

C.R.S.A. T. 26, Art. 6, Refs & Annos

C.R.S.A. T. 26, Art. 6, Pt. 1, Refs & Annos

C.R.S.A. § 26-6-101

§ 26-6-101. Short title

This part 1 shall be known and may be cited as the “Child Care Licensing Act”.

C.R.S.A. § 26-6-101.4

§ 26-6-101.4. Legislative declaration concerning the protections afforded by regulation

(1) The general assembly finds and declares that increasing numbers of children in Colorado are spending a significant portion of their day in care settings outside their own homes. In addition, some children are placed in facilities for residential care for their protection and well-being. The general assembly finds that regulation and licensing of child care facilities contribute to a safe and healthy environment for children. The provision of such environment affords benefits to children, their families, their communities, and the larger society. The general assembly acknowledges that there is a need to balance accessibility and quality of care when regulating child care facilities. It is the intent of the general assembly that those who regulate and those who are regulated work together to meet the needs of the children, their families, and the child care industry.

(2) In balancing the needs of children and their families with the needs of the child care industry, the general assembly also recognizes the financial demands with which the department of human services is faced in its attempt to ensure a safe and sanitary environment for those children of the state of Colorado who are in child care facilities. In an effort to reduce the risk to children outside their homes while recognizing the financial constraints placed upon the department, it is the intent of the general assembly that the limited resources available be focused primarily on those child care facilities that have demonstrated that children in their care may be at higher risk pursuant to section 26-6-107.

C.R.S.A. § 26-6-101.5

§ 26-6-101.5. Repealed by Laws 1990, S.B.90-161, § 15, eff. July 1, 1995

C.R.S.A. § 26-6-102

§ 26-6-102. Definitions

Effective: March 9, 2012

As used in this article, unless the context otherwise requires:

(1) “Affiliate of a licensee” means:

(a) Any person or entity that owns more than five percent of the ownership interest in the business operated by the licensee or the applicant for a license; or

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(b) Any person who is directly responsible for the care and welfare of children served; or

(c) Any executive, officer, member of the governing board, or employee of a licensee; or

(d) A relative of a licensee, which relative provides care to children at the licensee's facility or is otherwise involved in the management or operations of the licensee's facility.

(1.1) "Application" means a declaration of intent to obtain or continue a license or certificate for a child care facility or a child placement agency.

(1.2) "Certificate" means a legal document granting permission to operate a family foster home.

(1.3) "Certification" means the process by which the county department of social services or a child placement agency approves the operation of a foster care home.

(1.5) "Child care center" means a facility, by whatever name known, that is maintained for the whole or part of a day for the care of five or more children who are eighteen years of age or younger and who are not related to the owner, operator, or manager thereof, whether the facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as day care centers, school-age child care centers, before and after school programs, nursery schools, kindergartens, preschools, day camps, summer camps, and centers for developmentally disabled children and those facilities that give twenty-four-hour care for children and includes those facilities for children under the age of six years with stated educational purposes operated in conjunction with a public, private, or parochial college or a private or parochial school; except that the term shall not apply to any kindergarten maintained in connection with a public, private, or parochial elementary school system of at least six grades or operated as a component of a school district's preschool program operated pursuant to article 28 of title 22, C.R.S. The term shall not include any facility licensed as a family child care home, a foster care home, or a specialized group facility that is licensed to provide care for three or more children pursuant to subsection (10) of this section, but that is providing care for three or fewer children who are determined to have a developmental disability by a community centered board or who are diagnosed with a serious emotional disturbance.

(1.7) "Child care provider", as used in section 26-6-119, means a licensee, or an affiliate of a licensee, when the licensee holds a license to operate a family child care home pursuant to this part 1.

(2) "Child placement agency" means any corporation, partnership, association, firm, agency, institution, or person unrelated to the child being placed, who places, who facilitates placement for a fee, or who arranges for placement, for care of any child under the age of eighteen years with any family, person, or institution. A child placement agency may place, facilitate placement, or arrange for the placement of a child for the purpose of adoption, treatment, or foster care. The natural parents or guardian of any child who places said child for care with any facility licensed as a "family child care home" or "child care center" as defined by this section shall not be deemed a child placement agency.

(2.2)(a) "Children's resident camp" means a facility operating for three or more consecutive twenty-four-hour days during one or more seasons of the year for the care of five or more children. The facility shall have as its purpose a group living experience offering education and recreational activities in an outdoor environment. The recreational

experiences may occur at the permanent camp premises or on trips off the premises.

(b) A children's resident camp shall serve children who have completed kindergarten or are six years of age or older through children younger than nineteen years of age; except that a person nineteen years of age or twenty years of age may attend a children's resident camp if, within six months prior to attending the children's resident camp, he or she has attended or has graduated from high school.

(2.4) "Cradle care home" means a facility that is certified by a child placement agency for the care of a child, or children in the case of multiple-birth siblings, who is twelve months of age or younger, in a place of residence for the purpose of providing twenty-four-hour family care for six months or less in anticipation of a voluntary relinquishment of the child or children pursuant to article 5 of title 19, C.R.S., or while a county prepares an expedited permanency plan for an infant in its custody.

(2.5)(a) "Day treatment center" means a facility that:

(I) Provides less than twenty-four-hour care for groups of five or more children who are:

(A) Five years of age or older, but less than eighteen years of age; or

(B) Less than twenty-one years of age and who are placed in the program by court order prior to their eighteenth birthday; and

(II) Provides a structured program of various types of psycho-social and behavioral treatment to prevent or reduce the need for placement of the child out of the home or community.

(b) "Day treatment center" shall not include special education programs operated by a public or private school system or programs that are licensed by other rules of the department for less than twenty-four-hour care of children, such as a child care center.

(2.7) Repealed by Laws 2004, Ch. 177, § 2, eff. July 1, 2008.

(3) "Department" or "state department" means the state department of human services.

(3.5) Repealed by Laws 1990, S.B.90-161, § 15, eff. July 1, 1995.

(3.7) "Exempt family child care home provider" means a family child care home provider who is exempt from certain provisions of this part 1 pursuant to section 26-6-103(1)(g).

(4) "Family child care home" means a facility for child care in a place of residence of a family or person for the purpose of providing less than twenty-four-hour care for children under the age of eighteen years who are not related to the head of such home. "Family child care home" may include infant-toddler child care homes, large child care homes, experienced provider child care homes, and such other types of family child care homes designated by rules of the state board pursuant to section 26-6-106(2)(p), as the state board deems necessary and appropriate.

(4.5) "Foster care home" means a facility that is certified by the county department or a child placement agency for

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child care in a place of residence of a family or person for the purpose of providing twenty-four-hour family care for a child under the age of eighteen years who is not related to the head of such home, except in the case of relative care. The term includes any foster care home receiving a child for regular twenty-four-hour care and any home receiving a child from any state-operated institution for child care or from any child placement agency, as defined in subsection (2) of this section. "Foster care home" also includes those homes licensed by the department of human services that receive neither moneys from the counties nor children placed by the counties.

(4.7) "Guardian" means a person who is entrusted by law with the care of a child under eighteen years of age.

(5) "Guest child care facility" means a facility operated by a ski area, as that term is defined in section 33-44-103(6), C.R.S., where children are cared for:

(a) While parents or persons in charge of such child are patronizing the ski area;

(b) Fewer than ten total hours per day;

(c) Fewer than ten consecutive days per year; and

(d) Fewer than forty-five days in a calendar year, with thirty or fewer of such forty-five days occurring in either the winter or summer months.

(5.1) "Homeless youth shelter" means a facility that, in addition to other services it may provide, provides services and mass temporary shelter for a period of three days or more to youths who are at least eleven years of age, or older, and who otherwise are homeless youth as that term is defined in section 26-5.7-102(2).

(5.2) "ICON" means the computerized database of court records known as the integrated Colorado on-line network used by the state judicial department.

(5.3) "Kindergarten" means any facility providing an educational program for children only for the year preceding their entrance to the first grade, whether such facility is called a kindergarten, nursery school, preschool, or any other name.

(5.4) "License" means a legal document issued pursuant to this part 1 granting permission to operate a child care facility or child placement agency. A license may be in the form of a provisional, probationary, permanent, or time-limited license.

(5.5) "Licensing" means, except as otherwise provided in subsection (4.5) of this section, the process by which the department approves a facility or agency for the purpose of conducting business as a child care facility or child placement agency.

(5.6) "Medical foster care" means a program of foster care that provides home-based care for medically fragile children and youth who would otherwise be confined to a hospital or institutional setting and includes, but is not limited to, the following:

(a) Infants impacted by prenatal drug and alcohol abuse;

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- (b) Children with developmental disabilities which require ongoing medical intervention;
- (c) Children and youth diagnosed with acquired immune deficiency syndrome or human immunodeficiency virus;
- (d) Children with a failure to thrive or other nutritional disorders; and
- (e) Children dependent on technology such as respirators, tracheotomy tubes, or ventilators in order to survive.

(5.7)(a) “Negative licensing action” means a final agency action resulting in the denial of an application, the imposition of fines, or the suspension or revocation of a license issued pursuant to this part 1 or the demotion of such a license to a probationary license.

(b) For the purposes of this subsection (5.7), “final agency action” means the determination made by the department, after opportunity for hearing, to deny, suspend, revoke, or demote to probationary status a license issued pursuant to this part 1 or an agreement between the department and the licensee concerning the demotion of such a license to a probationary license.

(5.8)(a) “Neighborhood youth organization” means a nonprofit organization that is designed to serve youth as young as six years of age and as old as eighteen years of age and that operates primarily during times of the day when school is not in session and provides research-based, age-appropriate, and character-building activities designed exclusively for the development of youth from six to eighteen years of age. These activities shall occur primarily in a facility leased or owned by the neighborhood youth organization. The activities shall occur in an environment in which youth have written parental or legal guardian consent to become a youth member of the neighborhood youth organization and to arrive at and depart from the primary location of the activity on their own accord, without supervision by a parent, legal guardian, or organization.

(b) A neighborhood youth organization shall not include faith-based centers, organizations or programs operated by state or city parks or special districts, or departments or facilities that are currently licensed as child care centers as defined in subsection (1.5) of this section.

(5.9) “Out-of-home placement provider consortium” means a group of service providers that are formally organized and managed to achieve the goals of the county, group of counties, or mental health agency contracting for additional services other than treatment-related or child maintenance services.

(6) “Person” means any corporation, partnership, association, firm, agency, institution, or individual.

(6.5) “Place of residence” means the place or abode where a person actually lives and provides child care.

(6.7) “Public services short-term child care facility” means a facility that is operated by or for a county department of social services or a court and that provides care for a child:

(a) While the child’s parent or the person in charge of the child is conducting business with the county department of

social services or participating in court proceedings;

(b) Fewer than ten total hours per day;

(c) Fewer than fifteen consecutive days per year; and

(d) Fewer than forty-five days in a calendar year.

(7) “Related” means any of the following relationships by blood, marriage, or adoption: Parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, niece, nephew, or cousin.

(7.5) “Relative”, except as otherwise used in subsection (4.5) of this section, means any of the following relationships by blood, marriage, or adoption: Parent, grandparent, son, daughter, grandson, granddaughter, brother, sister, stepparent, stepbrother, stepsister, stepson, stepdaughter, uncle, aunt, niece, nephew, or cousin.

(8) “Residential child care facility” means a facility licensed by the state department pursuant to this part 1 to provide twenty-four-hour group care and treatment for five or more children operated under private, public, or nonprofit sponsorship. “Residential child care facility” includes community-based residential child care facilities, shelter facilities, and therapeutic residential child care facilities as defined in rule by the state board, and psychiatric residential treatment facilities as defined in section 25.5-4-103(19.5), C.R. S. A residential child care facility may be eligible for designation by the executive director of the state department pursuant to article 65 of title 27, C.R.S.

(8.5) “Routine medications”, as used in section 26-6-119, means any prescribed oral, topical, or inhaled medication, or unit dose epinephrine, that is administered pursuant to section 26-6-119.

(8.7) “Salaried foster parent” means a person who is employed by a child placement agency for the purposes of the demonstration pilot program authorized pursuant to section 26-6-104(1)(d)(IV), and who is employed for the sole purpose of providing foster care and who serves in no other capacity for the child placement agency.

(9) “Secure residential treatment center” means a facility operated under private ownership that is licensed by the department pursuant to this part 1 to provide twenty-four-hour group care and treatment in a secure setting for five or more children or persons up to the age of twenty-one years over whom the juvenile court retains jurisdiction pursuant to section 19-2-104(6), C.R.S., who are committed by a court pursuant to an adjudication of delinquency or pursuant to a determination of guilt of a delinquent act or having been convicted as an adult and sentenced for an act that would be a crime if committed in Colorado, or in the committing jurisdiction, to be placed in a secure facility.

(10)(a) “Specialized group facility” means a facility sponsored and supervised by a county department or a licensed child placement agency for the purpose of providing twenty-four-hour care for three or more children, but fewer than twelve children, whose special needs can best be met through the medium of a small group and who are:

(I) At least three years of age or older but less than eighteen years of age; or

(II) Less than twenty-one years of age and who are placed by court order prior to their eighteenth birthday.

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(b) “Specialized group facility” includes specialized group homes and specialized group centers.

(10.3) “Substitute child care provider” means a person who provides temporary care for a child or children in a family child care home or homes in the absence of the licensed provider for more than fourteen days or one hundred twelve hours in any calendar year.

(10.5) “Supervisory employee” means for purposes of section 26-6-103.5:

(a) A person directly responsible for managing a guest child care facility and the employees of the facility; or

(b) A person directly responsible for managing a public services short- term child care facility and the employees of the facility.

(11) “Therapeutic foster care” means a program of foster care that incorporates treatment for the special physical, psychological, or emotional needs of a child placed with specially trained foster parents, but does not include medical foster care.

(12) “Treatment foster care” means a clinically effective alternative to residential treatment facilities that combines the treatment technologies typically associated with more restrictive settings with a nurturing and individualized family environment.

(13) “Youth member” means a youth who is six years of age through eighteen years of age whose parent or legal guardian has provided written consent for the youth to participate in the activities of a neighborhood youth organization and who pays the required dues of the neighborhood youth organization.

C.R.S.A. § 26-6-102.5

§ 26-6-102.5. Repealed by Laws 1990, S.B.90-161, § 15, eff. July 1, 1995

C.R.S.A. § 26-6-103

§ 26-6-103. Application of part--study--definitions

Effective: August 5, 2008

(1) This part 1 shall not apply to:

(a) Special schools or classes operated primarily for religious instruction or for a single skill-building purpose;

(b) A child care facility which is approved, certified, or licensed by any other state agency, or by a federal government department or agency, which has standards for operation of the facility and inspects or monitors the facility;

(c) Facilities operated in connection with a church, shopping center, or business where children are cared for during short periods of time while parents, persons in charge of such children, or employees of the church, shopping center, or business whose children are being cared for at such location are attending church services at such location or

shopping, patronizing, or working on the premises of any such business;

(d) Occasional care of children that has no apparent pattern and occurs with or without compensation;

(e) The care of a child by a person in his or her private residence when the parent, guardian, or other person having legal custody of such child gives his consent to such care and when the person giving such care is not regularly engaged in the business of giving such care;

(f) Juvenile courts;

(g) A family child care home receiving one child for less than twenty-four-hour care or receiving two or more children who are related to each other as brother or sister from the same family household for less than twenty-four-hour care or such additional number of children as may be specified by rules promulgated by the state board of human services. The department shall conduct a study on whether rules should be modified to allow an additional number of children to be cared for in a family home that is exempt from licensing and shall present options and recommendations to the state board on or before October 1, 1996. The department shall consult with individuals and organizations who express to the department an interest in participating in the development of such recommendations, and the department shall notify such individuals and organizations of the date and location of the board hearing. The department shall examine the relationship between the licensing regulations governing larger family care homes and child care centers and shall present options and recommendations to the state board on or before October 1, 1996. In making such recommendations, the department shall consult with individuals and organizations who express to the department an interest in participating in the development of such recommendations, and the department shall notify such individuals and organizations of the date and location of the board hearing. Notwithstanding any provision of this paragraph (g) to the contrary, an exempt family child care home provider shall comply with the provisions of section 26-6-120 if he or she provides care for a child whose care is funded in whole or in part with moneys received on the child's behalf pursuant to the Colorado child care assistance program created in part 8 of article 2 of this title.

(h) Nursing homes which have children as residents.

(2) For purposes of this section, "short periods of time" means fewer than three hours in any twenty-four-hour period.

(3) A facility that has received a negative licensing action as defined in section 26-6-102(5.7) is prohibited from operating pursuant to subsection (1) of this section.

(4) Repealed by Laws 2008, Ch. 392, § 115, eff. Aug. 5, 2008.

C.R.S.A. § 26-6-103.3

§ 26-6-103.3. Application of part--substitute child care providers in family child care homes--rules

Effective: August 5, 2008

Substitute child care providers shall be subject only to the requirements of this section and shall be otherwise excluded from the requirements of this part 1. The state board shall promulgate rules for certification of substitute child care providers. At a minimum, the certification process shall require the substitute child care provider to

demonstrate that he or she has appropriate training or certifications, including child safety and cardiopulmonary resuscitation training or certifications, to care for a child in the absence of the licensed child care provider in a family child care home. The rules of the state board shall require that each substitute child care provider, pursuant to section 26-6-107(1)(a)(I)(C), pay for and submit to a fingerprint-based criminal history records check and a review of the records and reports of child abuse or neglect maintained by the state department to determine whether the substitute child care provider has been found to be responsible in a confirmed report of child abuse or neglect. The department shall not certify a substitute child care provider who is convicted of any of the crimes specified in section 26-6-104(7) or who is found to be responsible in a confirmed report of child abuse or neglect. The state board shall establish by rule the circumstances under which a licensed family child care home shall be required to use a certified substitute child care provider in the family child care home during the licensed provider's absence and a procedure by which a licensed family child care home may verify that a person is certified to be a substitute child care provider pursuant to this section.

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§ 26-6-103.5. Application of part--guest child care facilities--public services short-term child care facilities--definition

Effective: August 10, 2011

(1) Guest child care facilities and public services short-term child care facilities shall be subject only to the requirements of this section and shall otherwise be excluded from the requirements of this part 1. Each guest child care facility and each public services short-term child care facility shall post a notice in bold print and in plain view on the premises of the child care facility. The notice shall specify the telephone number and address of the appropriate division within the state department for investigating child care facility complaints and shall state that any complaint about the guest child care facility's or the public services short-term child care facility's compliance with these requirements should be directed to such division.

(2) No person or entity shall operate a guest child care facility or a public services short-term child care facility unless the following requirements are met:

(a) The guest child care facility or public services short-term child care facility is inspected not less frequently than one time per year by the department of public health and environment, and it conforms to the sanitary standards prescribed by such department under the provisions of section 25-1.5-101(1)(h), C.R.S.;

(b) The guest child care facility or public services short-term child care facility is inspected not less frequently than one time per year by the local fire department, and it conforms to the fire prevention and protection requirements of the local fire department in the locality of the facility, or in lieu thereof, the division of labor;

(c) The guest child care facility or public services short-term child care facility retains, on the premises at all times, the records of the inspections required by paragraphs (a) and (b) of this subsection (2) for the current calendar year and the immediately preceding calendar year;

(d) The guest child care facility or public services short-term child care facility retains, on the premises at all times, a record of children cared for over the course of the current calendar year and the immediately preceding calendar year;

(e) At least one supervisory employee, as that term is defined in section 26-6-102(10.5), is on duty at the guest child

care facility or public services short-term child care facility at all times when the facility is operating;

(f)(I) The guest child care facility or public services short-term child care facility requires all supervisory employees of the guest child care facility or public services short-term child care facility and applicants for supervisory employee positions at the guest child care facility or public services short-term child care facility to obtain a fingerprint-based criminal history check utilizing the Colorado bureau of investigation and, for supervisory employees hired on or after August 10, 2011, the federal bureau of investigation and requests the state department to ascertain whether the person being investigated has been convicted of any of the criminal offenses specified in section 26-6-104(7)(a)(I) or whether the person has been determined to have a pattern of misdemeanor convictions as described in section 26-6-104(7)(a)(I)(E) and the guest child care facility or public services short-term child care facility prohibits the hiring of any such person as a supervisory employee or terminates the employment of any such person as a supervisory employee upon confirmation of such a criminal history;

(II) Deleted by Laws 2011, Ch. 163, § 1, eff. Aug. 10, 2011.

(III) The guest child care facility or public services short-term child care facility requests the state department to access records and reports of child abuse or neglect to determine whether the supervisory employee or applicant for a supervisory employee position has been found to be responsible in a confirmed report of child abuse or neglect and the guest child care facility or public services short-term child care facility prohibits the hiring of any such person as a supervisory employee or terminates the employment of any such person as a supervisory employee. Information shall be made available pursuant to section 19-1-307(2)(r), C.R.S., and rules promulgated by the state board pursuant to section 19-3-313.5(4), C.R.S.

(IV)(A) The guest child care facility or public services short-term child care facility requests the state department to obtain a comparison search on the ICON system at the state judicial department with the name and date of birth information and any other available source of criminal history information that the state department determines is appropriate, whether or not the criminal history background check confirms a criminal history, in order to determine the crime or crimes, if any, for which the supervisory employee or applicant for a supervisory employee position was arrested or convicted and the disposition thereof; and

(B) The guest child care facility or public services short-term child care facility requests the state department to obtain such information concerning the supervisory employee or applicant for a supervisory employee position from any other recognized database, if any, that is accessible on a statewide basis as set forth by rules promulgated by the state board;

(g)(I) The guest child care facility or public services short-term child care facility requires all other employees of the guest child care facility or public services short-term child care facility to obtain a fingerprint-based criminal history check utilizing the Colorado bureau of investigation and, for employees hired on or after August 10, 2011, the federal bureau of investigation and requests the state department to ascertain whether the person being investigated has been convicted of any of the criminal offenses specified in section 26-6-104(7)(a)(I) or whether the person has been determined to have a pattern of misdemeanor convictions as described in section 26-6-104(7)(a)(I)(E) and the guest child care facility or public services short-term child care facility terminates the employment of any such person as an employee upon confirmation of such a criminal history;

(II) Deleted by Laws 2011, Ch. 163, § 1, eff. Aug. 10, 2011.

(III) The guest child care facility or public services short-term child care facility requests the state department to access records and reports of child abuse or neglect to determine whether the employee has been found to be

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responsible in a confirmed report of child abuse or neglect and the guest child care facility or public services short-term child care facility terminates the employment of any such person. Information shall be made available pursuant to section 19-1-307(2)(r), C.R.S., and rules promulgated by the state board pursuant to section 19-3-313.5(4), C.R.S.

(IV)(A) The guest child care facility or public services short-term child care facility requests the state department to obtain a comparison search on the ICON system at the state judicial department with the name and date of birth information and any other available source of criminal history information that the state department determines is appropriate, whether or not the criminal history background check confirms a criminal history, in order to determine the crime or crimes, if any, for which the employee was arrested or convicted and the disposition thereof; and

(B) The guest child care facility or public services short-term child care facility requests the state department to obtain such information concerning the employee from any other recognized database, if any, that is accessible on a statewide basis as set forth by rules promulgated by the state board; and

(h) The guest child care facility or public services short-term child care facility maintains the following employee-to-child ratios at all times when the facility is operating:

(I) One child care facility employee for every five children ages six weeks to eighteen months;

(II) One child care facility employee for every five children ages twelve months to thirty-six months;

(III) One child care facility employee for every seven children ages twenty-four months to thirty-six months;

(IV) One child care facility employee for every eight children ages two and one-half years to three years;

(V) One child care facility employee for every ten children ages three years to four years;

(VI) One child care facility employee for every twelve children ages four years to five years;

(VII) One child care facility employee for every fifteen children ages five years of age and older; and

(VIII) One child care facility employee for every ten children in a mixed age group, ages two and one-half years to six years.

(2.5) In addition to the requirements specified in subsection (2) of this section, a public services short-term child care facility shall ensure that at least one employee is on duty at the facility at all times when the facility is operating who holds a current department-approved first aid and safety certificate that includes certification in cardiopulmonary resuscitation training for all ages of children.

(3)(a) If the guest child care facility or public services short-term child care facility refuses to hire a supervisory employee or terminates the employment of a supervisory employee as a result of information disclosed in an investigation of the supervisory employee or applicant therefor pursuant to paragraph (f) of subsection (2) of this section, the guest child care facility or public services short-term child care facility shall not be subject to civil

liability for such refusal to hire.

(b) If the guest child care facility or public services short-term child care facility terminates the employment of an employee as a result of the information disclosed in an investigation of the employee pursuant to paragraph (g) of subsection (2) of this section, the guest child care facility or public services short-term child care facility shall not be subject to civil liability for such termination of employment.

(4) A guest child care facility employee or supervisory employee applicant who has obtained a fingerprint-based criminal history check pursuant to paragraph (f) or (g) of subsection (2) of this section, or pursuant to subsection (5) of this section, shall not be required to obtain a new fingerprint-based criminal history check if he or she returns to a guest child care facility to work in subsequent seasons. The state department shall maintain the results of the initial background check and receive subsequent notification of activity on the record for the purpose of redetermining, if necessary, whether the employee or supervisory employee applicant has been convicted of any of the criminal offenses specified in section 26-6-104(7)(a)(I), or whether the employee or supervisory employee applicant has a pattern of misdemeanor convictions as described in section 26-6-108(8)(b), and the guest child care facility shall contact the state department for information concerning subsequent convictions, if any, prior to rehiring such employee.

(5) The requirements of paragraphs (f) and (g) of subsection (2) of this section shall not apply to those employees of guest child care facilities concerning whom criminal history background checks were conducted on or after July 1, 2001, and before July 1, 2002, for purposes of state child care licensure requirements.

(6) For purposes of this section, a “guest child care facility” does not include a ski school. For purposes of this section, “ski school” means a school located at the ski area in which the guest child care facility is located for purposes of teaching children how to ski or snowboard.

(7) The state department shall have the authority to receive, respond to, and investigate any complaint concerning compliance with the requirements set forth in this part 1 for a guest child care facility or a public services short-term child care facility.

C.R.S.A. § 26-6-103.7

§ 26-6-103.7. Application of part--neighborhood youth organizations--licensing--duties and responsibilities--definitions

Effective: April 23, 2012

(1) Notwithstanding any provision of this part 1 to the contrary, a neighborhood youth organization that is not otherwise licensed to operate under this part 1 may obtain a neighborhood youth organization license pursuant to this section. A neighborhood youth organization that obtains a license pursuant to this section shall be subject only to the requirements of this section and shall otherwise be exempt from the requirements of this part 1.

(2) The state board shall promulgate rules to establish a neighborhood youth organization license, including but not limited to the fee required to apply for and obtain the license. The rules shall not concern staff-to-youth ratios.

(3) A neighborhood youth organization licensed pursuant to this section and operating in the state of Colorado shall have the following duties and responsibilities:

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(a) To inform a parent or legal guardian of the requirements of this subsection (3) and to post a notice in bold print and in plain view on the premises of the facility in which the neighborhood youth organization operates that lists the following information:

(I) The requirements of this subsection (3); and

(II) The telephone number and address of the appropriate division within the state department for investigating complaints concerning a neighborhood youth organization, with the instruction that any complaint regarding the neighborhood youth organization's compliance with these requirements be directed to that division;

(b) Prior to admitting an interested youth member into the neighborhood youth organization, to require the youth member's parent or legal guardian to sign a statement authorizing the youth member to arrive and depart from the organization without supervision by a parent, legal guardian, or the organization;

(c) To establish a process to receive and resolve complaints from parents or legal guardians;

(d) To establish a process to report known or suspected child abuse or neglect to appropriate authorities pursuant to section 19-3-304, C.R.S.;

(e) To maintain, either at the neighborhood youth organization or at a central administrative facility, records for each youth member admitted into the neighborhood youth organization containing, at a minimum, the following information:

(I) The youth member's full name;

(II) The youth member's date of birth;

(III) The name, address, and telephone number of a parent or legal guardian of the youth member;

(IV) The name and telephone number of at least one emergency contact person for the youth member; and

(V) A parent's or legal guardian's written authorization for the youth member to attend the neighborhood youth organization;

(f) To require a youth member's parent or legal guardian to sign a statement authorizing the neighborhood youth organization to provide transportation prior to field trips or to and from the neighborhood youth organization; and

(g) To follow the requirements specified in subsection (4) of this section for a fingerprint-based or other criminal history record check of each employee and volunteer who works with or will work with youth members five or more days in a calendar month.

(4) A licensed neighborhood youth organization shall require all employees and volunteers who work directly with or will work directly with youth members five or more days in a calendar month to obtain, prior to employment, and every two years thereafter, one of the following:

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(a) A fingerprint-based criminal history records check utilizing the Colorado bureau of investigation and request the state department to ascertain whether the person being investigated has been convicted of felony child abuse as specified in section 18-6-401, C.R.S., or a felony offense involving unlawful sexual behavior as defined in section 16-22-102(9), C.R.S. The neighborhood youth organization shall not hire a person as an employee or approve a person as a volunteer after confirmation of such a criminal history.

(b) A federal bureau of investigation fingerprint-based criminal history records check utilizing the Colorado bureau of investigation if the employee, volunteer, or applicant has resided in the state of Colorado less than two years. The neighborhood youth organization shall request the state department to ascertain whether the person being investigated has been convicted of felony child abuse as specified in section 18-6-401, C.R.S., or a felony offense involving unlawful sexual behavior as defined in section 16-22-102(9), C.R.S. The neighborhood youth organization shall not hire a person as an employee or approve a person as a volunteer after confirmation of such a criminal history.

(c) A comparison search by the state department on the ICON system of the state judicial department or a comparison search on any other database that is recognized on a statewide basis by using the name, date of birth, and social security number information that the state department determines is appropriate to determine whether the person being investigated has been convicted of felony child abuse as specified in [section 18-6-401, C.R.S.](#), or a felony offense involving unlawful sexual behavior as defined in [section 16-22-102\(9\), C.R.S.](#) The neighborhood youth organization shall not hire a person as an employee or approve a person as a volunteer after confirmation of such a criminal history.

(d) A separate background check by a private entity regulated as a consumer reporting agency pursuant to 15 U.S.C. sec. 1681 et seq. that shall disclose, at a minimum, sexual offenders and felony convictions and include a social security number trace, a national criminal file check, and a state or county criminal file search. The separate background check shall ascertain whether the person being investigated has been convicted of felony child abuse as specified in section 18-6-401, C.R.S., or a felony offense involving unlawful sexual behavior as defined in section 16-22-102(9), C.R.S. The neighborhood youth organization shall not hire a person as an employee or approve a person as a volunteer after confirmation of such a criminal history.

(5) A person who visits or takes part in the activities of a licensed neighborhood youth organization but who is not required to obtain a criminal history record check pursuant to subsection (4) of this section shall at all times be under the supervision of an employee or volunteer who has been hired or approved after obtaining a criminal history record check pursuant to subsection (4) of this section.

(6) The governing board of each licensed neighborhood youth organization shall adopt minimum standards for operating the licensed neighborhood youth organization, including but not limited to standards concerning staff, staff training, health and safety, and mechanisms for assessing and enforcing the licensed neighborhood youth organization's compliance with the standards adopted.

(7) The state department shall have the authority to receive, respond to, and investigate any complaint concerning compliance with the requirements set forth in this section for a licensed neighborhood youth organization.

(8) A licensed neighborhood youth organization shall not be required to obtain or keep on file immunization records for youth members participating in the organization's activities.

(9) As used in this section, unless the context otherwise requires:

(a) "Employee" means a paid employee of a neighborhood youth organization who is eighteen years of age or older.

(b) "Volunteer" means a person who volunteers his or her assistance to a neighborhood youth organization and who is eighteen years of age or older.

C.R.S.A. § 26-6-104

§ 26-6-104. Licenses--out-of-state notices and consent--demonstration pilot program

Effective: April 29, 2010

(1)(a) Except as otherwise provided in this part 1, no person shall operate any agency or facility defined in this part 1 without first being licensed to operate or maintain such agency or facility by the state department and paying the fee prescribed therefor. Except as otherwise provided in subparagraph (II) of paragraph (b) of this subsection (1) and paragraph (c) of this subsection (1), any such license issued by the state department shall be permanent unless otherwise revoked or suspended pursuant to section 26-6-108.

(b)(I) A person operating a foster care home shall not be required to obtain a license from the state department to operate the foster care home if such person holds a certificate to operate such home from any county department or a child placement agency licensed under the provisions of this part 1. All such certificates shall be considered licenses for the purpose of this part 1, including but not limited to the investigation and criminal history background checks required under section 26-6-107. Each certificate shall be in such form as prescribed and provided by the state department, shall certify that such person and any other adults residing in the home who are acting as care givers are suitable persons to operate a foster care home or provide care for a child, and shall contain such information as the state department requires. A child placement agency issuing or renewing any such certificate shall transmit a copy or report thereof to the state department.

(II) On and after July 1, 2002, and contingent upon the time lines for implementation of the computer "trails" enhancements, the state board shall promulgate rules requiring the annual recertification of foster care homes and setting forth the procedural requirements associated with recertification. Such rules shall include requirements that the certifying entity shall perform on-site visits to each foster care home applying for certification or recertification and shall require inspections of the entire premises of the foster care home, including sleeping areas, as well as other assessments of the foster care home. No foster care home shall be certified at any one time by more than one child placement agency or county department.

(III) A foster care home, when certified by a child placement agency or county department, may receive for care a child from sources other than the certifying child placement agency or county department upon the written consent and approval of the child placement agency or county department as to each such child.

(IV) A facility may be certified as a foster care home and licensed as a family child care home so long as the licensure and certification are provided by two separate licensing entities. The state board shall promulgate rules governing the communication requirements between two entities that license and certify the same facility.

(c)(I) On and after July 1, 2002, and contingent upon the time lines for implementation of the computer "trails" enhancements, child placement agencies that certify foster care homes shall be licensed annually until the implementation of any risk-based schedule for the renewal of child placement agency licenses pursuant to

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subparagraph (II) of this paragraph (c). The state board shall promulgate rules specifying the procedural requirements associated with the renewal of such child placement agency licenses. Such rules shall include requirements that the state department conduct assessments of the child placement agency.

(II)(A) On and after January 1, 2004, and upon the functionality of the computer “trails” enhancements, the state department may implement a schedule for relicensing of child placement agencies that certify foster care homes that is based on risk factors such that child placement agencies with low risk factors shall renew their licenses less frequently than child placement agencies with higher risk factors.

(B) Prior to January 1, 2004, and contingent upon the time lines for implementation of the computer “trails” enhancements, the state department shall create classifications of child placement agency licenses that certify foster care homes that are based on risk factors as those factors are established by rule of the state board.

(d)(I) Notwithstanding any other provision of this part 1, no person shall operate a foster care home that is certified by a county department if such person is a relative of any employee of the child welfare division or unit of the county department certifying the foster care home. If such person files an application with a county department that would violate the provisions of this subparagraph (I) by certifying the foster care home, the county department shall refer the application to another county department or to a child placement agency. Unless otherwise prohibited, the county department or child placement agency to which the application was referred may certify and supervise a foster care home operated by such person. The county department that referred the application may place children in the county-certified foster care home upon written agreement of the two county departments.

(II) Notwithstanding any other provision of this part 1, no person shall operate a foster care home that is certified by a child placement agency if such person is a relative of any owner, officer, executive, member of the governing board, or employee of the child placement agency certifying the foster care home. If such person files an application with a child placement agency that would violate the provisions of this subparagraph (II) by certifying the foster care home, the child placement agency shall refer the application to a county department or to another child placement agency that would not violate the provisions of this subparagraph (II) by certifying the foster care home.

(III) Notwithstanding any other provision of this part 1, no owner, officer, executive, member of the governing board, or employee of a child placement agency licensed pursuant to this part 1, or any relative of said owner, officer, executive, member, or employee, shall hold a beneficial interest in any property operated, or intended to be operated, as a foster care home, when the property is certified by the child placement agency as a foster care home. The provisions of this subparagraph (III) shall not apply to salaried foster parents.

(IV) Repealed by Laws 2006, Ch. 90, § 2, eff. July 1, 2009.

(2) No person shall receive or accept a child under eighteen years of age for placement, or place any child either temporarily or permanently in a home, other than with persons related to the child, without first obtaining a license as a child placement agency from the department, and paying the fee prescribed therefor.

(2.5) Deleted by Laws 1996, H.B.96-1006, § 5, eff. July 1, 1996.

(3) A provisional license or certificate for a period of six months may be issued once to an applicant for an original license or certificate, permitting the applicant to operate a family child care home, foster care home, or child care center if the applicant is temporarily unable to conform to all standards required under this part 1, upon proof by the applicant that attempts are being made to conform to such standards or to comply with any other requirements. The applicant has the right to appeal any standard that the applicant believes works an undue hardship or has been

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applied too stringently by the representatives of the department. Upon filing an appeal, the department shall proceed in the manner prescribed for licensee appeals in section 26-6-106(3).

(4) No license for a child care center, residential child care facility, or secure residential treatment center shall be issued by the department until the facilities to be operated or maintained by the applicant or licensee are approved by the department of public health and environment as conforming to the sanitary standards prescribed by said department under the provisions of section 25-1.5-101(1)(h), C.R.S., and unless such facilities conform to fire prevention and protection requirements of local fire departments in the locality of the facility or, in lieu thereof, of the division of labor.

(5) No person shall send or bring into this state any child for the purposes of foster care or adoption without sending notice of the pending placement and receiving the consent of the department or its designated agent to the placement. The notice shall contain:

(a) The name and the date and place of birth of the child;

(b) The identity and address or addresses of the parents or legal guardian;

(c) The identity and address of the person sending or bringing the child;

(d) The name and address of the person to or with which the sending person proposes to send, bring, or place the child;

(e) A full statement of the reasons for the proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(6) The state board of human services shall establish rules and regulations for the approval of foster care homes and child care centers that provide twenty-four-hour care of children between eighteen and twenty-one years of age for whom the county department is financially responsible and when placed in foster care by the county department.

(6.5) On and after July 1, 2005, and subject to designation as a qualified accrediting entity as required by the "Intercountry Adoption Act of 2000", 42 U.S.C. sec. 14901 et seq., the state department may license and accredit a child placement agency for purposes of providing adoption services for convention adoptions pursuant to the "Intercountry Adoption Act of 2000", 42 U.S.C. sec. 14901 et seq. The state board of human services may adopt rules consistent with federal law governing the procedures for adverse actions regarding accreditation, which procedures may vary from the procedures set forth in the "State Administrative Procedure Act", article 4 of title 24, C.R.S.

(7)(a)(I) The state department, a county department, or a child placement agency licensed under the provisions of this part 1 shall not issue a license or certificate to operate a family child care home, a foster care home, a child care center, a residential child care facility, a secure residential treatment center, or a child placement agency, and any license or certificate issued prior to August 7, 2006, shall be revoked or suspended, if the applicant for the license or certificate, an affiliate of the applicant, a person employed by the applicant, or a person who resides with the applicant at the facility has been convicted of:

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(A) Child abuse, as specified in section 18-6-401, C.R.S.;

(B) A crime of violence, as defined in section 18-1.3-406, C.R.S.;

(C) Any felony offenses involving unlawful sexual behavior, as defined in section 16-22-102(9), C.R.S.;

(D) Any felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(D.5) Any felony involving physical assault, battery, or a drug-related offense within the five years preceding the date of application for a license or certificate;

(E) A pattern of misdemeanor convictions, as defined by rule of the state board, within the ten years immediately preceding the date of submission of the application;

(F) Any offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in sub-subparagraphs (A) to (E) of this subparagraph (I).

(II) For purposes of this paragraph (a), “convicted” means a conviction by a jury or by a court and shall also include a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, and a plea of guilty or nolo contendere.

(b) The convictions identified in paragraph (a) of this subsection (7) shall be determined according to the records of the Colorado bureau of investigation, the ICON system at the state judicial department, or any other source, as set forth in section 26-6-107(1)(a)(I.5). A certified copy of the judgment of a court of competent jurisdiction of such conviction, deferred judgment and sentence agreement, deferred prosecution agreement, or deferred adjudication agreement shall be prima facie evidence of such conviction or agreement. No license or certificate to operate a family child care home, a foster care home, a child care center, a residential child care facility, a secure residential child care facility, or a child placement agency shall be issued if the state department has a certified court order from another state indicating that the person applying for such a license or certificate has been convicted of child abuse or any unlawful sexual offense against a child under a law of any other state or the United States or the state department has a certified court order from another state that the person applying for the license or certificate has entered into a deferred judgment or deferred prosecution agreement in another state as to child abuse or any sexual offense against a child.

(7.5) No later than January 1, 2004, the state board shall promulgate rules that require all current and prospective employees of a county department who in their position have direct contact with any child in the process of being placed, or who has been placed, in foster care to submit a set of fingerprints for purposes of obtaining a fingerprint-based criminal history record check, unless the person has already submitted a set of fingerprints. The check shall be conducted in the same manner as provided in subsection (7) of this section and in section 26-6-107(1)(a). The person’s employment shall be conditional upon a satisfactory criminal background check and subject to the same grounds for denial or dismissal as set forth in subsection (7) of this section and in section 26-6-107(1)(a). The costs for the fingerprint-based criminal history record check shall be borne by the applicant.

(8) The state department, a county department, or a child placement agency licensed under the provisions of this part 1 shall not issue a license or certificate to operate any agency or facility defined in this part 1 if the person applying for such license or certificate or an affiliate of the applicant, a person employed by the applicant, or a person who

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resides with the applicant at the facility:

(a) Has been determined to be insane or mentally incompetent by a court of competent jurisdiction and, should a court enter, pursuant to part 3 or part 4 of article 14 of title 15, C.R.S., or section 27-65-109(4) or 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the applicant is incapable of operating a family child care home, foster care home, child care center, or child placement agency, the record of such determination and entry of such order being conclusive evidence thereof.

(b) Deleted by Laws 2006, Ch. 178, § 3, eff. Aug. 7, 2006.

(9) The state department is strongly encouraged to examine and report to the general assembly on the benefits of licensing any private, nonprofit child placement agency that is dedicated to serving the special needs of foster care children through services delivered by specialized foster care parents in conjunction with and supported by staff of the child placement agency. Such child placement agencies examined shall be able to:

(a) Offer the following services:

(I) Provision of educated, skilled, and experienced foster care parents;

(II) Social work support for the foster care child and foster care family;

(III) Twenty-four-hour, on-call availability;

(IV) Monthly foster care parent support group meetings;

(V) On-going educational and networking opportunities for any foster care family;

(VI) Individualized treatment plans developed through team collaboration;

(VII) Professional and family networking opportunities; and

(VIII) Respite support and reimbursement;

(b) Provide a form of specialized foster care including, but not limited to, the following types of care:

(I) Deleted by Laws 2003, Ch. 289, § 3, eff. May 22, 2003.

(II) Medical foster care;

(III) Respite foster care;

(IV) Deleted by Laws 2003, Ch. 289, § 3, eff. May 22, 2003.

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(V) Therapeutic foster care;

(VI) Developmentally disabled foster care; and

(VII) Treatment foster care.

C.R.S.A. § 26-6-104.5

**§ 26-6-104.5. Compliance with local government zoning regulations--notice to local governments--
provisional licensure**

(1) The department shall require any child care facility seeking licensure pursuant to section 26-6-104 to comply with any applicable zoning regulations of the municipality, city and county, or county where the facility is situated. Failure to comply with applicable zoning regulations shall constitute grounds for the denial of a license to a facility.

(2) The department shall assure that timely written notice is provided to the municipality, city and county, or county where a child care facility is situated, including the address of the facility and the population and number of persons to be served by the facility, when any of the following occurs:

(a) A person applies for a license to operate a child care facility pursuant to section 26-6-104;

(b) A license is granted to operate a child care facility pursuant to section 26-6-104; or

(c) A change is made in the license of a residential child care facility, specialized group facility, homeless youth shelter, or secure residential treatment center.

(d) Deleted by Laws 2006, Ch. 178, § 4, eff. Aug. 7, 2006.

(3) Notwithstanding any other provision of law, in the event of a zoning or other delay or dispute between a child care facility and the municipality, city and county, or county where the facility is situated, the department may grant a provisional license to the facility for up to six months pending resolution of the delay or dispute.

(4) The provisions of this section shall not apply to any foster care home certified pursuant to this part 1 or to any specialized group facility that is licensed to provide care for three or more children pursuant to this part 1 but that is providing care for three or fewer children who are determined to have a developmental disability by a community centered board or who have a serious emotional disturbance.

C.R.S.A. § 26-6-105

**§ 26-6-105. Fees--when original applications, reapplications, and renewals for licensure are required--
creation of child care licensing cash fund**

Effective: August 7, 2013

(1)(a) The state department is hereby authorized to establish, pursuant to rules promulgated by the state board,

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permanent, time-limited, and provisional license fees and fees for continuation or renewal, whichever is applicable, of a license for the following types of child care arrangements:

(I) Family child care homes, including any special type of family child care home designated by rules of the state board pursuant to section 26-6-106(2)(p), but excluding homes certified by county departments or child placement agencies;

(II) Child care centers;

(III) Secure residential treatment centers;

(IV) Residential child care facilities;

(V) Child placement agencies;

(VI) Repealed by Laws 1990, S.B.90-161, § 15, eff. July 1, 1995.

(VII) Homeless youth shelters;

(VIII) Day treatment centers;

(IX) Specialized group facilities; and

(X) Children's resident camps.

(b) The state department may also establish fees pursuant to rules promulgated by the state board of human services for the following situations:

(I) Issuance of a duplicate license;

(II) Change of license due to an increase in licensing capacity or a change in the age of children served;

(III) Obtaining the criminal record of an applicant and any person living with or employed by the applicant, which may include costs associated with the taking of fingerprints;

(IV) Checking the records and reports of child abuse or neglect maintained by the state department for an owner, employee, or resident of a facility or agency or an applicant for a license to operate a facility or agency;

(V) Filing of appeals;

(VI) Duplication of licensing records for the public;

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(VII) Duplication of licensing records in electronic format for the public;

(VIII) Accrediting a child placement agency for purposes of providing adoption services for convention adoptions pursuant to the “Intercountry Adoption Act of 2000”, 42 U.S.C. sec. 14901 et seq.;

(IX) Insufficient funds payment and collection of overdue fees and fines; and

(X) Collection of fees for scanning of adoption records pursuant to section 19-5-307, C.R.S.

(c) The fees established pursuant to this subsection (1) shall not exceed the direct and indirect costs incurred by the department. The division involved in licensing child care facilities shall develop and implement an objective and systematic approach for setting, monitoring, and revising child care licensing fees by developing and using an ongoing method to track all direct and indirect costs associated with child care inspection licensing, developing a methodology to assess the relationship between licensing costs and fees, and annually reassessing costs and fees and reporting the results to the state board. In developing a fee schedule, the department should consider the licensed capacity of facilities and the time needed to license facilities.

(2)(a) The fees specified in subsection (1) of this section shall be paid when application is made for any license or when renewal of a child placement agency license is sought and shall not be subject to refund. Applications for licenses shall be required in the situations that are set forth in paragraph (b) of this subsection (2) and shall be made on forms prescribed by the state department. Each completed application shall set forth such information as required by the state department. All licenses shall continue in force until revoked, surrendered, or expired.

(b)(I) An original application and fee are required:

(A) When an individual, partnership, corporation, or association plans to open a child care center, children’s resident camp, secure residential treatment center, residential child care facility, homeless youth shelter, day treatment center, specialized group facility, or child placement agency;

(B) When the child care center, children’s resident camp, secure residential treatment center, residential child care facility, homeless youth shelter, day treatment center, or specialized group facility plans to move the center or facility to a different building at a different location;

(C) When the management or governing body of a child care center, children’s resident camp, secure residential treatment center, residential child care facility, homeless youth shelter, day treatment center, specialized group facility, or child placement agency is acquired by a different individual, association, partnership, or corporation;

(C.5) When a change occurs in the operating entity of a child care center, children’s resident camp, secure residential treatment center, residential child care facility, homeless youth shelter, day treatment center, specialized group facility, or child placement agency resulting in a new federal employee identification number; except that, if the reason for the issuance of a new federal employee identification number is solely due to a change in the corporate structure of the operating entity and either the management or governing body of the entity remains the same as originally licensed and the entity is operating in the same facility or facilities as originally licensed, the state department shall treat the entity’s status as a renewal and assess the applicable renewal fee. Only newly hired employees shall be required to undergo criminal background checks as required in section 26-6-107.

(D) When a family or person plans to open a family child care home, including any special type of family child care home designated by rules of the state board pursuant to section 26-6-106(2)(p), or foster care home;

(E) When a family or person who operates a family child care home, including any special type of family child care home designated by rules of the state board pursuant to section 26-6-106(2)(p), or foster care home moves to a new residence.

(II) A reapplication and fee shall be required and received by the state department in the manner specified in rules promulgated by the state board. An individual, partnership, corporation, or association seeking to renew a child placement agency license shall submit a reapplication and fee to the state department as specified in rules promulgated by the state board.

(3) Nothing in this section shall prevent any city or city and county from imposing additional fees to those specified under this section.

(4) All fees collected pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the child care licensing cash fund, which is hereby created. The general assembly shall make annual appropriations from the child care licensing cash fund for expenditures incurred by the department in the performance of its duties under this part 1. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

C.R.S.A. § 26-6-105.5

§ 26-6-105.5. Application forms--criminal sanctions for perjury

(1)(a)(I) All applications for the licensure of a child care facility or the certification of a foster care home pursuant to this part 1 shall include the notice to the applicant that is set forth in paragraph (b) of this subsection (1).

(II) Every application used in the state of Colorado for employment with a child care provider or facility shall include the notice to the applicant that is set forth in paragraph (b) of this subsection (1).

(b) Each application described in paragraph (a) of this subsection (1) shall contain the following notice to the applicant:

Any applicant who knowingly or willfully makes a false statement of any material fact or thing in this application is guilty of perjury in the second degree as defined in section 18-8-503, Colorado Revised Statutes, and, upon conviction thereof, shall be punished accordingly.

(2) Any person applying for the licensure of a child care facility or the certification of a foster care home pursuant to this part 1 or any person applying to work at such a facility as an employee who knowingly or willfully makes a false statement of any material fact or thing in the application is guilty of perjury in the second degree as defined in section 18-8-503, C.R.S., and, upon conviction thereof, shall be punished accordingly.

(3) Every application for certification or licensure as a foster care home shall provide notice to the applicant that the applicant may be subject to immediate revocation of certification or licensure or other negative licensing action as set forth in this section, section 26-6-107.7, and as described by rule of the state board.

C.R.S.A. § 26-6-105.7

§ 26-6-105.7. Applications--materials waivers--appeals--rules

Effective: May 18, 2012

(1) A child care center that is subject to the licensing requirements of this part 1 is also subject to the provisions of this section.

(2)(a) The department shall make available to licensed child care centers and include with every application form for licensure information concerning the manner in which a child care center may apply for a waiver to use certain materials in its program and curriculum. The waiver request shall be included in a center's application for licensure or, in the case of a licensed child care center, may be submitted at any time.

(b) A child care center seeking a waiver for the use of certain materials shall adopt a policy that:

(I) Ensures that instructors in the child care center are trained in the use of the materials in a way that provides reasonable safety provisions for use by children; and

(II) Requires parental notification of the use of the materials in the child care center and the potential safety risks associated with the materials. The policy shall require the child care center to obtain signed parental consent forms acknowledging awareness of the risks in using the materials in the child care center.

(3) If a licensed child care center receives notice of a violation pursuant to this part 1, information concerning the waiver and appeal process described in this section shall be included in the notification to the child care center.

(4) The state board shall promulgate rules for the implementation of this section, including:

(a) The requirements for the granting of a waiver request, which requirements shall include that the department make a decision on the waiver request and notify the child care center of its decision no later than sixty calendar days after receipt of the request;

(b) The requirements for the denial of a waiver request, which requirements shall include that the department make a decision on the waiver request and notify the child care center of its decision no later than sixty calendar days after receipt of the request;

(c) The process by which a child care center may appeal a denial of a waiver request, which process shall include, but need not be limited to:

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(I) That upon the receipt of a denial of a waiver request, a child care center has up to forty-five calendar days to appeal the denial decision to the department;

(II) That the department shall act upon the appeal within forty-five calendar days;

(III) That the department shall provide notice of its decision on the appeal within ten calendar days after its decision to the appealing child care center; and

(IV) That the appealing child care center has the right to meet in person with department personnel concerning the appeal, but that the entire appeals process shall last no more than one hundred calendar days after the date of the notice of denial of the waiver request.

(5) Whenever practicable, the department shall use the same inspector for:

(a) Multiple visits to a single child care center seeking a waiver pursuant to this section; or

(b) Multiple visits to two or more individually licensed child care centers that are wholly owned, operated, and controlled by a common ownership group.

(6) The department shall not post a denial of a waiver made pursuant to this section on its web site until the appeal is final.

C.R.S.A. § 26-6-106

§ 26-6-106. Standards for facilities and agencies--rules

Effective: August 8, 2012

(1)(a) The department shall prescribe and publish standards for licensing. Such standards shall be applicable to the various types of facilities and agencies for child care regulated and licensed by this part 1; except that the department shall prescribe and publish separate standards for the licensing of child placement agencies operating for the purpose of adoptive placement and adoption-related services. The department shall seek the advice and assistance of persons representative of the various types of child care facilities and agencies in establishing such standards. Such standards shall be established by rules promulgated by the state board of human services and shall be issued and published only in conformity with the provisions and procedures specified in article 4 of title 24, C.R.S., and shall become effective only as provided in said article.

(b) Deleted by Laws 1996, H.B.96-1006, § 7, eff. July 1, 1996.

(2) Standards prescribed by such rules shall be restricted to:

(a) The operation and conduct of the facility or agency and the responsibility it assumes for child care;

Current through laws effective May 2, 2014

(b) The character, suitability, and qualifications of the applicant for a license and of other persons directly responsible for the care and welfare of children served, including whether an affiliate of the licensee has ever been the subject of a negative licensing action;

(c) The general financial ability and competence of the applicant for a license to provide necessary care for children and to maintain prescribed standards;

(d) The number of individuals or staff required to insure adequate supervision and care of children served;

(e) The appropriateness, safety, cleanliness, and general adequacy of the premises, including maintenance of adequate fire protection and prevention and health standards in conformance with state laws and municipal ordinances, to provide for the physical comfort, care, well-being, and safety of children served;

(f) Keeping of records for food, clothing, equipment, and individual supplies;

(g) Provisions to safeguard the legal rights of children served;

(h) Maintenance of records pertaining to the admission, progress, health, and discharge of children;

(i) Filing of reports with the department;

(j) Discipline of children;

(k) Standards for the short-term confinement of a child in defined emergency situations. An emergency situation means any situation where the child is determined to be a danger to himself or others and to be beyond control, all other reasonable means to calm the child have failed, and the child's welfare or the welfare of those around the child demand that the child be confined for a period not to exceed two hours. Standards for such short-term confinement shall include:

(I) Definition of emergency purposes for the short-term confinement in accordance with this paragraph (k);

(II) Duration and frequency of the confinement;

(III) Facility staff requirements;

(IV) Criteria for the short-term placement of a child in the short-term confinement room;

(V) Documentation and review of the confinement;

(VI) Review and biannual inspection by the department of the short-term confinement facility;

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(VII) Physical requirements for the short-term confinement room;

(VIII) Certification or approval from the department prior to the establishment of the short-term confinement room;

(IX) A neutral fact finder to determine if the child's situation merits short-term confinement;

(X) At a minimum, a fifteen minute checking and review by staff of a child placed in short-term confinement;

(XI) Review by staff of any confinement subsequent to each period of such confinement;

(XII) Daily review of the use of the short-term confinement rooms; and

(XIII) Revocation or suspension of licensure for failure to comply with the standards set forth in this paragraph (k).

(l) Standards for security in secure residential treatment centers and residential child care facilities provided through the physical environment and staffing. Such standards shall include, but not be limited to, the following:

(I) Locked doors;

(II) Fencing;

(III) The staff requirements to ensure security;

(IV) Inspections;

(V) Physical requirements for program space and for secure sleeping of the residents in the secure residential treatment center or residential child care facility;

(VI) Other security considerations that are necessary to protect the residents of the secure residential treatment center or residential child care facility or the public.

(m) Standards for the appropriateness, safety, and adequacy of transportation services of children to and from child care centers;

(n) Provisions that ensure that verification in accordance with part 9 of article 4 of title 25, C.R.S., is undertaken by family child care homes, foster care homes, and child care centers ensuring that each child has received appropriate immunizations against contagious diseases as follows:

(I) Children up to twenty-four months of age shall be required to be immunized in accordance with the "Infant Immunization Act", part 17 of article 4 of title 25, C.R.S.;

(II) Children over twenty-four months of age shall be required to be immunized in accordance with part 9 of article 4 of title 25, C.R.S.;

(o) Standards for adoption agencies that may include but need not be limited to:

(I) Specific criteria and minimum credentials, qualifications, training, and education of staff necessary for each of the types of adoption for which an applicant may seek to be licensed, including but not limited to:

(A) Traditional adoptions with adopting parents who are unknown;

(B) Family adoptions, including stepparent and grandparent adoptions;

(C) Interstate adoptions;

(D) International adoptions;

(E) Identified or designated adoptions; and

(F) Special needs adoptions;

(II) The continuing education requirements necessary to maintain the adoption agency's license, taking into account the type and specialty of such agency's license;

(III) The operation and conduct of the agency and the responsibility it assumes in adoption cases;

(IV) The character, suitability, and qualifications of the applicant for a license and for all direct service staff employed or contracted with by the agency;

(V) The general financial ability and competence of the applicant for license, either original or renewal, to provide necessary services for the adoption of children and to maintain prescribed standards;

(VI) Proper maintenance of records; and

(VII) Provisions to safeguard the legal rights of children served;

(p) Rules governing different types of family child care homes, as that term is defined in section 26-6-102(4), as well as any other types of family child care homes that may by necessity be established by rule of the state board;

(q)(I) Standards for the training of foster care parents, which shall include, at a minimum:

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(A) Twenty-seven hours of initial training, consisting of at least twelve hours of training prior to the placement of a child and completion of the remaining training within three months after such placement;

(B) Twenty hours per year of continuing training for foster care parents;

(C) In addition to the hours described in sub-subparagraph (B) of this subparagraph (I), twelve hours per year for foster care parents providing therapeutic foster care; and

(D) Training concerning individualized education programs as defined in section 22-20-103(15), C.R.S. The departments of human services and education shall ensure coordination between local county departments of human or social services and local school districts or administrative units to make such training available upon the request of a foster parent.

(II) The training described in subparagraph (I) of this paragraph (q) may include, but shall not be limited to, in-home training.

(III) The department shall consult with county departments and child placement agencies in prescribing such standards in order to insure a more uniform application throughout the state.

(IV) The hours of training prior to the placement of a child that is described in sub-subparagraph (A) of subparagraph (I) of this paragraph (q) may be completed within four months after such placement if such placement was an emergency placement, as such term shall be defined by rule of the state board.

(r) Initial and ongoing training of providers of foster care services in facilities licensed and certified pursuant to this part 1, including orientation and prelicensing training for child placement agency staff;

(s) Standards for the training of providers of cradle care home services that shall be substantially similar to the training required of adoptive parents prior to adopting an infant, including ongoing training hours appropriate to the services provided.

(3) Any applicant or person licensed to operate a child care facility or agency under the provisions of this part 1 has the right to appeal any standard that, in his or her opinion, works an undue hardship or when, in his or her opinion, a standard has been too stringently applied by representatives of the department. The department shall designate a panel of persons representing various state and local governmental agencies with an interest in and concern for children to hear such appeal and to make recommendations to the department. The membership of the appeals review panel shall include, but need not be limited to, a representative from child care providers, a representative from a local early childhood council or local child care resource and referral agency, a state-level early childhood representative with early care and education expertise, and a parent representative. All members to the appeals review panel shall be appointed by the executive director or his or her designee and shall serve terms of no more than three years. Representatives to the appeals review panel may serve successive terms.

(4) The state board may promulgate rules to regulate the operation of out-of-home placement provider consortia. The regulation shall not include licensure of out-of-home placement provider consortia.

(5) The state board shall promulgate rules to define the requirements for licensure for a licensed host family home serving homeless youth pursuant to the "Homeless Youth Act", article 5.7 of this title.

(6)(a) A county director of social services, or his or her designee, may approve, at his or her discretion, a waiver of non-safety licensing standards for kinship foster care. A waiver may only be approved if:

(I) It concerns non-safety licensing standards, as set forth by rule of the state board pursuant to paragraph (d) of this subsection (6);

(II) The safety and well-being of the child or children receiving care is not compromised; and

(III) The waiver request is in writing.

(b) In addition to an approved waiver of non-safety licensing standards, a county director of social services, or his or her designee, may limit or restrict a license issued to a kinship foster care entity or require that entity to enter into a compliance agreement to ensure the safety and well-being of the child or children in that entity's care.

(c) A kinship foster care entity may not appeal a denial of a waiver requested pursuant to paragraph (a) of this subsection (6).

(d) The state board shall promulgate rules concerning the waiver of non-safety licensing standards for kinship foster care. The rules shall include, but need not be limited to, a listing of non-safety licensing standards that may not be waived and circumstances in which waivers do not apply. The state board shall also define by rule the meaning of "kinship foster care" for the purposes of this subsection (6).

C.R.S.A. § 26-6-106.1

§ 26-6-106.1. Administration or monitoring of medications to persons--residential child care facilities

The executive director has the power to direct the administration or monitoring of medications to persons in facilities pursuant to section 25-1.5-301(2)(e), C.R.S.

C.R.S.A. § 26-6-106.5

§ 26-6-106.5. Foster care--rules applying generally--rule-making

(1) No later than January 1, 2004, the state board shall promulgate rules that apply to foster care generally, regardless of whether the foster care is provided by a foster care home certified by a county department or by a child placement agency. The state board shall develop the rules in consultation with the state department, county departments, child placement agencies, and others with expertise in the development of rules regarding foster care.

(2) At a minimum, the rules described in subsection (1) of this section shall include the following:

(a) Contingent upon the implementation of the computer "trails" enhancements, the procedures for notifying all

county departments and child placement agencies that place children in foster care when the state department has identified a confirmed report of child abuse or neglect, as defined in section 19-1-103(27), C.R.S., that involves a foster care home, as well as the suspension of any further placements in the foster care home until the investigation is concluded; and

(b) The immediate notification of a child's guardian ad litem upon the child's placement in a foster care home, and the provision of the guardian ad litem's contact information to the foster parents.

C.R.S.A. § 26-6-107

§ 26-6-107. Investigations and inspections--local authority--reports--rules

Effective: August 10, 2011

(1)(a)(I)(A) The state department shall investigate and pass on each original application for a license, each application for a permanent or time-limited license following the issuance of a probationary or provisional license, and on and after July 1, 2002, each application for renewal, to operate a facility or an agency prior to granting such license or renewal. As part of such investigation, the state department shall require each adult who is eighteen years of age and older, including but not limited to the applicant, any owner, employee, newly hired employee, licensee, and any adult who is eighteen years of age and older who resides in the licensed facility to obtain a fingerprint-based criminal history records check by reviewing any record that shall be used to assist the state department in ascertaining whether the person being investigated has been convicted of any of the criminal offenses specified in section 26-6-104(7) or any other felony. The state board shall promulgate rules that define and identify what the criminal history records check shall entail.

(B) Rules promulgated by the state board pursuant to this subparagraph (I) shall allow an exemption from the criminal history records investigation and the check of the records and reports of child abuse or neglect maintained by the state department for those out-of-state employees working in Colorado at a children's resident camp or school-age child care center in a temporary capacity for a camp or center that is in operation for fewer than ninety days. Each person so exempted from fingerprinting and the check of the records and reports of child abuse or neglect maintained by the state department shall sign a statement that affirmatively states that he or she has not been convicted of any charge of child abuse, unlawful sexual offense, or any felony. Prospective employers of such exempted persons shall conduct reference checks of the prospective employees in order to verify previous work history and shall conduct personal interviews with each such prospective employee.

(C) Rules promulgated by the state board pursuant to this subparagraph (I) shall require the fingerprint-based criminal history records check in all circumstances, other than those identified in sub-subparagraph (B) or (C.7) of this subparagraph (I), to include a fingerprint-based criminal history records check utilizing the records of the Colorado bureau of investigation and, as of August 10, 2011, for any new owner, new applicant, newly hired employee, new licensee, or individual who begins residing in the licensed facility on or after August 11, 2011, the federal bureau of investigation. As part of the investigation, the records and reports of child abuse or neglect maintained by the state department shall be accessed to determine whether the owner, applicant, employee, newly hired employee, licensee, or individual who resides in the licensed facility being investigated has been found to be responsible in a confirmed report of child abuse or neglect. Information shall be made available pursuant to section 19-1-307(2)(j), C.R.S., and rules promulgated by the state board pursuant to section 19-3-313.5(4), C.R.S. Except as provided for in sub-subparagraph (C.7) of this subparagraph (I), any change in ownership of a licensed facility or the addition of a new resident adult or newly hired employee to the licensed facility shall require a new investigation as

provided for in this section.

(C.5) Deleted by Laws 2011, Ch. 163, § 3, eff. Aug. 10, 2011.

(C.7) Where two or more individually licensed facilities are wholly owned, operated, and controlled by a common ownership group or school district, a fingerprint-based criminal history records check completed for one of the licensed facilities of the common ownership group or school district pursuant to this section for any individual for whom such a check is required under this part 1 may satisfy the records check requirement for any other licensed facility under the same common ownership group or school district. A new fingerprint-based criminal history records check shall not be required of such an individual if the common ownership group or school district maintains a central records management system for employees of all its licensed facilities; takes action as required pursuant to section 26-6-104 when informed of the results of a fingerprint-based criminal history records check that requires action pursuant to this part 1; and informs the department whenever an additional licensed facility comes under or is no longer under its ownership or control.

(D) The state board shall promulgate rules to implement this subparagraph (I).

(I.5) Rules promulgated by the state board pursuant to subparagraph (I) of this paragraph (a) shall also include:

(A) A comparison search on the ICON system at the state judicial department with the name and date of birth information and any other available source of criminal history information that the state department determines is appropriate for each circumstance in which the CBI fingerprint check either does not confirm a criminal history or confirms a criminal history, in order to determine the crime or crimes for which the person was arrested or convicted and the disposition thereof; and

(B) Any other recognized database, if any, that is accessible on a state-wide basis as set forth by rules promulgated by the state board.

(II) If the operator of a facility or agency refuses to hire an applicant as a result of information disclosed in the investigation of the applicant pursuant to subparagraph (I) of this paragraph (a), the employer shall not be subject to civil liability for such refusal to hire. If a former employer of the applicant releases information requested by the prospective employer pertaining to the applicant's former performance, the former employer shall not be subject to civil liability for the information given.

(a.5) An applicant for certification as a foster care home shall provide the child placement agency or the county department from whom the certification is sought with a list of all the prior child placement agencies and county departments to which the applicant had previously applied, and a release of information from such child placement agencies and county departments to which the applicant had previously applied, to obtain information about the application and any certification given by such child placement agencies and county departments. A child placement agency or county department from whom the certification is sought shall conduct a reference check of the applicant and any adult resident of the foster care home who is acting as a caregiver by contacting all of the child placement agencies and county departments identified by the applicant before issuing the certification for that foster care home. Child placement agencies and county departments shall be held harmless for information released, in good faith, to other child placement agencies or county departments.

(a.7) For all family foster care or kinship care applicants, regardless of reimbursement, the county department or child placement agency shall require each adult who is eighteen years of age or older and who resides in the home to obtain a fingerprint-based criminal history records check through the Colorado bureau of investigation and the federal bureau of investigation. In addition to the fingerprint-based criminal history records check, the county

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department or child placement agency shall contact the appropriate entity in each state in which the applicant or any adult residing in the home has resided within the preceding five years to determine whether the adult has been found to be responsible in a confirmed report of child abuse or neglect. The screening request in Colorado shall be made pursuant to section 19-1-307(2)(k.5), C.R.S., rules promulgated by the state board pursuant to section 19-3-313.5, C.R.S., and 42 U.S.C. 671(a)(20). An investigation pursuant to this paragraph (a.7) shall be conducted for any new resident adult whenever the adult is added to the family foster care home or kinship care home. Information obtained from any state records of abuse or neglect shall not be used for any purpose other than conducting the investigation for placement or certification.

(b)(I) When the state department, county department, or child placement agency is able to certify that the applicant or licensee is competent and will operate adequate facilities to care for children under the requirements of this part 1 and that standards are being met and will be complied with, it shall issue the license for which applied. The state department shall inspect or cause to be inspected the facilities to be operated by an applicant for an original license before the license is granted and shall thereafter inspect or cause to be inspected the facilities of all licensees that, during the period of licensure, have been found to be the subject of complaints or to be out of compliance with the standards set forth in section 26-6-106 and the rules of the state department or that otherwise appear to be placing children at risk. The state department may make such other inspections as it deems necessary to ensure that the requirements of this article are being met and that the health, safety, and welfare of the children being placed are protected. If, as a result of an inspection of a certified foster care home, the state department determines that any child residing in such foster care home is subject to an immediate and direct threat to his or her safety and welfare as defined by rules promulgated by the state board or that a substantial violation of a fundamental standard of care warrants immediate action, the state department may require a county department to immediately remove such child from the foster care home.

(II) The state board shall adopt rules concerning the on-site public availability of the most recent inspection report results of child care center facilities and family child care home facilities, when requested. The state board shall also adopt rules concerning a requirement that all facilities licensed under this part 1 post their licenses and information regarding the procedures for filing a complaint under this part 1 directly with the state department, which rules shall require that each such facility display its license and complaint procedures in a prominent and conspicuous location at all times during operational hours of the facility; except that such rules shall not require foster care homes to post their licenses and such rules shall not require foster care homes and child placement agencies to post information regarding the procedures for filing a complaint under this part 1 directly with the state department. The state board shall adopt rules requiring foster care homes to make their licenses available to their patrons for inspection, upon request, and requiring foster care homes and child placement agencies to make the information concerning the filing of complaints available to their patrons for inspection, upon request.

(III) If, as a result of an inspection of a licensed child care center facility or family child care home facility, the state department determines that there were no serious violations of any of the standards prescribed and published by the state department or any of the provisions of this part 1, within twenty days after completing the inspection the state department shall send a written notice to such facility indicating such fact. Within ten days after receipt of such written notice, the licensee shall provide a copy of the written notice to the parents and legal guardians of the children cared for at the child care center facility or family child care home facility.

(1.5) Repealed by Laws 2003, Ch. 108, § 3, eff. Aug. 6, 2003.

(2)(a)(I) Except as otherwise provided in subparagraph (II) of this paragraph (a), the state department may authorize or contract with any county department, the county department of health, or any other publicly or privately operated organization that has a declared interest in children and experience working with children or on behalf of children to investigate and inspect the facilities applying for an original or renewal license or applying for a permanent license following the issuance of a probationary or provisional license under this part 1 and may accept reports on such

investigations and inspections from such agencies or organizations as a basis for such licensing. When contracting for investigations and inspections, the state department shall assure that the contractor is qualified by training and experience and has no conflict of interest with respect to the facilities to be inspected.

(II) The state department shall not authorize or contract with any county department, the county department of health, or any other publicly or privately operated organization that has a declared interest in children and experience working with children or on behalf of children for investigations and inspections described in subparagraph (I) of this paragraph (a) of any facilities that provide twenty-four-hour care and are licensed pursuant to this part 1.

(b) A city, county, or city and county may impose and enforce higher standards and requirements for facilities licensed under this part 1 than the standards and requirements specified under this part 1.

(3) Every facility licensed under this part 1 shall keep and maintain such records as the department may prescribe pertaining to the admission, progress, health, and discharge of children under the care of the facility, and shall report relative thereto to the department whenever called for, upon forms prescribed by the department. All records regarding children and all facts learned about children and their relatives shall be kept confidential both by the facility and the department.

(4) Within available appropriations, the state department shall monitor, on at least a quarterly basis, the county department certification of foster care homes.

C.R.S.A. § 26-6-107.5

§ 26-6-107.5. Response to complaints--addition of child care facility inspectors

(1) When the state department receives a serious complaint about a child care facility licensed pursuant to this part 1 alleging the immediate risk of health or safety of the children cared for in such facility, the state department shall respond to and conduct an on-site investigation concerning such complaint within forty-eight hours of its receipt.

(2)(a)(I) The general assembly hereby finds that an audit completed by the state auditor's office in 1995 reported that the state department had not properly and timely carried out all of its child care facility licensing functions due to insufficient staff. The general assembly further finds that, in an effort to use the state department's limited child care resources more effectively and efficiently, it passed legislation in 1996 implementing a risk-based approach to inspecting and monitoring child care facilities in place of the mandatory biennial reviews of every facility. The general assembly finds that it was determined in a follow-up audit conducted by the state auditor's office in 1998, that the state department was still at least one month late in conducting inspections of approximately twenty-two percent of the child care facilities in Colorado. In addition, of those facilities assigned a high risk factor and thereby requiring inspections more frequently than every twelve months, twenty-six percent were at least three months past due. In evaluating the implementation of the risk-based approach to inspection and monitoring of child care facilities, the general assembly finds that the implementation of this approach has actually increased the state department's workload by approximately sixteen percent.

(II) The general assembly further finds that a national study conducted by the center for career development in early care and education at Wheelock College concluded that Colorado's child care facility licensing staff had caseloads of approximately two hundred fifty child care centers per full-time equivalent employee and five hundred family child care homes per full-time equivalent employee. The general assembly finds that the caseloads of Colorado child care employees within the division greatly exceed the number of cases recommended by the national association for

the education of young children, which organization has recommended that child care regulators' caseloads should not exceed seventy-five centers and large family homes per full-time equivalent employee.

(III) The general assembly further finds that the insufficient number of child care facility inspectors puts children at risk particularly when serious complaints of an immediate nature concerning a child care facility are lodged with the state department and the department is unable to respond promptly and conduct an on-site investigation of the complaint.

(IV) The general assembly hereby determines that the health and safety of the children of the state of Colorado in child care facilities is of utmost concern and importance to the state. The general assembly further finds that the timely and proper inspection of child care facilities and prompt responses to serious complaints about a child care facility are priorities and that, in order to facilitate such timely inspections and responses to complaints, the state department should be provided with the ability to contract with the necessary personnel needed to conduct the required inspections and investigations on a thorough and timely basis. Accordingly, the general assembly determines that it is in the best interests of the citizens of the state of Colorado that the number of persons contracted for and charged with the duty of inspecting, monitoring, and responding to complaints in child care facilities in the state of Colorado be increased.

(b) For the purposes of conducting thorough and timely inspections of child care facilities licensed pursuant to this part 1 and for the purposes of providing sufficient inspectors to conduct prompt responses and investigations as directed in subsection (1) of this section when the state department receives a serious complaint against a child care facility licensed pursuant to this part 1, in fiscal year 2000-01, the number of inspectors shall be increased by eighteen contract inspectors from the number of inspectors in fiscal year 1999-2000.

C.R.S.A. § 26-6-107.7

§ 26-6-107.7. Revocation of certification of foster care home--emergency procedures--due process

Notwithstanding any other provision of law to the contrary, a county department may act immediately to revoke the certification of a county-certified foster care home when the county department has reason to believe that a child residing in such foster care home is subject to an immediate and direct threat to his or her safety and welfare or when a substantial violation of a fundamental standard of care warrants immediate action. If the county department acts pursuant to this section, a due process hearing shall be held within five days after such action and conducted as such hearing would normally be conducted pursuant to article 4 of title 24, C.R.S.

C.R.S.A. § 26-6-108

§ 26-6-108. Denial of license--suspension--revocation--probation--refusal to renew license--fines

Effective: May 28, 2013

(1) When an application for a license has been denied by the department, the department shall notify the applicant in writing of the denial by mailing a notice to him or her at the address shown on the application. Any applicant believing himself or herself aggrieved by the denial may pursue the remedy for review as provided in subsection (3) of this section if he or she, within thirty days after receiving the notice, petitions the department to set a date and place for hearing, affording him or her an opportunity to be heard in person or by counsel. All hearings on the denial of licenses shall be conducted in conformity with the provisions and procedures specified in article 4 of title 24, C.R.S., as in the case of the suspension and revocation of licenses.

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(2) The department may deny an application, or suspend, revoke, or make probationary the license of any facility regulated and licensed under this part 1 or assess a fine against the licensee pursuant to [section 26-6-114](#) should the licensee, an affiliate of the licensee, a person employed by the licensee, or a person who resides with the licensee at the facility:

(a) Be convicted of any felony, other than those offenses specified in section 26-6-104(7), or child abuse, as specified in section 18-6-401, C.R.S., the record of conviction being conclusive evidence thereof, notwithstanding section 24-5-101, C.R.S., or have entered into a deferred judgment agreement or a deferred prosecution agreement to any felony, other than those offenses specified in section 26-6-104(7), child abuse, as specified in section 18-6-401, C.R.S., or should the department have a certified court order from another state indicating that the applicant, licensee, person employed by the licensee, or any person residing with the licensee has been convicted of a felony, other than those offenses specified in section 26-6-104(7), under a law of any other state or the United States or has entered into a deferred judgment agreement or a deferred prosecution agreement in another state as to a felony, other than those offenses specified in section 26-6-104(7); or

(a.5) Be convicted of third degree assault, as described in section 18-3-204, C.R.S., any misdemeanor, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S., the violation of a protection order, as described in section 18-6-803.5, C.R.S., any misdemeanor offense of child abuse as defined in section 18-6-401, C.R.S., or any misdemeanor offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in this paragraph (a.5). For purposes of this paragraph (a.5), “convicted” shall have the same meaning as set forth in section 26-6-104(7)(a)(II); or

(b) Be determined to be insane or mentally incompetent by a court of competent jurisdiction and, should a court enter, pursuant to part 3 or part 4 of article 14 of title 15, C.R.S., or section 27-65-109(4) or 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the licensee is incapable of operating a family child care home, foster care home, or child care center, the record of such determination and entry of such order being conclusive evidence thereof; or

(c) Use any controlled substance, as defined in section 18-18-102(5), C.R.S., including retail marijuana, or consume any alcoholic beverage during the operating hours of the facility or be under the influence of a controlled substance or alcoholic beverage during the operating hours of the facility; or

(c.5) Be convicted of unlawful use of a controlled substance as specified in section 18-18-404, C.R.S., unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance as specified in section 18-18-403.5, 18-18-405, or 18-18-405.5, C.R.S., or unlawful offenses relating to marijuana or marijuana concentrate as specified in section 18-18-406, C.R.S.; or

(d) Consistently fail to maintain standards prescribed and published by the department; or

(e) Furnish or make any misleading or any false statement or report to the department; or

(f) Refuse to submit to the department any reports or refuse to make available to the department any records required by it in making investigation of the facility for licensing purposes; or

(g) Fail or refuse to submit to an investigation or inspection by the department or to admit authorized representatives of the department at any reasonable time for the purpose of investigation or inspection; or

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(h) Fail to provide, maintain, equip, and keep in safe and sanitary condition premises established or used for child care pursuant to standards prescribed by the department of public health and environment and the department of human services or by ordinances or regulations applicable to the location of such facility; or

(i) Willfully or deliberately violate any of the provisions of this part 1; or

(j) Fail to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provision for personal care, medical services, clothing, and other essentials in the proper care of children; or

(k) Be charged with the commission of an act of child abuse or an unlawful sexual offense, as specified in section 18-3-411(1), C.R.S., if:

(I) Such individual has admitted committing the act or offense and the admission is documented or uncontroverted; or

(II) The administrative law judge finds that such charge is supported by substantial evidence; or

(l) Admit to an act of child abuse or if substantial evidence is found that the licensee, person employed by the licensee, or person who resides with the licensee in the licensed facility has committed an act of child abuse. For the purposes of this paragraph (l), "child abuse" has the same meaning as that ascribed to the term "abuse" or "child abuse or neglect" in section 19-1-103(1), C.R.S.; or

(m) Be the subject of a negative licensing action; or

(n) Misuse any public funds that are provided to any foster care home or any child placement agency that places or arranges for placement of a child in foster care for the purposes of providing foster care services, child placement services related to the provision of foster care, or any administrative costs related to the provision of such foster care services or such foster-care-related child placement services. The state board shall promulgate rules defining the term "misuse", which rules shall take into account similar definitions in federal law and may include references to relevant circulars of the federal office of management and budget.

(2.2) The state department may deny an application to renew a license based on the grounds set forth in subsection (2) of this section. The denial is effective upon the expiration of the existing license. The existing license shall not continue in effect even though the applicant for renewal files a request for hearing or appeal.

(2.3) The state department may deny an application for a child care facility license pursuant to this part 1 if such applicant is a relative affiliate of a licensee, as described in section 26-6-102(1)(d), of a child care facility licensed pursuant to this part 1, which licensee is the subject of a previous negative licensing action or is the subject of a pending investigation by the state department that may result in a negative licensing action.

(2.4) The state department may deny an application for a child placement agency license pursuant to this part 1 if such applicant is a relative affiliate of a licensee, as described in section 26-6-102(1)(d), of a child placement agency licensed pursuant to this part 1, which licensee is the subject of a previous negative licensing action or is the subject of a pending investigation by the state department that may result in a negative licensing action.

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(2.5)(a)(I) The state department shall deny an application for a license under the circumstances described in section 26-6-104(7). The state department shall revoke or suspend a license previously issued if:

(A) The licensee, person employed by the licensee, or person residing with the licensee is thereafter convicted or if it is later discovered that the licensee, person employed by the licensee, or person residing with the licensee had previously been convicted of any of the criminal offenses set forth in section 26-6-104(7); or

(B) The department has a certified court order from another state indicating that the licensee, person employed by the licensee, or person residing with the licensee is thereafter convicted of, or if it is later discovered that the licensee, person employed by the licensee, or person residing with the licensee had previously been convicted of a criminal offense under a law of any other state or of the United States that is similar to any of the criminal offenses set forth in [section 26-6-104\(7\)](#); or

(C) The licensee, an affiliate of the licensee, a person employed by the licensee, or a person who resides with the licensee at the facility has been determined to be insane or mentally incompetent by a court of competent jurisdiction and, should a court enter, pursuant to part 3 or part 4 of article 14 of title 15, C.R.S., or section 27-65-109(4) or 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the licensee is incapable of operating a family child care home, foster care home, or child care center, the record of such determination and entry of such order being conclusive evidence thereof.

(II) For purposes of this paragraph (a), “convicted” means a conviction by a jury or by a court and shall also include a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, and a plea of guilty or nolo contendere.

(b) A certified copy of the judgment of a court of competent jurisdiction of such conviction or deferred judgment and sentence agreement, deferred prosecution agreement, deferred adjudication agreement, or a certified court order from another state indicating such an agreement from another state shall be prima facie evidence of such conviction or agreement.

(2.6) The state department shall deny an application for an entity licensed under this article and shall revoke the license of an entity licensed under this article if the entity cultivates marijuana pursuant to the authority in section 16 of article XVIII of the state constitution.

(2.7) The department may assess fines, pursuant to the provisions of section 26-6-114, against a licensee or a person employed by the licensee who willfully and deliberately or consistently violates the standards prescribed and published by the department or the provisions of this part 1.

(2.9) The convictions identified in this section shall be determined according to the records of the Colorado bureau of investigation, the ICON system at the state judicial department, or any other source, as set forth in section 26-6-107(1)(a)(I.5).

(3) The department shall suspend or revoke a license only in conformity with the provisions and procedures specified in article 4 of title 24, C.R.S., and after a hearing thereon as provided in said article 4; except that all hearings under this part 1 shall be conducted by an administrative law judge of the department who shall render his or her recommendation to the executive director of the department of human services who shall render the final decision of the department, and no licensee shall be entitled to a right to cure any of the charges described in paragraph (a), (b), (c), or (k)(I) of subsection (2) of this section. No such hearing shall prevent or delay any injunctive proceedings instituted under the provisions of section 26-6-111.

(4) The provisions of paragraph (c) of subsection (2) of this section shall not apply to foster care homes, unless such use or consumption impairs the licensee's ability to properly care for children.

(5) Only upon the request of a county department, a child placement agency licensed pursuant to this part 1 that places or arranges for placement of a child in foster care may certify the home of a relative of the child placed therein as a foster care home.

C.R.S.A. § 26-6-108.5

§ 26-6-108.5. Notice of negative licensing action--filing of complaints

(1)(a) When a child care center facility or family child care home facility licensed pursuant to this part 1 has been notified by the department of a negative licensing action or the imposition of a fine pursuant to section 26-6-108(2) and (2.7), it shall, within ten days after receipt of the notice, provide the department with the names and mailing addresses of the parents or legal guardians of each child cared for at the child care center facility or family child care home facility. The department shall maintain the confidentiality of the names and mailing addresses provided to it pursuant to this subsection (1).

(b) Within twenty days after receipt of the names and addresses of parents and legal guardians pursuant to paragraph (a) of this subsection (1), the department shall send a written notice to each such parent or legal guardian identifying the negative licensing action or the fine imposed and providing a description of the basis for the action as it relates to the impact on the health, safety, and welfare of the children in the care of the facility. Such notice shall be sent to the parents and legal guardians by first-class mail.

(c) The state board shall promulgate rules concerning the assessment of a fine against a licensee that is equal to the direct and indirect costs associated with the mailing of the notice described in paragraph (b) of this subsection (1) against the facility.

(d) Nothing in this subsection (1) shall be construed to preclude the department or a county department of social services from notifying parents of serious violations of any of the standards prescribed and published by the department or any of the provisions of this part 1 that could impact the health, safety, or welfare of a child cared for at the facility or home.

(2) The state board shall promulgate rules requiring child care center facilities and family child care home facilities to provide written notice to the parents and legal guardians of the children cared for in such facilities of the procedures by which to file a complaint against the facility or an employee of the facility with the division of child care in the department. Such rules shall specify what information the notice shall contain, but shall require that the notice include the current mailing address and telephone number of the division of child care in the department.

(3) The department shall track and record complaints made to the department that are brought against family child care homes and shall identify which complaints were brought against licensed family child care homes, as defined in section 26-6-102(4), unlicensed family child care homes, or legally exempt family child care homes, as defined in 26-6-103(1)(g).

C.R.S.A. § 26-6-109

§ 26-6-109. Advisory committee--sunset review--institutes

Effective: August 5, 2009

(1)(a) There is hereby created an advisory committee on licensing of child care facilities to advise and consult with the department in the administration and enforcement of this part 1. The committee shall consist of fifteen members to be appointed by the governor for terms of three years; except that, of the members first appointed, four shall be appointed for three years, four for two years, and three for one year. Thereafter, members shall be appointed for terms of three years except in the case of a vacancy that shall be filled for the remainder of the unexpired term. A member may be appointed to succeed himself or herself and may continue to serve on the committee beyond the end of his or her term until the governor appoints a successor. Members who have been appointed to fill the remainder of an unexpired term may be appointed to fill the succeeding full term.

(b) The members of the advisory committee shall serve without compensation but shall be entitled to their reasonable traveling expenses incurred in the performance of their duties, which shall be paid as a part of the expenses of administering this part 1.

(c) The committee shall consist of nine members who shall represent the various types of facilities licensed under the provisions of this part 1, four members representing various state and local governmental agencies with an interest in and concern for children, and two members at large who are parents, each having at least one child attending a facility licensed or certified under this part 1 at the time of such members' appointment.

(d) A majority of the members of the committee shall constitute a quorum, the presence of which at any meeting thereof duly called by the department shall have full and complete power to act upon and resolve in the name of the committee any matter or question referred to it by the department. The committee, as soon after appointment as practicable, shall elect from among its members a chairman, a vice-chairman, and a secretary who shall hold office until their successors are elected. The chairman shall preside at all meetings of the committee, and the secretary shall make a record of the proceedings thereof that shall be preserved in the office of the department. All members of the committee shall be entitled to vote on any matter or question that properly comes before it.

(e) Repealed by Laws 1990, H.B.90-1103, § 24, eff. April 3, 1990.

(2) The department is authorized to hold institutes and programs for licensees under this part 1 in order to assist in the improvement of standards and practices of facilities operated and maintained by licensees and in the more efficient and practical administration and enforcement of this part 1. In conducting such institutes and programs, the department may request the assistance of health, education, and fire safety officials.

C.R.S.A. § 26-6-110

§ 26-6-110. Acceptance of federal grants

The department is authorized to accept, on behalf of the state, any grants of federal funds made available for any purposes consistent with the provisions of this part 1. The executive director of the department, with the approval of the governor, has the power to direct the disposition of any such grants so accepted in conformity with the terms and conditions under which given.

C.R.S.A. § 26-6-111

Current through laws effective May 2, 2014

§ 26-6-111. Injunctive proceedings

The department, in the name of the people of the state of Colorado, through the attorney general of the state, may apply for an injunction in any court of competent jurisdiction to enjoin any person from operating any facility without a license that is required to be licensed under this part 1. An injunction may also be requested by the appropriate county department through the county attorney or retained counsel. If it is established that the defendant has been or is so operating such facility, the court shall enter a decree enjoining said defendant from further operating such facility unless and until he obtains a license therefor. In case of violation of any injunction issued under the provisions of this section, the court may summarily try and punish the offender for contempt of court. Such injunctive proceedings shall be in addition to and not in lieu of the penalty provided in section 26-6-112.

C.R.S.A. § 26-6-112

§ 26-6-112. Penalty

Any person violating any provision of this part 1 or intentionally making any false statement or report to the department or to any agency delegated by the department to make an investigation or inspection under the provisions of this part 1 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than three hundred dollars nor more than five hundred dollars.

C.R.S.A. § 26-6-113

§ 26-6-113. Periodic review of licensing regulations and procedures

(1) The general assembly finds that changes in demographics and economic trends in Colorado have increased the need for high quality and affordable child care. The general assembly also recognizes that the provision of child care in this state and in the nation is a rapidly growing industry subject to many changes. The general assembly further finds that there is a need for continuing comprehensive review of the rules and regulations and the licensing procedures governing child care centers, family child care homes, and foster care homes that includes the adequate and full participation of parents, consumers, child care providers, and interested persons. The general assembly finds that such a review with the goal of identifying problems in the fragmentation and lack of uniformity of standards in the licensing process would benefit the state and result in improvements in the regulation of this industry that is so vital to the health and well-being of the state's children and citizens.

(2) Beginning with fiscal year 1995-1996, an initial comprehensive rule and regulation review shall be conducted in conjunction with the performance audit required by section 26-6-107(1.5), and, at least every fifth fiscal year thereafter, a comprehensive review of the licensing rules and regulations for child care centers, family child care homes, and foster care homes and the procedures relating to and governing child care centers, family child care homes, and foster care homes shall be conducted by the department, including procedures for the review of backgrounds of employees and owners. In conducting such periodic review, the department shall consult with parents and consumers of child care, child care providers, the department of public health and environment, experts in the child care field, and other interested parties throughout the state. The periodic review shall include an examination of the rules and regulations applicable to child care centers, family child care homes, and foster care homes, the process of licensing such facilities, uniformity of standards or lack thereof in the licensing process, statewide standardization of investigations and enforcement of licensing by the department, duplication and conflicts in regulations, requirements, or procedures between the department and the department of public health and environment, and recommendations for streamlining and unifying the licensing process. Said review shall also

include an examination of regulations and procedures regarding the general physical and mental health of employees and owners. At the conclusion of each review, the department shall report its findings and conclusions and its recommendations for administrative changes and for legislation to the state board, the advisory committee on licensing of child care facilities, and the executive director of the department of public health and environment.

C.R.S.A. § 26-6-114

§ 26-6-114. Civil penalties--fines--child care cash fund--created

(1) In addition to any other penalty otherwise provided by law, any person violating any provision of this part 1 or intentionally making any false statement or report to the department or to any agency delegated by the department to make an investigation or inspection under the provisions of this part 1 may be assessed a civil penalty of not more than one hundred dollars a day to a maximum of ten thousand dollars.

(2) The amount of the civil penalties to be assessed pursuant to subsection (1) of this section shall be set in rules and regulations promulgated by the department.

(3) Each day in which a person is in violation of any provision of this part 1 may constitute a separate offense.

(4) The department may assess a civil penalty in conformity with the provisions and procedures specified in article 4 of title 24, C.R.S.; except that all hearings conducted pursuant to this section shall be before an administrative law judge of the department, who shall render his or her recommendation to the executive director of the department who shall render the final decision of the department.

(5) The fines collected pursuant to this section, section 26-6-108(2) and (2.7), and section 26-6-108.5(1)(c) shall be transmitted to the state treasurer, who shall credit the same to the child care cash fund, which fund is hereby created in the state treasury. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. Moneys in the child care cash fund are hereby continuously appropriated to the department to fund activities related to the improvement of the quality of child care in the state of Colorado.

C.R.S.A. § 26-6-115

§ 26-6-115. Repealed by Laws 2001, Ch. 188, § 6, eff. May 30, 2001

C.R.S.A. § 26-6-116

§ 26-6-116. Child care resource and referral system--created

Effective: June 1, 2007

(1) The state department shall design and develop a child care resource and referral system, referred to in this section as the "system", to assist in promoting availability, accessibility, and quality of child care services in Colorado. The executive director, or his or her designee, shall have the authority, within available appropriations, to designate a public or private entity that shall be responsible for the administration of the system, and may enter into

a contract with the administering entity for such purpose. The executive director shall designate or redesignate such administering entity on a biennial basis.

(2) The state department shall report to the members of the health and human services committees of the senate and the house of representatives of the general assembly, or any successor committees, concerning the child care resource and referral system by December 1, 2001, and by each December 1 thereafter. The report shall specify, at a minimum, the entity that the state department has currently designated to administer the system and the qualifications of that entity to serve in such capacity, the types of services that are being provided pursuant to the system, the numbers and types of persons receiving such services, and the cost associated with the system.

C.R.S.A. § 26-6-117

§ 26-6-117. Accreditation standards for county departments and child placement agencies--study

(1) No later than July 1, 2002, the state department shall study:

(a) Standards for assessing the quality and performance of foster care in foster care homes certified by county departments or by child placement agencies based upon national standards for foster care services;

(b) Standards for the accreditation of county departments and child placement agencies for purposes of foster care services based upon accreditation standards of a nationally recognized accrediting body of child welfare and social services organizations.

(2) In conducting such study on accreditation standards, the state department shall compare the merits of writing its own standards with the merits of contracting with a national accrediting body. The study shall include, but is not limited to, analyzing the following:

(a) The fiscal impact on the state, counties, and providers, including the cost of:

(I) Writing standards;

(II) Contracting with a national accrediting body, including all fees and travel expenses;

(III) Training;

(IV) Implementation;

(V) Potential corrective action;

(VI) Staff time of county departments and child placement agencies to meet the accreditation standards;

(VII) Collecting and evaluating data relating to accreditation standards;

(b) The time frame for implementation of accreditation standards;

(c) Sanctions for failing to meet the accreditation standards.

(3) Repealed by Laws 2004, Ch. 157, § 3, effective Aug. 4, 2004.

C.R.S.A. § 26-6-118

**§ 26-6-118. Child placement agencies--information sharing--investigations by state department--
recovery of moneys--rule-making**

(1) If a county department has substantiated evidence that a child placement agency with which the county has contracted to provide foster care services has violated the provisions of this part 1 or any rule of the state board, it shall communicate such information to the state department. A county department shall also identify whether it is requesting the state department to investigate a complaint against a child placement agency for possible negative licensing action against the child placement agency.

(2) Upon receipt of a request for investigation of a child placement agency from a county department, the state department shall commence an investigation and, upon conclusion, report its findings to the requesting county department. The state department shall include in its report to the county department the child placement agency's response, if any, to the findings.

(3) The state department shall provide to county departments and affected child placement agencies direct access to information concerning the results of any investigation or negative licensing action taken against the affected child placement agency licensed to provide foster care services in Colorado.

(4)(a) The state department, in collaboration with the federal department of health and human services and other federal agencies and with county departments, shall seek recovery from a child placement agency of any public funds that have been misused by the child placement agency, as the term "misuse" is defined by rules promulgated pursuant to section 26-6-108(2)(n).

(b) Any county and child placement agency entering into a contract for the provision of foster care services shall include a provision in the contract that recognizes a right of the state department or county department to recover any funds misused by the child placement agency and to withhold subsequent payments. The provision in the contract shall provide for an appeal of the decision to recover or withhold the funds. The state board shall promulgate rules that set forth the procedures for the appeal, which rules shall require, at a minimum, reasonable notice to the child placement agency.

C.R.S.A. § 26-6-119

§ 26-6-119. Family child care homes--administration of routine medications--parental direction--rules

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(1) The delegation of nursing tasks by a registered nurse pursuant to section 12-38-132, C.R.S., shall not be required for the administration of routine medications by a child care provider to children cared for in family child care homes licensed pursuant to this part 1, subject to the following conditions:

(a) The parent of the child cared for in the licensed family child care home has daily physical contact with the child care provider that actually administers the routine medication;

(b) The child care provider has successfully completed a medication administration instructional program that is approved by the state department;

(c) Routine medications are administered in compliance with rules promulgated by the state board pursuant to subsection (2) of this section;

(d) If the routine medication involves the administration of unit dose epinephrine, the administration is accompanied by a written protocol by the prescribing health care professional that identifies the factors for determining the need for the administration of the medication, and is limited to emergency situations; and

(e) If the routine medication involves the administration of a nebulized inhaled medication, the administration is accompanied by a written protocol by the prescribing health care professional that identifies the factors for determining the need for the administration of the medication.

(2) The state board shall promulgate rules concerning the medically acceptable procedures and standards to be followed by child care providers administering routine medications to children cared for in family child care homes.

C.R.S.A. § 26-6-120

§ 26-6-120. Exempt family child care home providers--fingerprint-based criminal history record check--child care assistance program moneys--temporary care--definitions

Effective: August 10, 2011

(1)(a)(I) An exempt family child care home provider who provides care for a child and an individual who provides care for a child who is related to the individual, referred to collectively in this section as a “qualified provider”, shall be subject to a fingerprint-based criminal history record check, referred to in this section as an “FCC”, as provided in this section and the rules authorized in section 26-6-107(1)(a)(I) and (1)(a)(I.5), if the child’s care is funded in whole or in part with moneys received on the child’s behalf from the publicly funded Colorado child care assistance program. The provisions of this section shall apply to exempt family child care home providers or individuals who provide care to a related child who receive moneys from the publicly funded Colorado child care assistance program pursuant to contracts or other payment agreements entered into or renewed on or after May 25, 2006.

(II) Each adult eighteen years of age or older who resides with a qualified provider where the care is provided, referred to in this section as a “qualified adult”, shall be subject to the FCC required pursuant to this section.

(III) The FCC required for a qualified provider or qualified adult pursuant to this section shall include a fingerprint-based criminal history records check utilizing the records of the Colorado bureau of investigation and, for qualified

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providers or qualified adults applying for child care assistance program moneys on or after August 10, 2011, the federal bureau of investigation. As part of the FCC, the state department shall access the records and reports of child abuse or neglect maintained by the state department to determine whether the subject of the FCC has been found to be responsible in a confirmed report of child abuse or neglect. Information shall be made available pursuant to section 19-1-307(2)(j), C.R.S., and rules promulgated by the state board pursuant to section 19-3-313.5(4), C.R.S.

(IV) The FCC required pursuant to this section shall be a prerequisite to the issuance or renewal of a contract for receipt of moneys under the Colorado child care assistance program as provided in part 8 of article 2 of this title. The state department shall not issue or renew a contract for payment of moneys under the Colorado child care assistance program to a qualified provider who fails to submit to the FCC or fails to submit fingerprints for a qualified adult.

(b) A qualified provider shall notify the county with whom he or she has contracted pursuant to the Colorado child care assistance program upon any change of circumstances that results in the presence of a new qualified adult. A new qualified adult is required to undergo an FCC as provided in this section, even if the Colorado child care assistance program contract is not subject to renewal when the qualified adult moves into the residence where the care is provided.

(c) A qualified provider or qualified adult who undergoes an FCC shall, with submittal of his or her fingerprints, pay to the state department a fee established by rule of the state board pursuant to subsection (5) of this section to offset the costs associated with processing the FCC through the Colorado bureau of investigation and the federal bureau of investigation.

(2) A contract to provide moneys under the Colorado child care assistance program pursuant to part 8 of article 2 of this title shall not be issued or renewed by the state department or a county department to a qualified provider if the qualified provider or a qualified adult has been convicted of:

(a) Child abuse, as described in section 18-6-401, C.R.S.;

(b) A crime of violence, as defined in section 18-1.3-406, C.R.S.;

(c) Any felony offense involving unlawful sexual behavior, as defined in section 16-22-102(9), C.R.S.;

(d) Any felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(e) Any felony involving physical assault, battery, or a drug-related offense within the five years preceding the date of the FCC; or

(f) Any offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in paragraphs (a) to (e) of this subsection (2).

(3) A contract to provide moneys under the Colorado child care assistance program pursuant to part 8 of article 2 of this title shall not be issued or renewed by the state department or a county department to a qualified provider if the qualified provider or a qualified adult:

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(a) Has a pattern of misdemeanor convictions occurring within the ten years preceding submission of the application. A pattern of misdemeanor convictions shall be defined by rule of the state board; or

(b) Has been determined to be insane or mentally incompetent by a court of competent jurisdiction and a court has entered, pursuant to part 3 or 4 of article 14 of title 15, C.R.S., or section 27-65-109(4) or 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such a degree that the qualified provider cannot safely operate a child care home. The record of such determination and entry of such order shall be conclusive evidence thereof. A qualified provider shall sign an attestation affirming the lack of such a finding prior to entering into or renewing a contract for moneys under the Colorado child care assistance program, pursuant to section 26-2-805.5(2).

(4) A qualified provider who has submitted to an FCC by the Colorado bureau of investigation and the federal bureau of investigation may, pending the receipt of the results of the FCC, continue to receive moneys from the Colorado child care assistance program.

(5) The state board shall promulgate rules to establish the amount of the fee to collect from a qualified provider or qualified adult who is subject to an FCC pursuant to subsection (1) of this section. The state department is authorized to collect the fee at the time of the FCC.

C.R.S.A. § 26-6-121

§ 26-6-121. Preschools--unique student identifying numbers--rules

Effective: August 5, 2008

(1) On or before September 1, 2008, the executive director, in cooperation with the commissioner of education, shall convene a working group, as described in section 22-2-134, C.R.S., to review the issues pertaining to the assignment of a uniquely identifying student number to children who receive state-subsidized or federally subsidized early childhood education services, including but not limited to services provided through the child care development block grant and head start.

(2) The working group shall adopt protocols by which the department of education, the department of human services, school districts, charter schools, the early childhood councils, as described in section 26-6.5-103.3, and the early childhood care and education councils, as defined in section 26-6.5-101.5(6), shall cooperate in assigning the uniquely identifying student numbers. The working group shall also consider methods by which to encourage and facilitate the assignment of uniquely identifying student numbers to students who are receiving early childhood education services that are not subsidized by state or federal funding.

(3) Following adoption of the protocols, the state board shall promulgate rules pursuant to the "State Administrative Procedure Act",¹ article 4 of title 24, C.R.S., as necessary for the assignment of uniquely identifying student numbers to students receiving early childhood education services. The state board shall collaborate with the state board of education in promulgating any necessary rules to ensure that they do not conflict with any rules promulgated by the state board of education pursuant to section 22-2-134, C.R.S.

C.R.S.A. § 26-6-201

§§ 26-6-201 to 26-6-206. Repealed by Laws 1996, H.B.96-1180, § 1, eff. July 1, 1998

C.R.S.A. § 26-6-202

§§ 26-6-201 to 26-6-206. Repealed by Laws 1996, H.B.96-1180, § 1, eff. July 1, 1998

C.R.S.A. § 26-6-203

§§ 26-6-201 to 26-6-206. Repealed by Laws 1996, H.B.96-1180, § 1, eff. July 1, 1998

C.R.S.A. § 26-6-204

§§ 26-6-201 to 26-6-206. Repealed by Laws 1996, H.B.96-1180, § 1, eff. July 1, 1998

C.R.S.A. § 26-6-205

§§ 26-6-201 to 26-6-206. Repealed by Laws 1996, H.B.96-1180, § 1, eff. July 1, 1998

C.R.S.A. § 26-6-206

§§ 26-6-201 to 26-6-206. Repealed by Laws 1996, H.B.96-1180, § 1, eff. July 1, 1998

C.R.S.A. § 26-6-301

§§ 26-6-301 to 26-6-307. Repealed by Laws 2004, Ch. 371, § 1, eff. July 1, 2007

Effective: July 1, 2007

C.R.S.A. § 26-6-302

§§ 26-6-301 to 26-6-307. Repealed by Laws 2004, Ch. 371, § 1, eff. July 1, 2007

Effective: July 1, 2007

C.R.S.A. § 26-6-303

§§ 26-6-301 to 26-6-307. Repealed by Laws 2004, Ch. 371, § 1, eff. July 1, 2007

Effective: July 1, 2007

C.R.S.A. § 26-6-304

§§ 26-6-301 to 26-6-307. Repealed by Laws 2004, Ch. 371, § 1, eff. July 1, 2007

Effective: July 1, 2007

C.R.S.A. § 26-6-305

§§ 26-6-301 to 26-6-307. Repealed by Laws 2004, Ch. 371, § 1, eff. July 1, 2007

Effective: July 1, 2007

C.R.S.A. § 26-6-306

§§ 26-6-301 to 26-6-307. Repealed by Laws 2004, Ch. 371, § 1, eff. July 1, 2007

Effective: July 1, 2007

C.R.S.A. § 26-6-306.5

§§ 26-6-301 to 26-6-307. Repealed by Laws 2004, Ch. 371, § 1, eff. July 1, 2007

Effective: July 1, 2007

C.R.S.A. § 26-6-307

§§ 26-6-301 to 26-6-307. Repealed by Laws 2004, Ch. 371, § 1, eff. July 1, 2007

Effective: July 1, 2007

C.R.S.A. § 26-6-401

§§ 26-6-401 to 26-6-406. Repealed by Laws 2004, Ch. 177, § 1, eff. July 1, 2008

Effective: July 1, 2008

C.R.S.A. § 26-6-402

§§ 26-6-401 to 26-6-406. Repealed by Laws 2004, Ch. 177, § 1, eff. July 1, 2008

Effective: July 1, 2008

C.R.S.A. § 26-6-403

§§ 26-6-401 to 26-6-406. Repealed by Laws 2004, Ch. 177, § 1, eff. July 1, 2008

Effective: July 1, 2008

C.R.S.A. § 26-6-404

§§ 26-6-401 to 26-6-406. Repealed by Laws 2004, Ch. 177, § 1, eff. July 1, 2008

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C.R.S.A. § 26-6-405

§§ 26-6-401 to 26-6-406. Repealed by Laws 2004, Ch. 177, § 1, eff. July 1, 2008

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C.R.S.A. § 26-6-406

§§ 26-6-401 to 26-6-406. Repealed by Laws 2004, Ch. 177, § 1, eff. July 1, 2008

Effective: July 1, 2008

C.R.S.A. § 26-6-501

§§ 26-6-501 to 26-6-506. Repealed by Laws 2008, Ch. 69, § 1, eff. July 1, 2008

Effective: July 1, 2008

C.R.S.A. § 26-6-502

§§ 26-6-501 to 26-6-506. Repealed by Laws 2008, Ch. 69, § 1, eff. July 1, 2008

Effective: July 1, 2008

C.R.S.A. § 26-6-503

§§ 26-6-501 to 26-6-506. Repealed by Laws 2008, Ch. 69, § 1, eff. July 1, 2008

Effective: July 1, 2008

C.R.S.A. § 26-6-504

§§ 26-6-501 to 26-6-506. Repealed by Laws 2008, Ch. 69, § 1, eff. July 1, 2008

Effective: July 1, 2008

C.R.S.A. § 26-6-505

§§ 26-6-501 to 26-6-506. Repealed by Laws 2008, Ch. 69, § 1, eff. July 1, 2008

Effective: July 1, 2008

C.R.S.A. § 26-6-506

§§ 26-6-501 to 26-6-506. Repealed by Laws 2008, Ch. 69, § 1, eff. July 1, 2008

Effective: July 1, 2008

C.R.S.A. T. 26, Art. 6, Pt. 6, Refs & Annos

C.R.S.A. § 26-6-601

§ 26-6-601. Short title

Effective: March 17, 2011

This part 6 shall be known and may be cited as the “Department of Defense Quality Child Care Standards Pilot Program”.

C.R.S.A. § 26-6-602

§ 26-6-602. Legislative declaration

Effective: March 17, 2011

1) The general assembly hereby finds and determines that:

(a) Providing quality child care is vital to the health and well-being of the children of Colorado;

(b) The human capacity to develop and change is greatest from birth to five years of age when the brain is most malleable and able to change in response to education and stimulation;

(c) The investment made in early childhood care benefits children, parents, and the community in the long term. Statistics consistently show that investment in early childhood education and programs prevents some children from entering the criminal justice system, which, in turn, diminishes jail or prison costs. Children who were enrolled in prekindergarten programs are also more likely to have better employment and higher wages over their lifetimes.

(d) As a result, there is a great demand for expensive remedial programs to address learning and behavior problems in later years when change is far more difficult to achieve; and

(e) Implementing strategies so that children become successful early learners helps reduce the need for expensive later remediation programs.

(2) The general assembly further finds and declares that:

(a) The provision of child care enables parents to work, thus generating extra dollars for local and state economies;

(b) Military facilities currently do not have enough spaces to care for all the children who need child care and early learning environments, yet providing early learning programs to children of the military is especially important during times of stress related to deployment of their parents; and

(c) Federal dollars shall be available to military families to subsidize off-base child care, provided the child care facility meets high quality standards.

(3) The general assembly therefore concludes that it is in the best interest of our state's military families and children to create a pilot program that allows military families to use their federal child care stipends to obtain off-base child care in facilities that meet the high quality standards established by the federal department of defense.

C.R.S.A. § 26-6-603

§ 26-6-603. Definitions

Effective: March 17, 2011

As used in this part 6, unless the context otherwise requires:

(1) "Program" means the department of defense quality child care standards pilot program created pursuant to section 26-6-604.

(2) "State department" means the department of human services created and existing pursuant to section 24-1-120, C.R.S.

C.R.S.A. § 26-6-604

§ 26-6-604. Department of defense quality child care standards pilot program--creation--program scope--reporting requirements--rules

Effective: March 17, 2011

(1) There is hereby created in the state department the department of defense quality child care standards pilot program. The objective of the program is to allow military personnel to use their federal child care benefits and any other stipends to access off-base child care facilities that meet the quality standards established by the federal department of defense. The state department shall administer the program in accordance with the provisions of this part 6.

(2) Pilot sites may apply to the state department to be considered for inclusion in the program. The state department, with input from the local public health agency, local county resource and referral agencies, and early childhood councils of impacted counties, shall designate pilot site facilities to serve military families. Designation of pilot sites shall be dependent upon funding from the federal department of defense as child care stipends to military families and funding of the pilot site licensing unit through fees collected pursuant to subsection (7) of this section. The designated child care facilities shall provide child care to military families, provided the facility meets the quality child care standards adopted by rule of the state department.

(3) The pilot site facilities shall have, at a minimum, the following program components:

(a) Full compliance with rules promulgated pursuant to this part 6, including department of defense child care standards;

(b) Special needs services;

(c) Staff development and training;

(d) Family support services; and

(e) A state department-approved quality rating and improvement system.

(4) The state department shall identify, develop, and implement an early childhood training plan based upon the needs of each pilot site facility. The training shall include the principal elements of the rules promulgated pursuant to this part 6, the department of defense quality child care standards, and the elements of the quality rating and improvement system.

(5) On or before December 30, 2013, the state department shall develop a quality rating and improvement system that is inclusive, accessible, available to all child care providers, embedded in licensing, and reflective of evidence-based practices for successful outcomes for all children and families, to be used in the program to evaluate the implementation of the department of defense standards.

(6) On or before June 30, 2012, the state department and the local public health agency shall promulgate rules for the implementation of this part 6. The rules shall include, at a minimum:

(a) Pilot site compliance with department of defense quality child care standards;

(b) A requirement for compliance with existing state and federal regulations; and

(c) A procedure to establish a fee for and charge pilot site facilities for any additional inspections and services required to implement the enhanced department of defense quality child care standards.

(7) The state department and the local public health agency are hereby granted the authority to charge pilot site facilities for any additional inspections and services required by the department of defense quality child care

standards.

(8) No later than March 1, 2015, the state department shall report on the outcomes of the program, including an evaluation of the higher standards and the quality rating and improvement system for licensure, monitoring, and provider support to the state, veterans, and military affairs committees of the senate and house of representatives and the health and human services committees of the senate and house of representatives, or any successor committees. The state department shall determine if the model for the program represents the best practices to be implemented statewide.

C.R.S.A. § 26-6-605

§ 26-6-605. Department of defense quality child care standards pilot program--funding

Effective: March 17, 2011

It is the intent of the general assembly that the pilot program shall be funded by gifts, grants, and donations; federal moneys; and any fees collected pursuant to section 26-6-604(7). Payment for child care services for a child of a member of the military shall be made by the family and shall include any child care benefit or stipend received by the child care facility from the federal department of defense. The state department and the local public health agency may access other already appropriated state funds to enhance the quality of care and education of children in the implementation of the quality rating and improvement system. Moneys from fees collected pursuant to section 26-6-604(7) may be used to administer a pilot site licensing unit. The state department and the local public health agency shall not be obligated to implement the provisions of section 26-6-604 until such time as sufficient funds are available.

C.R.S.A. § 26-6-606

§ 26-6-606. Repeal of part

Effective: March 17, 2011

This part 6 is repealed, effective June 30, 2015.