL THE FINANCIAL CONDITION OF THE CBCC PROVIDER, INCLUDING A STATEMENT OF EARNINGS FOR THE PREVIOUS THIRTY-SIX MONTHS, THAT MUST BE FURNISHED TO THE PROSPECTIVE PARTICIPANT;

(d) DESCRIBE THE PHYSICAL HEALTH, MENTAL HEALTH, AND FINANCIAL CONDITIONS OF THE PARTICIPANT UNDER WHICH THE CBCC PROVIDER MAY REQUIRE THE PARTICIPANT TO END THEIR PARTICIPATION IN THE PROGRAM;

(e) DESCRIBE THE CIRCUMSTANCES UNDER WHICH A PARTICIPANT MAY REMAIN IN THE PROGRAM IN THE EVENT THAT A PARTICIPANT IS UNABLE TO PRODUCE A REQUIRED PAYMENT;

(f) (I) PROVIDE THAT THE CBCC PROVIDER SHALL NOT CANCEL A COMMUNITY-BASED CONTINUING CARE CONTRACT WITH THE PARTICIPANT WITHOUT SHOWING GOOD CAUSE. GOOD CAUSE IS LIMITED TO THE FOLLOWING:

(A) PROOF THAT THE PARTICIPANT IS A DANGER TO THEMSELF OR OTHERS;

(B) PERSISTENT NONPAYMENT BY THE PARTICIPANT OF A MONTHLY OR PERIODIC FEE;

(C) REPEATED CONDUCT BY THE PARTICIPANT THAT INTERFERES WITH OTHER PARTICIPANTS' QUIET ENJOYMENT OF A FACILITY OR SERVICE;

(D) PERSISTENT REFUSAL TO COMPLY WITH WRITTEN RULES AND REGULATIONS OF THE PROGRAM;

(E) A MATERIAL MISREPRESENTATION MADE INTENTIONALLY OR RECKLESSLY BY THE PARTICIPANT IN THEIR APPLICATION FOR PARTICIPATION IN THE PROGRAM, OR RELATED MATERIALS, REGARDING INFORMATION THAT, IF ACCURATELY PROVIDED, WOULD RESULT IN EITHER THE PARTICIPANT NOT QUALIFYING FOR PARTICIPATION OR A MATERIAL INCREASE IN THE COST OF PROVIDING THE CARE AND SERVICES PROVIDED UNDER THE CBCC

CONTRACT TO THE PARTICIPANT; OR

(F) A MATERIAL BREACH BY THE PARTICIPANT OF THE TERMS AND CONDITIONS OF THE COMMUNITY-BASED CONTINUING CARE CONTRACT.

(II) IF A CBCC PROVIDER INTENDS TO CANCEL A CBCC CONTRACT AND TERMINATE A PARTICIPANT'S PARTICIPATION, THE PROVIDER MUST GIVE THE PARTICIPANT WRITTEN NOTICE OF, AND A REASONABLE OPPORTUNITY TO CURE WITHIN A REASONABLE PERIOD, THE CONDUCT THAT WARRANTS THE CANCELLATION OF THE CBCC CONTRACT. THE NOTICE MUST SPECIFY WHICH OF THE CIRCUMSTANCES DESCRIBED IN SUBSECTION (2)(f)(I) OF THIS SECTION OCCURRED THAT WARRANTS TERMINATION OF THE CBCC CONTRACT.

(g) PROVIDE IN CLEAR AND UNDERSTANDABLE LANGUAGE, IN PRINT NO LARGER THAN THE LARGEST TYPE USED IN THE BODY OF THE CBCC CONTRACT, THE TERMS GOVERNING A REFUND OF A PORTION OF THE CBCC ENTRANCE FEE AND THE MANNER IN WHICH THE CBCC PROVIDER MAY USE THE FUNDS FROM THE CBCC ENTRANCE FEE IF NOT REFUNDED;

(h) STATE THE TERMS THAT A CBCC CONTRACT IS CANCELLED BY THE DEATH OF THE PARTICIPANT. THE CBCC CONTRACT MAY CONTAIN A PROVISION TO THE EFFECT THAT, UPON THE DEATH OF THE PARTICIPANT, THE MONEY PAID FOR THE COMMUNITY-BASED CONTINUING CARE OF THE PARTICIPANT IS CONSIDERED EARNED AND IS PROPERTY OF THE CBCC PROVIDER.

(i) PROVIDE A PARTICIPANT WITH AT LEAST A THIRTY-DAY NOTICE PRIOR TO A CHANGE IN FEES, CHARGES, OR THE SCOPE OF CARE OR SERVICES, EXCEPT FOR CHANGES REQUIRED BY STATE OR FEDERAL LAW.

(3) A PARTICIPANT HAS THE RIGHT TO RESCIND A CBCC CONTRACT AND RECEIVE A FULL REFUND OF THE CBCC ENTRANCE FEE WITHIN SEVEN DAYS AFTER MAKING AN INITIAL DEPOSIT OR EXECUTING THE CBCC CONTRACT. A PARTICIPANT IS NOT REQUIRED TO BEGIN THE PROVISION OF CARE OR SERVICES OUTLINED IN THE PARTICIPANT'S CBCC CONTRACT BEFORE THE EXPIRATION OF THE SEVEN-DAY PERIOD.

(4) IF A PARTICIPANT DIES BEFORE THE PROGRAM BEGINS, OR IS PRECLUDED FROM PARTICIPATING IN THE PROGRAM DUE TO ILLNESS, INJURY,

OR INCAPACITY, THE CONTRACT AUTOMATICALLY RESCINDS AND THE PARTICIPANT OR THE PARTICIPANT'S LEGAL REPRESENTATIVE MUST RECEIVE A FULL REFUND OF ALL MONEY PAID TO THE CBCC PROVIDER, EXCEPT COSTS SPECIFICALLY INCURRED BY THE CBCC PROVIDER AT THE REQUEST OF THE PARTICIPANT AND SET FORTH IN WRITING IN A SEPARATE ADDENDUM SIGNED BY BOTH PARTIES TO THE CONTRACT.

SECTION 9. In Colorado Revised Statutes, 11-49-112, **amend** (1) introductory portion and (1)(f); and **repeal** (1)(e) as follows:

11-49-112. Register. (1) Every provider AND CBCC PROVIDER shall maintain a register setting forth the following facts concerning each person OR PARTICIPANT residing in ~~the~~ A life care institution OR RECEIVING CBCC:

(e) ~~Mother's maiden name;~~

(f) The person responsible for each resident's care and maintenance;

AND

SECTION 10. In Colorado Revised Statutes, **amend** 11-49-113 as follows:

11-49-113. Advertisements and solicitations of life care contracts and CBCC contracts - requirements. Any report, circular, public announcement, certificate, or financial statement, or any other printed matter or advertising material that is designed for or used to solicit or induce persons to enter into any life care contract OR CBCC CONTRACT, and that lists or refers to the name of any individual or organization as being interested in or connected with the person, association, or corporation to perform the contract, ~~shall~~ MUST clearly state the extent of financial responsibility assumed by that individual or organization for the person, association, or corporation and the fulfillment of its contracts.

SECTION 11. In Colorado Revised Statutes, 30-28-115, **amend** (2)(b)(II) as follows:

30-28-115. Public welfare to be promoted - legislative declaration - construction. (2) (b) (II) The general assembly declares that the establishment of group homes for the aged for the exclusive use of not more than eight persons sixty years of age or older per home is a matter of

statewide concern. The general assembly further finds and declares that it is the policy of this state to enable and assist persons sixty years of age or older who do not need nursing facilities and who so elect to live in normal residential surroundings, including single-family residential units. Group homes for the aged ~~shall~~ MUST be distinguished from nursing facilities, as defined in ~~section 25.5-4-103 (14)~~ SECTION 25.5-4-103, and institutions providing life care, as defined in ~~section 11-49-101 (6)~~ SECTION 11-49-101. Every county ~~having adopted or that shall adopt~~ THAT ADOPTS a zoning ordinance shall provide for the location of group homes for the aged. A group home for the aged established under this subsection (2)(b)(II) ~~shall~~ MUST not be located within seven hundred fifty feet of another ~~such~~ group home, unless otherwise provided for by the county.

SECTION 12. In Colorado Revised Statutes, 31-23-303, **amend** (2)(b)(II) as follows:

31-23-303. Legislative declaration. (2) (b) (II) The general assembly declares that the establishment of group homes for the aged for the exclusive use of not more than eight persons sixty years of age or older per home is a matter of statewide concern. The general assembly further finds and declares that it is the policy of this state to enable and assist persons sixty years of age or older who do not need nursing facilities, and who so elect, to live in normal residential surroundings, including single-family residential units. Group homes for the aged ~~shall~~ MUST be distinguished from nursing facilities, as defined in ~~section 25.5-4-103 (14)~~ SECTION 25.5-4-103, and institutions providing life care, as defined in ~~section 11-49-101 (6)~~ SECTION 11-49-101. Every municipality ~~having adopted or that shall adopt~~ THAT ADOPTS a zoning ordinance shall provide for the location of group homes for the aged. A group home for the aged established under this subsection (2)(b) ~~shall~~ MUST not be located within seven hundred fifty feet of another ~~such~~ group home, unless otherwise provided for by the municipality. Nothing in this subsection (2)(b) shall be construed to exempt the group homes from compliance with any state, county, or municipal health, safety, and fire codes. On April 29, 1976, every person sixty years of age or older who resides in a skilled or intermediate health-care facility and who may be transferred or discharged therefrom to a group home for the aged shall not be so discharged or transferred unless he or she has received ninety days' advance written notice thereof or has agreed in writing to the proposed transfer or discharge.

SECTION 13. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO